



CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.



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Contact: Dan Drummond
202-379-2252; ddrummond@cfpboard.org

Broad Coalition Message to Congress: Support H.R. 1627 to Improve SEC Investor Protection

WASHINGTON, D.C. – In a [letter](#) sent last week to all Members of Congress, a broad-based group of organizations, including consumer and industry groups and state regulators, urges support of H.R. 1627, the Investment Adviser Examination Improvement Act of 2013. The bill – sponsored by Rep. Maxine Waters (D-CA) and Rep. John Delaney (D-MD) – would authorize the Securities and Exchange Commission (SEC) to collect an annual “user fee” from registered investment advisers to increase the frequency of investment adviser examinations and to better protect American investors.

According to the groups that signed the letter, “It is imperative that the SEC be able to properly oversee the activities of registered investment advisers. We are deeply concerned that the SEC’s current inability to examine investment advisers more frequently increases opportunities for investor fraud and abuse.”

The group added: “A user fee is the best option to increase investor protection because it is an efficient, economical, and common sense solution to the SEC’s chronic problem of insufficient examination resources.”

The coalition is composed of a broad range of organizations, including AARP, Consumer Federation of America (CFA), Certified Financial Planner Board of Standards (CFP Board), Financial Planning Association® (FPA®), Investment Adviser Association (IAA), National Association of Personal Financial Advisors (NAPFA), and the North American Securities Administrators Association (NASAA).

The SEC has responsibility for examining about 11,000 federally registered investment advisers that manage approximately \$48 trillion in assets. But the agency faces significant resource challenges in maintaining a robust examination program, as evidenced by the low examination rate of 8% last year and the projected 10% examination rate for the current year. Using recent examination rates as a barometer, the typical federally registered investment adviser can expect to be examined only once every 12 to 13 years. Moreover, approximately 40% of federally registered investment advisers, or two out of every five, have never been examined.

The group's letter to Congress underscored that a user fee provides a funding source that impacts neither taxpayers nor the federal treasury. H.R. 1627 contains a number of meaningful safeguards that ensure that the fees will be collected and deployed in a manner consistent with Congressional intent. For example, the bill:

- mandates that any fees collected be dedicated solely to an increased level of adviser examinations by the SEC;
- requires the SEC to develop its fee formula through a public notice and comment rulemaking;
- requires the SEC to consider, among other things, factors such as the size of an adviser, the adviser's assets under management, and the adviser's risk profile in determining a fee; and
- requires the Comptroller General to conduct a biennial audit of the SEC's use of fees.

SEC Chair Mary Jo White has stated that, due to a lack of resources, the SEC is unable to "enforce compliance with the securities laws in a way that investors expect and deserve." In November, the agency's Investor Advisory Committee recommended that the SEC request user fee legislation from Congress. The recommendation noted that the current level of examination "is simply inadequate to detect or credibly deter fraud" and that the SEC cannot "enforce compliance with the securities laws in a way that investors expect and deserve."

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