Congressional Budget Office
Cost Estimate

February 20, 2020

At a Glance

H.R. 3641, Stronger Enforcement of Civil Penalties Act of 2019

As ordered reported by the House Committee on Financial Services on July 16, 2019

By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	40	960	2,060
Revenues	185	4,635	9,260
Increase or Decrease (-) in the Deficit	-145	-3,675	-7,200
Spending Subject to Appropriation (Outlays)	*	*	*

Statutory pay-as-you-go procedures apply?	Yes	**Mandate Effects**	
		Contains intergovernmental mandate?	No
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains private-sector mandate?	Yes, Under Threshold

* = between -$500,000 and $500,000.

The bill would

- Increase the amount of civil monetary penalties the Securities and Exchange Commission (SEC) may order in certain judicial and administrative enforcement actions
- Raise the cost of an existing mandate on private entities required to pay assessments to the SEC

Estimated budgetary effects would primarily stem from

- Increased collections of civil monetary penalties and distributions to harmed investors
- Increased payments to whistleblowers

Areas of significant uncertainty include

- Predicting the amount of penalties that the SEC orders, collects, and distributes under current law and how those collections and related spending would change under the bill
- Estimating the amount and timing of payments to whistleblowers

Detailed estimate begins on the next page.

Bill Summary

H.R. 3641 would increase the maximum civil monetary penalties that the Securities and Exchange Commission (SEC) may order against individuals and companies that violate certain securities laws or regulations. In addition to increasing the specific penalty amounts, the bill would give the SEC the authority, in the case of certain serious violations, to order penalties equal to three times the pecuniary gain to the violator or equal to the amount of losses incurred by the victims. H.R. 3641 would permit the SEC to further compound certain penalties ordered against repeat violators.

Estimated Federal Cost

The estimated budgetary effect of H.R. 3641 is shown in Table 1. The costs of the legislation fall within budget function 370 (commerce and housing credit).

Table 1.
Estimated Budgetary Effects of H.R. 3641

	By Fiscal Year, Millions of Dollars												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020-2025	2020-2030
	Increases in Revenues												
Estimated Revenues	185	750	925	925	925	925	925	925	925	925	925	4,635	9,260
	Increases in Direct Spending												
Estimated Budget Authority	40	75	185	220	220	220	220	220	220	220	220	960	2,060
Estimated Outlays	40	75	185	220	220	220	220	220	220	220	220	960	2,060
	Net Decrease in the Deficit From Changes in Revenues and Direct Spending												
Effect on the Deficit	-145	-675	-740	-705	-705	-705	-705	-705	-705	-705	-705	-3,675	-7,200

CBO expects that implementing the bill could increase costs for the Securities and Exchange Commission (SEC) by an insignificant amount to collect and process the increased penalty collections under H.R. 3641. However, the SEC is authorized to collect fees each year to offset its annual appropriation. Assuming appropriation actions consistent with that authority, CBO estimates that any change in discretionary spending would be negligible.

Basis of Estimate

CBO assumes that H.R. 3641 will be enacted in 2020.

Revenues

H.R. 3641 would increase the maximum civil monetary penalties the SEC could seek for certain violations. Under current law, those amounts range from $5,000 to $1 million, depending on such factors as the type and severity of the violation and whether the violator is an individual or business. For some violations, the SEC may use a federal court action to seek a penalty equal to the gross amount of the pecuniary gain to the violator, if that amount is greater than the maximum amount enumerated in law.

H.R. 3641 would increase the maximum amounts for civil monetary penalties. Under the bill, those amounts would range from $10,000 for lesser violations to $10 million for more serious violations. In certain cases, the bill also would give the SEC the authority to order penalties equal to three times the pecuniary gain to the violator or equal to the amount of losses incurred by the victim. H.R. 3641 would permit the SEC to further compound penalties ordered against repeat violators.

CBO treats collections of civil monetary penalties as revenues in the federal budget. Using data from the SEC about enforcement actions in recent years, CBO estimates that enacting H.R. 3641 would increase the collection of civil monetary penalties, and thus revenues, by about $9.3 billion over the 2020-2030 period.

Direct Spending

Section 308 of the Sarbanes-Oxley Act, known as the Fair Fund provision, authorizes the SEC to distribute civil monetary penalties to harmed investors. For this cost estimate, CBO has displayed distributions of additional revenues as direct spending. Based on distribution patterns from enforcement actions in recent years, CBO estimates that H.R. 3641 would increase outlays by about $1.6 billion over the 2020-2030 period.

In addition, the SEC provides monetary awards to whistleblowers who report violations that lead to judicial or administrative enforcement actions yielding more than $1 million in penalties. Whistleblowers are eligible to receive between 10 percent and 30 percent of any penalties ordered and collected. Because civil monetary penalties would increase under H.R. 3641, CBO expects that whistleblower awards would increase proportionally. CBO estimates that the SEC would pay $440 million in additional whistleblower awards over the 2020-2030 period. Such awards are recorded as direct spending in the federal budget.

In total, CBO expects that enacting H.R. 3641 would increase direct spending by about $2.1 billion over the 2020-2030 period.

Uncertainty

Because the amount of penalties that the SEC orders, collects, and distributes from securities law violations is hard to predict and varies from year to year, estimating the budgetary effects of H.R. 3641 is uncertain; collections could be larger or smaller than CBO estimates. Several other factors also could affect the estimated change in revenues under the bill, including how frequently the SEC would seek the new maximum penalties, how much those larger penalties would deter violators, whether the higher amounts would affect the SEC's collection rates, and how much the SEC would return to harmed investors. In addition, because the amount and timing of payments to whistleblowers depends on factors such as the number of whistleblowers and the size of awards each year, all of which are hard to predict, the total amounts could be larger or smaller than CBO estimates.

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 Table 2.

Table 2.
CBO's Estimate of the Statutory Pay-As-You-Go Effects of H.R. 3641, the Stronger Enforcement of Civil Penalties Act of 2019, as Ordered Reported by the House Committee on Financial Services on July 16, 2019

	By Fiscal Year, Millions of Dollars												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020-2025	2020-2030
	Net Decrease in the Deficit												
Pay-As-You-Go Effect	-145	-675	-740	-705	-705	-705	-705	-705	-705	-705	-705	-3,675	-7,200
Memorandum:													
Changes in Outlays	40	75	185	220	220	220	220	220	220	220	220	960	2,060
Changes in Revenues	185	750	925	925	925	925	925	925	925	925	925	4,635	9,260

Increase in Long-Term Deficits: None.

Mandates

If the SEC increased fees to offset the costs associated with implementing the bill, H.R. 3641 would increase the cost of an existing mandate on private entities required to pay those assessments. CBO estimates that the incremental cost of the mandate would be below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates ($168 million in 2020, adjusted annually for inflation).

The bill contains no intergovernmental mandates as defined in UMRA.

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