

116TH CONGRESS
2D SESSION

S. 4586

To amend the CARES Act to require the uniform treatment of nationally recognized statistical rating organizations under certain programs carried out in response to the COVID–19 emergency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2020

Mr. SCOTT of South Carolina (for himself and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the CARES Act to require the uniform treatment of nationally recognized statistical rating organizations under certain programs carried out in response to the COVID–19 emergency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Access to Emergency
5 Credit Facilities Act of 2020”.

1 **SEC. 2. UNIFORM TREATMENT OF NRSROS.**

2 (a) IN GENERAL.—Section 4003 of the CARES Act
3 (15 U.S.C. 9042) is amended by adding at the end the
4 following:

5 “(i) UNIFORM TREATMENT OF NRSROS.—

6 “(1) DEFINITION.—In this subsection, the term
7 ‘nationally recognized statistical rating organization’
8 has the meaning given the term in section 3(a) of
9 the Securities Exchange Act of 1934 (15 U.S.C.
10 78c(a)).

11 “(2) TREATMENT.—Subject to paragraph (3),
12 if, in carrying out this section or any other program
13 making use of a facility established under section
14 13(3) of the Federal Reserve Act (12 U.S.C. 343(3))
15 in response to COVID–19, the Secretary or the
16 Board of Governors of the Federal Reserve System
17 establishes a requirement for an entity, security, or
18 other instrument to carry a minimum credit rating,
19 the Secretary or the Board of Governors—

20 “(A) may not require that the credit rating
21 with respect to that entity, security, or other in-
22 strument be issued by any specific—

23 “(i) nationally recognized statistical
24 rating organization; or

1 “(ii) category or class of nationally
2 recognized statistical rating organizations;
3 and

4 “(B) shall accept a credit rating that is
5 issued, before or during the operation of a pro-
6 gram authorized under this section or section
7 13(3) of the Federal Reserve Act (12 U.S.C.
8 343(3)) in response to COVID–19, by any na-
9 tionally recognized statistical rating organiza-
10 tion that the Securities and Exchange Commis-
11 sion has approved to issue a rating for that en-
12 tity, security, or other instrument.

13 “(3) EXCLUSION.—

14 “(A) IN GENERAL.—The Secretary or the
15 Board of Governors may exclude a nationally
16 recognized statistical rating organization from
17 the application of paragraph (2) if, in consulta-
18 tion with the Securities and Exchange Commis-
19 sion, the Secretary or Board of Governors, as
20 applicable, determines that—

21 “(i) the nationally recognized statis-
22 tical rating organization is unable to pro-
23 vide reliable and accurate ratings with re-
24 spect to a particular asset class; and

1 “(ii) the exclusion is in the public in-
2 terest.

3 “(B) REPORT.—If the Secretary or the
4 Board of Governors excludes a nationally recog-
5 nized statistical rating organization from the
6 application of paragraph (2) under subpara-
7 graph (A) of this paragraph, the Secretary or
8 Board of Governors, as applicable, shall, as
9 soon as practicable after that exclusion, disclose
10 to the public the reasoning for that exclusion.

11 “(4) EFFECTIVE DATE.—The amendments
12 made by this subsection shall take effect as if en-
13 acted on March 15, 2020.”.

14 (b) GAO STUDY AND REPORT.—

15 (1) STUDY.—The Comptroller General of the
16 United States shall carry out a study regarding—

17 (A) the quality of credit ratings issued by
18 nationally recognized statistical ratings organi-
19 zations, as that term is defined in section 3(a)
20 of the Securities Exchange Act of 1934 (15
21 U.S.C. 78c(a)), including during the 2008 eco-
22 nomic crisis;

23 (B) the effect of competition on the quality
24 of credit ratings and on the ability of small-

1 and mid-size companies and financial institu-
2 tions to access the capital markets; and

3 (C) the implementation of the amendment
4 made by subsection (a).

5 (2) REPORT.—Not later than 1 year after the
6 date of enactment of this Act, the Comptroller Gen-
7 eral of the United States shall submit to Congress
8 a report containing all findings and determinations
9 made in carrying out the study required under para-
10 graph (1).

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