

**AMENDMENT TO H.R. 5016, AS REPORTED**

**OFFERED BY M\_\_.** \_\_\_\_\_

Page 104, after line 21, insert the following:

1       SEC. \_\_\_\_\_. Section 204 of the Investment Advisers  
2 Act of 1940 (15 U.S.C. 80b-4) is amended by adding at  
3 the end the following new subsection:

4       “(e) INSPECTION AND EXAMINATION FEES.—

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

10              “(2) EXEMPTIONS FOR CERTAIN STATE-REGU-  
11 LATED INVESTMENT ADVISERS.—No fees shall be  
12 collected under this subsection from any investment  
13 adviser that is prohibited from registering with the  
14 Commission under section 203 by reason of section  
15 203A.

16              “(3) FEE AMOUNTS.—

17                      “(A) AMOUNT TO BE COLLECTED.—

18                              “(i) IN GENERAL.—The Commission  
19 shall seek to ensure that the aggregate  
20 amount of fees collected under this sub-

1 section with respect to a specific fiscal year  
2 are equal to the estimated cost of the Com-  
3 mission in carrying out additional inspec-  
4 tions and examinations for such fiscal  
5 year.

6 “(ii) ADDITIONAL INSPECTIONS AND  
7 EXAMINATIONS DEFINED.—For purposes  
8 of this subparagraph and with respect to a  
9 fiscal year, the term ‘additional inspections  
10 and examinations’ means those inspections  
11 and examinations of investment advisers  
12 under this title for such fiscal year that ex-  
13 ceed the number of inspections and exami-  
14 nations of investment advisers under this  
15 title conducted during fiscal year 2012.

16 “(B) FEE CALCULATION FORMULA.—The  
17 Commission shall establish by rulemaking a for-  
18 mula for determining the fee amount to be as-  
19 sessed against individual investment advisers,  
20 which shall take into account the following fac-  
21 tors:

22 “(i) The anticipated costs of con-  
23 ducting inspections and examinations of in-  
24 vestment advisers under this title, includ-

1 ing the anticipated frequency of such in-  
2 spections and examinations.

3 “(ii) The investment adviser’s size, in-  
4 cluding the assets under management of  
5 the investment adviser.

6 “(iii) The number and type of clients  
7 of the investment adviser, and the extent  
8 to which the adviser’s clients pay other  
9 fees established by the Commission, includ-  
10 ing registration and transaction fees.

11 “(iv) Such other objective factors,  
12 such as risk characteristics, as the Com-  
13 mission determines to be appropriate.

14 “(C) ADJUSTMENT OF FORMULA.—Prior  
15 to the end of each fiscal year, the Commission  
16 shall review the fee calculation formula and, if,  
17 after allowing for a period of public comment,  
18 the Commission determines that the formula  
19 needs to be revised, the Commission shall revise  
20 such formula before fees are assessed for the  
21 following fiscal year.

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

1           “(A) The formula used to determine the  
2 fee amount to be assessed against individual in-  
3 vestment advisers, and any adjustment made to  
4 such formula.

5           “(B) The factors used to determine such  
6 formula, including any additional objective fac-  
7 tors used by the Commission pursuant to para-  
8 graph (3)(B)(iv).

9           “(5) AUDIT.—

10           “(A) IN GENERAL.—The Comptroller Gen-  
11 eral of the United States shall, every 2 years,  
12 conduct an audit of the use of the fees collected  
13 by the Commission under this subsection, the  
14 reviews of the formula used to calculate such  
15 fees, and any adjustments made by the Com-  
16 mission to such formula.

17           “(B) REPORT.—After conducting each  
18 audit required under subparagraph (A), the  
19 Comptroller General shall issue a report on  
20 such audit to the Committee on Financial Serv-  
21 ices of the House of Representatives and the  
22 Committee on Banking, Housing, and Urban  
23 Affairs of the Senate.

24           “(6) TREATMENT OF FEES.—

1           “(A) IN GENERAL.—Funds derived from  
2 fees assessed under this subsection shall be  
3 available to the Commission, without further  
4 appropriation or fiscal year limitation, to pay  
5 any costs associated with inspecting and exam-  
6 ining investment advisers that are subject to in-  
7 spection and examination under this title.

8           “(B) FUNDS NOT PUBLIC FUNDS.—Funds  
9 derived from fees assessed under this subsection  
10 shall not be construed to be Government or  
11 public funds or appropriated money. Notwith-  
12 standing any other provision of law, funds de-  
13 rived from fees assessed under this subsection  
14 shall not be subject to apportionment for the  
15 purpose of chapter 15 of title 31, United States  
16 Code, or under any other authority.

17           “(C) FUNDS SUPPLEMENTAL TO OTHER  
18 AMOUNTS.—Funds derived from fees assessed  
19 under this subsection shall supplement, and be  
20 in addition to, any other amounts available to  
21 the Commission, under a regular appropriation  
22 or otherwise, for the purpose described in sub-  
23 paragraph (A).”.

