

PROVIDING FOR CONSIDERATION OF H.R. 2990, CREDIT
RATING AGENCY DUOPOLY RELIEF ACT OF 2006

JULY 10, 2006.—Referred to the House Calendar and ordered to be printed

Mrs. CAPITO, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 906]

The Committee on Rules, having had under consideration House Resolution 906, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2990, the Credit Rating Agency Duopoly Relief Act of 2006, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.

The rule makes in order only those amendments printed in this report. The rule provides that the amendments printed in this report may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

The rule waives all points of order against the amendments printed in this report. Finally, the rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill includes a waiver of clause 4(a) of rule XIII (requiring a three-day layover of the committee report). The waiver is necessary because the Committee on Financial Services filed its report (H. Rept. 109–546) with the House on Friday, July 7, 2006, and the bill may be considered by the House as early as Tuesday, July 11, 2006.

The waiver of all points of order against the amendments made in order under the rule is prophylactic in nature.

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Oxley (OH): Manager’s Amendment. Clarifies that there is no private right of action for rating agencies registered as “Nationally Recognized Statistical Rating Organizations” or “NRSROs” under the Securities Exchange Act of 1934. Allots to the Securities and Exchange Commission (SEC) an additional six months for a total of one year to review and, if necessary, revise its regulations that use the term “NRSRO.” Makes a number of technical amendments clarifying definitions, findings, and disclosure requirements. (10 minutes)

2. Kanjorski (PA): Amendment in the Nature of a Substitute. Establishes a globally consistent, market-based approach to rating agency oversight and protects investors by maintaining quality as a factor in identifying Nationally Recognized Statistical Rating Organizations (NRSRO). Requires the SEC to complete its definitional rulemaking on what constitutes an NRSRO within 60 days of enactment and establish public guidelines about the process used to identify new NRSROs within 180 days of enactment. Encourages participating parties to expedite and complete their ongoing discussions over the Voluntary Framework, consistent with the European Commission’s adoption of the International Organization of Securities Commissions’ self-regulatory model, to improve market discipline and enhance rating quality. Would require annual hearings for five years on rating agencies before the House Financial Services Committee to explore the effectiveness of the prior two reforms and determine the need for further action. (20 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OXLEY OF OHIO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 20, insert “staff” after “its”.

Page 4, line 1, strike “will” and insert “would”.

Page 4, line 16, insert “but does not include a commercial credit reporting company” after “fee”.

Page 5, line 3, strike “for at least three” and insert “as a credit rating agency for at least the past 3”.

Page 6, line 1, strike “FILING” and insert “FURNISHING”.

Page 6, line 5, strike “filing with” and insert “furnishing to”.

Page 6, line 21, insert “(as applicable)” after “periods”.

Page 7, line 9, strike “filing” and insert “furnishing”.

Page 7, line 20, strike “filing” and insert “furnishing”.

Page 8, line 11, strike “subsection (b)” and insert “subsection (d)”.

Page 8, line 17, strike “filed with” and insert “furnished to”.

Page 8, line 18, strike “filed” and insert “furnished”.

Page 8, line 19, strike “the website or” and insert “its website or through another”.

Page 8, beginning on line 20, strike “of such nationally recognized statistical rating organization”.

Page 9, line 4, strike “filed” and insert “furnished”.

Page 9, line 5, strike “a filing” and insert “an amendment furnished”.

Page 9, line 7, strike “filing” and insert “amendment furnished”.

Page 9, beginning on line 11, strike “file with” and insert “furnish to”.

Page 11, line 20, strike “filing of” and insert “furnishing”.

Page 12, line 12, strike “filing a written notice of withdrawal with” and insert “furnishing a written notice of withdrawal to”.

Page 18, line 23, strike “file with” and insert “furnish to”.

Page 19, line 5, insert “STAFF’S” after “COMMISSION”.

Page 19, line 9, insert “staff” after “Commission”.

Page 19, line 15, insert “staff” after “Commission”.

Page 20, line 6, strike “180 days” and insert “360 days”.

Page 23, strike lines 3 through 6 and insert the following:

SEC. 5. ANNUAL AND OTHER REPORTS.

Section 17(a)(1) (15 U.S.C. 78q(a)(1)) is amended—

(1) by inserting “nationally recognized statistical rating organization,” after “registered transfer agent,”; and

(2) by adding at the end the following: “Any report a nationally recognized statistical rating organization may be required by Commission rules under this paragraph to make and disseminate to the Commission shall be deemed furnished to the Commission.”

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KANJORSKI OF PENNSYLVANIA, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This act may be cited as the “Credit Ratings Accountability and Transparency Act of 2006”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Credit rating agencies play an important role in the United States capital markets by opining on the creditworthiness of certain entities, securities, and money market instruments.

(2) Institutional and retail investors utilize ratings issued by credit rating agencies in connection with evaluating credit risk and making investment decisions.

(3) The Securities and Exchange Commission staff, through the no action letter process, has identified certain credit rating agencies as Nationally Recognized Statistical Rating Organizations or NRSROs.

(4) Many Federal and State regulators and legislatures require the use of NRSRO ratings in regulations and statutes, including those concerning capital requirements for regulated

financial institutions and portfolio quality standards, to ensure the utilization of high quality ratings.

(5) The Commission staff's process for identifying NRSROs should be more transparent and efficient, while maintaining a high level of quality among NRSROs.

(6) Increased competition among credit rating agencies seeking to be identified as a NRSRO is desirable, so long as it is consistent with efforts to ensure high quality ratings.

SEC. 3. RULEMAKING ON NRSRO DEFINITION.

(a) **NRSRO DEFINITION.**—Within 60 days after the date of enactment of this Act, the Commission shall finalize its proposed rulemaking to define a NRSRO, published in the Federal Register on April 25, 2005 (70 Fed. Reg. 21306 et seq.).

(b) **PUBLICATION OF GUIDELINES.**—Within 180 days after the date of enactment of the Act, the Commission shall publish guidelines concerning the process by which Commission staff issues no-action letters regarding NRSROs, including guidelines concerning the staff's determinations in such no-action letters.

SEC. 4. SENSE OF CONGRESS ON NRSRO VOLUNTARY FRAMEWORK.

(a) **FINDINGS.**—Congress finds the following:

(1) The existing NRSROs in the United States have entered into discussions to improve current oversight of their activities via the adoption of a voluntary framework.

(2) These discussions have sought to apply the self-regulatory model approved by the International Organization of Securities Commissions (in this section referred to as "IOSCO") of which the Commission is a participant.

(3) The European Commission policy on credit rating agencies set out in December 2005 used compliance with the IOSCO code as a central component in ensuring the proper functioning of rating agencies in the capital markets.

(4) The Chairman of the Commission has testified before the Financial Services Committee of the House of Representatives that Commission staff are continuing to review drafts of a voluntary framework developed by the NRSROs and offer advice about its provisions and contents.

(5) The adoption of a voluntary framework by NRSROs in the United States based on the IOSCO self-regulatory model and paralleling the regulatory regime adopted by the European Commission would enhance market discipline, advance investor protection, and facilitate the harmonization of international standards in the area of credit ratings.

(b) **SENSE OF CONGRESS.**—In light of the findings set forth in subsection (a), it is the sense of the Congress that—

(1) all interested parties involved in establishing a voluntary framework for self-regulation in the United States, which is similar to the self-regulatory regime recently adopted by the European Commission that is based upon the IOSCO-approved code for overseeing credit rating agencies, should complete discussions and implement a self-regulatory model as soon as practicable;

(2) such voluntary framework should be developed in consultation with the Commission and include adoption of any and all rules, regulations, policies, and practices deemed necessary

and appropriate for the protection of investors and in the public interest, including the disclosure of written policies and procedures of NRSROs in the United States designed to—

(A) address conflicts of interest relating to—

(i) relationships between NRSROs and rated entities;

(ii) relationships between NRSROs and underwriters; and

(iii) fee structures of the NRSROs;

(B) prevent the misuse of confidential information by a NRSRO or any person associated with a NRSRO;

(C) ensure compliance with all relevant Federal securities laws;

(D) ensure that each NRSRO is capable of issuing independent, predictive, consistent, and reliable ratings; and

(E) provide performance data, including default rates for its ratings, for the immediately preceding 4 years, or if in existence less than 4 years, for the life of the entity.

SEC. 5. ANNUAL TESTIMONY ON IMPROVING THE CREDIT RATING INDUSTRY.

The Chairperson of the Commission, or a designee of the Chairperson, shall annually provide oral testimony beginning in 2007, and for 5 years thereafter, to the Committee on Financial Services of the House of Representatives regarding efforts to improve the transparency and accountability of the credit rating industry, including—

(1) the designation of NRSROs;

(2) the status and the effectiveness of the voluntary framework described in section 4;

(3) the quality of ratings issued by NRSROs;

(4) the state of competition among NRSROs; and

(5) the appropriateness, need, and form of any potential legislation in the area of credit ratings.

SEC. 6. DEFINITIONS.

As used in this Act—

(1) the term “Commission” means the Securities and Exchange Commission; and

(2) the term “NRSRO” means a Nationally Recognized Statistical Rating Organization as determined by the Commission.