

Bills to strengthen SEC's hand seek bipartisan support

Legislation to increase penalties, ease statute of limitations pass House committee on party line



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By **Mark Schoeff Jr.**

Bills that would enable the Securities and Exchange Commission to impose stronger penalties on financial rules violators and give the agency more time to ferret out wrongdoing are looking for more bipartisan support over the summer.

The House Financial Services Committee approved both measures on **party-line votes July 16.**

The Stronger Enforcement of Civil Penalties Act would increase the cap on civil penalties per violation from \$181,071 to \$1 million for individuals and from \$905,353 to \$10 million for



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The other bill would give the SEC a 10-year statute of limitations to impose civil monetary penalties, beginning when the violation occurred. The measure would overturn a Supreme Court case, *Gabelli v. SEC*, that set a five-year limit.

"The SEC's penalty scheme is outdated and, therefore, ineffective in disincentivizing bad behavior," Rep. Katie Porter, D-Calif., author of the civil penalties bill, said during committee debate. "That fact is recognized on both sides of the aisle."

Ms. Porter cited a **companion Senate bill** sponsored by Sens. Jack Reed, D-R.I., Patrick Leahy, D-Vt., and Chuck Grassley, R-Ia., who is chairman of the Senate Finance Committee. She also said a similar increase in SEC penalty latitude was included in 2017 legislation written by then-House Financial Services chairman Jeb Hensarling, R-Texas.

But Rep. Bill Huizenga, R-Mich., said Republicans previously backed the penalty boost because it was coupled with SEC enforcement reforms not included in Ms. Porter's bill.

"Without additional procedural protections, the increased penalties do not strike the right balance between deterring and punishing securities fraud and protecting shareholders ultimately responsible for paying large civil penalties for violations they did not commit and that may

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A House Democratic aide anticipates Republican support for the bill will grow in the House before a floor vote, as Democrats communicate with Republicans over the August recess that the companion Senate bill is supported by Mr. Grassley.

A securities lawyer, however, said House Republicans have a good point in trying to couple stronger penalties with reform of the SEC's administrative law system.

The bill "dramatically increases the SEC's ability to extract significant monetary penalties in settlements and litigated cases," said David Chase, owner

of an eponymous firm and a former SEC attorney. "It's only fair and reasonable to also require the SEC to take steps to ensure those individuals and companies they're seeking to fine have their fair day with adequate due process protections in front of an SEC administrative law judge."

The author of the bill to extend the statute of limitations for civil penalties to 10 years put the measure in stark terms.

"Either you're with the crooks or you're with the American people," said Rep. Vicente Gonzalez, D-Texas. "It's as simple as that."

But panel Republicans said the SEC has not requested legislative help in overturning the Supreme Court's

time in which the agency can seek disgorgement.

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"The current five-year statute of limitations incentivizes the SEC to move quickly and efficiently to initiate actions," said Rep. Bryan Steil, R-Wisc.

A Senate bill written by Sens. Mark Warner, D-Va., and John Kennedy, R-La., also would **extend the SEC's statute of limitations** to 10 years.

"During the House Financial Services Committee's consideration of the legislation, Republican members held firm in their opposition to the bills, but there is a history of bipartisan support with similar legislation," the National Association of Plan Advisers **wrote in an analysis**.

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