

1           “(5) EXCEPTION AUTHORITY.—If the Commis-  
2           sion finds that compliance with the provisions of this  
3           subsection present an unreasonable burden on a  
4           small nationally recognized statistical rating organi-  
5           zation, the Commission may permit the nationally  
6           recognized statistical rating organization to delegate  
7           such responsibilities to a committee that includes at  
8           least one individual who is a user of ratings of a na-  
9           tionally recognized statistical rating organization.”.

10          (b) CONFORMING AMENDMENT.—Section 3(a)(62) of  
11 the Securities Exchange Act of 1934 (15 U.S.C.  
12 78c(a)(62)) is amended by striking subparagraph (A) and  
13 redesignating subparagraphs (B) and (C) as subpara-  
14 graphs (A) and (B), respectively.

15 **SEC. 933. STATE OF MIND IN PRIVATE ACTIONS.**

16          (a) ACCOUNTABILITY.—Section 15E(m) of the Secu-  
17 rities Exchange Act of 1934 (15 U.S.C. 78o–7(m)) is  
18 amended to read as follows:

19           “(m) ACCOUNTABILITY.—

20           “(1) IN GENERAL.—The enforcement and pen-  
21           alty provisions of this title shall apply to statements  
22           made by a credit rating agency in the same manner  
23           and to the same extent as such provisions apply to  
24           statements made by a registered public accounting  
25           firm or a securities analyst under the securities laws,

1 and such statements shall not be deemed forward-  
2 looking statements for the purposes of section 21E.

3 “(2) RULEMAKING.—The Commission shall  
4 issue such rules as may be necessary to carry out  
5 this subsection.”.

6 (b) STATE OF MIND.—Section 21D(b)(2) of the Se-  
7 curities Exchange Act of 1934 (15 U.S.C. 78u-4(b)(2))  
8 is amended—

9 (1) by striking “In any” and inserting the fol-  
10 lowing:

11 “(A) IN GENERAL.—Except as provided in  
12 subparagraph (B), in any”; and

13 (2) by adding at the end the following:

14 “(B) EXCEPTION.—In the case of an ac-  
15 tion for money damages brought against a cred-  
16 it rating agency or a controlling person under  
17 this title, it shall be sufficient, for purposes of  
18 pleading any required state of mind in relation  
19 to such action, that the complaint state with  
20 particularity facts giving rise to a strong infer-  
21 ence that the credit rating agency knowingly or  
22 recklessly failed—

23 “(i) to conduct a reasonable investiga-  
24 tion of the rated security with respect to

1 the factual elements relied upon by its own  
2 methodology for evaluating credit risk; or  
3 “(ii) to obtain reasonable verification  
4 of such factual elements (which verification  
5 may be based on a sampling technique that  
6 does not amount to an audit) from other  
7 sources that the credit rating agency con-  
8 sidered to be competent and that were  
9 independent of the issuer and under-  
10 writer.”.

11 **SEC. 934. REFERRING TIPS TO LAW ENFORCEMENT OR**  
12 **REGULATORY AUTHORITIES.**

13 Section 15E of the Securities Exchange Act of 1934  
14 (15 U.S.C. 78o–7), as amended by this subtitle, is amend-  
15 ed by adding at the end the following:

16 “(u) DUTY TO REPORT TIPS ALLEGING MATERIAL  
17 VIOLATIONS OF LAW.—

18 “(1) DUTY TO REPORT.—Each nationally rec-  
19 ognized statistical rating organization shall refer to  
20 the appropriate law enforcement or regulatory au-  
21 thorities any information that the nationally recog-  
22 nized statistical rating organization receives from a  
23 third party and finds credible that alleges that an  
24 issuer of securities rated by the nationally recog-  
25 nized statistical rating organization has committed