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 3872. Mr. BROWN of Massachusetts (for himself, Mr. KERRY, and Mr. GREGG) 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 3873. Mr. DEMINT (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3874. Mr. PRYOR (for himself, Mr. BAUCUS, Mr. TESTER, Mrs. SHAHEEN, Mr. JOHNSON, Mr. BENNET, 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 3875. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3775 submitted by Mr. WYDEN (for himself and Mr. GRASSLEY) and intended to be proposed to the 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 3876. Mr. MENENDEZ (for himself and Mr. BURRIS) 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 3877. 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 3878. Mr. CASEY (for himself, Mr. BROWN of Ohio, and 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 3879. Ms. COLLINS 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 3880. Mr. BYRD (for himself and Mr. ROCKEFELLER) 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 3881. 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 3882. Mr. CORKER (for himself, Mr. GREGG, Mr. SHELBY, Mrs. HUTCHISON, Mr. LEMIEUX, and Mr. COBURN) 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 3883. Ms. SNOWE (for herself and Mr. PRYOR) 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 3884. Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. KAUFMAN, Mr. HARKIN, Mr. FEINGOLD, and Mr. SANDERS) 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 3885. Mrs. HUTCHISON 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 3886. Mr. ROCKEFELLER (for himself and Mr. BYRD) 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 3887. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANNS) 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 3888. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3889. Mr. AKAKA (for himself, Mr. MENENDEZ, and Mr. DURBIN) 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 3890. Mr. BAYH (for himself and Mr. MERKLEY) 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 3891. Mr. CASEY (for himself, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3892. Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. REID, Mr. BROWNBACK, Ms. CANTWELL, Mr. CORNYN, Mr. WYDEN, and 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, supra; which was ordered to lie on the table.

SA 3893. Mr. CORNYN 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 3894. Mr. CORNYN 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 3895. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3896. Mr. GREGG (for himself, Mr. BROWN of Massachusetts, and Mr. KERRY) 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 3897. Mr. DORGAN 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 3898. Mr. ENSIGN proposed an amendment to amendment SA 3733 proposed by Mr. BROWN of Ohio (for himself, Mr. KAUFMAN, Mr. CASEY, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. HARKIN, Mr. SANDERS, and Mr. BURRIS) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3899. 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 3900. 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 3901. Mr. CARDIN (for himself, Mr. ENZI, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3902. Mr. FRANKEN (for himself, Ms. SNOWE, Mrs. MURRAY, Mrs. SHAHEEN, Mr. SCHUMER, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. CASEY, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3903. Mr. CHAMBLISS 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 3904. Mr. CHAMBLISS 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 3905. Mr. CHAMBLISS 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 3906. Mr. CHAMBLISS 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 3907. Mr. CHAMBLISS 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 3908. Mr. CHAMBLISS 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 3909. Mr. CHAMBLISS 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 3860. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, and Mr. JOHANNS) 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 1086, strike line 3 and all that follows through ''Not'' on page 1090, line 9, and insert the following:

SEC. 971. PROXY ACCESS.

(a) PROXY ACCESS.—Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) The rules and regulations prescribed by the Commission under paragraph (1) may include—

''(A) a requirement that a solicitation of proxy, consent, or authorization by (or on behalf of) an issuer include a nominee submitted by a shareholder to serve on the board of directors of the issuer; and

''(B) a requirement that an issuer follow a certain procedure in relation to a solicitation described in subparagraph (A).''.

(b) REGULATIONS.—The Commission may issue rules permitting the use by shareholders of proxy solicitation materials supplied by an issuer of securities for the purpose of nominating individuals to membership on the board of directors of the issuer, under such terms and conditions as the Commission determines are in the interests of shareholders and for the protection of investors.

SEC. 972. DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14A, as added by this title, the following:

''SEC. 14B. DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.

''Not

SA 3861. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANNS) 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.**'' on page 1090, line 3, and insert the following:

SEC. 972.

SA 3862. Ms. COLLINS submitted an amendment intended to be proposed by her 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:

In section 111(b)(1) of the amendment, strike subparagraph (A) and insert the following:

(A) the Chairperson of the Council, who—

(i) shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals having expertise in the financial services industry; and

(ii) may not, during such service, also serve as the head of any primary financial regulatory agency;

(B) the Secretary of the Treasury;

SA 3863. Ms. COLLINS 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 23, between lines 2 and 3, insert the following:

(I) the Chairman of the National Credit Union Administration; and

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SA 3864. Ms. COLLINS 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 23, between lines 2 and 3, insert the following:

(I) a State insurance commissioner—

(i) to be designated using a selection process determined by the insurance commissioners of the States; and

(ii) who shall serve for a term of not longer than 2 years; and

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SA 3865. Mr. GREGG (for himself and Mr. JOHANNS) 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:

Beginning on page 513, strike line 21 and all that follows through page 515, line 11.

SA 3866. Mr. WYDEN (for himself and Mr. BROWN of Massachusetts) 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 A of title I, add the following:

SEC. 123. DISCLOSURE OF FINANCIAL INTERESTS IN THE DECLINE IN VALUE OF FINANCIAL PRODUCTS.

(a) RECOMMENDATIONS BY COUNCIL.—Not later than 180 days after the date of enactment of this Act, the Council shall make recommendations to the primary financial regulatory agencies to require any seller of a financial product or instrument to disclose to the purchaser or prospective purchaser of that product—

(1) whether the seller has any direct financial interest in the decline in value of the product; and

(2) whether the seller has any direct financial interest in the increase in value of the product.

(b) PROCEDURES AND IMPLEMENTATION.—The procedural and implementation provisions of subsections (b) and (c) of section 120 shall apply to recommendations of the Council under this section.

SA 3867. Mr. ENSIGN 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 1034, strike line 8 and all that follows through line 21, and insert the following:

SEC. 935. CONSIDERATION OF INFORMATION FROM SOURCES OTHER THAN THE ISSUER IN RATING DECISIONS.

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

''(v) INFORMATION FROM SOURCES OTHER THAN THE ISSUER.—In producing a credit rating, a nationally recognized statistical rating organization shall consider information about an issuer that the nationally recognized statistical rating organization has, or receives from a source other than the issuer or the underwriter, that the nationally recognized statistical rating organization finds credible and potentially significant to a rating decision.''.

SA 3868. Mr. ENSIGN 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 1034, strike line 22 and all that follows through page 1035, line 9, and insert the following:

SEC. 936. QUALIFICATION STANDARDS FOR CREDIT RATING ANALYSTS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules that are reasonably designed to ensure that any person employed by a nationally recognized statistical rating organization to perform credit ratings—

(1) meets standards of training, experience, best practices, and competence necessary to produce accurate ratings for the categories of issuers whose securities the person rates;

(2) is tested for knowledge of the credit rating process; and

(3) is required to participate in annual continuing education seminars to maintain the standards described in paragraph (1).

SA 3869. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3787 submitted by Mr. BROWN of Ohio (for himself and Mr. KAUFMAN) and intended to be proposed to the 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 3 of the amendment, strike lines 11 through 13 and insert the following:

(2) FINANCIAL COMPANY.—The term ''financial company'' means—

(A) any nonbank financial company supervised by the Board;

(B) the Federal National Mortgage Association; and

(C) the Federal Home Loan Mortgage Corporation.

SA 3870. Mr. KERRY (for himself, Mr. BROWN of Massachusetts, and 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 ''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, strike line 14 and all that follows through page 371, line 19, and insert the following:

Subtitle D—Federal Thrift Charter

SEC. 341. FEDERAL SAVINGS ASSOCIATIONS.

Section 5(a) of the Home Owners' Loan Act (12 U.S.C. 1464(a)) is amended to read as follows:

''(a) IN GENERAL.—In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Comptroller of the Currency is authorized, under such regulations as the Comptroller of the Currency may prescribe, to provide for the chartering, examination, operation, and regulation of associations to be known as 'Federal savings associations' (including Federal savings banks), giving primary consideration to the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.''.

SA 3871. Mr. CARDIN 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 43, between lines 6 and 7, insert the following:

(3) INVESTMENT COMPANIES AND ADVISERS.—In the event that an investment company required to be registered under the Investment Company Act of 1940, or the registered investment adviser to such a company, is subject to supervision by the Board of Governors, the Council shall, in consultation with the Commission and in lieu of the prudential standards outlined in subsections (b) through (f), recommend to the Board of Governors such alternative enhanced regulatory requirements as are necessary to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress of the investment company or investment adviser. Such alternative requirements shall not include capital requirements.

On page 91, between lines 23 and 24, insert the following:

(3) INVESTMENT COMPANIES AND ADVISERS.—In the case of an investment company required to be registered under the Investment Company Act of 1940, or the registered investment adviser to such a company, that is supervised by the Board of Governors, the Board of Governors shall meet its obligations under this section by adopting the alternative enhanced regulatory requirements recommended by the Council under section 115.

SA 3872. Mr. BROWN of Massachusetts (for himself, Mr. KERRY, and Mr. GREGG) 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 485, line 25, strike ''and'' and all that follows through ''the term'' on page 486, line 1 and insert the following:

''(3) the term 'insured depository institution' does not include an insured depository institution—

''(A) the activities of which are limited to providing trust or fiduciary services; and

''(B) that does not—

''(i) accept insured deposits from persons other than affiliates;

''(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)); or

''(iii) does not make commercial or consumer loans; and

''(4) the term''.

SA 3873. Mr. DEMINT (for himself and Mr. COBURN) 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. ____. POINT OF ORDER ON LEGISLATION THAT PROVIDES THE GOVERNMENT WITH NEW POWERS TO GIVE TAXPAYER-FUNDED BAILOUTS OR ANY OTHER PREFERENTIAL TREATMENT TO ANY PUBLIC OR PRIVATE INSTITUTION IN FINANCIAL DISTRESS.

(a) IN GENERAL.—In the Senate, it shall not be in order to consider any bill, joint resolution, amendment, motion, or conference report that provides the Government with new powers to give taxpayer-funded bailouts or any other preferential treatment to any public or private institution in financial distress.

(b) SUSPENSION OF POINT OF ORDER.—A point of order raised under subsection (a) shall be suspended in the Senate upon certification by the Congressional Budget Office that such bill, joint resolution, amendment, motion or conference report does not provide the Government with new powers to give taxpayer-funded bailouts or any other preferential treatment to any public or private institution in financial distress.

(c) WAIVER AND APPEAL.—

(1) WAIVER.—This section may be waived or suspended only by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 3874. Mr. PRYOR (for himself, Mr. BAUCUS, Mr. TESTER, Mrs. SHAHEEN, Mr. JOHNSON, Mr. BENNET, 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 304, strike line 3 and all that follows though page 313, line 21, and insert the following:

(c) CERTAIN FUNCTIONS OF THE BOARD OF GOVERNORS.—

(1) COMPTROLLER OF THE CURRENCY.—Except as provided in paragraph (3), there are transferred to the Office of the Comptroller of the Currency all functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(A) any bank holding company (other than a foreign bank)—

(i) having less than $50,000,000,000 in total consolidated assets; and

(ii) having—

(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions—

(aa) exceed the total consolidated assets of all subsidiary State depository institutions that are State member banks; and

(bb) exceed the total consolidated assets of all subsidiary State depository institutions that are State nonmember insured banks and State savings associations; and

(B) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (A).

(2) CORPORATION.—Except as provided in paragraph (3), there are transferred to the Corporation all functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(A) any bank holding company (other than a foreign bank)—

(i) having less than $50,000,000,000 in total consolidated assets; and

(ii) having—

(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State nonmember insured banks or State savings associations; or

(II) a subsidiary that is a State nonmember insured bank or a State savings association and a subsidiary that is not a State nonmember insured bank or State savings association, if the total consolidated assets of all such subsidiaries that are State nonmember insured banks or State savings associations—

(aa) exceeds the total consolidated assets of all subsidiaries that are Federal depository institutions; and

(bb) exceeds the total consolidated assets of all subsidiaries that are State member banks; and

(B) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (A).

(3) RULEMAKING AUTHORITY.—No rulemaking authority of the Board of Governors is transferred to the Office of the Comptroller of the Currency or the Corporation under this subsection.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to transfer to the Office of the Comptroller of the Currency or the Corporation any functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(A) any State member bank;

(B) any bank holding company (other than a foreign bank)—

(i) having less than $50,000,000,000 in total consolidated assets; and

(ii) having—

(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State member banks; or

(II) a subsidiary that is a State member bank and a subsidiary that is not a State member bank, if the total consolidated assets of all subsidiaries that are State member banks—

(aa) exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

(bb) exceed the total consolidated assets of all subsidiaries that are State nonmember insured banks and State savings associations; or

(C) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (B).

(d) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) the Office of the Comptroller of the Currency, in the case of—

''(A) any national banking association;

''(B) any Federal branch or agency of a foreign bank;

''(C) any bank holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions—

''(aa) exceed the total consolidated assets of all subsidiary State depository institutions that are State member banks; and

''(bb) exceed the total consolidated assets of all subsidiary State depository institutions that are State nonmember insured banks and State savings associations;

''(D) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (C);

''(E) any Federal savings association;

''(F) any savings and loan holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all such subsidiaries that are State depository institutions; and

''(G) any subsidiary (other than a depository institution) of a savings and loan holding company that is described in subparagraph (F);

''(2) the Federal Deposit Insurance Corporation, in the case of—

''(A) any State nonmember insured bank;

''(B) any foreign bank having an insured branch;

''(C) any State savings association;

''(D) any bank holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State nonmember insured banks or State savings associations; or

''(II) a subsidiary that is a State nonmember insured bank or a State savings association and a subsidiary that is not a State nonmember insured bank or State savings association, if the total consolidated assets of all subsidiaries that are State nonmember insured banks or State savings associations—

''(aa) exceeds the total consolidated assets of all subsidiaries that are Federal depository institutions; and

''(bb) exceeds the total consolidated assets of all subsidiaries that are State member banks;

''(E) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (D);

''(F) any savings and loan holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

''(G) any subsidiary (other than a depository institution) of a savings and loan holding company that is described in subparagraph (F);

''(3) the Board of Governors of the Federal Reserve System, in the case of—

''(A) any State member bank;

''(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978;

''(C) any foreign bank which does not operate an insured branch;

''(D) any agency or commercial lending company other than a Federal agency;

''(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act of 1966;

''(F) any bank holding company having total consolidated assets of $50,000,000,000 or more, any bank holding company that is a foreign bank, and any subsidiary (other than a depository institution) of such a bank holding company;

''(G) any savings and loan holding company having total consolidated assets of $50,000,000,000 or more, any savings and loan holding company that is a foreign bank, and any subsidiary (other than a depository institution) of such a savings and loan holding company;

''(H) any bank holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State member banks; or

''(II) a subsidiary that is a State member bank and a subsidiary that is not a State member bank, if the total consolidated assets of all subsidiaries that are State member banks—

''(aa) exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

''(bb) exceed the total consolidated assets of all subsidiaries that are State nonmember insured banks and State savings associations; and

''(I) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (H).''.

(2) CERTAIN REFERENCES IN THE BANK HOLDING COMPANY ACT OF 1956.—

(A) COMPTROLLER OF THE CURRENCY.—On or after the transfer date, in the case of a bank holding company described in section 3(q)(1)(C) of the Federal Deposit Insurance Act, as amended by this Act, any reference in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) to the Board of Governors shall be deemed to be a reference to the Office of the Comptroller of the Currency.

(B) CORPORATION.—On or after the transfer date, in the case of a bank holding company described in section 3(q)(2)(D) of the Federal Deposit Insurance Act, as amended by this Act, any reference in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) to the Board of Governors shall be deemed to be a reference to the Corporation.

(C) RULE OF CONSTRUCTION.—Notwithstanding subparagraph (A) or (B), the Board of Governors shall retain all rulemaking authority under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.).

(3) CONSULTATION IN HOLDING COMPANY RULEMAKING.—

(A) BANK HOLDING COMPANIES.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following:

''(h) CONSULTATION IN RULEMAKING.—Before proposing or adopting regulations under this Act that apply to bank holding companies having less than $50,000,000,000 in total consolidated assets, the Board of Governors shall consult with the Comptroller of the Currency and the Federal Deposit Insurance Corporation as to the terms of such regulations.''.

SA 3875. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3775 submitted by Mr. WYDEN (for himself and Mr. GRASSLEY) and intended to be proposed to the 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:

At the end of the amendment, insert the following:

SEC. _____. STOP SECRET SPENDING ACT.

(a) SHORT TITLE.—This section may be cited as the ''Stop Secret Spending Act''.

(b) NOTICE REQUIREMENT.—Legislation that has been subject to a hotline notification may not pass by unanimous consent unless—

(1) the hotline notification has been posted on the public website of the Senate for at least 3 calendar days as provided in subsection (c); and

(2) signed statements from every Member of the Senate attesting that they have read the legislation (except for a sense of the Senate measure) and understand its impact including the cost have been submitted to and printed in the Congressional Record using the following format: ''I, Senator _____, have read [bill number] and understand its impact, including the cost, and support its passage.''.

(c) POSTING ON SENATE WEBPAGE.—At the same time as a hotline notification occurs with respect to any legislation, the Majority Leader shall post in a prominent place on the public webpage of the Senate a notice that the legislation has been hotlined and the legislation's number, title, link to full text, and sponsor and the estimated cost to implement and the number of new programs created by the legislation.

(d) LEGISLATIVE CALENDAR.—

(1) IN GENERAL.—The Secretary of the Senate shall establish for both the Senate Calendar of Business and the Senate Executive Calendar a separate section entitled ''Notice of Intent To Pass by Unanimous Consent''.

(2) CONTENT.—The section required by paragraph (1) shall—

(A) include any legislation posted as required by subsection (c) and the date the hotline notification occurred; and

(B) be updated as appropriate.

(3) REMOVAL.—Items included on the calendar under this subsection shall be removed from the calendar once passed by the Senate.

(e) EXCEPTIONS.—This section shall not apply—

(1) if a quorum of the Senate is present at the time the unanimous consent is propounded to pass the bill;

(2) to any legislation relating to an imminent or ongoing emergency, as jointly agreed to by the Majority and Minority Leaders; and

(3) to nominations.

(f) SUSPENSION.—The Presiding Officer shall not entertain any request to suspend this section by unanimous consent.

(g) HOTLINE NOTIFICATION DEFINED.—In this section, the term ''hotline notification'' means when the Majority Leader in consultation with the Minority Leader, provides notice of intent to pass legislation by unanimous consent by contacting each Senate office with a message on a special alert line (commonly referred to as the hotline) that provides information on what bill or bills the Majority Leader is seeking to pass through unanimous consent.

SA 3876. Mr. MENENDEZ (for himself and Mr. BURRIS) 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 372, line 2, strike ''bank.'' and insert the following: ''bank.

SEC. 343. WOMEN AND MINORITY ADVANCEMENT.

(a) DEFINITIONS.—In this section—

(1) the term ''covered person'' means a person that—

(A) has more than 50 employees; and

(B) makes a proposal to a financial agency for a contract that has a value of more than $50,000;

(2) the term ''Director'' means a Director of Minority and Women Advancement appointed under subsection (c);

(3) the term ''diversity'' includes racial, gender, and ethnic diversity;

(4) the term ''financial agency'' means—

(A) the Department of the Treasury;

(B) the Corporation;

(C) the Federal Housing Finance Agency;

(D) each of the Federal reserve banks;

(E) the Board of Governors;

(F) the National Credit Union Administration;

(G) the Commission;

(H) the Office of the Comptroller of the Currency;

(I) the Council;

(J) the Bureau; and

(K) the Office of National Insurance established under title V;

(5) the term ''financial agency administrator'' means the head of a financial agency;

(6) the term ''minority'' has the same meaning as in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note);

(7) the terms ''minority-owned business'' and ''women-owned business''—

(A) have the same meanings as in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)); and

(B) include financial institutions, investment banking firms, mortgage banking firms, asset management firms, brokers, dealers, financial services firms, underwriters, accountants, investment consultants, and providers of legal services; and

(8) the term ''Office'' means an Office of Minority and Women Advancement established under subsection (b).

(b) OFFICE OF MINORITY AND WOMEN ADVANCEMENT.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, each financial agency shall establish an Office of Minority and Women Advancement that shall—

(A) be responsible for all matters of the financial agency relating to diversity in management, employment, and business activities, including contracting and the coordination of technical assistance, in accordance with such standards and requirements as the Director of the Office shall establish; and

(B) advise the financial agency administrator of the impact of policies and regulations of the financial agency on minority-owned businesses, women-owned businesses, and diversity at such businesses.

(2) TRANSFER OF RESPONSIBILITIES.—Each financial agency that, before the date of enactment of this Act, assigned the responsibilities described in paragraph (1) (or comparable responsibilities) to another office of the financial agency shall ensure that such responsibilities are transferred to the Office.

(c) DIRECTOR.—

(1) IN GENERAL.—The head of the Office of a financial agency shall be the Director of Minority and Women Advancement, who shall be appointed by the financial agency administrator of the financial agency.

(2) REPORTING; TITLE.—Each Director shall report directly to the financial agency administrator and hold a title within the financial agency of the Director that is comparable to the title of other senior-level staff members of the financial agency who act in a managerial capacity and report directly to the financial agency administrator.

(3) DUTIES.—Each Director shall—

(A) ensure equal employment opportunity and encourage the racial, ethnic, and gender diversity of the workforce and senior management of the subject financial agency;

(B) work to increase—

(i) the participation rates of minority-owned businesses and women-owned businesses in the programs and contracts of the subject financial agency; and

(ii) the percentage of the amounts expended by the subject financial agency that is expended with minority-owned businesses and women-owned businesses; and

(C) provide guidance to the financial agency administrator to ensure that the policies and regulations of the financial agency strengthen minority-owned businesses and women-owned businesses.

(d) ADVANCEMENT IN ALL LEVELS OF BUSINESS ACTIVITIES.—Each Director shall develop and implement standards and procedures to ensure, to the maximum extent possible, the advancement of minorities and women, and the use of minority-owned businesses and women-owned businesses, in all activities of the financial agency at every level, including in procurement, insurance, and all types of contracting (including, as applicable, contracting for the issuance or guarantee of debt, equity, or security, the sale of assets, the management of assets, the making of equity investments, and the implementation of programs to promote economic recovery).

(e) CONTRACTS.—

(1) IN GENERAL.—Any process established by a financial agency for the review and evaluation of a contract proposal or the employment of a service provider shall give

consideration to the diversity of the covered person.

(2) WRITTEN ASSURANCE.—Each covered person shall include in the contract of the covered person with a financial agency a written assurance, in a form and manner that the Director of the financial agency shall prescribe, that the covered person will ensure, to the maximum extent possible, the advancement of minorities and women—

(A) in the workforce of the covered person; and

(B) as applicable, by any subcontractor of the covered person.

(3) REFERRAL SYSTEM.—Each Director shall establish a referral process by which the Director may refer a Federal contractor or subcontractor to the Office of Federal Contract Compliance Programs of the Department of Labor for further investigation, and appropriate enforcement, under Executive Order 11246 (42 U.S.C. 2000e note; relating to nondiscrimination in employment by Government contractors and subcontractors), or any successor thereto.

(4) APPLICABILITY.—This subsection shall apply to all contracts of a financial agency for services of any kind, including the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services. Nothing in this subsection may be construed to affect the responsibilities or authority of the Office of Federal Contract Compliance Programs of the Department of Labor or the responsibilities of Federal contractors under Executive Order 11246 (42 U.S.C. 2000e note; relating to nondiscrimination in employment by Government contractors and subcontractors), or any successor thereto.

(f) REPORTS.—Not later than 90 days before the end of each fiscal year, the Director of each financial agency shall submit to Congress a report that contains detailed information describing the actions taken by the Director and the financial agency under this section, including—

(1) a statement—

(A) of the total amount paid by the financial agency to covered persons during—

(i) the period beginning on the date of the most recent report submitted by the financial agency under this subsection; or

(ii) in the case of the first report submitted under this subsection, the first fiscal year following the date of enactment of this Act; and

(B) that analyzes the amount described in subparagraph (A) by the type of population involved, as determined by the Director;

(2) the percentage of the amount described in paragraph (1) that was paid to minority-owned businesses and women-owned businesses, analyzed by the type of population involved, as determined by the Director;

(3) the successes achieved and challenges faced by the financial agency in operating outreach programs for minorities and women;

(4) any challenges that the financial agency may face in hiring and retaining qualified minority and women employees and contracting with qualified minority-owned businesses and women-owned businesses;

(5) the efforts that the financial agency has made to ensure that the financial agency recruits diverse talent; and

(6) any other information, findings, conclusions, or recommendations for legislative or financial agency action, as the Director determines appropriate.

(g) DIVERSITY IN FINANCIAL AGENCY WORKFORCE.—Each financial agency shall take affirmative steps to seek diversity in the workforce of the financial agency at all levels of the financial agency, consistent with the demographic diversity of the United States, including—

(1) targeted recruiting at historically Black colleges and universities, Hispanic-serving institutions, women's colleges, and colleges that typically serve majority minority populations;

(2) sponsoring and recruiting at job fairs in urban communities;

(3) placing employment advertisements in newspapers and magazines oriented toward minorities and women;

(4) partnering with organizations that focus on developing opportunities for minorities and women, to place talented minorities and women in internships, summer employment, and full-time positions with the financial agency;

(5) where feasible, partnering with inner-city high schools, girls' high schools, and majority minority high schools, to establish or enhance financial literacy programs and provide mentoring;

(6) ensuring that women and minorities are included in the recruitment process, as staff or in the interview phase of the process; and

(7) using any other form of mass media communication that the Director determines is necessary.

(h) DIVERSITY REPORT CARDS.—

(1) REPORTING REQUIRED.—The Commission, in consultation with the Secretary of Labor and the Equal Employment Opportunity Commission, shall, by rule, require each issuer to disclose in the annual report of the issuer on Form 10–K under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), comparative percentage data, with separate categories for race, ethnicity, and gender, concerning—

(A) the 200 most highly compensated officers, executives, or employees of the issuer (excluding the members of the board of directors of the issuer);

(B) the total compensation of the 200 most highly compensated officers, executives, or employees of the issuer (excluding the members of the board of directors of the issuer);

(C) all employees of the issuer; and

(D) the total compensation of all employees of the issuer.

(2) TOTAL COMPENSATION.—For purposes of this subsection, total compensation shall be determined in accordance with section 229.402(c)(2)(x) of title 17, Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.

SEC. 344. PRESERVING AND EXPANDING MINORITY DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 308(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by striking ''Director of the Office of Thrift Supervision'' and inserting '', the Chairman of the Board of Governors of the Federal Reserve System,''

(b) REPORT.—Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by adding at the end the following:

''(c) REPORTS.—The Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System shall each submit an annual report to Congress containing a description of actions taken to carry out this section.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(g) of the Home Owners' Loan Act (12 U.S.C. 1462a(g)) is amended—

(1) in paragraph (1), by striking ''; and'' and inserting a period;

(2) by striking ''include'' and all that follows through ''any changes'' and inserting ''include a description of any changes''; and

(3) by striking paragraph (2).

SA 3877. 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 372, between lines 2 and 3, insert the following:

SEC. 343. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

The Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by inserting after section 114 (12 U.S.C. 4713) the following:

''SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

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

''(1) DIRECTOR.—The term 'Director' means the Director of the Community Development Financial Institutions Fund.

''(2) ELIGIBLE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term 'eligible community development financial institution' means a community development financial institution (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or been granted by a qualified issuer, a loan under the Program.

''(3) ELIGIBLE COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSE.—The term 'eligible community or economic development purpose'—

''(A) means any purpose described in section 108(b); and

''(B) includes the provision of community or economic development in low-income or underserved rural areas.

''(4) GUARANTEE.—The term 'guarantee' means a written agreement between the Secretary and a qualified issuer (or trustee), pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible community development financial institutions.

''(5) LOAN.—The term 'loan' means any credit instrument that is extended under the Program for any eligible community or economic development purpose.

''(6) MASTER SERVICER.—

''(A) IN GENERAL.—The term 'master servicer' means any entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

''(B) APPROVAL CRITERIA FOR MASTER SERVICERS.—The Secretary shall approve or deny any application to become a master servicer under the Program not later than 30 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

''(i) loan administration, servicing, and loan monitoring;

''(ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;

''(iii) managing regional or national originator communication systems and infrastructure;

''(iv) developing and implementing training and other risk management strategies on a regional or national basis; and

''(v) compliance monitoring, investor relations, and reporting.

''(7) PROGRAM.—The term 'Program' means the guarantee Program for bonds and notes issued for eligible community or economic development purposes established under this section.

''(8) PROGRAM ADMINISTRATOR.—The term 'Program administrator' means an entity designated by the issuer to perform administrative duties, as provided in subsection (f)(2).

''(9) QUALIFIED ISSUER.—

''(A) IN GENERAL.—The term 'qualified issuer' means a community development financial institution (or any entity, including a State or local government, designated to issue notes or bonds on behalf of such community development financial institution) that meets the qualification requirements of this paragraph.

''(B) APPROVAL CRITERIA FOR QUALIFIED ISSUERS.—

''(i) IN GENERAL.—The Secretary shall approve a qualified issuer for a guarantee under the Program in accordance with the requirements of this paragraph, and such additional requirements as the Secretary may establish, by regulation.

''(ii) TERMS AND QUALIFICATIONS.—A qualified issuer shall—

''(I) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

''(II) provide to the Secretary—

''(aa) an acceptable statement of the proposed sources and uses of the funds; and

''(bb) a capital distribution plan that meets the requirements of subsection (c)(1); and

''(III) certify to the Secretary that the bonds or notes to be guaranteed are to be used for eligible community or economic development purposes.

''(C) DEPARTMENT OPINION; TIMING.—

''(i) DEPARTMENT OPINION.—Not later than 30 days after the date of a request by a qualified issuer for approval of a guarantee under the Program, the General Counsel of the Fund shall provide to the Secretary an opinion regarding compliance by the issuer with the requirements of the Program under this section.

''(ii) TIMING.—The Secretary shall approve or deny a guarantee under this section after consideration of the opinion provided to the Secretary under clause (i), and in no case later than 45 days after receipt of all required information by the Secretary with respect to a request for such guarantee.

''(10) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(11) SERVICER.—The term 'servicer' means an entity designated by the issuer to perform various servicing duties, as provided in subsection (f)(3).

''(b) GUARANTEES AUTHORIZED.—The Secretary shall guarantee payments on bonds or notes issued by any qualified issuer if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions—

''(1) for eligible community or economic development purposes; or

''(2) to refinance loans or notes issued for such purposes.

''(c) GENERAL PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—A capital distribution plan meets the requirements of this subsection, if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than costs of issuance fees) are used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the 1-year period beginning on the issuance date of such guaranteed bonds or notes.

''(2) RELENDING ACCOUNT.—Not more than 10 percent of the principal amount of guaranteed bonds or notes, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount under subsection (d), may be held in a relending account and may be made available for new eligible community or economic development purposes.

''(3) LIMITATIONS ON UNPAID PRINCIPAL BALANCES.—The proceeds of guaranteed bonds or notes under the Program may not be used to pay fees (other than costs of issuance fees), and shall be held in—

''(A) community or economic development loans;

''(B) a relending account, to the extent authorized under paragraph (2); or

''(C) a risk-share pool established under subsection (d).

''(4) REPAYMENT.—If a qualified issuer fails to meet the requirements of paragraph (1) by the end of the 90-day period beginning at the end of the annual measurement period, repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into compliance with the 90 percent requirement of paragraph (1).

''(5) PROHIBITED USES.—The Secretary shall, by regulation—

''(A) prohibit, as appropriate, certain uses of amounts from the guarantee of a bond or note under the Program, including the use of such funds for political activities, lobbying, outreach, counseling services, or travel expenses; and

''(B) provide that the guarantee of a bond or note under the Program may not be used for salaries or other administrative costs of—

''(i) the qualified issuer; or

''(ii) any recipient of amounts from the guarantee of a bond or note.

''(d) RISK-SHARE POOL.—Each qualified issuer shall, during the term of a guarantee provided under the Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants an amount equal to not less than 3 percent of the guaranteed amount outstanding on the subject notes and bonds.

''(e) GUARANTEES.—

''(1) IN GENERAL.—A guarantee issued under the Program shall—

''(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

''(B) be fully assignable and transferable to the capital market, on terms and conditions that are consistent with comparable Government-guaranteed bonds, and satisfactory to the Secretary;

''(C) represent the full faith and credit of the United States; and

''(D) not exceed 30 years.

''(2) LIMITATIONS.—

''(A) ANNUAL NUMBER OF GUARANTEES.—The Secretary shall issue not more than 10 guarantees in any calendar year under the Program.

''(B) GUARANTEE AMOUNT.—The Secretary may not guarantee any amount under the Program equal to less than $100,000,000, but the total of all such guarantees in any fiscal year may not exceed $1,000,000,000.

''(f) SERVICING OF TRANSACTIONS.—

''(1) IN GENERAL.—To maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified Program administrators, bond servicers, and a master servicer.

''(2) DUTIES OF PROGRAM ADMINISTRATOR.—The duties of a Program administrator shall include—

''(A) approving and qualifying eligible community development financial institution applications for participation in the Program;

''(B) compliance monitoring;

''(C) bond packaging in connection with the Program; and

''(D) all other duties and related services that are customarily expected of a Program administrator.

''(3) DUTIES OF SERVICER.—The duties of a servicer shall include—

''(A) billing and collecting loan payments;

''(B) initiating collection activities on past-due loans;

''(C) transferring loan payments to the master servicing accounts;

''(D) loan administration and servicing;

''(E) systematic and timely reporting of loan performance through remittance and servicing reports;

''(F) proper measurement of annual outstanding loan requirements; and

''(G) all other duties and related services that are customarily expected of servicers.

''(4) DUTIES OF MASTER SERVICER.—The duties of a master servicer shall include—

''(A) tracking the movement of funds between the accounts of the master servicer and any other servicer;

''(B) ensuring orderly receipt of the monthly remittance and servicing reports of the servicer;

''(C) monitoring the collection comments and foreclosure actions;

''(D) aggregating the reporting and distribution of funds to trustees and investors;

''(E) removing and replacing a servicer, as necessary;

''(F) loan administration and servicing;

''(G) systematic and timely reporting of loan performance compiled from all bond servicers' reports;

''(H) proper distribution of funds to investors; and

''(I) all other duties and related services that are customarily expected of a master servicer.

''(g) FEES.—

''(1) IN GENERAL.—A qualified issuer that receives a guarantee issued under this section on a bond or note shall pay a fee to the Director, in an amount equal to 10 basis points of the amount of the unpaid principal of the bond or note guaranteed.

''(2) PAYMENT.—A qualified issuer shall pay the fee required under this subsection on an annual basis.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary, such sums as are necessary to carry out this section.

''(2) USE OF FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Director may use the fees collected under subsection (g) for the cost of providing guarantees of bonds and notes under this section.

''(i) INVESTMENT IN GUARANTEED BONDS INELIGIBLE FOR COMMUNITY REINVESTMENT ACT PURPOSES.—Notwithstanding any other provision of law, any investment by a financial institution in bonds or notes guaranteed under the Program shall not be taken into account in assessing the record of such institution for purposes of the Community Reinvestment Act of 1977 (12 U.S.C. 2901).

''(j) ADMINISTRATION.—

''(1) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

''(2) IMPLEMENTATION.—Not later than 240 days after the date of enactment of this section, the Secretary shall implement this section.

''(k) TERMINATION.—This section is repealed, and the authority provided under this section shall terminate, on September 30, 2014.''.

SEC. 344. QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BONDS.

(a) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BONDS TREATED AS STATE AND LOCAL BONDS.—Section 150 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BONDS.—For purposes of this part and section 103—

''(1) IN GENERAL.—A qualified community development financial institution bond shall be treated as a bond of a political subdivision of a State.

''(2) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BOND.—The term 'qualified community development financial institution bond' means any bond—

''(A) issued by a qualified community development financial institution (or on behalf of such an institution by a State or local government),

''(B) designated as a qualified community development financial institution bond for purposes of this subsection, and

''(C) issued as part of an issue 95 percent or more of the net proceeds of which are to be used for an eligible community or economic development purpose (as defined in section 114A of the Community Development Banking and Financial Institutions Act).

''(3) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term 'qualified community development financial institution' means any organization—

''(A) which is described in section 501(c)(3) and exempt from tax under section 501(a), and

''(B) which is a qualified issuer as defined in section 114A of the Community Development Banking and Financial Institutions Act of 1994, or would be a qualified issuer but for its designation of a State or local government to issue bonds on its behalf.

''(4) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(A) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under paragraph (2)(B) by any issuer shall not exceed the limitation amount allocated to such issuer under subparagraph (C).

''(B) NATIONAL LIMITATION.—There is a national qualified community development financial institution bond limitation of $500,000,000.

''(C) ALLOCATION OF NATIONAL LIMITATION.—The national qualified community development financial institution bond limitation shall be allocated by the Secretary to qualified issuers receiving guarantees under section 114A of the Community Development Banking and Financial Institutions Act of 1994.

''(5) BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—Bonds which are part of an issue which meets the requirements of paragraph (2) shall not be treated as private activity bonds.''.

(b) NO FEDERAL GUARANTEE.—Subparagraph (A) of section 149(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''or'' at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting '', or''; and

(3) by adding at the end the following new clause:

''(v) any guarantee of a qualified community development financial institution bond provided by the Community Development Financial Institution Fund.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

SA 3878. Mr. CASEY (for himself, Mr. BROWN of Ohio, and 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 1044, between lines 2 and 3, insert the following:

SEC. 9___. STUDY ON TRANSACTION FEE.

(a) IN GENERAL.—The Securities and Exchange Commission and the Commodity Futures Trading Commission, in coordination with the Department of the Treasury, shall conduct a study on the implementation of a transaction fee on all security-based transactions, including swap and security-based swap transactions (except those transactions that are primarily for the purpose of hedging or mitigating risk), stock, debt instruments, and any other security that the heads of the Federal agencies described in this subsection determine to be appropriate to be included in the study.

(b) PURPOSE.—The purpose of the study shall be to assess—

(1) past experiences with transaction fees, with an emphasis on fee avoidance or behavior modification, migration of capital, and impact on individual investors and small and medium-sized businesses;

(2) the advantages and disadvantages of the implementation of the transaction fee in the United States alone, as compared to the introduction of the fee on a global basis;

(3) the potential to generate sufficient revenue to reduce the deficit, fund job creation, and meet the humanitarian and global development obligations of the United States;

(4) how a transaction fee needs to be designed in order to mitigate any negative side effects that may result from the indirect assessment on the raising of capital;

(5) the impact, if any, a transaction fee would have on the practice of day trading;

(6) to what extent a financial transaction fee would contribute to the stabilization of the financial markets in terms of the effect of the fee on speculation and on transparency;

(7) whether a transaction fee would prevent a future financial crisis by targeting certain types of risky transactions (which transactions shall be determined by the agencies conducting the study);

(8) the different transaction fee options, with a particular focus on—

(A) the financial transactions tax and financial activities tax, as described in the report entitled ''International Monetary Fund Report: A Fair and Substantial Contribution by the Financial Sector''; and

(B) implementing the transaction fee on individuals earning more than $250,000 and corporations;

(9) whether the transaction fee would assist in building healthy capital, ensuring the ability of the banking system to finance real economy investments; and

(10) whether excessive risk-taking is or would be prevented through implementation of a transaction fee.

(c) PUBLIC PARTICIPATION.—The study described in subsection (a) shall be carried out in a manner to provide to the public an adequate period of time to provide comments on the implementation of a transaction fee.

(d) REPORT.—Not later than 90 days after the date of enactment of this Act, the Securities and Exchange Commission and the Commodity Futures Trading Commission, in coordination with the Department of the Treasury, shall submit to Congress a report that describes the results of the study.

SA 3879. Ms. COLLINS 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:

At the appropriate place in title I, insert the following:

SEC. ___. LEVERAGE AND RISK-BASED CAPITAL REQUIREMENTS.

(a) DEFINITIONS.—

(1) GENERALLY APPLICABLE LEVERAGE CAPITAL REQUIREMENTS.—The term ''generally applicable leverage capital requirements'' means—

(A) the minimum ratios of tier 1 capital to average total assets, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of that capital requirement, average total assets in the denominator of that capital requirement, and the required ratio of the numerator to the denominator.

(2) GENERALLY APPLICABLE RISK-BASED CAPITAL REQUIREMENTS.—The term ''generally applicable risk-based capital requirements'' means—

(A) the risk-based capital requirements as established by the appropriate Federal banking agencies to apply to insured depository institutions under the agency's Prompt Corrective Action regulations that implement section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of those capital requirements, the risk-weighted assets in the denominator of those capital requirements, and the required ratio of the numerator to the denominator.

(b) MINIMUM CAPITAL REQUIREMENTS.—

(1) MINIMUM LEVERAGE CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum leverage capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum leverage capital requirements established under this paragraph shall not be less than the generally applicable leverage capital requirements, which shall serve as a floor for any

capital requirements the agency may require, nor quantitatively lower than the generally applicable leverage capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(2) MINIMUM RISK-BASED CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum risk-based capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum risk-based capital requirements established under this paragraph shall not be less than the generally applicable risk-based capital requirements, which shall serve as a floor for any capital requirements the agency may require, nor quantitatively lower than the generally applicable risk-based capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(3) CAPITAL REQUIREMENTS TO ADDRESS ACTIVITIES THAT POSE RISKS TO THE FINANCIAL SYSTEM.—

(A) IN GENERAL.—Subject to the recommendations of the Council, in accordance with section 120, the Federal banking agencies shall develop capital requirements applicable to all institutions covered by this section that address the risks that the activities of such institutions pose, not only to the institution engaging in the activity, but to other public and private stakeholders in the event of adverse performance, disruption, or failure of the institution or the activity.

(B) CONTENT.—Such rules shall address, at a minimum, the risks arising from—

(i) significant volumes of activity in derivatives, securitized products purchased and sold, financial guarantees purchased and sold, securities borrowing and lending, and repurchase agreements and reverse repurchase agreements;

(ii) concentrations in assets for which the values presented in financial reports are based on models rather than historical cost or prices deriving from deep and liquid 2-way markets; and

(iii) concentrations in market share for any activity that would substantially disrupt financial markets if the institution is forced to unexpectedly cease the activity.

SA 3880. Mr. BYRD (for himself and Mr. ROCKEFELLER) 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:

At the end of subtitle A of title IX, add the following:

SEC. 919C. PENALTIES FOR FAILURE TO DISCLOSE HEALTH AND SAFETY LITIGATION, VIOLATIONS, AND IMPACT INFORMATION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 21A the following new section:

''SEC. 21B. HEALTH AND SAFETY DISCLOSURE VIOLATIONS.

''(a) FINDINGS.—Congress finds the following:

''(1) This Act requires issuers of securities to disclose material facts regarding—

''(A) pending litigation;

''(B) unsafe or unhealthy conditions in a high-risk workplace that may reasonably be expected to cause the issuer to face costly wrongful death actions from the heirs of the deceased;

''(C) unsafe or unhealthy conditions in a high-risk workplace, or significant violations of law in such a workplace, that may reasonably be expected to cause reported financial information not to be necessarily indicative of future financial conditions or future operating results; and

''(D) events, trends, or uncertainties that may change the relationship between costs and revenues.

''(2) In numerous industries, including high-risk industries such as coal mining and oil exploration, health and safety conditions have long been incompletely and inconsistently disclosed, discussed, or analyzed by corporations.

''(3) Investors and the public have a right to know, and a reasonable expectation to remained informed, about significant safety and health conditions that could imperil the workforce of publicly-traded corporations, carrying odious consequences for workers, families, and communities, and that can lead to the abrogation of contracts, environmental or other tort liabilities, and tarnished corporate reputations.

''(b) PURPOSE.—The purpose of this section is to strengthen the maintenance of fair and honest markets by requiring disclosure of certain health and safety information and by authorizing elevated penalties for failures to disclose certain categories of information regarding health and safety conditions or violations, given that such failures have too often heretofore been unaddressed.

''(c) JUDICIAL ACTIONS AUTHORIZED.—

''(1) RELIEF AND PENALTIES.—Whenever it shall appear that any issuer has violated subsection (d), the Commission or any shareholder of the issuer may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose—

''(A) equitable relief for the complainant, to be provided by the issuer; and

''(B) a civil penalty to be paid by the senior executive officers or the members of the board of directors of the subject issuer—

''(i) who knew about such violation; or

''(ii) whose duties and decisions affected matters regarding production or safety and who therefore had reason to know about such violation, barring malfeasance by other directors, officers, employees, or agents of the subject issuer.

''(2) COSTS.—Whenever a court issues an order sustaining a shareholder's charges under paragraph (1), a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) that have been reasonably incurred by the shareholder for, or in connection with, the institution and prosecution of such proceedings, as determined by the court, shall be assessed against the issuer. These costs shall be assessed regardless of the amount or means of relief or penalties imposed on the issuer or its directors, officers, employees, or agents.

''(d) HEALTH AND SAFETY-RELATED DISCLOSURE.—

''(1) DUTY TO DISCLOSE.—At least annually, an issuer shall disclose to the Commission and the shareholders the information required under paragraph (2).

''(2) REQUIRED DISCLOSURES.—The disclosures required under this paragraph are the following:

''(A) Any pending litigation concerning a health or safety condition or violation under Federal or State law involving the issuer, other than ordinary, routine litigation that is incidental to the business of the issuer, as determined by the Commission in consultation with the Secretary of Labor.

''(B) Any significant health or safety condition, or significant health or safety violation, at any business unit of the issuer in which routine activities pose risk of loss of life.

''(C) Any significant health or safety condition, or significant health or safety violation, at any business unit of the issuer in which routine activities pose risk of accidents or fatalities, injuries, or illnesses, the occurrence of which could cause reported financial information not to be necessarily indicative of future financial conditions of the issuer, or which could cause a negative effect on operating results of the issuer or any subsidiaries thereof.

''(D) Any trend in health or safety conditions or violations under Federal law, at any business unit of the issuer, that may change the relationship between costs and revenues of the issuer or any subsidiaries thereof.

''(e) MEANS AND AMOUNT OF EQUITABLE RELIEF, DAMAGES, AND PENALTIES.—

''(1) MEANS AND AMOUNT OF EQUITABLE RELIEF AND DAMAGES.—The court shall determine the means of equitable relief for a violation of subsection (d), which may include the immediate disclosure of significant health or safety conditions or significant health or safety violations. If the court determines that a shareholder has sustained damages, the court may assess the damages against the issuer.

''(2) AMOUNT OF CIVIL PENALTY.—

''(A) JUDICIAL DETERMINATION.—The court shall determine the civil penalty for a violation of subsection (d) in light of the facts and circumstances.

''(B) AMOUNT OF PENALTY.—Unless determined otherwise in accordance with subparagraph (A), the civil penalty for a violation of subsection (d) shall be equal to not less than 3 times the amount that may be imposed under other State or Federal law in connection with the underlying safety or health conditions or violations that are required to be disclosed under this title.

''(3) PRIVATE ACTIONS.—If a person other than the United States prevails on a claim alleging a violation of subsection (d), the person shall be entitled to recover 3 times the amount of damages sustained by the person, as determined by the court, in light of the facts and circumstances.

''(f) PROCEDURES FOR COLLECTION.—

''(1) PAYMENT OF PENALTY TO TREASURY.—A civil penalty imposed under this section shall be payable into the Treasury of the United States.

''(2) COLLECTION OF PENALTIES.—If a person upon whom a civil penalty under this section is imposed fails to pay such penalty within the time prescribed in the order of the court, the Commission may refer the matter to the Attorney General of the United States, who shall recover such penalty by action in the appropriate United States district court.

''(3) REMEDY NOT EXCLUSIVE.—An action authorized by this section may be brought in addition to any other actions that the Commission, the Attorney General, or any shareholder is entitled to bring.

''(4) JURISDICTION AND VENUE.—For purposes of section 27, an action under this section shall be an action to enforce a liability or a duty created by this title.

''(g) DEFINITIONS.—

''(1) IN GENERAL.—The Commission, in consultation with the Secretary of Labor, shall issue rules to define the terms used in this section for which the Commission determines a definition to be necessary.

''(2) DEFINITIONS.—In this section:

''(A) PENDING LITIGATION.—The term 'pending litigation' includes a civil action or administrative proceeding for a penalty for

violating a Federal or State health and safety law that—

''(i) is being contested before an administrative law judge under the Occupational Safety and Health Review Commission or the Federal Mine Safety and Health Review Commission; or

''(ii) is being otherwise contested or appealed under a State review board or other body.

''(B) SIGNIFICANT HEALTH OR SAFETY CONDITION.—The term 'significant health or safety condition' means a condition that a certified worker or manager could identify as reasonably likely to be cited, were the condition to be observed by a Federal inspector, as—

''(i) a significant and substantial health or safety violation under the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.);

''(ii) a serious or repeated violation under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); or

''(iii) another health- or safety-related violation carrying a high degree of gravity under Federal law.

''(C) SIGNIFICANT HEALTH OR SAFETY VIOLATION.—The term 'significant health or safety violation' means—

''(i) a significant and substantial health or safety violation under the Federal Mine Safety and Health Act of 1977;

''(ii) a serious or repeated violation under the Occupational Safety and Health Act of 1970; or

''(iii) another health- or safety-related violation carrying a high degree of gravity under State or Federal law.''.

SA 3881. 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 1062, after line 25, insert the following:

(e) OFFICE OF SERVICE MEMBER AFFAIRS.—

(1) ESTABLISHMENT.—The Director shall establish within the Bureau the Office of Service Member Affairs.

(2) FUNCTIONS.—The Office of Service Member Affairs shall have such powers and duties as the Director may delegate to that Office, with respect to the drafting and enforcement of any special consumer financial protection rules that apply to members of the Armed Forces.

(3) ADMINISTRATION OF OFFICE.—There is established the position of Assistant Director of the Bureau for Service Member Affairs, who—

(A) shall be appointed by the Director; and

(B) shall carry out such duties as the Director may delegate to such Assistant Director.

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

SA 3882. Mr. CORKER (for himself, Mr. GREGG, Mr. SHELBY, Mrs. HUTCHISON, Mr. LEMIEUX, and Mr. COBURN) 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) 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.

(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 3883. Ms. SNOW (for herself and Mr. PRYOR), 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:

At the appropriate place, insert the following:

SEC. ___. SMALL BUSINESS FAIRNESS AND REGULATORY TRANSPARENCY.

(a) PANEL REQUIREMENT.—Section 609(d) of title 5, United States Code, is amended by striking ''means the'' and all that follows and inserting the following: ''means—

''(1) the Environmental Protection Agency;

''(2) the Consumer Financial Protection Bureau of the Federal Reserve System; and

''(3) the Occupational Safety and Health Administration of the Department of Labor.''.

(b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended by adding at the end the following:

''(d)(1) For a covered agency, as defined in section 609(d)(2), each initial regulatory flexibility analysis shall include a description of—

''(A) any projected increase in the cost of credit for small entities;

''(B) any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any increase in the cost of credit for small entities; and

''(C) advice and recommendations of representatives of small entities relating to issues described in subparagraphs (A) and (B) and subsection (b).

''(2) A covered agency, as defined in section 609(d)(2), shall, for purposes of complying with paragraph (1)(C)—

''(A) identify representatives of small entities in consultation with the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) collect advice and recommendations from the representatives identified under subparagraph (A) relating to issues described in subparagraphs (A) and (B) of paragraph (1) and subsection (b).''.

(c) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604(a) of title 5, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) for a covered agency, as defined in section 609(d)(2), a description of the steps the agency has taken to minimize any additional cost of credit for small entities.''.

SA 3884. Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. KAUFMAN, Mr. HARKIN, Mr. FEINGOLD, and Mr. SANDERS) 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:

At the end of subtitle C of title I, add the following:

SEC. 171. LIMITATIONS ON BANK AFFILIATIONS.

(a) LIMITATION ON AFFILIATION.—The Banking Act of 1933 (12 U.S.C. 221a et seq.) is amended by inserting before section 21 the following:

''SEC. 20. Beginning 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010, no member bank may be affiliated, in any manner described in section 2(b), with any corporation, association, business trust, or other similar organization that is engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation stocks, bonds, debenture, notes, or other securities, except that nothing in this section shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business, except such as may be incidental to the liquidation of its affairs.''.

(b) LIMITATION ON COMPENSATION.—The Banking Act of 1933 (12 U.S.C. 221 et seq.) is amended by inserting after section 31 the following:

''SEC. 32. Beginning 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010, no officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve simultaneously as an officer, director, or employee of any member bank, except in limited classes of cases in which the Board of Governors of the Federal Reserve System may allow such service by general regulations when, in the judgment of the Board of Governors, it would not unduly influence the investment policies of such member bank or the advice given to customers by the member bank regarding investments.''.

(c) PROHIBITING DEPOSITORY INSTITUTIONS FROM ENGAGING IN INSURANCE-RELATED ACTIVITIES.—

(1) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, and notwithstanding any other provision of law, in no case may a depository institution engage in the business of insurance or any insurance-related activity.

(2) DEFINITION.—As used in this section, the term ''business of insurance'' means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.

SA 3885. Mrs. HUTCHISON 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, strike lines 11 through 13 and insert the following:

(b) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

SEC. 333. STUDY ON THE IMPACT OF EXCLUDING CORE DEPOSITS FROM TREATMENT AS BROKERED DEPOSITS.

(a) STUDY.—The Board of Governors shall conduct a study to evaluate—

(1) the treatment of core deposits as brokered deposits for the purpose of calculating the insurance premiums of banks;

(2) the potential impact on the Deposit Insurance Fund of ceasing to treat core deposits as brokered deposits;

(3) an assessment of the merits and drawbacks of the treatment of core deposits as brokered deposits, with respect to the economy and banking sector of the United States;

(4) the potential stimulative effect on local economies of excluding core deposits from treatment as brokered deposits; and

(5) the competitive parity between large institutions and community banks that

could result from excluding core deposits from treatment as brokered deposits.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Board of Governors shall 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 on the results of the study under subsection (a) that includes legislative recommendations, if any, to address competitive imbalances as a result of the treatment of core deposits as brokered deposits.

SA 3886. Mr. ROCKEFELLER (for himself and Mr. BYRD) 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:

At the end of subtitle A of title IX, add the following:

SEC. 919C. REPORTING REQUIREMENTS REGARDING COAL OR OTHER MINE SAFETY.

(a) REPORTING MINE SAFETY INFORMATION.—Each issuer that is required to file reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o) and that is an operator, or that has a subsidiary that is an operator, of a coal or other mine shall include, in each periodic report filed with the Commission under the securities laws on or after the date of enactment of this Act, the following information for the time period covered by such report:

(1) For each coal or other mine of which the issuer or a subsidiary of the issuer is an operator—

(A) the total number of violations of mandatory health or safety standards that could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard under section 104 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 814) for which the operator received a citation from the Mine Safety and Health Administration;

(B) the total number of orders issued under section 104(b) of such Act (30 U.S.C. 814(b));

(C) the total number of citations and orders for unwarrantable failure of the mine operator to comply with mandatory health or safety standards under section 104(d) of such Act (30 U.S.C. 814(d));

(D) the total number of flagrant violations under section 110(b) of such Act (30 U.S.C. 820(b));

(E) the total number of imminent danger orders issued under section 107(a) of such Act (30 U.S.C. 817(a)); and

(F) the total dollar value of proposed assessments from the Mine Safety and Health Administration under such Act (30 U.S.C. 801 et seq.).

(2) A list of such coal or other mines that receive written notice from the Mine Safety and Health Administration of—

(A) a pattern of violations of mandatory health or safety standards that are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards under section 104(e) of such Act (30 U.S.C. 814(e)); or

(B) the potential to have such a pattern.

(3) Any pending legal action before the Federal Mine Safety and Health Review Commission involving such coal or other mine.

(b) REPORTING SHUTDOWNS AND PATTERNS OF VIOLATIONS.—Beginning on and after the date of enactment of this Act, each issuer that is an operator, or that has a subsidiary that is an operator, of a coal or other mine shall file a current report on Form 8–K (or any successor form), as required by the Commission, disclosing the following regarding each coal or other mine of which the issuer or subsidiary is an operator:

(1) The receipt of an imminent danger order issued under section 107(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 817(a)).

(2) The receipt of written notice from the Mine Safety and Health Administration that the coal or other mine has—

(A) a pattern of violations of mandatory health or safety standards that are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards under section 104(e) of such Act (30 U.S.C. 814(e)); or

(B) the potential to have such a pattern.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any obligation of a person to make a disclosure under any other applicable law in effect before, on, or after the date of enactment of this Act.

(d) COMMISSION AUTHORITY.—

(1) ENFORCEMENT.—A violation by any person of this section, or any rule or regulation of the Commission issued under this section, shall be treated for all purposes in the same manner as a violation of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this section, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of such Act or such rules or regulations.

(2) RULES AND REGULATIONS.—The Commission is authorized to issue such rules or regulations as are necessary or appropriate for the protection of investors and to carry out the purposes of this section.

(e) DEFINITIONS.—In this section—

(1) the terms ''issuer'' and ''securities laws'' have the meaning given the terms in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(2) the term ''coal or other mine'' means a coal or other mine, as defined in section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802), that is subject to the provisions of such Act (30 U.S.C. 801 et seq.); and

(3) the term ''operator'' has the meaning given the term in section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802).

SA 3887. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANNS) 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 3888. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3217 submitted by Mrs. FEINSTEIN and intended to be proposed to the amendment SA 2786 proposed by Mr. REID (for himself, Mr.BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, entitled The Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DELAY OF IMPLEMENTATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall delay the implementation of the final rule entitled ''Lead; Renovation, Repair, and Painting Program; Lead Hazard Information Pamphlet; Notice of Availability; Final Rule'' (73 Fed. Reg. 21692 (April 22, 2008)), and the final rule entitled ''Lead; Amendment to the Opt-out and Recordkeeping Provisions in the Renovation, Repair, and Painting Program'', signed by the Administrator on April 22, 2010, in each State until such time as accredited certified renovator classes have been held in the State, for a period of at least 1 year, to train contractors in practices necessary for compliance with the final rules, as determined by the Administrator.

(b) NOTIFICATION.—The Administrator shall—

(1) monitor each State to determine when classes described in subsection (a) are offered in the State; and

(2) provide to each Member of Congress representing the State a notification describing—

(A) the location and time of each such class held in the State; and

(B) the date on which the classes have been held for the 1-year period described in subsection (a).

SA 3889. Mr. AKAKA (for himself, Mr. MENENDEZ, and Mr. DURBIN) 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 942, strike line 10 and all that follows through page 951, line 13, and insert the following:

SEC. 913. ESTABLISHMENT OF A FIDUCIARY DUTY FOR BROKERS, DEALERS, AND INVESTMENT ADVISERS, AND HARMONIZATION OF REGULATION.

(a) IN GENERAL.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by this Act, is amended—

(A) by redesignating subsection (i) (relating to security-based swap agreements), as added by section 303(f) of the Commodity Futures Modernization Act of 2000 (Public Law 106-554; 114 Stat. 2763A–455), as subsection (j); and

(B) by adding at the end the following:

''(m) STANDARD OF CONDUCT.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act or the Investment Advisers Act of 1940, the Commission shall promulgate rules to provide that, with respect to a broker or dealer, when providing personalized investment advice about securities to a retail customer (and such other customers as the Commission may by rule provide), the standard of conduct for such broker or dealer with respect to such customer shall be the same as the standard of conduct applicable to an investment adviser under section 211 of the Investment Advisers Act of 1940. The receipt of compensation based on commission or other standard compensation for the sale of securities shall not, in and of itself, be considered a violation of such standard applied to a broker or dealer. Nothing in this section shall require a broker or dealer or registered representative to have a continuing duty of care or loyalty to the customer after providing personalized investment advice about securities.

''(2) DISCLOSURE OF RANGE OF PRODUCTS OFFERED.—Where a broker or dealer sells only proprietary or other limited range of products, as determined by the Commission, the Commission shall by rule require that such broker or dealer provide notice to each retail customer and obtain the consent or acknowledgment of the customer. The sale of only proprietary or other limited range of products by a broker or dealer shall not, in and of itself, be considered a violation of the standard set forth in paragraph (1).

''(3) RETAIL CUSTOMER DEFINED.—For purposes of this subsection, the term 'retail customer' means a natural person, or the legal representative of such natural person, who—

''(A) receives personalized investment advice about securities from a broker or dealer; and

''(B) uses such advice primarily for personal, family, or household purposes.

''(n) OTHER MATTERS.—The Commission shall—

''(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and

''(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the public interest and the protection of investors.''.

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 211 of the Investment Advisers Act of 1940 is amended by adding at the end the following new subsections:

''(f) STANDARD OF CONDUCT.—

''(1) IN GENERAL.—The Commission shall promulgate rules to provide that the standard of conduct for all brokers, dealers, and investment advisers, when providing personalized investment advice about securities to retail customers (and such other customers as the Commission may by rule provide), shall be to act in the best interest of the customer without regard to the financial or other interest of the broker, dealer, or investment adviser providing the advice. In accordance with such rules, any material conflicts of interest shall be disclosed and may be consented to by the customer. Such rules shall provide that such standard of conduct shall be no less stringent than the standard applicable to investment advisers under paragraph (1) and (2) of section 206 of this Act when providing personalized investment advice about securities, except the Commission shall not ascribe a meaning to the term 'customer' that would include an investor in a private fund managed by an investment adviser, where such private fund has entered into an advisory contract with such adviser. The receipt of compensation based on commission or fees shall not, in and of itself, be considered a violation of such standard applied to a broker, dealer, or investment adviser.

''(2) RETAIL CUSTOMER DEFINED.—For purposes of this subsection, the term 'retail customer' means a natural person, or the legal representative of such natural person, who—

''(A) receives personalized investment advice about securities from a broker, dealer, or investment adviser; and

''(B) uses such advice primarily for personal, family, or household purposes.

''(g) OTHER MATTERS.—The Commission shall—

''(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and

''(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the public interest and the protection of investors.''.

(b) HARMONIZATION OF ENFORCEMENT.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 15 of the Securities Exchange Act of 1934, as amended by subsection (a)(1), is further amended by adding at the end the following new subsection:

''(m) HARMONIZATION OF ENFORCEMENT.—The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer shall include—

''(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and

''(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940, including the authority to impose sanctions for such violations, and

the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940.''.

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 211 of the Investment Advisers Act of 1940, as amended by subsection (a)(2), is further amended by adding at the end the following new subsection:

''(h) HARMONIZATION OF ENFORCEMENT.—The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment adviser shall include—

''(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and

''(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the Securities Exchange Act of 1934, including the authority to impose sanctions for such violations, and

the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to an investment advisor under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the Securities Exchange Act of 1934.''.

SA 3890. Mr. BAYH (for himself and Mr. MERKLEY), 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 61, after line 24, insert the following:

SEC. 122. INTERNATIONAL REGULATORY COORDINATION FOR THE REGULATION AND RESOLUTION OF FINANCIAL INSTITUTIONS.

(a) DEFINITIONS.—As used in this section—

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(2) LARGE, COMPLEX FINANCIAL INSTITUTION.—The term ''large, complex financial institution'' means a bank holding company or company treated as a bank holding company for the purposes of the section 8 of the International Banking Act of 1978 (12 U.S.C. 3106), a company subject to supervision of the Board of Governors under section 113, or such other financial company as the Council may determine, which has the potential to threaten the financial stability of the United States owing to the size or interconnectedness of the institution across more than 1 national jurisdiction.

(3) MULTILATERAL FINANCIAL FORUMS.—The term ''multilateral financial forums'' means the International Monetary Fund, the G20, the Financial Stability Board, the Bank for International Settlement (including the Basel Committee on Bank Supervision), the International Organization of Securities Commissions, the International Association of Insurance Supervisors, the International Association of Deposit Insurers, the International Accounting Standard Board, and other relevant institutions and committees as the Council may determine.

(b) BIANNUAL REPORTS.—

(1) REPORTS.—Not later than January 30, 2011, and biannually thereafter, the Council shall submit public reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of and participation of the United States in international coordination of financial services regulation and supervision efforts at multilateral financial forums.

(2) TESTIMONY.—At the request of the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives, the Secretary and representatives of the relevant regulatory agencies charged with international coordination matters, including the agencies charged with the coordination of capital and resolution matters and markets oversight, shall appear before the committee to provide testimony on the reports submitted under paragraph (1).

(c) CONTENTS OF REPORT.—Each report submitted under subsection (b) shall contain—

(1) an update on the status of and participation of the United States in international coordination efforts at the multilateral financial forums to set minimum standards for the regulation and supervision of financial services regulation, in particular with

respect to large, complex financial institutions, including—

(A) standards on financial firms, including, as relevant—

(i) capital and leverage requirements;

(ii) liquidity requirements;

(iii) consumer protection;

(iv) resolution plans;

(v) contingent capital;

(vi) credit exposure requirements;

(vii) activity limits;

(viii) concentration limits;

(ix) size limits;

(x) public disclosure;

(xi) market transparency;

(xii) executive compensation;

(xiii) risk management; and

(xiv) any other relevant regulatory areas affecting banking, securities, derivatives, insurance, and other financial services;

(B) standards on financial markets, including—

(i) credit and lending markets;

(ii) securities and derivatives markets;

(iii) insurance markets; and

(iv) any other financial service markets, including ensuring the necessary public transparency, integrity, and stability;

(C) standards on the supervision of financial firms and markets, including ensuring national and international regulators have—

(i) adequate access to real-time information;

(ii) engaged in adequate coordination with international counterparts; and

(iii) made adequate preparation for crisis management; and

(D) an evaluation of—

(i) any gaps in the international coordination of regulation and supervision of financial services; and

(ii) whether international coordination adequately permits individual countries to employ a diversity of regulatory approaches in practice without permitting regulatory arbitrage or other pressures to relax necessary protections;

(2) an update on the status of and participation of the United States in international coordination efforts at the multilateral financial forums to develop adequate cross-border bankruptcy and resolution regimes, specifically for large, complex financial institutions, including the development and maintenance of—

(A) legal regimes at the national and international level that—

(i) enforce market discipline;

(ii) deter explicit or implicit reliance on the public treasury; and

(iii) equitably share burdens in restructuring credit across 1 or more bankruptcy or resolution regimes;

(B) information systems and regulator coordination, including—

(i) maps of global exposures and cross-exposures emanating from large complex financial institutions;

(ii) charts of the legal structure and regulatory regimes governing various subsidiaries and affiliates of large complex financial institutions; and

(iii) contingency plans for communication and real-time crisis management with respect to the possible failure of each relevant key large complex financial institution; and

(C) information systems to—

(i) detect and promptly respond to the insolvency or illiquidity of 1 or more foreign or United States large complex financial institutions or markets; and

(ii) mitigate the direct and indirect risks to the economy of the United States from the failure of the institution or market;

(3) the dissenting or divergent views of any members of the Council; and

(4) any other updates the Council determines is appropriate.

(d) CONGRESSIONAL CONSULTATION.—

(1) IN GENERAL.—In addition to any other consultation required by law, before initiating negotiations to enter into any international agreement on financial regulation, supervision, or resolution, and from time to time during such negotiations, the Secretary and representatives of the relevant regulatory agencies shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of financial, fiscal, and economic stability in the United States; and

(C) the implementation of the agreement, including any effect the agreement may have on existing Federal or State laws.

(e) STUDY ON INTERNATIONAL COORDINATION AND DIVERSITY.—Not later than September 30, 2011, the Council shall submit a report to Congress, including any dissenting or divergent views of any members of the Council, regarding risks to the financial, fiscal, and economic stability of the United States presented by foreign or United States large complex financial institutions.

SA 3891. Mr. CASEY (for himself, Mrs. GILLIBRAND, and Mr. SCHUMER) 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 G of title X appropriate place, insert the following:

SEC. 1078. EMERGENCY MORTGAGE RELIEF.

(a) USE OF TARP FUNDS.—Using the authority available under sections 101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development $3,000,000,000, and the Secretary of Housing and Urban Development shall credit such amount to the Emergency Homeowners' Relief Fund, which such Secretary shall establish pursuant to section 107 of the Emergency Housing Act of 1975 (12 U.S.C. 2706), as such Act is amended by this section, for use for emergency mortgage assistance in accordance with title I of such Act.

(b) REAUTHORIZATION OF EMERGENCY MORTGAGE RELIEF PROGRAM.—Title I of the Emergency Housing Act of 1975 is amended—

(1) in section 103 (12 U.S.C. 2702)—

(A) in paragraph (2)—

(i) by striking ''have indicated'' and all that follows through ''regulation of the holder'' and inserting ''have certified'';

(ii) by striking ''(such as the volume of delinquent loans in its portfolio)''; and

(iii) by striking '', except that such statement'' and all that follows through ''purposes of this title''; and

(B) in paragraph (4), by inserting ''or medical conditions'' after ''adverse economic conditions'';

(2) in section 104 (12 U.S.C. 2703)—

(A) in subsection (b), by striking '', but such assistance'' and all that follows through the period at the end and inserting the following: ''. The amount of assistance provided to a homeowner under this title shall be an amount that the Secretary determines is reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment, except that the aggregate amount of such assistance provided for any homeowner shall not exceed $50,000.'';

(B) in subsection (d), by striking ''interest on a loan or advance''and all that follows through the end of the subsection and inserting the following: ''(1) the rate of interest on any loan or advance of credit insured under this title shall be fixed for the life of the loan or advance of credit and shall not exceed the rate of interest that is generally charged for mortgages on single-family housing insured by the Secretary of Housing and Urban Development under title II of the National Housing Act at the time such loan or advance of credit is made, and (2) no interest shall be charged on interest which is deferred on a loan or advance of credit made under this title. In establishing rates, terms and conditions for loans or advances of credit made under this title, the Secretary shall take into account a homeowner's ability to repay such loan or advance of credit.''; and

(C) in subsection (e), by inserting after the period at the end of the first sentence the following: ''Any eligible homeowner who receives a grant or an advance of credit under this title may repay the loan in full, without penalty, by lump sum or by installment payments at any time before the loan becomes due and payable.'';

(3) in section 105 (12 U.S.C. 2704)—

(A) by striking subsection (b);

(B) in subsection (e)—

(i) by inserting ''and emergency mortgage relief payments made under section 106'' after ''insured under this section''; and

(ii) by striking ''$1,500,000,000 at any one time'' and inserting ''$3,000,000,000'';

(C) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(D) by adding at the end the following new subsection:

''(e) The Secretary shall establish underwriting guidelines or procedures to allocate amounts made available for loans and advances insured under this section and for emergency relief payments made under section 106 based on the likelihood that a mortgagor will be able to resume mortgage payments, pursuant to the requirement under section 103(5).'';

(4) in section 107—

(A) by striking ''(a)''; and

(B) by striking subsection (b);

(5) in section 108 (12 U.S.C. 2707), by adding at the end the following new subsection:

''(d) COVERAGE OF EXISTING PROGRAMS.—The Secretary shall allow funds to be administered by a State that has an existing program that is determined by the Secretary to provide substantially similar assistance to homeowners. After such determination is made such State shall not be required to modify such program to comply with the provisions of this title.'';

(6) in section 109 (12 U.S.C. 2708)—

(A) in the section heading, by striking ''AUTHORIZATION AND'';

(B) by striking subsection (a);

(C) by striking ''(b)''; and

(D) by striking ''1977'' and inserting ''2011'';

(7) by striking sections 110, 111, and 113 (12 U.S.C. 2709, 2710, 2712); and

(8) by redesignating section 112 (12 U.S.C. 2711) as section 110.

SEC. 1079. ADDITIONAL ASSISTANCE FOR NEIGHBORHOOD STABILIZATION PROGRAM.

Using the authority made available under sections 101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development $1,000,000,000, and the Secretary of Housing and Urban Development shall use such amounts for assistance to States and units of general local government for the redevelopment of abandoned and foreclosed homes, in accordance with the same provisions applicable under the second undesignated paragraph under the heading ''Community Planning and Development—Community Development Fund'' in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 217) to amounts made available under such second undesignated paragraph, except as follows:

(1) Notwithstanding the matter of such second undesignated paragraph that precedes the first proviso, amounts made available by this section shall remain available until expended.

(2) The 3rd, 4th, 5th, 6th, 7th, and 15th provisos of such second undesignated paragraph shall not apply to amounts made available by this section.

(3) Amounts made available by this section shall be allocated based on a funding formula for such amounts established by the Secretary in accordance with section 2301(b) of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 note), except that—

(A) notwithstanding paragraph (2) of such section 2301(b), the formula shall be established not later than 30 days after the date of the enactment of this Act;

(B) the Secretary may not establish any minimum grant amount or size for grants to States;

(C) the Secretary may establish a minimum grant amount for direct allocations to units of general local government located within a State, which shall not exceed $1,000,000; and

(D) each State and local government receiving grant amounts shall establish procedures to create preferences for the development of affordable rental housing for properties assisted with amounts made available by this section.

(4) Paragraph (1) of section 2301(c) of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.

(5) Section 2302 of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.

(6) The fourth proviso from the end of such second undesignated paragraph shall be applied to amounts made available by this section by substituting ''2013'' for ''2012''.

(7) Notwithstanding section 2301(a) of the Housing and Economic Recovery Act of 2008, the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and other territory or possession of the United States for purposes of this section and title III of division B of such Act, as applied to amounts made available by this section.

(8)(A) None of the amounts made available by this section shall be distributed to—

(i) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

(ii) any organization which employs applicable individuals.

(B) In this paragraph, the term ''applicable individual'' means an individual who—

(i) is—

(I) employed by the organization in a permanent or temporary capacity;

(II) contracted or retained by the organization; or

(III) acting on behalf of, or with the express or apparent authority of, the organization; and

(ii) has been convicted for a violation under Federal law relating to an election for Federal office.

SA 3892. Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. REID, Mr. BROWNBACK, Ms. CANTWELL, Mr. CORNYN, Mr. WYDEN, and 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 565, between lines 2 and 3, insert the following:

(e) JUST AND REASONABLE RATES.—Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) (as amended by section 717(a)) is amended by adding at the end the following:

''(vi) Notwithstanding the exclusive jurisdiction of the Commission with respect to accounts, agreements, and transactions involving swaps or contracts of sale of a commodity for future delivery under this Act, no provision of this Act shall be construed—

''(I) to supersede or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.); or

''(II) to restrict the Federal Energy Regulatory Commission from carrying out the duties and responsibilities of the Federal Energy Regulatory Commission to ensure just and reasonable rates and protect the public interest under the Acts described in subclause (I).''.

(f) PUBLIC INTEREST WAIVER.—Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) (as amended by section 721(d)) is amended by adding at the end the following:

''(6) If the Commission determines that the exemption would be consistent with the public interest and the purposes of this Act, the Commission shall, in accordance with paragraphs (1) and (2), exempt from the requirements of this Act an agreement, contract, or transaction that is entered into pursuant to—

''(A) a tariff or rate schedule approved or permitted to take effect by the Federal Energy Regulatory Commission; or

''(B) a tariff or rate schedule establishing rates or charges for the sale of electric energy approved or permitted to take effect by the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy to consumers within the State or municipality.''.

SA 3893. Mr. CORNYN 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 1304, line 11, strike ''person—'' and insert ''covered person—''.

On page 1305, line 2, strike ''practice,'' and insert ''practice that violates this title or applicable rules or orders issued by the Bureau,''.

On page 1310, between lines 16 and 17, insert the following:

(3) FEE STRUCTURE.—

(A) IN GENERAL.—Neither an attorney general of a State nor a State regulator may enter into a contingency fee agreement for legal services relating to a civil action or other proceeding under this section.

(B) DEFINITION.—For purposes of this paragraph, the term ''contingency fee agreement'' means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.

SA 3894. Mr. CORNYN 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 976, strike line 7 and all that follows through page 977, line 17.

On page 1290, strike line 5 and all that follows through page 1291, line 9.

On page 1371, strike line 15 and all that follows through page 1372, line 2.

SA 3895. Mr. CORNYN submitted an amendment intended to be proposed to 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 A of title IX, add the following:

SEC. 919C. SECURITIES LITIGATION ATTORNEY ACCOUNTABILITY AND TRANSPARENCY.

(a) DISCLOSURES OF PAYMENTS, FEE ARRANGEMENTS, CONTRIBUTIONS, AND OTHER POTENTIAL CONFLICTS OF INTEREST BETWEEN PLAINTIFF AND ATTORNEYS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21D(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–4(a)) is amended by adding at the end the following new paragraphs:

''(10) DISCLOSURES REGARDING PAYMENTS.—

''(A) SWORN CERTIFICATIONS REQUIRED.—In any private action arising under this title, each plaintiff and any attorney for such

plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identify any direct or indirect payment, or promise of any payment, by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff, beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4). Upon disclosure of any such payment or promise of payment, the court shall disqualify the attorney from representing the plaintiff.

''(B) DEFINITION.—For purposes of this paragraph, the term 'payment' shall include the transfer of money and any other thing of value, including the provision of services, other than representation of the plaintiff in the private action arising under this title.

''(11) DISCLOSURES REGARDING LEGAL REPRESENTATIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies the nature and terms of any legal representation provided by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff other than the representation of the plaintiff in the private action arising under this title. The court may allow such certifications to be made under seal. The court shall make a determination whether the nature or terms of the fee arrangement for any other matter influenced the selection and retention of counsel in any private action arising under this title and, if the court so finds, shall disqualify the attorney from representing the plaintiff in any such action.

''(12) DISCLOSURES REGARDING CONTRIBUTIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any contribution made within five years prior to the filing of the complaint by such attorney, any person affiliated with such attorney, or any political action committee controlled by such attorney, to any elected official with authority to retain counsel for such plaintiff or to select or appoint, influence the selection or appointment of, or oversee any individual or group of individuals with that authority.

''(13) DISCLOSURE REGARDING OTHER CONFLICTS OF INTEREST.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any other conflict of interest (other than one specified in paragraphs (10) through (12)) between such attorney and such plaintiff. The court shall make a determination of whether such conflict is sufficient to disqualify the attorney from representing the plaintiff.''.

(2) SECURITIES ACT OF 1933.—Section 27(a) of the Securities Act of 1933 (15 U.S.C. 77z-1(a)) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURES REGARDING PAYMENTS.—

''(A) SWORN CERTIFICATIONS REQUIRED.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identify any direct or indirect payment, or promise of any payment, by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff, beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4). Upon disclosure of any such payment or promise of payment, the court shall disqualify the attorney from representing the plaintiff.

''(B) DEFINITION.—For purposes of this paragraph, the term 'payment' shall include the transfer of money and any other thing of value, including the provision of services, other than representation of the plaintiff in the private action arising under this title.

''(10) DISCLOSURES REGARDING LEGAL REPRESENTATIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies the nature and terms of any legal representation provided by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff other than the representation of the plaintiff in the private action arising under this title. The court may allow such certifications to be made under seal. The court shall make a determination whether the nature or terms of the fee arrangement for any other matter influenced the selection and retention of counsel in any private action arising under this title and, if the court so finds, shall disqualify the attorney from representing the plaintiff in any such action.

''(11) DISCLOSURES REGARDING CONTRIBUTIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any contribution made within five years prior to the filing of the complaint by such attorney, any person affiliated with such attorney, or any political action committee controlled by such attorney, to any elected official with authority to retain counsel for such plaintiff or to select or appoint, influence the selection or appointment of, or oversee any individual or group of individuals with that authority.

''(12) DISCLOSURE REGARDING OTHER CONFLICTS OF INTEREST.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any other conflict of interest (other than one specified in paragraphs (9) through (11)) between such attorney and such plaintiff. The court shall make a determination of whether such conflict is sufficient to disqualify the attorney from representing the plaintiff.''.

(b) SELECTION OF LEAD COUNSEL.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21D(a)(3)(B)(v) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(a)(3)(B)(v)) is amended by adding at the end the following: ''In exercising the discretion of the court over the approval of lead counsel, the court may employ a competitive bidding process as one of the criteria in the selection and retention of counsel for the most adequate plaintiff.''.

(2) SECURITIES ACT OF 1933.—Section 27(a)(3)(B)(v) of the Securities Act of 1933 (15 U.S.C. 77z-1(a)(3)(B)(v)) is amended by adding at the end the following: ''In exercising the discretion of the court over the approval of lead counsel, the court may employ a competitive bidding process as one of the criteria in the selection and retention of counsel for the most adequate plaintiff.''.

(c) STUDY OF AVERAGE HOURLY FEES IN SECURITIES CLASS ACTIONS.—

(1) STUDY AND REVIEW REQUIRED.—The Comptroller General of the United States shall conduct a study and review of fee awards to lead counsel in securities class actions over the 5-year period preceding the date of enactment of this Act to determine the effective average hourly rate for lead counsel in such actions.

(2) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by this section. The Comptroller General shall submit an updated study every 3 years thereafter.

(3) DEFINITION.—For purposes of this subsection, the term ''securities class action'' means a private class action arising under the Securities Act of 1933 (15 U.S.C. 77 et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

(d) AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—

(1) UNDER THE SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following:

''(g) AUTHORITY TO IMPOSE MONEY PENALTIES.—

''(1) GROUNDS.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person, if the Commission finds, on the record, after notice and opportunity for hearing, that—

''(A) the person—

''(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

''(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and

''(B) the imposition of the penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of a penalty for each act or omission described in paragraph (1) shall be $7,500 for a natural person or $75,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement, the maximum amount of penalty for each act or omission shall be $75,000 for a natural person or $375,000 for any other person.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $150,000 for a natural person or $725,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

''(ii) the act or omission directly or indirectly resulted in—

''(I) substantial losses or created a significant risk of substantial losses to other persons; or

''(II) substantial pecuniary gain to the person who committed the act or omission.

''(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such

penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of the ability of the respondent to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of the respondent and the amount of the assets of the respondent.''.

(2) UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(A) by striking the undesignated matter immediately following paragraph (4);

(B) in the matter preceding paragraph (1), by inserting after ''opportunity for hearing,'' the following: ''that such penalty is in the public interest and'';

(C) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and adjusting the subparagraph margins accordingly;

(D) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(2) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted under section 21C against any person, the Commission may impose a civil penalty, if the Commission finds, on the record after notice and opportunity for hearing, that such person—

''(A) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

''(B) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.''.

(3) UNDER THE INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(A) by striking the matter immediately following subparagraph (C);

(B) in the matter preceding subparagraph (A), by inserting after ''opportunity for hearing,'' the following: ''that such penalty is in the public interest, and'';

(C) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the clause margins accordingly;

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

''(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

''(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.''.

(4) UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(A) by striking the undesignated matter immediately following subparagraph (D);

(B) in the matter preceding subparagraph (A), by inserting after ''opportunity for hearing,'' the following: ''that such penalty is in the public interest and'';

(C) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the clause margins accordingly;

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

''(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

''(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.''.

SA 3896. Mr. GREGG (for himself, Mr. BROWN of Massachusetts, and Mr. KERRY) 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 320, between lines 11 and 12, insert the following:

(g) PARITY.—Section 10(a)(1)(A) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(A)) is amended to read as follows:

''(A) SAVINGS ASSOCIATION.—The term 'savings association'—

''(i) includes a savings bank or cooperative bank which is deemed by the Director to be a savings association under subsection (l); and

''(ii) does not include an institution described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)).''.

SA 3897. Mr. DORGAN 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 584, line 7, after the first period insert the following:

''(k) CLEARING OF CREDIT DEFAULT SWAPS.—

''(1) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a derivatives clearing organization that is registered under this Act or a derivatives clearing organization that is exempt from registration under section 5b(i) of this Act.

''(2) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no derivatives clearing organization will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

''(3) LIMITATION ON SHORT POSITIONS.—

''(A) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit instrument unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

''(i) is undertaking such action to establish a legitimate short position in credit default swaps; or

''(ii) is regulated by the Commission as a swap dealer in credit default swaps, and is acting as a market-maker or is otherwise engaged in a financial transaction on behalf of a customer.

''(B) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

''(i) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's credit default swaps; and

''(ii) the reference entity or entities for the protection buyer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

''(C) DETERMINATION OF THE COMMISSION.—

''(i) IN GENERAL.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term 'valid credit instrument'.

''(ii) CONSIDERATIONS AND REQUIREMENTS.—In defining the term 'valid credit instrument', the Commission and the Securities and Exchange Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

''(iii) RULE OF CONSTRUCTION.—For purposes of this paragraph, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

''(D) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

''(E) HOLDING OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SWAP DEALERS.—Any swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

''(i) the value of the swap dealer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the swap dealer's position in credit default swaps; and

''(ii) the reference entity or entities for the swap dealer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the swap dealer owns.

''(F) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with

the intent of evading the provisions of this subsection.

''(G) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Securities and Exchange Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

''(4) DEFINITIONS.—

''(A) IN GENERAL.—In this subsection, the following definitions shall apply:

''(i) CREDIT DEFAULT SWAP.—The term 'credit default swap'—

''(I) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

''(II) is not a debt security registered with the Securities and Exchange Commission and issued by a corporation, State, municipality, or sovereign entity.

''(ii) CREDIT EVENT.—The term 'credit event' includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

''(iii) PROTECTION BUYER.—The term 'protection buyer' means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the 'protection seller') upon the occurrence of one or more credit events.

''(iv) REFERENCE ENTITY.—The term 'reference entity' means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

''(B) FURTHER DEFINITION OF TERMS.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms 'credit default swap', 'credit event', 'protection buyer', and 'reference entity'.

On page 808, line 8, after the first period, insert the following:

''SEC. 3C-1. CLEARING OF CREDIT DEFAULT SWAPS.

''(a) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a clearing agency that is registered under section 17A of this Act.

''(b) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no clearing agency will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

''(c) LIMITATION ON SHORT POSITIONS.—

''(1) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

''(A) is undertaking such action to establish a legitimate short position in credit default swaps; or

''(B) is regulated by the Commission as a security-based swap dealer in credit default swaps, and is acting as a market-maker or otherwise for the purpose of serving clients.

''(2) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if —

''(A) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's credit default swaps; and

''(B) the reference entity or entities for the protection buyer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

''(3) DETERMINATION OF THE COMMISSION.—

''(A) IN GENERAL.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term 'valid credit instrument'.

''(B) CONSIDERATIONS AND REQUIREMENTS.—In defining the term 'valid credit instrument', the Commission and the Commodity Futures Trading Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

''(C) RULE OF CONSTRUCTION.—For purposes of this subsection, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

''(4) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

''(5) HOLDINGS OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SECURITY-BASED SWAP DEALERS.—Any security-based swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

''(A) the value of the security-based swap dealer's long holdings in valid credit instruments is equal to or greater than the absolute notional value of the security-based swap dealer's position in credit default swaps; and

''(B) the reference entity or entities for the security-based swap dealer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the security-based swaps dealer owns.

''(6) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this section.

''(7) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Commodity Futures Trading Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

''(d) DEFINITIONS.—

''(1) IN GENERAL.—In this section, the following definitions shall apply:

''(A) CREDIT DEFAULT SWAP.—The term 'credit default swap'—

''(i) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

''(ii) is not a debt security registered with the Commission and issued by a corporation, State, municipality, or sovereign entity.

''(B) CREDIT EVENT.—The term 'credit event' includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

''(C) PROTECTION BUYER.—The term 'protection buyer' means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the 'protection seller') upon the occurrence of one or more credit events.

''(D) REFERENCE ENTITY.—The term 'reference entity' means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

''(2) FURTHER DEFINITION OF TERMS.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms 'credit default swap', 'credit event', 'protection buyer', and 'reference entity'.

SA 3898. Mr. ENSIGN proposed an amendment to amendment SA 3733 proposed by Mr. BROWN of Ohio (for himself, Mr. KAUFMAN, Mr. CASEY, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. HARKIN, Mr. SANDERS, and Mr. BURRIS) to the 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 2 of the amendment, strike lines 11 through 15 and insert the following:

(1) FINANCIAL COMPANY.—The term ''financial company'' means—

(A) any nonbank financial company supervised by the Board;

(B) the Federal National Mortgage Association; and

(C) the Federal Home Loan Mortgage Corporation.

SA 3899. 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 1219, after line 25, insert the following:

''(e) OFFICE OF MILITARY LIAISON.—

''(1) IN GENERAL.—The Director shall establish an Office of Military Liaison, 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 Military Liaison, 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 Military Liaison.''.

SA 3900. 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) net 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 3901. Mr. CARDIN (for himself, Mr. ENZI, and Mr. BROWNBACK) 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. INCREASE IN DEPOSIT AND SHARE INSURANCE AMOUNTS.

(a) PERMANENT INCREASE IN DEPOSIT INSURANCE.—Section 11(a)(1)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(E)) is amended by striking ''$100,000'' and inserting ''$250,000''.

(b) PERMANENT INCREASE IN SHARE INSURANCE.—Section 207(k)(5) of the Federal Credit Union Act (12 U.S.C. 1787(k)(5)) is amended by striking ''$100,000'' and inserting ''$250,000''.

(c) REPEAL.—Section 136 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5241) is repealed, effective on the date of enactment of this Act.

SA 3902. Mr. FRANKEN (for himself, Ms. SNOWE, Mrs. MURRAY, Mrs. SHAHEEN, Mr. SCHUMER, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. CASEY, and Mr. FEINGOLD) 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, add the following:

Subtitle I—Office of the Homeowner Advocate

SEC. 1091. OFFICE OF THE HOMEOWNER ADVOCATE.

(a) ESTABLISHMENT.—There is established in the Department of the Treasury an office to be known as the ''Office of the Homeowner Advocate'' (in this subtitle referred to as the ''Office'').

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of the Office of the Homeowner Advocate (in this subtitle referred to as the ''Director'') shall report directly to the Assistant Secretary of the Treasury for Financial Stability, and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) APPOINTMENT.—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) QUALIFICATIONS.—An individual appointed under paragraph (2) shall have—

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.

(4) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as Director only if such individual was not an officer or employee of either a mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

(5) HIRING AUTHORITY.—The Director shall have the authority to hire staff, obtain support by contract, and manage the budget of the Office of the Homeowner Advocate.

SEC. 1092. FUNCTIONS OF THE OFFICE.

(a) IN GENERAL.—It shall be the function of the Office of the Homeowner Advocate to—

(1) assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary, authorized under the Emergency Economic Stabilization Act of 2008 (in this subtitle referred to as the ''Home Affordable Modification Program'')

(2) identify areas, both individual and systematic, in which homeowners, housing counselors, and housing lawyers have problems in dealings with the Home Affordable Modification Program;

(3) to the extent possible, propose changes in the administrative practices of the Home Affordable Modification Program, to mitigate problems identified under paragraph (2);

(4) identify potential legislative changes which may be appropriate to mitigate such problems; and

(5) implement other programs and initiatives that the Director deems important to assisting homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program, which may include—

(A) running a triage hotline for homeowners at risk of foreclosure;

(B) providing homeowners with access to housing counseling programs of the Department of Housing and Urban Development at no cost to the homeowner;

(C) developing Internet tools related to the Home Affordable Modification Program; and

(D) developing training and educational materials.

(b) AUTHORITY.—

(1) IN GENERAL.—Staff designated by the Director shall have the authority to implement servicer remedies, on a case-by-case basis, subject to the approval of the Assistant Secretary of the Treasury for Financial Stability.

(2) LIMITATIONS ON FORECLOSURES.—No homeowner may be taken to a foreclosure sale, until the earlier of the date on which the Office of the Homeowner Advocate case involving the homeowner is closed, or 60 days since the opening of the Office of the Homeowner Advocate case involving the homeowner have passed, except that nothing in this section may be construed to relieve any loan servicers from any otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

(3) RESOLUTION OF HOMEOWNER CONCERNS.—The Office shall, to the extent possible, resolve all homeowner concerns not later than 30 days after the opening of a case with such homeowner.

(c) COMMENCEMENT OF OPERATIONS.—The Office shall commence its operations, as required by this subtitle, not later than 3 months after the date of enactment of this Act.

(d) SUNSET.—The Office shall cease operations as of the date on which the Home Affordable Modification Program ceases to operate.

SEC. 1093. RELATIONSHIP WITH EXISTING ENTITIES.

(a) TRANSFER.—The Office shall coordinate and centralize all complaint escalations relating to the Home Affordable Modification Program.

(b) HOTLINE.—The HOPE hotline (or any successor triage hotline) shall reroute all complaints relating to the Home Affordable Modification Program to the Office.

(c) COORDINATION.—The Office shall coordinate with the compliance office of the Office of Financial Stability of the Department of the Treasury and the Homeownership Preservation Office of the Department of the Treasury.

SEC. 1094. REPORTS TO CONGRESS.

(a) TESTIMONY.—The Director shall be available to testify before the Committee on

Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not less frequently than 4 times a year, or at any time at the request of the Chairs of either committee.

(b) REPORTS.—Once annually, the Director shall provide a detailed report to Congress on the Home Affordable Modification Program. Such report shall contain full and substantive analysis, in addition to statistical information, including, at a minimum—

(1) data and analysis of the types and volume of complaints received from homeowners, housing counselors, and housing lawyers, broken down by category of servicer, except that servicers may not be identified by name in the report;

(2) a summary of not fewer than 20 of the most serious problems encountered by Home Affordable Modification Program participants, including a description of the nature of such problems;

(3) to the extent known, identification of the 10 most litigated issues for Home Affordable Modification Program participants, including recommendations for mitigating such disputes;

(4) data and analysis on the resolutions of the complaints received from homeowners, housing counselors, and housing lawyers;

(5) identification of any programs or initiatives that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by Home Affordable Modification Program participants; and

(7) such other information as the Director may deem advisable.

SEC. 1095. FUNDING.

Amounts made available for the costs of administration of the Home Affordable Modification Program that are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

SA 3903. Mr. CHAMBLISS 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 1051, line 2, after the comma insert the following: ''or, with respect to any such transaction, an institution that sells or transfers assets, either directly or indirectly, including through an affiliate, to the Federal Agricultural Mortgage Corporation for the purpose of securitization,''.

SA 3904. Mr. CHAMBLISS 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 487, line 15, after the comma insert ''the Federal Home Loan Bank System, the Federal Farm Credit Banks Funding Corporation, the Federal Agricultural Mortgage Corporation,''.

SA 3905. Mr. CHAMBLISS 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:

Beginning on page 648, strike line 11 and all that follows through page 649, line 2, and insert the following:

stitutions shall contain a capital requirement that is greater than zero.

SA 3906. Mr. CHAMBLISS 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 855, strike lines 8 through 20 and insert the following:

tain a capital requirement that is greater than zero.

SA 3907. Mr. CHAMBLISS 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 577, strike lines 5 through 24.

SA 3908. Mr. CHAMBLISS 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:

Beginning on page 793, strike line 5 and all that follows through page 794, line 3.

SA 3909. Mr. CHAMBLISS 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 612, line 24, strike ''burden'' and insert ''burden on clearing on the derivatives clearing organization''

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the State and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, May 20, 2010, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on S. 2921, to provide for the conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, to require the Secretary of the Interior to designate certain offices to serve as Renewable Energy Coordination Offices for coordination of Federal permits for renewable energy projects and transmission lines to integrate renewable energy development, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510–6150, or by email to testimony@energy.senate.gov.

For further information, please contact David Brooks at (202) 224–9863 or Allison Seyferth at (202) 224–4905.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 6, 2010, at 10 a.m., in room 253 of the Russell Senate Office Building.