SUMMARY OF PROPOSED

"BANKING ACT OF 1935"

(H. R. 5357, S. 1715)

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OF SUMMARY OF PROPOSED BANKING ACT OF 1935

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SUMMARY OF PROPOSED "BANKING ACT OF 1935".

There are summarized below the provisions of the proposed "Banking Act of 1935". (H.R. 5357 and S. 1715 as introduced in Congress under date of February 5 and February 6, 1935, respectively). This is intended merely as a brief statement of the apparent effect of the principal provisions of the bill but is not intended as a legal interpretation of the language of the bill or as a comment thereon.

Title I of the bill is summarized by subject matter because its provisions are closely interrelated. Titles II and III are summarized section by section.

The references in Title I to "Act" refer to the Federal Reserve Act and the numbers following the word "Act" refer to sections thereof. The references in Title I to "Bill" refer to the proposed "Banking Act of 1935", and the numbers immediately after the word "Bill" refer to the numbered subdivisions of Title I while the succeeding parenthetical numbers, if any, in such references refer to the numbered paragraphs under such subdivisions.

TITLE I. FEDERAL DEPOSIT INSURANCE AMENDMENTS.

MODIFICATIONS IN PLAN OF DEPOSIT INSURANCE.

Upon the enactment of the bill the temporary insurance plan now in existence will be converted into a permanent plan, changed in some respects from the permanent plan now provided for by law.

Cost of Insurance to Banks. -- In lieu of the assessments aggregating not more than 1 per cent of insured deposits to which banks insured under the existing temporary insurance plan are subject (Act, 12B(y)) and of the requirement that banks insured under the permanent plan purchase stock in the Federal Deposit Insurance Corporation (Act, 12B(e)) and then be liable for unlimited assessments (Act, 12B(l)), insured banks under the plan set up in the bill will be subject to an annual assessment of one-twelfth of 1 per cent of their total deposits, which is payable semi-annually. The Federal Deposit Insurance Corporation Directors may fix a lower rate or provide for a refund or credit on such assessment, not to exceed 50 per cent of the last annual assessment; but such lower rate, refund, or credit, must apply to all insured banks, except that a special rate may be set for insured mutual savings banks. (Bill 8). The refund which, under the old law, would be due to a member of the Temporary Insurance Fund upon the dissolution of such Fund is to be credited to the bank by the Corporation if the bank remains in the permanent insurance, and applied to the bank's annual assessments until exhausted. (Act, 12B(y)); (Bill 8(4)). As in existing law, the declaration or payment of a dividend

by a bank which is in default in an assessment due the Corporation (Act, 12B(1)) is made punishable by fine or imprisonment or both. (Bill, 22(3)).

Amount of Deposits Insured. -- In lieu of the existing provision of the permanent insurance plan insuring 100 per cent of deposits up to $10,000, 75 per cent between $10,000 and $50,000, and 50 per cent above $50,000 (Act, 12B(1)), it is provided that $5,000 shall be the maximum amount insured for one depositor, conforming in this respect to the now existing plan for Temporary insurance (Act,, 12B(y)). However, the amount of the insured deposit is to be computed after deducting offsets (Bill 12, 3(12)). Deposits of trust funds are insured to the extent of $5,000 for each estate in addition to the insurance of other deposits owed the trust beneficiary. (Bill 3(12), 8(5)). Trust funds deposited by insured fiduciary banks in other insured banks are likewise insured to the extent of $5,000 for each trust estate represented. (Bill 8(5)).

WHAT BANKS ARE INSURED; TERMINATION OF INSURED STATUS.

Transfer of Members of Temporary Fund to Permanent Insurance Plan. -- All operating members of the present Temporary Insurance Fund continue to be insured, and are automatically transferred to the permanent insurance plan (Bill 5,6), subject to the right of withdrawal or expulsion in certain cases, as indicated below. There is no longer any necessity for examination or certification of such banks which are already insured, in order to entitle them to permanent insurance. (Act, 12B(e); Bill 5,6).

Insurance of Banks Entering Federal Reserve System. -- State banks becoming members of the Federal Reserve System, national member banks commencing or resuming business, and State banks converting into national member banks, become insured upon the issuance of a specified certificate to the Federal Deposit Insurance Corporation by the Comptroller of the Currency in the case of a national bank, or by the Federal Reserve Board in the case of a State member bank; and if the bank entering the System or converting into a national bank is already insured, no such certificate is required. The certificate must state that "consideration has been given" to the following factors: 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 section 12B. (Bill 5 and 7).

Insurance of Additional Nonmember Banks. -- Until July 1, 1937 any national nonmember bank may become insured upon a similar certification by the Comptroller of the Currency. Any State nonmember bank may also become insured until that date upon application to and examination by the Federal Deposit Insurance Corporation, but before approving such an application the Federal Deposit Insurance Corporation Directors shall "give consideration" to the factors listed above, and shall determine, upon the basis of a thorough examination, that the

bank's 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. (Bill 6(2)). The requirement of existing law in such cases is that the bank be in "solvent condition". (Act 12B(y), (e)). The old provision in section 12B(f) for insurance of a nonmember bank after July 1, 1936 pending its application for conversion into a national bank or for admission to the System is eliminated. (Bill 6).

Insurance Terminated for Certain Banks June 30, 1935. -- A nonmember bank may withdraw from the plan as of June 30, 1935 by giving notice to the Federal Deposit Insurance Corporation within thirty days after the enactment of the bill, and notice to its depositors not less than 20 days before June 30, 1935. Insurance of a State nonmember bank is also terminated on June 30, 1935 unless before enactment of the bill, the bank filed the statement showing its deposits as of October 1, 1934 and paid the assessment as of that date, as required by existing law. A bank's insurance is also terminated as of June 30, 1935, if prior to the enactment of the bill it has permanently discontinued banking operations. (Bill 6(1)).

Termination of Insurance by Expulsion. -- The Federal Deposit Insurance Corporation Directors are authorized to terminate the insured status of a bank for continued unsound practices or repeated violations of the law or regulations to which the bank is

subject. A statement of such violation must first be given the Comptroller of the Currency in the case of a national or district bank, the State Supervisory authorities in the case of a State bank, and also the Federal Reserve Board in the case of a State member bank, for the purpose of securing a correction of such practices or condition. If correction is not made within such period, not exceeding 120 days, as the Comptroller, State authority, or Board, as the case may be, shall require, the Federal Deposit Insurance Corporation Directors, if they determine to proceed further, shall give the bank not less than thirty days written notice of intention to terminate its insured status, and fix a time and place for hearing. If the bank does not appear, or if the Federal Deposit Insurance Corporation Directors make a written finding (such written findings to be conclusive) that any ground specified in such notice has been established, the Directors "may order that the insured status of the bank be terminated". The corporation may publish notice of the termination, and the bank must give notice to its depositors in the manner prescribed by the Directors. (Bill 9).

After such termination, the insured deposits of each depositor in the bank on the date of termination, less subsequent withdrawals, remain insured for two years; and during that period the bank must continue to pay assessments like any other insured bank and remains

subject to all other duties of an insured bank. However, no additional deposits are insured, and the bank must not advertise or hold itself out as having insured deposits unless it states with equal prominence that deposits received after the date of termination are not insured. When the insured status of a bank is thus terminated, if it is a State member bank the Federal Reserve Board shall terminate its membership in the Federal Reserve System in accordance with the provisions of section 9 of the Federal Reserve Act; and if it is a national bank the Comptroller shall appoint a receiver for the bank (which shall be the Federal Deposit Insurance Corporation if the bank is unable to meet demands of its depositors). (Bill 9).

Voluntary Termination of Insurance. -- Any insured nonmember bank, upon not less than ninety days written notice to the Federal Deposit Insurance Corporation, may terminate its status as an insured bank, with continued insurance of existing deposits for two years as noted above in the case of expulsion. (Bill 9).

Termination of Insurance by Assumption of Deposits. -- Assumption of the liabilities of an insured bank by another bank terminates the insured status of such insured bank with like effect as if terminated as above, except that if the insured bank gives its depositors notice of such assumption within thirty days thereafter, in the manner prescribed by regulations of the Federal Deposit Insurance Corporation Directors, the insurance of its deposits completely terminates at the

end of six months, and all future obligations of the bank to the corporation also terminate. (Bill 9(3)).

Termination of Insurance by Termination of Federal Reserve Membership. -- Termination of a member bank's membership in the System automatically terminates its status as an insured bank, but with like effect to that noted above (Bill 9(2)). The existing law does not continue the partial insurance for the two year period, and does not continue the bank's responsibilities during that time. (Act, 12B(i)).

Insurance of Nonmember Banks Terminated July 1, 1937. -- After July 1, 1937 no State nonmember bank other than (a) a mutual savings bank, (b) a Morris Plan bank, or (c) an Alaskan or Hawaiian bank, may be or become an insured bank. On that date the insurance of the deposits of such a State nonmember bank terminates.

GENERAL CONTROL OF INSURED BANKS.

Examination of Insured Banks. -- In lieu of the limited power of examination given the Federal Deposit Insurance Corporation in the existing section 12B(y), the bill permits the Federal Deposit Insurance Corporation examiners, whenever considered necessary, to examine any State nonmember bank which is insured or seeking insurance, and

also any closed insured bank. With the written consent of the Comptroller of the Currency, they may also examine any national or district bank and with such consent from the Federal Reserve Board, any State member bank. In addition to the usual powers of examination, these examiners have power to administer oaths, take and preserve testimony under oath and apply to court officials for subpoenas to compel the production or taking of testimony. (Bill 10, 11(2)).

Publication of Examination Reports. -- The Federal Deposit Insurance Corporation is authorized to publish in such manner as it may determine, any part of the report of such an examination of an insured bank (except a national or district bank) if such bank fails to comply with the recommendations of the Federal Deposit Insurance Corporation based on such report of examination, for a period of 120 days after written notice of such recommendations. Not less than 90 days' notice of intention to make such publication must be given.

Condition Reports of Insured Nonmember Banks. -- Insured State nonmember banks (except district banks) are required to make condition reports to the Federal Deposit Insurance Corporation in such form and at such times as the Federal Deposit Insurance Corporation Directors may require, and the Directors may require publication of these reports. Failure to make or publish such a report within such time, not less than 5 days, as the Federal Deposit Insurance Corporation Directors may require, subjects a State nonmember

bank to a penalty of $100, recoverable by the Federal Deposit Insurance Corporation for each day of such failure. (Bill 11(3)).

Merger of Insured Bank with Non-insured Bank. -- Prior written consent of the Federal Deposit Insurance Corporation is required for an insured bank to consolidate or merge with a non-insured bank, assume liability for the deposits of a non-insured bank, or transfer assets to a non-insured bank in consideration of the assumption of liability for any portion of its deposits. Such consent is also required for an insured State nonmember bank (except a district bank) to reduce the amount or retire any part of its common or preferred stock or capital notes or debentures. (Bill 22(4)).

Burglary and Fidelity Insurance. -- The Federal Deposit Insurance Corporation Directors may by regulation require insured banks to protect themselves against insurable losses, by carrying burglary, fidelity and similar insurance; and if an insured bank fails to comply with such requirements, the Federal Deposit Insurance Corporation may contract for such protection, adding the cost to the assessment otherwise payable by the bank. (Bill 22(5)).

Insurance of Deposits to be Stated in Advertisements. -- The requirement of existing law that insured banks display a sign indicating the insurance of their deposits, is extended to require that they also include such information in advertisements relating to deposits and in forms furnished for use of depositors. A definite penalty of $100, recoverable by the Federal Deposit Insurance

Corporation, for each day of violation of this provision, is substituted for a more authorization to the Federal Deposit Insurance Corporation to impose a penalty not exceeding that amount in its regulations on the subject. (Act, 12B(v); Bill 21).

CHANGES IN PROCEDURE FOR PAYING INSURED DEPOSITS

The procedure for paying insured deposits remains largely the same as in the old Act, except that certain provisions are made more flexible and certain increased powers are given the Federal Deposit Insurance Corporation and its Directors. (Act, 12B(1); Bill 12).

Organization of "New Bank". -- Upon the closing of an insured bank, the Federal Deposit Insurance Corporation need no longer organize a "new bank" in all cases, as a means of paying off the insured deposits. It may follow this method, or it may pay off such deposits by transferring them to another insured bank in the same community or by any other procedure adopted by the Federal Deposit Insurance Corporation Directors. (Act, 12B (1); Bill 12(6)). The provision is added that if a new bank is organized, it must be organized in the same community. However, in certain circumstances, the Federal Deposit Insurance Corporation Directors may change the location of the new bank to the Federal Deposit Insurance Corporation office or some other place. (Bill 12(8), (12)). Obligations guaranteed as to principal and interest by the United States are made eligible investments for such "new banks". (Bill 12(9)).

Investigation of Claims for Insured Deposits. -- Through claim agents, the Federal Deposit Insurance Corporation may investigate claims for insured deposits, such claim agents having power to administer oaths, take and preserve testimony under oath and apply to court officials for subpoenas to compel the production or taking of testimony. (Bill 11(2)). Except as the Federal Deposit Insurance Corporation Directors may prescribe, neither the Federal Deposit Insurance Corporation, a "new bank", or a bank to which insured deposits have been transferred by the Federal Deposit Insurance Corporation, need recognize a claim to a part of a deposit not appearing on the closed bank's records as partly owned by the claimant, if it would increase the aggregate insured deposits of the closed bank. (Bill 15(3)). The Federal Deposit Insurance Corporation may withhold payment of an insured deposit to the extent necessary to insure payment of a stockholders liability or any other sums due from a depositor to a closed bank, which are not offset by a claim due from the bank. (Bill 15(4)).

Discharge of Federal Deposit Insurance Corporation Liability for Insured Deposit. -- Payment of an insured deposit discharges the Federal Deposit Insurance Corporation, a "new bank", or a bank to which the Federal Deposit Insurance Corporation has transferred an insured deposit, to the same extent that payment by the closed bank would have relieved the closed bank from liability for the insured deposits (Bill 15(2)); and failure of a depositor to claim an insured

deposit within one year after the appointment of a receiver for a closed bank bars the depositor's claim for insurance, leaving him merely the claim he would have had against the closed bank's estate if his deposit had not been insured. (Bill 15(5)).

Participation of Federal Deposit Insurance Corporation in Assets of Closed Bank. -- The depositor and the Federal Deposit Insurance Corporation, under the bill, will participate proportionately in the dividends from the liquidation of the closed bank (Bill 12(7)), whereas, under existing law, the Federal Deposit Insurance Corporation receives complete repayment before the depositor begins to receive dividends on the uninsured portion of his deposit. (Act, 12B(1)).

Criminal Provisions. -- The criminal provisions are amended to make them more clearly applicable to persons attempting by false statements to obtain payment of an insured deposit or other such claim. (Act, 12B(s); Bill 19).

Federal Deposit Insurance Corporation as National Bank Receiver. -- The Federal Deposit Insurance Corporation need not give bond as receiver of a national or district bank, may appoint agents to assist in such duties, and subject to the approval of the Comptroller of the Currency, may fix the fees and expenses for such liquidation and administration. In order to simplify administration, the Comptroller may relieve the Federal Deposit Insurance Corporation from compliance with his receivership regulations. (Bill 15).

GENERAL CHANGES; POWERS AND ORGANIZATION OF THE FEDERAL DEPOSIT INSURANCE CORPORATION; ETC.

Powers of Federal Deposit Insurance Corporation Directors. -- In several instances, powers previously given generally to the Federal Deposit Insurance Corporation are definitely lodged in its Board of Directors, and additional powers are also given both the Corporation and the Directors.

Acting or Deputy Comptroller of the Currency. -- In the event of a vacancy in the office of the Comptroller of the Currency, the Acting Comptroller is authorized to act on the Federal Deposit Insurance Corporation Board of Directors in his stead; and in the absence of the Comptroller of the Currency, any Deputy Comptroller may, within the limits prescribed by the Comptroller, act as a member of the Corporation's Board of Directors in his stead. (Bill 2).

Investigation of Banking Conditions. -- The Federal Deposit Insurance Corporation Directors are directed to gather information and data and make investigations and reports upon the organization, operation, closing, reopening, reorganization and consolidation of banks, banking practices and management, and the security of depositors and adequacy of service to borrowers. They are directed to report their findings and recommendations to Congress, either annually or specially. (Bill 18).

Capital Structure of the Federal Deposit Insurance Corporation. -- The capital structure of the Federal Deposit Insurance Corporation is altered by the bill. Instead of consisting of three kinds of $100 par value shares, two of which types were to be held by the Treasury and the insured banks, respectively, and were to receive 6 per cent dividends annually (Act, 12B(c),(d)), the stock is to be that subscribed for before enactment of the bill (i.e., by the Treasury and the Federal reserve banks) and is to be no par value. None of the stock is to pay dividends, just as now provided with respect to stock issued to the Federal reserve banks; and all stock in the Corporation is to be non-voting. One share is to be issued (or exchanged and reissued) for each $100 of consideration, and the Federal Deposit Insurance Corporation Directors are to allocate this consideration to the Corporation's capital or surplus as they deem desirable. (Bill 4). Since the insured banks are no longer to own stock in the Federal Deposit Insurance Corporation, provisions for varying the Corporation's capital stock with variations in the insured banks' deposits (Act, 12B(h)), or upon the insolvency of insured banks (Act, 12B(i)), are eliminated. (Bill 8, 9).

Bonds and Other Obligations of Federal Deposit Insurance Corporation. -- The approval of the Secretary of the Treasury is made a prerequisite to the issuance of bonds or other obligations of the Federal Deposit Insurance Corporation and the amount of such obligations the Corporation may have outstanding is changed from three times its capital, to three times the amount received in payment of its capital stock and of the first annual assessments of the insured banks (Act, 12B(o); Bill 17). The Secretary of the Treasury is authorized to deal in the Corporation's obligations as a public-debt transaction; and proceeds of securities sold under the Second Liberty Bond Act, as amended, may be used for such purpose or securities may be issued thereunder for that purpose. (Bill 17(2)). Obligations guaranteed as to principal and interest by the United States are made eligible for investment of the Corporation's funds. (Bill 13).

Purchase of Closed Bank Assets by Federal Deposit Insurance Corporation. -- The Federal Deposit Insurance Corporation's "duty" to purchase the assets of banks which closed before its creation is ended (Act, 12B(a); Bill 1); and, similarly, the power of bank receivers to apply to the Federal Deposit Insurance Corporation for sales of or loans on the assets of closed banks, is changed to apply only to receivers of closed insured banks, rather than to receivers of all closed member banks. If the Federal Deposit Insurance Corporation is also receiver of the closed bank, the loan or purchase must first be approved by a court of competent jurisdiction. (Act, 12B(n); Bill 16).

Loans to Operating Banks. -- To avoid threatened loss to the Federal Deposit Insurance Corporation, or to encourage mergers or consolidations, etc., the Federal Deposit Insurance Corporation, until July 1, 1936, may lend upon or purchase the assets of any insured bank or guarantee another insured bank against loss by reason of assuming the assets and liabilities of an insured bank. National and district banks or, with the approval of the Comptroller of the Currency, conservators thereof, are given the necessary authority to contract for such loans from or sales to the Federal Deposit Insurance Corporation. (Bill 16(4)).

Use of Other Examination and Condition Reports. -- The Federal Deposit Insurance Corporation is given access to examination and condition reports made to the Comptroller of the Currency and the Federal Reserve banks. It may accept reports made by or to State bank supervisory authorities, and it may furnish to the Comptroller, the Federal reserve banks or such State authorities, examination or condition reports made by or to it. (Bill 11(4)).

Expenses of the Federal Deposit Insurance Corporation. -- The routine operating expenses of the Federal Deposit Insurance Corporation (excluding payments such as insured deposits, expenses of acting as receiver, actual loans, expenses in running new banks, etc.) must conform to estimates approved by the Director of the Budget and accounts necessary for this purpose are to be maintained on the books of the Treasury. (Bill 17(3)).

Jurisdiction of Federal Courts. -- The Federal Deposit Insurance Corporation is given access to the Federal courts and immunity from attachment or execution before final judgment, identical with such privileges given Federal reserve banks in section 25(b) of the Federal Reserve Act. (Bill 10).

Definitions. -- Definitions are given for various terms used in section 12B (Bill 3); and it is provided that unincorporated banks which continue to be insured under the provisions of the act, are to be included in the terms "State bank" and "State nonmember bank" for the purposes of section 12B. (Bill 23).

TITLE II. - AMENDMENTS ESPECIALLY AFFECTING FEDERAL RESERVE SYSTEM

SECTION 201.

Governor of Federal Reserve Bank. - Appointment - Qualifications - Duties.

Section 4 of the Federal Reserve Act is amended to recognize in the Act for the first time, the office of Governor of a Federal Reserve bank. He is to be appointed annually by the Reserve bank directors, subject to the approval of the Federal Reserve Board; and he is made ex officio chairman of the Board of Directors and chairman of the Executive Committee, as well as chief executive officer of the bank to whom all other officers and employees are directly responsible.

The Governor of the bank is to be appointed a Class C Director by the Federal Reserve Board but, unlike the other Class C Directors, he need not have been a resident of the district for two years, and he continues as Class C Director only during his service as Governor rather than for the usual three year term.

Abolition of Office of Federal Reserve Agent.

Ninety days after enactment of the bill, the offices of Governor and Chairman of the Board of Directors are to be combined, and on that date, any Federal Reserve Agent not appointed Governor of the bank ceases to be a Class C Director and Chairman of the Board.

Duties prescribed by law for the Federal Reserve Agent are to be performed by such person as the Federal Reserve Board shall designate. Provisions for appointment of Federal Reserve Agents and Assistant Federal Reserve Agents are repealed.

The present requirement that the Chairman of the Board of Directors "be a person of tested banking experience" is eliminated, together with the requirements that he maintain a local office of the Federal Reserve Board on the premises of the Federal Reserve bank and make regular reports to the Board.

Vice-Governor of Federal Reserve Banks.

Provision is made for a Vice-Governor who, in the absence or disability of the Governor, or during a vacancy in that office, is to serve as chief executive officer of the bank and as chairman of the bank's Executive Committee. He is chosen in the same manner as the Governor and may be appointed a Class C Director. If he is appointed Class C Director, he may also be appointed deputy chairman of the Board of Directors; and like the Governor, he continues as Class C Director only during his service as Vice-Governor, and is not subject to the requirement of two years residence in the district. Vacancies in the office of Governor or Vice Governor are to be filled as provided in the case of original appointment and for the remainder of the term of the predecessor.

Limitation on Federal Reserve Bank Directors' Continuous Service.

Federal Reserve bank directors, other than the Governor and Vice Governor, are not permitted to serve more than two consecutive terms of three years each, but present incumbents may serve out their terms.

SECTION 202.

Capital Requirements for Admission to Federal Reserve System.

Section 9 of the Federal Reserve Act is amended to permit the Federal Reserve Board, upon the application of an insured nonmember bank prior to July 1, 1937, to waive in whole or in part the capital requirements for admission to the System, such requirements to be complied with by the bank within such period after admission as the Board may deem reasonable.

SECTION 203.

Qualifications of Governor and Members of Federal Reserve Board.

(1). Section 10 of the Federal Reserve Act is amended to exempt the Governor of the Federal Reserve Board from the requirement that no two appointive members of the Board may be from the same Federal Reserve District. In selecting the six appointive members of the Board, the President is directed to "choose persons well qualified by education and experience or both to participate in the formulation of national economic and monetary policies"; and the present requirement that the President "have due regard to a fair

representation of the financial, agricultural, industrial and commercial interests and geographical divisions of the country" is eliminated.

Salaries and Retirement of Members of Federal Reserve Board.

(2) The salaries of appointive members of the Federal Reserve Board appointed after July 1, 1935, are increased from $12,000 a year to $15,000. "Each appointive member" of the Board appointed prior to the enactment of the bill may retire at the age of seventy or at any time thereafter, and "all members" appointed after enactment of the bill are required to retire upon reaching the age of seventy. If any such retired Board member has served as many as five years, he is to receive a retirement pension of $1,000 a year for each year or fraction of a year of his service, but not exceeding $12,000 per annum. Any member who is at least 65, and who is not reappointed, is also entitled to receive retirement pay on the same basis as if retired at 70. The necessary funds are to be provided by the Federal Reserve banks.

Term of Governor of Board Subject to President's Pleasure.

(3) It is made clear that the Governor and Vice Governor of the Board, following their designation by the President, continue as such only "until the further order" of the President; and the Governor's membership on the Board is made to terminate upon the termination of his designation as Governor.

SECTION 204.

Assignment of Duties by Federal Reserve Board.

Section 11 of the Federal Reserve Act is amended to make it clear that the Board may assign to designated members, officers, or representatives of the Board, duties, functions and services to be performed by it under the Federal Reserve Act other than the determination of national or system policy, the making of rules or regulations, or powers which the Act requires to be exercised by a specified number of board members.

SECTION 205.

Federal Open Market Committee. - Membership and Powers.

Section 12A of the Federal Reserve Act is rewritten to alter the membership of the Federal Open Market Committee and increase its powers, effective 90 days after enactment of bill. Instead of consisting of one member from each Federal Reserve district selected annually by the directors of the Federal Reserve bank, it is to consist of the Governor of the Board as Chairman, two members of the Board selected by the Board, and two Federal Reserve bank Governors selected by the Governors of such banks. Terms of all members of the Committee (except the Governor of the Board) expire with the calendar year; and, in the event of vacancies, a successor is chosen in the same manner as his predecessor. Instead of meeting at least four times per year upon the call of the Governor of the Federal Reserve Board or the request of any three members of the committee, it

is to meet merely upon call of the Governor, at the request of the Board or of any two members of the committee, or upon his own initiative. The meetings need no longer be in Washington, and the provision stating that Board members may attend Committee meetings is eliminated.

Open market policies adopted by the committee need no longer be submitted to the Board for approval but instead are transmitted direct to the Federal Reserve banks; and they must conform their open market operations to such policies, no longer being permitted to give notice of a decision not to participate in such operations. The Committee is to aid in the execution of such policies and perform related duties prescribed by the Board.

The Federal Reserve banks' open market operations are still subject to regulations of the Board. The general statement in the present subsection (c) of the principles to be followed in open market operations is eliminated.

The provision of Section 12A relating to the Board's power to regulate relations of the Federal Reserve System with foreign central or other foreign banks is eliminated, but, apparently, with little effect, since the power to control such relations of Federal Reserve banks remains in the Board under section 14(g) of the Federal Reserve Act.

Open Market Committee to Make Recommendations Regarding Discount Rates.

The Committee is also to make recommendations to the Board regarding the discount rates of the Federal Reserve banks.

SECTION 206.

Requirements as to Eligibility of Paper for Rediscount.

Section 13 of the Federal Reserve Act is amended by the addition of a paragraph permitting Federal Reserve banks, subject to regulation by the Board as to maturities and other matters, to rediscount any commercial, agricultural, or industrial paper upon the indorsement of a member bank, and to make advances to any member bank on its promissory note secured by any sound assets of such member bank. In effect, this abolishes all technical requirements as to maturity and other matters relating to advances and discounts, and instead gives the Board power to regulate such questions.

SECTION 207.

Obligations Guaranteed by United States Eligible for Purchase by Federal Reserve Banks.

Section 14(b) of the Federal Reserve Act is amended to make obligations fully guaranteed as to principal and interest by the United States eligible for purchase and sale by Federal Reserve banks without regard to maturities.

SECTION 208.

Federal Reserve Note Issue Requirements.

Section 16 of the Federal Reserve Act is amended to remove all provision for specific collateral securing Federal Reserve notes and abolish the present procedure by which they are issued to the banks by the Board through the Federal Reserve Agents.

Instead, Federal Reserve notes are to be issued and retired directly by the Federal Reserve banks under rules and regulations prescribed by the Board; and all provision for their redemption is eliminated, together with all provision for the redemption fund now kept with the Treasurer of the United States for that purpose. Federal Reserve banks are no longer forbidden to pay out the Federal Reserve notes of another Federal Reserve bank. The existing provisions authorizing the Board to impose a tax on Federal Reserve notes outstanding in excess of the gold certificates held as collateral, and to refuse a particular application of a Federal Reserve bank for Federal Reserve notes, are eliminated.

Federal Reserve notes received by the Treasurer of the United States from sources other than Federal Reserve banks are to be canceled and retired if unfit for further use, and the issuing bank is to reimburse the Treasurer of the United States therefor. Federal Reserve notes unfit for further use which are received by Federal Reserve banks are to be forwarded to Washington, canceled and retired; and if such notes were issued by another Federal Reserve bank, the issuing bank is to make reimbursement.

Federal Reserve Notes a First Lien. -

Federal Reserve notes remain a first lien on all the assets of the issuing bank, but it is not clear whether such a lien remains for Federal Reserve Bank notes.

Reserves to be Maintained by Federal Reserve Banks.

Forty per cent reserves in gold certificates are still to be maintained against Federal Reserve notes in actual circulation.

The thirty-five per cent lawful money reserves required to be maintained by Federal Reserve banks against deposits may not include Federal Reserve notes or Federal Reserve bank notes.

SECTION 209.

Reserve Requirements of Member Banks.

Section 19 of the Federal Reserve Act is amended to clarify and make more flexible the Board's power to change the reserve requirements of member banks. These requirements may be changed "in order to prevent injurious credit expansion or contraction"; and it is no longer necessary first to have 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." It is made clear that the changes need not apply uniformly, but may be made as to demand or time deposits or both and may be different in different Federal Reserve districts or in different classes of cities as classified for reserve purposes.

SECTION 210.

Real Estate Loans by Member Banks.

Section 24 of the Federal Reserve Act is amended to remove the requirement that improved real estate upon which a national bank lends must be located in the bank's Federal Reserve district, or within 100 miles of the bank's city. The amount which a national

bank may lend on such real estate is increased from 50 per cent of the value to 60 per cent, and the maximum maturity is decreased from five years to three. However, according to a new provision, if such a loan is completely amortized, it may be for as much as 75 per cent of the value of the property, and may extend for as long as twenty years.

The amount of real estate loans which a national bank may make is increased from an aggregate equal to 25 per cent of its paid in and unimpaired capital and surplus, or 50 per cent of its savings deposits, whichever is the 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 the greater. However, a new provision requires the book value of all real estate owned by the bank (except its banking premises) to be included in computing such aggregate.

State Member Banks Subjected to Real Estate Restrictions of National Banks.

State member banks are subjected to the same limitations as national banks in making new real estate loans.

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," and hence from all provisions regarding such affiliates, every "organization which in the judgment of the Federal Reserve Board, is not engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling banks, banking associations, savings banks, and/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 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 underwriting, to United States Government obligations, general obligations of States or subdivisions, and obligations issued under the Federal Farm Loan Act or by the Federal Home Loan Banks or the Home Owners Loan Corporation.) 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).

Examination of institutions receiving deposits from own officers or employees not necessary - Examined institutions to pay costs.

Section 21(a)(2) of the Banking Act of 1933 is amended to make it clear that institutions receiving deposits only from their "officers, agents or employees" are not subject to the limitations of the section and so need not submit reports or be examined as required in that section. It also is made clear that institutions examined under that section by the Comptroller of the Currency or a Federal reserve bank are to bear the expense of such examination.

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 terminate on July 1, 1937, the double liability on previously issued stock in national banks operating on that latter date.

SECTION 305.

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 306.

Interlocking relationships between member banks and securities companies.

Section 32 of the Banking Act of 1933 is rewritten 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 is to be given "in limited classes of cases" and by "general regulations" rather than by individual permit. Such relationships 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 securities companies whose officers and employees are subjected to these disabilities are 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 307(a) AND 307(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 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.

Purchase of stocks for account of customers.

It is also 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.

SECTION 308.

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, but the Comptroller of the Currency is permitted to waive this requirement as to a converting State bank.

SECTION 309.

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 existing on the date the paragraph took effect "engaged primarily in holding the bank premises". A provision is also 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(a).

Voting permit unnecessary for liquidation.

Section 5144 of the Revised Statutes is amended to elim-

inate 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.

SECTION 310(b).

National bank shares that can not be voted not to be counted.

Section 5144 of the Revised Statutes is amended to make it clear that shares which are held by a national bank as sole trustee and which, therefore, under that section, cannot be voted, are to be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

SECTION 310(c).

Limited voting permits and cumulative voting clarified.

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 Federal Reserve Board 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.

Retention of ineligible assets by converting banks.

Amends section 5154 of the Revised Statutes 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 312.

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 313.

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 314.

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".

SECTION 315.

Criminal provisions re embezzlements, false entries, etc., extended to insured 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.

SECTION 316.

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 is to be accomplished by a liquidating agent or committee which is to be responsible to the bank's directors and stockholders, and the bank is to be subject to examination by the Comptroller of the Currency.

SECTION 317.

Prohibition of use of word "national".

Section 5243 of the Revised Statutes prohibiting the use of the word "national" in certain cases is rewritten so as to prohibit the use of the word 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 organized under the laws of the United States or permitted by the laws of the United States to use such name or now lawfully using such name.

SECTION 318.

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. This applies to past as well as future reductions.

SECTION 319.

Publication of condition reports of State member banks.

Section 9 of the Federal Reserve Act is amended to authorize the Federal Reserve Board 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.

SECTION 320.

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, or certificates of indebtedness of 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.

SECTION 321.

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 322.

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 323 (a).

Definition of various classes of deposits by Federal Reserve Board.

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

SECTION 323(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 (including checks in process of collection) may be deducted from gross demand deposits rather than merely from amounts due to other banks.

SECTION 323(c).

Board's control over payment of deposits and interest made more flexible.

Section 19 of the Federal Reserve Act is amended to add to the exemptions from the prohibition against the payment of interest on demand deposits: (1) contracts existing when a bank joins the System, (2) deposits payable outside the States of the United States and the District of Columbia (rather than merely those payable in foreign countries), (3) deposits of trust funds on which interest is required by State law, (4) deposits of the United States, its territories, districts or possessions on which interest is required by law.

The section is also amended to make more flexible the Board's power to classify time and savings deposits and limit the rates of interest to be paid thereon. 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.

Insured banks subjected to interest rate limitations.

All insured banks (except nonmember mutual savings and Morris Plan banks) are subjected to the same limitations as member banks with respect to the payment of deposits and interest thereon.

SECTION 323(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.

SECTION 324.

Waiver of reports or examinations of affiliates.

A new paragraph is added to section 21 of the Federal Reserve Act to permit the Federal Reserve Board 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 325(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 prohibi-

tions 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 325(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 325(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 Federal Reserve Board 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.

The period permitted for renewing such loans that were outstanding on June 16, 1933, is extended from June 16, 1935, to June 16, 1938, but a finding by the bank directors that such renewal is in the bank's interest and that the officer has made reasonable effort to re-

duce his obligation must be spread on the bank's minute book. Borrowing by a partnership in which one or more executive officers have individually or collectively a majority interest is stated to be within the prohibition, whereas the existing law prohibits 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 326.

Restrictions on loans to affiliates.

The exemptions from the limitations of section 23A on member banks' loans to affiliates and loans on and investments in the securities of affiliates, are broadened to exempt from its provisions (1) affiliates engaged "primarily" 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 which became such through a bona fide previous debt, and (6) 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 is also made inapplicable to affiliate indebtedness arising from the unpaid balance due on assets purchased from the bank.

SECTION 327.

"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 328.

Interlocking bank directorates.

Section 8A of the Clayton Act which restricts 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 eliminated.

Section 8 of the Clayton Act is rewritten to apply to all member banks rather than banks organized or operating under the laws of the United States; and a definite prohibition against a private banker, or a director, officer, or employee of any other bank, savings bank (other than a mutual savings bank), or trust company serving as officer, director, or employee of a member bank, is substituted for

the existing restrictions that depend upon the size of the banks and of the cities in which they are located. Authority to the Board to relax this prohibition by "general regulations" in "limited classes of cases" when "such classes of institutions are not in substantial competition", is substituted for its existing power to allow the service of one individual to a limited number of institutions by issuing individual permits when "not incompatible with the public interest".

SECTIONS 329(a) AND 329(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 330(a) and 330(b).

Consolidation of State and national banks.

By provisions similar to those of the previous section of the bill, 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 331.

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 332.

Robbery of insured bank punished.

The Act of May 18, 1934 (48 State. 783) punishing robberies of member banks and of banking institutions organized or operating under Federal law, is amended to extend such protection to insured banks.