

**AMENDMENT TO IN THE NATURE OF A  
SUBSTITUTE TO H.R. 6308  
OFFERED BY MR. FRANK OF MASSACHUSETTS**

**Manager's amendment**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Municipal Bond Fair-  
3 ness Act”.

**4 TITLE I—DISCRIMINATORY RAT-  
5 INGS TREATMENT OF STATE  
6 AND MUNICIPAL SECURITIES**

**7 SEC. 101. PRESERVATION OF AUTHORITY TO PREVENT DIS-  
8 CRIMINATION.**

9 Section 15E of the Securities Exchange Act of 1934  
10 (15 U.S.C. 78o–7(c)) is amended—

11 (1) by redesignating subsection (p) as sub-  
12 section (q); and

13 (2) by inserting after subsection (o) the fol-  
14 lowing new subsection:

15 “(p) RATINGS CLARITY AND CONSISTENCY.—

16 “(1) COMMISSION OBLIGATION.—Subject to  
17 paragraphs (2) and (3), the Commission shall re-

1       quire each nationally recognized statistical rating or-  
2       ganization that is registered under this section to es-  
3       tablish, maintain, and enforce written policies and  
4       procedures reasonably designed—

5               “(A) to establish and maintain credit rat-  
6               ings with respect to securities and money mar-  
7               ket instruments designed to assess the risk that  
8               investors in securities and money market in-  
9               struments may not receive payment in accord-  
10              ance with the terms of issuance of such securi-  
11              ties and instruments;

12              “(B) to define clearly any rating symbol  
13              used by that organization; and

14              “(C) to apply such rating symbol in a con-  
15              sistent manner for all types of securities and  
16              money market instruments.

17              “(2) ADDITIONAL CREDIT FACTORS.—Nothing  
18              in paragraph (1)(A), (B), or (C)—

19              “(A) prohibits a nationally recognized sta-  
20              tistical rating organization from using addi-  
21              tional credit factors, such as, but not limited to,  
22              priority of repayment, recovery rate in the event  
23              of default, or expected rating volatility, in its  
24              assessment of the risk an investor in a security  
25              or money market instrument will not receive re-

1 payment in accordance with the terms of  
2 issuance; or

3 “(B) prohibits a nationally recognized sta-  
4 tistical rating organization from considering  
5 credit factors that are unique to municipal se-  
6 curities that are not backed by the issuer’s full  
7 faith and credit in its assessment of the risk an  
8 investor in a security or money market instru-  
9 ment will not receive repayment in accordance  
10 with the terms of issuance.

11 “(3) COMPLEMENTARY RATINGS.—The Com-  
12 mission shall not impose any requirement under  
13 paragraph (1) that prevents nationally recognized  
14 statistical rating organizations from establishing rat-  
15 ings that are complementary to the ratings described  
16 in paragraph (1)(A) and that are created to measure  
17 a discrete aspect of the security’s or instrument’s  
18 risk.

19 “(4) REVIEW.—

20 “(A) PERFORMANCE MEASURES.—The  
21 Commission shall, by rule, establish perform-  
22 ance measures that the Commission shall con-  
23 sider when deciding whether to initiate a review  
24 concerning whether a nationally recognized sta-  
25 tistical rating organization has failed to adhere

1 to such organization's stated procedures and  
2 methodologies for issuing ratings on securities  
3 or money market instruments.

4 “(B) CONSIDERATION OF EVIDENCE.—  
5 Performance measures the Commission may  
6 consider in initiating a review of an organiza-  
7 tion's ratings in each of the categories described  
8 in clauses (i) through (v) of section 3(a)(62)(B)  
9 during an appropriate interval (as determined  
10 by the Commission) include the transition and  
11 default rates of its in discrete asset classes.”.

12 **SEC. 102. IMPLEMENTATION.**

13 The Securities and Exchange Commission shall pre-  
14 scribe rules to implement the amendments made by sec-  
15 tion 101 within 270 days after the date of enactment of  
16 this Act.

17 **TITLE II—REVIEW OF MUNIC-**  
18 **IPAL BOND INSURANCE IN-**  
19 **DUSTRY**

20 **SEC. 201. AUTHORITY OF SECRETARY .**

21 (a) COLLECTION AND USE OF INFORMATION.—

22 (1) AUTHORITY TO RECEIVE AND COLLECT.—

23 Subject to paragraph (2), the Secretary of the  
24 Treasury shall have the authority to receive and col-  
25 lect (directly from the States and other sources),

1 and to analyze and disseminate, data and informa-  
2 tion, and to issue reports, regarding entities that in-  
3 sure or guarantee the payment of any portion of the  
4 principal and interest of any municipal obligation,  
5 including information, data and material regard-  
6 ing—

7 (A) financial safety and soundness of such  
8 entities;

9 (B) concentration of insurance liabilities of  
10 such entities;

11 (C) performance of such entities under  
12 various scenarios of macro- and micro-economic  
13 stress;

14 (D) underwriting standards for such enti-  
15 ties; and

16 (E) risk management of such entities.

17 (2) LIMITATIONS.—With respect to the author-  
18 ity under paragraph (1)—

19 (A) the submission of any non-publicly  
20 available data and information to the Secretary  
21 shall be voluntary and such submission shall  
22 not constitute a waiver of, or otherwise affect,  
23 any privilege or confidentiality protection to  
24 which the data or information is otherwise sub-  
25 ject;

1           (B) to the extent that any such data and  
2 information has already been received or col-  
3 lected by, or can efficiently be received or col-  
4 lected by, the States (including the insurance  
5 commissioners of the States), the National As-  
6 sociation of Insurance Commissioners, or any  
7 other appropriate source, the Secretary may  
8 enter into an information-sharing agreement  
9 with such source to provide for the receipt of  
10 such data by the Secretary;

11           (C) any requirement under Federal or  
12 State law to the extent otherwise applicable, or  
13 any requirement pursuant to a written agree-  
14 ment in effect between the original source of  
15 any non-publicly available data or information  
16 and the source of such data or information to  
17 the Secretary, regarding the privacy or con-  
18 fidentiality of any data or information in the  
19 possession of the source to the Secretary, and  
20 any privilege arising under Federal or State law  
21 (including the rules of any Federal or State  
22 court) with respect to such data or information,  
23 shall continue to apply to such data or informa-  
24 tion after the data or information has been pro-

1           vided pursuant to this subparagraph to the Sec-  
2           retary;

3           (D) the Secretary shall treat as confiden-  
4           tial and privileged any data or information ob-  
5           tained from any source that is entitled to con-  
6           fidential treatment under applicable State or  
7           Federal law or regulations, or under any agree-  
8           ment to which the source is a party and shall  
9           take all reasonable steps to oppose any effort to  
10          secure disclosure of the data or information by  
11          the Secretary;

12          (E) the Secretary may not in any case dis-  
13          close to any party any personally identifiable in-  
14          formation received or collected by the Secretary  
15          pursuant to this subsection; and

16          (F) any non-publicly available data and in-  
17          formation received or collected by the Secretary  
18          pursuant to this subsection shall be considered  
19          trade secrets and commercial or financial infor-  
20          mation that is privileged and confidential pur-  
21          suant to section 552(b)(4) of title 5, United  
22          States Code.

23 **SEC. 202. REPORTS TO CONGRESS.**

24          The Secretary shall submit a report annually to the  
25          Committee on Financial Services of the House of Rep-

1 representatives and the Committee on Banking, Housing, and  
2 Urban Affairs of the Senate on the financial state of the  
3 industry for insurance and guarantee of municipal bonds,  
4 meaningful trends in such industry, and the potential im-  
5 pacts on the overall financial system in the United States  
6 that entities providing such insurance and guarantees  
7 could have under various scenarios of macro- and micro-  
8 economic stress.

9 **SEC. 203. RETENTION OF EXISTING REGULATORY AUTHOR-**  
10 **ITY.**

11 This title may not be construed to establish any su-  
12 pervisory or regulatory authority of the Secretary over any  
13 entity that insures or guarantees the payment of any por-  
14 tion of the principal and interest of any municipal obliga-  
15 tion.

16 **SEC. 204. DEFINITIONS.**

17 For purposes of this title, the following definitions  
18 shall apply:

19 (1) MUNICIPAL OBLIGATION.—The term “mu-  
20 nicipal obligation” means any bond, note, security,  
21 or other debt obligation issued by any State, any po-  
22 litical subdivision of a State, one or more political  
23 subdivisions of a State, or a State and one or more  
24 of its political subdivisions, by any agency, depart-  
25 ment, office, authority, or other instrumentality of a



1 State, any political subdivision of a State, one or  
2 more political subdivisions of a State, or a State and  
3 one or more of its political subdivisions, or by any  
4 other entity eligible to issue bonds the interest on  
5 which is excludable from gross income under section  
6 103 of the Internal Revenue Code of 1986.

7 (2) POLITICAL SUBDIVISION.—The term “polit-  
8 ical subdivision” includes any city, county, town,  
9 township, parish, village, or other general purpose  
10 political subdivision of a State and any school, util-  
11 ity, fire, or tax district, or other special purpose po-  
12 litical subdivision of a State.

13 (3) SECRETARY.—The term “Secretary” means  
14 the Secretary of the Treasury.

15 (4) STATE.—The term “State” means the  
16 States of the United States, the District of Colum-  
17 bia, the Commonwealth of Puerto Rico, the Com-  
18 monwealth of the Northern Mariana Islands, Guam,  
19 the Virgin Islands, American Samoa, and any other  
20 territory or possession of the United States.

21 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated to the Sec-  
23 retary for carrying out this title such sums as may be nec-  
24 essary for each fiscal year.

