(for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3947. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3948. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3949. Mr. CARPER (for himself, Mr. CORKER, Mr. BAYH, Mr. ENSIGN, Mr. JOHNSON, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3950. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3951. Mr. MENENDEZ (for himself and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3952. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3953. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3954. Mr. JOHNSON (for himself and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3955. Mr. CORKER (for himself, Mr. GREGG, Mr. LEMIEUX, Mr. COBURN, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3956. Ms. LANDRIEU (for herself, Mr. ISAKSON, Mrs. HAGAN, Mr. WARNER, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3957. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3958. Mr. REED (for himself, Mr. JOHNSON, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3959. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3960. Mr. SCHUMER (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3961. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3962. Mr. MERKLEY (for himself, Ms. KLOBUCHAR, Mr. SCHUMER, Ms. SNOWE, Mr. BROWN of Massachusetts, Mr . BEGICH, Mrs. BOXER, Mr. DODD, Mr. KERRY, Mr. FRANKEN, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3963. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3964. Mr. HARKIN (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3965. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3966. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3967. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3968. Mr. TESTER (for himself, Mrs. MURRAY, and Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3969. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3970. Mr. LEVIN (for himself, Mr. KAUFMAN, Mrs. MCCASKILL, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3971. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3972. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3973. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3974. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3975. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3976. Mr. LEVIN (for himself, Mr. COBURN, Mr. REED, and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3977. Mr. LEVIN (for himself, Mr. COBURN, and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3978. Mr. JOHNSON (for himself, Ms. LANDRIEU, Mr. BURRIS, Mr. CARDIN, Mr. BROWNBACK, Ms. MURKOWSKI, Mr. BENNETT, and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3938. Mr. DODD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1455, after line 25, insert the following:

SEC. 1077. DEPARTMENT OF THE TREASURY STUDY ON ENDING THE CONSERVATORSHIP OF FANNIE MAE, FREDDIE MAC, AND REFORMING THE HOUSING FINANCE SYSTEM.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of and develop recommendations regarding the options for ending the conservatorship of the Federal National Mortgage Association (in this section referred to as ''Fannie Mae'') and the Federal Home Loan Mortgage Corporation (in this section referred to as ''Freddie Mac''), while minimizing the cost to taxpayers, including such options as—

(A) the gradual wind-down and liquidation of such entities;

(B) the privatization of such entities;

(C) the incorporation of the functions of such entities into a Federal agency;

(D) the dissolution of Fannie Mae and Freddie Mac into smaller companies; or

(E) any other measures the Secretary determines appropriate.

(2) ANALYSES.—The study required under paragraph (1) shall include an analysis of—

(A) the role of the Federal Government in supporting a stable, well-functioning housing finance system, and whether and to what extent the Federal Government should bear risks in meeting Federal housing finance objectives;

(B) how the current structure of the housing finance system can be improved;

(C) how the housing finance system should support the continued availability of mortgage credit to all segments of the market;

(D) how the housing finance system should be structured to ensure that consumers continue to have access to 30-year, fixed rate, pre-payable mortgages and other mortgage products that have simple terms that can be easily understood;

(E) the role of the Federal Housing Administration and the Department of Veterans Affairs in a future housing system;

(F) the impact of reforms of the housing finance system on the financing of rental housing;

(G) the impact of reforms of the housing finance system on secondary market liquidity;

(H) the role of standardization in the housing finance system;

(I) how housing finance systems in other countries offer insights that can help inform options for reform in the United States; and

(J) the options for transition to a reformed housing finance system.

(b) REPORT AND RECOMMENDATIONS.—Not later than January 31, 2011, the Secretary of the Treasury shall submit the report and recommendations required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SA 3939. Mrs. FEINSTEIN (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 699, strike line 20 and insert the following:

''(A) REGISTRATION.—The Commission may adopt rules and regulations requiring registration with the Commission for a foreign board of trade that provides the members of the foreign board of trade or other participants located in the United States with direct access to the electronic trading and order matching system of the foreign board of trade, including rules and regulations prescribing procedures and requirements applicable to the registration of such foreign boards of trade. For purposes of this paragraph, 'direct access' refers to an explicit grant of authority by a foreign board of trade to an identified member or other participant located in the United States to enter trades directly into the trade matching system of the foreign board of trade.

''(B) LINKED CONTRACTS.—It shall be unlawful

On page 703, line 14, strike ''(B)'' and insert ''(C)''.

On page 703, line 15, strike ''Subparagraph (A)'' and insert ''Subparagraphs (A) and (B)''.

On page 704, line 13, strike ''paragraphs (1) and (2) of subsection (b)'' and insert ''subparagraphs (A) and (B) of subsection (b)(1)''.

SA 3940. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page _____, between lines ____ and ____, insert the following:

SEC. ___. PROHIBITION.

Notwithstanding any other provision of law, no person or corporation, limited partnership, trust, or affiliate of any such entity chartered as a for-profit or nonprofit entity shall be eligible to sell, purchase, or trade carbon derivatives as the result of the establishment by the Federal Government of a carbon market.

SA 3941. Mrs. MCCASKILL (for herself and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''to big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1455, line 25, strike the period at the end and insert the following: ''.

SEC. 1077. TREATMENT OF REVERSE MORTGAGES.

(a) IN GENERAL.—The Director shall examine the practices of covered persons in connection with any reverse mortgage transaction (as defined in section 103(bb) of the Truth in Lending Act (15 U.S.C. 1602)) and shall prescribe regulations identifying any acts or practices as unlawful, unfair, deceptive, or abusive in connection with a reverse mortgage transaction or the recommendation or offering of a reverse mortgage.

(b) REGULATIONS.—In prescribing regulations under subsection (a), the Director shall ensure that such regulations shall—

(1) include requirements for the purpose of—

(A) preventing unlawful, unfair, deceptive or abusive acts and practices in connection with a reverse mortgage transaction (including the solicitation or recommendation of a reverse mortgage transaction);

(B) providing timely, appropriate, and effective disclosures to consumers in connection with a reverse mortgage transaction that incorporate the requirements of section 138 of the Truth in Lending Act (15 U.S.C. 1648), and otherwise are consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title, including—

(i) an annual statement of the total available principal and outstanding balance of the reverse mortgage; and

(ii) a statement at the closing of the reverse mortgage of the total projected cost of the reverse mortgage; and

(C) a determination of the suitability of a reverse mortgage for a consumer, taking into consideration—

(i) whether the mortgagor intends to reside in the property on a long-term basis;

(ii) in the case of a mortgagor who plans to use the funds obtained from the reverse mortgage to purchase an annuity or make an investment—

(I) whether the annuity or investment is in the best interests of the mortgagor;

(II) whether the costs of obtaining such mortgage exceeds the anticipated earnings from such annuity or investment; and

(III) whether the date on which the annuity or investment is scheduled to mature is beyond the life expectancy of the mortgagor;

(iii) if the mortgagor is married or has a dependent, the potential impact of a reverse mortgage on the future economic security of the spouse or dependent of the mortgagor and all tenants of the home;

(iv) whether a reverse mortgage will affect the eligibility of the mortgagor to receive Government benefits;

(v) whether the mortgagor intends to pass the residence to an heir and the ability of such heir to repay the reverse mortgage loan;

(vi) whether a resident of the home who is not the mortgagor could be displaced at the maturity of the reverse mortgage against the wishes of the mortgagor, and, if any such resident is disabled, the consequences of the displacement for such resident; and

(vii) any other circumstances, as the Director may require;

(2) with respect to the requirements under paragraph (1), be consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title;

(3) provide for an integrated disclosure standard and model disclosures for reverse mortgage transactions, that combines the relevant disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.) and the Real Estate Settlement Procedures Act, with the disclosures required to be provided to consumers for home equity conversion mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z–20);

(4) prohibit any person from advertising a reverse mortgage in a manner that—

(A) is false or misleading;

(B) fails to present equally the risks and benefits of reverse mortgages; or

(C) fails to reveal—

(i) negative facts that are material to a representation made in such advertisement;

(ii) facts relating to the responsibilities of the mortgagor for property taxes, insurance, maintenance, or repairs and the consequences of failing to meet such responsibilities, including default and foreclosure;

(iii) the consequences of obtaining a reverse mortgage; or

(iv) any forms of default that might lead to foreclosure;

(5) prohibit a mortgagee from requiring or recommending that a mortgagor purchase insurance (except for title, flood, and other peril insurance, as determined by the Director), an annuity, or other similar product in connection with a reverse mortgage;

(6) require that each reverse mortgage provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

(7) require that any mortgagor under a reverse mortgage receive adequate counseling, including—

(A) in the case of a reverse mortgage in which a person was removed from the title to the dwelling, information about—

(i) the consequences of being removed from such title; and

(ii) the consequences upon the death of the mortgagor or a divorce settlement;

(B) general information about the potential consequences of borrowing more funds than are necessary to meet the immediate personal financial goals of the mortgagor;

(C) the responsibilities of the mortgagor relating to property taxes, insurance, maintenance, and repairs and the consequences of failing to meet such responsibilities, including default and foreclosure;

(D) an explanation of the actions that would constitute a default under the terms of the reverse mortgage and how a default might lead to foreclosure; and

(E) any other information that the Director may require; and

(8) require that any person that provides counseling to a mortgagor under a reverse mortgage report to the Bureau any suspected mortgage-related fraud against a mortgagor.

(c) CONSULTATION.—In connection with the issuance of any regulations under this section, the Director shall consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, and the Department of Housing and Urban Development, as appropriate, to ensure that any proposed regulation—

(1) imposes substantially similar requirements on all covered persons; and

(2) is consistent with prudential, consumer protection, civil rights, market, or systemic objectives administered by such agencies or supervisors.

(d) DEADLINE FOR RULEMAKING.—The Director shall commence the rulemaking required under subsection (a) not later than 12 months after the date of enactment of this Act.

SA 3942. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, between lines 2 and 3, insert the following:

(D) PROHIBITION ON COLLECTION OF NONPUBLIC PERSONAL INFORMATION.—Notwithstanding any other provision of law, the Council and the Office of Financial Research may not require the submission of nonpublic personal information (as that term is defined in section 509 of the Gramm-Leach-Bliley Act (12 U.S.C. 6809)) of any customer by any financial company or in any other manner.

SA 3943. Mr. REED (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1219, after line 25, insert the following:

''(e) OFFICE OF SERVICE MEMBER AFFAIRS.—

''(1) IN GENERAL.—The Director shall establish an Office of Service Member Affairs, which shall be responsible for developing and implementing initiatives for service members and their families intended to—

''(A) educate and empower service members and their families to make better informed decisions regarding consumer financial products and services;

''(B) coordinate with the unit of the Bureau established under subsection (b)(3), in order to monitor complaints by service members and their families and responses to those complaints by the Bureau or other appropriate Federal or State agency; and

''(C) coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families.

''(2) COORDINATION.—

''(A) REGIONAL SERVICES.—The Director is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Service Member Affairs, including by establishing and maintaining the functions of the Office in regional offices of the Bureau located near military bases, military treatment facilities, or other similar military facilities.

''(B) AGREEMENTS.—The Director is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in order to carry out the business of the Office of Service Member Affairs.

''(3) DEFINITION.—As used in this subsection, the term 'service member' means any member of the United States Armed Forces and any member of the National Guard or Reserves.''.

SA 3944. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1089, strike line 6 and all that follows through ''SEC. 973.''

SA 3945. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1045, strike line 12 and all that follows through ''**SEC. 942.**'' on page 1052, line 3, and insert the following:

(b) STUDY ON RISK RETENTION.—

(1) STUDY.—

(A) IN GENERAL.—The Board of Governors, in coordination and consultation with the Comptroller of the Currency, the Corporation, the Federal Housing Finance Agency, and the Commission, shall conduct a study of the asset-backed securitization process.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Board of Governors shall evaluate—

(i) the separate and combined impact of—

(I) requiring loan originators or securitizers to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; including—

(aa) whether existing risk retention requirements such as contractual representations and warranties, and statutory and regulatory underwriting and consumer protection requirements are sufficient to ensure the long-term accountability of originators for loans they originate; and

(bb) methodologies for establishing additional statutory credit risk retention requirements;

(II) the Financial Accounting Statements 166 and 167 issued by the Financial Accounting Standards Board, as well as any other statements issued before or after the date of enactment of this section the Federal banking agencies determine to be relevant;

(ii) the impact of the factors described under subsection (i) of this section on—

(I) different classes of assets, such as residential mortgages, commercial mortgages, commercial loans, auto loans, and other classes of assets;

(II) loan originators;

(III) securitizers;

(IV) access of consumers and businesses to credit on reasonable terms.

(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Board of Governors shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include statutory and regulatory recommendations for eliminating any negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending identified by the study conducted under paragraph (1).

SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.

(a) STANDARDS ESTABLISHED.—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement that—

(A) is equal to not less than 5 percent of the purchase price of the property securing the residential mortgage; and

(B) in the case of a first lien residential mortgage loan with an initial loan to value ratio that is more than 80 percent and not more than 95 percent, includes a requirement for credit enhancements, as defined by the Federal banking agencies, until the loan to value ratio of the residential mortgage loan amortizes to a value that is less than 80 percent of the purchase price;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) UPDATES TO STANDARDS.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development—

(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under

this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, determine to be necessary.

(c) COMPLIANCE.—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any person to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) IMPLEMENTATION.—

(1) REGULATIONS REQUIRED.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) REPORT REQUIRED.—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) ENFORCEMENT.—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) EXEMPTIONS FOR CERTAIN NONPROFIT MORTGAGE LOAN ORIGINATORS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, may jointly issue rules to exempt from the requirements under subsection (a)(2), mortgage loan originators that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) DETERMINING FACTORS.—The Federal banking agencies shall ensure that—

(A) the lending activities of a mortgage loan originator that receives an exemption under this subsection do not threaten the safety and soundness of the banking system of the United States; and

(B) a mortgage loan originator that receives an exemption under this subsection—

(i) is not compensated based on the number or value of residential mortgage loan applications accepted, offered, or negotiated by the mortgage loan originator;

(ii) does not offer residential mortgage loans that have an interest rate greater than zero percent;

(iii) does not gain a monetary profit from any residential mortgage product or service provided;

(iv) has the primary purpose of serving low income housing needs;

(v) has not been specifically prohibited, by statute, from receiving Federal funding; and

(vi) meets any other requirements that the Federal banking agencies jointly determine are appropriate for ensuring that a mortgage loan originator that receives an exemption under this subsection does not threaten the safety and soundness of the banking system of the United States.

(3) REPORTS REQUIRED.—Before the issuance of final rules under subsection (a), and annually thereafter, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) identifies the mortgage loan originators that receive an exemption under this subsection; and

(B) for each mortgage loan originator identified under subparagraph (A), the rationale for providing an exemption.

(4) UPDATES TO EXEMPTIONS.—The Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury—

(A) shall review the exemptions established under this subsection not less frequently than every 2 years; and

(B) based on the review under subparagraph (A), may revise the standards established under this subsection, as the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, determine to be necessary.

(g) RULES OF CONSTRUCTION.—Nothing in this section may be construed to permit—

(1) the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section; or

(2) the Federal banking agencies to issue an exemption under subsection (f) that is not on a case-by-case basis.

(h) DEFINITIONS.—In this section, the following definitions shall apply:

(1) COMPANY.—The term ''company''—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) MORTGAGE LOAN ORIGINATOR.—The term ''mortgage loan originator'' means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan''—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs, the Federal Housing Administration, or the Rural Housing Administration.

(4) EXTENSION OF CREDIT; DWELLING.—The terms ''extension of credit'' and ''dwelling'' shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

SEC. 943. STUDY ON FEDERAL HOUSING ADMINISTRATION UNDERWRITING STANDARDS.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study evaluating whether the underwriting criteria used by the Federal Housing Administration are sufficient to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

(2) ISSUES TO BE STUDIED.—In conducting the study under paragraph (1), the Comptroller General shall evaluate—

(A) down payment requirements for Federal Housing Administration borrowers;

(B) default rates of mortgages insured by the Federal Housing Administration;

(C) characteristics of Federal Housing Administration borrowers who are most likely to default;

(D) taxpayer exposure to losses incurred by the Federal Housing Administration;

(E) the impact of the market share of the Federal Housing Administration on efforts to sustain a viable private mortgage market; and

(F) any other factors that Comptroller General determines are appropriate.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) that includes recommendations for statutory improvements to be made to the underwriting criteria used by the Federal Housing Administration, to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

SEC. 944.

SA 3946. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1045, strike line 12 and all that follows through ''**SEC. 942.**'' on page 1052, line 3, and insert the following:

(b) STUDY ON RISK RETENTION.—

(1) STUDY.—

(A) IN GENERAL.—The Board of Governors, in coordination and consultation with the Comptroller of the Currency, the Corporation, the Federal Housing Finance Agency, and the Commission, shall conduct a study of the asset-backed securitization process.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Board of Governors shall evaluate—

(i) the separate and combined impact of—

(I) requiring loan originators or securitizers to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; including—

(aa) whether existing risk retention requirements such as contractual representations and warranties, and statutory and regulatory underwriting and consumer protection requirements are sufficient to ensure the long-term accountability of originators for loans they originate; and

(bb) methodologies for establishing additional statutory credit risk retention requirements;

(II) the Financial Accounting Statements 166 and 167 issued by the Financial Accounting Standards Board, as well as any other statements issued before or after the date of enactment of this section the Federal banking agencies determine to be relevant;

(ii) the impact of the factors described under subsection (i) of this section on—

(I) different classes of assets, such as residential mortgages, commercial mortgages, commercial loans, auto loans, and other classes of assets;

(II) loan originators;

(III) securitizers;

(IV) access of consumers and businesses to credit on reasonable terms.

(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Board of Governors shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include statutory and regulatory recommendations for eliminating any negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending identified by the study conducted under paragraph (1).

SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.

(a) STANDARDS ESTABLISHED.—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) UPDATES TO STANDARDS.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development—

(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, determine to be necessary.

(c) COMPLIANCE.—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any person to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) IMPLEMENTATION.—

(1) REGULATIONS REQUIRED.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) REPORT REQUIRED.—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) ENFORCEMENT.—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to permit the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section.

(g) DEFINITIONS.—In this section, the following definitions shall apply:

(1) COMPANY.—The term ''company''—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) MORTGAGE LOAN ORIGINATOR.—The term ''mortgage loan originator'' means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan''—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs, the Federal Housing Administration, and the Rural Housing Administration.

(4) EXTENSION OF CREDIT; DWELLING.—The terms ''extension of credit'' and ''dwelling'' shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

SEC. 943.

SA 3947. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, insert the following:

SEC. _____. PREVENT THE DISSOLUTION OF ANY LARGE FINANCIAL COMPANY BY THE FDIC IF THE DISSOLUTION WOULD INCREASE THE DEFICIT.

The Corporation may not dissolve any large financial company unless the dissolution has been reviewed by the Director of the Office of Management and Budget and the Director has certified that the dissolution will not increase the Federal deficit.

SA 3948. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, insert the following:

SEC. _____. PREVENT COMPLIANCE COSTS FOR BCFP REGULATION FROM BEING PASSED TO THE CONSUMER.

The Bureau of Consumer Financial Protection may not adopt any regulation unless the regulation has been reviewed by the Director of the Office of Management and Budget and the Director has certified that the regulation will not bear any costs onto consumers.

SA 3949. Mr. CARPER (for himself, Mr. CORKER, Mr. BAYH, Mr. ENSIGN, Mr. JOHNSON, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1315, strike line 18, and all that follows through page 1325, line 20 and insert the following:

''(B) the State consumer financial law is preempted in accordance with the legal standards of the decision of the Supreme Court in Barnett Bank v. Nelson (517 U.S. 25

(1996)), and any preemption determination under this subparagraph may be made by a court or by regulation or order of the Comptroller of the Currency, on a case-by-case basis, in accordance with applicable law; or

''(C) the State consumer financial law is preempted by a provision of Federal law other than this title.

''(2) SAVINGS CLAUSE.—This title does not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

''(3) CASE-BY-CASE BASIS.—

''(A) DEFINITION.—As used in this section the term 'case-by-case basis' refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.

''(B) CONSULTATION.—When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Bureau of Consumer Financial Protection and shall take the views of the Bureau into account when making the determination.

''(4) RULE OF CONSTRUCTION.—This title does not occupy the field in any area of State law.

''(5) STANDARDS OF REVIEW.—

''(A) PREEMPTION.—A court reviewing any determinations made by the Comptroller regarding preemption of a State law by this title shall assess the validity of such determinations, depending upon the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision.

''(B) SAVINGS CLAUSE.—Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws.

''(6) COMPTROLLER DETERMINATION NOT DELEGABLE.—Any regulation, order, or determination made by the Comptroller of the Currency under paragraph (1)(B) shall be made by the Comptroller, and shall not be delegable to another officer or employee of the Comptroller of the Currency.

''(c) SUBSTANTIAL EVIDENCE.—No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law, unless substantial evidence, made on the record of the proceeding, supports the specific finding regarding the preemption of such provision in accordance with the legal standard of the decision of the Supreme Court of the United States in Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996).

''(d) PERIODIC REVIEW OF PREEMPTION DETERMINATIONS.—

''(1) IN GENERAL.—The Comptroller of the Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall publish a notice in the Federal Register announcing the decision to continue or rescind the determination or a proposal to amend the determination. Any such notice of a proposal to amend a determination and the subsequent resolution of such proposal shall comply with the procedures set forth in subsections (a) and (b) of section 5244 of the Revised Statutes of the United States (12 U.S.C. 43 (a), (b)).

''(2) REPORTS TO CONGRESS.—At the time of issuing a review conducted under paragraph (1), the Comptroller of the Currency shall submit a report regarding such review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report submitted to the respective committees shall address whether the agency intends to continue, rescind, or propose to amend any determination that a provision of Federal law preempts a State consumer financial law, and the reasons therefor.

''(e) APPLICATION OF STATE CONSUMER FINANCIAL LAW TO SUBSIDIARIES AND AFFILIATES.—Notwithstanding any provision of this title, a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.

''(f) PRESERVATION OF POWERS RELATED TO CHARGING INTEREST.—No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) for the charging of interest by a national bank at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of 'interest' under such provision.

''(g) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

''Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.''.

SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

''(i) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS.—

''(1) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'subsidiary', and 'affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(2) RULE OF CONSTRUCTION.—No provision of this title shall be construed as preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank).''.

SEC. 1046. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.

(a) IN GENERAL.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:

''SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.

''(a) IN GENERAL.—Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this Act or any regulation or order prescribed under this Act shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.

''(b) PRINCIPLES OF CONFLICT PREEMPTION APPLICABLE.—Notwithstanding the authorities granted under sections 4 and 5, this Act does not occupy the field in any area of State law.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:

''Sec. 6. State law preemption standards for Federal savings associations and subsidiaries clarified.''.

SEC. 1047. VISITORIAL STANDARDS FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) NATIONAL BANKS.—Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

''(j) VISITORIAL POWERS.—

''(1) IN GENERAL.—In accordance with the decision of the Supreme Court of the United States in Cuomo v. Clearing House Assn., L. L. C., 5 (129 S. Ct. 2710 (2009)), no provision of this title which relates to visitorial powers or otherwise limits or restricts the visitorial authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring an action in a court of appropriate jurisdiction to enforce an applicable nonpreempted State law against a national bank, as authorized by such law, and to seek relief as authorized by such law.

''(2) EXCLUSION.—The powers granted to State attorneys general and State regulators under section 1042 of the Restoring American Financial Stability Act of 2010 shall not apply to any national bank, or any subsidiary thereof, regulated by the Office of the Comptroller of the Currency.

''(k) ENFORCEMENT ACTIONS.—The ability of the Comptroller of the Currency to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.''.

(b) SAVINGS ASSOCIATIONS.—Section 6 of the Home Owners' Loan Act (as added by this title) is amended by adding at the end the following:

''(c) VISITORIAL POWERS.—The provisions of sections 5136C(j) of the Revised Statutes of the United States shall apply to Federal savings associations, and any subsidiary thereof, to the same extent and in the same manner as if such savings associations, or subsidiaries thereof, were national banks or subsidiaries of national banks, respectively.

SA 3950. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and

Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''to big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 706, line 5, strike ''transaction'' and all that follows through the period on line 9, and insert the following: ''transaction to meet the definition of a swap under section 1a.''.

SA 3951. Mr. MENENDEZ (for himself and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''to big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 615, line 18, strike ''all'' and all that follows through line 21, and insert the following: ''and the registered swap data repositories all information that is determined by the Commission to be necessary for the Commission and each of the swap data repositories to perform their respective responsibilities under this Act''.

On page 623, line 12, strike ''In this paragraph'' and insert ''Subject to subparagraph (E), in this paragraph''.

On page 624, line 18, strike ''With'' and all that follows through ''subsection (h),'' on line 22, and insert the following: ''The registered swap data repositories or''.

On page 625, strike line 2, and insert the following: ''swap trading volumes and positions for both cleared and uncleared trades.''.

On page 625, line 3, strike ''With respect'' and insert ''Subject to subparagraph (E), with respect''.

On page 625, line 6, strike ''(10)'' and insert ''(9)''.

On page 630, line 14, insert ''on an aggregate basis for both cleared and uncleared trades'' after ''swap data''.

On page 637, strike line 17 and all that follows through page 638, line 12.

On page 810, line 22, after the first period, insert the following:

''(m) DUTY OF CLEARING AGENCY.—Each clearing agency that clears security-based swaps shall provide to the Commission and the registered security-based swap data repositories all information that is determined by the Commission to be necessary for the Commission and each of the security-based swap data repositories to perform their respective responsibilities under this Act.

On page 835, line 7, strike ''In this paragraph'' and insert ''Subject to subparagraph (E), in this paragraph''.

On page 836, line 14, strike ''With'' and all that follows through ''section 3C(a),'' on line 18, and insert the following: ''The registered security-based swap data repositories or''.

On page 836, strike lines 23 and 24, and insert the following: ''security-based swap trading volumes and positions for both cleared and uncleared trades.''.

On page 837, lines 3 and 4, strike ''but are subject to the requirements of section 3C(a)(8)'' and insert ''pursuant to section 3C(a)(9)''.

On page 842, line 9, before the semicolon insert ''on an aggregate basis for both cleared and uncleared trades, including compliance and frequency of end user clearing exemption claims by individual and affiliated entities''.

On page 883, strike line 7 and all that follows through page 884, line 9.

SA 3952. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 510, strike lines 1 through 7.

On page 525, strike lines 5 through 9.

SA 3953. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 553, strike line 18 and all that follows through page 554, line 2, and insert the following:

''(iii) REPORTING.—All foreign exchange swaps and foreign exchange forwards shall be reported to a registered swap data repository described under section 21 within such time period as the Commission may by rule or regulation prescribe.''.

On page 555, line 12, strike '', calculates, prepares, or'' and insert ''and''.

On page 555, line 13, strike ''transactions or''.

On page 555, line 14, strike ''and conditions''.

On page 555, line 15, before the period insert ''for the purpose of providing a centralized record-keeping facility for swaps''.

On page 575, line 5, strike ''such a swap either''.

On page 575, line 6, strike ''or'' and all that follows through ''4r'' on line 8.

On page 575, line 24, strike ''or the Commission''.

On page 576, lines 7 and 8, strike ''or the Commission''.

On page 615, line 18, strike ''all'' and all that follows through line 21, and insert the following: ''and the registered swap data repositories all information that is determined by the Commission to be necessary for the Commission and each of the swap data repositories to perform their respective responsibilities under this Act''.

On page 624, lines 21 through 23, strike ''or the Commission under subsection (h), the Commission'' and insert '', the swap data repository''.

On page 627, between lines 20 and 21, insert the following:

''(2) REPOSITORY FOR EACH ASSET CLASS.—

''(A) REGISTRATION.—The Commission shall register at least 1 swap data repository for each asset class of a swap, or of a group, category, type, or class of swaps.

''(B) RULEMAKING.—If more than 1 such swap data repository exists, the Commission shall by rule provide for—

''(i) the reporting of consistent data by each registered swap data repository; and

''(ii) timely access, by the Commission and the public, to the data collected and maintained by each such registered swap data repository.''.

On page 627, line 21, strike ''(2)'' and insert ''(3)''.

On page 627, line 25, strike ''(3)'' and insert ''(4)''.

On page 628, between lines 9 and 10, insert the following:

''(B) ADDITIONAL CORE PRINCIPLES.—The Commission may develop additional core principles applicable to swap data repositories, and in developing such additional core principles, the Commission may conform such core principles to reflect evolving United States and international standards.''.

On page 628, line 10, strike ''(B)'' and insert ''(C)''.

On page 628, between lines 18 and 19, insert the following:

''(1) CONSULTATION WITH OTHER REGULATORS.—The Commission shall consult with the Securities and Exchange Commission, and the appropriate Federal banking agencies or the appropriate governmental agencies prior to prescribing standards under this section.''.

On page 628, line 19, strike ''(1)'' and insert ''(2)''.

On page 628, line 23, strike ''(2)'' and insert ''(3)''.

On page 629, line 3, strike ''(3)'' and insert ''(4)''.

On page 629, strike lines 8 through 19, and insert the following:

''(5) INFORMATION ACCESS FOR THE SECURITIES AND EXCHANGE COMMISSION.—The Securities and Exchange Commission shall have direct access to registered swap data repositories that accept data on security-based swap agreements.''.

On page 630, lines 21 through 23, strike '', and after notifying the Commission of the request,''.

On page 631, line 18, strike ''AND INDEMNIFICATION AGREEMENT''.

On page 631, line 20, strike ''above—'' and all that follows through ''the swap'' on line 21, and insert ''under subsection (c)(7) the swap''.

On page 631, line 25, strike ''; and'' and insert a period.

On page 632, strike lines 1 through 4.

On page 635, between lines 23 and 24, insert the following:

''(h) ACCESS TO SWAP DATA REPOSITORY SERVICES.—

''(1) COMMISSION REVIEW.—Any prohibition or limitation to any person on access to services offered, directly or indirectly, by a registered swap data repository shall be subject to review by the Commission on its own motion, or upon application by any person aggrieved thereby filed within 30 days after such notice has been filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such prohibition or limitation, unless the Commission otherwise orders, summarily or after notice and opportunity for a hearing on the question of the stay (which hearing may consist

solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the stay.

''(2) COMMISSION ACTION.—In any proceeding to review the prohibition or limitation of any person in respect of access to services offered by a registered swap data repository, if the Commission finds after notice and opportunity for a hearing, that such prohibition or limitation is consistent with the provisions of this section, and the rules and regulations thereunder, and that such person has not been discriminated against unfairly, the Commission, by order, shall dismiss the proceeding. If the Commission does not make any such finding or if it finds that such prohibition or limitation imposes any burden on competition not necessary or appropriate in furtherance of this section, the Commission, by order, shall set aside the prohibition or limitation, and require the registered swap data repository to permit such person access to the services offered by the registered swap data repository to which the prohibition or limitation applied.

''(i) ADMINISTRATIVE PROCEEDING AUTHORITY.—The Commission, by order, may censure or place limitations upon the activities, functions, or operations of, suspend for a period not exceeding 12 months the registration of, or revoke the registration of, any such swap data repository, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or revocation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this section, and that such swap data repository has violated or is unable to comply with any provision of this section, or the rules and regulations thereunder.''.

On page 635, line 24, strike ''(h)'' and insert ''(j)''.

On page 636, line 10, strike ''reported to—'' and all that follows through ''a swap'' on line 11, and insert ''reported to a swap''.

On page 636, line 12, strike ''; or'' and insert a period.

On page 636, strike lines 13 through 17.

On page 637, line 2, strike ''or the Commission''.

On page 791, line 11, strike ''either''.

On page 791, line 13, strike '', or'' and all that follows through ''13A'' on line 15.

On page 792, lines 4 and 5, strike ''or the Commission''.

On page 792, line 10, strike ''or the Commission''.

On page 801, lines 22 and 23, strike ''or the Commission under subsection (a)''.

On page 810, line 22, after the first period, insert the following:

''(m) DUTY OF CLEARING AGENCY.—Each clearing agency that clears security-based swaps shall provide to the Commission and the registered security-based swap data repositories all information that is determined by the Commission to be necessary for the Commission and each of the security-based swap data repositories to perform their respective responsibilities under this Act.''.

On page 812, line 16, before the semicolon insert ''and this title''.

On page 836, lines 17 through 19, strike ''or the Commission under section 3C(a), the Commission shall'' and insert '', the security-based swap data repository shall''.

On page 839, between lines 19 and 20, insert the following:

''(2) REPOSITORY FOR EACH ASSET CLASS.—

''(A) REGISTRATION.—The Commission shall register at least 1 security-based swap data repository for each asset class of a security-based swap, or of a group, category, type, or class of security-based swaps.

''(B) RULEMAKING.—If more than 1 such security-based swap data repository exists, the Commission shall by rule provide for—

''(i) the reporting of consistent data by each registered security-based swap data repository; and

''(ii) timely access, by the Commission and the public, to the data collected and maintained by each such registered security-based swap data repository.''.

On page 839, line 20, strike ''(2)'' and insert ''(3)''.

On page 839, line 24, strike ''(3)'' and insert ''(4)''.

On page 840, between lines 8 and 9, insert the following:

''(B) ADDITIONAL CORE PRINCIPLES.—The Commission may develop additional core principles applicable to security-based swap data repositories, and in developing such additional core principles, the Commission may conform such core principles to reflect evolving United States and international standards.''.

On page 840, line 9, strike ''(B)'' and insert ''(C)''.

On page 840, line 18, strike ''(4)'' and insert ''(5)''.

On page 840, between lines 18 and 19, insert the following:

''(A) CONSULTATION WITH REGULATORS.—The Commission shall consult with the Commodity Futures Trading Commission, and the appropriate Federal banking agencies or the appropriate governmental agencies prior to prescribing standards under this subsection.''.

On page 840, line 19, strike ''(A)'' and insert ''(B)''.

On page 840, line 24, strike ''(B)'' and insert ''(C)''.

On page 841, line 3, strike ''(C)'' and insert ''(D)''.

On page 842, lines 16 through 18, strike '', and after notifying the Commission of the request,''.

On page 843, lines 11 and 12, strike ''AND INDEMNIFICATION''.

On page 843, line 15, strike ''(G)—'' and all that follows through ''the security-based swap'' on line 16, and insert ''(G) the security-based swap''.

On page 843, line 22, strike ''; and'' and insert a period.

On page 843, strike line 23 and all that follows through page 844, line 2.

On page 848, between lines 12 and 13, insert the following:

''(9) ACCESS TO SECURITY-BASED SWAP DATA REPOSITORY SERVICES.—

''(A) COMMISSION REVIEW.—Any prohibition or limitation to any person on access to services offered, directly or indirectly, by a registered security-based swap data repository shall be subject to review by the Commission on its own motion, or upon application by any person aggrieved thereby filed within 30 days after such notice has been filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such prohibition or limitation, unless the Commission otherwise orders, summarily or after notice and opportunity for a hearing on the question of the stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the stay.

''(B) COMMISSION ACTION.—In any proceeding to review the prohibition or limitation of any person in respect of access to services offered by a registered security-based swap data repository, if the Commission finds after notice and opportunity for a hearing, that such prohibition or limitation is consistent with the provisions of this section, and the rules and regulations thereunder, and that such person has not been discriminated against unfairly, the Commission, by order, shall dismiss the proceeding. If the Commission does not make any such finding or if it finds that such prohibition or limitation imposes any burden on competition not necessary or appropriate in furtherance of this section, the Commission, by order, shall set aside the prohibition or limitation, and require the registered security-based swap data repository to permit such person access to the services offered by the registered security-based swap data repository to which the prohibition or limitation applied.

''(10) ADMINISTRATIVE PROCEEDING AUTHORITY.—The Commission, by order, may censure or place limitations upon the activities, functions, or operations of, suspend for a period not exceeding 12 months the registration of, or revoke the registration of, any such security-based swap data repository, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or revocation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this section, and that such security-based swap data repository has violated or is unable to comply with any provision of this section, or the rules and regulations thereunder.''.

On page 848, line 13, strike ''(9)'' and insert ''(11)''.

On page 881, line 19, strike ''reported to—'' and all that follows through ''a security-based swap'' on line 20, and insert ''reported to a security-based swap''.

On page 881, line 21, strike ''; or'' and insert a period.

On page 881, strike line 22 and all that follows through page 882, line 2.

On page 882, lines 14 and 15, strike ''or the Commission''.

SA 3954. Mr. JOHNSON (for himself and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, between lines 13 and 14, insert the following:

SEC. 333. TEMPORARY EXTENSION OF THE TRANSACTION ACCOUNT GUARANTEE PROGRAM.

(a) TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking ''The net amount'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), the net amount''; and

(B) by adding at the end the following:

''(ii) INSURANCE FOR NONINTEREST-BEARING TRANSACTION ACCOUNTS.—The Corporation shall fully insure the net amount that a depositor at an insured depository institution

maintains in a noninterest-bearing transaction account. Such amount shall not be taken into account when determining the net amount due to such a depositor under clause (i).

''(iii) 'NONINTEREST-BEARING TRANSACTION ACCOUNT' DEFINED.—For purposes of this subparagraph, the term 'noninterest-bearing transaction account' means—

''(I) a deposit or account maintained at an insured depository institution—

''(aa) with respect to which interest is neither accrued nor paid;

''(bb) on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone or other electronic media transfers, or other similar means for the purpose of making payments or transfers to third parties; and

''(cc) on which the insured depository institution does not reserve the right to require advance notice of an intended withdrawal; and

''(II) a trust account established by an attorney on behalf of a client, commonly referred to as an 'Interest on Lawyers Trust Account' or 'IOLTA'.''; and

(2) in subparagraph (C), by striking ''subparagraph (B)'' and inserting ''subparagraph (B)(i)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2011.

(c) PROSPECTIVE REPEAL.—Effective January 1, 2013, section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)), as amended by subsection (a), is amended—

(1) in subparagraph (B)—

(A) by striking ''DEPOSIT.—'' and all that follows through ''clause (ii), the net amount'' and inserting ''DEPOSIT.—The net amount''; and

(B) by striking clauses (ii) and (iii); and

(2) in subparagraph (C), by striking ''subparagraph (B)(i)'' and inserting ''subparagraph (B)''.

SEC. 334. IMPROVEMENTS TO THE DEPOSIT INSURANCE FUND.

Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(1) in subsection (b)(3)(B)(i), by striking ''1.5 percent'' and inserting ''1.75 percent''; and

(2) in subsection (e)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''1.5'' each place that term appears and inserting ''1.75'';

(ii) by striking subparagraphs (B), (C), (E), (F), and (G);

(iii) by redesignating subparagraph (D) as subparagraph (C); and

(iv) by inserting after subparagraph (A) the following:

''(B) LIMITATION.—The Board of Directors may, in the sole discretion of the Board of Directors, suspend or limit the declaration or payment of dividends under subparagraph (A).''; and

(B) in paragraph (4), by striking ''paragraphs (2)(D)'' and inserting ''paragraphs (2)(C)''.

SEC. 335. ENHANCED ACCESS TO INFORMATION FOR DEPOSIT INSURANCE PURPOSES.

Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(1) in subsection (a)(2)(B), by striking ''agreement'' and inserting ''consultation''; and

(2) in subsection (b)(1)(E)—

(A) in clause (i), by striking ''such as'' and inserting ''including''; and

(B) by striking clause (iii).

SA 3955. Mr. CORKER (for himself, Mr. GREGG, Mr. LEMIEUX, Mr. COBURN, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1045, strike line 12 and all that follows through ''**SEC. 942.**'' on page 1052, line 3, and insert the following:

(b) STUDY ON RISK RETENTION.—

(1) STUDY.—

(A) IN GENERAL.—The Board of Governors, in coordination and consultation with the Comptroller of the Currency, the Corporation, the Federal Housing Finance Agency, and the Commission, shall conduct a study of the asset-backed securitization process.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Board of Governors shall evaluate—

(i) the separate and combined impact of—

(I) requiring loan originators or securitizers to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; including—

(aa) whether existing risk retention requirements such as contractual representations and warranties, and statutory and regulatory underwriting and consumer protection requirements are sufficient to ensure the long-term accountability of originators for loans they originate; and

(bb) methodologies for establishing additional statutory credit risk retention requirements;

(II) the Financial Accounting Statements 166 and 167 issued by the Financial Accounting Standards Board, as well as any other statements issued before or after the date of enactment of this section the Federal banking agencies determine to be relevant;

(ii) the impact of the factors described under subsection (i) of this section on—

(I) different classes of assets, such as residential mortgages, commercial mortgages, commercial loans, auto loans, and other classes of assets;

(II) loan originators;

(III) securitizers;

(IV) access of consumers and businesses to credit on reasonable terms.

(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Board of Governors shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include statutory and regulatory recommendations for eliminating any negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending identified by the study conducted under paragraph (1).

SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.

(a) STANDARDS ESTABLISHED.—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement that—

(A) is equal to not less than 5 percent of the purchase price of the property securing the residential mortgage; and

(B) in the case of a first lien residential mortgage loan with an initial loan to value ratio that is more than 80 percent and not more than 95 percent, includes a requirement for credit enhancements, as defined by the Federal banking agencies, until the loan to value ratio of the residential mortgage loan amortizes to a value that is less than 80 percent of the purchase price;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) UPDATES TO STANDARDS.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development—

(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, determine to be necessary.

(c) COMPLIANCE.—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any person to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) IMPLEMENTATION.—

(1) REGULATIONS REQUIRED.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) REPORT REQUIRED.—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) ENFORCEMENT.—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) EXEMPTIONS FOR CERTAIN NONPROFIT MORTGAGE LOAN ORIGINATORS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, may jointly issue rules to exempt from the requirements under subsection (a)(2), mortgage loan originators that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) DETERMINING FACTORS.—The Federal banking agencies shall ensure that—

(A) the lending activities of a mortgage loan originator that receives an exemption under this subsection do not threaten the safety and soundness of the banking system of the United States; and

(B) a mortgage loan originator that receives an exemption under this subsection—

(i) is not compensated based on the number or value of residential mortgage loan applications accepted, offered, or negotiated by the mortgage loan originator;

(ii) does not offer residential mortgage loans that have an interest rate greater than zero percent;

(iii) does not gain a monetary profit from any residential mortgage product or service provided;

(iv) has the primary purpose of serving low income housing needs;

(v) has not been specifically prohibited, by statute, from receiving Federal funding; and

(vi) meets any other requirements that the Federal banking agencies jointly determine are appropriate for ensuring that a mortgage loan originator that receives an exemption under this subsection does not threaten the safety and soundness of the banking system of the United States.

(3) REPORTS REQUIRED.—Before the issuance of final rules under subsection (a), and annually thereafter, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) identifies the mortgage loan originators that receive an exemption under this subsection; and

(B) for each mortgage loan originator identified under subparagraph (A), the rationale for providing an exemption.

(4) UPDATES TO EXEMPTIONS.—The Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury—

(A) shall review the exemptions established under this subsection not less frequently than every 2 years; and

(B) based on the review under subparagraph (A), may revise the standards established under this subsection, as the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, determine to be necessary.

(g) RULES OF CONSTRUCTION.—Nothing in this section may be construed to permit—

(1) the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section; or

(2) the Federal banking agencies to issue an exemption under subsection (f) that is not on a case-by-case basis.

(h) DEFINITIONS.—In this section, the following definitions shall apply:

(1) COMPANY.—The term ''company''—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) MORTGAGE LOAN ORIGINATOR.—The term ''mortgage loan originator'' means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan''—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs, or the Rural Housing Administration.

(4) EXTENSION OF CREDIT; DWELLING.—The terms ''extension of credit'' and ''dwelling'' shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

SEC. 943. STUDY ON FEDERAL HOUSING ADMINISTRATION UNDERWRITING STANDARDS.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study evaluating whether the underwriting criteria used by the Federal Housing Administration are sufficient to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

(2) ISSUES TO BE STUDIED.—In conducting the study under paragraph (1), the Comptroller General shall evaluate—

(A) down payment requirements for Federal Housing Administration borrowers;

(B) default rates of mortgages insured by the Federal Housing Administration;

(C) characteristics of Federal Housing Administration borrowers who are most likely to default;

(D) taxpayer exposure to losses incurred by the Federal Housing Administration;

(E) the impact of the market share of the Federal Housing Administration on efforts to sustain a viable private mortgage market; and

(F) any other factors that Comptroller General determines are appropriate.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) that includes recommendations for statutory improvements to be made to the underwriting criteria used by the Federal Housing Administration, to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

SEC. 944.

SA 3956. Ms. LANDRIEU (for herself, Mr. ISAKSON, Mrs. HAGAN, Mr. WARNER, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1047, strike line 4 and all that follows through line 20 and insert the following:

''(i) not less than 5 percent of the credit risk for any asset—

''(I) that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or

''(II) that is a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if 1 or more of the assets that collateralize the asset-backed security are not qualified residential mortgages; or

''(ii) less than 5 percent of the credit risk for an asset that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B);

''(C) specify—

''(i) the permissible forms of risk retention for purposes of this section;

''(ii) the minimum duration of the risk retention required under this section; and

''(iii) that a securitizer is not required to retain any part of the credit risk for an asset that is transferred, sold or conveyed through the issuance of an asset-backed security by the securitizer, if all of the assets that collateralize the asset-backed security are qualified residential mortgages;

On page 1051, between lines 3 and 4, insert the following:

''(4) EXEMPTION FOR QUALIFIED RESIDENTIAL MORTGAGES.—

''(A) IN GENERAL.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly issue regulations to exempt qualified residential mortgages from the risk retention requirements of this subsection.

''(B) QUALIFIED RESIDENTIAL MORTGAGE.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly define the term 'qualified residential mortgage' for purposes of this subsection, taking into consideration underwriting and product features that historical loan performance data indicate result in a lower risk of default, such as—

''(i) documentation and verification of the financial resources relied upon to qualify the mortgagor;

''(ii) standards with respect to—

''(I) the residual income of the mortgagor after all monthly obligations;

''(II) the ratio of the housing payments of the mortgagor to the monthly income of the mortgagor;

''(III) the ratio of total monthly installment payments of the mortgagor to the income of the mortgagor;

''(iii) mitigating the potential for payment shock on adjustable rate mortgages through product features and underwriting standards;

''(iv) mortgage guarantee insurance obtained at the time of origination for loans with combined loan-to-value ratios of greater than 80 percent; and

''(v) prohibiting or restricting the use of balloon payments, negative amortization, prepayment penalties, interest-only payments, and other features that have been demonstrated to exhibit a higher risk of borrower default.

''(5) CONDITION FOR QUALIFIED RESIDENTIAL MORTGAGE EXEMPTION.—The regulations issued under paragraph (4) shall provide that an asset-backed security that is collateralized by tranches of other asset-backed securities shall not be exempt from the risk retention requirements of this subsection.

''(6) CERTIFICATION.—The Commission shall require an issuer to certify, for each issuance of an asset-backed security collateralized exclusively by qualified residential mortgages, that the issuer has evaluated the effectiveness of the internal supervisory controls of the issuer with respect to the process for ensuring that all assets that collateralize the asset-backed security are qualified residential mortgages.

SA 3957. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 62, strike lines 8 through 10 and insert the following:

(2) the term ''financial company'' has the same meaning as in title II, and includes—

(A) an insured depository institution, an insurance company, and a nonbank financial company, and any subsidiary thereof; and

(B) any other entity (and any subsidiary thereof)—

(i) as determined by the Director, based on the size, scale, scope, concentration, activities, interconnectedness, or management of critical data, such that the entity could individually or as a group threaten the stability of the United States financial system; and

(ii) that is not excluded from such definition by a 2/3 vote of the Council;

On page 62, line 16, strike ''(5) the'' and insert the following:

(5) the term ''financial transaction'' means the explicit or implicit creation of a financial contract, where at least one of the counterparties is required to report to the Office;

(6) the

On page 62, line 21, strike ''(6)'' and insert ''(7)''.

On page 63, line 8, strike ''(7)'' and insert ''(8)''.

On page 63, line 13, strike ''(8)'' and insert ''(9)''.

On page 69, beginning on line 7, strike ''and member agencies'' and insert '', member agencies, and the Bureau of Economic Analysis''.

On page 70, between lines 12 and 13, insert the following:

(3) REGULATION OF FINANCIAL COMPANIES NOT UNDER COUNCIL MEMBER AGENCY JURISDICTION.—The regulations of the Office shall apply directly to reporting financial companies that are not otherwise under the jurisdiction of a Council member agency.

On page 73, between lines 20 and 21, insert the following:

(iii) COLLECTION OF FINANCIAL TRANSACTION AND POSITION DATA.—The Office shall collect, on a schedule determined by the Director, in consultation with the Council, comprehensive financial transaction data and position data from financial companies.

SA 3958. Mr. REED (for himself, Mr. JOHNSON, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 384, strike line 1 and all that follows through page 385, line 15.

On page 385, line 16, strike ''**409**'' and insert ''**407**''.

On page 386, strike line 10 and all that follows through page 387, line 2 and insert the following:

SEC. 408. STATE AND FEDERAL RESPONSIBILITIES; ASSET THRESHOLD FOR FEDERAL REGISTRATION OF INVESTMENT ADVISERS.

Section 203A(a) of the of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3a(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

''(2) TREATMENT OF MID-SIZED INVESTMENT ADVISERS.—

''(A) IN GENERAL.—No investment adviser described in subparagraph (B) shall register under section 203, unless the investment adviser is an adviser to an investment company registered under the Investment Company Act of 1940, or a company which has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940, and has not withdrawn the election, except that, if by effect of this paragraph an investment adviser would be required to register with 5 or more States, then the adviser may register under section 203.

''(B) COVERED PERSONS.—An investment adviser described in this subparagraph is an investment adviser that—

''(i) is required to be registered as an investment adviser with the securities commissioner (or any agency or office performing like functions) of the State in which it maintains its principal office and place of business and, if registered, would be subject to examination as an investment adviser by any such commissioner, agency, or office; and

''(ii) has assets under management between—

''(I) the amount specified under subparagraph (A) of paragraph (1), as such amount may have been adjusted by the Commission pursuant to that subparagraph; and

''(II) $100,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title.''.

On page 387, line 3, strike ''**411**'' and insert ''**409**''

On page 387, line 13, strike ''**412**'' and insert ''**410**''.

On page 388, line 4, strike ''**413**'' and insert ''**411**''.

On page 388, line 16, strike ''**414**'' and insert ''**412**''.

On page 389, line 3, strike ''**415**'' and insert ''**413**''.

On page 390, line 1, strike ''**416**'' and insert ''**414**''.

SA 3959. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 441, strike line 8 and all that follows through ''Section'' on line 9 and insert the following:

(e) NOTICE PROCEDURES FOR ACQUISITIONS OF NONBANKS.—Section

On page 441, strike line 15 and all that follows through page 442, line 12.

On page 501, line 15, strike the second period and insert the following: ''.

SEC. 621. INTERSTATE MERGER TRANSACTIONS.

(a) INTERSTATE MERGER TRANSACTIONS.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following:

''(13)(A) Except as provided in subparagraph (B), the responsible agency may not approve an application for an interstate merger transaction if the resulting insured depository institution (including all insured depository institutions which are affiliates of the resulting insured depository institution), upon consummation of the transaction, would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

''(B) Subparagraph (A) shall not apply to an interstate merger transaction that involves 1 or more insured depository institutions in default or in danger of default, or with respect to which the Corporation provides assistance under section 13.

''(C) In this paragraph—

''(i) the term 'interstate merger transaction' means a merger transaction involving 2 or more insured depository institutions that have different home States and that are not affiliates; and

''(ii) the term 'home State' means—

''(I) with respect to a national bank, the State in which the main office of the bank is located;

''(II) with respect to a State bank or State savings association, the State by which the State bank or State savings association is chartered; and

''(III) with respect to a Federal savings association, the State in which the home office (as defined by the regulations of the Director of the Office of Thrift Supervision, or, on and after the transfer date, the Comptroller of the Currency) of the Federal savings association is located.''.

(b) ACQUISITIONS BY BANK HOLDING COMPANIES.—

(1) IN GENERAL.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(A) in subsection (i), by adding at the end the following:

''(8) INTERSTATE ACQUISITIONS.—

''(A) IN GENERAL.—The Board may not approve an application by a bank holding company to acquire an insured depository institution under subsection (c)(8) or any other provision of this Act if—

''(i) the home State of such insured depository institution is a State other than the home State of the bank holding company; and

''(ii) the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the transaction would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to an acquisition that involves an insured depository institution in default or in danger of default, or with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823).''; and

(B) in subsection (k)(6)(B), by striking ''savings association'' and inserting ''insured depository institution''.

(2) DEFINITIONS.—Section 2(o)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)(4)) is amended—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C)(ii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) with respect to a State savings association, the State by which the savings association is chartered; and

''(E) with respect to a Federal savings association, the State in which the home office (as defined by the regulations of the Director of the Office of Thrift Supervision, or, on and after the transfer date, the Comptroller of the Currency) of the Federal savings association is located.''.

(c) ACQUISITIONS BY SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(e)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(2)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (C), by striking ''or'' at the end;

(B) in subparagraph (D), by striking the period at the end and inserting '', or''; and

(C) by adding at the end the following:

''(E) in the case of an application by a savings and loan holding company to acquire an insured depository institution, if—

''(i) the home State of the insured depository institution is a State other than the home State of the savings and loan holding company;

''(ii) the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the transaction would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States; and

''(iii) the acquisition does not involve an insured depository institution in default or in danger of default, or with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823).''; and

(2) by adding at the end the following:

''(7) DEFINITIONS.—For purposes of paragraph (2)(E)—

''(A) the terms 'default', 'in danger of default', and 'insured depository institution' have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

''(B) the term 'home State' means—

''(i) with respect to a national bank, the State in which the main office of the bank is located;

''(ii) with respect to a State bank or State savings association, the State by which the savings association is chartered;

''(iii) with respect to a Federal savings association, the State in which the home office (as defined by the regulations of the Director of the Office of Thrift Supervision, or, on and after the transfer date, the Comptroller of the Currency) of the Federal savings association is located; and

''(iv) with respect to a savings and loan holding company, the State in which the amount of total deposits of all insured depository institution subsidiaries of such company was the greatest on the date on which the company became a savings and loan holding company.''.

SA 3960. Mr. SCHUMER (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1565, after line 23, add the following:

TITLE XIII—REGULATION OF DEBT SETTLEMENT SERVICES

SEC. 1301. AMENDMENT TO CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following:

''TITLE X—DEBT SETTLEMENT SERVICES

''SEC. 1001. DEFINITIONS.

''In this title:

''(1) ATTORNEY GENERAL OF A STATE.—The term 'attorney general of a State' means the attorney general or other chief law enforcement officer of a State.

''(2) COMMISSION.—The term 'Commission' means the Federal Trade Commission.

''(3) CONSUMER.—The term 'consumer' means any person.

''(4) CONSUMER SETTLEMENT ACCOUNT.—The term 'consumer settlement account' means any account or other means or device in which payments, deposits, or other transfers from a consumer are held or transferred to a debt settlement provider for the accumulation of the consumer's funds in anticipation of proffering an adjustment or settlement of a debt or obligation of the consumer to a creditor on behalf of the consumer.

''(5) DEBT SETTLEMENT PROGRAM.—The term 'debt settlement program' means the actions and activities undertaken by a debt settlement provider and a consumer in connection with the provision of debt settlement service.

''(6) DEBT SETTLEMENT PROVIDER.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'debt settlement provider' means any person or entity engaging in, or holding itself out as engaging in, the business of providing debt settlement services in exchange for a fee or compensation, or any person who solicits for or acts on behalf of any person or entity engaging in, or holding itself out as engaging in, the business of providing debt settlement services in exchange for any fee or compensation.

''(B) EXCEPTION.—The term 'debt settlement provider' does not include the following:

''(i) An attorney providing a debt settlement service to a consumer who—

''(I) is licensed to practice law and in good standing in the jurisdiction where the consumer resides;

''(II) personally provides such service while acting in the ordinary practice of law;

''(III) puts any advance fee received from the consumer in a client trust account until earned pursuant to the terms of a written agreement that details the work to be performed by the attorney and the fee schedule for the attorney's work;

''(IV) is engaged in the practice of law through the same business entity ordinarily used by the attorney when providing legal services that are not part of a debt settlement service;

''(V) does not share any fee received for the provision of such service with a person who is not an attorney; and

''(VI) does not provide such service through a partnership, corporation, association, referral arrangement, or other entity or arrangement—

''(aa) that is directed or controlled, in whole or in part, by an individual who is not an attorney;

''(bb) in which an individual who is not an attorney holds any interest;

''(cc) in which an individual who is not an attorney is a director or officer thereof or occupies a position of similar responsibility;

''(dd) in which an individual who is not an attorney has the right to direct, control, or regulate the professional judgment of the attorney; or

''(ee) in which an individual who is not an attorney and who is not under the supervision and control of the attorney delivers such service or exercises professional judgment with respect to the provision of such service.

''(ii) Escrow agents, accountants, broker dealers in securities, or investment advisors in securities, when acting—

''(I) in the ordinary practice of their professions; and

''(II) through the same entity used in the ordinary practice of their profession.

''(iii) Any bank, agent of a bank, trust company, savings and loan association, savings bank, credit union, crop credit association, development credit corporation, industrial development corporation, title insurance company, or insurance company operating or organized under the laws of a State or the United States.

''(iv) Mortgage servicers (as such term is defined in section 6(i) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2))) carrying out mortgage loan modifications.

''(v) Any person who performs credit services for such person's employer while receiving a regular salary or wage when the employer is not engaged in the business of offering or providing debt settlement service.

''(vi) An organization that is described in section 501(c)(3) and subject to section 501(q) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

''(vii) Public officers while acting in their official capacities and persons acting under court order.

''(viii) Any person while performing services incidental to the dissolution, winding up, or liquidating of a partnership, corporation, or other business enterprise.

''(7) DEBT SETTLEMENT SERVICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'debt settlement service' means—

''(i) offering to provide advice or service, or to act or acting as an intermediary between or on behalf of a consumer and one or more of a consumer's creditors, where the primary purpose of the advice, service, or action is to obtain a settlement, adjustment, or satisfaction of the consumer's debt to a creditor in an amount less than the full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt; or

''(ii) offering to provide services related to or providing services advising, encouraging, assisting, or counseling a consumer to accumulate funds for the primary purpose of proposing, obtaining, or seeking to obtain a settlement, adjustment, or satisfaction of the consumer's debt to a creditor in an amount less than the full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt.

''(B) EXCEPTION.—The term 'debt settlement service' does not include services of an attorney in providing information, advice, or legal representation with respect to filing a case or proceeding under title 11, United States Code.

''(8) ENROLLMENT FEE.—The term 'enrollment fee' means any fee, obligation, or compensation paid or to be paid by the consumer to a debt settlement provider in consideration of or in connection with establishing a contract or other agreement with a consumer related to the provision of debt settlement service.

''(9) MAINTENANCE FEE.—The term 'maintenance fee' means any fee, obligation, or compensation paid or to be paid by a consumer on a periodic basis to a debt settlement provider in consideration of maintaining the relationship and services to be provided by a debt settlement provider in accordance with a contract with a consumer related to the provision of debt settlement service.

''(10) PRINCIPAL AMOUNT OF THE DEBT.—The term 'principal amount of the debt' means the total amount or outstanding balance owed by a consumer to one or more creditors for a debt that is included in a contract for debt settlement service at the time when the consumer enters into a contract for debt settlement service pursuant to section 1002(a).

''(11) SETTLEMENT FEE.—The term 'settlement fee' means any fee, obligation, or compensation paid or to be paid by a consumer to a debt settlement provider in consideration of or in connection with an agreement or other arrangement on the part of a creditor to accept less than the principal amount of the debt as satisfaction of the creditor's claim against the consumer.

''SEC. 1002. REQUIRED ACTS.

''(a) CONTRACT REQUIRED.—

''(1) IN GENERAL.—A debt settlement provider may not provide a debt settlement service to a consumer or receive any fee from a consumer for a debt settlement service without a written contract described in paragraph (2) that is signed by the consumer.

''(2) CONTRACT CONTENTS.—A contract described in this paragraph is a contract between a debt settlement provider and a consumer for debt settlement services that includes the following:

''(A) The name and address of the consumer.

''(B) The date of execution of the contract.

''(C) The legal name of the debt settlement provider, including any other business names used by the debt settlement provider.

''(D) The corporate address and regular business address, including a street address, of the debt settlement provider.

''(E) The license or registration number under which the debt settlement provider is licensed or registered if the consumer resides in a State that requires a debt settlement provider to obtain a license or registration as a condition of providing debt settlement service in that State.

''(F) The telephone number at which the consumer may speak with a representative of the debt settlement provider during normal business hours.

''(G) A complete list of the consumer's accounts, debts, and obligations covered under the debt settlement service covered by the contract, including the name of each creditor and principal amount of each debt.

''(H) A description of the services to be provided by the debt settlement provider, including the expected timeframe for settlement for each account, debt, or obligation included in subparagraph (G).

''(I) A clear and conspicuous itemized list of all fees, including any enrollment fee and settlement fees to be paid by the consumer to the debt settlement provider, and the date, approximate date, or circumstances under which each fee will become due.

''(J) A clear and conspicuous statement of a good faith estimate of the total amount of all fees to be collected by the debt settlement provider from the consumer for the provision of debt settlement service under the contract.

''(K) A clear and conspicuous statement of the proposed savings goals for the consumer, stating the amount to be saved per month or other period, the time period over which the savings goals extend, and the total amount of the savings expected to be paid by the consumer pursuant to the terms of the contract.

''(L) A notice to the consumer that unless the consumer is insolvent, if a creditor settles a debt for an amount less than the consumer's current outstanding balance at the time of settlement, the consumer may incur a tax liability.

''(M) A written notice to the consumer, which includes a form that the consumer may use and the address to which the form may be returned to the debt settlement provider, that the consumer may cancel the contract pursuant to the provisions of section 1006.

''(N) A written notice to the consumer of the cancellation and refund rights set forth in section 1006, including notice of any related rules promulgated by the Commission under section 1010.

''(b) NOTIFICATION REQUIRED.—A debt settlement provider shall, before the earlier of the date of entering into a written contract with a consumer for debt settlement services or rendering debt settlement services to a consumer, provide to the consumer in writing the following:

''(1) An individualized financial analysis of the consumer, including an assessment of the consumer's income, expenses, and debts.

''(2) A description of the debt settlement service being offered to the consumer by the debt settlement provider, including the following:

''(A) A description of the debt settlement program being offered as part of the service.

''(B) A list of each of the consumer's debts, creditors, and debt collectors that will be covered under the program.

''(3) A statement containing the following:

''(A) A good-faith estimate of the length of time it will take to achieve settlement of each debt covered under the program.

''(B) The specific time by which the debt settlement service provider will make a bona fide settlement offer to each creditor and debt collector covered under the program.

''(C) The total amount of debt owed by the consumer to each creditor covered under the program.

''(D) An estimate of the total and the monthly savings the consumer will be required to accumulate to complete the program.

''(4) A clear and conspicuous statement that—

''(A) the consumer remains legally obligated to make periodic or scheduled payments to creditors while participating in a debt settlement program; and

''(B) the debt settlement provider will not make any periodic or scheduled payments to creditors on behalf of the consumer.

''(5) A clear and conspicuous notice to the consumer that—

''(A) the utilization of debt settlement service may not be suitable for all consumers;

''(B) the utilization of debt settlement service may adversely impact the consumer's credit history and credit score;

''(C) the consumer may inquire about other means of dealing with indebtedness, including nonprofit credit counseling and bankruptcy;

''(D) the failure to make periodic or scheduled payments to a creditor—

''(i) is likely to affect adversely the consumer's creditworthiness;

''(ii) may result in continued collection activity by creditors or debt collectors;

''(iii) may result in the consumer being sued by one or more creditors or debt collectors, and in the garnishment of the consumer's wages; and

''(iv) may increase the amount of money the consumer owes to one or more creditors or debt collectors due to the imposition by the creditor of interest charges, late fees, and other penalty fees; and

''(E) any savings the consumer realizes from use of a debt settlement service may be taxable income.

''(c) DETERMINATION OF BENEFIT TO CONSUMERS REQUIRED.—A debt settlement provider may not enter into a written contract with a consumer unless the debt settlement provider makes written determinations, supported by the financial analysis, that—

''(1) the consumer can reasonably meet the requirements of the proposed debt settlement program included in the debt settlement service offered to the consumer, including the fees and the periodic savings amounts set forth in the savings goals under the program;

''(2) there is a net tangible financial benefit to the consumer of entering into the proposed debt settlement program; and

''(3) the debt settlement program is suitable for the consumer at the time the contract is to be signed.

''(d) CHOICE OF LANGUAGE.—If a debt settlement provider communicates with a consumer primarily in a language other than English, the debt settlement provider shall furnish to the consumer a translation of the disclosures and documents required by this title in that other language.

''(e) MONTHLY STATEMENTS REQUIRED.—A debt settlement provider shall, not less frequently than monthly, provide each consumer with which it has a contract for the provision of debt settlement service a statement of account balances, fees paid, settlements completed, remaining debts, and any other term considered appropriate by the Commission.

''SEC. 1003. PROHIBITED ACTS.

''(a) LOANS.—A debt settlement provider may not make loans or offer credit or solicit or accept any note, mortgage, or negotiable instrument other than a check signed by the consumer and dated no later than the date of signature.

''(b) CONFESSION OF JUDGMENT.—A debt settlement provider may not take any confession of judgment or power of attorney to confess judgment against the consumer or appear as the consumer or on behalf of the consumer in any judicial or non-judicial proceedings.

''(c) RELEASE OR WAIVER OF OBLIGATION.—A debt settlement provider may not take any release or waiver of any obligation to be performed on the part of the debt settlement provider or any right of the consumer.

''(d) RECEIPT OF THIRD-PARTY COMPENSATION.—A debt settlement provider may not receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the consumer explicitly for the provision of debt settlement service to that consumer, without prior disclosure of such to the consumer.

''(e) CONFIDENTIALITY.—In the absence of a subpoena issued to compel disclosure, a debt settlement provider may not (without prior written consent of the consumer) disclose to anyone the name or any personal information of a consumer for whom the debt settlement provider has provided or is providing debt settlement service other than to a consumer's own creditors or the debt settlement provider's agents, affiliates, or contractors for the purpose of providing debt or settlement service.

''(f) MISREPRESENTATION, OMISSION, AND FALSE PROMISES.—A debt settlement provider may not misrepresent, directly or by implication, any material fact, make a material omission, or make a false promise directed to one or more consumers in connection with the solicitation, offering, contracting or provision of debt settlement service, including the following:

''(1) The total costs to purchase, receive, or use the services, or the nature of the services to be provided.

''(2) Any material restriction, limitation, or condition to receive the offered debt settlement service.

''(3) Any material aspect of the performance, efficacy, nature, or central characteristics of the offered debt settlement service.

''(4) Any material aspect of the nature of terms of the seller's cancellation policies.

''(5) Any claim of affiliation with, or endorsement or sponsorship by, any person or government entity.

''(6) Any material aspect of any debt settlement service, including the following:

''(A) The amount of time necessary to achieve settlement of all debt.

''(B) The amount of money or the percentage of the debt amount that the consumer must accumulate before the provider will initiate attempts with the consumer's creditors or debt collectors to settle the debt.

''(C) The effect of the service on a consumer's creditworthiness.

''(D) Whether the provider is a nonprofit or a for-profit entity.

''(g) PURCHASING OF DEBTS.—A debt settlement provider may not purchase debts or engage in the practice or business of debt collection.

''(h) SECURED DEBT.—A debt settlement provider may not include in a debt settlement agreement any secured debt.

''(i) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A debt settlement provider may not employ any unfair, or deceptive act or practice, including the omission of any material information.

''(j) LIMITATION ON COMMUNICATION.—A debt settlement provider may not—

''(1) obtain a power of attorney or other authorization from a consumer that prohibits or limits the consumer or any creditor from communication directly with one another; or

''(2) represent, expressly or by implication, that a consumer cannot or should not contact or communicate with any creditor.

''SEC. 1004. FEES.

''(a) TYPES OF FEES PERMITTED.—The types of fees that a debt settlement provider may charge a consumer are the following:

''(1) Enrollment fees.

''(2) Settlement fees.

''(b) TYPES OF FEES PROHIBITED.—All fee types not included under subsection (a) are prohibited, including maintenance fees.

''(c) ENROLLMENT FEE AMOUNTS.—The amount of an enrollment fee charged by a debt settlement provider shall not exceed the lesser of—

''(1) the amount that is reasonable and commensurate to the debt settlement service provided to a consumer; and

''(2) $50.

''(d) DEBT SETTLEMENT FEE AMOUNTS.—The amount of a settlement fee charged by a debt settlement provider shall not exceed the lesser of—

''(1) the amount that is reasonable and commensurate to the debt settlement service provided to a consumer; and

''(2) the amount that is 10 percent of the difference between—

''(A) the principal amount of that debt; and

''(B) the amount—

''(i) paid by the debt settlement provider to the creditor pursuant to a settlement negotiated by the debt settlement provider on behalf of the consumer as full and complete satisfaction of the creditor's claim with regard to that debt; or

''(ii) negotiated by the debt settlement provider and paid by the consumer to the creditor pursuant to a settlement negotiated by the debt settlement provider on behalf of the consumer as full and complete satisfaction of the creditor's claim with regard to that debt.

''(e) TIMING OF DEBT SETTLEMENT FEES.—A debt settlement provider shall not collect any debt settlement fee from a consumer until—

''(1) a creditor enters into a legally enforceable written agreement with the consumer, in a form prescribed by the Commission, to accept funds in a specific dollar amount as full and complete satisfaction of the creditor's claim with regard to that debt; and

''(2) those funds are provided—

''(A) by the debt settlement provider on behalf of the consumer; or

''(B) directly by the consumer to the creditor pursuant to a settlement negotiated by the debt settlement provider.

''SEC. 1005. CONSUMER SETTLEMENT ACCOUNTS.

''(a) TRUST ACCOUNT REQUIRED.—A debt settlement provider who receives funds from a consumer shall hold all funds received for a consumer settlement account in a properly designated trust account in a federally insured depository institution. Such funds shall remain the property of the consumer until the debt settlement provider disburses the funds to a creditor on behalf of the consumer as full or partial satisfaction of the consumer's debt to the creditor or the creditor's claim against the consumer.

''(b) INDEPENDENT ADMINISTRATION OF ACCOUNT.—A debt settlement provider may not hold funds received for a consumer settlement account under subsection (a) in an account administered by an entity that—

''(1) is owned by, controlled by, or in any way affiliated with the debt settlement service provider; or

''(2) gives or accepts any money or other compensation in exchange for referrals of business involving the debt settlement service provider.

''(c) LIMITATIONS.—A debt settlement service provider shall not—

''(1) be named on a consumer's bank account;

''(2) take a power of attorney in a consumer's bank account;

''(3) create a demand draft on a consumer's bank account;

''(4) exercise any control over any bank account held by or on behalf of the consumer; or

''(5) obtain any information about a consumer's bank account from any person other than the consumer, except information obtained with the consumer's permission from the consumer's settlement account as necessary to comply with the requirements of section 1002(e).

''SEC. 1006. CANCELLATION OF CONTRACT.

''(a) IN GENERAL.—A consumer may cancel a contract with a debt settlement provider at any time.

''(b) REFUNDS.—

''(1) CANCELLATION WITHIN 90 DAYS OR UPON VIOLATION OF THIS TITLE.—If a consumer cancels a contract with a debt settlement provider not later than 90 days after the date of the execution of the contract or at any time upon a violation of a provision of this title by the debt settlement provider, the debt settlement provider shall refund to the consumer all—

''(A) fees paid to the debt settlement provider by the consumer, with the exception of any earned settlement fee; and

''(B) funds paid by the consumer to the debt settlement provider that—

''(i) have accumulated in a consumer settlement account; and

''(ii) the debt settlement provider has not disbursed to creditors.

''(2) CANCELLATIONS AFTER 90 DAYS.—If a consumer cancels a contract with a debt settlement provider later than 90 days after the date of the execution of the contract and for any reason other than for a violation of a provision of this title by the debt settlement provider, the debt settlement provider shall refund to the consumer—

''(A) half of all of the fees collected from the consumer, with the exception of any earned settlement fees; and

''(B) all funds paid by the consumer to the debt settlement provider that have accumulated in a consumer settlement account and which the debt service provider has not disbursed to creditors.

''(3) TIMING OF REFUNDS.—A debt settlement provider shall make any refund required under this subsection not later than 5 business days after a notice of cancellation is made on behalf of the consumer under subsection (d).

''(4) STATEMENT OF ACCOUNT.—A debt settlement provider making a refund to a consumer under this subsection shall include with such refund a full statement of account showing the following:

''(A) The fees received by the debt settlement provider from the consumer.

''(B) The fees refunded to the consumer by the debt settlement provider.

''(C) The savings of the consumer held by the debt settlement provider.

''(D) The payments made by the debt settlement provider to creditors on behalf of the consumer.

''(E) The settlement fees earned, if any, by the debt settlement provider by settling debt on behalf of the consumer.

''(F) The savings of the consumer refunded to the consumer by the debt settlement provider.

''(c) REVOCATION OF POWERS OF ATTORNEY AND DIRECT DEBIT AUTHORIZATIONS.—Upon cancellation of a contract by a consumer—

''(1) all powers of attorney and direct debit authorizations granted to the debt settlement provider by the consumer are revoked and voided; and

''(2) the debt settlement provider shall immediately take any action necessary to reflect cancellation of the contract, including notifying the recipient of any direct debit authorization.

''(d) NOTICE OF CANCELLATION TO CREDITORS.—Upon the cancellation of a contract under this section of the Act, the debt settlement provider shall provide timely notice of

the cancellation of such contract to each of the creditors with whom the debt settlement provider has had any prior communication on behalf of the consumer in connection with the provision of any debt settlement service.

"SEC. 1007. OBLIGATION OF GOOD FAITH.

''A debt settlement provider shall act in good faith in all matters under this title.

"SEC. 1008. INVALIDATION OF CONTRACTS.

''(a) CONSUMER WAIVERS INVALID.—A waiver by a consumer of any protection provided or any right of the consumer under this title—

''(1) is void; and

''(2) may not be enforced by any other person.

''(b) ATTEMPT TO OBTAIN WAIVER.—Any attempt by any person to obtain a waiver from any consumer of any protection provided by or any right or protection of the consumer or any obligation or requirement of the debt settlement provider under this title shall be considered a violation of a provision of this title.

''(c) CONTRACTS NOT IN COMPLIANCE.—Any contract for a debt settlement service that does not comply with the provisions of this title—

''(1) shall be treated as void;

''(2) may not be enforced by any other person; and

''(3) upon notice of a void contract, a refund by the debt settlement provider to the consumer shall be made as if the contract had been cancelled as provided in section 1006(b)(1) of this title.

"SEC. 1009. ADVERTISING, MARKETING, AND COMMUNICATION PRACTICES.

''A debt settlement provider shall not state or imply claims, results, or outcomes in any advertising, marketing, or other communication with consumers that represent or reflect results or outcomes, including about the percentage or dollar amount by which debt may be reduced or the amount a consumer may save or the historical experience of its customers with respect to debt reduction, that—

''(1) are materially different from the actual average result or outcome achieved by that debt settlement provider on all of the debt of consumers who enter the program; or

''(2) are not verified by an independent audit that documents that the described result or outcome was achieved for all debt enrolled in the program by at least 80 percent of the customers who began the service in the most recent 2 calendar year period.

"SEC. 1010. RULEMAKING BY FEDERAL TRADE COMMISSION.

''(a) IN GENERAL.—Notwithstanding title X of the Restoring American Financial Stability Act of 2010, the Commission may prescribe rules with respect to advertising and marketing practices, record retention, provision of accountings to consumers, and such other matters as the Commission considers necessary to improve the consumer experience with debt settlement providers.

''(b) DEBT RELIEF SERVICE RULES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Commission may prescribe rules with respect to the providers of debt relief service not otherwise covered by this title.

''(2) EXCEPTION.—Any rule prescribed under paragraph (1) shall not be applicable to or otherwise include services provided by those persons or entities identified in section 1001(6)(B) or section 1001(7)(B).

''(3) DEBT RELIEF SERVICE DEFINED.—In this subsection, the term 'debt relief service' means any service represented, directly or by implication, to renegotiate, or in any way alter the terms of payment or other terms of the debt between a consumer and one or more unsecured creditors or debt collectors, including a reduction in the balance, interest rate, or fees owed by a consumer to an unsecured creditor or debt collector.

''(c) PROCEDURE.—All rulemaking under this title shall be conducted in accordance with section 553 of title 5, United States Code, and shall not be subject to other procedures set forth in section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

"SEC. 1011. CIVIL LIABILITY.

''(a) LIABILITY ESTABLISHED.—Any debt settlement provider who fails to comply with any provision of this title with respect to any consumer shall be liable to such consumer in an amount equal to the sum of the amounts determined under each of the following:

''(1) ACTUAL DAMAGES.—The greater of—

''(A) the amount of any actual damage sustained by such consumer as a result of such failure; or

''(B) any amount paid by the consumer to the debt settlement provider.

''(2) STATUTORY DAMAGES.—An amount determined by the court of not less than $1,000 nor more than $5,000 per violation.

''(3) PUNITIVE DAMAGES.—

''(A) INDIVIDUAL ACTIONS.—In the case of any action by an individual, such additional amount as the court may allow.

''(B) CLASS ACTIONS.—In the case of a class action, the sum of—

''(i) the aggregate of the amount which the court may allow for each named plaintiff; and

''(ii) the aggregate of the amount which the court may allow for each other class member, without regard to any minimum individual recovery.

''(4) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1), (2), or (3), the costs of the action, together with reasonable attorneys' fees.

''(b) FACTORS TO BE CONSIDERED IN AWARDING PUNITIVE DAMAGES.—In determining the amount of any liability of any debt settlement provider under subsection (a)(2), the court shall consider, among other relevant factors—

''(1) the frequency and persistence of noncompliance by the debt settlement provider;

''(2) the nature of the noncompliance;

''(3) the extent to which such noncompliance was intentional; and

''(4) in the case of any class action, the number of consumers adversely affected.

"SEC. 1012. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

''(a) IN GENERAL.—Notwithstanding title X of the Restoring American Financial Stability Act of 2010, the Commission shall enforce the provisions of this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this title.

''(b) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A failure to comply with a provision of this title or a violation of a rule prescribed under section 1010 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

"SEC. 1013. ACTION BY STATES.

''(a) IN GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person subject to a provision of this title or a rule prescribed under section 1010 in a practice that violates such provision or rule, the State may, as parens patriae, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

''(1) to enjoin that practice;

''(2) to enforce compliance with the provision or rule; or

''(3) to obtain damages under section 1011 on behalf of residents of the State.

''(b) ATTORNEYS' FEES.—In the case of any successful action under paragraph (1), (2), or (3) of subsection (a), the attorney general of the State bringing the action shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

''(c) RIGHTS OF FEDERAL TRADE COMMISSION.—

''(1) NOTICE TO FEDERAL TRADE COMMISSION.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the attorney general of a State shall notify the Federal Trade Commission in writing of any civil action under subsection (a), prior to initiating such civil action.

''(B) CONTENTS.—The notice required by subparagraph (A) shall include a copy of the complaint to be filed to initiate such civil action.

''(C) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notice required by subparagraph (A), the State shall provide notice immediately upon instituting a civil action under subsection (a).

''(2) INTERVENTION BY FEDERAL TRADE COMMISSION.—Upon receiving notice required by paragraph (1) with respect to a civil action, the Commission may—

''(A) intervene in such action; and

''(B) upon intervening—

''(i) be heard on all matters arising in such civil action;

''(ii) remove the action to the appropriate district court of the United States; and

''(iii) file petitions for appeal of a decision in such action.

''(d) INVESTIGATORY POWERS.—Nothing in this section may be construed to prevent the attorney general of a State from exercising the powers conferred on such attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(e) EFFECT OF ACTION BY FEDERAL TRADE COMMISSION.—If the Federal Trade Commission institutes a civil action or an administrative action to enforce a violation of a provision of this title or a rule prescribed under section 1010, no State may, during the pendency of such action, bring a civil action under subsection (a) against any defendant named in the complaint of the Commission for violation of a provision of this title or rule prescribed under section 1010 that is alleged in such complaint.

''(f) ACTIONS BY OTHER STATE OFFICIALS.—

''(1) IN GENERAL.—In addition to actions brought by an attorney general of a State under subsection (a), an action may be brought by officials in a State who are so authorized.

''(2) SAVINGS PROVISION.—Nothing contained in this section may be construed to prohibit an authorized official of a State from proceeding in a court of such State on the basis of an alleged violation of any civil or criminal statute of such State.

"SEC. 1014. STATUTE OF LIMITATIONS.

''Any action to enforce any liability under section 1011 may be brought before the later of—

''(1) the end of the 5-year period beginning on the date of the occurrence of the violation involved; or

''(2) in any case in which any debt settlement provider has materially and willfully misrepresented any information that the debt settlement provider is required, by any provision of this title, to disclose to any consumer and that is material to the establishment of the debt settlement provider's liability to the consumer under this title, the end of the 5-year period beginning on the date of the discovery by the consumer of the violation.

''SEC. 1015. RELATION TO STATE LAW.

''This title shall not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the law of any State except to the extent that such law is inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this title and any subsequent amendments. Nothing in this title shall limit or prohibit a State from prohibiting or otherwise restricting the provision of debt settlement services, or imposing and administering a system of additional requirements, prohibitions, registration, or licensure.''.

SEC. 1302. INITIAL REGULATIONS.

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Federal Trade Commission shall commence a rulemaking to prescribe the following:

(1) The form of the written notices required under subparagraphs (M) and (N) of subsection (a)(2) and subsection (b)(5) of section 1002 of the Consumer Credit Protection Act, as added by section 1301 of this title.

(2) The form of the statement required under subsection (e) of such section 1002.

(3) The form for an agreement described in section 1004(e)(1) of such Act.

(b) DEADLINE.—The Federal Trade Commission shall complete the rulemaking required by subsection (a) not later than 1 year after the date of the enactment of this Act.

(c) PROCEDURE.—All rulemaking under subsection (a) shall be conducted in accordance with section 553 of title 5, United States Code, and shall not be subject to other procedures set forth in section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

SEC. 1303. EFFECTIVE DATE.

Title X of the Consumer Credit Protection Act, as added by section 1301 of this title, shall take effect on the date that is 60 days after the date of the enactment of this Act.

SA 3961. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''to big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1258, line 7, insert '', as such amount is indexed for inflation,'' before ''and''.

On page 1258, line 10, insert '', as such amount is indexed for inflation,'' before ''and''.

On page 1267, line 18, insert before the semicolon '', as such amount is indexed for inflation''.

On page 1267, line 20, insert before the period '', as such amount is indexed for inflation''.

On page 1267, strike line 21 and all that follows through page 1270, line 21, and insert the following:

(b) ENFORCEMENT.—Notwithstanding any other provision of this title, the prudential regulator of a person described in subsection (a) shall have exclusive authority to enforce compliance with respect to such person.

(c) RULEMAKING AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, the prudential regulators may exercise concurrent authority with the Bureau to promulgate regulations under the federal consumer laws with respect to a person described in subsection (a).

(2) PREEMPTION.—A regulation promulgated by the prudential regulators under the enumerated consumer laws shall occupy the field and preempt any regulation promulgated by the Bureau.

(d) CLARIFICATION OF EXISTING AUTHORITY OF PRUDENTIAL REGULATORS.—No provision of this title may be construed as altering, amending, or affecting the authority of the prudential regulators to exercise supervisory or enforcement authority, order assessments, or initiate enforcement proceedings with respect to a person described in subsection (a).

SA 3962. Mr. MERKLEY (for himself, Ms. KLOBUCHAR, Mr. SCHUMER, Ms. SNOWE, Mr. BROWN of Massachusetts, Mr. BEGICH, Mrs. BOXER, Mr. DODD, Mr. KERRY, Mr. FRANKEN, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1430, between lines 7 and 8, insert the following:

SEC. 1074. PROHIBITED PAYMENTS TO MORTGAGE ORIGINATORS.

Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (j) the following:

''(k) PROHIBITION ON STEERING INCENTIVES.—

''(1) IN GENERAL.—For any consumer credit transaction secured by real property or a dwelling, no loan originator shall receive from any person and no person shall pay to a loan originator, directly or indirectly, compensation that varies based on the terms of the loan (other than the amount of the principal).

''(2) RESTRUCTURING OF FINANCING ORIGINATION FEE.—

''(A) IN GENERAL.—For any consumer credit transaction secured by real property or a dwelling, a loan originator may not arrange for a consumer to finance through the rate any origination fee or cost except bona fide third party settlement charges not retained by the creditor or loan originator.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), a loan originator may arrange for a consumer to finance through the rate an origination fee or cost if—

''(i) the loan originator does not receive any other compensation, directly or indirectly, from the consumer except the compensation that is financed through the rate;

''(ii) no person who knows or has reason to know of the consumer-paid compensation to the loan originator, other than the consumer, pays any compensation to the loan originator, directly or indirectly, in connection with the transaction; and

''(iii) the consumer does not make an upfront payment of discount points, origination points, or fees, however denominated (other than bona fide third party settlement charges).

''(3) RULES OF CONSTRUCTION.—No provision of this subsection shall be construed as—

''(A) limiting or affecting the amount of compensation received by a creditor upon the sale of a consummated loan to a subsequent purchaser;

''(B) restricting a consumer's ability to finance, at the option of the consumer, including through principal or rate, any origination fees or costs permitted under this subsection, or the loan originator's right to receive such fees or costs (including compensation) from any person, subject to paragraph (2)(B), so long as such fees or costs do not vary based on the terms of the loan (other than the amount of the principal) or the consumer's decision about whether to finance such fees or costs; or

''(C) prohibiting incentive payments to a loan originator based on the number of loans originated within a specified period of time.

''(4) LOAN ORIGINATOR.—For the purposes of this section, the term 'loan originator'—

''(A) means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain, with respect to credit to be secured by real property or a dwelling—

''(i) arranges for an extension, renewal, or continuation of such credit;

''(ii) takes an application for credit or assists a consumer in applying for such credit; or

''(iii) offers or negotiates terms of such credit;

''(B) does not include any person who is not otherwise described in subparagraph (A) and who performs purely administrative or clerical tasks on behalf of a person who is described in subparagraph (A); and

''(C) does not include a person that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person is compensated by a lender or other loan originator or by any agent of such lender or other loan originator.''.

SEC. 1075. MINIMUM STANDARDS FOR RESIDENTIAL MORTGAGE LOANS.

(a) IN GENERAL.—No rule, order, or guidance issued by the Bureau under this title shall be construed as requiring a depository institution to apply mortgage underwriting standards that do not meet the minimum underwriting standards required by the appropriate prudential regulator of the depository institution.

(b) ABILITY TO REPAY.—

(1) TILA AMENDMENT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by section 1074 of this Act, is further amended by inserting after subsection (k) the following:

''(l) ABILITY TO REPAY.—

''(1) IN GENERAL.—No creditor may make a loan secured by real property or a dwelling unless the creditor, based on verified and documented information, determines that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments.

''(2) MULTIPLE LOANS.—If the creditor knows, or has reason to know, that 1 or more loans secured by the same real property or dwelling will be made to the same consumer,

the creditor shall, based on verified and documented information, determine that the consumer has a reasonable ability to repay the combined payments of all loans on the same real property or dwelling according to the terms of those loans and all applicable taxes, insurance, and assessments.

''(3) BASIS FOR DETERMINATION.—A determination under this subsection of a consumer's ability to repay a loan described in paragraph (1) shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or the residual income the consumer will have after paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.

''(4) INCOME VERIFICATION.—A creditor shall verify amounts of income or assets that such creditor relies on to determine repayment ability, including expected income or assets, by reviewing the consumer's Internal Revenue Service Form W–2, tax returns, payroll receipts, financial institution records, or other third-party documents that provide reasonably reliable evidence of the consumer's income or assets. In order to safeguard against fraudulent reporting, any consideration of a consumer's income history in making a determination under this subsection shall include the verification of such income by the use of—

''(A) Internal Revenue Service transcripts of tax returns; or

''(B) a method that quickly and effectively verifies income documentation by a third party subject to rules prescribed by the Board.

''(5) PRESUMPTION OF ABILITY TO REPAY.—Any creditor with respect to any consumer loan secured by real property or a dwelling is presumed to have complied with this subsection with respect to such loan if the creditor—

''(A) verifies the consumer's ability to repay as provided in paragraphs (1), (2), (3), and (4); and

''(B) determines the consumer's ability to repay using the maximum rate permitted under the loan during the first 5 years following consummation and a payment schedule that fully amortizes the loan and taking into account current obligations and all applicable taxes, insurance, and assessments.

''(6) EXCEPTIONS TO PRESUMPTION.—Notwithstanding paragraph (5), no presumption of compliance shall be applied to a loan—

''(A) for which the regular periodic payments for the loan may—

''(i) result in an increase of the principal balance; or

''(ii) allow the consumer to defer repayment of principal.

''(B) the terms of which result in a balloon payment, where a 'balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments; or

''(C) for which the total points and fees payable in connection with the loan exceed 3 percent of the total loan amount, where 'points and fees' means points and fees as defined by section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)), except that, for the purposes of computing the total points and fees under this subparagraph, the total points and fees attributable to any premium for mortgage guarantee insurance provided by an agency of the Federal Government or an agency of a State shall exclude any amount of the points and fees for such insurance greater than 1 percent of the total loan amount.

''(7) EXEMPTION.—

''(A) The Board may revise, add to, or subtract from the criteria under paragraphs (5) and (6) and subparagraphs (B) and (C) of this paragraph upon a finding that such regulations are necessary or appropriate to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance with this subsection.

''(B) BRIDGE LOANS.—This subsection does not apply to a temporary or 'bridge' loan with a term of 12 months or less, including to any loan to purchase a new dwelling where the consumer plans to sell a current dwelling within 12 months.

''(C) REVERSE MORTGAGES.—This subsection does not apply with respect to any reverse mortgage.

''(8) SEASONAL INCOME.—If documented income, including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, a creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.''.

(2) CONFORMING AMENDMENT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by this Act, is amended—

(A) by redesignating subsections (k), (l), and (m) as subsections (m), (n), and (o), respectively; and

(B) in subsection (o), as so redesignated, by striking ''(l)(2)'' and inserting ''(n)(2)''.

On page 1430, line 8, ''**SEC. 1074**'' and insert ''**SEC. 1076**''.

On page 1441, line 1, ''**SEC. 1075**'' and insert ''**SEC. 1077**''.

On page 1442, line 10, ''**SEC. 1076**'' and insert ''**SEC. 1078**''.

SA 3963. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 387, line 15, strike ''by rule'' and all that follows through page 387, line 3 and insert the following: ''by rule, adjust the financial threshold for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, not less frequently than once every 5 years, to reflect the percentage increase in the cost of living following the date of enactment of this Act.''.

SA 3964. Mr. HARKIN (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 557, strike lines 4 through 14 and insert the following:

'swap execution facility' means an electronic trading system with pre-trade and post-trade transparency in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by other participants that are open to multiple participants in the system, but which is not a designated contract market.''; and

Beginning on page 773, strike line 24 and all that follows through page 774, line 7, and insert the following:

'swap execution facility' means an electronic trading system with pre-trade and post-trade transparency in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by other participants that are open to multiple participants in the system, but which is not a designated contract market.

SA 3965. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 691, strike lines 10 through 12 and insert the following:

CONTRACT MARKETS.—The governing body of the board of trade shall be constituted to facilitate, consistent with other applicable core principles and duties, consideration of the views and objectives of market participants.

SA 3966. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. REVOLVING DOOR PROHIBITIONS FOR FINANCIAL REGULATORS.

(a) IN GENERAL.—Section 207(c)(2)(A) of title 18, United States Code, is amended—

(1) in clause (iv), by striking ''or'' at the end;

(2) in clause (v), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(vi) employed by the Securities and Exchange Commission as an officer, attorney, economist, examiner, or other employee described in section 4802(b) of title 5 and who receives increased pay or additional benefits or compensation under subsection (c) or (d) of that section; or

''(vii)(I) employed by—

''(aa) the Federal Reserve System as an employee described in section 11(l) of the Federal Reserve Act (12 U.S.C. 248(l));

''(bb) the Farm Credit Administration as an employee described in section 5.11(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2245(c)(2));

''(cc) the Federal Deposit Insurance Corporation as an employee described in section

9(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819(a));

''(dd) the National Credit Union Administration as an employee described in section 120 of the Federal Credit Union Act (12 U.S.C. 1766);

''(ee) the Office of the Comptroller of Currency as an employee described in section 5240 of the Revised Statutes (12 U.S.C. 482) or section 206 of the Bank Conservation Act (12 U.S.C. 206);

''(ff) the Office of Federal Housing Enterprise Oversight as an employee described in section 1315 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4515);

''(gg) the Office of Thrift Supervision as an employee described in section 3(h) of the Home Owners' Loan Act (12 U.S.C. 1462a(h)); or

''(hh) the Commodities Futures Trading Commission as an employee described in section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)); and

''(II) who receives increased pay or additional benefits or compensation in excess of any pay limitation under title 5, as authorized by the board, commission, or agency.''.

(b) REVOLVING DOOR REGISTRATION.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''covered employee'' means a former employee of a covered financial regulator who—

(i) received increased pay or additional benefits or compensation in excess of any pay limitation under title 5, United States Code, as authorized by the covered financial regulator on or after the date of enactment of this Act; and

(ii) represents any individual, corporation, or other entity with business before the covered financial regulator that employed the employee; and

(B) the term ''covered financial regulator'' means—

(i) the Commission

(ii) the Federal Reserve System;

(iii) the Farm Credit Administration;

(iv) the Corporation;

(v) the National Credit Union Administration;

(vi) the Office of the Comptroller of Currency;

(vii) the Office of Federal Housing Enterprise Oversight;

(viii) the Office of Thrift Supervision; and

(ix) the Commodities Futures Trading Commission.

(2) REGISTRATION.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, each covered financial regulator shall establish a website through which a covered employee may register and update information in accordance with subparagraph (B)

(B) REGISTRATION BY COVERED EMPLOYEES.—A covered employee—

(i) shall register with the covered financial regulator that employed the covered employee before representing any individual, corporation, or other entity with business before the covered financial regulator, which shall include providing—

(I) the name of the covered employee and the last job title held by the covered employee at the covered financial regulator;

(II) the name of the individual, corporation, or other entity;

(III) a description of the purpose of the representation of the individual, corporation, or other entity;

(IV) a comprehensive list of all matters that the representation of the individual, corporation, or other entity will include;

(V) a comprehensive list of all matters in which the covered employee personally and substantially participated while employed by the covered financial regulator; and

(VI) a description of any restriction on the representation of the individual, corporation, or other entity under Federal law, rule, regulation, or order of the covered financial regulator;

(ii) shall, if any information provided under clause (i) changes, provide updated information to the covered financial regulator; and

(iii) may not, during the 2-year period beginning on the date on which the employment of the covered employee with the covered financial regulator terminates, influence any communication to, or appearance before any officer or employee of the covered financial regulator in connection with any matter on which an individual, corporation, or other entity represented by the covered employee seeks official action by any officer or employee of the covered financial regulator.

(3) ENFORCEMENT.—A covered financial regulator may impose a civil monetary penalty on any person that violates paragraph (2)(B) in an amount not less than $10,000 and not more than $100,000 for each violation.

(4) PUBLIC AVAILABILITY.—Not later than 14 days after the date on which information is provided to a covered financial regulator under paragraph (2)(B), the covered financial regulator shall make the information publicly available on the website of the covered financial regulator in a searchable form.

SA 3967. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, line 23, strike ''and'' and all that follows through ''(G) any'' on line 24 and insert the following:

(G) potential obligations to third parties in connection with credit derivative transactions between the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) and the third parties that reference the company or obligations of the company; and

(H) any

SA 3968. Mr. TESTER (for himself, Mrs. MURRAY, and Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1235, strike lines 6 through 10 and insert the following:

(A) the Bureau shall consider—

(i) the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule; and

(ii) the impact of proposed rules on covered persons, as described in section 1026, and the impact on consumers in rural areas;

SA 3969. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, between lines 13 and 14, insert the following:

SEC. 333. FDIC EXAMINATION AUTHORITY.

(a) EXAMINATION AUTHORITY FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.—Section 10(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(3)) is amended by striking ''whenever the Board'' and all that follows through the period at the end and inserting the following: ''or depository institution holding company whenever the Chairperson or the Board of Directors determines that a special examination of any such depository institution or depository institution holding company is necessary to determine the condition of such depository institution or depository institution holding company for insurance purposes or for purposes of title II of the Restoring American Financial Stability Act of 2010.''.

(b) ENFORCEMENT AUTHORITY.—Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended—

(1) in paragraph (1)—

(A) by striking ''based on an examination of an insured depository institution'' and inserting ''based on an examination of an insured depository institution or depository institution holding company''; and

(B) by striking ''with respect to any insured depository institution or'' and inserting ''with respect to any insured depository institution, depository institution holding company, or'';

(2) in paragraph (2)—

(A) by striking ''Board of Directors determines, upon a vote of its members,'' and inserting ''Board of Directors, upon a vote of its members, or the Chairperson determines'';

(B) in subparagraph (B), by striking ''or'' at the end;

(C) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(D) the conduct or threatened conduct (including any acts or omissions) of the depository institution holding company poses a risk to the Deposit Insurance Fund or of the exercise of authority under title II of the Restoring American Financial Stability Act of 2010, or may prejudice the interests of the depositors of an affiliated institution.'';

(3) in paragraph (3)(A), by striking ''upon a vote of the Board of Directors'' and inserting ''upon a determination by the Chairperson or upon a vote of the Board of Directors'';

(4) in paragraph (4)(A)—

(A) by striking ''any insured depository institution'' and inserting ''any insured depository institution, depository institution holding company,''; and

(B) by striking ''the institution'' and inserting ''the institution, holding company,'';

(5) in paragraph (4)(B), by striking ''the institution'' each place that term appears and inserting ''the institution, holding company,''; and

(6) in paragraph (5)(A), by striking ''an insured depository institution'' and inserting ''an insured depository institution, depository institution holding company,''.

(c) BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

''SEC. 51. BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.

''The Corporation may conduct a special examination of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, if the Chairperson or the Board of Directors determines an examination is necessary to determine the condition of the company for purposes of title II of that Act.''.

(d) ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.—The Federal Deposit Insurance Act is amended by adding at the end the following:

''SEC. 52. ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.

''(a) ACCESS TO INFORMATION.—The Corporation may, if the Corporation determines that such action is necessary to carry out its responsibilities relating to deposit insurance or orderly liquidation under this Act, title II of the Restoring American Financial Stability Act of 2010, or otherwise applicable Federal law—

''(1) obtain information from an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010;

''(2) obtain information from the appropriate Federal banking agency, or any regulator of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, including examination reports; and

''(3) participate in any examination, visitation, or risk-scoping activity of an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010.

''(b) ENFORCEMENT.—The Corporation shall have the authority to take any enforcement action under section 8 against any institution or company described in paragraph (1) of subsection (a) that fails to provide any information requested under that paragraph.

''(c) USE OF AVAILABLE INFORMATION.—The Corporation shall use, in lieu of a request for information under subsection (a), information provided to another Federal or State regulatory agency, publicly available information, or externally audited financial statements to the extent that the Corporation determines such information is adequate to the needs of the Corporation.''.

On page 1006, strike line 17 and all that follows through page 1007, line 2, and insert the following:

(A) by striking paragraph (2) and inserting the following:

''(2) STANDARDS AND OVERSIGHT.—The Commission shall set standards and exercise oversight of the procedures and methodologies, including qualitative and quantitative data and models, used by nationally recognized statistical rating organizations, to ensure that the credit ratings issued by the nationally recognized statistical rating organizations have a reasonable foundation in fact and analysis. Nothing in this paragraph may be construed to afford a defense against any action or proceeding brought by the Commission to enforce the antifraud provisions of the securities laws.''; and

On page 1019, line 14, strike ''with respect to'' and all that follows through ''organization'' on line 18 and insert ''to ensure that the qualitative and quantitative data and models used by nationally recognized statistical rating organizations produce credit ratings that have a reasonable foundation in fact and analysis. The rules prescribed under this subsection shall require each nationally recognized statistical rating organization''.

On page 1020, line 25, strike ''and''.

On page 1021, line 15, strike the period at the end and insert the following: ''; and

''(4) to assign relatively greater credit risk to a financial product or transaction for which—

''(A) the rating organization lacks adequate historical performance data;

''(B) the assets are provided by persons with a history of providing poorly performing assets;

''(C) income from the assets will not be directly contributed to the securitization, product, or transaction;

''(D) publicly available information, including trading information, indicates that a prior rating misjudged the credit risk of the product or transaction;

''(E) the product or transaction is of sufficient complexity or novelty that the performance of the product or transaction cannot be reliably evaluated; or

''(F) there is any other feature that the Commission may specify.

On page 1023, line 5, strike ''(A)'' and insert the following:

''(A) BASIC INFORMATION.—Each nationally recognized statistical rating organization shall disclose at the beginning of the form developed under paragraph (1) basic information about each of the credit ratings that is the subject of the disclosure, including—

''(i) the latest rating provided for the product or transaction that is the subject of the disclosure;

''(ii) the date upon which the rating described in clause (i) was issued;

''(iii) whether that rating described in clause (i) was intended to be effective for less or more than 1 year after the date of issuance of the rating;

''(iv) the type of asset to which the rating described in clause (i) applies;

''(v) the history and date of any prior rating with respect to the product or transaction during the 5-year period preceding the date of the disclosure; and

''(vi) any other basic information, as the Commission may require.

''(B)

On page 1025, line 19, strike ''(B)'' and insert ''(C)''.

On page 1028 between lines 4 and 5 insert the following:

''(E) NO RELIANCE ON INADEQUATE REPORT.—A nationally recognized statistical rating organization may not rely on a third-party due diligence report if the nationally recognized statistical rating organization has reason to believe that the report is inadequate.

On page 1042, strike line 15 and all that follows through page 1043, line 9, and insert the following:

SEC. 939B. ELIMINATING CONFLICTS OF INTEREST THROUGH INTERMEDIATION.

(a) INTERMEDIATION PROPOSAL.—Not later than 180 days after the date of enactment of this Act, the Commission, through the Office of Credit Ratings, shall issue a notice of proposed rulemaking—

(1) to establish a system that—

(A) allows an intermediary to handle the fees provided by issuers to obtain credit ratings from nationally recognized statistical rating organizations, in order to avoid conflicts of interest that arise when an issuer pays for a credit rating with respect to a financial product or transaction that the issuer plans to sell or execute; and

(B) enables such intermediary to receive fees from issuers, direct fees to nationally recognized statistical rating organizations, and create incentives to reward accurate ratings; and

(2) that directs or facilitates the formation of, or identifies, an intermediary to carry out the system described in paragraph (1).

On page 1044, between lines 2 and 3, insert the following:

SEC. 939D. STRENGTHENING THE ENFORCEMENT AUTHORITY OF THE COMMISSION OVER NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) REQUIREMENT TO FILE APPLICATIONS AND REPORTS WITH COMMISSION.—Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking ''furnish to'' and inserting ''file with''; and

(B) in paragraph (2), by striking ''furnished to'' each place that term appears and inserting ''filed with'';

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking ''furnished'' and inserting ''filed'';

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking ''furnish to'' and inserting ''file with''; and

(C) by striking ''furnishing'' each place that term appears and inserting ''filing'';

(3) in subsection (d)(1), as so redesignated by this Act—

(A) in subparagraph (B), by striking ''furnished to'' and inserting ''filed with''; and

(B) in subparagraph (D), by striking ''furnish'' and inserting ''file'';

(4) in subsection (e)(1), by striking ''furnishing a written notice of withdrawal to the Commission'' and inserting ''filing a written notice of withdrawal with the Commission'';

(5) in subsection (k), by striking ''furnish to'' and inserting ''file with'';

(6) in subsection (l)(2)(A)(i), by striking ''furnished'' and inserting ''filed''; and

(7) in subsection (m)(2), by striking ''furnished'' and inserting ''filed''.

(b) AUTHORITY TO SANCTION ASSOCIATED PERSONS.—Section 15E(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this Act, is amended—

(1) by inserting after ''or revoke the registration of any nationally recognized statistical rating organization'' the following: '', or take enforcement action against or sanction any person who is or was associated, or is or was seeking to become associated, with a nationally recognized statistical rating organization,''; and

(2) by inserting ''bar,'' after ''placing of limitations, suspension,''.

On page 1047, strike lines 3 through 15 and insert the following:

''(B) require a securitizer to retain an economic interest—

''(i) of not less than 5 percent of the credit risk associated with a pool of assets used to create a series of asset-backed securities, and ensure that such economic interest is applied to multiple credit tranches derived from the pool of assets in a manner reasonably designed to ensure that the securitizer retains an economic interest in the success

of each class of securities resulting from the securitization of the asset pool; or

''(ii) of less than 5 percent of the credit risk associated with a pool of assets used to create a series of asset-backed securities, if and only if each of the assets in the pool pose a low credit risk, the originator meets the underwriting standards prescribed under paragraph (2)(B), and the securitizer conducts a due diligence review reasonably designed to ensure the assets and originator meet the requirements of this paragraph;

On page 1056, line 17, strike the second period and insert the following: ''.

SEC. 946. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15G, as added by this Act, the following new section:

''SEC. 15H. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

''(a) DEFINITION.—For purposes of this section, the term 'synthetic asset-backed security' means an asset-backed security with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holder of the security.

''(b) RESTRICTION.—

''(1) IN GENERAL.—No issuer, underwriter, placement agent, sponsor, or initial purchaser may offer, sell, or transfer a synthetic asset-backed security that has no substantial or material economic purpose apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine whether a synthetic asset-backed security meets the requirements of this section. A determination by the Commission under the preceding sentence is not subject to judicial review.

''(2) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules to carry out this section and to prevent evasions thereof.''.

At the end of the bill, add the following:

SEC. 1221. MORTGAGE STANDARDS.

(a) PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end following:

''(n) PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.—

''(1) IN GENERAL.—Any person who sells, transfers, or plans to sell or transfer at least 1,000 mortgages, mortgage-backed securities, or similar financial instruments within a calendar year shall not include or reference in any of such financial instruments any mortgage in which the borrower's income was not verified or in which the loan balance may negatively amortize.

''(2) JOINT RULEMAKING.—The Chairman of the Board, the Chairperson of the Federal Deposit Insurance Corporation, and the Director of the Bureau of Consumer Financial Protection may issue joint rules to carry out the purposes of this subsection. Rules issued under this paragraph may—

''(A) specify what documentation may be used to verify the income of a borrower under paragraph (1), including tax information, asset statements, prior loan repayment information, or any other documentation that the Chairmen and the Director jointly deem necessary and appropriate; and

''(B) define 'negatively amortize', including by making an exception for home equity conversion mortgages, as defined under section 255 of the National Housing Act (commonly referred to as 'reverse mortgages') that are otherwise regulated by a Federal or State agency.

''(3) RULE OF CONSTRUCTION.—As used in this section, the term 'mortgage' shall not be construed to be restricted or limited only to mortgages referred to in section 103(aa).''.

(b) EFFECTIVE DATE.—The requirements under subsection (n)(1) of section 129 of the Truth in Lending Act (as added by subsection (a)) shall take effect not later than 180 days after the date of the enactment of this Act, whether or not any rulemaking under subsection (n)(2) of such Act has been initiated or completed.

SEC. 1222. GUSTAFSON FIX.

(a) DEFINITION OF PROSPECTUS.—Section 2(a)(10) of the Securities Act of 1933 (15 U.S.C. 77b(a)(10)) is amended—

(1) by inserting before ''except that'' the following: ''(whether or not such security is offered or sold pursuant to a registration statement or the security or the transaction is exempt from this title or from section 5 of this title pursuant to the provisions of sections 3 or 4)''; and

(2) by striking ''at the time of such'' and inserting ''at the time such''.

(b) CIVIL LIABILITIES.—Section 12(a)(2) of the Securities Act of 1933 (15 U.S.C. 771(a)(2)) is amended by inserting ''(as defined in section 2(a)(10) of this title)'' after ''prospectus''.

SEC. 1223. COOLING OFF PERIOD.

Section 207 of title 18, United States Code, is amended by adding at the end the following:

''(m) ONE-YEAR RESTRICTION ON FEDERAL FINANCIAL REGULATORS.—

''(1) IN GENERAL.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

''(A) was an officer or employee (including any special Government employee) of a covered Federal agency;

''(B) served 2 or more months during the final 12 months of the employment of the person with the covered Federal agency participating personally and substantially on behalf of the covered Federal agency in the regulation or oversight of, or in an enforcement action against, a particular financial institution or holding company; and

''(C) within 1 year after the completion date of the service or employment of the person with the covered Federal agency, knowingly accepts compensation as an employee, officer, director, or consultant from—

''(i) the financial institution described in subparagraph (B), any holding company that controls the financial institution, or any other company that controls the financial institution; or

''(ii) the holding company described in subparagraph (B), or any other financial institution that is controlled by such holding company,

shall be punished as provided in section 216 of this title.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'covered Federal agency' means the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, each Federal Reserve Bank, the National Credit Union Administration, the Financial Stability Oversight Council, the Securities and Exchange Commission, the Commodities Futures Trading Commission, the Bureau of Consumer Financial Protection, and the Public Company Accounting Oversight Board;

''(B) the term 'financial institution' means any business or holding company that is registered with or regulated by a covered Federal agency, including any foreign financial institution or holding company that has a physical location in any State and is registered with or regulated by a covered Federal agency; and

''(C) the term 'consultant' means a person who works personally and substantially on matters for, or on behalf of, a financial institution or holding company.

''(3) REGULATIONS.—

''(A) IN GENERAL.—Each covered Federal agency may prescribe rules or guidance to administer and carry out this section, including to define the scope of persons referred to in paragraphs (1) and (2)(C), and the financial institutions and holding companies referred to in paragraph (2)(B).

''(B) CONSULTATION.—A covered Federal agency may consult with other covered Federal agencies for the purpose of ensuring that the rules and guidance issued by the agencies under subparagraph (A) are, to the extent possible, consistent, comparable, and practicable, taking into account any differences in the regulatory and oversight programs used by the covered Federal agencies for the supervision of financial institutions and holding companies.

''(4) WAIVER.—A Federal agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the covered Federal agency, if the head of the covered Federal agency, or the chairman of its board of directors, certifies in writing that granting the waiver would not impair the integrity of the regulatory and oversight efforts of the covered Federal agency.

''(5) PENALTIES.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a financial institution, holding company, or other company in violation of this section, the agency shall impose upon such person one or more of the following penalties:

''(A) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal agency may, subject to notice and an administrative hearing, issue an order—

''(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the financial institution, holding company, or other company for a period of up to 5 years; and

''(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any financial institution or holding company subject to regulation or oversight by the agency for a period of up to 5 years.

''(B) CIVIL MONETARY PENALTY.—The Federal agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose upon such person a civil monetary penalty of not more than $250,000. In lieu of an action by the Federal agency under this subparagraph, the Attorney General of the United States may bring a civil action under this subparagraph in the appropriate United States district court.''.

SEC. 1224. FOREIGN BANK ANTI-TAX EVASION FIX.

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement'';

(2) in subsection (a), by striking the subsection heading and inserting the following:

''(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—'';

(3) in subsection (c), by striking the subsection heading and inserting the following:

''(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—'';

(4) in subsection (a)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting ''in matters involving money laundering,'' before ''shall consult''; and

(ii) by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) in matters involving United States tax enforcement, shall consult with the Commissioner of Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and'';

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting ''or to be impeding United States tax enforcement'' after ''primary money laundering concern'' each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

''(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

''(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

''(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.''; and

(8) in subsection (c)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking ''bank secrecy or special regulatory advantages'' and inserting ''bank, tax, corporate, trust, or financial secrecy or regulatory advantages'';

(B) in clause (iii), by striking ''supervisory and counter-money'' and inserting ''supervisory, international tax enforcement, and counter-money'';

(C) in clause (v), by striking ''banking or secrecy'' and inserting ''banking, tax, or secrecy''; and

(D) in clause (vi), by inserting '', tax treaty, or tax information exchange agreement'' after ''treaty'';

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting ''or tax evasion'' after ''money laundering''; and

(B) in clause (iii), by inserting '', tax evasion,'' after ''money laundering''; and

(11) in subsection (d), by inserting ''involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement'' after ''such action''.

SA 3970. Mr. LEVIN (for himself, Mr. KAUFMAN, Mrs. MCCASKILL, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

TITLE ___—AUTHORIZING SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, INTERNATIONAL TRANSACTIONS, OR TYPES OF ACCOUNTS THAT ARE OF PRIMARY MONEY LAUNDERING CONCERN OR IMPEDE UNITED STATES TAX ENFORCEMENT

SEC. _____. AUTHORIZING SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, INTERNATIONAL TRANSACTIONS, OR TYPES OF ACCOUNTS THAT ARE OF PRIMARY MONEY LAUNDERING CONCERN OR IMPEDE UNITED STATES TAX ENFORCEMENT.

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement'';

(2) in subsection (a), by striking the subsection heading and inserting the following:

''(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—'';

(3) in subsection (c), by striking the subsection heading and inserting the following:

''(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—'';

(4) in subsection (a)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting ''in matters involving money laundering,'' before ''shall consult''; and

(ii) by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and'';

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting ''or to be impeding United States tax enforcement'' after ''primary money laundering concern'' each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

''(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

''(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

''(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.''; and

(8) in subsection (c)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking ''bank secrecy or special regulatory advantages'' and inserting ''bank, tax, corporate, trust, or financial secrecy or regulatory advantages'';

(B) in clause (iii), by striking ''supervisory and counter-money'' and inserting ''supervisory, international tax enforcement, and counter-money'';

(C) in clause (v), by striking ''banking or secrecy'' and inserting ''banking, tax, or secrecy''; and

(D) in clause (vi), by inserting '', tax treaty, or tax information exchange agreement'' after ''treaty'';

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting ''or tax evasion'' after ''money laundering''; and

(B) in clause (iii), by inserting '', tax evasion,'' after ''money laundering''; and

(11) in subsection (d), by inserting ''involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement'' after ''such action''.

SA 3971. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to

protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 333. EXAMINATION AND ENFORCEMENT AUTHORITY FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.

(a) EXAMINATION AUTHORITY FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.—Section 10(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(3)) is amended by striking ''whenever the Board'' and all that follows through the period at the end and inserting the following: ''or depository institution holding company whenever the Chairperson or the Board of Directors determines that a special examination of any such depository institution or depository institution holding company is necessary to determine the condition of such depository institution or depository institution holding company for insurance purposes or for purposes of title II of the Restoring American Financial Stability Act of 2010.''.

(b) ENFORCEMENT AUTHORITY.—Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended—

(1) in paragraph (1)—

(A) by striking ''based on an examination of an insured depository institution'' and inserting ''based on an examination of an insured depository institution or depository institution holding company''; and

(B) by striking ''with respect to any insured depository institution or'' and inserting ''with respect to any insured depository institution, depository institution holding company, or'';

(2) in paragraph (2)—

(A) by inserting ''Chairperson or'' before ''Board of Directors determines, upon a vote'';

(B) in subparagraph (B), by striking ''or'' at the end;

(C) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(D) the conduct or threatened conduct (including any acts or omissions) of the depository institution holding company poses a risk to the Deposit Insurance Fund or of the exercise of authority under title II of the Restoring American Financial Stability Act of 2010, or may prejudice the interests of the depositors of an affiliated institution.'';

(3) in paragraph (3)(A), by striking ''upon a vote of the Board of Directors'' and inserting ''upon a determination by the Chairperson or upon a vote of the Board of Directors'';

(4) in paragraph (4)(A)—

(A) by striking ''any insured depository institution'' and inserting ''any insured depository institution, depository institution holding company,''; and

(B) by striking ''the institution'' and inserting ''the institution, holding company,'';

(5) in paragraph (4)(B), by striking ''the institution'' each place that term appears and inserting ''the institution, holding company,''; and

(6) in paragraph (5)(A), by striking ''an insured depository institution'' and inserting ''an insured depository institution, depository institution holding company,''.

(c) BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

''SEC. 51. BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.

''The Corporation may conduct a special examination of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, if the Chairperson or the Board of Directors determines an examination is necessary to determine the condition of the company for purposes of title II of that Act.''.

(d) ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.—The Federal Deposit Insurance Act is amended by adding at the end the following:

''SEC. 52. ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.

''(a) ACCESS TO INFORMATION.—The Corporation may, if the Corporation determines that such action is necessary to carry out its responsibilities relating to deposit insurance or orderly liquidation under this Act, title II of the Restoring American Financial Stability Act of 2010, or otherwise applicable Federal law—

''(1) obtain information from an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010;

''(2) obtain information from the appropriate Federal banking agency, or any regulator of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, including examination reports; and

''(3) participate in any examination, visitation, or risk-scoping activity of an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010.

''(b) ENFORCEMENT.—The Corporation shall have the authority to take any enforcement action under section 8 against any institution or company described in paragraph (1) of subsection (a) that fails to provide any information requested under that paragraph.

''(c) USE OF AVAILABLE INFORMATION.—The Corporation shall use, in lieu of a request for information under subsection (a), information provided to another Federal or State regulatory agency, publicly available information, or externally audited financial statements to the extent that the Corporation determines such information is adequate to the needs of the Corporation.''.

SA 3972. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1006, strike line 17 and all that follows through page 1007, line 2, and insert the following:

(A) by striking paragraph (2) and inserting the following:

''(2) STANDARDS AND OVERSIGHT.—The Commission shall set standards and exercise oversight of the procedures and methodologies, including qualitative and quantitative data and models, used by nationally recognized statistical rating organizations, to ensure that the credit ratings issued by the nationally recognized statistical rating organizations have a reasonable foundation in fact and analysis. Nothing in this paragraph may be construed to afford a defense against any action or proceeding brought by the Commission to enforce the antifraud provisions of the securities laws.''; and

On page 1019, line 14, strike ''with respect to'' and all that follows through ''organization'' on line 18 and insert ''to ensure that the qualitative and quantitative data and models used by nationally recognized statistical rating organizations produce credit ratings that have a reasonable foundation in fact and analysis. The rules prescribed under this subsection shall require each nationally recognized statistical rating organization''.

On page 1020, line 25, strike ''and''.

On page 1021, line 15, strike the period at the end and insert the following: ''; and

''(4) to assign relatively greater credit risk to a financial product or transaction for which—

''(A) the rating organization lacks adequate historical performance data;

''(B) the assets are provided by persons with a history of providing poorly performing assets;

''(C) income from the assets will not be directly contributed to the securitization, product, or transaction;

''(D) publicly available information, including trading information, indicates that a prior rating misjudged the credit risk of the product or transaction;

''(E) the product or transaction is of sufficient complexity or novelty that the performance of the product or transaction cannot be reliably evaluated; or

''(F) there is any other feature that the Commission may specify.

On page 1023, line 5, strike ''(A)'' and insert the following:

''(A) BASIC INFORMATION.—Each nationally recognized statistical rating organization shall disclose at the beginning of the form developed under paragraph (1) basic information about each of the credit ratings that is the subject of the disclosure, including—

''(i) the latest rating provided for the product or transaction that is the subject of the disclosure;

''(ii) the date upon which the rating described in clause (i) was issued;

''(iii) whether that rating described in clause (i) was intended to be effective for less or more than 1 year after the date of issuance of the rating;

''(iv) the type of asset to which the rating described in clause (i) applies;

''(v) the history and date of any prior rating with respect to the product or transaction during the 5-year period preceding the date of the disclosure; and

''(vi) any other basic information, as the Commission may require.

''(B)

On page 1025, line 19, strike ''(B)'' and insert ''(C)''.

On page 1028 between lines 4 and 5 insert the following:

''(E) NO RELIANCE ON INADEQUATE REPORT.—A nationally recognized statistical rating organization may not rely on a third-party due diligence report if the nationally recognized statistical rating organization has reason to believe that the report is inadequate.

On page 1042, strike line 15 and all that follows through page 1043, line 9, and insert the following:

SEC. 939B. ELIMINATING CONFLICTS OF INTEREST THROUGH INTERMEDIATION.

(a) INTERMEDIATION PROPOSAL.—Not later than 180 days after the date of enactment of this Act, the Commission, through the Office of Credit Ratings, shall issue a notice of proposed rulemaking—

(1) to establish a system that—

(A) allows an intermediary to handle the fees provided by issuers to obtain credit ratings from nationally recognized statistical rating organizations, in order to avoid conflicts of interest that arise when an issuer pays for a credit rating with respect to a financial product or transaction that the issuer plans to sell or execute; and

(B) enables such intermediary to receive fees from issuers, direct fees to nationally recognized statistical rating organizations, and create incentives to reward accurate ratings; and

(2) that directs or facilitates the formation of, or identifies, an intermediary to carry out the system described in paragraph (1).

On page 1044, between lines 2 and 3, insert the following:

SEC. 939D. STRENGTHENING THE ENFORCEMENT AUTHORITY OF THE COMMISSION OVER NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) REQUIREMENT TO FILE APPLICATIONS AND REPORTS WITH COMMISSION.—Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking ''furnish to'' and inserting ''file with''; and

(B) in paragraph (2), by striking ''furnished to'' each place that term appears and inserting ''filed with'';

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking ''furnished'' and inserting ''filed'';

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking ''furnish to'' and inserting ''file with''; and

(C) by striking ''furnishing'' each place that term appears and inserting ''filing'';

(3) in subsection (d)(1), as so redesignated by this Act—

(A) in subparagraph (B), by striking ''furnished to'' and inserting ''filed with''; and

(B) in subparagraph (D), by striking ''furnish'' and inserting ''file'';

(4) in subsection (e)(1), by striking ''furnishing a written notice of withdrawal to the Commission'' and inserting ''filing a written notice of withdrawal with the Commission'';

(5) in subsection (k), by striking ''furnish to'' and inserting ''file with'';

(6) in subsection (l)(2)(A)(i), by striking ''furnished'' and inserting ''filed''; and

(7) in subsection (m)(2), by striking ''furnished'' and inserting ''filed''.

(b) AUTHORITY TO SANCTION ASSOCIATED PERSONS.—Section 15E(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this Act, is amended—

(1) by inserting after ''or revoke the registration of any nationally recognized statistical rating organization'' the following: '', or take enforcement action against or sanction any person who is or was associated, or is or was seeking to become associated, with a nationally recognized statistical rating organization,''; and

(2) by inserting ''bar,'' after ''placing of limitations, suspension,''.

SA 3973. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1047, strike lines 3 through 15 and insert the following:

''(B) require a securitizer to retain an economic interest—

''(i) of not less than 5 percent of the credit risk associated with a pool of assets used to create a series of asset-backed securities, and ensure that such economic interest is applied to multiple credit tranches derived from the pool of assets in a manner reasonably designed to ensure that the securitizer retains an economic interest in the success of each class of securities resulting from the securitization of the asset pool; or

''(ii) of less than 5 percent of the credit risk associated with a pool of assets used to create a series of asset-backed securities, if and only if each of the assets in the pool pose a low credit risk, the originator meets the underwriting standards prescribed under paragraph (2)(B), and the securitizer conducts a due diligence review reasonably designed to ensure the assets and originator meet the requirements of this paragraph;''.

SA 3974. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1056, line 17, strike the second period and insert the following: ''.

SEC. 946. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15G, as added by this Act, the following new section:

''SEC. 15H. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

''(a) DEFINITION.—For purposes of this section, the term 'synthetic asset-backed security' means an asset-backed security with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holder of the security.

''(b) RESTRICTION.—

''(1) IN GENERAL.—No issuer, underwriter, placement agent, sponsor, or initial purchaser may offer, sell, or transfer a synthetic asset-backed security that has no substantial or material economic purpose apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine whether a synthetic asset-backed security meets the requirements of this section. A determination by the Commission under the preceding sentence is not subject to judicial review.

''(2) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules to carry out this section and to prevent evasions thereof.''.

SA 3975. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.

(a) FINDINGS.—Congress finds the following:

(1) The 2008 financial crisis was caused, in part, by poor quality, high risk mortgages that were included in mortgage-backed securities, and that incurred higher rates of delinquency and loss than traditional mortgages, damaging thousands of financial institutions holding the mortgages. Those poor quality, high risk mortgages included billions of dollars in stated income and negatively amortizing mortgages.

(2) Banks that issue stated income mortgages do not verify the borrower's income or assets, or ability to repay the loan, thereby increasing the risk of loan default. Stated income loans also encourage fraud by the borrowers seeking to obtain the funding and by lenders seeking to earn fees from selling the mortgages.

(3) Negative amortization of mortgage loans leads to increased monthly loan payments for borrowers, which, in turn, increases the risk of loan default. During the recent financial crisis, negatively amortized loans defaulted in record numbers, damaging financial institutions and other investors holding those assets.

(4) Years ago, Federal banking regulators banned negatively amortizing credit card loans as a threat to the safety and soundness of banking institutions.

(5) Federal financial regulators and Inspectors General have testified before Congress that stated income and negatively amortizing loans pose a threat to the safety and soundness of United States banks, and to the financial markets where these high risk mortgages are sold and securitized.

(b) PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end following:

''(n) PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.—

''(1) IN GENERAL.—Any person who sells, transfers, or plans to sell or transfer at least 1,000 mortgages, mortgage-backed securities, or similar financial instruments within a calendar year shall not include or reference in any of such financial instruments any mortgage in which the borrower's income was not verified or in which the loan balance may negatively amortize.

''(2) JOINT RULEMAKING.—The Chairman of the Board, the Chairman of the Federal Deposit Insurance Corporation, and the Director of the Bureau of Consumer Financial Protection may issue joint rules to carry out the purposes of this subsection. Rules issued under this paragraph may—

''(A) specify what documentation may be used to verify the income of a borrower under paragraph (1), including tax information, asset statements, prior loan repayment information, or any other documentation that the Chairmen and the Director jointly deem necessary and appropriate; and

''(B) define 'negatively amortize', including by making an exception for home equity

conversion mortgages, as defined under section 255 of the National Housing Act (commonly referred to as 'reverse mortgages') that are otherwise regulated by a Federal or State agency.

''(3) RULE OF CONSTRUCTION.—As used in this section, the term 'mortgage' shall not be construed to be restricted or limited only to mortgages referred to in section 103(aa).''.

(c) EFFECTIVE DATE.—The requirements under subsection (n)(1) of section 129 of the Truth in Lending Act (as added by subsection (b)) shall take effect not later than 180 days after the date of the enactment of this Act, whether or not any rulemaking under subsection (n)(2) of such Act has been initiated or completed.

SA 3976. Mr. LEVIN (for himself, Mr. COBURN, Mr. REID, and Mr. KAUFMAN), submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle I of title IX, insert the following:

SEC. _____. RESTORATION OF CONGRESSIONAL INTENT THAT PROSPECTUS IS NOT RESTRICTED TO PUBLIC OFFERINGS.

(a) DEFINITION OF PROSPECTUS.—Section 2(a)(10) of the Securities Act of 1933 (15 U.S.C. 77b(a)(10)) is amended—

(1) by inserting before ''except that'' the following: ''(whether or not such security is offered or sold pursuant to a registration statement or the security or the transaction is exempt from this title or from section 5 of this title pursuant to the provisions of sections 3 or 4)''; and

(2) by striking ''at the time of such'' and inserting ''at the time such''.

(b) CIVIL LIABILITIES.—Section 12(a)(2) of the Securities Act of 1933 (15 U.S.C. 77l(a)(2)) is amended by inserting ''(as defined in section 2(a)(10) of this title)'' after ''prospectus''.

SA 3977. Mr. LEVIN (for himself, Mr. COBURN, and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 1211. COOLING OFF PERIOD.

Section 207 of title 18, United States Code, is amended by adding at the end the following:

''(m) ONE-YEAR RESTRICTION ON FEDERAL FINANCIAL REGULATORS.—

''(1) IN GENERAL.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

''(A) was an officer or employee (including any special Government employee) of a covered Federal agency;

''(B) served 2 or more months during the final 12 months of the employment of the person with the covered Federal agency participating personally and substantially on behalf of the covered Federal agency in the regulation or oversight of, or in an enforcement action against, a particular financial institution or holding company; and

''(C) within 1 year after the completion date of the service or employment of the person with the covered Federal agency, knowingly accepts compensation as an employee, officer, director, or consultant from—

''(i) the financial institution described in subparagraph (B), any holding company that controls the financial institution, or any other company that controls the financial institution; or

''(ii) the holding company described in subparagraph (B), or any other financial institution that is controlled by such holding company,

shall be punished as provided in section 216 of this title.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'covered Federal agency' means the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, each Federal Reserve Bank, the National Credit Union Administration, the Financial Stability Oversight Council, the Securities and Exchange Commission, the Commodities Futures Trading Commission, the Bureau of Consumer Financial Protection, and the Public Company Accounting Oversight Board;

''(B) the term 'financial institution' means any business or holding company that is registered with or regulated by a covered Federal agency, including any foreign financial institution or holding company that has a physical location in any State and is registered with or regulated by a covered Federal agency; and

''(C) the term 'consultant' means a person who works personally and substantially on matters for, or on behalf of, a financial institution or holding company.

''(3) REGULATIONS.—

''(A) IN GENERAL.—Each covered Federal agency may prescribe rules or guidance to administer and carry out this section, including to define the scope of persons referred to in paragraphs (1) and (2)(C), and the financial institutions and holding companies referred to in paragraph (2)(B).

''(B) CONSULTATION.—A covered Federal agency may consult with other covered Federal agencies for the purpose of ensuring that the rules and guidance issued by the agencies under subparagraph (A) are, to the extent possible, consistent, comparable, and practicable, taking into account any differences in the regulatory and oversight programs used by the covered Federal agencies for the supervision of financial institutions and holding companies.

''(4) WAIVER.—A Federal agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the covered Federal agency, if the head of the covered Federal agency, or the chairman of its board of directors, certifies in writing that granting the waiver would not impair the integrity of the regulatory and oversight efforts of the covered Federal agency.

''(5) PENALTIES.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a financial institution, holding company, or other company in violation of this section, the agency shall impose upon such person one or more of the following penalties:

''(A) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal agency may, subject to notice and an administrative hearing, issue an order—

''(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the financial institution, holding company, or other company for a period of up to 5 years; and

''(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any financial institution or holding company subject to regulation or oversight by the agency for a period of up to 5 years.

''(B) CIVIL MONETARY PENALTY.—The Federal agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose upon such person a civil monetary penalty of not more than $250,000. In lieu of an action by the Federal agency under this subparagraph, the Attorney General of the United States may bring a civil action under this subparagraph in the appropriate United States district court.''.

SA 3978. Mr. JOHNSON (for himself, Ms. LANDRIEU, Mr. BURRIS, Mr. CARDIN, Mr. BROWNBACK, Ms. MURKOWSKI, Mr. BENNETT, and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 58, line 3, insert after ''Council.'' the following: ''Notwithstanding the foregoing, the Federal Housing Finance Agency shall consider, but is not required to adopt, any Council recommendation regarding concentration limits on fully secured extensions of credit by a Federal home loan bank to any member or former member institution made in compliance with Federal Housing Finance Agency regulations.''.

On page 99, line 14, insert after ''risks.'' the following: ''Notwithstanding any other provision of this title, the Board of Governors shall not prescribe standards that limit fully secured extensions of credit by a Federal home loan bank to any member or former member institution made in compliance with Federal Housing Finance Agency regulations.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on May 11, 2010, at 10 a.m., in room SR–325 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.