AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7732
OFFERED BY MR. LYNCH OF MASSACHUSETTS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

This Act may be cited as the “Strengthening the Office of the Investor Advocate Act”.

4 SEC. 2. OFFICE OF THE INVESTOR ADVOCATE.

Section 4(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(g)) is amended—

   (1) in paragraph (2)—

   (A) in subparagraph (A)(ii), by striking “in securities and investor protection issues, from the perspective of investors” and inserting “, except that the individuals considered for appointment may not be limited to only those with professional or other qualifications relating to securities and investor protection issues”; and

   (B) by adding at the end the following:

   “(D) REMOVAL.—

   “(i) IN GENERAL.—The Investor Advocate—

   “(ii) REMOVAL.—
“(I) may only be removed—

“(aa) by the Chairman; and

“(bb) in accordance with applicable law; and

“(II) may not be removed for advocating for policies that are adverse to those of the Chairman or any Commissioner if, in the view of the Investor Advocate, the policies are in the interest of investors.

“(ii) COMMUNICATION OF REMOVAL.—In the case of a removal of the Investor Advocate, the Chairman shall, not later than 30 days before such removal, submit to Congress a notice of such removal that includes the reasons for such removal.

“(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall prohibit any action otherwise authorized by law, other than the removal of the Investor Advocate.”;

(2) in paragraph (3), by striking “, after consultation with the Chairman of the Commission,”; 

(3) in paragraph (4)—
(A) in subparagraph (D)(ii), by striking “and” at the end;

(B) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(F) engage in such investor research and investor testing programs that the Investor Advocate determines are necessary in the interest of investors and consistent with the functions of the Investor Advocate under this subsection.”;

(4) by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (8), (9), and (11), respectively;

(5) by inserting after paragraph (4) the following:

“(5) INVESTOR RESEARCH AND INVESTOR TESTING PROGRAMS.—

“(A) INDEPENDENCE.—Subject to subparagraph (B), the results of any investor research and investor testing program carried out under paragraph (4)(F) may be made publicly available at the discretion of the Investor Advocate without any prior review or comment from the Commission, any Commissioner, any other
officer or employee of the Commission, or the
Office of Management and Budget.

“(B) REDACTION OF PERSONALLY IDENTIFIABLE INFORMATION.—The Investor Advocate may not publish results described in subparagraph (A) that contain personally identifiable information.

“(C) RULE OF CONSTRUCTION.—For purposes of chapter 35 of title 44, United States Code (commonly referred to as the ‘Paperwork Reduction Act’), any action carried out under paragraph (4)(F) shall not be construed to be a collection of information.”;

(6) in paragraph (6), as so redesignated, by striking “as necessary” and inserting “as the Investor Advocate determines to be in the interest of investors and necessary”;

(7) by inserting after paragraph (6) the following:

“(7) ACCESS TO SERVICES.—Subject to the Federal Acquisition Regulation, the Commission shall enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons as determined necessary by the Investor Advocate to be in
the interest of investors and to carry out the functions of the Investor Advocate under this subsection.”;

(8) in paragraph (8), as so redesignated—

(A) by amending subparagraph (A) to read as follows:

“(A) DISCRETIONARY REPORTS.—In the case of special or extraordinary circumstances, the Investor Advocate may make such reports to Congress as the Investor Advocate determines appropriate.”; and

(B) in subparagraph (B)(i), by inserting “and the objectives of the Investor Advocate for the following fiscal year” before the period at the end;

(9) in paragraph (9), as so redesignated—

(A) by striking “shall, by regulation” and inserting “shall—

“(A) by regulation”;

(B) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(B) consult with the Investor Advocate with respect to the consideration of the adop-
tion, revision, and rescissions of rules and regulations of general application.”; and

(10) by inserting after paragraph (9) the following:

“(10) BUDGET.—

“(A) BUDGET ESTIMATE REQUIRED.—For each fiscal year, to carry out the functions of the Investor Advocate under this subsection and in the interest of investors, the Investor Advocate shall transmit a budget estimate and request to the Commission that specifies the aggregate amount of funds requested for such fiscal year for the operations of the Office.

“(B) CONTENTS.—In transmitting a proposed budget to the President for approval, the Commission shall include—

“(i) an aggregate request for the Investor Advocate; and

“(ii) any comments of the Investor Advocate with respect to the proposal.

“(C) PRESIDENTIAL BUDGET.—The President shall include in the budget for each fiscal year that is submitted by the President under section 1105(a) of title 31, United States Code—
“(i) a separate statement of the budget estimate prepared in accordance with subparagraph (B);

“(ii) the amount requested by the President for the Investor Advocate; and

“(iii) the views of the Investor Advocate with respect to the amount described in clause (ii), including whether in the opinion of the Investor Advocate such amount would substantially inhibit the Investor Advocate from performing the duties of the office.”.