CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 18, 2017

H.R. 10
Financial CHOICE Act of 2017

As ordered reported by the House Committee on Financial Services on May 4, 2017

SUMMARY

H.R. 10 would amend the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and other laws governing regulation of the financial industry. The bill also would repeal the Federal Deposit Insurance Corporation's (FDIC) authority to use the Orderly Liquidation Fund (OLF) and would allow financial institutions, under certain circumstances, to be exempt from a variety of regulations. H.R. 10 would make numerous other changes to the authorities of the agencies that regulate the financial industry, and it would change how the operations of the National Credit Union Administration (NCUA) and Consumer Financial Protection Bureau (CFPB) are funded.

CBO estimates that enacting the legislation would reduce federal deficits by $24.1 billion over the 2017-2027 period. Direct spending would be reduced by $30.1 billion, and revenues would be reduced by $5.9 billion. Most of the budgetary savings would come from eliminating the OLF and changing how the CFPB is funded.

CBO also estimates that, over the 2017-2027 period, and assuming appropriation of the necessary amounts, implementing the bill would cost $1.8 billion.

Those estimates are subject to considerable uncertainty, in part because they depend on the probability in any year that a systemically important firm will fail. That probability is small under both current law and under the legislation, but it is hard to predict. Despite those and other uncertainties, CBO has endeavored to develop estimates that are in the middle of the distribution of possible outcomes.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2028.

H.R. 10 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates the aggregate costs of the mandates on public entities would fall well below the annual threshold established in UMRA for intergovernmental mandates ($78 million in 2017, adjusted annually for inflation). However, in aggregate, CBO estimates the net cost of the mandates on private entities would exceed the annual threshold established in UMRA for private-sector mandates ($156 million in 2017, adjusted annually for inflation) in 2018 and 2019, primarily because of increases in fees and assessments.

LIST OF ACRONYMS

As a reference, these acronyms are used throughout this cost estimate:

- Commodity Futures Trading Commission (CFTC),
- Consumer Financial Protection Bureau (CFPB),
- Consumer Law Enforcement Agency (CLEA),
- Deposit Insurance Fund (DIF),
- Federal Deposit Insurance Corporation (FDIC),
- Federal Financial Institutions Examination Council (FFIEC),
- Federal Housing Finance Agency (FHFA),
- Federal Open Market Committee (FOMC),
- Financial Research Fund (FRF),
- Financial Stability Oversight Council (FSOC),
- Government Accountability Office (GAO),
- Globally systemic important bank (G-SIB),
- National Credit Union Administration (NCUA),
- Office of Financial Research (OFR),
- Office of the Comptroller of the Currency (OCC),
- Orderly Liquidation Fund (OLF),
- Securities and Exchange Commission (SEC),
- Share Insurance Fund (SIF),
- Supplementary Leverage Ratio (SLR), and
- Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 10 is shown in the upcoming table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017-2022	2017-2027
NET INCREASES AND DECREASES (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Eliminating the Orderly Liquidation Fund	0	-700	-1,200	-1,750	-2,450	-1,850	-1,450	-1,300	-1,300	-1,250	-1,250	-7,950	-14,500
Allowing Capital Election and Making Other Changes to Financial Regulations [a]	0	0	30	40	40	40	40	30	20	30	30	150	300
Amending Responsibilities and Operations	0	35	60	65	40	50	45	30	35	35	25	250	420
Modifying Agency Funding	0	-615	-865	-880	-910	-925	-950	-980	-1,005	-1,030	-1,055	-4,195	-9,215
Transferring Responsibilities and Eliminating Agencies	0	5	-65	-55	-60	-60	-60	-70	-65	-65	-65	-235	-560
Penalties	0	40	75	-60	-75	-90	-85	-90	-90	-90	-95	-110	-560
Total Decrease in the Deficit	0	-1,235	-1,965	-2,640	-3,415	-2,835	-2,460	-2,380	-2,405	-2,370	-2,410	-12,090	-24,115
INCREASES OR DECREASES (-) IN SPENDING SUBJECT TO APPROPRIATION													
SEC													
Net Authorization Level	0	179	202	225	246	265	0	0	0	0	0	1,116	1,116
Net Estimated Outlays	0	-174	191	214	235	254	397	0	0	0	0	719	1,116
CLEA [b]													
Authorization Level	0	485	0	0	0	0	0	0	0	0	0	485	485
Estimated Outlays	0	315	170	0	0	0	0	0	0	0	0	485	485
CFTC													
Estimated Authorization Level	0	14	14	14	11	11	10	9	9	9	9	64	110
Estimated Outlays	0	13	14	14	11	11	9	9	9	9	9	62	107
Other													
Net Estimated Authorization Level	0	7	7	7	7	7	7	7	7	7	7	34	69
Net Estimated Outlays	0	6	7	7	7	7	7	7	7	7	7	33	68
Total Changes													
Net Estimated Authorization Level	0	685	223	246	263	283	16	16	16	16	16	1,699	1,781
Net Estimated Outlays	0	159	382	234	252	272	414	16	16	16	16	1,299	1,777

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Table Continued

	By Fiscal Year, in Millions of Dollars												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017-2022	2017-2027
Memorandum: Components of the Net Increase in the Deficit													
DECREASES IN DIRECT SPENDING													
Total Changes in Direct Spending													
Estimated Budget Authority	0	-1,670	-2,165	-2,830	-3,680	-3,210	-3,035	-3,040	-3,175	-3,350	-3,485	-13,555	-29,640
Estimated Outlays	0	-1,515	-2,260	-2,885	-3,745	-3,265	-3,090	-3,105	-3,240	-3,405	-3,550	-13,670	-30,060
DECREASES IN REVENUES													
Total Changes in Revenues	0	-280	-295	-245	-330	-430	-630	-725	-835	-1,035	-1,140	-1,580	-5,945

Source: Congressional Budget Office and the staff of the Joint Committee on Taxation.

Notes: Amounts may not sum to totals because of rounding; SEC = Securities and Exchange Commission, CLEA = Consumer Law Enforcement Agency, CFTC = Commodity Futures Trading Commission.

a. The capital election would permit some banks to maintain a 10 percent leverage ratio and then be subject to reduced regulatory oversight.

b. Under the bill the Consumer Financial Protection Bureau would be renamed CLEA. In addition, H.R. 10 would not authorize appropriations for the agency after 2018, but CBO estimates that its operations would cost about $5 billion over the 2019-2027 period, assuming appropriations were provided in those years that were equal to the amount authorized for 2018, adjusted for anticipated inflation.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 10 will be enacted late in 2017, that the specified and estimated amounts will be appropriated each year, and that outlays will follow historical spending patterns for the affected agencies.

CHANGES IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES

Many of the agencies that would be affected by the bill have both the authority to spend funds without annual appropriations (known as direct spending) and the authority to offset such spending with collections; some of those collections are classified as offsetting receipts, which are treated as reductions in direct spending, and the remainder are classified as revenues. Because proposed changes to the operations of those agencies would affect both direct spending and revenues, this estimate shows the budgetary effects of most provisions in terms of their net effect on the deficit.

Eliminating the Orderly Liquidation Fund

Title I would repeal the FDIC's authority to use the OLF to resolve large, systemically important financial firms (including banks and nonbank firms) that become or are in danger of becoming insolvent, subject to certain conditions. CBO estimates that ending that authority would reduce deficits by $14.5 billion over the 2018-2027 period. That change reflects estimated reductions in both direct spending and revenues of $18.8 billion and $4.3 billion, respectively. The overall reduction incorporates an estimated increase in net costs to the FDIC's Deposit Insurance Fund of $1 billion to address failures of federally insured depositary institutions that would result from eliminating the OLF.

The Orderly Liquidation Fund. Current law provides the FDIC with the authority and funding to address the failure—or possible failure—of large, systemically important banks and other financial firms. Use of that authority is contingent on certain conditions being met, including a finding by the Secretary of the Treasury that the bankruptcy process is not appropriate for resolving a firm's financial difficulties and that the firm's failure would threaten the stability of the nation's financial system.

If the necessary conditions were met, the FDIC would be authorized under current law to borrow funds from the Treasury and implement alternative legal arrangements to resolve a firm's financial problems. The FDIC would be required to collect fees from other large financial firms to offset the cost of any losses resulting from those activities. The net outlays for any financial transactions stemming from the use of this authority would be recorded in the budget on a cash basis, and any income from fees would be recorded as revenues as the payments were received.

Although the probability that the FDIC would have to liquidate a systemically important firm in any year is small, the potential associated cash flows would probably be large. On an expected-value basis, CBO estimates that the potential use of OLF authorities under current law will increase the deficit by $15.5 billion over the 2018-2027 period, reflecting net direct spending of $19.8 billion (which includes recoveries from the sale of assets) and revenues from fees of $4.3 billion (net of effects on income and payroll taxes). CBO estimates that repealing the authorities as specified in title I would reduce deficits by a corresponding amount.

CBO's baseline projections reflect the estimated probability of various scenarios regarding the frequency and magnitude of systemic problems that could trigger spending by the OLF. Because future economic and financial events are inherently unpredictable, CBO assumes (on the basis of recent and historical trends) there is a chance of such an event in each of the 10 years of the projection period. The estimated effects on the deficit also account for differences in the timing between the expected values of spending by the OLF to resolve insolvent firms and assessments collected by the OLF to recover any costs. It might take several years, for example, to recoup the funds spent to liquidate a complex financial institution. As a result, CBO expects some of the proceeds from asset sales or cost recovery fees related to financial problems emerging in any particular year would be collected beyond the 10-year budget window. CBO estimates, however, that over time net revenues collected from assessments would be lower than projected outlays, because the assessments would reduce the base for income and payroll taxes.

The Deposit Insurance Fund. Repealing the FDIC's orderly liquidation authority could change how large, systemically important firms that fail would be resolved in the future and who would bear the costs. Without the OLF, CBO expects that any future defaults of such firms would have to be addressed through bankruptcy courts using financial resources available from the private sector. After considering the possibility of different outcomes, as detailed below, CBO estimates that without the OLF, the FDIC would realize additional net costs of about $1 billion through the DIF over the next 10 years.

CBO expects that if a systemically important financial firm failed, some federally insured depository institutions would be among its creditors, increasing the probability of losses to the DIF. CBO also expects that creditors' losses would be larger under a bankruptcy proceeding than they would be under a resolution using the OLF because the timing and mechanisms of the bankruptcy process would probably place additional stress on the firm's creditors and other financial institutions.

The legislation's potential effects on the DIF would depend on many legal, financial, and economic factors that are uncertain and difficult to quantify. For example, the risk to the DIF of additional bank failures would depend on the extent of the exposure of insured depository institutions to higher costs and whether they could remain financially solvent after absorbing those costs. To calculate the additional costs to the DIF, CBO considered the estimated cash flows of the OLF and interrelated financial institutions (known as counterparties) that would accrue losses; only insured depository institutions that fail would be resolved by the DIF.

In its baseline, CBO projects that, on average under current law, the DIF will reduce the deficit by about $6 billion per year. That projection includes income to the fund from insurance premiums and recoveries totaling, on average, about $10 billion per year and costs to resolve failed institutions totaling between $2 billion and $5 billion per year (excluding the DIF's operating costs). Those projections reflect a very small chance that a large, financially complex institution will fail and that the DIF will resolve the insured deposits at that institution.

CBO estimates that under title I, the value of assets of failed institutions requiring resolution by the FDIC and the NCUA would increase by more than 5 percent above the amounts included in CBO's baseline projections. (The overwhelming majority of that increase would be resolved by additional spending through the DIF, although CBO estimates that insurance funds administered by the NCUA would also be needed to resolve some institutions.) To calculate the net effect on the federal budget, CBO considered the FDIC's loss ratio, which is the net cost of resolving the failure of an institution before changes in insurance assessments are made. For this estimate, CBO calculated variations in the loss ratio from the average of 18 percent to as high as 30 percent, because in times when the financial sector has been under stress, the loss ratio for the DIF has typically been higher than average. Although, in CBO's estimation, the FDIC would eventually recover the cost of any additional losses by raising assessments on insured depository institutions, such recoveries would occur over many years.

Allowing Capital Election and Making Other Changes to Financial Regulations

Title VI would permit financial institutions to opt out of a number of financial rules and regulations, including all of those related to capital and liquidity standards if they choose to maintain a ratio of capital to assets as defined in the bill—a leverage ratio—that exceeds 10 percent.[1] Some institutions would have to raise more capital to meet such a ratio. All of the financial institutions that opted into the new regulatory framework under the bill, in an action CBO has termed capital election, would receive less oversight from federal regulators. Other provisions of H.R. 10 would reduce regulatory oversight of some financial institutions by reducing the frequency of stress tests and reviews of resolution plans (known as living wills). Also, the bill would make changes to the authority of regulators to oversee certain banking activities and would allow institutions to change their operations in ways that could affect the DIF's losses.

CBO estimates that, on balance, those changes would result in higher losses by the DIF. Losses by the DIF are recovered by increasing assessments on banking institutions, which are recorded as reductions in direct spending. However, not all of the additional costs stemming from H.R. 10 would be recovered over the next 10 years. Thus, CBO estimates that enacting those provisions would increase net direct spending by about $300 million over the 2018-2027 period.

CBO's estimates for H.R. 10 are based on the analysis underlying the projections for deposit insurance in its January 2017 baseline. Those projections incorporate the small probability that there is a financial crisis in any given year during the projection period and the more likely scenario of an average number of bank and credit union failures in any given year. As a result, the estimated cost represents a weighted probability of outcomes—including some cases, for which the probability is very low, but the losses by the DIF are much larger.

In order to estimate the effects of the title VI provisions, CBO first considered which financial institutions might choose to make the capital election and the effect of that choice

1. Under that definition of leverage ratio, a firm with a higher ratio has lower leverage.

on the DIF.[2] Financial institutions that currently maintain or exceed a leverage ratio of 10 percent and opt into the new framework would be subject to less regulatory oversight. That decline in oversight would tend to increase the losses those institutions impose on the DIF if they fail. The case is not as clear-cut for financial institutions that would need to increase their capital to meet the 10 percent threshold for making the capital election because increases in capital would typically decrease the risk of failure.

However, under the bill, the calculation of the leverage ratio would not consider the riskiness of the assets. (Under current regulations, financial institutions must meet both risk-weighted and non-risk-weighted capital ratios.) As a result, an institution that met the 10 percent leverage ratio and made the capital election would probably have a somewhat riskier portfolio of assets and would impose somewhat higher costs on the DIF, on average, than financial institutions with similar ratios that did not make the election.

CBO analyzed financial institutions on the basis of the size of their assets and the concentration of certain types of assets within their balance sheet portfolios. Financial institutions in the United States hold a total of about $18 trillion in assets (about $17 trillion at banks and $1 trillion at credit unions). Roughly 70 percent of the assets in the banking sector are held in banks with assets over $50 billion. Financial institutions would decide whether or not to make the capital election allowed by H.R. 10 on the basis of their specific financial and strategic goals. Some firms that currently have a leverage ratio of 10 percent could make that election without needing to significantly change their business models. Firms currently below that threshold would have to assess the trade-offs between the costs of raising capital and the benefits of less regulation.

Choices for Financial Institutions With Assets of Less Than $50 Billion. CBO expects that most of the financial institutions that chose to maintain a leverage ratio at 10 percent would be those with assets below $10 billion, commonly known as community banks. CBO estimates that more than one-half of banks with assets of less than $50 billion have a 10 percent capital ratio and that those institutions hold roughly 15 percent of the total assets held by banks. (About two-thirds of credit unions holding about two-thirds of credit union assets also have leverage ratios of 10 percent or more). However, CBO does not expect that all of those institutions would make the capital election because they would have to maintain that ratio over time, as well as their return on equity. CBO assigned an initial probability of 50 percent that those institutions would choose to make the capital election. Those firms account for about 7 percent of all bank assets. CBO expects that both the number of institutions making the election and the percentage of total assets would grow over time.

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2. The Share Insurance Fund (SIF), administered by the NCUA, would experience effects similar to those for the DIF, as discussed in this section.

Choices for Financial Institutions With Assets of More Than $50 Billion. Under H.R. 10, most larger financial institutions with more diverse portfolios and trading assets would be subject to a different leverage ratio known as the supplementary leverage ratio (SLR). The bill defines the SLR to include derivatives and other commitments that are not typically included in the leverage ratio calculation. As a result, the banks subject to the SLR would need to raise significantly more capital to qualify for reduced regulation and would probably have to make costly changes to internal processes that already comply with current regulations. CBO anticipates that, for example, the eight large banks headquartered in the United States that are characterized as globally systemic important banks (G-SIBs) would not make the election because they would have to raise much more capital.[3] Further, the G-SIBs would still need to comply with a variety of regulations because of international rules. As a result, CBO expects that the G-SIBs would be unlikely to choose the alternative regulatory regime authorized by the bill. Those eight banks have about half of the assets of the U.S. banking industry.

CBO estimates that fewer than 10 financial institutions in this cohort would meet the criteria to use the leverage ratio of 10 percent that would apply to smaller financial institutions. For those institutions that would be eligible and already have a 10 percent leverage ratio, CBO assigned the same 50 percent probability discussed above. For those banks with less than a 10 percent ratio, CBO estimated a small probability that they would raise sufficient capital to reach that threshold. As a result, CBO estimates that roughly 2 percent of the assets at banks with assets over $50 billion would be at institutions that make the capital election.

Estimating the Budgetary Effects of the Capital Election. CBO used a simulation model that draws on academic and financial industry research to estimate the cost of allowing financial institutions to make the capital election in exchange for regulatory relief.[4] Using bank call reports, as well as historical banking and market data as a starting point, CBO simulated the changes that financial institutions might make to their assets, liabilities, and capital structure under current law and under the provisions of H.R. 10. Those simulations generated a wide range of possible future outcomes for each institution's leverage ratio and also projected the probability that institutions making the capital election would fail. On average, those simulations indicated that financial institutions would be slightly more likely to fail under the regulatory and capital framework proposed in H.R. 10 than would be

3. The G-SIBS are JPMorgan Chase, Citigroup, Bank of America, Goldman Sachs, Morgan Stanley, Bank of New York Mellon, State Street, and Wells Fargo.

4. Federal Reserve Board of Minneapolis, "The Minneapolis Plan to End Too Big to Fail" (January 17, 2017), https://tinyurl.com/zgmas54; Simon Firestone, Amy Lorenc, and Ben Ranish, *An Empirical Economic Assessment of the Costs and Benefits of Bank Capital in the U.S.*, Finance and Economics Discussion Series Paper 2017-034 (Board of Governors of the Federal Reserve System, 2017), https://doi.org/10.17016/FEDS.2017.034; Kevin Jacques and Peter Nigro, "Risk-Based Capital, Portfolio Risk, and Bank Capital: A Simultaneous Equations Approach," E&PA Working Paper 94-6 (Office of the Comptroller of the Currency, September 1994), https://go.usa.gov/xNWYW; Fitch Ratings, "Leverage Ratio Hurdle Not a Cure-All for Bank Failures" (February 28, 2017), www.fitchratings.com/site/pr/1019822.

expected under current law. The increase in the probability of failure primarily stems from the increased riskiness of the assets taken on by institutions that would choose to make the capital election. (As noted, for financial institutions that must increase capital to make the capital election, the increased capital would partially offset that increase in risk.)

Other Changes to Regulatory Standards. H.R. 10 would reduce, from annually to biennially, the frequency of the requirement that larger financial institutions complete stress tests administered by the Federal Reserve and submit to the FDIC plans for resolution in the event of a financial crisis. Because less frequent testing and reporting would allow risk to accumulate for a longer period without corrective measures, CBO estimates a very small increase in losses by the DIF, incorporating a probability that reflects the unlikely failure of a large bank or the failure of a series of large financial institutions. That estimate is based on information from national credit rating agencies and other industry experts.[5]

In addition, the bill would prohibit financial regulators from classifying certain commercial loans as nonperforming and from requiring certain banks to raise more capital to cover the potential losses that could stem from those loans. CBO expects that those prohibitions would primarily affect loans for commercial real estate.[6] Some banks and credit unions with holdings that are primarily concentrated in the commercial real estate sector could experience a reduction in their capital reserves, which would lead to a higher probability of a failure and would increase the probability of additional federal spending to resolve the liabilities of failed institutions.

Net Budgetary Effect of Changes to Regulatory Standards and Oversight. CBO anticipates that failures of financial institutions resulting from the combination of reduced regulatory oversight and increased risk would increase losses by the DIF by about 1 percent to 2 percent and would total about $600 million over the 2018-2027 period.[7] CBO expects that the FDIC would assess fees to recoup any additional costs to the DIF of resolving failed institutions in order to restore the fund's balance to its target level of the designated reserve ratio. Over the 2018-2027 period, those fees would total about $200 million, CBO estimates.

FDIC's Risk-Based Premiums. Under current law, the FDIC charges banks premiums based on their risk profile. Those premiums are recorded as offsetting receipts in the budget. Under H.R. 10, the FDIC would continue to assess risk-based premiums on all

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5. S&P Global Market Intelligence, "What Financial Regulations May Be Affected by the Trump Administration, and How They Can Affect Ratings" (March 20, 2017), https://tinyurl.com/k2dwxws.

6. For more information on those provisions, contained in section 546 of H.R. 10, see Congressional Budget Office, cost estimate for H.R. 1941, the Financial Institutions Examination Fairness and Reform Act (February 11, 2016), www.cbo.gov/publication/51243.

7. That total also includes about $20 million from the SIF.

banks, CBO anticipates. By CBO's estimates, those premiums would slightly increase for some of the banks that chose to meet the 10 percent leverage ratio, and the additional premiums would total about $100 million over the next 10 years.

Changes to Financial Regulatory Agencies

Changes in H.R. 10 to the financial regulatory agencies primarily consist of:

- Amending the underlying responsibilities and operations for the agencies,
- Modifying the way in which the agencies are funded, and
- Transferring responsibilities and eliminating agencies.

Amending Responsibilities and Operations. Numerous provisions of H.R. 10 would affect the administrative costs of the FDIC, the Treasury Department's Office of Comptroller of the Currency (OCC), the NCUA, the Federal Housing Finance Agency (FHFA), and the Federal Reserve by changing procedures for rulemaking, examinations, and enforcement. CBO estimates that implementing those changes would increase deficits by $420 million over the 2018-2027 period.

Changes in Administrative Costs. Several provisions, such as the requirements under title III to perform additional analyses for proposed and final rules and the establishment of an Office of Independent Examination Review within the Federal Financial Institutions Council, would increase administrative costs, while other provisions could decrease costs. On the basis of an analysis of information from the affected agencies, CBO estimates that, on net, enacting those changes would increase the deficit by $440 million over the 2018-2027 period, reflecting estimated increases in direct spending of $220 million and estimated decreases in revenues of $220 million.

Some financial regulators (for example, the FDIC) can eventually recover additional costs through assessments on the industry, but because there is a lag between the time costs are incurred and when additional assessments would be imposed, not all additional costs would be recovered within the next 10 years. In contrast, the Federal Reserve would be able to recover only a portion of its additional costs because it assesses fees to cover only the costs associated with its role as the primary regulator of systemically important financial institutions (certain nonbanks and large banks).

Changes to the Federal Reserve. Title I would remove certain authorities the Dodd-Frank Act provided to the Federal Reserve that require it to supervise and regulate systemically important nonbank financial institutions and financial market utilities. Those changes would reduce operating costs of the Federal Reserve and raise remittances to the Treasury by $589 million over the 2018-2027 period. However, the Federal Reserve also would stop collecting assessments on institutions it would no longer regulate, reducing revenues by $371 million over the 2018-2027 period, net of income and payroll tax effects, CBO estimates. On net, those changes would increase revenues by $218 million over the same period.

Title I also would require the Federal Reserve to perform new analysis and to undertake new regulatory actions related to stress tests and resolution plans, increasing costs to the system. Title VII would split the current Office of the Inspector General of the Federal Reserve and CFPB into two separate offices, lowering costs to the Federal Reserve. Title X would make a number of other changes to the operations of the Federal Reserve System. CBO estimates that, in total, those provisions would reduce revenues by $40 million over the 2018-2027 period.

Provisions in Title X with the most significant effects include:

- Employees and members of the Board of Governors would become subject to additional ethics standards and financial disclosure rules. The ethics standards would follow those that apply to employees of the SEC.

- The Federal Open Market Committee (FOMC) would be required to develop a monetary policy rule that specifies an interest rate target and explains how that target rate would be adjusted for changes in certain economic variables. The rule would be provided to the Government Accountability Office (GAO), which would assess the rule and any subsequent changes to the rule for compliance with the requirements of the bill.

- Other changes include requiring GAO to prepare, within 12 months of enactment, an audit of the Board of Governors of the Federal Reserve System and the Federal Reserve banks, including the conduct of monetary policy; restricting certain public communications by the FOMC; and changing the membership of the FOMC.

Other Changes. CBO and the staff of the Joint Committee on Taxation (JCT) estimate that implementing several other provisions of H.R. 10 would increase deficits by $159 million over the 2018-2027 period, reflecting increases in direct spending of $8 million and decreases in revenues of $151 million. CBO estimates that implementing those provisions also would cost $146 million over the 2018-2027 period, subject to the availability of appropriated funds. Specifically:

- Title IV would authorize the SEC to refund the overpayment of certain fees by lowering future collections by the corresponding amount. CBO estimates that implementing the provision would increase direct spending by $8 million over the 2018-2027 period.

- Title IV would amend regulations such that it would expand allowable activities of business development companies. JCT estimates that in response to those changes, income would be shifted from C corporations to business development companies, reducing tax revenues by $151 million over the 2018-2027 period.

- Title I would authorize the appropriation of $4 million each year for the operations of the Financial Stability Oversight Council (FSOC). CBO estimates that implementing the provision would cost $39 million over the 2018-2027 period, subject to the availability of appropriated funds.

- H.R. 10 would require the CFTC to perform additional analyses of rules and regulations. On the basis of an analysis of information from the agency, CBO estimates that implementing the provisions would cost $107 million over the 2018-2027 period, subject to the availability of appropriated funds.

Modifying Agency Funding. Under current law, spending by the financial regulators is often covered by fees or other sources of income that usually offset spending by those agencies. Some agencies charge fees that are subject to the annual appropriation process, some agencies charge fees under permanent authority, and the CFPB receives funds from the Federal Reserve.

The bill would attempt to make the operating costs and collection of fees of the financial regulators subject to annual appropriations. However, in most cases, the changes specified would not become effective until 90 days after the enactment of an appropriation bill that provided the funding specified in H.R. 10. Because subsequent legislation would be necessary to make the changes effective, the current funding arrangements for the SEC, OCC, FDIC, the FHFA, and the Federal Reserve would not change following enactment of H.R. 10. Therefore, those changes in funding are not reflected in CBO's cost estimate for this legislation.

In contrast, the bill would effectively make spending for the CFPB and the collections and spending for the NCUA's administrative costs subject to annual appropriation. Under current law those expenses are covered by permanent (mandatory) appropriations. Because CBO expects that the level of spending for the CFPB and the NCUA under H.R. 10 would be similar to the amount of spending for such activities under current law, the reductions in direct spending by the CFPB and the NCUA would increase the need for future appropriations for those agencies by a similar amount.

CBO estimates that enacting those provisions, over the 2018-2027 period, would reduce direct spending by $9.2 billion and would cost $1.6 billion, assuming appropriation of the necessary amounts.

Consumer Financial Protection Board: Under current law, the CFPB is funded by transfers from the Federal Reserve and the agency's spending is recorded as direct spending. Title VII would amend current law to make spending for the CFPB (renamed the Consumer Law Enforcement Agency) subject to annual appropriations. The bill would authorize the appropriation of $485 million for fiscal year 2018, an amount equal to the amount transferred from the Federal Reserve to the CFPB in 2015. CBO estimates that enacting this provision would reduce direct spending by $6.9 billion over the 2018-2027 period and cost $485 million over the 2018-2022 period, subject to appropriation of the authorized amounts. H.R. 10 would not authorize appropriations for the agency after 2018, but CBO estimates that its operations would cost about $5 billion over the 2019-2027 period, assuming appropriations were provided in those years that were equal to the amount authorized for 2018, adjusted for anticipated inflation.

National Credit Union Administration. Under current law, the NCUA imposes fees on all federally chartered credit unions to pay for its operations. Under H.R. 10, the NCUA would instead impose a fee on all credit unions, including those chartered by states, to offset the costs of an annual appropriation for the agency's administrative operating costs. Under the bill, the total collections from credit unions would be higher than under current law because the bill would not reduce current assessments as much as current spending for administrative costs. By making the NCUA's administrative costs subject to annual appropriation, this provision would, by CBO's estimates, decrease the deficit by $2.3 billion over the 2018-2027 period, reflecting decreases in direct spending of $3.4 billion and reductions in offsetting receipts of $1.1 billion over the 2018-2027 period. Because the NCUA would collect fees to offset any spending of appropriated funds, implementing the provisions regarding the NCUA would have no net effect on spending that is subject to annual appropriations.

Securities Exchange Commission. H.R. 10 also would change the level of certain fees collected by the SEC that, under current law, are intended to fully offset its annual appropriation. The bill would create a target collection amount for those fees that would increase annually at the rate of inflation to partially offset the agency's appropriation.

H.R. 10 also would authorize the appropriation of $8.5 billion over the 2018-2022 period for the SEC. Assuming appropriation of the specified amounts, CBO estimates that implementing this provision would cost $8.5 billion over the 2018-2022 period. However, under the bill, the SEC would be authorized to collect $1.4 billion, annually adjusted for inflation, in fees intended to partially offset its annual appropriation; therefore, CBO estimates that the net effect would increase discretionary appropriations by $1.1 billion over the 2018-2022 period.

Public Company Accounting Oversight Board. The bill would require the Public Company Accounting Oversight Board to deposit civil penalties it collects in the Treasury, rather than spending them. On the basis of an analysis of information from the board, CBO estimates that enacting the provision would decrease direct spending by $28 million over the 2018-2027 period.

Transferring Responsibilities and Eliminating Agencies. H.R. 10 would transfer certain responsibilities away from the CFPB, eliminate the Financial Research Fund (FRF), and eliminate the SEC's authority to spend certain collections. CBO estimates that enacting these provisions would reduce deficits by $560 million.

Consumer Financial Protection Bureau. Under current law, the CFPB has the authority to supervise and examine certain financial institutions and nonbank companies and to require those entities to comply with certain consumer financial laws. Under H.R. 10, the agency's supervision and examination authority and its authority to enforce consumer financial laws for insured financial institutions with over $10 billion in total assets would be eliminated. Under the bill, some of those authorities would be transferred to other financial regulators. On the basis of an analysis of information from the affected agencies, CBO estimates that enacting those provisions would increase the deficit by $230 million over the 2018-2027 period, reflecting an estimated increase in direct spending of $30 million and a decrease in revenues of $200 million over the 2018-2027 period for the Federal Reserve, the FDIC, the OCC, and the NCUA to collectively hire approximately 150 additional staff.

Financial Research Fund. H.R. 10 would eliminate the FRF. Under current law, the costs of operating the Office of Financial Research (OFR), the Financial Stability Oversight Council (FSOC), and some administrative expenses of the OLF are offset by fees collected from certain bank holding companies and nonbank financial companies. Those fees are deposited into the FRF. Those fees are recorded in the budget as revenues when they are collected and as direct spending when spent. In 2016, the FRF spent $99 million. On the basis of an analysis of information from the OFR and the FSOC, CBO estimates that eliminating FRF would reduce deficits by $300 million over the 2018-2027 period, reflecting an estimated reduction in direct spending of $1.4 billion and an estimated loss in revenues of $1.1 billion, net of income and payroll tax effects. The total includes the costs of shutting down the OFR (for closing contracts, staff severance, and leave payments) and the costs of providing pensions and health benefits to federal retirees.

CBO estimates that implementing this provision would increase costs at the Department of the Treasury by $30 million over the 2018-2027 period for administrative costs currently shared by the OFR and the department; such spending would be subject to the availability of appropriated funds.

Securities and Exchange Commission. Under current law, the SEC may deposit a portion of the revenues it collects into a reserve fund and spend up to $100 million annually from that fund without further appropriation. Under the bill, the SEC Reserve Fund would be abolished, reducing direct spending by $490 million over the 2018-2027 period, CBO estimates.

Penalties. Provisions in H.R. 10 would change the maximum penalties for certain violations of securities laws enforced by the SEC and change how the cases are administered. The bill also would change how the CFPB administers civil penalty cases and would eliminate the Volcker rule.[8] CBO estimates that the provisions would reduce the deficit by $560 million over the 2018-2027 period, reflecting an estimated reduction in direct spending of $710 million and reduction in revenues of $150 million.

Changes in Penalties by the SEC. Title II would amend various securities and financial laws to increase the maximum penalty that agencies may assess for certain violations. Under the bill, various civil penalties authorized to be levied by the SEC and other federal financial regulatory agencies would increase. The bill also would add a new tier of penalties for individuals previously convicted of securities fraud.

Title VIII would allow parties to administrative proceedings brought by the SEC to file to terminate them. The SEC would then have the option to bring civil actions in a federal district court against parties that terminate their administrative proceedings. On the basis of an analysis of information from the SEC regarding current civil penalty collections, CBO estimates that enacting the provisions would decrease revenues by $80 million over the 2018-2027 period. The change would result from increases in collections resulting from higher maximum penalties as well as decreases resulting from delays, as some collections would arise from civil rather than administrative proceedings.

Changes to Penalties by the CFPB. Title VII would change the operation of the civil penalty fund of the CFPB. Under current law, the CFPB collects civil penalties that result from its enforcement actions and deposits them into a civil penalty fund. The agency is authorized to use those funds to pay victims of activities for which civil penalties have been imposed as well as for certain consumer education and financial literacy programs. Allocations are made to eligible victims from the pooled amount in the fund; classes of victims are not limited to receiving only the amount the civil penalty paid for their case.

Under the bill, the CLEA would be required to maintain a separate account for each civil penalty award. The payments to victims would be limited to the amount of the civil penalty paid for that specific case. If at the end of two years, any amounts remained in a segregated civil penalty account, those amounts would be deposited into the general fund of the Treasury. Amounts currently in the fund would be required to be segregated into discrete accounts by civil penalty action and be subject to the same requirements as any new civil penalty awards. Using information from the CFPB about the amounts currently in the fund, CBO estimates that enacting the provisions would decrease direct spending by $710 million over the 2018-2027 period.

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8. The Volcker rule, section 619 of the Dodd-Frank Act, restricts FDIC-insured institutions from engaging in certain proprietary trading of securities, derivatives, commodity futures, and options on those instruments. With certain exceptions, the rule also prohibits banks from owning, sponsoring, or having certain relationships with hedge funds and private equity funds.

Volcker Rule. By eliminating the Volcker rule and the corresponding penalties for noncompliance, H.R. 10 would reduce revenues by an estimated $70 million over the 2018-2027 period.

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. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO's Estimate of Pay-As-You-Go Effects for H.R. 10, as Ordered Reported by the House Committee on Financial Services on May 4, 2017

	By Fiscal Year, in Millions of Dollars												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017-2022	2017-2027
	NET DECREASE IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	-1,235	-1,965	-2,640	-3,415	-2,835	-2,460	-2,380	-2,405	-2,370	-2,410	-12,090	-24,115
Memorandum:													
Changes in Outlays	0	-1,515	-2,260	-2,885	-3,745	-3,265	-3,090	-3,105	-3,240	-3,405	-3,550	-13,670	-30,060
Changes in Revenues	0	-280	-295	-245	-330	-430	-630	-725	-835	-1,035	-1,140	-1,580	-5,945

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2028.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

The bill contains a number of mandates, some that fall on entities in both the public and private sectors, and others that fall on one sector or the other. In the aggregate, CBO estimates, the costs of mandates on public entities would fall below the annual threshold established in UMRA for intergovernmental mandates ($78 million in 2017, adjusted annually for inflation). However, CBO estimates that the net costs of mandates on private-sector entities would exceed the annual threshold for private-sector mandates

($156 million in 2017, adjusted annually for inflation) in at least two of the first five years the mandates were in effect, primarily because of new and increased fees and assessments.

Mandates That Apply to Both Public and Private Entities

The bill would eliminate a right of action that allows public and private investors to pursue damage claims against broker-dealers who issue research reports on exchange-traded funds. Under current law, the SEC's rules generally prohibit an issuer from offering securities for sale without filing a registration statement with the agency. Section 421 of title IV of H.R. 10 would establish a safe harbor allowing broker-dealers to issue research reports about certain investment funds without such reports being considered an offering for sale of shares of those funds. In so doing, it would protect broker-dealers from being sued on the basis that such a report constituted an offering for sale. By providing the safe harbor and eliminating the existing right of action, the bill would impose a mandate on public and private entities that might otherwise have a cause of action. The cost of the mandate would be the forgone value of the awards and settlements in such cases. To date, CBO has found no cases successfully establishing liability for information contained in or missing from such research reports and expects few, if any, in the future.

Mandates That Apply to State Governments Only

The bill would impose mandates on states by preempting their laws in a number of areas. Preemptions of state law are mandates as defined in UMRA because they limit the authority of states to apply their own laws and regulations. However, CBO estimates that none of the preemptions in the bill would impose on states duties resulting in additional spending or a loss of revenues.

Various provisions of titles IV, V, and XI of the bill would preempt state laws, as follows:

- Section 461 would exempt some security offerings from state registration and regulation. Issuers would be exempt from registering such a security if each purchaser had a preexisting relationship with the officer of the issuer, the offering had 35 or fewer purchasers, and the aggregate amount of securities sold by the issuer did not exceed $500,000 in a 12-month period.

- Section 478 would exempt some security offerings from state registration, documentation, and other requirements. Issuers would be exempt from such state regulations if security offerings were small transactions.

- Sections 491 through 493 would exempt from state laws that provide a lower level of liability protection than the bill does those financial institutions and their employees who have received training on the financial exploitation of senior citizens when those employees file a report to a government authority about the potential exploitation of a senior citizen.

- Section 496 would exempt issuers of securities from registering a security with a state if the security was listed on a national exchange approved by the SEC.

- Section 556 would grant a temporary license to some loan originators who became employed by a state-licensed mortgage company in one state, enabling them to issue loans in other states.

- Section 581 would preempt state usury laws regulating the validity of loans that are sold, assigned, or transferred to a third party. Such loans would retain their maximum rate of interest as set by the loan's originator regardless of whether the loan was sold, assigned, or transferred to a third party located in a different state.

- Section 1101 would allow the independent insurance advocate (a role created by the bill) to preempt state insurance measures that are inconsistent with bilateral or multilateral insurance measures between the United States and a foreign government.

Mandates That Apply to Private Entities Only

H.R. 10 would impose private-sector mandates on individuals and businesses in the financial services industry. The bill would affect certain fees and assessments on financial institutions, limit certain contractual rights, eliminate exiting rights of action, require additional registration and reporting for proxy advisers, and apply standards for processing funds in two American territories. Although the incremental changes required to comply with some of the mandates would be small relative to existing practices, CBO estimates that the net increase in fees and assessments would exceed $200 million in the first two years the mandates were in effect.

Increased Fees and Assessments. CBO expects some of the financial regulatory agencies to increase fees and assessments to offset the costs related to implementing the bill. For example, under the bill, the NCUA would assess fees on both federal and state-chartered credit unions insured by the Share Insurance Fund to offset costs associated with changing the agency's funding structure. CBO estimates that the incremental cost of the new fees would total about $200 million annually. Further, the bill's repeal of the Orderly Liquidation Fund might cause the FDIC to increase assessments on insured deposits to offset the cost of higher losses in the Deposit Insurance Fund. In each case, those higher fees would increase the cost of an existing mandate on institutions responsible for paying those assessments. At the same time, the elimination of the OLF would result in savings for some large financial institutions in the unlikely event of the failure of a systemically important financial institution, as the bill would eliminate assessments associated with the fund. Those savings are not estimated to begin until 2020. There is virtually no overlap between the institutions that would be subject to increased credit union and DIF assessments under the bill and those that would realize savings resulting from the elimination of the OLF. In the aggregate, CBO estimates, incremental costs associated with the changes in fees and assessments across the financial industry would total more than $210 million in 2018 and 2019 and would fall in subsequent years, netting to a savings after five years.

Temporary Limit on Contractual Rights. The bill would establish a new bankruptcy process for certain financial institutions with assets of more than $50 billion. The bill would impose a mandate by establishing a temporary stay on actions to terminate or modify certain nonfinancial contracts, such as derivatives contracts, for 48 hours after a bankruptcy petition was filed under the bankruptcy process established in the bill. The temporary stay would limit the contractual rights that entities have under current law. Limiting the ability of those entities to take actions such as collecting collateral or accelerating debt during that two-day period could cause them to incur losses. The cost of the mandate would total any losses the parties sustained as a result of the stay. Because of uncertainty about both the number and size of contracts that would be affected and the amount of losses that would occur as a result of this provision, CBO cannot estimate the cost of the mandate. However, on the basis of historical data, the likelihood that a large financial institution would fail in any one year is very low, and many experts believe that a stay in under such circumstances would probably occur over a single weekend, potentially minimizing losses.

Other Mandates on Private Entities. The bill would impose other private-sector mandates with small costs in a number of areas.

Safe Harbor for Portfolio Lending. Section 516 would eliminate an existing right of action against lenders that hold mortgages on their balance sheets. Under current law, lenders that meet the standards for qualified mortgages are granted legal protection from civil actions based on a claim that they failed to comply with ability-to-repay requirements. By broadening the definition of qualified mortgages to include mortgages that lenders hold on their balance sheets, the bill would limit borrowers' right to file claims against them.

Safe Harbor for Reporting Exploitation of a Senior Citizen. Section 491 would eliminate the right of plaintiffs to file a civil action against financial institutions and their employees who have received training on the financial exploitation of senior citizens when those employees file a report to a government authority about the potential exploitation of a senior citizen.

Requirements on Proxy Advisory Firms. Section 482 would impose a mandate on proxy advisory firms (which can provide voting recommendations to investment advisers who have the authority to proxy vote for their clients) by requiring them to register with the SEC and subjecting them to new personnel and reporting requirements.

Extended Application of the Expedited Funds Availability Act. Section 521 would require accounts at and checks drawn on commercial banks in American Samoa and the Northern Mariana Islands to meet standards required under the Expedited Funds Availability Act. The standards would require those banks to process such accounts and checks sooner than is their current business practice.

UNCERTAINTY

These estimates are subject to considerable uncertainty. For example, they depend in part on the probability of failure of a systemically important firm in any year. Although that probability is small both under current law and under the legislation, it is hard to predict. In addition, budgetary effects depend in part on how financial institutions would respond to changes in regulation. Projecting such responses is particularly difficult given that some proposed changes have little historical precedent. Although those and other aspects of the estimate are uncertain, CBO and JCT have endeavored to develop estimates that fall in the middle of the distribution of possible outcomes.

PREVIOUS CBO ESTIMATES

On February 24, 2017, CBO transmitted a cost estimate for H.R. 732, the Stop Settlement Slush Funds Act of 2017, as ordered reported by the House Committee on the Judiciary on February 7, 2017. Provisions in H.R. 10 are similar to H.R. 732, and CBO's estimate of their budgetary effects is the same.

On March 22, 2017, CBO transmitted a cost estimate for H.R. 1219, the Supporting America's Innovators Act of 2017, as ordered reported by the House Committee on Financial Services on March 9, 2017. Provisions in H.R. 10 are similar to H.R. 1219, and CBO's estimate of their budgetary effects is the same.

On March 22, 2017, CBO transmitted a cost estimate for H.R. 1312, the Small Business Capital Formation Enhancement Act, as ordered reported by the House Committee on Financial Services on March 9, 2017. Provisions in H.R. 10 are similar to H.R. 1312, and CBO's estimate of their budgetary effects is the same.

On March 23, 2017, CBO transmitted a cost estimate for H.R. 1343, the Encouraging Employee Ownership Act of 2017, as ordered reported by the House Committee on Financial Services on March 9, 2017. Provisions in H.R. 10 are similar to H.R. 1343, and CBO's estimate of their budgetary effects is the same.

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. Provisions in H.R. 10 are similar to H.R. 910, and CBO's estimate of their budgetary effects is the same.

On March 30, 2017, CBO transmitted a cost estimate for H.R. 1667, the Financial Institution Bankruptcy Act of 2017, as ordered reported by the House Committee on the Judiciary on March 29, 2017. Provisions in H.R. 10 are similar to those in H.R. 1667, and CBO's estimate of their budgetary effects is the same.

On April 4, 2017, CBO transmitted a cost estimate for H.R. 1257, the Securities and Exchange Commission Overpayment Credit Act, as ordered reported by the House Committee on Financial Services on March 9, 2017. H.R. 10 would require the SEC to refund any overpayment of certain fees national securities exchanges pay. CBO's estimate of spending for the refund of overpayments is higher under H.R. 10 than under H.R. 1257 because H.R. 10 would apply to fees and assessments paid over a longer period of time.

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