SEC. 904. INVESTMENT ADVISER EXAMINATION IMPROVEMENT.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the Securities and Exchange Commission should increase the number and frequency of examinations of investment advisers.

(b) INSPECTION AND EXAMINATION FEES.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by redesignating the second subsection (d) as subsection (e); and

(2) by adding at the end the following new subsection

“(f) INSPECTION AND EXAMINATION FEES.—

“(1) IN GENERAL.—The Commission shall collect an annual fee from investment advisers that are subject to inspection or examination by the Commission under this title to defray the cost of such inspections and examinations.
“(2) Exemptions for certain state-regulated investment advisers.—No fees shall be collected under this subsection from any investment adviser that is prohibited from registering with the Commission under section 203 by reason of section 203A.

“(3) Fee amounts.—

“(A) Amount to be collected.—

“(i) In general.—The Commission shall seek to ensure that the aggregate amount of fees collected under this subsection with respect to a specific fiscal year are equal to the estimated cost of the Commission in carrying out additional inspections and examinations for such fiscal year.

“(ii) Additional inspections and examinations defined.—For purposes of this subparagraph and with respect to a fiscal year, the term ‘additional inspections and examinations’ means those inspections and examinations of investment advisers under this title for such fiscal year that exceed the number of inspections and exami-
nations of investment advisers under this title conducted during fiscal year 2012.

“(B) Fee Calculation Formula.—The Commission shall establish by rulemaking a formula for determining the fee amount to be assessed against individual investment advisers, which shall take into account the following factors:

“(i) The anticipated costs of conducting inspections and examinations of investment advisers under this title, including the anticipated frequency of such inspections and examinations.

“(ii) The investment adviser’s size, including the assets under management of the investment adviser.

“(iii) The number and type of clients of the investment adviser, and the extent to which the adviser’s clients pay other fees established by the Commission, including registration and transaction fees.

“(iv) Such other objective factors, such as risk characteristics, as the Commission determines to be appropriate.
“(C) ADJUSTMENT OF FORMULA.—Prior to the end of each fiscal year, the Commission shall review the fee calculation formula and, if, after allowing for a period of public comment, the Commission determines that the formula needs to be revised, the Commission shall revise such formula before fees are assessed for the following fiscal year.

“(4) PUBLIC DISCLOSURES.—The Commission shall make the following information publicly available, including on the Web site of the Commission:

“(A) The formula used to determine the fee amount to be assessed against individual investment advisers, and any adjustment made to such formula.

“(B) The factors used to determine such formula, including any additional objective factors used by the Commission pursuant to paragraph (3)(B)(iv).

“(5) AUDIT.—

“(A) IN GENERAL.—The Comptroller General of the United States shall, every 2 years, conduct an audit of the use of the fees collected by the Commission under this subsection, the reviews of the formula used to calculate such
fees, and any adjustments made by the Commission to such formula.

“(B) REPORT.—After conducting each audit required under subparagraph (A), the Comptroller General shall issue a report on such audit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(6) TREATMENT OF FEES.—

“(A) IN GENERAL.—Funds derived from fees assessed under this subsection shall be available to the Commission, without further appropriation or fiscal year limitation, to pay any costs associated with inspecting and examining investment advisers that are subject to inspection and examination under this title.

“(B) FUNDS NOT PUBLIC FUNDS.—Funds derived from fees assessed under this subsection shall not be construed to be Government or public funds or appropriated money. Notwithstanding any other provision of law, funds derived from fees assessed under this subsection shall not be subject to apportionment for the
purpose of chapter 15 of title 31, United States Code, or under any other authority.

“(C) FUNDS SUPPLEMENTAL TO OTHER AMOUNTS.—Funds derived from fees assessed under this subsection shall supplement, and be in addition to, any other amounts available to the Commission, under a regular appropriation or otherwise, for the purpose described in subparagraph (A).”.