CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 24, 2000

S. 2107
Competitive Market Supervision Act

As ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on July 13, 2000

SUMMARY

S. 2107 would adjust the fees that the Securities and Exchange Commission (SEC) is authorized to collect for registrations, mergers, and transactions of securities. Under current law, some of those fees are recorded in the budget as governmental receipts (revenues) and some are recorded as offsetting collections that are credited against discretionary appropriations for the SEC. The bill would eliminate SEC fees that are recorded as revenues and would limit the amount of fees that can be collected as an offset to discretionary spending. If implemented, S. 2107 would reduce total SEC fees from an estimated $2.1 billion in fiscal year 2000 to about $0.7 billion in 2001.

The bill would authorize the appropriation of $423 million for the SEC in 2001. Under S. 2107, the SEC would be allowed to adjust employees' compensation and benefits to make them comparable to agencies that regulate banking, such as the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration. Finally, the bill would exempt certain market participants and types of securities from state registration requirements.

CBO estimates that implementing S. 2107 in 2001 would increase net SEC spending, relative to 2000 spending. For 2001, the bill would authorize an increase of $40 million in the gross SEC appropriation, relative to 2000, but it also would limit the amount of fees that would be credited against this gross spending level. In 2000, we estimate SEC fees that are offset against gross SEC spending will total $864 million. Without any limitation, we expect those fee collections would grow to $988 million in 2001. Under S. 2107, however, we estimate that SEC fees that are credited against gross agency spending would be limited to $677 million. CBO estimates that net SEC spending would increase by $275 million from 2000 to 2001, assuming appropriation of the amount authorized by the bill for 2001.

(Estimated budgetary effects of S. 2107 after 2001 would depend on gross appropriations provided to the SEC. This bill would not authorize such spending beyond 2001.)

Finally, CBO estimates that enactment of S. 2107 would reduce governmental receipts by $1.3 billion in 2001 and by $7.9 billion over the 2001-2005 period. Because S. 2107 would reduce governmental receipts, pay-as-you-go procedures would apply.

S. 2107 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt several states' securities laws. While data are very limited, CBO estimates that complying with these mandates would not exceed the threshold established by that act ($55 million in 2000, adjusted annually for inflation). S. 2107 would impose private-sector mandates on the national securities exchanges, national securities associations, and investment advisors. CBO estimates that the direct costs of these mandates would be below the annual threshold established by UMRA for private-sector mandates ($109 million in 2000, adjusted for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 2107 on revenues is shown in Table 1. The effect of the bill on spending subject to appropriation after 2001 would depend on the gross amounts appropriated to the SEC. The costs of this legislation fall within budget function 370 (commerce and housing credit).

BASIS OF ESTIMATE

CBO estimates that implementing S. 2107 would increase net SEC spending from 2000 to 2001 by $275 million, assuming appropriation of the bill's authorized amount. We estimate that enactment of the bill would reduce revenues by $1.3 billion in 2001 and by $7.9 billion over the 2001-2005 period by eliminating SEC fees that are currently recorded in the budget as revenues.

Spending Subject to Appropriation

S. 2107 would authorize the appropriation of $423 million in 2001 for the SEC, and would reduce the amount of fees the agency is authorized to charge, subject to appropriation action. In addition, the bill would establish upper and lower limits on the total amount of fees the SEC could collect each year to offset its appropriated spending.

Table 1. Estimated Budgetary Effects of S. 2107

	By Fiscal Year, in Millions of Dollars					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION [a]						
SEC Spending Under Current Law						
Estimated Budget Authority [b]	-496	0	0	0	0	0
Estimated Outlays	-515	111	0	0	0	0
Proposed Changes						
Gross SEC Spending						
Authorization Level	0	423	0	0	0	0
Estimated Outlays	0	326	93	0	0	0
Offsetting Collections						
Estimated Authorization Level	0	-677	0	0	0	0
Estimated Outlays	0	-677	0	0	0	0
Net SEC Spending						
Estimated Authorization Level	0	-254	0	0	0	0
Estimated Outlays	0	-351	93	0	0	0
SEC Spending Under S. 2107						
Estimated Authorization Level [b]	-496	-254	0	0	0	0
Estimated Outlays	-515	-240	93	0	0	0
CHANGES IN REVENUES						
Estimated Revenues	0	-1,306	-1,420	-1,545	-1,717	-1,910

a. After 2001, the impact on discretionary spending of the changes in SEC fee rates that would be made by S. 2107 would depend on the gross appropriation provided for the agency. This bill only authorizes such funding for 2001.

b. The 2000 level is the estimated net amount appropriated for that year; the gross SEC appropriation for 2000 was $383 million.

Changes in Gross Spending. S. 2107 would authorize a gross SEC appropriation for 2001 that is $40 million more than the 2000 level. Based on historical spending patterns of the agency, CBO estimates implementing this provision would cost about $420 million over the 2001-2002 period.

Changes in Offsetting Collections. The bill would reduce offsetting collections by reducing the current statutory rates on all three types of SEC fees: registration fees, merger and tender fees, and transaction fees. The bill also would establish an upper and lower limit on the total amount of offsetting collections the SEC may collect in any year.

Based on historical information from the securities industry and the likelihood that offsetting collections would exceed the upper limit that would be established by the bill, CBO estimates that the lower fee rates authorized by S. 2107 would reduce offsetting collections relative to CBO's baseline by about $311 million in 2001 and by $2.5 billion over the 2001-2005 period, subject to future appropriation action. Table 2 compares CBO's baseline estimates of SEC fee collections with our estimates of fee collections under S. 2107.

Table 2. Estimated Offsetting Collections from SEC Fees, Relative to CBO Baseline Estimates

	Outlays in Millions of Dollars, By Fiscal Year					
	2000	2001	2002	2003	2004	2005
CBO Baseline Estimates of SEC Offsetting Collections	-864	-988	-1,154	-1,360	-1,582	-1,919
Estimated Reduction in Fees Authorized by S. 2107	0	311	388	479	591	723
Estimated SEC Offsetting Collections Under S. 2107	-864	-677	-766	-881	-991	-1,196

Registration fees. Under current law, the SEC collects a fee on the registration of securities. The current registration fee is $200 per $1 million of the maximum aggregate price for securities that are proposed to be offered during the 2000-2006 period. After 2006, the fee drops to $67 per $1 million of the maximum aggregate price for securities that are proposed to be offered. These fees are recorded as governmental receipts (revenues). Current law also requires, subject to appropriation, that the SEC charge an additional registration fee of $50 per $1 million of the maximum aggregate price for securities that are proposed to be offered in 2001. Under current law, this added registration fee gradually declines after 2001, until it ends at the end of 2005. These additional fees are recorded as offsetting collections.

S. 2107 would eliminate all registration fees that are recorded as governmental receipts and would set fees that are recorded as offsetting collections at $67 per $1 million of the maximum aggregate price for securities that are proposed to be offered during the 2001-2006 period. The bill also would change the registration fees for 2007 and thereafter to $33 per $1 million of the maximum aggregate price for securities that are proposed to be offered.

CBO estimates that under the bill the SEC would collect $229 million in registration fees in 2001, subject to appropriation action.

Merger and tender fees. Under current law, the SEC charges a merger fee equal to $200 per $1 million of the value of securities proposed to be purchased as part of a merger. These current fees are also recorded revenues. S. 2107 would eliminate those merger fees and establish new merger fees to be recorded as offsetting collections at the rate of $67 per $1 million of the aggregate value of securities proposed to be purchased during the 2001-2006 period. The bill also would establish merger fees for 2007 and thereafter at the rate of $33 per $1 million of the aggregate value of securities proposed to be purchased as part of a merger. CBO estimates that under S. 2107 the SEC would collect about $46 million in merger fees in 2001, subject to appropriation.

Transaction fees. Under current law, the SEC collects 1/300th of a percent of the aggregate dollars traded through national securities exchanges, national securities associations, brokers, and dealers. The fee rate will decline to 1/800th of a percent for 2007 and thereafter. Fees collected from national securities associations are recorded as offsetting collections. (Fees from other sources are recorded as revenues.)

Under the bill, all transactions fees would be recorded as offsetting collections. Furthermore, the bill would require the SEC to set the transaction fee rate at the beginning of each fiscal year so that transaction fee collections in a given fiscal year will equal a specified amount. For 2001, this amount would be $413 million. By comparison, under our baseline assumptions, CBO estimates the SEC will collect $817 million of offsetting collections from transaction fees in 2001.

S. 2107 would require that the SEC adjust the transaction fee rate during the year so that total SEC fee collections (including fees for registrations, mergers, and transactions) would not fall below a specified floor amount of collections, nor exceed a specified ceiling amount of collections. The bill would set the floor amount equal to the amount appropriated to the SEC for fiscal year 2001, and adjust it annually for changes in inflation thereafter, or at the amount authorized to be appropriated for the SEC in a given year, whichever is greater. The bill would set the ceiling amount equal to the most recent CBO baseline for total SEC collections, plus 5 percent above this level, for fiscal years 2001 through 2010. The bill would set the ceiling equal to the amount authorized to be appropriated for the SEC, plus an additional 5 percent, for fiscal years 2011 and thereafter.

By changing the fee rates paid for registrations, mergers, and transactions, the bill would reduce total offsetting collections from the CBO baseline estimates of $988 million to about $688 million in 2001. Offsetting collections, however, could be higher or lower depending on the volume of each of those activities. By limiting the total amount the SEC could collect through a floor and ceiling, the bill would eliminate the possibility that offsetting collections could be less than $423 million or more than $1,037 million in 2001. Based on the historical growth of SEC fees, CBO does not expect fees would be less than the floor in any year. Based on the likelihood that SEC fees under the bill would be greater than the ceiling in 2001, CBO estimates these provisions would cost about $11 million in that year. CBO estimates the ceiling provisions would reduce expected fees by about $90 million over the 2001-2005 period.

Revenues

S. 2107 would eliminate all registration, merger and tender, and transaction fees that are currently recorded as revenues. CBO estimates that S. 2107 would reduce revenues by $7.9 billion over the 2001-2005 period and by $14.4 billion over the 2001-2010 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in Table 3. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

Table 3. Estimated Impact of S. 2107 on Direct Spending and Receipts

	By Fiscal Year, in Millions of Dollars										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	Not applicable										
Changes in receipts	0	-1,306	-1,420	-1,545	-1,717	-1,910	-2,108	-1,000	-1,026	-1,129	-1,241

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 2107 would preempt state laws to prohibit states from imposing certain filing and fee requirements on specified securities and securities providers. Such preemptions would be mandates as defined in UMRA. Because states vary significantly in filing requirements, fee structures, and scope of regulation, CBO cannot determine precisely the total revenue loss they would experience as a result of this bill. However, based on information provided by groups representing securities administrators, securities attorneys, and a sample of states most likely to be affected, we estimate that those losses would not exceed the threshold established by UMRA ($55 million in 2000, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 2107 would require each national securities exchange and national securities association to file monthly with the SEC an estimate of fees that they are required to pay. The bill would also impose requirements on a registered securities association and investment advisors by requiring electronic access to disciplinary and other information. Based on information from government and industry sources, CBO estimates that the direct costs of the mandates would be below the annual threshold established by UMRA for private-sector mandates ($109 million in 2000, adjusted for inflation).

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