CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

December 11, 2017

H.R. 3857
PASS Act of 2017

As ordered reported by the House Committee on Financial Services on October 12, 2017

H.R. 3857 would repeal regulations issued by the Department of Labor that are commonly referred to as the fiduciary rule and would direct the Securities and Exchange Commission (SEC) to develop a new standard to govern the conduct of brokers and dealers. CBO estimates that implementing H.R. 3857 would have an insignificant effect on the federal budget.

Under current law, brokers and dealers must act as fiduciaries when they provide financial advice concerning pension and retirement plans; that is, their advice must be in the sole interest of the client. The Department of Labor issued the fiduciary rule on April 8, 2016; some parts took effect on June 9, 2017, and under current law, the rule takes full effect on January 1, 2018. H.R. 3857 would reinstate previously existing regulations.

H.R. 3857 also would amend the Securities Exchange Act of 1934 to establish a new standard of conduct for brokers and dealers. Under the bill, brokers and dealers would be required to make recommendations that are in the customer's best interest at the time the recommendation is given. They also would be required to make certain disclosures to customers regarding the standard of conduct and possible conflicts of interest. Under the bill, some individuals and financial institutions that comply with those requirements would be exempt from certain prohibitions on transactions under the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986.

Using information from the SEC, CBO estimates that implementing H.R. 3857 would cost $2 million over the 2018-2022 period for the agency to issue new guidance on the broker dealer standard of conduct and to expand examination and enforcement efforts to review compliance. However, because the SEC is authorized to collect fees sufficient to offset its annual appropriation, CBO estimates that the net effect on discretionary spending would be negligible, assuming appropriation actions consistent with that authority.

CBO and the staff of the Joint Committee on Taxation estimate that the bill would have a negligible effect on revenues over the 2018-2027 period. Because enacting H.R. 3857 would affect revenues, pay-as-you-go procedures apply. Enacting H.R. 3857 would not affect direct spending.

CBO estimates that enacting H.R. 3857 would not increase net direct spending or significantly affect on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3857 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

If the SEC increased fees to offset the costs of implementing the additional regulatory activities required by the bill, H.R. 3957 would increase the cost of an existing mandate on private entities that are required to pay those fees. Using information from the SEC, CBO estimates that the increase in fees to offset those costs would amount to about $2 million over the 2018-2022 period and would fall well below the annual threshold for private-sector mandates established in UMRA ($156 million in 2017, adjusted annually for inflation).

On September 18, 2017, CBO transmitted a cost estimate of H.R. 2823, the Affordable Retirement Advise for Savers Act, as ordered reported by the House Committee on Education and the Workforce on July 19, 2017. That bill has provisions similar to those in H.R. 3857 and CBO's estimate of the budgetary effects of those provisions are the same for both bills.

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