

“(3) specifies the views of the Commission on the state of competition, transparency, and conflicts of interest among nationally recognized statistical rating organizations.”

DEFINITIONS

Pub. L. 109-291, §3(b), Sept. 29, 2006, 120 Stat. 1328, provided that: “As used in this Act [see Short Title of 2006 Amendment note set out under section 78a of this title]—

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

“(2) the term ‘nationally recognized statistical rating organization’ has the same meaning as in section 3(a)(62) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(62)], as added by this Act.”

§ 780-8. Universal ratings symbols

(a) Rulemaking

The Commission shall require, by rule, each nationally recognized statistical rating organization to establish, maintain, and enforce written policies and procedures that—

(1) assess the probability that an issuer of a security or money market instrument will default, fail to make timely payments, or otherwise not make payments to investors in accordance with the terms of the security or money market instrument;

(2) clearly define and disclose the meaning of any symbol used by the nationally recognized statistical rating organization to denote a credit rating; and

(3) apply any symbol described in paragraph (2) in a manner that is consistent for all types of securities and money market instruments for which the symbol is used.

(b) Rule of construction

Nothing in this section shall prohibit a nationally recognized statistical rating organization from using distinct sets of symbols to denote credit ratings for different types of securities or money market instruments.

(Pub. L. 111-203, title IX, §938, July 21, 2010, 124 Stat. 1885.)

CODIFICATION

Section was enacted as part of the Investor Protection and Securities Reform Act of 2010 and also as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and not as part of the Securities Exchange Act of 1934 which comprises this chapter.

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of Title 12, Banks and Banking.

DEFINITIONS

For definitions of terms used in this section, see section 5301 of Title 12, Banks and Banking.

§ 780-9. Study and rulemaking on assigned credit ratings

(a) Definition

In this section, the term “structured finance product” means an asset-backed security, as defined in section 3(a)(77) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(77)], as added by section 941,¹ and any structured product

based on an asset-backed security, as determined by the Commission, by rule.

(b) Study

The Commission shall carry out a study of—

(1) the credit rating process for structured finance products and the conflicts of interest associated with the issuer-pay and the subscriber-pay models;

(2) the feasibility of establishing a system in which a public or private utility or a self-regulatory organization assigns nationally recognized statistical rating organizations to determine the credit ratings of structured finance products, including—

(A) an assessment of potential mechanisms for determining fees for the nationally recognized statistical rating organizations;

(B) appropriate methods for paying fees to the nationally recognized statistical rating organizations;

(C) the extent to which the creation of such a system would be viewed as the creation of moral hazard by the Federal Government; and

(D) any constitutional or other issues concerning the establishment of such a system;

(3) the range of metrics that could be used to determine the accuracy of credit ratings; and

(4) alternative means for compensating nationally recognized statistical rating organizations that would create incentives for accurate credit ratings.

(c) Report and recommendation

Not later than 24 months after July 21, 2010, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that contains—

(1) the findings of the study required under subsection (b); and

(2) any recommendations for regulatory or statutory changes that the Commission determines should be made to implement the findings of the study required under subsection (b).

(d) Rulemaking

(1) Rulemaking

After submission of the report under subsection (c), the Commission shall, by rule, as the Commission determines is necessary or appropriate in the public interest or for the protection of investors, establish a system for the assignment of nationally recognized statistical rating organizations to determine the initial credit ratings of structured finance products, in a manner that prevents the issuer, sponsor, or underwriter of the structured finance product from selecting the nationally recognized statistical rating organization that will determine the initial credit ratings and monitor such credit ratings. In issuing any rule under this paragraph, the Commission shall give thorough consideration to the provisions of section 15E(w) of the Securities Exchange Act of 1934, as that provision would have been added by section 939D of H.R. 4173 (111th Congress), as passed by the Senate on

¹ See References in Text note below.