CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 1, 2018

H.R. 5323
Derivatives Fairness Act

As ordered reported by the House Committee on Financial Services on March 21, 2018

SUMMARY

H.R. 5323 would prohibit the federal financial regulators from requiring banks to hold capital against certain derivative contracts. Under current law, the calculation of a bank's capital requirement includes amounts for some derivative contracts.

CBO estimates that implementing H.R. 5323 would, on net, increase the deficit by $2 million over the 2019-2028 period. That estimate includes an increase in direct spending of $2 million and an increase in revenues of less than $500,000. Because enacting the bill would increase direct spending and revenues, pay-as-you-go procedures apply.

CBO estimates that enacting H.R. 5323 would not increase net direct spending by more than $2.5 billion or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2029.

H.R. 5323 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the end of 2018. The budgetary effects of H.R. 5323 stem from the small chance that the Federal Deposit Insurance Corporation (FDIC) would incur additional costs to resolve financial institutions that fail.

This cost estimate is based on the analysis underlying projections for the FDIC's financial resolution programs included in CBO's April 2018 baseline. Those projections incorporate a weighted probability of different outcomes for future failures of financial institutions. Most of those outcomes have a very small probability of occurring, but if they did, the costs to the FDIC's Deposit Insurance Fund (DIF) or the Orderly Liquidation Fund (OLF) would be very large.[1] On balance, CBO estimates that the federal regulations that require banks to maintain certain levels of capital and liquidity lower the FDIC's costs for resolving failed financial institutions because they increase the proportion of losses that will be absorbed by shareholders and other creditors.

Under H.R. 5323, banks would no longer be required to account for some derivatives in their calculation of capital ratios that are based on what are known as a bank's risk-weighted assets (RWA). Only institutions bound by the RWA ratio would be affected by the bill.

On the basis of publicly available information about the amount of capital held by banks for affected derivatives, CBO estimates that implementing H.R. 5323 would, on net, increase deficits by $2 million over the 2019-2028 period. That estimate includes an increase in direct spending of $2 million and an increase in revenues of less than $500,000 for the OLF. Those budgetary effects are small relative to the $14.2 billion net cost that CBO projects for the OLF over that 10-year period. CBO estimates that most of the cost of H.R. 5323 would be offset after 2028 by an increase in fees paid by financial institutions. Finally, CBO estimates that implementing the bill would have no significant net effect on the DIF.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Because H.R. 5323 would affect direct spending and revenues (as discussed above) pay-as-you-go procedures apply.

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting H.R. 5323 would not increase net direct spending by more than $2.5 billion or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2029.

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1. The DIF, which is funded by premiums paid by member institutions, resolves the assets of failed insured depository institutions and insures certain deposits up to $250,000 per depositor. The OLF was established to resolve failures of certain large, systemically important institutions—banks and nonbanks. In the event of a failure, the OLF's costs would largely be recouped by assessments (which would be recorded as revenues in the federal budget) collected from other large financial institutions.

MANDATES

H.R. 5323 contains no intergovernmental or private-sector mandates as defined in UMRA.

ESTIMATE PREPARED BY

Federal Costs: Kathleen Gramp (Orderly Liquidation Fund) and
Sarah Puro (Deposit Insurance Fund)

Mandates: Jon Sperl

ESTIMATE REVIEWED BY

Kim P. Cawley
Chief, Natural and Physical Resources Cost Estimates Unit

H. Samuel Papenfuss
Deputy Assistant Director for Budget Analysis