

# TRUTH IN SETTLEMENTS ACT

## Fact Sheet

Federal agencies are charged with holding companies and individuals accountable when they break the law, and their investigations regularly end in settlement agreements rather than public trials. All too often, the critical details of these agreements are hidden from the public. Agencies trumpet the topline amount they obtained while failing to disclose that the settlement includes significant tax deductions or “credits” for routine conduct that dramatically reduce the actual value of the settlement. Worse, many agencies can deem settlements confidential without explanation, preventing public scrutiny altogether.

**If enforcement agencies are confident that settlements are a good deal for the people they represent, they should be willing to publicly disclose the key terms of those agreements.**

The Truth in Settlements Act demands specificity and transparency in all federal agency settlements that include over \$1 million in payments. The Act ensures that relevant details and terms of non-confidential settlements are publicized truthfully, and that the process by which settlements are deemed confidential is assessed and monitored. Specifically, the Act:

- ***Requires federal agencies to explain in written public statements that reference the settlement amount whether any portion of that amount is potentially tax deductible, or includes the cost of “credits” for routine conduct.*** The tax code allows corporations to deduct any settlement payments classified as restitution or compensation, but prohibits them from deducting payments classified as penalties or fines. The Act would require agencies to explain how the settlement classified any payments so that the public can easily assess the potential tax implications. Similarly, for settlements that include the cost of credits – such as the \$25 billion National Mortgage Settlement that included \$17 billion in credits, much of it for routine conduct – the Act would require agencies to explain what conduct would qualify as a credit toward the settlement amount.
- ***Requires federal agencies to post basic information about settlements over \$1 million on their websites, and provide copies of such settlements as well.*** The Act would require agencies to disclose key details of all settlement agreements – including dates, settling parties, settled claims, and the amount and classification of any payments – and to post copies of such agreements on their websites.
- ***Requires companies that settle with enforcement agencies to state in their SEC filings whether they have deducted any settlement payments from their taxes.*** This provision of the Act would generate additional public awareness about the ultimate cost of any settlements with federal agencies.
- ***Requires federal agencies to explain why they deemed a settlement confidential.*** Currently, many agencies are not required to provide any explanation of why they deemed a settlement confidential. The Act would ensure that a federal agency must provide such an explanation, permitting greater congressional and public scrutiny.
- ***Requires federal agencies to report annual aggregate statistics on confidential settlements.*** The Act would require agencies to report annually to Congress on (1) the number of settlements over \$1 million the agency entered into that year; (2) the number of such settlements that had *any* terms deemed confidential; and (3) the number of such settlements that had *all* terms deemed confidential.
- ***Directs the GAO to conduct a study to examine the confidentiality issue and make legislative and administrative recommendations for reform.*** To provide further recommendations for administrative or legislative action, the Act would direct the GAO to examine how, and to what extent, agencies deem settlements confidential, and whether there are ways to make the process more transparent.