

**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.

2 This Act may be cited as the “Strengthening the Of-
3 fice of the Investor Advocate Act”.

4 SEC. 2. OFFICE OF THE INVESTOR ADVOCATE.

5 Section 4(g) of the Securities Exchange Act of 1934
6 (15 U.S.C. 78d(g)) is amended—

7 (1) in paragraph (2)—

8 (A) in subparagraph (A)(ii), by striking
9 “in securities and investor protection issues,
10 from the perspective of investors” and inserting
11 “, except that the individuals considered for ap-
12 pointment may not be limited to only those with
13 professional or other qualifications relating to
14 securities and investor protection issues”; and

15 (B) by adding at the end the following:

16 “(D) REMOVAL.—

17 “(i) IN GENERAL.—The Investor Ad-
18 vocate—

1 “(I) may only be removed—
2 “(aa) by the Chairman; and
3 “(bb) in accordance with ap-
4 plicable law; and

5 “(II) may not be removed for ad-
6 vocating for policies that are adverse
7 to those of the Chairman or any Com-
8 missioner if, in the view of the Inves-
9 tor Advocate, the policies are in the
10 interest of investors.

11 “(ii) COMMUNICATION OF RE-
12 MOVAL.—In the case of a removal of the
13 Investor Advocate, the Chairman shall, not
14 later than 30 days before such removal,
15 submit to Congress a notice of such re-
16 moval that includes the reasons for such
17 removal.

18 “(iii) RULE OF CONSTRUCTION.—
19 Nothing in this subparagraph shall pro-
20 hibit any action otherwise authorized by
21 law, other than the removal of the Investor
22 Advocate.”;

23 (2) in paragraph (3), by striking “, after con-
24 sultation with the Chairman of the Commission,”;

25 (3) in paragraph (4)—

1 (A) in subparagraph (D)(ii), by striking
2 “and” at the end;

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

5 (C) by adding at the end the following:

6 “(F) engage in such investor research and
7 investor testing programs that the Investor Ad-
8 vocate determines are necessary in the interest
9 of investors and consistent with the functions of
10 the Investor Advocate under this subsection.”;

11 (4) by redesignating paragraphs (5), (6), (7),
12 and (8) as paragraphs (6), (8), (9), and (11), re-
13 spectively;

14 (5) by inserting after paragraph (4) the fol-
15 lowing:

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

18 “(A) INDEPENDENCE.—Subject to sub-
19 paragraph (B), the results of any investor re-
20 search and investor testing program carried out
21 under paragraph (4)(F) may be made publicly
22 available at the discretion of the Investor Advo-
23 cate without any prior review or comment from
24 the Commission, any Commissioner, any other

1 officer or employee of the Commission, or the
2 Office of Management and Budget.

3 “(B) REDACTION OF PERSONALLY IDENTIFI-
4 FIABLE INFORMATION.—The Investor Advocate
5 may not publish results described in subpara-
6 graph (A) that contain personally identifiable
7 information.

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

14 (6) in paragraph (6), as so redesignated, by
15 striking “as necessary” and inserting “as the Inves-
16 tor Advocate determines to be in the interest of in-
17 vestors and necessary”;

18 (7) by inserting after paragraph (6) the fol-
19 lowing:

20 “(7) ACCESS TO SERVICES.—Subject to the
21 Federal Acquisition Regulation, the Commission
22 shall enter into contracts and other arrangements
23 for audits, studies, analyses, and other services with
24 public agencies and with private persons as deter-
25 mined necessary by the Investor Advocate to be in

1 the interest of investors and to carry out the func-
2 tions of the Investor Advocate under this sub-
3 section.”;

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

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

7 “(A) DISCRETIONARY REPORTS.—In the
8 case of special or extraordinary circumstances,
9 the Investor Advocate may make such reports
10 to Congress as the Investor Advocate deter-
11 mines appropriate.”; and

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

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

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

19 “(A) by regulation”;

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

22 (C) by adding at the end the following:

23 “(B) consult with the Investor Advocate
24 with respect to the consideration of the adop-

1 tion, revision, and rescissions of rules and regu-
2 lations of general application.”; and

3 (10) by inserting after paragraph (9) the fol-
4 lowing:

5 “(10) BUDGET.—

6 “(A) BUDGET ESTIMATE REQUIRED.—For
7 each fiscal year, to carry out the functions of
8 the Investor Advocate under this subsection and
9 in the interest of investors, the Investor Advoca-
10 cate shall transmit a budget estimate and re-
11 quest to the Commission that specifies the ag-
12 gregate amount of funds requested for such fis-
13 cal year for the operations of the Office.

14 “(B) CONTENTS.—In transmitting a pro-
15 posed budget to the President for approval, the
16 Commission shall include—

17 “(i) an aggregate request for the In-
18 vestor Advocate; and

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

21 “(C) PRESIDENTIAL BUDGET.—The Presi-
22 dent shall include in the budget for each fiscal
23 year that is submitted by the President under
24 section 1105(a) of title 31, United States
25 Code—

1 “(i) a separate statement of the budg-
2 et estimate prepared in accordance with
3 subparagraph (B);
4 “(ii) the amount requested by the
5 President for the Investor Advocate; and
6 “(iii) the views of the Investor Advo-
7 cate with respect to the amount described
8 in clause (ii), including whether in the
9 opinion of the Investor Advocate such
10 amount would substantially inhibit the In-
11 vestor Advocate from performing the du-
12 ties of the office.”.

