

Carl Levin

HN10458

S.L.C.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To impose a one-year cooling off period before Federal financial regulators can work for a financial institution with respect to which they personally participated in regulating or taking an enforcement action.

IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.

S. 3217

To pro im cia An sur for	<p>AMENDMENT NO 3977</p> <p><i>Levin - others</i></p> <hr/> <p>To: _____</p> <p style="text-align: center;">S. 3217</p> <hr/> <p style="text-align: center;">6</p> <p style="text-align: center;">Page(s)</p>	by n- he n- id
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Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEVIN (for himself, Mr. COBURN, and Mr. KAUFMAN) *and Mr. Reed*

Viz:

- 1 At the end, add the following:
- 2 **SEC. 1211. COOLING OFF PERIOD.**
- 3 Section 207 of title 18, United States Code, is
- 4 amended by adding at the end the following:
- 5 “(m) ONE-YEAR RESTRICTION ON FEDERAL FINAN-
- 6 CIAL REGULATORS.—

1 “(1) IN GENERAL.—In addition to the restric-
2 tions set forth in subsections (a) and (b), any person
3 who—

4 “(A) was an officer or employee (including
5 any special Government employee) of a covered
6 Federal agency;

7 “(B) served 2 or more months during the
8 final 12 months of the employment of the per-
9 son with the covered Federal agency partici-
10 pating personally and substantially on behalf of
11 the covered Federal agency in the regulation or
12 oversight of, or in an enforcement action
13 against, a particular financial institution or
14 holding company; and

15 “(C) within 1 year after the completion
16 date of the service or employment of the person
17 with the covered Federal agency, knowingly ac-
18 cepts compensation as an employee, officer, di-
19 rector, or consultant from—

20 “(i) the financial institution described
21 in subparagraph (B), any holding company
22 that controls the financial institution, or
23 any other company that controls the finan-
24 cial institution; or

1 “(ii) the holding company described in
2 subparagraph (B), or any other financial
3 institution that is controlled by such hold-
4 ing company,

5 shall be punished as provided in section 216 of
6 this title.

7 “(2) DEFINITIONS.—For purposes of this sub-
8 section—

9 “(A) the term ‘covered Federal agency’
10 means the Office of the Comptroller of the Cur-
11 rency, the Federal Deposit Insurance Corpora-
12 tion, the Board of Governors of the Federal Re-
13 serve System, each Federal Reserve Bank, the
14 National Credit Union Administration, the Fi-
15 nancial Stability Oversight Council, the Securi-
16 ties and Exchange Commission, the Commod-
17 ities Futures Trading Commission, the Bureau
18 of Consumer Financial Protection, and the
19 Public Company Accounting Oversight Board;

20 “(B) the term ‘financial institution’ means
21 any business or holding company that is reg-
22 istered with or regulated by a covered Federal
23 agency, including any foreign financial institu-
24 tion or holding company that has a physical lo-

1 cation in any State and is registered with or
2 regulated by a covered Federal agency; and

3 “(C) the term ‘consultant’ means a person
4 who works personally and substantially on mat-
5 ters for, or on behalf of, a financial institution
6 or holding company.

7 “(3) REGULATIONS.—

8 “(A) IN GENERAL.—Each covered Federal
9 agency may prescribe rules or guidance to ad-
10 minister and carry out this section, including to
11 define the scope of persons referred to in para-
12 graphs (1) and (2)(C), and the financial institu-
13 tions and holding companies referred to in
14 paragraph (2)(B).

15 “(B) CONSULTATION.—A covered Federal
16 agency may consult with other covered Federal
17 agencies for the purpose of ensuring that the
18 rules and guidance issued by the agencies under
19 subparagraph (A) are, to the extent possible,
20 consistent, comparable, and practicable, taking
21 into account any differences in the regulatory
22 and oversight programs used by the covered
23 Federal agencies for the supervision of financial
24 institutions and holding companies.

1 “(4) WAIVER.—A Federal agency may grant a
2 waiver, on a case by case basis, of the restriction im-
3 posed by this subsection to any officer or employee
4 (including any special Government employee) of the
5 covered Federal agency, if the head of the covered
6 Federal agency, or the chairman of its board of di-
7 rectors, certifies in writing that granting the waiver
8 would not impair the integrity of the regulatory and
9 oversight efforts of the covered Federal agency.

10 “(5) PENALTIES.—In addition to any other ad-
11 ministrative, civil, or criminal remedy or penalty
12 that may otherwise apply, whenever a Federal agen-
13 cy determines that a person subject to paragraph (1)
14 has become associated, in the manner described in
15 paragraph (1)(C), with a financial institution, hold-
16 ing company, or other company in violation of this
17 section, the agency shall impose upon such person
18 one or more of the following penalties:

19 “(A) INDUSTRY-WIDE PROHIBITION
20 ORDER.—The Federal agency may, subject to
21 notice and an administrative hearing, issue an
22 order—

23 “(i) to remove such person from office
24 or to prohibit such person from further
25 participation in the conduct of the affairs

1 of the financial institution, holding com-
2 pany, or other company for a period of up
3 to 5 years; and

4 “(ii) to prohibit any further participa-
5 tion by such person, in any manner, in the
6 conduct of the affairs of any financial in-
7 stitution or holding company subject to
8 regulation or oversight by the agency for a
9 period of up to 5 years.

10 “(B) CIVIL MONETARY PENALTY.—The
11 Federal agency may, in an administrative pro-
12 ceeding or civil action in an appropriate United
13 States district court, impose upon such person
14 a civil monetary penalty of not more than
15 \$250,000. In lieu of an action by the Federal
16 agency under this subparagraph, the Attorney
17 General of the United States may bring a civil
18 action under this subparagraph in the appro-
19 priate United States district court.”