

A BILL10
111.2-40

To provide for the sound, effective and uninterrupted operation of the banking system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

This Act may be cited as the "Banking Act of 1935".

TITLE I

Section 12B of the Federal Reserve Act, as amended (U. S. C. Supp. VII, Title 12, Sec. 264), is further amended as follows:

1. By striking out subsection (a) and inserting in lieu thereof the following,

"(a) There is hereby created a Federal Deposit Insurance Corporation (hereinafter referred to as the 'corporation'), which shall insure, as hereinafter provided, the deposits of all banks which are entitled to the benefits of insurance under this section, and which shall have the right to exercise all powers hereinafter granted."

2. By adding at the end of subsection (b) the following,

"In the event of a vacancy in the office of the Comptroller of the Currency, and pending the appointment of his successor, the Acting Comptroller of the Currency shall be a member of the board of directors in his place and stead. In the absence of the Comptroller of the Currency any Deputy Comptroller of the Currency may, within the limits

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prescribed by the Comptroller, act as a member of the board of directors in his place and stead."

3. By inserting a new subsection to read as follows:

"(c) As used in this section:

"(1) The term 'state bank' means any bank, banking association, trust company, savings bank or other banking institution which is engaged in the business of receiving deposits and which is incorporated under the laws of any state or the territory of Hawaii or Alaska or which is operating under the Code of the District of Columbia (except a national bank).

"(2) The term 'state member bank' means any state bank which is a member of the Federal Reserve System and the term 'state nonmember bank' means any other state bank.

"(3) The term 'District bank' means any state bank operating under the Code of the District of Columbia.

"(4) The term 'national member bank' means any national bank located in the states of the United States, the District of Columbia, or the territory of Hawaii or Alaska, except a national nonmember bank as hereinafter defined.

"(5) The term 'national nonmember bank' means any national bank located in the territory of Hawaii or Alaska which is not a member of the Federal Reserve System.

"(6) The term 'mutual savings bank' means a bank without capital stock transacting a savings bank business, the net earnings of which inure wholly to the benefit of its depositors after payment of obligations for any advances by its organizers.

"(7) The term 'insured bank' means any bank the deposits of

which are insured in accordance with the provisions of this section, and the term 'noninsured bank' means any other bank.

"(8) The term 'new bank' means a new national banking association organized by the corporation to assume the insured deposits of an insured bank closed on account of inability to meet the demands of its depositors and otherwise to perform temporarily the functions provided in this section.

"(9) The term 'receiver' shall include a receiver, liquidating agent, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a bank.

"(10) The term 'board of directors' means the board of directors of the corporation.

"(11) The term 'deposit' means the unpaid balance of money or its equivalent received by a bank in the usual course of business and for which it has given or is obligated to give unconditional credit to a commercial, checking, savings, time or thrift account, or which is evidenced by its certificate of deposit, and trust funds as provided in paragraph (5) of subsection (h) of this section, together with such other obligations of a bank as the board of directors shall find and shall prescribe by its regulations to be deposit liabilities by general usage: provided, that any obligation of a bank which is payable only at an office of the bank located outside the states of the United States, the District of Columbia and the territories of Hawaii and Alaska shall not be a deposit for purposes of this section or be included as a part of total deposits or of an insured deposit. The board of directors may by regulation further define the terms used in this paragraph.

"(12) The term 'insured deposit' means such part of the net amount of money due to any depositor for deposits in an insured bank, after deducting offsets, as shall not exceed the maximum prescribed by paragraph (1) of subsection (1) of this section. Such amount shall be determined according to such regulations as the board of directors may prescribe. In determining the amount due to any depositor there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the names of others, except trust funds which shall be insured as provided in paragraph (5) of subsection (h) of this section.

"(13) The term 'transferred deposit' means a deposit in a new bank or other insured bank made available to a depositor by the Corporation as payment of the insured deposit of such depositor in a closed bank, and assumed by such new bank or other insured bank.

"(14) The term 'effective date' means the date of enactment of the title containing this amendment."

4. By striking out in subsection (c) the following, "(c)" and inserting "(d)"; by striking out in said subsection (c) that part of the third sentence following the words "Federal reserve banks" in said sentence and inserting a period; by striking out in subsection (d) the following, "(d)" and the first four sentences of said subsection (d); and by striking out in the fifth sentence of said subsection the following, "class B"; and by inserting at the end of subsection "(d)" the following, "The capital stock of the corporation shall consist of the shares subscribed for prior to the effective date. Such stock shall be without nominal or par value, and shares issued prior to the effective date shall be exchanged and re-issued at the rate of one share for each \$100 paid

into the corporation for capital stock. The consideration received by the corporation for the capital stock shall be allocated to capital and to surplus in such amounts as the board of directors shall prescribe. Such stock shall have no vote and shall not be entitled to the payment of dividends."

5. By striking out subsection (e) and inserting in lieu thereof the following,

"(e) (1) Every operating member bank, including a bank incorporated since March 10, 1933, licensed on or before the effective date by the Secretary of the Treasury shall be and continue without application or approval an insured bank and shall be subject to the provisions of this section.

"(2) After the effective date any national member bank authorized to commence or resume the business of banking, state bank converting into a national member bank or state bank becoming a member of the Federal Reserve System, shall be an insured bank from the time the certificate herein prescribed shall be issued to the corporation by the Comptroller of the Currency in the case of such national member bank, or by the Federal Reserve Board in the case of such state member bank; provided, that in the case of an insured bank admitted to membership in the Federal Reserve System or insured state bank converting into a national member bank, such certificate shall not be required, and the bank shall continue as an insured bank. Such certificate shall state that the bank is authorized to transact the business of banking in the case of a national member bank, or is a member of the Federal Reserve System in the case of a state member bank, and that consideration has been given to the factors enumerated in subsection (g) of this section."

6. By striking out subsection (f) and inserting in lieu thereof the following,

"(f) (1) Every bank not a member of the Federal Reserve System which on the effective date is a member of the Temporary Federal Deposit Insurance Fund or of the Fund For Mutuals created pursuant to the provisions of an Act approved June 16, 1933, (48 Stat. 168, Chapter 89) as amended June 16, 1934, (48 Stat. 969, Chapter 546) shall be and continue without application or approval an insured bank and shall be subject to the provisions of this section, unless in accordance with regulations to be prescribed by the board of directors such bank shall give to the corporation within 30 days after the effective date written notice of its election not to continue after June 30, 1935 as an insured bank and shall give to its depositors, by publication or by any reasonable means, as the board of directors may prescribe, not less than 20 days notice prior to June 30, 1935 of such election: provided, that any state nonmember bank which was admitted to said Temporary Federal Deposit Insurance Fund or Fund For Mutuals but which did not file on or before the effective date ~~an~~ October 1, 1934 certified statement and make the payment thereon required by law as it existed prior to the effective date, shall cease to be an insured bank on June 30, 1935: provided further, that no bank admitted to the said Temporary Federal Deposit Insurance Fund or the Fund For Mutuals prior to the effective date shall after June 30, 1935 be an insured bank or have its deposits insured by the corporation, if such bank shall have permanently discontinued its banking operations prior to the effective date. Deposits of the bank giving such notice shall continue to be insured until June 30, 1935, and the rights of the bank shall be as provided by law existing prior to the effective date, and such bank

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shall not be insured by the corporation beyond June 30, 1935.

"(2) Until July 1, 1937 any national nonmember bank, on application by the bank and certification by the Comptroller of the Currency in the manner prescribed in subsection (e) of this section and until such date any state nonmember bank, upon application to and examination by the corporation and approval by the board of directors, may become an insured bank. Before approving the application of any such state nonmember bank, the board of directors shall give consideration to the factors enumerated in subsection (g) of this section and shall determine, upon the basis of a thorough examination of such bank, that its assets in excess of its capital requirements are adequate to enable it to meet all of its liabilities as shown by the books of the bank to depositors and other creditors."

7. By striking out subsection (g) and inserting in lieu thereof the following,

"(g) The factors to be enumerated in the certificate required under subsection (e) and to be considered by the board of directors under subsection (f) shall be the following: the financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purposes of this section."

8. By striking out subsection (h) and inserting in lieu thereof the following,

"(h) (1) The assessment rate shall be one-twelfth of one per centum per annum upon the total amount of the liability of the insured

bank for deposits (according to the definition of the term 'deposit' in and pursuant to paragraph (11) of subsection (c) of this section, without any deduction for indebtedness of depositors) based on the average determined from such total as of the close of business on the last day of June and the last day of December of each year: provided, that the board of directors from time to time may fix a lower rate or may provide for a refund or credit by a percentage upon the last annual assessment rate not exceeding fifty percentum thereof, when it finds that such action will provide or leave, as the case may be, adequate revenue and reserves for the corporation having due regard to experience and conditions affecting banks. The rate or percentage so fixed shall be applicable to all insured banks, except that the board of directors on a similar finding, from time to time, may provide that the rate so fixed shall be applicable to insured mutual savings banks only or may provide a different rate applicable to mutual savings banks only.

"(2) On or before the 15th day of July of each year, each insured bank shall file with the corporation a certified statement under oath showing the total amount of its liability for deposits as of the close of business on the 30th day of June last preceding and shall pay to the corporation the portion of the annual assessment equal to one-half of the annual rate fixed by this subsection (h) multiplied by its said total deposits on the date for which such statement is made. On or before the 15th day of January of each year, each insured bank shall file a like statement showing the total amount of its liability for deposits as of the close of business on the 31st day of December last preceding and shall pay to the corporation the portion of the annual assessment

equal to one-half of the annual rate fixed by this subsection (h) multiplied by its said total deposits on the date for which such statement is made.

"(3) Every bank which becomes an insured bank after the effective date and on any date more than 30 days before the next succeeding last day of June or December of any year shall pay to the corporation as an initial assessment the prorated portion, for the period between the date such bank became an insured bank and the next succeeding last day of June or December, as the case may be, of an amount equal to one-half the annual assessment rate provided in this section multiplied by its total deposits at the close of business on the 15th day after it becomes an insured bank. In all other cases the initial assessment upon a bank which becomes an insured bank after the effective date shall be the assessment payable according to paragraphs (1) and (2) of this subsection.

"(4) Each bank which shall be and continue without application or approval an insured bank in accordance with the provisions of subsection (e) or (f) of this section, shall, in lieu of all right to refund, be credited with any balance to which such bank shall become entitled upon the termination of said Temporary Federal Deposit Insurance Fund or the Fund For Mutuals. The credit shall be applied by the corporation toward the payment of the assessment next becoming due from such bank and upon succeeding assessments until the credit is exhausted.

"(5) Trust funds held by an insured bank in a fiduciary capacity whether held in its trust or deposited in any other department or in another bank shall be insured subject to a \$5,000 limit for each trust estate and when deposited by the fiduciary bank in another insured bank, shall be similarly insured to the fiduciary bank according to the trust

estates represented. Notwithstanding any other provision of this section, such insurance shall be separate from and additional to that covering other deposits of the owners of such trust funds or beneficiaries of such trust estates: provided, that where the fiduciary bank deposits any of such trust funds in other insured banks, the amount so held by other insured banks on deposit on the last day of the month preceding the filing of the certified statement required by paragraph (2) of subsection (h) of this section for the purpose of such statement shall not be considered to be a deposit liability of the fiduciary bank, but shall be considered a deposit liability of the bank in which such funds are so deposited by such fiduciary bank. The board of directors shall have power by regulation to prescribe the manner of reporting and of depositing such funds."

9. By striking out subsection (i) and inserting in lieu thereof the following,

"(i) (1) Any insured bank (except a national member bank or state member bank) may, upon not less than 90 days written notice to the corporation, terminate its status as an insured bank. Whenever the board of directors shall find that an insured bank or its directors or trustees have continued unsafe or unsound practices in conducting the business of such bank or have knowingly or negligently permitted any of its officers or agents to violate repeatedly any provision of this section or of any regulation made thereunder, or of any law or regulation made pursuant to law to which the insured bank is subject, the board of directors shall first give to the Comptroller of the Currency in the case of a national bank or District bank, to the authority having supervision in case of a

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state bank, and also to the Federal Reserve Board in case of a state member bank, a statement of such violation by the bank for the purpose of securing a correction of such practices or conditions. Unless such correction shall be made within such period of time not exceeding 120 days as the Comptroller of the Currency, the state authority or Federal Reserve Board, as the case may be, shall require, the board of directors, if it shall determine to proceed further, shall give to the bank not less than 30 days written notice of intention to terminate the status of the bank as an insured bank, fixing a time and place for a hearing before the board of directors or before a person designated by it to conduct such hearing, at which evidence may be produced, and upon such evidence the board of directors shall make written findings which shall be conclusive. Unless the bank shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured bank. If the board of directors shall find that any ground specified in such notice has been established, the board of directors may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in such notice of intention. The corporation may publish notice of such termination and the bank shall give notice of termination to its depositors, in such manner and at such time as the board of directors may find necessary and may order for the protection of depositors. After termination of the insured status of any bank under the provisions of this paragraph, the insured deposits of each depositor in the bank on the date of such termination,

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less all subsequent withdrawals, shall continue for a period of 2 years to be insured and the bank shall continue to pay to the corporation assessments as in the case of an insured bank for such period of 2 years from such termination, but no additions to any deposits or any new deposits shall be insured by the corporation, and the bank shall not advertise or hold itself out as having insured deposits unless in the same connection it shall state with equal prominence that additions to deposits and new deposits made after the date of such termination, specifying such date, are not insured. Such bank shall in all other respects be subject to the duties and obligations of an insured bank for the period of 2 years from such termination and in the event of being closed on account of inability to meet the demands of its depositors within such period of 2 years, the corporation shall have the same powers and rights with respect to such bank as in case of an insured bank.

"(2) Whenever the insured status of a member bank shall be terminated by action of the board of directors, the Federal Reserve Board in the case of a state member bank shall terminate its membership in the Federal Reserve System in accordance with the provisions of Section 9 of the Federal Reserve Act and in the case of a national member bank the Comptroller of the Currency shall appoint a receiver for the bank (to be the corporation whenever the bank shall be unable to meet the demands of its depositors). Whenever a member bank shall cease to be a member of the Federal Reserve System, its status as an insured bank shall without notice or other action by the board of directors terminate on the date of the taking effect of the termination of membership of the bank in the Federal Reserve

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System, with like effect as if terminated on said date by the board of directors after proceedings under paragraph (1) of this subsection (i).

"(3) When the liabilities of an insured bank for deposits shall have been assumed by another bank or banks, the insured status of such insured bank shall terminate on the receipt by the corporation of satisfactory evidence of such assumption with like effect as if terminated on said date by the board of directors after proceedings under paragraph (1) of this subsection (i): provided, that if such bank gives notice of such assumption within 30 days after such assumption takes effect to its depositors, by publication or by any reasonable means, in accordance with regulations to be prescribed by the board of directors, the insurance of its deposits shall terminate at the end of 6 months from the date such assumption takes effect and such bank shall be relieved of all future obligations to the corporation including the obligation to pay future assessments."

10. By striking out the period at the end of paragraph "Fourth" of subsection (j) and inserting a semicolon and the following,

provided, that, notwithstanding any other provision of law, all suits of a civil nature at common law or in equity to which the Federal Deposit Insurance Corporation shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such suits; and the corporation as defendant in any such suit may, at any time before the trial thereof, remove such suit from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law. No attachment or execution shall be

issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court."; and by inserting at the end of said subsection the following, 10

"Eighth. To make examinations of and to require information and reports from banks, as provided in this section.

"Ninth. To act as receiver.

"Tenth. To prescribe by its board of directors such rules and regulations as it may deem necessary to carry out the provisions of this section."

11. By striking out in subsection (k) the following, "(k)" and inserting in lieu thereof "(k) (1)"; and by adding to said subsection three new paragraphs to read as follows:

"(2) The board of directors shall appoint examiners who shall have power on behalf of the corporation (except as to a District bank) to examine any insured state nonmember bank, state nonmember bank making application to become an insured bank or closed insured bank, whenever considered necessary. Such examiners shall have like power to examine, with the written consent of the Comptroller of the Currency, any national bank or District bank and, with the written consent of the Federal Reserve Board, any state member bank. Each examiner shall have power to make a thorough examination of all of the affairs of the bank and in doing so he shall have power to administer oaths and to examine and take and preserve the testimony of any of the officers and agents thereof under oath and shall make a full and detailed report of the condition of the bank to the corporation. The board of directors in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured deposits and transferred deposits. Each claim agent shall have power to administer oaths and

to examine under oath and take and preserve testimony of any persons relating to such claims. Any such examiner or claim agent in relation to any such examination, investigation or taking of testimony may apply to any judge or clerk of any court of the United States to issue subpoenas and to compel the appearance of witnesses and the production and taking of any such testimony and to punish disobedience in like manner as provided in Sections 184-186 of the Revised Statutes, (U.S.C., Title 5, Sections 94-96). 10

"(3) Each insured state nonmember bank (except a District bank) shall make to the corporation reports of condition in such form and at such times as the board of directors may require of such bank. The board of directors may require such reports to be published in such manner, not inconsistent with any applicable law, as it may direct. Every such bank which fails to make or publish any such report within such time, not less than five days, as the board of directors may require, shall be subject to a penalty of \$100 for each day of such failure recoverable by the corporation for its use.

"(4) The corporation shall have access to reports of examinations made by and reports of condition made to the Comptroller of the Currency or any Federal reserve bank, and may accept any report made by or to any commission, board or authority having supervision of a state nonmember bank (except a District bank), and may furnish to the Comptroller of the Currency, or any such Federal reserve bank, commission, board or authority reports of examinations made on behalf of and reports of condition made to the corporation."

12. By striking out all of subsection (1) preceding the last paragraph thereof and inserting in lieu thereof the following,

"(1) (1) The Temporary Federal Deposit Insurance Fund and the Fund for Mutuals are hereby consolidated into the permanent insurance for deposits created by this section and the assets therein shall be held by the corporation for the uses and purposes of the corporation: provided, that the obligations to and rights of the corporation, depositors, banks, and other persons arising out of any event or transaction prior to the effective date shall remain unimpaired. From the effective date, the corporation shall insure the deposits of all insured banks as defined and provided in this section. The maximum amount of the insured deposit of any depositor shall be \$5,000.

"(2) An insured bank shall for the purposes of this section, be deemed to have been closed on account of inability to meet the demands of its depositors in any case where it has been closed for the purpose of liquidation without adequate provision for payment of its depositors.

"(3) Notwithstanding any other provision of law, whenever any insured national bank or insured District bank shall have been closed by action of its board of directors or the Comptroller of the Currency, as the case may be, on account of inability to meet the demands of its depositors, the Comptroller of the Currency shall appoint the corporation receiver for such closed bank and no other person shall be appointed as receiver of such closed bank.

"(4) It shall be the duty of the corporation as such receiver to realize upon the assets of such closed bank, having due regard to the condition of credit in the district in which such closed bank is located;

to enforce the individual liability of the stockholders and directors thereof; and to wind up the affairs of such closed bank in conformity with the provisions of law relating to the liquidation of closed national banks, except as herein otherwise provided, retaining for its own account such portion of the amount realized from such liquidation as it shall be entitled to receive on account of its subrogation to the claims of depositors and paying to depositors and other creditors the net amount available for distribution to them. With respect to such closed bank, the corporation as such receiver shall have all the rights, powers and privileges now possessed by or hereafter given a receiver of an insolvent national bank.

"(5) Whenever any insured state bank except a District bank shall have been closed by action of its board of directors or by the authority having supervision of such bank, as the case may be, on account of inability to meet the demands of its depositors, the corporation shall accept appointment as receiver thereof, if such appointment be tendered by the authority having supervision of such bank and be authorized or permitted by state law. With respect to such insured state bank, the corporation shall possess the powers and privileges given by state law to a receiver of such state bank.

"(6) When an insured bank shall have been closed on account of inability to meet the demands of its depositors, payment of the insured deposits shall be made by the corporation, subject to the provisions of paragraph (7) of this subsection (1), either (a) by making available to each depositor a transferred deposit in a new bank or in another insured bank in the same community in an amount equal to the insured deposit of such depositor and subject to withdrawal on demand, or (b) in accordance with

any other procedure adopted by the board of directors: provided, that the corporation, in its discretion, may require proof of claims to be filed before paying the insured deposits, and that in any case where the corporation is not satisfied as to the validity of a claim for an insured deposit, it may require the final determination of a court of competent jurisdiction before paying such claim. 10

"(7) In the case of a closed national bank or District bank the corporation, upon payment of any depositor as provided in paragraph (6) of this subsection (1), shall become and be subrogated to all rights of the depositor to the extent of such payment. In the case of any other closed insured bank, the corporation shall not pay any depositor until the right of the corporation to be subrogated to the rights of such depositor on the same basis as provided in the case of a closed national bank under this section shall have been recognized, by express provisions of state law, by allowance of claims by the authority having supervision of such bank, by assignment of claims by depositors, or by any other effective method. Such subrogation in the case of any closed bank shall include the right to receive the same dividends from the proceeds of the assets of such closed bank as would have been payable to such depositor on a claim for the insured deposit, such depositor retaining his claim for any uninsured portion of his deposit.

"(8) As soon as possible, the corporation, if it finds that it is advisable and in the interest of the depositors of the closed bank or the public, shall organize a new bank to assume the insured deposits of such closed bank and otherwise to perform temporarily the functions provided for in this section. The new bank shall have its place of business in the same community as the closed bank.

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"(9) The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the corporation. No capital stock need be paid in by the corporation. The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the board of directors of the corporation and who shall be subject to its directions. In other respects such bank shall be organized in accordance with the existing provisions of the law relating to the organization of national banking associations. The new bank may, with the approval of the corporation, accept new deposits which shall be subject to withdrawal on demand. The new bank without application or approval, shall be an insured bank and shall maintain on deposit with the Federal reserve bank of its district the reserves required by law for member banks, but shall not be required to subscribe for stock of the Federal reserve bank. Funds of the new bank shall be kept on hand in cash, invested in securities of the Government of the United States, or in securities guaranteed as to principal and interest by the Government of the United States, or deposited with the corporation, or with a Federal reserve bank, or with an insured bank. The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact no business except that authorized by this section and such business as may be incidental to its organization. Notwithstanding any other provision of law, it, its franchise, property and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency or possession thereof, or by any state, county, municipality or local taxing authority.

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"(10) On the organization of a new bank, the corporation shall promptly make available to the new bank an amount equal to the estimated insured deposits of such closed bank plus the amount of its estimated expenses of operation and shall determine as expeditiously as possible the amount due each depositor for his insured deposit in the closed bank, and the total expenses of operation of the new bank. Upon determination thereof, the amounts so estimated and made available shall be adjusted to conform to the amounts so determined. Earnings of the new bank shall be paid over or credited to the corporation in such adjustment. The new bank shall assume as transferred deposits the payment of the insured deposits of such closed bank to each of its depositors. Of the amount so made available, the corporation shall transfer to the new bank, in cash, such amount as is necessary to enable it to meet expenses and immediate cash demands on such transferred deposits and the remainder shall be subject to withdrawal by the new bank on demand.

"(11) When in the judgment of the board of directors it is desirable to do so, the corporation shall cause capital stock of the new bank to be offered for sale on such terms and conditions as the board of directors shall deem advisable, in an amount sufficient, in the opinion of the board of directors, to make possible the conduct of the business of the new bank on a sound basis, but in no event less than that required by Section 5138 of the Revised Statutes, as amended, (U.S.C., Supp. VII, Title 12, Sec. 51), for the organization of a national bank in the place where such new bank is located, giving the stockholders of the closed bank the

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first opportunity to purchase any shares of common stock so offered. Upon proof that an adequate amount of capital stock in the new bank has been subscribed and paid for in cash, the Comptroller of the Currency shall require the articles of association and the organization certificate to be amended to conform to the requirements for the organization of a national bank, and thereafter, when the requirements of law with respect to the organization of a national bank have been complied with, he shall issue a certificate of authority to commence business to the bank, which shall thereupon cease to have the status of a new bank and shall be managed by directors elected by its own shareholders and may exercise all the powers granted by law and shall be subject to all of the provisions of law relating to national banks. Such bank shall thereafter be an insured national bank, without certification to or approval by the corporation.

"(12) If the capital stock of the new bank shall not be offered for sale, or if an adequate amount of capital for such new bank is not subscribed and paid in, the board of directors may offer to transfer its business to any insured bank in the same community which will take over its assets, assume its liabilities, and pay to the corporation for such business such amount as the board of directors may deem adequate; or the board of directors in its discretion may change the location of the new bank to the office of the corporation or to some other place or may at any time wind up its affairs as herein provided. Unless the capital stock of the new bank is sold or its assets acquired and its liabilities assumed by an insured bank, as provided above, within two years from the date of its organization, the corporation shall wind up its affairs, after giving such notice, if any, as the Comptroller of the Currency may require, and shall certify to the Comptroller of the Currency the termination of the new bank and thenceforth the cor-

poration shall be liable for its obligations and be the owner of its assets. 10
The provisions of Sections 5220 and 5221 of the Revised Statutes (U.S.C.,
Title 12, Sections 181 and 182) shall not apply to such new banks."

13. By inserting before the said last paragraph of subsection (1)
the following, "(n) (1)" and by striking out the comma after the words "United
States" in the first sentence of said paragraph and inserting before the word
"except" the following, "or in securities guaranteed as to principal and
interest by the Government of the United States,"; and by transposing said
paragraph to subsection (n) as amended, as paragraph (1) thereof.

14. By striking out in subsection (m) the following, "(m)"; and by
striking out in said subsection the word "herein" and inserting in lieu
thereof "in this section", and by transposing said subsection to subsection
(n), as amended, as paragraph (2) thereof.

15. By adding a new subsection to read as follows:

"(m) (1) The corporation as receiver of a closed national bank
or District bank shall not be required to furnish bond and shall have the
right to appoint an agent or agents to assist it in its duties as such
receiver, and all fees, compensation and expenses of liquidation and ad-
ministration thereof shall be fixed by the corporation subject to the approval
of the Comptroller of the Currency, and may be paid by it out of funds coming
into its possession as such receiver. The Comptroller of the Currency is
authorized and empowered to waive and relieve the corporation from complying
with any regulations of the Comptroller of the Currency with respect to
receiverships where in his discretion such action is deemed advisable to
simplify administration.

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"(2) Payment of an insured deposit to any person by the corporation shall discharge the corporation, and payment of a transferred deposit to any person by the new bank or the other insured bank shall discharge the corporation and such new bank or other insured bank, to the same extent that payment to such person by the closed bank would have discharged it from liability for the insured deposit.

"(3) Except as otherwise prescribed by the board of directors, neither the corporation, such new bank, nor such other insured bank, shall be required to recognize as the owner of any portion of a deposit appearing on the records of the closed bank under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such closed bank as part owner of said account, where such recognition would increase the aggregate amount of the insured deposits in such closed bank.

"(4) The corporation may withhold payment of such portion of the insured deposit of any depositor in a closed bank as may be required to provide for the payment of any liability of such depositor as a stockholder of the bank, or of any liability of such depositor to the bank or its receiver not offset against a claim due from the bank, pending the determination and payment of such liability by such depositor or any other person liable therefor.

"(5) If any depositor in a closed bank shall fail to claim his insured deposit from the corporation, or shall fail to claim or arrange to continue the transferred deposit with the new bank or other bank assuming liability therefor within one year after the appointment of the receiver for the closed bank, all rights of the depositor against the corporation in

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respect to the insured deposit or against the new bank and such other bank in respect to the transferred deposit shall be barred, and all rights of the depositor against the closed bank, its shareholders or the receivership estate to which the corporation may have become subrogated shall thereupon revert to the depositor. The amount of any transferred deposits not claimed within said one year period, shall be refunded to the corporation."

16. By striking out in subsection (n) the following, "(n)" and inserting "(3)" and by retaining said subsection as paragraph (3) of subsection (n), as amended; and by striking out in said subsection (n) the words, "member banks which are now or may hereafter become insolvent or suspended" and inserting in lieu thereof, "insured banks closed on account of inability to meet the demands of depositors"; and by striking out "State member" and inserting in lieu thereof "insured state"; and by striking out the period at the end of the first sentence and inserting in lieu thereof, "or District bank"; and by adding at the end of said subsection two new sentences to read: "The corporation in its discretion may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured bank which is now or may hereafter be closed on account of inability to meet the demands of its depositors. In any case where the corporation is acting as receiver of such insured bank such loan or purchase shall not be made without approval of a court of competent jurisdiction"; and by adding to subsection (n), as amended, a new paragraph to read as follows:

"(4) Until July 1, 1936, whenever in the judgment of the board of directors such action will reduce the risk or avert a threatened loss to the corporation and will facilitate a merger or consolidation, or facilitate the sale of the assets of an insured bank to and assumption of its liabilities

by another insured bank, the corporation may, upon such terms and conditions as it may determine, make loans secured by the assets of such insured bank in subordination to the rights of depositors or otherwise, or may purchase such assets, or may guarantee any other insured bank against loss by reason of assuming the liabilities and purchasing the assets of such insured bank. Any insured national bank or District bank or, with the approval of the Comptroller of the Currency, any conservator thereof is authorized to contract for such sales or loans and to pledge any assets of the bank to secure such loans. 10

17. By striking out in subsection (o) the following, "(o)" and inserting in lieu thereof, "(o) (1)"; and by inserting after the word "empowered", in the first sentence in subsection (o) the following, "with the approval of the Secretary of the Treasury"; by striking out in subsection (o) the words "of its capital" and inserting in lieu thereof "received by the corporation in payment of its capital stock and of the first annual assessments"; and by adding at the end of subsection (o) two new paragraphs to read as follows:

"(2) The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the corporation to be issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the 2nd Liberty Bond Act, as amended, and the purposes for which securities may be issued under the 2nd Liberty Bond Act, as amended, are extended to include any purchases of the corporation's obligations hereunder. The Secretary of the Treasury may, at any time, sell any of the

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obligations of the corporation acquired by him under this section. All redemptions, purchases and sales by the Secretary of the Treasury of the obligations of the corporation shall be treated as public-debt transactions of the United States. 10

"(3) No obligations, contingent or absolute, shall be incurred for the expenditure or other disposition of funds heretofore, hereby or hereafter appropriated, or otherwise obtained for the carrying out of functions of the corporation unless within estimates of such obligations and expenditures approved by the Director of the Budget; and, to the extent that the Secretary of the Treasury may consider practicable and under such rules and regulations as he may prescribe, there shall be maintained on the books of the Treasury Department such accounts as may be necessary to give full force and effect to this provision: provided, that this paragraph shall not apply to obligations of the corporation to depositors of banks closed on account of inability to meet the demands of depositors, obligations for expenses of paying its obligations to depositors or expenses of operation of new banks, obligations connected with the powers and duties of the corporation as receiver, or obligations incurred for the purposes provided in this subsection (n) of this section, or obligations to make the refund provided by law to any bank not a member of the Federal Reserve System electing as provided in subsection (f) of this section not to continue after June 30, 1935 as an insured bank."

18. By adding at the end of subsection (r) the following,

"The board of directors, from time to time, shall gather information and data and shall make investigations and reports upon the organization,

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operation, closing, reopening, reorganization and consolidation of banks, banking practices and management, and the security of depositors and adequacy of service to borrowers. The board of directors, in any annual or special report to Congress, shall report its findings and make such recommendations and requests as it shall find necessary and appropriate for the purpose of carrying out the purposes of this section and fully providing for all of the obligations of the corporation." 10

19. By inserting in subsection (s) following the words "purchase any assets" the following, "or for the purpose of obtaining the payment of any insured deposit or transferred deposit or the allowance, approval or payment of any claim,".

20. By striking out in subsection (v) the following, "(v)" and inserting in lieu thereof, "(v) (1)"; and by striking out in said subsection "class A stockholder of the Federal Deposit Insurance Corporation" and inserting in lieu thereof "insured bank".

21. By striking out the second paragraph of subsection (v) and inserting in lieu thereof the following,

"(2) Every insured bank shall display at each place of business maintained by it a sign or signs, and shall include in advertisements relating to deposits and in forms furnished for use of its depositors as specified by regulations of the board of directors, a statement to the effect that its deposits are insured by the corporation. The board of directors shall prescribe by regulation the forms of such signs and the manner of display and the forms of such statements and the manner of use. For each day an insured bank continues to violate any provision of this paragraph

or any lawful provision of said regulation, it shall be subject to a penalty of \$100 which shall be recoverable by the corporation for its use."

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22. By adding to subsection (v) three new paragraphs to read as follows:

"(3) No insured bank shall pay any dividends on its capital stock while it remains in default in the payment of any assessment due to the corporation; and any director or officer of any insured bank, who participates in the declaration or payment of any such dividend shall, upon conviction, be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(4) Unless, in addition to compliance with other provisions of law, it shall have the prior written consent of the corporation, no insured bank shall enter into any consolidation or merger with any noninsured bank, or assume liability to pay any deposits of any noninsured bank, or transfer assets to any noninsured bank in consideration of the assumption of liability for any portion of its deposits, and no insured state nonmember bank (except a District bank) without such consent shall reduce the amount or retire any part of its common or preferred capital stock, or retire any part of its capital notes or debentures.

"(5) Each insured bank shall provide such protection and indemnity against burglary, fidelity and other similar insurable losses as the board of directors by regulation may require adequately to reimburse the bank for such losses. Whenever any insured bank fails to comply with any such regulation the corporation may contract for such protection and indemnity and add the cost thereof to the assessment otherwise payable by such bank.

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"(6) Whenever an insured bank except a national bank or District bank, for a period of 120 days after written notice of the recommendations of the corporation based on a report of examination of such bank by an examiner of the corporation, shall fail to comply with such recommendations, the corporation shall have the power, and is hereby authorized to publish any part of such report of examination in such manner as it may determine: provided, that such notice of intention to make such publication shall be given at the time such recommendations are made, or at any time thereafter and at least 90 days before such publication."

23. By striking out all of subsection (y) preceding the last paragraph thereof and inserting in lieu thereof the following,

"(y) (1) No state nonmember bank, other than (a) a mutual savings bank, or (b) a Morris Plan bank, or (c) a bank located in the territory of Hawaii or Alaska, shall become or continue an insured bank after July 1, 1937, and the insured status and insurance of the deposits of each state nonmember bank, other than (a) a mutual savings bank, or (b) a Morris Plan bank, or (c) a bank located in the territory of Hawaii or Alaska, shall terminate on July 1, 1937.

"(2) For the purposes of this section and notwithstanding any other provision thereof, any unincorporated bank which continues to be an insured bank without application or approval under the provisions of paragraph (1) of subsection (f) of this section, shall be included in the term 'state bank' and 'state nonmember bank'."

24. By inserting at the beginning of the last paragraph of subsection (y) the following, "(3)".