



Congress of the United States
House of Representatives
Washington, DC 20515

April 14, 2022

The Honorable Gary Gensler
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Anticompetitive Concerns Regarding “Notching” in S&P Proposal

Dear Chairman Gensler:

We write regarding an issue related to the protection of investors and open competition among nationally recognized statistical ratings organizations (NRSROs). As the Chairman of the Securities and Exchange Commission (SEC), we appreciate your engagement on an issue that relates to the SEC’s regulation and oversight of NRSROs and its mission to protect investors.

As you know, Congress addressed the urgent need for open competition among NRSROs in the 2006 Credit Rating Agency Reform Act (the 2006 Act). Several provisions in the 2006 Act were specifically intended to address the dominance of the NRSRO market by a very small number of incumbent credit rating agencies. Notwithstanding this clear congressional action, the incumbent NRSROs’ market dominance and associated problems with quality in credit ratings subsequently contributed to the 2008 global financial crisis.

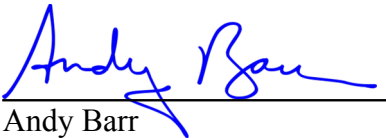
We continue to support open competition in the NRSRO market and are concerned with practices that may be anticompetitive. Specifically, we are concerned with the practice of “notching,” whereby an NRSRO’s methodology notches down ratings from another NRSRO.

As you may be aware, in December 2021, S&P released a new proposed methodology for rating insurance companies’ financial strength.¹ The methodology includes a new notching of ratings on assets held by insurers that are rated by any NRSRO other than S&P. In some cases, issuances would be notched down dramatically. Many impacted stakeholders have expressed concern that this treatment of investments is potentially anticompetitive, and we share this concern. We are also sensitive to the urgency of this issue, given that the S&P comment period closes on April 29, 2022.

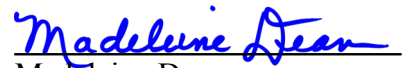
¹ Request for Comment: Insurer Risk-Based Capital Adequacy—Methodology and Assumptions. Available at <https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/2805856>

As policymakers who are committed to protecting investors—and ensuring free and fair markets—we respectfully request that your agency examine this issue with the goal of ensuring free and fair competition among NRSROs. We look forward to engaging with you and your staff on this issue.

Sincerely,



Andy Barr
Member of Congress




Madeleine Dean
Member of Congress



Warren Davidson
Member of Congress



Alma S. Adams, Ph.D.
Member of Congress



Byron Donalds
Member of Congress



Jake Auchincloss
Member of Congress



Andrew R. Garbarino
Member of Congress



Cynthia Axne
Member of Congress




Anthony Gonzalez
Member of Congress



Joyce Beatty
Member of Congress



Young Kim
Member of Congress



Sean Casten
Member of Congress



David Kustoff
Member of Congress



Bill Foster
Member of Congress



Alexander X. Mooney
Member of Congress



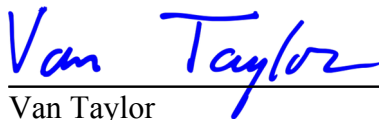
Vicente Gonzalez
Member of Congress



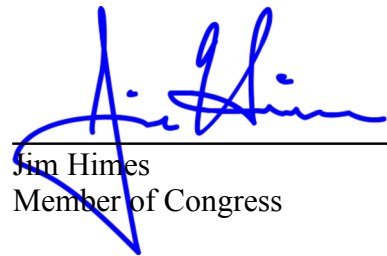
Adrian Smith
Member of Congress



Josh Gottheimer
Member of Congress



Van Taylor
Member of Congress



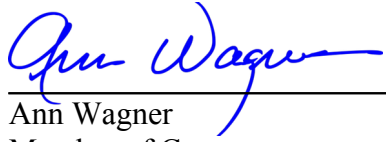
Jim Himes
Member of Congress



William R. Timmons IV
Member of Congress



Gregory W. Meeks
Member of Congress



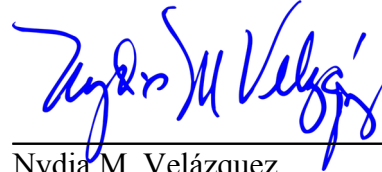
Ann Wagner
Member of Congress



Brad Sherman
Member of Congress



Roger Williams
Member of Congress



Nydia M. Velázquez
Member of Congress