

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 3984. 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 3985. Mr. GRASSLEY 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 3986. Mr. CORNYN (for himself and Mr. VITTER) 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 3987. Mr. THUNE 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 3988. Mrs. GILLIBRAND 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 3989. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 3217, supra.

SA 3990. Mr. LIEBERMAN (for himself and 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 3991. Mr. FRANKEN (for himself, Mr. SCHUMER, Mr. NELSON of Florida, Mr. WHITEHOUSE, Mr. BROWN of Ohio, Mrs. MURRAY, Mr. MERKLEY, Mr. BINGAMAN, Mr. LAUTENBERG, Mrs. SHAHEEN, Mr. CASEY, Mr. WICKER, Mr. SANDERS, Mr. JOHNSON, Mr. KAUFMAN, Mr. GRASSLEY, Mr. DURBIN, Mr. HARKIN, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3992. Mr. CRAPO proposed an amendment to amendment SA 3956 proposed by Ms. LANDRIEU (for herself, Mr. ISAKSON, Mrs. HAGAN, Mr. WARNER, and Mr. MENENDEZ) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3993. Ms. STABENOW (for herself and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3994. Mr. SPECTER 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 3995. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3996. Mr. COBURN (for himself, Mrs. MCCASKILL, and Mr. MCCAIN) 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 him-

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

SA 3997. Mr. BROWNBACK (for himself, Mr. FEINGOLD, Mr. DURBIN, Mr. SPECTER, Mr. BROWN of Ohio, Mr. JOHNSON, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mrs. BOXER, 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 3998. Mr. BUNNING 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 3999. Mr. BUNNING 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 4000. Mr. KAUFMAN (for himself, Mr. GRASSLEY, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4001. Ms. LANDRIEU (for herself and Mr. ISAKSON) 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 4002. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4003. Mr. VITTER 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 4004. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3979. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1552, beginning on line 16, strike “the President” and all that follows through “Senate,” on line 19 and insert the following: “the Class B directors of the Federal Reserve Bank of New York shall be designated by the Board of Governors.”

On page 1553, line 1, strike “supervised by the Board” and insert “subject to enhanced supervision and prudential standards under section 115”.

SA 3980. Mr. CARDIN (for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, and Mr. JOHNSON) 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 1187, line 9, strike “effective.” insert the following: “effective.”

Subtitle K—Resource Extraction Issuers

SEC. 995. FINDINGS.

Congress finds the following:

(1) It is in the interest of the United States to promote good governance in the extractive industries sector. Transparency in revenue payments benefits oil, gas, and mining companies, because it improves the business climate in which such companies work, increases the reliability of commodity supplies upon which businesses and people in the United States rely, and promotes greater energy security.

(2) Companies in the extractive industries sector face unique tax and reputational risks, in the form of country-specific taxes and regulations. Exposure to these risks is heightened by the substantial capital employed in the extractive industries, and the often opaque and unaccountable management of natural resource revenues by foreign governments, which in turn creates unstable and high-cost operating environments for multinational companies. The effects of these risks are material to investors.

SEC. 996. DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(p) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘commercial development of oil, natural gas, or minerals’ includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

“(B) the term ‘foreign government’ means a foreign government, a department, agency, or instrumentality of a foreign government, an officer or employee of a foreign government, an agent of a foreign government, or a company owned by a foreign government, as determined by the Commission;

“(C) the term ‘payment’—

“(i) means a payment that is—

“(I) made to further the commercial development of oil, natural gas, or minerals; and

“(II) not de minimis; and

“(ii) includes taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals;

“(D) the term ‘resource extraction issuer’ means an issuer that—

“(i) is required to file an annual report with the Commission; and

“(ii) engages in the commercial development of oil, natural gas, or minerals;

“(E) the term ‘interactive data format’ means an electronic data format in which

pieces of information are identified using an interactive data standard; and

“(F) the term ‘interactive data standard’ means standardized list of electronic tags that mark information included in the annual report of a resource extraction issuer.

“(2) DISCLOSURE.—

“(A) INFORMATION REQUIRED.—Not later than 270 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall issue final rules that require each resource extraction issuer to include in the annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

“(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

“(ii) the type and total amount of such payments made to each government.

“(B) INTERACTIVE DATA FORMAT.—The rules issued under subparagraph (A) shall require that the information included in the annual report of a resource extraction issuer be submitted in an interactive data format.

“(C) INTERACTIVE DATA STANDARD.—

“(i) IN GENERAL.—The rules issued under subparagraph (A) shall establish an interactive data standard for the information included in the annual report of a resource extraction issuer.

“(ii) ELECTRONIC TAGS.—The interactive data standard shall include electronic tags that identify, for any payments made by a resource extraction issuer to a foreign government or the Federal Government—

“(I) the total amounts of the payments, by category;

“(II) the currency used to make the payments;

“(III) the financial period in which the payments were made;

“(IV) the business segment of the resource extraction issuer that made the payments;

“(V) the government that received the payments, and the country in which the government is located;

“(VI) the project of the resource extraction issuer to which the payments relate; and

“(VII) such other information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

“(D) INTERNATIONAL TRANSPARENCY EFFORTS.—To the extent practicable, the rules issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

“(E) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

“(3) PUBLIC AVAILABILITY OF INFORMATION.—

“(A) IN GENERAL.—To the extent practicable, the Commission shall make available online, to the public, a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).

“(B) OTHER INFORMATION.—Nothing in this paragraph shall require the Commission to make available online information other than the information required to be submitted under the rules issued under paragraph (2)(A).

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection.”.

SEC. 997. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the President should work with foreign governments, including members of the Group of 8 and the Group of 20, to establish domestic requirements that companies under the jurisdiction of each government publicly disclose any payments made to a government relating to the commercial development of oil, natural gas, and minerals; and

(2) the President should commit the United States to become a Candidate Country of the Extractive Industries Transparency Initiative.

SA 3981. Mr. CARDIN (for himself and Ms. MIKULSKI) 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 consider any structural or legal limits on the ability of the investment company or investment adviser to hold capital.

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 3982. 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. 122. DISCLOSURE OF CONFLICTS OF INTERESTS.

(a) RECOMMENDATION BY COUNCIL.—The Council shall issue recommendations to the primary financial regulatory agencies to require, as applicable, bank holding companies or nonbank financial companies under their respective jurisdictions to make appropriate disclosures to any purchaser or prospective purchaser of financial products from such companies, if such companies have a direct financial interest that is in material conflict with the interests of the purchaser or prospective purchaser.

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

SA 3983. 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 1052, line 3, strike “SEC. 942,” and insert the following:

SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.

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

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

(2) a down payment requirement that—
(A) is equal to not less than 5 percent of the purchase price of the property securing the residential mortgage; and

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

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

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

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

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

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

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

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

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

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

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

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

(d) **IMPLEMENTATION.**—

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

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

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

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

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

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

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

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

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, may jointly issue rules to exempt from

the requirements under subsection (a)(2), mortgage loan originators that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) **COMPANY.**—The term “company”—

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

(B) includes a sole proprietorship.

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

(3) **RESIDENTIAL MORTGAGE LOAN.**—The term “residential mortgage loan”—

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

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

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

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

(a) **STUDY.**—

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

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

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

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

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

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

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

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

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

SEC. 944.

SA 3984. 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 293, line 11, strike “(r)” and insert the following:

(r) **ADDITIONAL LIMITATION.**—Notwithstanding any other provision of this section, or any other provision of law, the Corporation, when acting as a receiver under this title, may not reject or repudiate a real property lease under which a covered financial company is a lessee unless—

(1) the lessor consents to such rejection or repudiation; or

(2) the Corporation agrees to pay damages to the lessee, as if the lease had been rejected under section 365 of title 11, United States Code.

(s)

SA 3985. Mr. GRASSLEY 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:

Strike 989B, insert the following:

SEC. 989B. DESIGNATED FEDERAL ENTITY INSPECTORS GENERAL INDEPENDENCE.

Section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (a)(4)—

(A) in the matter preceding subparagraph (A), by inserting “the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission,” after “means”;

(B) in subparagraph (A), by striking “and” after the semicolon; and

(C) by adding after subparagraph (B) the following:

“(C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code);

“(D) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

“(E) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a);

“(F) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

“(G) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; and

“(H) with respect to the Peace Corps, such term means the Director of the Peace Corps;”; and

(2) in subsection (h), by inserting “if the designated Federal entity is not a board or commission, include” after “designated Federal entities and”.

SEC. 989C. STRENGTHENING INSPECTOR GENERAL ACCOUNTABILITY.

Section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (12), by striking “and” after the semicolon;

(2) in paragraph (13), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(14)(A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or

“(B) if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;

“(15) a list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented,

including a statement describing the status of the implementation and why implementation is not complete; and

“(16) a list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented.”.

SEC. 989D. REMOVAL OF INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.

Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating the sentences following “(e)” as paragraph (2); and

(2) by striking “(e)” and inserting the following:

In the case of a designated Federal entity for which a board or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a ¾ majority of the board or commission.”.

SA 3986. Mr. CORNYN (for himself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

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

TITLE XIII—MISCELLANEOUS

SEC. 1301. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

“SEC. 68. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.

“(a) IN GENERAL.—The President shall direct the United States Executive Director of the International Monetary Fund—

“(1) to evaluate any proposed loan to a country by the Fund if the amount of the public debt of the country exceeds the gross domestic product of the country;

“(2) to determine whether or not the loan will be repaid and certify that determination to Congress.

“(b) OPPOSITION TO LOANS UNLIKELY TO BE REPAYED.—If the Executive Director determines under subsection (a)(2) that a loan by the International Monetary Fund to a country will not be repaid, the President shall direct the Executive Director to use the voice and vote of the United States to vote in opposition to the proposed loan.”.

SA 3987. Mr. THUNE 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 end-

ing 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 1208, between lines 12 and 13, insert the following:

(f) EXPIRATION.—Notwithstanding any other provision of this Act, the Bureau, and the authority of the Bureau under this title, shall terminate 4 years after the date of enactment of this Act, unless extended by an Act of Congress.

SA 3988. Mrs. GILLIBRAND 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:

(7) STUDY AND REPORT ON PAPER STATEMENT CHARGES.—Not later than 6 months after the date of enactment of this Act, the Office of Financial Literacy shall conduct a study and submit a report to Congress—

(A) on the charging of fees for paper copies of statements related to a consumer financial product or service by covered persons under this title;

(B) the charging of fees for the use of paper checks as payment to covered persons under this title;

(C) on the impact of the imposition of such fees on financial literacy, particularly among—

(i) the elderly;

(ii) low-income individuals; and

(iii) individuals that lack computer access; and

(D) that includes recommendations on how to ensure that the individuals described in subparagraph (C) are not negatively impacted by the imposition of fees to receive paper statements, including recommendations—

(i) on whether covered persons under this title should be—

(I) prohibited from charging fees for paper statements;

(II) prohibited from automatically enrolling individuals in e-statement or other electronic delivery programs without the express consent of the individual, in the manner described in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.); and

(III) prevented from charging fees for the use of paper checks as payment; and

(ii) regarding alternative methods to ensure that such individuals are able to access paper copies of financial statements without fees or unnecessary hindrance.

(8) AUTHORITY TO BAR FEES ON PAPER STATEMENTS.—Not later than 3 months after the submission of the report required under paragraph (7), the Director shall issue rules implementing the recommendations contained in such report.

On page 1297, line 11, before the period, insert “, or in paper form at no additional cost upon request of the consumer”.

SA 3989. Mr. DURBIN 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, add the following:

SEC. 1077. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 920 and 921 as sections 921 and 922, respectively; and

(2) by inserting after section 919 the following:

“SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.

“(a) REASONABLE INTERCHANGE TRANSACTION FEES FOR ELECTRONIC DEBIT TRANSACTIONS.—

“(1) REGULATORY AUTHORITY.—The Board shall have authority to establish rules, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction.

“(2) REASONABLE FEES.—The amount of any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction shall be reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

“(3) RULEMAKING REQUIRED.—The Board shall issue final rules, not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

“(4) CONSIDERATIONS.—In issuing rules required by this section, the Board shall—

“(A) consider the functional similarity between—

“(i) electronic debit transactions; and

“(ii) checking transactions that are required within the Federal Reserve bank system to clear at par;

“(B) distinguish between—

“(i) the actual incremental cost incurred by an issuer or payment card network for the role of the issuer or the payment card network in the authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and

“(ii) other costs incurred by an issuer or payment card network which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and

“(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.

“(5) EXEMPTION FOR SMALL ISSUERS.—This subsection shall not apply to issuers that, together with affiliates, have assets of less than \$10,000,000,000, and the Board shall exempt such issuers from rules issued under paragraph (3).

“(6) EFFECTIVE DATE.—Paragraph (2) shall become effective 12 months after the date of

enactment of the Consumer Financial Protection Act of 2010.

“(b) LIMITATION ON ANTI-COMPETITIVE PAYMENT CARD NETWORK RESTRICTIONS.—

“(1) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A COMPETING PAYMENT CARD NETWORK.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment through the use of a card or device of another payment card network.

“(2) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, check, debit card, or credit card.

“(3) NO RESTRICTIONS ON SETTING TRANSACTION MINIMUMS OR MAXIMUMS.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to set a minimum or maximum dollar value for the acceptance by that person of any form of payment.

“(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) DEBIT CARD.—The term ‘debit card’—

“(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account for the purpose of transferring money between accounts or obtaining goods or services, whether authorization is based on signature, PIN, or other means;

“(B) includes general use prepaid cards, as that term is defined in section 915(a)(2)(A) (15 U.S.C. 1693l-1(a)(2)(A)); and

“(C) does not include paper checks.

“(2) CREDIT CARD.—The term ‘credit card’ has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

“(3) DISCOUNT.—The term ‘discount’—

“(A) means a reduction made from the price that customers are informed is the regular price; and

“(B) does not include any means of increasing the price that customers are informed is the regular price.

“(4) ELECTRONIC DEBIT TRANSACTION.—The term ‘electronic debit transaction’ means a transaction in which a person uses a debit card to debit an asset account.

“(5) INTERCHANGE TRANSACTION FEE.—The term ‘interchange transaction fee’ means any fee established by a payment card network that has been established for the purpose of compensating an issuer or payment card network for its involvement in an electronic debit transaction.

“(6) ISSUER.—The term ‘issuer’ means any person who issues a debit card, or the agent of such person with respect to such card.

“(7) PAYMENT CARD NETWORK.—The term ‘payment card network’ means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.”

SA 3990. Mr. LIEBERMAN (for himself and 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 27, strike lines 11 through 19 and insert the following:

(C) monitor the financial services marketplace in order to identify potential threats to the financial stability of the United States, including any threats posed by foreign countries or non-state actors who may attempt to disrupt the United States financial markets;

(D) facilitate information sharing and coordination among the member agencies and other Federal and State agencies regarding domestic financial services policy development, rulemaking, examinations, reporting requirements, enforcement actions, and potential threats to the financial stability of the United States;

SA 3991. Mr. FRANKEN (for himself, Mr. SCHUMER, Mr. NELSON of Florida, Mr. WHITEHOUSE, Mr. BROWN of Ohio, Mrs. MURRAY, Mr. MERKLEY, Mr. BINGAMAN, Mr. LAUTENBERG, Mrs. SHAHEEN, Mr. CASEY, Mr. WICKER, Mr. SANDERS, Mr. JOHNSON, Mr. KAUFMAN, Mr. GRASSLEY, Mr. DURBIN, Mr. HARKIN, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1044, between lines 2 and 3, insert the following:

SEC. 939D. INITIAL CREDIT RATING ASSIGNMENTS.

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

“(w) INITIAL CREDIT RATING ASSIGNMENTS.—

“(1) DEFINITIONS.—In this subsection the following definitions shall apply:

“(A) BOARD.—The term ‘Board’ means the Credit Rating Agency Board established under paragraph (2).

“(B) QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term ‘qualified nationally recognized statistical rating organization’, with respect to a category of structured finance products, means a nationally recognized statistical rating organization that the Board determines, under paragraph (3)(B), to be qualified to issue initial credit ratings with respect to such category.

“(C) REGULATIONS.—

“(i) CATEGORY OF STRUCTURED FINANCE PRODUCTS.—

“(I) IN GENERAL.—The term ‘category of structured finance products’—

“(aa) shall include any asset backed security and any structured product based on an asset-backed security; and

“(bb) shall be further defined and expanded by the Commission, by rule, as necessary.

“(II) CONSIDERATIONS.—In issuing the regulations required under subclause (I), the Commission shall consider—

“(aa) the types of issuers that issue structured finance products;

“(bb) the types of investors who purchase structured finance products;

“(cc) the different categories of structured finance products according to—

“(AA) the types of capital flow and legal structure used;

“(BB) the types of underlying products used; and

“(CC) the types of terms used in debt securities;

“(dd) the different values of debt securities; and

“(ee) the different numbers of units of debt securities that are issued together.

“(i) REASONABLE FEE.—The Board shall issue regulations to define the term ‘reasonable fee’.

“(2) CREDIT RATING AGENCY BOARD.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall—

“(i) establish the Credit Rating Agency Board, which shall be a self-regulatory organization;

“(ii) subject to subparagraph (C), select the initial members of the Board; and

“(iii) establish a schedule to ensure that the Board begins assigning qualified nationally recognized statistical rating organizations to provide initial ratings not later than 1 year after the selection of the members of the Board.

“(B) SCHEDULE.—The schedule established under subparagraph (A)(iii) shall prescribe when—

“(i) the Board will conduct a study of the securitization and ratings process and provide recommendations to the Commission;

“(ii) the Commission will issue rules and regulations under this section;

“(iii) the Board may issue rules under this subsection; and

“(iv) the Board will—

“(I) begin accepting applications to select qualified national recognized statistical rating organizations; and

“(II) begin assigning qualified national recognized statistical rating organizations to provide initial ratings.

“(C) MEMBERSHIP.—

“(i) IN GENERAL.—The Board shall initially be composed of an odd number of members selected from the industry, with the total numerical membership of the Board to be determined by the Commission.

“(ii) SPECIFICATIONS.—Of the members initially selected to serve on the Board—

“(I) not less than a majority of the members shall be representatives of the investor industry who do not represent issuers;

“(II) not less than 1 member should be a representative of the issuer industry;

“(III) not less than 1 member should be a representative of the credit rating agency industry; and

“(IV) not less than 1 member should be an independent member.

“(iii) TERMS.—Initial members shall be appointed by the Commission for a term of 4 years.

“(iv) NOMINATION AND ELECTION OF MEMBERS.—

“(I) IN GENERAL.—Prior to the expiration of the terms of office of the initial members, the Commission shall establish fair procedures for the nomination and election of future members of the Board.

“(II) MODIFICATIONS OF THE BOARD.—Prior to the expiration of the terms of office of the initial members, the Commission—

“(aa) may increase the size of the board to a larger odd number and adjust the length of future terms; and

“(bb) shall retain the composition of members described in clause (ii).

“(v) RESPONSIBILITIES OF MEMBERS.—Members shall perform, at a minimum, the duties described in this subsection.

“(vi) RULEMAKING AUTHORITY.—The Commission shall, if it determines necessary and appropriate, issue further rules and regulations on the composition of the membership of the Board and the responsibilities of the members.

“(D) OTHER AUTHORITIES OF THE BOARD.—The Board shall have the authority to levy fees from qualified nationally recognized statistical rating organization applicants, and periodically from qualified nationally recognized statistical rating organizations as necessary to fund expenses of the Board.

“(E) REGULATION.—The Commission has the authority to regulate the activities of the Board, and issue any further regulations of the Board it deems necessary, not in contravention with the intent of this section.

“(3) BOARD SELECTION OF QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—

“(A) APPLICATION.—

“(i) IN GENERAL.—A nationally recognized statistical rating organization may submit an application to the Board, in such form and manner as the Board may require, to become a qualified nationally recognized statistical rating organization with respect to a category of structured finance products.

“(ii) CONTENTS.—An application submitted under clause (i) shall contain—

“(I) information regarding the institutional and technical capacity of the nationally recognized statistical rating organization to issue credit ratings;

“(II) information on whether the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section; and

“(III) any additional information the Board may require.

“(iii) REJECTION OF APPLICATIONS.—The Board may reject an application submitted under this paragraph if the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section.

“(B) SELECTION.—The Board shall select qualified national recognized statistical rating organizations with respect to each category of structured finance products from among nationally recognized statistical rating organizations that submit applications under subparagraph (A).

“(C) RETENTION OF STATUS AND OBLIGATIONS AFTER SELECTION.—An entity selected as a qualified nationally recognized statistical rating organization shall retain its status and obligations under the law as a nationally recognized statistical rating organization, and nothing in this subsection grants authority to the Commission or the Board to exempt qualified nationally recognized statistical rating organizations from obligations or requirements otherwise imposed by Federal law on nationally recognized statistical rating organizations

“(4) REQUESTING AN INITIAL CREDIT RATING.—An issuer that seeks an initial credit rating for a structured finance product—

“(A) may not request an initial credit rating from a nationally recognized statistical rating organization; and

“(B) shall submit a request for an initial credit rating to the Board, in such form and manner as the Board may prescribe.

“(5) ASSIGNMENT OF RATING DUTIES.—

“(A) IN GENERAL.—For each request received by the Board under paragraph (4)(B), the Board shall select a qualified nationally recognized statistical rating organization to provide the initial credit rating to the issuer.

“(B) METHOD OF SELECTION.—

“(i) IN GENERAL.—The Board shall—

“(I) evaluate a number of selection methods, including a lottery or rotating assignment system, incorporating the factors described in clause (ii), to reduce the conflicts of interest that exist under the issuer-pays model; and

“(II) prescribe and publish the selection method to be used under subparagraph (A).

“(ii) CONSIDERATION.—In evaluating a selection method described in clause (i)(I), the Board shall consider—

“(I) the information submitted by the qualified nationally recognized statistical rating organization under paragraph (3)(A)(ii) regarding the institutional and technical capacity of the qualified nationally recognized statistical rating organization to issue credit ratings;

“(II) evaluations conducted under paragraph (7);

“(III) formal feedback from institutional investors; and

“(IV) information from subclauses (I) and (II) to implement a mechanism which increases or decreases assignments based on past performance.

“(iii) PROHIBITION.—The Board, in choosing a selection method, may not use a method that would allow for the solicitation or consideration of the preferred national recognized statistical rating organizations of the issuer.

“(iv) ADJUSTMENT OF PROCESS.—The Board shall issue rules describing the process by which it can modify the assignment process described in clause (i).

“(C) RIGHT OF REFUSAL.—

“(i) REFUSAL.—A qualified nationally recognized statistical rating organization selected under subparagraph (A) may refuse to accept a selection for a particular request by—

“(I) notifying the Board of such refusal; and

“(II) submitting to the Board a written explanation of the refusal.

“(ii) SELECTION.—Upon receipt of a notification under clause (i), the Board shall make an additional selection under subparagraph (A).

“(iii) INSPECTION REPORTS.—The Board shall annually submit any explanations of refusals received under clause (i)(II) to the Commission, and such explanatory submissions shall be published in the annual inspection reports required under subsection (p)(3)(C).

“(6) DISCLAIMER REQUIRED.—Each initial credit rating issued under this subsection shall include, in writing, the following disclaimer: ‘This initial rating has not been evaluated, approved, or certified by the Government of the United States or by a Federal agency.’

“(7) EVALUATION OF PERFORMANCE.—

“(A) IN GENERAL.—The Board shall prescribe rules by which the Board will evaluate the performance of each qualified nationally recognized statistical rating organization, including rules that require, at a minimum, an annual evaluation of each qualified nationally recognized statistical rating organization.

“(B) CONSIDERATIONS.—The Board, in conducting an evaluation under subparagraph (A), shall consider—

“(i) the results of the annual examination conducted under subsection (p)(3);

“(ii) surveillance of credit ratings conducted by the qualified nationally recognized statistical rating organization after the credit ratings are issued, including—

“(I) how the rated instruments perform;

“(II) the accuracy of the ratings provided by the qualified nationally recognized statistical rating organization as compared to the other nationally recognized statistical rating organizations; and

“(III) the effectiveness of the methodologies used by the qualified nationally recognized statistical rating organization; and

“(iii) any additional factors the Board determines to be relevant.

“(C) REQUEST FOR REEVALUATION.—Subject to rules prescribed by the Board, and not less frequently than once a year, a qualified nationally recognized statistical rating organization may request that the Board conduct an evaluation under this paragraph.

“(D) DISCLOSURE.—The Board shall make the evaluations conducted under this paragraph available to Congress.

“(8) RATING FEES CHARGED TO ISSUERS.—

“(A) LIMITED TO REASONABLE FEES.—A qualified nationally recognized statistical rating organization shall charge an issuer a reasonable fee, as determined by the Commission, for an initial credit rating provided under this section.

“(B) FEES.—Fees may be determined by the qualified national recognized statistical rating organizations unless the Board determines it is necessary to issue rules on fees.

“(9) NO PROHIBITION ON ADDITIONAL RATINGS.—Nothing in this section shall prohibit an issuer from requesting or receiving additional credit ratings with respect to a debt security, if the initial credit rating is provided in accordance with this section.

“(10) NO PROHIBITION ON INDEPENDENT RATINGS OFFERED BY NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.—

“(A) IN GENERAL.—Nothing in this section shall prohibit a nationally recognized statistical rating organization from independently providing a credit rating with respect to a debt security, if—

“(i) the nationally recognized statistical rating organization does not enter into a contract with the issuer of the debt security to provide the initial credit rating; and

“(ii) the nationally recognized statistical rating organization is not paid by the issuer of the debt security to provide the initial credit rating.

“(B) RULE OF CONSTRUCTION.—For purposes of this section, a credit rating described in subparagraph (A) may not be construed to be an initial credit rating.

“(11) PUBLIC COMMUNICATIONS.—Any communications made with the public by an issuer with respect to the credit rating of a debt security shall clearly specify whether the credit rating was made by—

“(A) a qualified nationally recognized statistical rating organization selected under paragraph (5)(A) to provide the initial credit rating for such debt security; or

“(B) a nationally recognized statistical rating organization not selected under paragraph (5)(A).

“(12) PROHIBITION ON MISREPRESENTATION.—With respect to a debt security, it shall be unlawful for any person to misrepresent any subsequent credit rating provided for such debt security as an initial credit rating provided for such debt security by a qualified nationally recognized statistical rating organization selected under paragraph (5)(A).

“(13) INITIAL CREDIT RATING REVISION AFTER MATERIAL CHANGE IN CIRCUMSTANCE.—If the Board determines that it is necessary or appropriate in the public interest or for the protection of investors, the Board may issue

regulations requiring that an issuer that has received an initial credit rating under this subsection request a revised initial credit rating, using the same method as provided under paragraph (4), each time the issuer experiences a material change in circumstances, as defined by the Board.

“(14) CONFLICTS.—

“(A) MEMBERS OR EMPLOYEES OF THE BOARD.—

“(i) LOAN OF MONEY OR SECURITIES PROHIBITED.—

“(I) IN GENERAL.—A member or employee of the Board shall not accept any loan of money or securities, or anything above nominal value, from any nationally recognized statistical rating organization, issuer, or investor.

“(II) EXCEPTION.—The prohibition in subclause (I) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.

“(ii) EMPLOYMENT NEGOTIATIONS PROHIBITION.—A member or employee of the Board shall not engage in employment negotiations with any nationally recognized statistical rating organization, issuer, or investor, unless the member or employee—

“(I) discloses the negotiations immediately upon initiation of the negotiations; and

“(II) recuses himself from all proceedings concerning the entity involved in the negotiations until termination of negotiations or until termination of his employment by the Board, if an offer of employment is accepted.

“(B) CREDIT ANALYSTS.—

“(i) IN GENERAL.—A credit analyst of a qualified nationally recognized statistical rating organization shall not accept any loan of money or securities, or anything above nominal value, from any issuer or investor.

“(ii) EXCEPTION.—The prohibition described in clause (i) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.

“(15) EVALUATION OF CREDIT RATING AGENCY BOARD.—Not later than 5 years after the date that the Board begins assigning qualified nationally recognized statistical rating organizations to provide initial ratings, the Commission shall submit to Congress a report that provides recommendations of—

“(A) the continuation of the Board;

“(B) any modification to the procedures of the Board; and

“(C) modifications to the provisions in this subsection.”.

SA 3992. Mr. CRAPO proposed an amendment to amendment SA 3956 proposed by Ms. LANDRIEU (for herself, Mr. ISAKSON, Mrs. HAGAN, Mr. WARNER, and Mr. MENENDEZ) 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 1 of the amendment, strike line 3 and all that follows through page 3, line 7, and insert the following:

“(i) a portion of the credit risk for any asset that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or

“(ii) a reduced portion or no portion of the credit risk for an asset described in clause (i), if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B) or subsection (e)(4);

“(C) specify—

“(i) the permissible types, forms, and amounts of risk retention that would meet the requirements of subparagraph (B), including—

“(I) retention of—

“(aa) a specified amount or percentage of the total credit risk of the asset;

“(bb) the value of securities sold to investors; or

“(cc) the interest of the seller in revolving assets;

“(II) retention of the first-loss position by a third-party purchaser that specifically negotiates for the purchase of such first-loss position and provides due diligence on all individual assets in the pool before the issuance of the asset-backed securities;

“(III) a determination by a Federal banking agency or the Commission that the underwriting standards and controls of the originator are adequate for risk retention purposes; and

“(IV) provision of adequate representations and warranties and related enforcement mechanisms; and

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

SA 3993. Ms. STABENOW (for herself and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 580, line 20, insert “and involved in hedging activities related to” after “engaged in”.

On page 580, lines 24 and 25, strike “only if the affiliate” and insert “as can affiliates”.

On page 581, line 1, strike “uses” and insert “using”.

On page 582, between lines 6 and 7, insert the following:

“(iii) TRANSITION RULE.—

“(I) IN GENERAL.—An affiliate or a wholly owned entity of a commercial end user that is predominantly engaged in providing financing for the purchase of merchandise or manufactured goods of the commercial end user affiliate shall be exempt from the margin requirement described in section 4s(e) and the clearing requirement described in paragraph (1) with regard to swaps entered into to mitigate the risk of the financing activities for not less than a 3-year period beginning on the date of enactment of this clause.

“(II) AUTHORITY OF COMMISSION.—On the date on which the 3-year period described in subclause (I) ends, the Commission may extend the exemption described in that subclause for an additional 1-year period if the Commission determines the extension to be in the public interest and publishes in the Federal Register the order granting the extension (including each reason for the extension).”.

On page 653, line 22, strike “and such counterparty” and insert “except if such counterparty”.

On page 653, line 23, strike “and” and insert “and is”.

SA 3994. Mr. SPECTER 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 1004, line 11, strike the period at the end and insert the following: “.

SEC. 929D. PRIVATE CIVIL ACTION FOR AIDING AND ABETTING.

Section 20(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(e)) is amended—

(1) in the subsection heading, by striking “PROSECUTION OF” and inserting “ACTIONS AGAINST”;

(2) by striking “For purposes” and inserting the following:

“(1) ACTIONS BROUGHT BY COMMISSION.—For purposes”; and

(3) by adding at the end the following:

“(2) PRIVATE CIVIL ACTIONS.—For purposes of any private civil action implied under this title, any person that knowingly provides substantial assistance to another person in violation of this title, or of any rule or regulation issued under this title, shall be deemed to be in violation of this title to the same extent as the person to whom such assistance is provided. For purposes of this paragraph, a person acts knowingly only if the person has actual knowledge of the improper conduct underlying the violation described in the preceding sentence and the role of the person in assisting such conduct.”.

SA 3995. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1304, between lines 5 and 6, insert the following:

(e) STUDY AND REPORT ON PRIVATE EDUCATION LOANS AND PRIVATE EDUCATIONAL LENDERS.—

(1) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director and the Secretary of Education, in consultation with the Commissioners of the Federal Trade Commission and the Attorney General, shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives on private education loans and private educational lenders (as that term is defined in section 140 of the Truth in Lending Act (15 U.S.C. 1650)).

(2) CONTENT.—The report required by this subsection shall examine, at a minimum, the following:

(A) The growth and changes of the private education loan market in the United States.

(B) Factors influencing such growth and changes.

(C) The extent to which students and parents of students rely on private education loans to finance postsecondary education and the private education loan indebtedness of borrowers.

(D) The characteristics of private education loan borrowers, including—

(i) the types of institutions of higher education such borrowers attend;

(ii) socioeconomic characteristics (including income and education levels, racial characteristics, geographical background, age, and gender);

(iii) the other forms of financing borrowers use to pay for education;

(iv) whether borrowers exhaust their Federal loan options before taking out a private education loan;

(v) whether such borrowers are dependent or independent students (as determined under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk)) or parents of such students;

(vi) whether such borrowers are students enrolled in a program leading to a certificate, license, or credential other than a degree, an associate's degree, a baccalaureate degree, or a graduate or professional degree; and

(vii) if practicable, employment and repayment behaviors.

(E) The characteristics of private educational lenders, including whether such lenders are for-profit, nonprofit, or institutions of higher education.

(F) The underwriting criteria used by private educational lenders, including the use of the cohort default rate (as such term is defined in section 435(m) of the Higher Education Act of 1965 (20 U.S.C. 1085(m))).

(G) The terms, conditions, and pricing of private education loans.

(H) The consumer protections available to private education loan borrowers, including the effectiveness of existing disclosures and requirements and borrowers' awareness and understanding about terms and conditions of various financial products.

(I) Whether Federal regulators and the public have access to information—

(i) sufficient to provide them with assurances that private education loans are provided in accord with the fair lending laws of the United States; and

(ii) that allows public officials to determine lenders' compliance with fair lending laws.

(J) Any statutory or legislative recommendations necessary to improve consumer protections for private education loan borrowers and to better enable Federal regulators and the public to ascertain private educational lender compliance with fair lending laws.

SA 3996. Mr. COBURN (for himself and Mrs. MCCASKILL) 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 end-

ing 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.—In the Senate, legislation that has been subject to a hotline notification may not pass by unanimous consent unless the hotline notification has been posted on the public website of the Senate for at least 3 calendar days as provided in subsection (c).

(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 pronounced 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 3997. Mr. BROWNBACK (for himself, Mr. FEINGOLD, Mr. DURBIN, Mr. SPECTER, Mr. BROWN of Ohio, Mr. JOHNSON, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mrs. BOXER, 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 1565, after line 23, add the following:

TITLE XIII—CONGO CONFLICT MINERALS
SEC. 1301. SENSE OF CONGRESS ON EXPLOITATION AND TRADE OF COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.

It is the sense of Congress that the exploitation and trade of columbite-tantalite, cassiterite, gold, and wolframite in the eastern Democratic Republic of Congo is helping to finance extreme levels of violence in the eastern Democratic Republic of Congo, particularly sexual and gender-based violence, and contributing to an emergency humanitarian situation therein, warranting the provisions of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302.

SEC. 1302. DISCLOSURE TO SECURITIES AND EXCHANGE COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by section 763 of this Act, is further amended by adding at the end the following new subsection:

“(o) DISCLOSURES TO COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, the Commission shall promulgate rules requiring any person described in paragraph (2)—

“(A) to disclose annually to the Commission in a report—

“(i) whether the columbite-tantalite, cassiterite, gold, or wolframite that was necessary as described in paragraph (2)(A)(ii) in the year for which such report is submitted originated or may have originated in the Democratic Republic of Congo or an adjoining country; and

“(ii) a description of the measures taken by the person, which may include an independent audit, to exercise due diligence on the source and chain of custody of such columbite-tantalite, cassiterite, gold, or wolframite, or derivatives of such minerals, in order to ensure that the activities of such person that involve such minerals or derivatives did not directly or indirectly finance or benefit armed groups in the Democratic Republic of Congo or an adjoining country; and

“(B) make the information disclosed under subparagraph (A) available to the public on the Internet website of the person.

“(2) PERSON DESCRIBED.—

“(A) IN GENERAL.—A person is described in this paragraph if—

“(i) the person is required to file reports to the Commission under subsection (a)(2); and

“(ii) columbite-tantalite, cassiterite, gold, or wolframite is necessary to the functionality or production of a product manufactured by such person.

“(B) DERIVATIVES.—For purposes of this paragraph, if a derivative of a mineral is necessary to the functionality or production of a product manufactured by a person, such mineral shall also be considered necessary to the functionality or production of a product manufactured by the person.

“(3) REVISIONS AND WAIVERS.—The Commission shall revise or temporarily waive the requirements described in paragraph (1) if the President determines that such revision or waiver is in the public interest.

“(4) TERMINATION OF DISCLOSURE REQUIREMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of paragraph (1) shall terminate on the date that is 5 years after the date of the enactment of this subsection.

“(B) EXTENSION BY SECRETARY OF STATE.—The date described in subparagraph (A) shall be extended by 1 year for each year in which the Secretary of State certifies that armed parties to the ongoing armed conflict in the Democratic Republic of Congo or adjoining countries continue to be directly involved and benefitting from commercial activity involving columbite-tantalite, cassiterite, gold, or wolframite.

“(5) ADJOINING COUNTRY DEFINED.—In this subsection, the term ‘adjoining country’, with respect to the Democratic Republic of Congo, means a country that shares an internationally recognized border with the Democratic Republic of Congo.”.

SEC. 1303. REPORT.

Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that includes the following:

(1) An assessment of the effectiveness of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302, in promoting peace and security in the eastern Democratic Republic of Congo.

(2) A description of the problems, if any, encountered by the Securities and Exchange Commission in carrying out the provisions of such section 13(o).

(3) A description of the adverse impacts of carrying out the provisions of such section 13(o), if any, on communities in the eastern Democratic Republic of Congo.

(4) Recommendations for legislative or regulatory actions that can be taken—

(A) to improve the effectiveness of the provisions of such section 13(o) to promote peace and security in the eastern Democratic Republic of Congo;

(B) to resolve the problems described pursuant to paragraph (2), if any; and

(C) to mitigate the adverse impacts described pursuant paragraph (3), if any.

SA 3998. Mr. BUNNING 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 1552, strike line 8 and all that follows through page 1553, line 6, and insert the following:

SEC. 1157. ACCOUNTABILITY, TRANSPARENCY, AND REFORMS.

(a) TERM LIMITS FOR THE CHAIRMAN AND VICE CHAIRMEN.—The third sentence of the second undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242), as amended by section 1158(a)(1) of this Act, is amended by inserting before the period at the end the following: “, provided that no person shall be designated to serve as Chairman of the Board more than twice and no person shall be designated to serve as a Vice Chairman of the Board more than twice”.

(b) FEDERAL RESERVE ACT EMERGENCY LENDING AUTHORITY.—The third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) (relating to emergency lending authority), as amended by section 1151 of this Act, is amended by inserting “and the majority of the presidents or first vice presidents of the Federal reserve banks” after “not less than five members”.

(c) STAFF FOR MEMBERS OF THE BOARD OF GOVERNORS.—Section 11(l) of the Federal Reserve Act (12 U.S.C. 248(1)) is amended in the first sentence by inserting “, including independent staff for each member of the Board” before the period at the end.

(d) FEDERAL OPEN MARKET COMMITTEE.—Section 12A(a) of the Federal Reserve Act (12 U.S.C. 263(a)) is amended by striking “five representatives” and all that follows and inserting “the presidents or first vice presidents of the Federal reserve banks. Any action of the Committee shall require approval by a majority of the presidents or first vice presidents of the Federal reserve banks and a majority of the members of the Board of Governors of the Federal Reserve System. The Chairman of the Board of Governors of the Federal Reserve System shall not cast a vote except in the case of a tie. Each member of the Committee shall have the right to debate and be accompanied by staff. At the first meeting of each calendar year, the Committee shall elect a Chairman and Vice Chairman. The Chairman and Vice Chairman may not both be members of the Board of Governors of the Federal Reserve System and a member of the Committee may not be elected to consecutive terms as Vice Chairman. The meetings of the Committee shall be held at Washington, District of Columbia, at least 4 times each year, upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any 3 members of the Committee.”.

(e) MONETARY POLICY TO BE CONDUCTED BY THE FEDERAL OPEN MARKET COMMITTEE.—Section 19(b)(12)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(12)(A)) is amended by striking “not to exceed the general level of short-term interest rates” and inserting “determined by the Federal Open Market Committee”.

(f) TRANSPARENCY; SUNSHINE ACT APPLIES TO THE FEDERAL RESERVE.—Section 552b of title 5, United States Code, is amended—

(1) in subsection (a)(1), by inserting “the Board of Governors of the Federal Reserve System, the Federal Open Market Committee, and” after “means”;

(2) in subsection (f)—

(A) in paragraph (1), by striking “each meeting,” and all that follows and inserting “each meeting.”; and

(B) in paragraph (2)—

(i) by striking “transcript, electronic recording, or minutes (as required by paragraph (1))” and inserting “transcript or electronic recording”;

(ii) by striking “of such transcript, or minutes,” and inserting “of such transcript”;

(iii) by striking “, a complete copy of the minutes,”; and

(iv) by adding before the period at the end “, except that the Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain such transcript or electronic recording permanently”;

(3) in subsection (k)—

(A) by striking “transcripts, recordings, or minutes” and inserting “transcripts or recordings”; and

(B) by striking “transcripts, recordings, and minutes” and inserting “transcripts and recordings”; and

(4) in subsection (m), by striking “transcripts, recordings, or minutes” and inserting “transcripts or recordings”.

(g) PUBLIC ACCESS TO INFORMATION.—Section 2B of the Federal Reserve Act (12 U.S.C. 225b) is amended—

(1) in subsection (c), as added by section 1153 of this Act—

(A) in the matter preceding paragraph (1), by striking “shall serve as a repository of information made available to the public for a reasonable period of time, not less than 6

months following the date of release of the relevant information, including—” and inserting “shall serve as a permanent repository of information made available to the public, which shall be made available on the webpage not later than 7 days after the date of release of the relevant information, including—”;

(B) by redesignating paragraph (3), by striking “and” at the end;

(C) by redesignating paragraph (4) as paragraph (6); and

(D) by adding at the end the following:

“(4) any audit of or report on the Board or the Federal Open Market Committee prepared by the Comptroller General of the United States;

“(5) the reports, minutes, transcripts, and other disclosures required under subsection (c); and”;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

“(c) ADDITIONAL REPORTS AND DISCLOSURES.—

“(1) BOARD.—

“(A) IN GENERAL.—The Board shall make publicly available—

“(i) an announcement of any actions taken by the Board at any meeting, at the conclusion of such meeting, including the votes of members of the Board;

“(ii) minutes of any meeting, not later than 30 days after the date of such meeting;

“(iii) transcripts of any meeting, not later than 1 year after the date of such meeting; and

“(iv) except as provided in subparagraph (B)—

“(I) not later than 1 year after providing any loan or other financial assistance to any entity, a report that includes—

“(aa) the justification for the exercise of authority to provide such assistance;

“(bb) the identity of the recipients of such assistance;

“(cc) the date and amount of the assistance, and the form in which the assistance was provided; and

“(dd) the material terms of the assistance, including—

“(AA) the duration;

“(BB) the collateral pledged and the value thereof;

“(CC) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;

“(DD) any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance; and

“(EE) the expected costs to the United States of the assistance; and

“(II) 30 days after the date on which a report is made available under subclause (I), and every 30 days thereafter, written updates on—

“(aa) the value of collateral;

“(bb) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and

“(cc) the expected or final cost to the United States of the assistance.

“(B) EXCEPTION.—If the Board, by the affirmative vote of not less than 5 members and the majority of the presidents or first vice presidents of the Federal reserve banks, determines that making the report required under subparagraph (A)(iv) publicly available at that time would not be in the public interest, public release of such report may be delayed by the Board for not more than 180 days, and, following a second such affirmative vote, for not more than 180 additional days, if the Board—

“(i) provides the report and any applicable updates required in subparagraph (A)(iv) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives within the time periods specified in subparagraph (A)(iv); and

“(ii) makes publicly available a statement—

“(I) describing the report withheld;

“(II) explaining the reasons for the determination that release of such report is not in the public interest; and

“(III) including the votes of the members of the Board on such determination.

“(2) FOMC.—The Federal Open Market Committee shall make publicly available—

“(A) at the conclusion of any meeting an announcement of any actions taken by the Committee at such meeting, including the votes of members of the Committee;

“(B) minutes of any meeting, not later than 30 days after the date of such meeting;

“(C) transcripts of any meeting, not later than 1 year after the date of such meeting.”.

(h) AGE DISCRIMINATION.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by striking “and the Library of Congress” and inserting “the Library of Congress, the Board of Governors of the Federal Reserve System, and the Federal reserve banks”.

(i) REPORTS.—

(1) GAO REPORT ON MONETARY STATISTICS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States 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 use of monetary statistics of the Board of Governors.

(B) CONTENTS.—The report under subparagraph (A) shall examine the scientific validity of the measures used by the Board of Governors, the usefulness of the measures, potential changes to the measures, and potential alternatives and additions to the measures.

(C) CONSULTATION.—In preparing the report under subparagraph (A), the Comptroller General shall consult, at a minimum, with—

(i) current and former policy and economic experts of the Board of Governors, the Federal Open Market Committee, and the Federal reserve banks;

(ii) economic and statistical staff of other Federal agencies;

(iii) academic economists and statisticians;

(iv) economic and statistical practitioners; and

(v) experts from other governments and international organizations.

(2) FEDERAL OPEN MARKET COMMITTEE REPORT ON ADOPTING A MONETARY POLICY RULE.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Federal Open Market Committee 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 feasibility and desirability of setting a monetary policy rule or guidelines.

(B) CONTENTS.—The report under subparagraph (A) shall examine multiple methods of setting the rules or guidelines described in subparagraph (A) and include an analysis of how the rules or guidelines would provide for accountability in fulfilling the mandate of the Committee and the Board of Governors.

(C) PARTICIPATION.—All members of the Board of Governors and each president of a Federal reserve bank, regardless of voting status in the year in which the report is pre-

pared, shall be entitled to participate in and comment on the report under subparagraph (A).

(j) EFFECT ON OTHER LAWS.—Other than as expressly provided in this Act, or an amendment made by this Act, nothing in this Act or an amendment made by this Act shall be construed to alter the public disclosure obligations of the Board of Governors, the Federal Open Market Committee, or the Federal reserve banks, including obligations under section 552 of title 5, United States Code (commonly known as “the Freedom of Information Act”), or any other provision of law.

SA 3999. Mr. BUNNING 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 1522, between lines 14 and 15, insert the following:

(2) by inserting “and the majority of the presidents or first vice presidents of the Federal reserve banks” after “not less than five members”;

On page 1522, line 15, strike “(2)” and insert “(3)”.

On page 1522, line 19, strike “(3)” and insert “(4)”.

On page 1522, line 22, strike “(4)” and insert “(5)”.

On page 1523, line 1, strike “(5)” and insert “(6)”.

On page 1523, line 4, strike “(6)” and insert “(7)”.

On page 1533, strike lines 7 through 13 and insert the following:

“(c) ADDITIONAL REPORTS AND DISCLOSURES.—

“(1) BOARD.—

“(A) IN GENERAL.—The Board shall make publicly available—

“(i) an announcement of any actions taken by the Board at any meeting, at the conclusion of such meeting, including the votes of members of the Board;

“(ii) minutes of any meeting, not later than 30 days after the date of such meeting;

“(iii) transcripts of any meeting, not later than 1 year after the date of such meeting; and

“(iv) except as provided in subparagraph (B)—

“(I) not later than 1 year after providing any loan or other financial assistance to any entity, a report that includes—

“(aa) the justification for the exercise of authority to provide such assistance;

“(bb) the identity of the recipients of such assistance;

“(cc) the date and amount of the assistance, and the form in which the assistance was provided; and

“(dd) the material terms of the assistance, including—

“(AA) the duration;

“(BB) the collateral pledged and the value thereof;

“(CC) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;

“(DD) any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance; and

“(EE) the expected costs to the United States of the assistance; and

“(II) 30 days after the date on which a report is made available under subclause (I), and every 30 days thereafter, written updates on—

“(aa) the value of collateral;

“(bb) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and

“(cc) the expected or final cost to the United States of the assistance.

“(B) EXCEPTION.—If the Board, by the affirmative vote of not less than 5 members and the majority of the presidents or first vice presidents of the Federal reserve banks, determines that making the report required under subparagraph (A)(iv) publicly available at that time would not be in the public interest, public release of such report may be delayed by the Board for not more than 180 days, and, following a second such affirmative vote, for not more than 180 additional days, if the Board—

“(i) provides the report and any applicable updates required in subparagraph (A)(iv) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives within the time periods specified in subparagraph (A)(iv); and

“(ii) makes publicly available a statement—

“(I) describing the report withheld;

“(II) explaining the reasons for the determination that release of such report is not in the public interest; and

“(III) including the votes of the members of the Board on such determination.

“(2) FOMC.—The Federal Open Market Committee shall make publicly available—

“(A) at the conclusion of any meeting an announcement of any actions taken by the Committee at such meeting, including the votes of members of the Committee;

“(B) minutes of any meeting, not later than 30 days after the date of such meeting;

“(C) transcripts of any meeting, not later than 1 year after the date of such meeting.

“(d) PUBLIC ACCESS TO INFORMATION.—The Board shall place on its home Internet website, a link entitled ‘Audit’, which shall link to a webpage that shall serve as a permanent repository of information made available to the public, which shall be made available on the webpage not later than 7 days after the date of release of the relevant information, including—

On page 1533, line 23, strike ‘and’.

On page 1533, between lines 23 and 24, insert the following:

“(4) any audit of or report on the Board or the Federal Open Market Committee prepared by the Comptroller General of the United States;

“(5) the reports, minutes, transcripts, and other disclosures required under subsection (c); and

On page 1533, line 24, strike ‘(4)’ and insert ‘(6)’.

On page 1552, strike line 8 and all that follows through page 1553, line 6, and insert the following:

SEC. 1157. ACCOUNTABILITY, TRANSPARENCY, AND REFORMS.

(a) STAFF FOR MEMBERS OF THE BOARD OF GOVERNORS.—Section 11(l) of the Federal Reserve Act (12 U.S.C. 248(l)) is amended in the first sentence by inserting ‘, including independent staff for each member of the Board’ before the period at the end.

(b) FEDERAL OPEN MARKET COMMITTEE.—Section 12A(a) of the Federal Reserve Act (12 U.S.C. 263(a)) is amended by striking ‘five representatives’ and all that follows and inserting ‘the presidents or first vice presidents of the Federal reserve banks. Any action of the Committee shall require approval

by a majority of the presidents or first vice presidents of the Federal reserve banks and a majority of the members of the Board of Governors of the Federal Reserve System. The Chairman of the Board of Governors of the Federal Reserve System shall not cast a vote except in the case of a tie. Each member of the Committee shall have the right to debate and be accompanied by staff. At the first meeting of each calendar year, the Committee shall elect a Chairman and Vice Chairman. The Chairman and Vice Chairman may not both be members of the Board of Governors of the Federal Reserve System and a member of the Committee may not be elected to consecutive terms as Vice Chairman. The meetings of the Committee shall be held at Washington, District of Columbia, at least 4 times each year, upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any 3 members of the Committee.’.

(c) MONETARY POLICY TO BE CONDUCTED BY THE FEDERAL OPEN MARKET COMMITTEE.—Section 19(b)(12)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(12)(A)) is amended by striking ‘not to exceed the general level of short-term interest rates’ and inserting ‘determined by the Federal Open Market Committee’.

(d) TRANSPARENCY; SUNSHINE ACT APPLIES TO THE FEDERAL RESERVE.—Section 552b of title 5, United States Code, is amended—

(1) in subsection (a)(1), by inserting ‘the Board of Governors of the Federal Reserve System, the Federal Open Market Committee, and’ after ‘means’;

(2) in subsection (f)—

(A) in paragraph (1), by striking ‘each meeting,’ and all that follows and inserting ‘each meeting.’; and

(B) in paragraph (2)—

(i) by striking ‘transcript, electronic recording, or minutes (as required by paragraph (1))’ and inserting ‘transcript or electronic recording’;

(ii) by striking ‘of such transcript, or minutes,’ and inserting ‘of such transcript’;

(iii) by striking ‘, a complete copy of the minutes.’; and

(iv) by adding before the period at the end ‘, except that the Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain such transcript or electronic recording permanently’;

(3) in subsection (k)—

(A) by striking ‘transcripts, recordings, or minutes’ and inserting ‘transcripts or recordings’; and

(B) by striking ‘transcripts, recordings, and minutes’ and inserting ‘transcripts and recordings’; and

(4) in subsection (m), by striking ‘transcripts, recordings, or minutes’ and inserting ‘transcripts or recordings’.

(e) AGE DISCRIMINATION.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by striking ‘and the Library of Congress’ and inserting ‘the Library of Congress, the Board of Governors of the Federal Reserve System, and the Federal reserve banks’.

(f) REPORTS.—

(1) GAO REPORT ON MONETARY STATISTICS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States 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 use of monetary statistics of the Board of Governors.

(B) CONTENTS.—The report under subparagraph (A) shall examine the scientific validity of the measures used by the Board of Governors, the usefulness of the measures,

potential changes to the measures, and potential alternatives and additions to the measures.

(C) CONSULTATION.—In preparing the report under subparagraph (A), the Comptroller General shall consult, at a minimum, with—

(i) current and former policy and economic experts of the Board of Governors, the Federal Open Market Committee, and the Federal reserve banks;

(ii) economic and statistical staff of other Federal agencies;

(iii) academic economists and statisticians;

(iv) economic and statistical practitioners; and

(v) experts from other governments and international organizations.

(2) FEDERAL OPEN MARKET COMMITTEE REPORT ON ADOPTING A MONETARY POLICY RULE.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Federal Open Market Committee 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 feasibility and desirability of setting a monetary policy rule or guidelines.

(B) CONTENTS.—The report under subparagraph (A) shall examine multiple methods of setting the rules or guidelines described in subparagraph (A) and include an analysis of how the rules or guidelines would provide for accountability in fulfilling the mandate of the Committee and the Board of Governors.

(C) PARTICIPATION.—All members of the Board of Governors and each president of a Federal reserve bank, regardless of voting status in the year in which the report is prepared, shall be entitled to participate in and comment on the report under subparagraph (A).

(g) EFFECT ON OTHER LAWS.—Other than as expressly provided in this Act, or an amendment made by this Act, nothing in this Act or an amendment made by this Act shall be construed to alter the public disclosure obligations of the Board of Governors, the Federal Open Market Committee, or the Federal reserve banks, including obligations under section 552 of title 5, United States Code (commonly known as ‘the Freedom of Information Act’), or any other provision of law.

On page 1554, line 2, after ‘Supervision’ insert ‘, provided that no person shall be designated to serve as Chairman of the Board more than twice and no person shall be designated to serve as a Vice Chairman of the Board more than twice’.

SA 4000. Mr. KAUFMAN (for himself, Mr. GRASSLEY, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ‘too big to fail’, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 728, between lines 3 and 4, insert the following:

SEC. 760. IMPROVED TRANSPARENCY.

(a) SECURITIES.—Section 11A(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(a)(1)) is amended by adding at the end the following:

“(E) Promoting transparency of all markets for securities through dissemination of quotations and orders to all brokers, dealers,

and investors, and minimizing, to the extent consistent with other purposes of this Act, conditions under which quotations and orders are hidden or selectively disseminated, will—

- “(i) foster efficiency;
- “(ii) enhance competition;
- “(iii) increase the information available to brokers, dealers, and investors;
- “(iv) facilitate the offsetting of investors’ orders; and
- “(v) contribute to best execution of such orders.”.

(b) COMMODITIES.—Section 3(b) of the Commodity Exchange Act (7 U.S.C. 5(b)) is amended—

(1) by striking “and” following “customer assets;”;

(2) by striking the period at the end of the second sentence; and

(3) by adding at the end the following: “; to promote transparency of all markets through dissemination of quotations and orders to all market participants and market professionals; and to minimize, to the extent consistent with other purposes of this Act, conditions under which quotations and orders are hidden or selectively disseminated. Furthering the purposes of this Act will foster efficiency, enhance competition, increase the information available to market participants, facilitate the offsetting of market participants’ orders, and contribute to best execution of such orders.”.

SA 4001. Ms. LANDRIEU (for herself and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1047, strike line 4 and all that follows through page 1051, line 3, and insert the following:

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

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

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

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

“(C) specify—

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

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

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

collateralize the asset-backed security are qualified residential mortgages;

“(D) apply, regardless of whether the securitizer is an insured depository institution; and

“(E) provide for—

“(i) a total or partial exemption of any securitization, as may be appropriate in the public interest and for the protection of investors; and

“(ii) the allocation of risk retention obligations between a securitizer and an originator in the case of a securitizer that purchases assets from an originator, as the Federal banking agencies and the Commission jointly determine appropriate.

“(2) ASSET CLASSES.—

“(A) ASSET CLASSES.—The regulations prescribed under subsection (b) shall establish asset classes with separate rules for securitizers of different classes of assets, including residential mortgages, commercial mortgages, commercial loans, auto loans, and any other class of assets that the Federal banking agencies and the Commission deem appropriate.

“(B) CONTENTS.—For each asset class established under subparagraph (A), the regulations prescribed under subsection (b) shall establish underwriting standards that specify the terms, conditions, and characteristics of a loan within the asset class that indicate a reduced credit risk with respect to the loan.

“(d) ORIGINATORS.—In determining how to allocate risk retention obligations between a securitizer and an originator under subsection (c)(1)(E)(ii), the Federal banking agencies and the Commission shall—

“(1) reduce the percentage of risk retention obligations required of the securitizer by the percentage of risk retention obligations required of the originator; and

“(2) consider—

“(A) whether the assets sold to the securitizer have terms, conditions, and characteristics that reflect reduced credit risk;

“(B) whether the form or volume of transactions in securitization markets creates incentives for imprudent origination of the type of loan or asset to be sold to the securitizer; and

“(C) the potential impact of the risk retention obligations on the access of consumers and businesses to credit on reasonable terms, which may not include the transfer of credit risk to a third party.

“(e) EXEMPTIONS, EXCEPTIONS, AND ADJUSTMENTS.—

“(1) IN GENERAL.—The Federal banking agencies and the Commission may jointly adopt or issue exemptions, exceptions, or adjustments to the rules issued under this section, including exemptions, exceptions, or adjustments for classes of institutions or assets relating to the risk retention requirement and the prohibition on hedging under subsection (c)(1).

“(2) APPLICABLE STANDARDS.—Any exemption, exception, or adjustment adopted or issued by the Federal banking agencies and the Commission under this paragraph shall—

“(A) help ensure high quality underwriting standards for the securitizers and originators of assets that are securitized or available for securitization; and

“(B) encourage appropriate risk management practices by the securitizers and originators of assets, improve the access of consumers and businesses to credit on reasonable terms, or otherwise be in the public interest and for the protection of investors.

“(3) FARM CREDIT SYSTEM INSTITUTIONS.—A Farm Credit System institution, including the Federal Agricultural Mortgage Corporation, that is chartered and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), shall be ex-

empt from the risk retention provisions of this subsection.

“(4) EXEMPTION FOR QUALIFIED RESIDENTIAL MORTGAGES.—

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

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

“(i) documentation and verification of the financial resources relied upon to qualify the mortgage;

“(ii) standards with respect to—

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

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

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

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

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

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

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

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

SA 4002. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. —. PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.

(a) FINDINGS.—Congress finds the following:

(1) The 2008 financial crisis was caused, in part, by poor quality, high risk mortgages

that were included in mortgage-backed securities, and that incurred higher rates of delinquency and loss than traditional mortgages, damaging thousands of financial institutions holding the mortgages. Those poor quality, high risk mortgages included billions of dollars in negatively amortizing mortgages.

(2) Negative amortization of mortgage loans leads to increased monthly loan payments for borrowers, which, in turn, increases the risk of loan default. During the recent financial crisis, negatively amortized loans defaulted in record numbers, damaging financial institutions and other investors holding those assets.

(3) Years ago, Federal banking regulators banned negatively amortizing credit card loans as a threat to the safety and soundness of banking institutions.

(4) Federal financial regulators and Inspectors General have testified before Congress that negatively amortizing loans pose a threat to the safety and soundness of United States banks, and to the financial markets where these high risk mortgages are sold and securitized.

(b) PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end following:

“(n) PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.—

“(1) IN GENERAL.—Any person who sells, transfers, or plans to sell or transfer at least 1,000 mortgages, mortgage-backed securities, or similar financial instruments within a calendar year shall not include or reference in any of such financial instruments any mortgage in which the loan balance may negatively amortize.

“(2) APPLICABILITY.—This subsection does not apply to home equity conversion mortgages, as defined under section 255 of the National Housing Act (commonly referred to as ‘reverse mortgages’) that are otherwise regulated by a Federal or State agency.

“(3) RULE OF CONSTRUCTION.—As used in this section, the term ‘mortgage’ shall not be construed to be restricted or limited only to mortgages referred to in section 103(aa).”.

(c) EFFECTIVE DATE.—The requirements under subsection (n)(1) of section 129 of the Truth in Lending Act (as added by subsection (b)) shall take effect not later than 180 days after the date of the enactment of this Act.

SA 4003. Mr. VITTER 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 19, strike line 16 and all that follows through page 21, line 22 and insert the following:

(4) NONBANK FINANCIAL COMPANY DEFINITIONS.—

(A) FOREIGN NONBANK FINANCIAL COMPANY.—The term “foreign nonbank financial company” means a company (other than a company that is, or is treated in the United States as, a bank holding company or a subsidiary thereof), that is—

(i) incorporated or organized in a country other than the United States; and

(ii) the consolidated revenues of which from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) constitute 85 percent or more of the total consolidated revenues of such company.

(B) U.S. NONBANK FINANCIAL COMPANY.—The term “U.S. nonbank financial company” means a company (other than a bank holding company or a subsidiary thereof, or a Farm Credit System institution chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et. seq.)), that is—

(i) incorporated or organized under the laws of the United States or any State; and

(ii) the consolidated revenues of which from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) constitute 85 percent or more of the total consolidated revenues of such company.

(C) INCLUSION OF DEPOSITORY INSTITUTION REVENUES.—In determining whether a company is a financial company for purposes of this title, the consolidated revenues derived from the ownership or control of a depository institution shall be included.

(5) OFFICE OF FINANCIAL RESEARCH.—The term “Office of Financial Research” means the office established under section 152.

(6) SIGNIFICANT INSTITUTIONS.—The terms “significant nonbank financial company” and “significant bank holding company” have the meanings given those terms by rule of the Board of Governors.

(b) DEFINITIONAL CRITERIA.—The Board of Governors shall establish, by regulation, the criteria to determine, consistent with the requirements of subsection (a)(4), whether a company is substantially engaged in activities in the United States that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) for purposes of the definitions of the terms “U.S. nonbank financial company” and “foreign nonbank financial company” under subsection (a)(4).

SA 4004. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ———. PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.

(a) PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end following:

“(n) PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.—

“(1) IN GENERAL.—Any person who sells, transfers, or plans to sell or transfer at least 1,000 mortgages, mortgage-backed securities, or similar financial instruments within a calendar year shall not include or reference in any of such financial instruments any mortgage in which the loan balance may negatively amortize.

“(2) APPLICABILITY.—This subsection does not apply to home equity conversion mortgages, as defined under section 255 of the National Housing Act (commonly referred to as ‘reverse mortgages’) that are otherwise regulated by a Federal or State agency.

“(3) RULE OF CONSTRUCTION.—As used in this section, the term ‘mortgage’ shall not

be construed to be restricted or limited only to mortgages referred to in section 103(aa).”.

(b) EFFECTIVE DATE.—The requirements under subsection (n)(1) of section 129 of the Truth in Lending Act (as added by subsection (b)) shall take effect not later than 180 days after the date of the enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled before the Senate Committee on Energy and Natural Resources on Tuesday, May 18, 2010, will now be held in room SR-325 of the Russell Senate Office Building at 11 a.m.

The purpose is to receive testimony from the Administration on issues related to offshore oil and gas exploration including the accident involving the Deepwater Horizon in the Gulf of Mexico.

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, United States Senate, Washington, DC 20510-6150, or by email to Abigail_Campbell@energy.senate.gov.

For further information, please contact Linda Lance or Abigail Campbell.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks. The hearing will be held on Wednesday, May 19, 2010, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 349, to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes;

S. 1596, to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California;

S. 1651, to modify a land grant patent issued by the Secretary of the Interior;

S. 1750, to authorize the Secretary of the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia, and for other purposes;

S. 1801, to establish the First State National Historical Park in the State of Delaware, and for other purposes;

S. 1802 and H.R. 685, to require a study of the feasibility of establishing the United States Civil Rights Trail System, and for other purposes;

S. 2953 and H.R. 3388, to modify the boundary of Petersburg National Battlefield in the Commonwealth of Virginia, and for other purposes;