

*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		<b>AMENDMENT NO 3977</b>	by n- he n- id
	By	<i>Levin - others</i>	
	To:	<i>S. 3217</i>	
		<i>6</i> Page(s)	

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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.”