

AMENDMENT TO H.R. 2374
OFFERED BY Ms. Waters of CA

Page 4, line 21, strike the closed quotation and the following period and after such line, insert the following:

1 “(6) INSPECTION AND EXAMINATION FEES.—

2 “(A) IN GENERAL.—The Commission shall
3 collect an annual fee from investment advisors
4 that are subject to inspection or examination by
5 the Commission under title II of the Investment
6 Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.)
7 to defray the cost of such inspections and ex-
8 aminations.

9 “(B) EXEMPTIONS FOR CERTAIN STATE-
10 REGULATED INVESTMENT ADVISORS.—No fees
11 shall be collected under this paragraph from
12 any investment adviser that is prohibited from
13 registering with the Commission under section
14 203 of the Investment Advisers Act of 1940 (15
15 U.S.C. 80b-3) by reason of section 203A of
16 such Act.

17 “(C) FEE AMOUNTS.—

18 “(i) AMOUNT TO BE COLLECTED.—

1 “(I) IN GENERAL.—The Commis-
2 sion shall seek to ensure that the ag-
3 gregate amount of fees collected under
4 this paragraph with respect to a spe-
5 cific fiscal year are equal to the esti-
6 mated cost of the Commission in car-
7 rying out additional inspections and
8 examinations for such fiscal year.

9 “(II) ADDITIONAL INSPECTIONS
10 AND EXAMINATIONS DEFINED.—For
11 purposes of this clause and with re-
12 spect to a fiscal year, the term ‘addi-
13 tional inspections and examinations’
14 means those inspections and examina-
15 tions of investment advisors under
16 title II of the Investment Advisers Act
17 of 1940 for such fiscal year that ex-
18 ceed the number of inspections and
19 examinations of investment advisors
20 under such title conducted during fis-
21 cal year 2012.

22 “(ii) FEE CALCULATION FORMULA.—
23 The Commission shall establish by rule-
24 making a formula for determining the fee
25 amount to be assessed against individual

1 investment advisors, which shall take into
2 account the following factors:

3 “(I) The anticipated costs of con-
4 ducting inspections and examinations
5 of investment advisors under title II
6 of the Investment Advisers Act of
7 1940, including the anticipated fre-
8 quency of such inspections and exami-
9 nations.

10 “(II) The investment adviser’s
11 size, including the assets under man-
12 agement of the investment adviser.

13 “(III) The number and type of
14 clients of the investment adviser, and
15 the extent to which the adviser’s cli-
16 ents pay other fees established by the
17 Commission, including registration
18 and transaction fees.

19 “(IV) Such other objective fac-
20 tors, such as risk characteristics, as
21 the Commission determines to be ap-
22 propriate.

23 “(iii) ADJUSTMENT OF FORMULA.—
24 Prior to the end of each fiscal year, the
25 Commission shall review the fee calculation

1 formula and, if, after allowing for a period
2 of public comment, the Commission deter-
3 mines that the formula needs to be revised,
4 the Commission shall revise such formula
5 before fees are assessed for the following
6 fiscal year.

7 “(D) PUBLIC DISCLOSURES.—The Com-
8 mission shall make the following information
9 publicly available, including on the Web site of
10 the Commission:

11 “(i) The formula used to determine
12 the fee amount to be assessed against indi-
13 vidual investment advisors, and any adjust-
14 ment made to such formula.

15 “(ii) The factors used to determine
16 such formula, including any additional ob-
17 jective factors used by the Commission
18 pursuant to subparagraph (C)(ii)(IV).

19 “(E) AUDIT.—

20 “(i) IN GENERAL.—The Comptroller
21 General of the United States shall, every 2
22 years, conduct an audit of the use of the
23 fees collected by the Commission under
24 this paragraph, the reviews of the formula
25 used to calculate such fees, and any ad-

1 justments made by the Commission to such
2 formula.

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

10 “(F) TREATMENT OF FEES.—

11 “(i) IN GENERAL.—Funds derived
12 from fees assessed under this paragraph
13 shall be available to the Commission, with-
14 out further appropriation or fiscal year
15 limitation, to pay any costs associated with
16 inspecting and examining investment advi-
17 sors that are subject to inspection and ex-
18 amination under title II of the Investment
19 Advisers Act of 1940.

20 “(ii) FUNDS NOT PUBLIC FUNDS.—
21 Funds derived from fees assessed under
22 this paragraph shall not be construed to be
23 Government or public funds or appro-
24 priated money. Notwithstanding any other
25 provision of law, funds derived from fees

1 assessed under this paragraph shall not be
2 subject to apportionment for the purpose
3 of chapter 15 of title 31, United States
4 Code, or under any other authority.

5 “(iii) FUNDS SUPPLEMENTAL TO
6 OTHER AMOUNTS.—Funds derived from
7 fees assessed under this paragraph shall
8 supplement, and be in addition to, any
9 other amounts available to the Commis-
10 sion, under a regular appropriation or oth-
11 erwise, for the purpose described in clause
12 (i).”.

