



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

March 30, 2017

S. 327

Fair Access to Investment Research Act of 2017

*As reported by the Senate Committee on Banking, Housing, and Urban Affairs
on March 13, 2017*

S. 327 would expand an existing safe harbor to allow brokers and dealers to issue or distribute a broader set of research reports about certain investment funds or securities without such reports being considered as an offering for the sale of shares of those funds or securities. Under current law, such reports would be considered an offering for sale and the broker or dealer would be required to file a registration statement with the Securities and Exchange Commission (SEC) for that offering.

Based on an analysis of information from the SEC, CBO estimates that the agency would require six additional staff to conduct a rulemaking and implement the broadened safe harbor exemption. CBO estimates that implementing S. 327 would cost \$2 million over the 2017-2022 period. However, under current law, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, CBO estimates that the net effect on discretionary spending would be negligible, assuming appropriation actions consistent with that authority.

Enacting S. 327 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 327 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

If the SEC increases fees to offset the costs of implementing the requirements in the bill, S. 327 would increase the cost of an existing mandate, as defined in the Unfunded Mandates Reform Act (UMRA), on private entities required to pay those fees. Based on information from the SEC, CBO estimates that the incremental cost of the mandate would amount to no more than \$2 million over the 2018-2022 period.

The bill also would impose intergovernmental and private-sector mandates as defined in UMRA to the extent that it would eliminate an existing right of action that allows plaintiffs (public and private investors) to pursue damage claims against broker-dealers who issue research reports on exchange-traded funds. If enacted, the bill could cause investors to lose the ability to sue broker-dealers who provide their own research about such funds on

grounds other than fraud. To date, CBO has found no cases that successfully establish liability for information contained in or missing from such research reports and expects few, if any, in the future.

Therefore, CBO estimates the total cost of the mandates on public and private entities would fall well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$78 million and \$156 million in fiscal year 2017, respectively, adjusted annually for inflation).

On March 30, 2017 CBO transmitted a cost estimate for H.R. 910, the Fair Access to Investment Research Act of 2017, as ordered reported by the House Committee on Financial Services on March 9, 2017. The two bills are similar and CBO's estimate of their budgetary effects is the same.

The CBO staff contacts for this estimate are Stephen Rabent (for federal costs), Logan Smith (for private-sector mandates), and Rachel Austin (for intergovernmental mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.