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THE BANKING ACT OF 1935

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SUMMARY OF CERTAIN PROVISIONS OF TITLE
I, AND SECTION-BY-SECTION SUMMARY OF
TITLES II AND III.

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I, AND SECTION-BY-SECTION SUMMARY OF
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* * * * *

This is intended merely as a brief statement of the
apparent effect of certain provisions of the Act, and is not
intended as a legal interpretation of the language or as a
comment thereon.

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THE BANKING ACT OF 1935

SUMMARY OF CERTAIN PROVISIONS OF TITLE I, AND SECTION-BY-SECTION SUMMARY OF TITLES II AND III.

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TITLE I - FEDERAL DEPOSIT INSURANCE AMENDMENTS

(There are summarized below only certain provisions of Title I, especially concerning the Federal Reserve System, i.e., the provisions relating to the payment of deposits and interest thereon by insured nonmember banks, and those relating to the insurance of nonmember banks).

1. Payment of Deposits and Interest Thereon by Insured Nonmember Banks.

Subsection (v)(8) of section 12B of the Federal Reserve Act, as amended by the Banking Act of 1935, contains a new provision which directs the board of directors of the Federal Deposit Insurance Corporation to prohibit by regulation the "payment of interest on demand deposits in insured nonmember banks". For that purpose the directors may define the term "demand deposits", but such exceptions must be made to the prohibition as are now or may hereafter be made for member banks by section 19 of the Federal Reserve Act or regulations thereunder.

The Federal Deposit Insurance Corporation Directors also "shall from time to time limit by regulation the rates of interest or dividends which may be paid by insured nonmember banks on time and savings deposits". The Directors shall "define what constitutes time and savings deposits in an insured nonmember bank" and they shall "prescribe different rates for such payment on time and savings deposits having different maturities, or subject to different conditions respecting withdrawal or repayment, or subject to different

conditions by reason of different locations, or according to the varying discount rates of member banks in the several Federal Reserve districts". The regulations shall prohibit the payment of any time deposit before maturity except upon conditions prescribed by the Directors, and shall prohibit the waiving of any requirement of notice before payment of a savings deposit except as to all savings deposits having the same requirement.

A penalty of \$100, recoverable by the Corporation, is provided for violation.

2. Insurance of Nonmember Banks.

Subsection (f)(2) of section 12B of the Federal Reserve Act, as amended by the Banking Act, permits any State nonmember or national nonmember bank to become an insured bank, "subject to the provisions of this section".

Subsection (i)(2) terminates the insured status of a member bank when it ceases to be a member bank; but for two years thereafter the bank remains liable for assessments and retains the insurance on insured deposits held by it when it ceased to be a member bank, less subsequent withdrawals.

Subsection (y)(1) provides, in lieu of the former provisions of subsections (1) and (y) which would have terminated the insurance of all nonmember banks on July 1, 1937, that no State bank which during the calendar year 1941 or any succeeding calendar year has

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average deposits of \$1,000,000 or more shall be an insured bank or have any part of its deposits insured after July 1 following the callendar year in which it had such deposits; but the restriction does not apply to a savings, mutual savings, Morris plan, or other bank doing no commercial banking business, or to a bank located in Hawaii, Alaska, Puerto Rico, or the Virgin Islands.

TITLE II - FEDERAL RESERVE AMENDMENTS

SECTION 201

President and Vice Presidents of Federal Reserve Bank.

Paragraph "Fifth" of section 4 of the Federal Reserve Act is amended, effective March 1, 1936, to provide specifically for a "president" and "vice presidents" at each Federal Reserve bank. The president will be the chief executive officer of the bank and will be appointed by the board of directors, with the approval of the Board in Washington, for a five-year term; and all other executive officers and all employees of the bank will be directly responsible to him. The first vice president will be appointed in the same manner and for the same term as the president, and will serve as chief executive officer of the bank in the absence or disability of the president or during a vacancy in that office. Vacancies in the office of president or first vice president will be filled in the same manner as original appointments, and for the remainder of the term of the predecessors.

SECTION 202

Requirements for Admission to Federal Reserve System.

A new paragraph is added to section 9 of the Federal Reserve Act so that in order to facilitate the admission to membership of any State bank which is required under subsection (y) of section 12B to become a member bank in order to be an insured bank (see Title

I above re insurance of nonmember banks), the Board may waive in whole or in part the requirements of section 9 relating to the admission of such bank to membership. If such a bank is admitted with capital less than that required for the organization of a national bank in the same place and its capital and surplus are not, in the Board's judgment, adequate in relation to the bank's liabilities to depositors and other creditors, the Board may require such bank to increase its capital and surplus to such amount as the Board may deem necessary within such period as the Board may deem reasonable; but no such bank may be required to increase its capital beyond that required for the organization of a national bank in the same place.

SECTION 203(a)

Names of Board, Governor, and Vice Governor Changed.

A separate provision not specifically amending the Federal Reserve Act provides that hereafter the Federal Reserve Board shall be known as the "Board of Governors of the Federal Reserve System" and that the governor and vice governor shall be known as the "chairman" and "vice chairman", respectively.

SECTIONS 203(b) and 203(c)

Organization of Board

Section 10 of the Federal Reserve Act is amended to provide that the Board of Governors of the Federal Reserve System shall be composed of seven members appointed by the President with the advice

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and consent of the Senate. The Secretary of the Treasury, the Comptroller of the Currency, and the present six appointive members continue to serve as members of the Board until February 1, 1936; and the term of each successor will be fixed by the President at not more than fourteen years, so that not more than one term will expire in any two year period. Thereafter, instead of serving a twelve year term, each member will hold office for a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President. The existing prohibition against more than one board member being from the same Federal Reserve district is retained, and the President is still directed, in selecting the Board members, to "have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country". Upon the expiration of their terms of office, members of the Board will continue to serve until their successors are appointed and have qualified.

Salaries and Reappointment of Board Members.

The Act increases Board members' salaries from \$12,000 a year to \$15,000; and adds a new provision that a person appointed after enactment of the Act shall not be eligible for reappointment after he has served a full term of fourteen years.

Chairman and Vice Chairman of Board.

One of the members of the Board "shall be designated by the President as Chairman and one as Vice Chairman of the Board, to serve as such for a term of four years". The Chairman of the Board, subject

to its supervision, shall be its active executive officer.

SECTION 203(d)

Record of Action by Board and Open Market Committee.

At the end of Section 10 of the Federal Reserve Act a new paragraph is added requiring the Board to keep a complete record of action taken, and the reasons underlying such action, by it and by the Federal Open Market Committee on all questions of open market operations and all other questions of policy, and to include in its annual report a full account of all such action together with a copy of the records required to be kept.

SECTION 204

Advances to Member Banks.

Section 10(b) of the Federal Reserve Act which, prior to its expiration on March 3, 1935, authorized any Federal Reserve bank, under rules and regulations prescribed by the Board, to make advances to any member bank on its time or demand notes secured to the satisfaction of such Federal Reserve bank is reenacted as permanent law and amended in certain respects. The requirement that such advances be made only "in exceptional and exigent circumstances" and when the member bank cannot obtain adequate credit accommodations under other provisions of the Federal Reserve Act is eliminated; and the requirement that such note must bear interest at a rate not less than one per cent per annum higher than the highest discount rate in effect at such Federal Reserve bank on the date of such note is

changed to a requirement that it be at least one-half per cent per annum higher. A provision is added requiring the notes of the member bank to have maturities of not more than four months.

SECTION 205

Open Market Operations

Section 12A of the Federal Reserve Act is amended, effective March 1, 1936, so that instead of the Federal Open Market Committee consisting of one representative from each Federal Reserve district, it will consist of the seven members of the Board of Governors of the Federal Reserve System and five annually-elected representatives of the Federal Reserve banks. One of the five reserve bank representatives will be elected by the directors of the Federal Reserve banks of Boston and New York; one by the directors of the Federal Reserve banks of Philadelphia and Cleveland; one by the directors of the Federal Reserve banks of Chicago and St. Louis; one by the directors of the Federal Reserve banks of Richmond, Atlanta and Dallas; and one by the directors of the Federal Reserve banks of Minneapolis, Kansas City and San Francisco. An alternate for each representative will be elected in the same manner as the representative. The existing provision for meetings being held at Washington at least four times a year upon the call of the Chairman (formerly called the Governor) of the Board, or at the request of any three members of the Committee, is retained.

The Committee will "consider, adopt, and transmit to the several Federal Reserve banks, regulations relating to the open market

transactions of such banks". Not only will Federal Reserve banks be forbidden to engage in open market operations except in accordance with such regulations, but they also will be forbidden to "decline to engage" in such operations except in accordance with the direction of and regulations adopted by the Committee. The old procedure is eliminated whereby open market policies were proposed by the Committee, submitted to the Board for approval or disapproval, and then, if approved, forwarded to the Reserve banks who might, by giving thirty days' notice, refuse to participate in such operations.

The provision in subsection (c) of section 12A that open market operations "shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country", is retained. Though the provision relating to the Board's power to regulate relations of the Federal Reserve System with foreign central or other foreign banks is eliminated, this apparently has little effect since the power to control such relations remains in the Board under section 14(g) of the Federal Reserve Act.

SECTION 206(a)

Government Obligations and Government Guaranteed Obligations.

Section 14(b) of the Federal Reserve Act is amended to provide that obligations of the United States and those fully guaranteed as to principle and interest by the United States may be bought and sold without regard to maturities, but only in the open market.

SECTION 206(b).

Discount Rates of Reserve Banks.

Section 14(d) of the Federal Reserve Act which provides that Federal Reserve banks may from time to time establish discount rates, subject to review and determination of the Board, is amended to require that "each such bank shall establish such rates every fourteen days, or oftener if deemed necessary by the Board".

SECTION 207

Reserve Requirements of Member Banks.

Section 19 of the Federal Reserve Act is amended to permit the Board to change the reserve requirements of member banks "in order to prevent injurious credit expansion or contraction"; and to eliminate the necessity for first having a declaration, upon the affirmative vote of five Board members and the approval of the President, that "an emergency exists by reason of credit expansion". The changes may be made for member banks located in reserve and central reserve cities, for member banks not in reserve or central reserve cities, or for all member banks; but the affirmative vote of not less than four Board members is required for such a change, and the reserves required of a member bank as a result of such a change may not be less than the present requirements nor more than twice such requirements.

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SECTION 208

Real-estate Loans by National Banks.

Section 24 of the Federal Reserve Act, relating to real-estate loans by national banks, is amended to eliminate the requirement that the real estate upon which such loans are made must be located in the bank's Federal Reserve district or within 100 miles of the place in which the bank is located. Apparently the requirement that the bank take the entire amount of the obligation is eliminated with respect to loans made by the bank but is retained as to such obligations purchased by the bank. The limitation to 50 per cent of the actual value of the property is changed to 50 per cent of the appraised value; and in addition to retaining the exemption of mortgages insured under Title II of the National Housing Act from the five-year limitation on maturities and 50 per cent limitation on appraised values, the amendment permits amortized loans to be made in amounts not exceeding 60 per cent of the appraised value of the real estate and for terms not longer than ten years if installment payments are sufficient to amortize at least 40 per cent of the principal within ten years.

The permissible aggregate of real estate loans of a national bank is changed from 25 per cent of the bank's paid-in and unimpaired capital and surplus or 50 per cent of its savings deposits, whichever is greater, to 100 per cent of its paid-in and unimpaired capital and surplus or 60 per cent of its time and savings deposits, whichever is greater.

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SECTION 209

Salary and Appointment of Comptroller of the Currency.

Section 325 of the Revised Statutes is amended to increase the Comptroller of the Currency's salary as Comptroller from \$5,000 a year to \$15,000 a year, thus replacing that portion of his salary which he formerly received as a member of the Federal Reserve Board and also increasing his salary to the same extent that Board members' salaries are increased. The provision that his appointment be made upon the recommendation of the Secretary of the Treasury also is eliminated.

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TITLE III. - TECHNICAL AMENDMENTS

SECTION 301

"Accidental Holding Company Affiliates" Eliminated.

Section 2(c) of the Banking Act of 1933 is amended to eliminate from the definition of "holding company affiliates," except for the purposes of section 23A of the Federal Reserve Act which deals with loans by member bank to such affiliates or on the securities of such affiliates) and hence from all other provisions regarding such affiliates, any corporation all the stock of which is owned by the United States or any "organization which is determined by the Board of Governors of the Federal Reserve System not to be engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, banking associations, savings banks, or trust companies".

SECTION 302.

Divorcement of Securities Companies in Liquidation Not Required.

Section 20 of the Banking Act of 1933 is amended to make it clear, in conformity with a previous ruling of the Board, that member banks need not divorce securities affiliates which have been placed in formal liquidation.

SECTION 303(a)

Section 21 of Banking Act Clarified; Inapplicable to Banks Selling Mortgages.

Section 21(a)(1) of the Banking Act of 1933 is amended

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to make it clear that it does not prohibit any financial institution or private banker from engaging in the securities business to the limited extent permitted to national banks under section 5136 of the Revised Statutes. (Section 5136 limits national banks, in dealing and under writing, to United States Government obligations, general obligations of States or subdivisions, obligations issued under the Federal Farm Loan Act or by the Federal Home Loan Banks or the Home Owners Loan Corporation, and certain obligations insured under section 207 of the National Housing Act). It also is made clear that section 21(a)(1) does not prohibit a bank from selling without recourse or agreement to repurchase, obligations evidencing loans on real estate.

SECTION 303(b)

Receipt of Deposits by Persons not Subject to State or Federal Regulation.

Section 21(a)(2) of the Banking Act of 1933, which prohibited any person not subject to examination and regulation under State or Federal law from engaging in the business of receiving deposits unless such person submit to examination by the Comptroller of the Currency or the Federal Reserve Bank of the district, is amended so as to prohibit any person from engaging in such business with other than his or its own officers, agents, or employees, unless such person (1) is incorporated under and authorized to engage in such business by Federal or local law; or (2) is permitted by

local law to engage in such business and is subject under such law to examination and regulation; or (3) submits to periodic examination by the banking authorities of the locality where the business is conducted and makes and publishes periodic reports of condition under the same conditions as required by local law in the case of incorporated banking institutions.

SECTION 304.

Double Liability on National Bank Stock Terminated.

Section 22 of the Banking Act of 1933, which ended double liability on national bank stock issued after June 16, 1933, is amended to permit termination on July 1, 1937, of the double liability on previously issued stock in national banks operating on that latter date. The bank must publish notice of such termination six months before July 1, 1937 in order to terminate such liability on that date, or it can terminate such liability after that date by publishing such notice six months prior to the termination.

SECTION 305

Seasonal Agencies of National Banks.

Section 5155 of the Revised Statutes is amended to permit a national bank in a State which by statute permits State banks to maintain branches within county or greater limits, to establish, with the approval of the Comptroller of the Currency, without regard to the capital requirements of the section, a "seasonal agency in any resort community" in the same county as the main

office of such bank. However, the privilege applies only if no other bank is doing business in the place where the agency is to be located, and any permit for such an agency must be revoked upon the opening of a State or national bank in such community.

SECTION 306.

Directors of Nonmember National Banks Relieved of Stock Ownership Requirement.

Section 4 of the Act of June 16, 1934, which relieved directors of member banks from the stock ownership requirement of section 31 of the Banking Act of 1933, is amended to eliminate such requirement also as to nonmember national banks, such as those in Alaska and Hawaii.

SECTION 307.

Interlocking Relationships Between Member Banks and Securities Companies.

Section 32 of the Banking Act of 1933 is rewritten, effective January 1, 1936, to make the prohibitions against interlocking relationships between member banks and securities companies extend to the employees of both such organizations in addition to their officers and directors; and individuals engaged in the securities business are subjected to the same prohibitions as officers of companies and members of partnerships so engaged.

Permission of the Board for such interlocking relationships will be given "in limited classes of cases" and by "general regulations" rather than by individual ~~permit~~. Such relationships

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may be permitted when they "would not unduly influence the investment policies of such member bank or the advice it gives its customers regarding investments", rather than when they would be "not incompatible with the public interest".

The description of the securities businesses in question is changed from those "engaged primarily in the business of purchasing, selling, or negotiating securities" to those "primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities". The prohibition against correspondent relationships between member banks and securities companies is eliminated.

SECTIONS 308(a) and 308(b).

Change in Amount of Investment Securities of One Obligor That May Be Held By Member Bank.

Section 5136 of the Revised Statutes is amended to eliminate the existing prohibition against a member bank purchasing and holding more than 10 per cent of a particular issue of investment securities, but the total obligations of one obligor which may be purchased and held by a member bank is reduced from 15 per cent of the bank's paid in and unimpaired capital and 25 per cent of its unimpaired surplus, to 10 per cent of each, though banks are not required to dispose of securities lawfully held on the date of enactment of the bill.

Purchase of Stocks for Account of Customers.

It would be made clear, in conformity with previous rulings

of the Comptroller of the Currency and the Board, that national and other member banks may purchase and sell stocks for the account of their customers but not for their own accounts.

SECTION 308(c)

Obligations Insured Under Section 207 of National Housing Act.

Section 5136 of the Revised Statutes is amended to include within the group of securities that may be dealt in by member banks free from the restrictions of that section, obligations insured under section 207 of the National Housing Act, if the debentures to be issued in payment of such insured obligations are guaranteed as to principle and interest by the United States.

SECTION 309.

Surplus Required for Organization of National Banks.

Section 5138 of the Revised Statutes is amended to require for the organization of a new national bank, a paid in surplus of 20 per cent of its capital; and although the Comptroller of the Currency is permitted to waive this requirement as to a converting State bank, such a converting bank is required, before the declaration of a dividend on its common stock, to carry at least one-half of its net profits for the preceding half year to its surplus fund until its surplus equals 20 per cent of its capital. Provision also is made for treating as a party the surplus fund amounts paid into a fund for the retirement of preferred stock.

SECTION 310(a)

Separation of National Bank Stock Certificates From Those of Other Corporations.

The requirement of section 5139 of the Revised Statutes that stock certificates of national banks may not "represent the stock" of any other corporation, except a member bank or a corporation existing on the date the paragraph took effect "engaged solely in holding the bank premises of such association", is changed so that such certificates merely may not "bear any statement purporting to represent the stock" of any other corporation, except a member bank or a corporation "engaged on June 16, 1934 in holding the bank premises". A similar change is made in the exceptions to the prohibition against the transfer of national bank shares being conditioned upon the transfer of shares of other corporations. A provision also is added to the effect that the section shall not operate to prevent the transfer of stock of another corporation being conditioned upon the transfer of a national bank stock certificate.

SECTION 310(b)

Separation of State Member Bank Stock Certificates From Those of Other Corporations.

The provisions of section 9 of the Federal Reserve Act regarding the separation of State member bank stock certificates from those of other corporations are amended to make the same changes as those indicated above in the case of national bank stock certificates.

SECTION 311(a)

Voting Rights of National Bank Preferred Stock.

Section 5144 of the Revised Statutes is amended to make it clear that it does not limit the voting rights of holders of preferred stock of a national bank under provisions of articles of association or amendments thereto adopted pursuant to sec. 302(a) of the Emergency Banking Act of March 9, 1933, as amended.

Voting Permit Unnecessary for Liquidation.

Section 5144 of the Revised Statutes is amended to eliminate the necessity for a voting permit in cases where shares of a member bank held by a holding company affiliate are to be voted merely in favor of placing the bank in voluntary liquidation or taking any other action pertaining to voluntary liquidation of the bank.

Shares of Own Stock Held by National Bank as Sole Trustee.

The prohibition in section 5144 against a national bank voting its own stock when held by it as sole trustee, is relaxed to apply only in the election of directors; and even in the election of directors such stock may be voted if the donor or beneficiary of the trust, under authority of the trust, directs how the stock is to be voted. A provision is added to the effect that whenever shares cannot be voted on account of the prohibition mentioned above, they shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

SECTION 311(b)

Limited Voting Permits and Cumulative Voting Clarified.

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Section 5144 of the Revised Statutes is amended to make it clear that holding company affiliates which have obtained a voting permit are entitled to the right of cumulative voting given other shareholders by the section, and also to make it clear that the Board of Governors of the Federal Reserve System may issue limited voting permits and is not confined to issuing general voting permits. Both these changes conform with previous rulings of the Board.

SECTION 311(c)

Assets Required of Holding Company Affiliates as to Bank Stock Not Subject to Statutory Liability.

Section 5144(c) of the Revised Statutes is amended to relieve a holding company affiliate, to the extent that the bank stock owned by it is not subject to statutory liability, from the provisions of section 5144(b) which require a holding company affiliate after June 16, 1938, (1) to possess and maintain readily marketable assets other than bank stock in an amount not less than 12 per cent of the aggregate par value of all such stock controlled by it and to increase such amount by 2 per cent per annum of such par value until such assets amount to 25 per cent of the par value of such bank stock; and (2) to reinvest in readily marketable assets other than bank stock all net earnings over 6 per cent per annum on the book value of its own shares until such assets amount to 25 per cent of the aggregate par value of all bank stock controlled by it. In lieu of these requirements, a holding company affiliate, to the extent that the shares of bank stock held by it are not subject to statutory liability, is subjected to the provisions of section 5144(c)

which require the holding company affiliate after June 16, 1938, to establish and maintain out of the net earnings over 6 per cent per annum on the book value of its own shares, a reserve of readily marketable assets of not less than 12 per cent of the aggregate par value of such bank stock controlled by it.

SECTION 312

Retention of Ineligible Assets By Converting Banks.

Section 5154 of the Revised Statutes is amended to authorize the Comptroller of the Currency to permit State banks converting into national banks to retain and carry, at a value determined by the Comptroller, assets not permitted to be acquired and held by national banks.

SECTION 313

Comptroller May Delegate Countersigning.

Section 5162 of the Revised Statutes is amended to authorize the Comptroller of the Currency to designate a person or persons to countersign on his behalf assignments and transfers of bonds.

SECTION 314

Interest Rates Charged By National Bank Branches Outside United States.

Section 5197 of the Revised Statutes is amended to permit national bank branches located outside the States of the United States and the District of Columbia to charge interest at the rate permitted by local law.

SECTION 315

Accumulation of Surplus by National Bank.

Section 5199 of the Revised Statutes is amended to make the requirement that a national bank carry one-tenth of earnings to the surplus fund before declaring a dividend, apply only to the declaration of a dividend on its common stock, and also to change the amount of surplus to be accumulated, from 20 per cent of its "capital stock" to 100 per cent of its "common capital". Provision also is added to allow a national bank to treat as an addition to its surplus fund amounts paid into its preferred-stock retirement fund.

SECTION 316

Criminal Provisions re Embezzlements, False Entries, etc.. Extended to Insured Banks and Nonmember National Banks.

The criminal provisions of section 5209 of the Revised Statutes relating to embezzlements, false entries, etc., are extended to apply to officers, directors, and employees, etc., of insured banks, or of nonmember national banks such as those in the Territories.

SECTION 317

Voluntary Liquidation of National Banks.

A paragraph is added to section 5220 of the Revised Statutes to provide a procedure to be followed in cases of voluntary liquidation of national banks as authorized by that section. Liquidation will be accomplished by a liquidating agent or committee which will be responsible to the bank's directors and stockholders, and the bank will remain subject to examination by the Comptroller of the Currency.

SECTION 318

Prohibition of Use of Words "National", "Federal", and "United States".

Section 5243 of the Revised Statutes which prohibited the use of the word "national" in certain cases is rewritten so as to prohibit the use of the words "national", "Federal", or "United States" as a part of the name or title of any person, firm or corporation doing the business of bankers, brokers or trust or savings institutions unless they are organized under the laws of the United States or permitted by the laws of the United States to use such name or are now lawfully using such name.

SECTIONS 319(a) and 319(b)

Reduction in Federal Reserve Bank Stock to Conform to Reduction in Member Bank's Surplus.

Section 5 of the Federal Reserve Act is amended to require member banks to reduce their holdings of Federal reserve bank stock upon a reduction in their surplus, just as they are already required to do upon a reduction in their capital.

Certification to Comptroller of the Currency Upon Change in Capital Stock of Federal Reserve Bank.

The provisions of section 5 of the Federal Reserve Act requiring the directors of a Federal Reserve bank to execute a certificate to the Comptroller of the Currency upon an increase in the capital stock of such bank, and the provisions of section 6 of the Federal Reserve Act requiring a similar certification upon a reduction in such capital stock, are repealed.

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SECTION 320

Publication of Condition Reports of State Member Banks.

Section 9 of the Federal Reserve Act is amended to authorize the Board of Governors of the Federal Reserve System to prescribe the information to be contained in, and form of, condition reports of State member banks, and to require publication of such reports under regulations of the Board.

SECTIONS 321(a) and 321(b)

Limitation on Loans by Member Banks on Government Obligations.

Section 11(m) of the Federal Reserve Act is amended to place State member banks on a parity with national banks in lending on the security of bonds or notes of the United States issued since April 24, 1917, certificates of indebtedness of the United States, Treasury bills of the United States, or obligations guaranteed as to principal and interest by the United States, by changing the limitation on loans to one individual on such security, from 10 per cent of the bank's unimpaired capital and surplus to 25 per cent thereof, as provided for national banks in section 5200 of the Revised Statutes. The latter provision is amended to make it cover Treasury bills of the United States and obligations guaranteed as to principal and interest by the United States, as well as the other government obligations listed above.

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SECTION 322

Indorsement or Other Security Sufficient for Reserve Bank Discounts for Individuals.

The third paragraph of section 13 of the Federal Reserve Act is amended to require either indorsement or other security, rather than both, for paper discounted by Federal reserve banks for individuals or corporations unable to secure adequate credit accommodations from other banks.

SECTION 323

Changes in Wording of Section 13 b of Federal Reserve Act.

This section makes certain changes in the language of section 13b of the Federal Reserve Act, making it conform to the amendment in Title I of the bill whereby stock of the Federal Deposit Insurance Corporation subscribed for by the Federal reserve banks is changed to no par value. These changes in section 13b, however, are in form only and do not alter the effect of the existing law.

SECTION 324(a)

Definition of Various Classes of Deposits by Board of Governors of the Federal Reserve System.

The definitions of "demand deposits" and "time deposits" are stricken from section 19 of the Federal Reserve Act, and instead, the Board of Governors of the Federal Reserve System is authorized to define for the purposes of the section the terms: "demand deposits", "gross demand deposits", "deposits payable on demand", "time deposits",

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"savings deposits" and "trust funds", to determine what is to be deemed a payment of interest and to prescribe regulations to effectuate the purposes of the section; but the term "time deposits" continues to include "savings deposits" for the purposes of the provisions regarding member bank reserve requirements.

SECTION 324(b)

Deduction of "Amounts Due From Banks" in Computing Reserves.

Section 19 of the Federal Reserve Act is amended so that, for purposes of computing member bank reserves, amounts due from other banks (except Federal reserve banks and foreign banks) and certain cash items in process of collection may be deducted from gross demand deposits rather than merely from amounts due to other banks.

SECTION 324(c)

Payment of Deposits and Interest Thereon by Member Banks.

Section 19 of the Federal Reserve Act is amended to add to the exemptions from the prohibition against the payment of interest by member banks on demand deposits: (1) contracts existing when a bank joins the System and (2) deposits payable outside the States of the United States and the District of Columbia (rather than merely those payable in foreign countries). The existing exemption of deposits made on behalf of any State or other such subdivision as to which interest is required by State law and of deposits made by mutual savings banks, is terminated two years after the date of enactment of the Banking Act of 1935; and during this two-year period there are added to these exemp-

tions deposits made by savings banks and deposits of trust funds on which interest is required by State law. So much of existing law as requires the payment of interest on funds deposited by the United States or any territory or possession thereof as is inconsistent with the provisions of section 19 is repealed.

The provision authorizing the Board, in limiting the rate of interest which may be paid by member banks on time and savings deposits, to prescribe different rates in different circumstances, is changed to a provision that the Board "shall prescribe different rates for such payment on time and savings deposits having different maturities, or subject to different conditions respecting withdrawal or repayment, or subject to different conditions by reason of different locations, or according to the varying discount rates of member banks in the several Federal Reserve districts." The absolute prohibition against the payment of time deposits before maturity is relaxed to permit such payments under conditions prescribed by the Board; and deposits payable only at offices of member banks located outside the States of the United States, and the District of Columbia are exempted from all restrictions on payment before maturity and all restrictions on interest rates.

SECTION 324(d)

Reserves Required on Government Deposits.

At the end of Section 19 of the Federal Reserve Act a new paragraph is added requiring member banks to keep the same reserves against deposits of the United States as against other deposits, thus repealing the contrary provisions of the Liberty Bond Acts.

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SECTION 325

Waiver of Reports or Examinations of Affiliates.

A new paragraph is added to Section 21 of the Federal Reserve Act to permit the Board of Governors of the Federal Reserve System or the Comptroller of the Currency, as the case may be, to waive examination of, or reports from, affiliates of a member bank, when they are "not necessary to disclose fully the relations between such affiliate and such bank and the effect thereof upon the affairs of such bank".

SECTION 326(a)

Criminal Provisions Clarified, Extended to Insured Banks.

Section 22(a) is amended to make it clear that the prohibitions against loans or gratuities to bank examiners from member banks, and their officers and employees, apply only to banks subject to examination by such examiners; and also to make it clear that these prohibitions and the prohibitions against thefts by examiners apply to State examiners examining member banks as well as to Federal examiners, but not to private examiners. The prohibitions are extended to cover insured banks.

SECTION 326(b)

Federal Deposit Insurance Corporation Examiners Subjected to Criminal Provisions.

The prohibition in Section 22(b) of the Federal Reserve Act against a National Bank Examiner receiving compensation from any bank, or officer or employee thereof, is extended to Federal Deposit Insurance

Corporation examiners; and the restrictions against examiners revealing the borrowers or collateral of member banks is extended to cover insured banks.

SECTION 326(c)

Borrowings by Executive Officers of Member Banks - Elimination of Criminal Penalty.

Section 22(g) of the Federal Reserve Act forbidding executive officers of member banks to borrow from their banks is amended by giving the Board of Governors of the Federal Reserve System power to remove such officers for violations, rather than subjecting them to the present penalty of \$5,000 and/or a year in jail. The \$10,000 fine on the bank is eliminated.

Such loans that were outstanding on June 16, 1933, may be extended or renewed until June 16, 1938, if a finding by the bank directors that such renewal is in the bank's interest and that the officer has made reasonable effort to reduce his obligation is spread on the bank's minute book. With the prior approval of a majority of the bank's directors, loans not exceeding \$2,500 from a member bank to an executive officer are permitted. Borrowing by a partnership in which one or more executive officers have individually or collectively a majority interest are stated to be within the prohibition, whereas the old law was construed to prohibit loans to partnerships in which an executive officer has any interest. It is made clear that, in order to aid or protect the bank, executive officers may indorse paper previously taken by the bank in good faith, or may incur any indebtedness to the bank. The Board is given power to define terms used in the section and prescribe regulations to effect its purposes.

SECTION 327

Restrictions on Loans to Affiliates Relaxed.

The exemptions from the limitations of Section 23A on member banks' loans to affiliates and loans on and investments in the securities of affiliates, is broadened to exempt from its provisions (1) affiliates "engaged on June 16, 1934" in holding the bank premises (the existing law requires them to be "solely" so engaged), (2) affiliates primarily engaged in maintaining and operating properties acquired for banking purposes prior to enactment of the bill, (3) wholly owned subsidiaries of foreign banking corporations organized under the Federal Reserve Act, (4) wholly owned subsidiaries of similar corporations in which national banks are authorized to invest under Section 25 of the Federal Reserve Act, (5) affiliates engaged solely in holding obligations of, or fully guaranteed as to principal and interest by, the United States, (the present exemption applies only to affiliates holding such direct obligations), (6) affiliates which became such through a bona fide previous debt, and (7) affiliates which are such because their shares are held by the bank as fiduciary (except when the beneficiaries are a majority of the bank's stockholders).

The section also is made inapplicable to affiliate indebtedness arising from the unpaid balance due on assets purchased from the bank, and to loans secured by, or extensions of credit against obligations of, or fully guaranteed as to principal and interest by the United States.

SECTION 328

"Working Capital" Loans Relieved of Real Estate Restrictions.

Section 24 of the Federal Reserve Act is amended to exempt from the restrictions of that section on real estate loans, all "working capital" loans in which the Reconstruction Finance Corporation or a Federal reserve bank has participated or made a commitment, or which it has discounted, loaned upon or purchased.

SECTION 329

Interlocking Bank Directorates.

Section 8A of the Clayton Act which restricted interlocking relationships between banks and trust companies organized or operating under the laws of the United States and institutions which "make loans secured by stock or bond collateral", is repealed; and certain provisions of Sections 25 and 25(a) of the Federal Reserve Act regarding interlocking relations between member banks and foreign banking corporations organized under the Federal Reserve Act or in which national banks are authorized to invest under Section 25 of the Federal Reserve Act, also are repealed.

Section 8 of the Clayton Act is rewritten to provide that "no private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under laws of any State or of the District of Columbia, or any branch thereof, except that the Board of

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Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof".

However, the prohibition does not apply in the case of one or more of the following or any branch thereof:

- (1) A bank of which more than 90 per cent of the stock is owned by the United States or by any corporation of which the United States owns more than 90 per cent of the stock;
- (2) A bank placed formally in liquidation or which is in the hands of a receiver, conservator or other such official;
- (3) A corporation principally engaged in international or foreign banking or banking in a dependency or possession of the United States which has entered into an agreement with the Board pursuant to Section 25 of the Federal Reserve Act;
- (4) A bank of which more than 50 per cent of the common stock is owned by persons who own more than 50 per cent of the common stock of the member bank;
- (5) A bank not located and having no branch in the same place where the member bank or branch thereof is located, or in a place contiguous or adjacent thereto;
- (6) A bank not engaged in a class or classes of business in which a member bank is engaged; and
- (7) A mutual savings bank having no capital stock.

Until February 1, 1939, the amended section will not affect the service of any director, officer, or employee of any member bank or branch thereof who is lawfully serving on the date the Bill was enacted.

The Board "is authorized and directed to enforce compliance with this section, and to prescribe such rules and regulations as it deems necessary for that purpose".

SECTIONS 330 (a)
and 330 (b)

National Bank Consolidations.

Section 1 of the Act of November 7, 1918 (U.S.C., Title 12, section 33) is amended to clarify the provisions relating to consolidations of national banks, particularly with respect to dissenting stockholders.

SECTIONS 331 (a)
and 331 (b)

Consolidation of State and National Banks.

By provisions similar to those of the previous section of the Act, Section 3 of the Act of November 7, 1918 (U.S.C., Title 12, section 34(a)) is amended to clarify the provisions relating to consolidations of State and national banks, particularly with respect to dissenting stockholders.

SECTION 332

Limitation on Use of Words "Deposit Insurance".

Section 2 of the Act of May 24, 1926 (U.S.C., Title 12, sections 584-588) forbidding the misleading use of the words "Federal", "United States", and "Reserve" by banks, insurance companies, and similar financial institutions is amended to forbid such use of the words "Deposit Insurance".

SECTION 333

Robbery of Insured Bank Punished.

The Act of May 18, 1934 (48 Stat. 783) punishing robberies

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of member banks and of banking institutions organized or operating under Federal law, is amended to extend such protection to insured banks.

SECTION 334

Reduction in Stock of National Bank.

Section 5143 of the Revised Statutes is amended to eliminate the necessity for a national bank obtaining the approval of the Board of Governors of the Federal Reserve System in addition to the approval of the Comptroller of the Currency, before reducing its capital stock. Distribution to stockholders of cash or other assets by reason of a reduction in common capital would not be permitted except upon approval of the Comptroller of the Currency and the affirmative vote of at least two-thirds of the shares of each class of stock outstanding, voting by classes.

SECTION 335

Information on National Bank Stock Certificates.

Section 5139 of the Revised Statutes is amended to require certain information to be set forth on stock certificates issued in the future by national banks. If more than one class of stock is issued, the rights, privileges, etc., of each class of stock also must be stated in full, summarized, or incorporated by reference, on the certificate.

SECTION 336

Issuance of Preferred Stock by National Bank.

Section 301 of the Emergency Banking Act of March 9, 1933,

is amended to clarify the provision that no issue of national bank preferred stock shall be valid until the par value of all stock so issued shall be paid in. Notice of such payment, acknowledged before a notary by the president, vice president, or cashier of the bank, first must be forwarded to the Comptroller of the Currency, and his certificate setting forth such payment and his approval of the issue be obtained. Then the certificate will be conclusive evidence that the preferred stock was duly and validly issued.

SECTION 337

Double Liability on District of Columbia Bank Stock Terminated.

Provision is made to terminate on July 1, 1937, the double liability on stock of savings banks, banking institutions and trust companies in the District of Columbia. The procedure is similar to that provided in Section 304 of the Act for terminating such liability on certain national bank stock.

Each bank in the District of Columbia is required, before the declaration of a dividend on shares of its common stock, to carry at least one-tenth of its net profit of the preceding half year to its surplus fund until the surplus fund equals the amount of the common stock; and provision is made to allow such banks to treat as an addition to their surplus fund amounts paid into their preferred-stock retirement fund.

SECTION 338

Branches of State Member Banks.

Section 9 of the Federal Reserve Act is amended to require the approval of the Board of Governors of the Federal Reserve System instead of the Comptroller of the Currency, for State member banks to establish or maintain certain branches on the same basis as national banks. Except for substituting the approval of the Board for that of the Comptroller of the Currency, no change is made in the law regarding branches of such banks.

SECTION 339

Security for National Bank Receivership Funds Deposited in Insured Bank.

The requirement of Section 5234 of the Revised Statutes that deposits of national bank receivership funds be secured by the deposit of Government bonds or other securities, is eliminated as to those parts of such deposits which are insured under Sec. 12B of the Federal Reserve Act.

SECTION 340

Security for Bankruptcy Funds Deposited in Insured Bank.

The requirement of Section 61 of the Bankruptcy Act that deposits of bankruptcy funds be secured, is eliminated as to those parts of such deposits which are insured under Section 12B of the Federal Reserve Act.

SECTION 341

Interest on Postal Savings Deposits.

Section 8 of the Postal Savings Depository Act of June 25, 1910, as amended by Section 11(c) of the Banking Act of 1933, is amended to clarify the provisions regarding the payment of interest on postal savings deposits; to prevent the rate of interest paid on such deposits exceeding the rate which may lawfully be paid on savings deposits by member banks located in or nearest to the place where the depository office is situated; and to authorize postal savings depositories to deposit funds on time with member banks subject to the provisions of the Federal Reserve Act and regulations thereunder regarding payment of time deposits and interest thereon.

SECTION 342

Access of State Banking Authorities to Examination Reports of National Bank Trust Departments.

Section 11(k) of the Federal Reserve Act is amended to give State banking authorities, in lieu of access to the books and records of national bank trust departments, access to reports of examination of such departments made by the Comptroller of the Currency.

SECTION 343

Retirement Annuities of Employees in Office of Comptroller of the Currency.

Section 5240 of the Revised Statutes relating to the payment of compensation of employees in the office of the Comptroller of the Currency by means of assessments on banks is amended to include the payment of retirement annuities for such employees; and also to provide that salaries of bank examiners shall be fixed by the Comptroller of the Currency, rather than by the Board upon the recommendation of the Comptroller of the Currency.

SECTION 344

Amendments to National Housing Act.

The National Housing Act is amended to authorize the Federal Housing Administrator, in carrying out the provisions of titles I, II, and III of that Act, to sue and be sued in any court of competent jurisdiction; and also is amended to clarify certain provisions of that Act.

SECTION 345

Impairment of Preferred Stock and Capital Notes or Debentures.

This section, without specifically amending any Act, provides that if any part of the capital of a national bank, State member bank, or bank applying for membership in the Federal Reserve System consists of preferred stock, or if any such bank has outstanding capital notes or debentures of the type eligible for the purchase by the Reconstruction Finance Corporation under section 304 of the

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Emergency Banking Act, the determination of whether or not the capital of such capital is impaired, and the amount of such impairment shall be based upon the par value of its stock, even though the amount which the holders of the preferred stock shall be entitled to receive in the event of retirement or liquidation shall be greater than the par value of such preferred stock; and that such capital notes or debentures and any obligations expressly subordinated thereto, be excluded from the total liabilities of the bank in determining whether its capital is impaired. It also is provided that dividends not in excess of 6 per cent per annum on national bank preferred stock, and also disbursements in the event of retirement of such stock or liquidation of the association may be based on the purchase price rather than par value. Holders of national bank preferred stock are assured priority over the common stockholders in the event of voluntary or involuntary liquidation of the national bank.

SECTION 346

Separability Provision.

This section contains the usual provision that if any provision of the Act is held invalid that shall not affect the remainder of the Act.

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