Statement for the Record: Markup of HR 3890
Representative Leonard Lance (NJ07)

As a supporter of HR 3890 to strengthen regulation of credit rating firms, I urge the Committee to be mindful of the fact that the interests of the public will be best served by fostering competition among ratings agencies, as reflected in the mandate of the Credit Rating Agency Reform Act of 2006, in order to increase the depth and breadth of rating information available to investors.

For this reason, we must carefully craft legislation that does not create unnecessary burdens for business entities that act responsibly and do not pose a risk to consumers or the economy. While established, and relatively larger, companies may be able to bear the costs associated with the new liability risks and corporate governance mandates in this bill, new entrants and smaller credit rating agencies will likely not have the resources to bear the cost of the new requirements. This uneven field could result in fewer rating agencies providing their opinions, in effect handing a further competitive advantage to the three most established market players. Such a result could serve to undermine the efficacy of the reforms we are designing and put investors and the economy at even greater risk.

Regulators share my view. For example, Commissioner Troy A. Paredes of the U.S. Securities and Exchange Commission recently stated that, "Competition itself is a source of investor protection that may be lost if the risk of legal liability increases. We need to consider this and other tradeoffs in evaluating the proper liability regime for the credit rating industry."[1] These concerns have also been expressed by outside experts, as reflected in a recent Wall Street Journal analysis that I am submitting for the record.

Credit Rating Agency reform legislation should address problems that pose a real threat to investors – the ratings of complex financial products such as structured instruments and asset-backed securities that are inherently opaque and constantly changing.

My hope is that Congress will focus its reform efforts on the ratings of these types of products rather than sweeping in all ratings agencies and all kinds of credit ratings, such as ratings of the financial strength of companies that are more straight-forward, based on audited financial information and not responsible for our current economic problems. While I understand that today's markup may not be the forum that leadership wishes to use for these discussions, my hope is that we can have an open and fair debate about these issues if and when this legislation is debated on the floor of the House.

[1] "Speech by SEC Commissioner: Statement at Open Meeting Regarding Nationally Recognized Statistical Rating Organizations," by Commissioner Troy A. Paredes, U.S. Securities and Exchange Commission, Washington, D.C., September 17, 2009.