

**SHERMAN** #3  
*Lynch*

AMENDMENT TO H.R. 3890  
OFFERED BY MR. SHERMAN OF CALIFORNIA

Page 34, after line 14, insert the following (and redesignate succeeding sections accordingly):

1 **SEC. 6. INITIAL CREDIT RATING ASSIGNMENTS.**

2 (a) IN GENERAL.—The Securities Exchange Act of  
3 1934 (15 U.S.C. 78a et seq.) is amended by inserting after  
4 section 15E the following new section:

5 **“SEC. 15F. INITIAL CREDIT RATING ASSIGNMENTS.**

6 **“(a) COMMISSION SELECTION OF QUALIFIED CREDIT**  
7 **RATING AGENCY.—**

8 **“(1) APPLICATION.—**A credit rating agency  
9 may apply to become a qualified credit rating agency  
10 with respect to a class of debt securities by submit-  
11 ting a request to the Commission containing the  
12 agency’s schedule of fees, in such form and manner  
13 and containing such additional information as the  
14 Commission may prescribe.

15 **“(2) SELECTION.—**With respect to each class of  
16 debt securities, the Commission shall select from  
17 those credit rating agencies that submit an applica-  
18 tion pursuant to paragraph (1) those credit rating  
19 agencies that the Commission determines are qual-  
20 ified to issue credit ratings with respect to such  
21 class.

22 **“(b) REQUESTING AN INITIAL CREDIT RATING.—**  
23 Whenever any issuer seeks an initial credit rating for a  
24 debt security, the issuer may not request an initial credit  
25 rating from a credit rating agency, but shall submit a re-

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1 request to the Commission, in such form and manner as the  
2 Commission may prescribe.

3 “(c) ASSIGNMENT OF RATING DUTIES.—

4 “(1) IN GENERAL.—For each request received  
5 by the Commission under subsection (b), the Com-  
6 mission shall select a qualified credit rating agency  
7 to provide the initial credit rating to the issuer.

8 “(2) METHOD OF SELECTION.—In making se-  
9 lections described under paragraph (1), the Commis-  
10 sion shall use a random lottery process to select  
11 from among all qualified credit rating agencies.

12 “(3) RIGHT OF REFUSAL.—A qualified credit  
13 rating agency selected under paragraph (1) may  
14 refuse to accept such selection for a particular re-  
15 quest by notifying the Commission of such refusal.  
16 The Commission shall then perform an additional  
17 selection under paragraph (1) from among the re-  
18 maining qualified credit rating agencies.

19 “(d) RATING FEES CHARGED TO ISSUERS.—

20 “(1) LIMITED TO REASONABLE FEES.—With  
21 respect to an initial credit ratings provided pursuant  
22 to this section, a qualified credit rating agency shall  
23 only charge the issuer a reasonable fee. The Com-  
24 mission shall define what constitutes a ‘reasonable  
25 fee’ for purposes of this subsection.

1           “(2) FEES IN EXCESS OF SCHEDULE OF  
2           FEES.—With respect to an initial credit rating pro-  
3           vided pursuant to this section, a qualified credit rat-  
4           ing agency may not charge the issuer a fee in excess  
5           of the corresponding fee provided for in the schedule  
6           of fees submitted by such agency under subsection  
7           (a)(1) unless such additional fee is approved by the  
8           Commission.

9           “(e) NO PROHIBITION ON ADDITIONAL RATINGS.—  
10          Nothing in this section shall prohibit an issuer from re-  
11          questing or receiving additional credit ratings with respect  
12          to a debt security, as long as the initial credit rating is  
13          provided in accordance with this section.

14          “(f) NO PROHIBITION ON INDEPENDENT RATINGS  
15          OFFERED BY CREDIT RATING AGENCIES.—

16               “(1) IN GENERAL.—Nothing in this section  
17               shall prohibit a credit rating agency from independ-  
18               ently providing a credit rating with respect to a debt  
19               security, if—

20                       “(A) such credit rating agency does not  
21                       enter into a contract with the issuer of such  
22                       debt security to provide such initial credit rat-  
23                       ing; and

1           “(B) such credit rating agency is not paid  
2           by the issuer of such debt security to provide  
3           such initial credit rating.

4           “(2) SUCH RATING NOT TO BE CONSIDERED  
5           INITIAL.—For purposes of this section, a credit rat-  
6           ing described in paragraph (1) shall not be an initial  
7           credit rating.

8           “(g) PUBLIC COMMUNICATIONS.—All communica-  
9           tions made with the public by an issuer with respect to  
10          the credit rating of a debt security shall clearly specify  
11          whether such credit rating was made by—

12           “(1) a qualified credit rating agency selected  
13           under subsection (c)(1) to provide the initial credit  
14           rating for such debt security; or

15           “(2) a credit rating agency not selected under  
16           subsection (c)(1).

17          “(h) PROHIBITION ON MISREPRESENTATION.—With  
18          respect to a debt security, it shall be unlawful for any per-  
19          son to misrepresent any subsequent credit rating provided  
20          for such debt security as an initial credit rating provided  
21          for such debt security by a qualified credit rating agency  
22          selected under subsection (c)(1).

23          “(i) INITIAL CREDIT RATING REVISION AFTER MA-  
24          TERIAL CHANGE IN CIRCUMSTANCE.—If the Commission  
25          determines that it is necessary or appropriate in the public

1 interest or for the protection of investors, the Commission  
2 may issue regulations requiring that an issuer that has  
3 received an initial credit rating pursuant to this section  
4 must request a revised initial credit rating, using the same  
5 method as provided under subsection (b), any time the  
6 issuer experiences a material change in circumstances, as  
7 such term is defined by the Commission.

8 “(j) DEFINITIONS.—For purposes of this section:

9 “(1) CLASS OF DEBT SECURITIES.—The Com-  
10 mission shall issue regulations to define the term  
11 ‘class of debt securities’. In issuing such regulations  
12 the Commission shall consider—

13 “(A) the types of issuers that issue debt  
14 securities;

15 “(B) the types of terms used in debt secu-  
16 rities;

17 “(C) the different values of debt securities;  
18 and

19 “(D) the different numbers of units of debt  
20 securities that are issued together.

21 “(2) QUALIFIED CREDIT RATING AGENCY DE-  
22 FINED.—With respect to a class of debt security, the  
23 term ‘qualified credit rating agency’ means a credit  
24 rating agency the Commission determines, under

1 subsection (b)(2), to be qualified to issue credit rat-  
2 ings with respect to such class.”.