

**AMENDMENT TO H.R. 37**  
**OFFERED BY MS. MAXINE WATERS OF**  
**CALIFORNIA**

Page 26, after line 22, insert the following:

1 **SEC. 904. INVESTMENT ADVISER EXAMINATION IMPROVE-**  
2 **MENT.**

3 (a) SENSE OF CONGRESS.—It is the sense of the Con-  
4 gress that the Securities and Exchange Commission  
5 should increase the number and frequency of examinations  
6 of investment advisers.

7 (b) INSPECTION AND EXAMINATION FEES.—Section  
8 204 of the Investment Advisers Act of 1940 (15 U.S.C.  
9 80b–4) is amended—

10 (1) by redesignating the second subsection (d)  
11 as subsection (e); and

12 (2) by adding at the end the following new sub-  
13 section

14 “(f) INSPECTION AND EXAMINATION FEES.—

15 “(1) IN GENERAL.—The Commission shall col-  
16 lect an annual fee from investment advisers that are  
17 subject to inspection or examination by the Commis-  
18 sion under this title to defray the cost of such in-  
19 spections and examinations.

1           “(2) EXEMPTIONS FOR CERTAIN STATE-REGU-  
2           LATED INVESTMENT ADVISERS.—No fees shall be  
3           collected under this subsection from any investment  
4           adviser that is prohibited from registering with the  
5           Commission under section 203 by reason of section  
6           203A.

7           “(3) FEE AMOUNTS.—

8           “(A) AMOUNT TO BE COLLECTED.—

9           “(i) IN GENERAL.—The Commission  
10           shall seek to ensure that the aggregate  
11           amount of fees collected under this sub-  
12           section with respect to a specific fiscal year  
13           are equal to the estimated cost of the Com-  
14           mission in carrying out additional inspec-  
15           tions and examinations for such fiscal  
16           year.

17           “(ii) ADDITIONAL INSPECTIONS AND  
18           EXAMINATIONS DEFINED.—For purposes  
19           of this subparagraph and with respect to a  
20           fiscal year, the term ‘additional inspections  
21           and examinations’ means those inspections  
22           and examinations of investment advisers  
23           under this title for such fiscal year that ex-  
24           ceed the number of inspections and exami-

1           nations of investment advisers under this  
2           title conducted during fiscal year 2012.

3           “(B) FEE CALCULATION FORMULA.—The  
4           Commission shall establish by rulemaking a for-  
5           mula for determining the fee amount to be as-  
6           sessed against individual investment advisers,  
7           which shall take into account the following fac-  
8           tors:

9                   “(i) The anticipated costs of con-  
10                  ducting inspections and examinations of in-  
11                  vestment advisers under this title, includ-  
12                  ing the anticipated frequency of such in-  
13                  spections and examinations.

14                  “(ii) The investment adviser’s size, in-  
15                  cluding the assets under management of  
16                  the investment adviser.

17                  “(iii) The number and type of clients  
18                  of the investment adviser, and the extent  
19                  to which the adviser’s clients pay other  
20                  fees established by the Commission, includ-  
21                  ing registration and transaction fees.

22                  “(iv) Such other objective factors,  
23                  such as risk characteristics, as the Com-  
24                  mission determines to be appropriate.

1           “(C) ADJUSTMENT OF FORMULA.—Prior  
2           to the end of each fiscal year, the Commission  
3           shall review the fee calculation formula and, if,  
4           after allowing for a period of public comment,  
5           the Commission determines that the formula  
6           needs to be revised, the Commission shall revise  
7           such formula before fees are assessed for the  
8           following fiscal year.

9           “(4) PUBLIC DISCLOSURES.—The Commission  
10          shall make the following information publicly avail-  
11          able, including on the Web site of the Commission:

12                 “(A) The formula used to determine the  
13                 fee amount to be assessed against individual in-  
14                 vestment advisers, and any adjustment made to  
15                 such formula.

16                 “(B) The factors used to determine such  
17                 formula, including any additional objective fac-  
18                 tors used by the Commission pursuant to para-  
19                 graph (3)(B)(iv).

20          “(5) AUDIT.—

21                 “(A) IN GENERAL.—The Comptroller Gen-  
22                 eral of the United States shall, every 2 years,  
23                 conduct an audit of the use of the fees collected  
24                 by the Commission under this subsection, the  
25                 reviews of the formula used to calculate such

1 fees, and any adjustments made by the Com-  
2 mission to such formula.

3 “(B) REPORT.—After conducting each  
4 audit required under subparagraph (A), the  
5 Comptroller General shall issue a report on  
6 such audit to the Committee on Financial Serv-  
7 ices of the House of Representatives and the  
8 Committee on Banking, Housing, and Urban  
9 Affairs of the Senate.

10 “(6) TREATMENT OF FEES.—

11 “(A) IN GENERAL.—Funds derived from  
12 fees assessed under this subsection shall be  
13 available to the Commission, without further  
14 appropriation or fiscal year limitation, to pay  
15 any costs associated with inspecting and exam-  
16 ining investment advisers that are subject to in-  
17 spection and examination under this title.

18 “(B) FUNDS NOT PUBLIC FUNDS.—Funds  
19 derived from fees assessed under this subsection  
20 shall not be construed to be Government or  
21 public funds or appropriated money. Notwith-  
22 standing any other provision of law, funds de-  
23 rived from fees assessed under this subsection  
24 shall not be subject to apportionment for the

1 purpose of chapter 15 of title 31, United States  
2 Code, or under any other authority.

3 “(C) FUNDS SUPPLEMENTAL TO OTHER  
4 AMOUNTS.—Funds derived from fees assessed  
5 under this subsection shall supplement, and be  
6 in addition to, any other amounts available to  
7 the Commission, under a regular appropriation  
8 or otherwise, for the purpose described in sub-  
9 paragraph (A).”.

