

COPY

BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM

# Office Correspondence

Date March 3, 1938To Board of GovernorsSubject: The Bill (S. 3575) to provide for regulation of bank holding companies and affiliates, and for other purposes.From Mr. Wingfield, Assistant General Counsel

There is attached for the Board's information a copy of a bill (S. 3575) introduced by Senators Glass and McAdoo relating to the regulation of holding companies of insured banks and affiliates of insured banks, and for other purposes. The principal purposes of this bill appear to be as follows:

1. To prevent any new holding companies or expansion of holdings of stock of insured banks by existing holding companies, and to prevent any insured bank which is a subsidiary of a holding company from establishing any new branches while controlled by a holding company.
2. To place holding companies of insured banks, whether national banks, State member banks, or nonmember insured banks, under regulatory powers of the Federal Deposit Insurance Corporation.
3. To place affiliates of insured banks, whether national banks, State member banks, or insured nonmember banks, under regulatory powers of the Federal Deposit Insurance Corporation.
4. To place all insured banks, whether national banks, State member banks, or insured nonmember banks, under regulatory powers of the Federal Deposit Insurance Corporation.
5. To leave existing regulatory powers in the Board over affiliates of State member banks and holding company affiliates of member banks, and existing regulatory powers in the Comptroller of the Currency over affiliates of national banks. (The definitions of holding company affiliates and affiliates of member banks as set out in the Banking Act of 1933 and over which the Board and the Comptroller, respectively, would retain powers, are different from the definitions of holding companies and affiliates of all insured banks as contained in the attached bill, thus adding to the confusion as to the supervisory powers of the various agencies if the attached bill should be enacted.)
6. To prohibit extensions of credit by insured banks to their affiliates.

The principal features of the bill are as follows:

Section 2 contains definitions of various terms used in the bill. Among other things, it defines an insured bank as any bank the deposits of which are insured under the Federal Deposit Insurance Corporation. It defines "control" as the ownership or holding of more than 10 per cent of the stock of an insured bank or any other company or the domination in any manner of the election of a majority of the directors of an insured bank or any other company. It defines a "holding company" as any company which "controls" an insured bank directly, or indirectly through another company or companies. It contains a very broad, and in some respects ambiguous, definition of an "affiliate" of an insured bank, including under such term a holding company, a subsidiary of a holding company or of an insured bank and an affiliation through common stockholders.

Section 3 makes it unlawful for an insured bank to make any loan or extension of credit to any of its affiliates or to invest any of its funds in securities of its affiliates, purchase any securities from any of its affiliates, or to make any loan or extension of credit to any person secured by securities of any of its affiliates. Any such loans, extensions of credit, or investments made prior to the Act shall be disposed of within three years after the date of the Act.

Section 4 prevents any new holding companies or extension of holdings of stock of insured banks by existing holding companies. It makes it unlawful for an existing company to acquire directly or indirectly any stock in an insured bank and prohibits any company from acquiring stock in an insured bank if such acquisition would cause it to become a holding company.

Section 5 prohibits an insured bank, while controlled by any holding company affiliate, from establishing or operating any new or additional branches.

Section 6 requires all affiliates of any insured bank to file with the insured bank detailed statements of its ownership of stock in the insured bank, any indebtedness to the insured bank, and if indebted to the insured bank a statement of assets, liabilities, and earnings of the affiliate.

Section 7 requires every insured bank, holding company, and affiliate to file such reports as the Federal Deposit Insurance Corporation may prescribe "as necessary or appropriate for the proper consideration of the condition of any insured bank or for

the proper supervision of the Federal Deposit Insurance Corporation". This section also authorizes the Federal Deposit Insurance Corporation to make investigations of any insured bank, holding company, or affiliate.

Section 8 prohibits the Board of Governors of the Federal Reserve System from granting or extending the operating effect of any voting permit issued under the Banking Act of 1933 without the consent of the Federal Deposit Insurance Corporation.

Section 9 authorizes the Federal Deposit Insurance Corporation to bring an action for an injunction to prevent violations of the Act.

Section 10 prohibits an insured bank from paying dividends on its capital stock to any holding company while such holding company holds, directly or indirectly, stock of an insured bank acquired in violation of the Act.

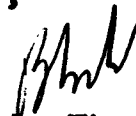
Section 11 authorizes the Federal Deposit Insurance Corporation to terminate the insurance of an insured bank for any violation of the Act by the insured bank or its holding company. In case of any such violation by a holding company and upon request by the Federal Deposit Insurance Corporation, the Board of Governors is required to revoke any voting permit granted to such holding company under the provisions of the Banking Act of 1933.

Section 12 contains technical provisions relating to review by the courts of any order issued under the Act by the Federal Deposit Insurance Corporation.

Sections 13 and 14 make any violations of the Act by individual directors, officers, etc., a misdemeanor, punishable by fine or imprisonment and makes any violation by any company punishable by fine.

Section 15 specifies certain agencies, such as a State or the United States, as exempt from the provisions of the Act, and also authorizes the Federal Deposit Insurance Corporation to exempt any company which it determines to be only incidentally a holding company and to be primarily engaged in other business or to be only incidentally or temporarily an affiliate of an insured bank.

Respectfully,



B. Magruder Wingfield,  
Assistant General Counsel.

Attachment.

75<sup>TH</sup> CONGRESS  
3<sup>D</sup> SESSION

# S. 3575

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IN THE SENATE OF THE UNITED STATES

JANUARY 5 (calendar day, MARCH 2), 1938

Mr. GLASS and Mr. McADOO introduced the following bill; which was read twice  
and referred to the Committee on Banking and Currency

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## A BILL

To provide for the regulation of bank holding companies and  
affiliates, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Bank Holding Company  
4       Act of 1938"

5       SEC. 2. (1) "Insured bank" means any operating  
6       bank, banking association, trust company, savings bank, or  
7       other banking institution, the deposits of which are insured  
8       in accordance with the provisions of section 12B of the  
9       Federal Reserve Act, as amended.

10       (2) "Person" means any individual, partnership, asso-  
11       ciation of persons, or company.

1           (3) "Company" means any corporation, incorporated  
2 bank, banking association, insured bank, joint-stock com-  
3 pany, business trust, or trustees of any voting trust.

4           (4) "Director" means any director or trustee of any  
5 company, or any individual who performs similar functions  
6 in respect of any company.

7           (5) "Securities" include notes, drafts, acceptances,  
8 bonds, debentures, capital notes, voting trust certificates,  
9 capital stock, treasury stock, warrants, and rights to sub-  
10 scribe to or certificates of deposit for any of the foregoing.

11           (6) "Capital stock" includes common and preferred  
12 stock, capital notes, and debentures.

13           (7) "Control" means the legal or equitable ownership  
14 or holding of more than 10 per centum of the total number  
15 or par value of the outstanding shares of capital stock or total  
16 number of voting rights for electing directors, or the domina-  
17 tion, directly or indirectly, in any manner of the election of  
18 a majority of the directors of an insured bank or any other  
19 company, and wherever used in this Act the word "control"  
20 in any grammatical form shall have this meaning.

21           (8) "Holding company" of any insured bank means any  
22 company which controls the insured bank or controls any  
23 other company which in turn controls the insured bank, and  
24 every company in any series or succession of companies in  
25 any system of controlling and controlled companies, in which

1 any company or combination of companies control the in-  
2 sured bank.

3 (9) "Affiliate" of any insured bank means any com-  
4 pany which with respect to the insured bank is a holding  
5 company, every company in any series or succession of com-  
6 panies constituting any system of controlling and controlled  
7 companies, in which any company is controlled by the in-  
8 sured bank or by such holding company or by any company  
9 or combination of companies in such system, and any com-  
10 pany having one or more shareholders who have legal or  
11 equitable ownership of more than 50 per centum of the  
12 number or par value of the outstanding shares of capital stock  
13 or voting rights for electing directors of both the company  
14 and the insured bank: *Provided*, That notwithstanding the  
15 foregoing, any company engaged solely in the business of  
16 (a) operating a safe-deposit vault; or (b) holding or op-  
17 erating the building and premises occupied by any insured  
18 bank, shall not be an affiliate of the insured bank.

19 (10) "Effective date" means the date of enactment of  
20 this Act.

21 SEC. 3. It shall be unlawful for any insured bank,  
22 directly or indirectly or by any device whatever (1) to  
23 make any loan or extension of credit to any of its affiliates  
24 or to invest any of its funds or any funds administered by  
25 it, in any securities issued or guaranteed by any of its

1 affiliates; or (2) to purchase any securities from any of  
2 its affiliates; or (3) to make any loan or extension of  
3 credit to any person secured by any collateral consisting  
4 of any securities issued or guaranteed by any of its affiliates.  
5 Notwithstanding the foregoing, any insured bank, which  
6 prior to the effective date, shall have made any loans, exten-  
7 sions of credit, or investments which by virtue of this section  
8 would constitute prohibited loans, extensions of credit, or  
9 investments if made after the effective date, shall have three  
10 years after the effective date within which to collect, sell,  
11 or otherwise dispose thereof. During said three-year period  
12 any such loans or extensions of credit may be renewed or  
13 extended, but no renewal or extension shall be given beyond  
14 said period. Within two years after the effective date,  
15 where necessary to save itself from loss, any such insured  
16 bank may accept securities issued or guaranteed by its  
17 affiliates, as payments to apply on or as collateral security  
18 for loans or extensions of credit made prior to the effective  
19 date to any person other than one of its affiliates, and in  
20 such event the insured bank shall collect, sell, or otherwise  
21 dispose of such securities within three years after the  
22 effective date.

23       SEC. 4. It shall be unlawful for any company to acquire  
24 any capital stock, or voting rights for electing directors,  
25 of any insured bank or of any holding company of any

1 insured bank, if such company is or upon such acquisition  
2 would become a holding company of any insured bank.

3 SEC. 5. No insured bank shall establish or operate or  
4 be permitted to establish or operate any new or additional  
5 branches while such insured bank is controlled by any hold-  
6 ing company.

7 SEC. 6. Every company shall before the expiration of  
8 sixty days after the effective date cause to be filed with the  
9 cashier or secretary of every insured bank as to which it is  
10 an affiliate, an affidavit to be signed by one of its executive  
11 officers having knowledge of the facts, which shall set forth  
12 as of the effective date (1) the total number and par value  
13 of the outstanding shares of capital stock and total number  
14 of voting rights for electing directors of such insured bank,  
15 which such company owns or holds, the names of the per-  
16 sons in whose names such shares or rights are issued and a  
17 full description of any instruments evidencing such shares  
18 or rights; (2) the amount of any indebtedness of such com-  
19 pany to the insured bank, direct and indirect, the maturity  
20 dates, and the person in whose name such indebtedness  
21 stands, if other than the company; and (3) an itemized  
22 statement of its assets and liabilities as of the last day of the  
23 preceding month and of its earnings for the current fiscal  
24 year to the last day of the preceding month, if the company  
25 be directly or indirectly indebted to the bank. Within



1 twenty days after the close of each calendar month there-  
2 after, if there has been any change in any of the matters  
3 covered in such affidavit, except item 3 thereof, during such  
4 month, the company shall file a like report, so long as it  
5 shall continue to stand in the relation of an affiliate to such  
6 insured bank. Every company shall file within thirty days  
7 after the last day of June and December of each year with  
8 the cashier or secretary of every insured bank as to which  
9 it is an affiliate a like sworn itemized statement of its assets  
10 and liabilities as of the last day of June and December of  
11 each year and of its earnings for the current fiscal year to  
12 the last day of June and December of each year. Every  
13 insured bank shall retain such affidavits and statements on  
14 file as a part of its records for at least three years.

15       SEC. 7. Every insured bank, holding company, and  
16 affiliate shall file with the Federal Deposit Insurance Cor-  
17 poration such annual, semiannual, quarterly, and other  
18 periodic and special reports, the answers to such specific  
19 questions and the minutes of such directors', stockholders',  
20 committees', and other meetings, as the Corporation by  
21 order may prescribe as necessary or appropriate for the  
22 proper consideration of the condition of any insured bank  
23 or for the proper supervision of the Federal deposit insur-  
24 ance system, and the Corporation may make such investiga-  
25 tions of any insured bank, holding company or affiliate, and

1 the books and records thereof, as shall be necessary or  
2 proper to disclose the condition of any insured bank or the  
3 effect of the relations between any holding company or  
4 affiliate and any insured bank, upon the Federal deposit  
5 insurance system or any insured bank. And such investi-  
6 gations shall be made at the expense of the Corporation;  
7 and it shall be unlawful for any insured bank, holding com-  
8 pany, or affiliate knowingly to make any false statement  
9 or report to the Corporation or to refuse authorized repre-  
10 sentatives of the Corporation access to any information re-  
11 quired in connection with any such investigations.

12       SEC. 8. After the effective date, the Board of Governors  
13 of the Federal Reserve System shall not, without the consent  
14 of the Board of Directors of the Federal Deposit Insurance  
15 Corporation, grant or extend the operative effect of any  
16 voting permit to any holding company affiliate under the  
17 provisions of section 2 of the Banking Act of 1933, as  
18 amended (U. S. C., title 12, sec. 61).

19       SEC. 9. Whenever it shall appear to the Board of Direc-  
20 tors of the Federal Deposit Insurance Corporation that any  
21 person is engaged or about to engage in any acts or practices  
22 which constitute or will constitute a violation of the provi-  
23 sions of this Act, the Board in its discretion may bring an  
24 action in the proper district court of the United States or the  
25 Supreme Court of the District of Columbia, to enjoin such

1 acts or practices and to enforce compliance with this Act,  
2 and upon a proper showing a temporary or permanent injunc-  
3 tion, decree, or restraining order shall be granted without  
4 bond. The Corporation may transmit such evidence as may  
5 be available concerning such acts or practices to any United  
6 States attorney or to the Attorney General, who, in his dis-  
7 cretion, may institute appropriate criminal proceedings under  
8 this Act. The proper district for the commencement of any  
9 injunction proceeding pursuant to this section shall be any  
10 district wherein any act or transaction constituting the viola-  
11 tion occurred or in which the defendant is an inhabitant or  
12 transacts business, and process in such cases may be served  
13 in any district in which the defendant is an inhabitant or  
14 transacts business or wherever the defendant may be found.  
15 Judgments and decrees so rendered shall be subject to review  
16 as provided in sections 225 and 347 of title 28 of the United  
17 States Code, and section 7, as amended, of the Act entitled  
18 "An Act to establish a court of appeals for the District of  
19 Columbia". approved February 9, 1893 (D. C. Code, title  
20 18, sec. 26). No costs shall be assessed for or against the  
21 Corporation in any proceeding under this Act brought by it  
22 in any court.

23       SEC. 10. It shall be unlawful for any insured bank to  
24 pay to any holding company, directly or indirectly, any  
25 dividend on any shares of its capital stock so long as such

1 holding company shall continue to hold any shares of the  
2 capital stock or voting rights for electing directors of such  
3 insured bank, or of any company which is a holding company  
4 with respect of such insured bank, acquired in violation of  
5 any provision of this act.

6       SEC. 11. Whenever the Board of Directors of the Fed-  
7 eral Deposit Insurance Corporation shall determine, after  
8 reasonable notice to the company affected an opportunity for  
9 a hearing, that any insured bank or any company which with  
10 respect to any insured bank is a holding company has violated  
11 any provision of this Act, and that such action is necessary  
12 for the protection of the public or the safety and integrity of  
13 the Federal deposit insurance system, it may make a finding  
14 of the facts of such violation. Upon making such finding,  
15 the Board of Directors of the Federal Deposit Insurance Cor-  
16 poration may cause the same to be published in the Federal  
17 Register and thereafter the insured bank shall be ineligible  
18 to receive deposits of public funds of the United States or of  
19 any public officer, agent, or instrumentality of the United  
20 States. Upon making such finding, the Board of Directors  
21 of the Federal Deposit Insurance Corporation may proceed  
22 to terminate the insured status of the insured bank, in like  
23 manner as provided in subsection (i) of section 12B of the  
24 Federal Reserve Act, as amended. Upon notification in  
25 writing by the Board of Directors of the Federal Deposit In-

1 insurance Corporation to the Board of Governors of the Fed-  
2 eral Reserve System of any such finding of such violation on  
3 the part of any holding company and request for such revoca-  
4 tion, the Board of Governors of the Federal Reserve System  
5 forthwith shall proceed to revoke any voting permit thereto-  
6 fore granted to such holding company as a holding company  
7 affiliate under the provisions of section 2 of the Banking Act  
8 of 1933, as amended (U. S. C., title 12, sec. 61). The  
9 Board of Directors of the Federal Deposit Insurance Cor-  
10 poration shall have the right, upon such terms and conditions  
11 as may be consistent with the public interest, the safety and  
12 integrity of the Federal deposit insurance system and the  
13 purposes of this Act, to review, suspend, modify, or revoke  
14 any order or finding made pursuant to this section.

15       SEC. 12. Any person or party aggrieved by an order  
16 issued by the Board of Directors of the Federal Deposit  
17 Insurance Corporation under this Act may obtain a review  
18 of such order in the circuit court of appeals of the United  
19 States within any circuit wherein such person resides or has  
20 his principal place of business, or in the United States Court  
21 of Appeals for the District of Columbia, by filing in such  
22 court, within sixty days after the entry of such order, a  
23 written petition praying that the order of said Board be  
24 modified or set aside in whole or in part. A copy of such  
25 petition shall be forthwith served upon any member of said

1 Board, or upon any officer thereof designated by the said  
2 Board for that purpose, and thereupon the said Board shall  
3 certify and file in the court a transcript of the record upon  
4 which the order complained of was entered. Upon the  
5 filing of such transcript such court shall have exclusive  
6 jurisdiction to affirm, modify, or set aside such order, in  
7 whole or in part. No objection to the order of said Board  
8 shall be considered by the court unless such objection shall  
9 have been urged before said Board or unless there were  
10 reasonable grounds for failure so to do. The findings of  
11 the said Board as to the facts, if supported by substantial  
12 evidence, shall be conclusive. If application is made to the  
13 court for leave to adduce additional evidence, and it is shown  
14 to the satisfaction of the court that such additional evidence  
15 is material and that there were reasonable grounds for failure  
16 to adduce such evidence in the proceedings before said Board,  
17 the court may order such additional evidence to be taken  
18 before the said Board and to be adduced upon the hearing  
19 in such manner and upon such terms and conditions as to  
20 the court may seem proper. Said Board may modify its  
21 findings as to the facts by reason of the additional evidence  
22 so taken, and it shall file with the court such modified or  
23 new findings, which, if supported by substantial evidence,  
24 shall be conclusive, together with its recommendation, if any,  
25 for the modification or setting aside of the original order.

1 The judgment and decree of the court, affirming, modifying,  
2 or setting aside, in whole or in part, any such order of said  
3 Board shall be final, subject to review by the Supreme Court  
4 of the United States upon certiorari or certification as pro-  
5 vided in sections 346 and 347 of title 28 of the United States  
6 Code. The commencement of proceedings under this section  
7 shall not, unless specifically ordered by the court, operate  
8 as a stay of said Board's order.

9 SEC. 13. It shall be unlawful for the individual directors,  
10 officers, or agents of any company to authorize, order, or do  
11 any act constituting in whole or in part a violation of the  
12 provisions of this Act by such company.

13 SEC. 14. Any person who knowingly violates any pro-  
14 vision of this Act shall be guilty of a misdemeanor; any  
15 company which knowingly violates any provision of this  
16 Act, upon conviction thereof, shall be punished by fine of  
17 not exceeding \$5,000 for each violation, and any natural  
18 person who knowingly violates any provision of this Act,  
19 upon conviction thereof, shall be punished for each violation  
20 by fine of not exceeding \$5,000 or by imprisonment for not  
21 exceeding one year, or by both, in the discretion of the  
22 court.

23 SEC. 15. No provision in this Act shall apply to, or be  
24 deemed to include, the United States, a State, or any politi-  
25 cal subdivision of a State, or any corporation which is

1 wholly owned, directly or indirectly, by any one or more of  
2 the foregoing, or any corporation which is managed by a  
3 person or persons appointed pursuant to law by the Presi-  
4 dent of the United States or the Governor of a State or the  
5 chief executive of any political subdivision of a State, or any  
6 officer, agent, or employee of any of the foregoing acting  
7 as such in the course of his official duty or to any company  
8 which is determined by the Board of Directors of the Fed-  
9 eral Deposit Insurance Corporation, on application for  
10 exemption or of its own motion, to be only incidentally a  
11 holding company and to be primarily engaged in business  
12 other than holding the stock of or managing or controlling  
13 banks, banking associations, savings banks, or trust com-  
14 panies, or to be only incidentally or temporarily an affiliate  
15 of any insured bank.

16       SEC. 16. If any provision of this Act or the application  
17 of such provision to any person or circumstances shall be  
18 held invalid, the remainder of the Act and the application  
19 of such provision to persons or circumstances other than those  
20 as to which it is declared invalid shall not be affected  
21 thereby.



75TH CONGRESS }  
3D SESSION }

**S. 3575**

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**A BILL**

To provide for the regulation of bank holding companies and affiliates, and for other purposes.

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By Mr. GLASS and Mr. McADOO

JANUARY 5 (calendar day, MARCH 2), 1938  
Read twice and referred to the Committee on  
Banking and Currency