

PENDING

Susan M Collins

AMENDMENT NO. _____ Calendar No. _____

Purpose: To mandate minimum leverage and risk-based capital requirements for insured depository institutions, depository institution holding companies, and nonbank financial companies that the Council identifies for Board of Governors supervision and as subject to prudential standards.

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

S. 3217

AMENDMENT N^o 3879

To pro in ci Al su fo	By	<u>Collins</u>	es by finan- t the ; con- , and
	To:	<u>Amdt no. 3739</u>	
		<u>5</u>	
		Page(s)	

GPO: 2008 45-603 (2008)

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 Ms. COLLINS

Viz:

- 1 At the appropriate place in title I, insert the fol-
- 2 lowing:
- 3 SEC. ____ . LEVERAGE AND RISK-BASED CAPITAL REQUIRE-
- 4 MENTS.
- 5 (a) DEFINITIONS.—

1 (1) GENERALLY APPLICABLE LEVERAGE CAP-
2 ITAL REQUIREMENTS.—The term “generally applica-
3 ble leverage capital requirements” means—

4 (A) the minimum ratios of tier 1 capital to
5 average total assets, as established by the ap-
6 propriate Federal banking agencies to apply to
7 insured depository institutions under the
8 prompt corrective action regulations imple-
9 menting section 38 of the Federal Deposit In-
10 surance Act, regardless of total consolidated
11 asset size or foreign financial exposure; and

12 (B) includes the regulatory capital compo-
13 nents in the numerator of that capital require-
14 ment, average total assets in the denominator
15 of that capital requirement, and the required
16 ratio of the numerator to the denominator.

17 (2) GENERALLY APPLICABLE RISK-BASED CAP-
18 ITAL REQUIREMENTS.—The term “generally applica-
19 ble risk-based capital requirements” means—

20 (A) the risk-based capital requirements as
21 established by the appropriate Federal banking
22 agencies to apply to insured depository institu-
23 tions under the agency’s Prompt Corrective Ac-
24 tion regulations that implement section 38 of
25 the Federal Deposit Insurance Act, regardless

1 of total consolidated asset size or foreign finan-
2 cial exposure; and

3 (B) includes the regulatory capital compo-
4 nents in the numerator of those capital require-
5 ments, the risk-weighted assets in the denomi-
6 nator of those capital requirements, and the re-
7 quired ratio of the numerator to the denomi-
8 nator.

9 (b) MINIMUM CAPITAL REQUIREMENTS.—

10 (1) MINIMUM LEVERAGE CAPITAL REQUIRE-
11 MENTS.—The appropriate Federal banking agencies
12 shall establish minimum leverage capital require-
13 ments on a consolidated basis for insured depository
14 institutions, depository institution holding compa-
15 nies, and nonbank financial companies identified
16 under section 113. The minimum leverage capital re-
17 quirements established under this paragraph shall
18 not be less than the generally applicable leverage
19 capital requirements, which shall serve as a floor for
20 any capital requirements the agency may require,
21 nor quantitatively lower than the generally applica-
22 ble leverage capital requirements that were in effect
23 for insured depository institutions as of the date of
24 enactment of this Act.

1 (2) MINIMUM RISK-BASED CAPITAL REQUIRE-
2 MENTS.—The appropriate Federal banking agencies
3 shall establish minimum risk-based capital require-
4 ments on a consolidated basis for insured depository
5 institutions, depository institution holding compa-
6 nies, and nonbank financial companies identified
7 under section 113. The minimum risk-based capital
8 requirements established under this paragraph shall
9 not be less than the generally applicable risk-based
10 capital requirements, which shall serve as a floor for
11 any capital requirements the agency may require,
12 nor quantitatively lower than the generally applica-
13 ble risk-based capital requirements that were in ef-
14 fect for insured depository institutions as of the date
15 of enactment of this Act.

16 (3) CAPITAL REQUIREMENTS TO ADDRESS AC-
17 TIVITIES THAT POSE RISKS TO THE FINANCIAL SYS-
18 TEM.—

19 (A) IN GENERAL.—Subject to the rec-
20 ommendations of the Council, in accordance
21 with section 120, the Federal banking agencies
22 shall develop capital requirements applicable to
23 all institutions covered by this section that ad-
24 dress the risks that the activities of such insti-
25 tutions pose, not only to the institution engag-

1 ing in the activity, but to other public and pri-
2 vate stakeholders in the event of adverse per-
3 formance, disruption, or failure of the institu-
4 tion or the activity.

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

7 (i) significant volumes of activity in
8 derivatives, securitized products purchased
9 and sold, financial guarantees purchased
10 and sold, securities borrowing and lending,
11 and repurchase agreements and reverse re-
12 purchase agreements;

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

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