

DATE March 30, 1938

TO: Messrs. Wyatt, Morrill,  
Paulger, Smead, ~~Clayton~~SUBJECT: Alternative drafts of a bill re-  
lating to bank holding companies  
and affiliates of banks.

FROM: Mr. Wingfield, Assistant General Counsel

CONFIDENTIAL

There are attached hereto two drafts of a bill relating to bank holding companies.

The draft marked "A" relates only to holding companies of banks and has been drafted pursuant to the outline of a bill contained in L-549, a copy of which has heretofore been furnished you. The draft marked "B", in addition to containing material drafted pursuant to the outline contained in L-549, also contains amendments to the existing affiliate provisions of the law. The purpose of these latter amendments is to place substantially the same powers in the FDIC as to affiliates of nonmember insured banks as the Board and the Comptroller now have over affiliates of State member banks and national banks, respectively.

Attention is called to the fact that neither draft contains any provision requiring eventual dissolution of existing holding companies. Such a provision can be inserted later if it becomes desirable to do so.

Attention is also called to the fact that, while L-549 refers only to necessary minor modifications in the present requirements of the law with regard to conservation of resources and profits by a bank holding company while the value of its readily marketable assets other than bank stocks is less than the prescribed percentage of bank stocks owned by the holding company, the attached drafts eliminate the provisions relating to "double liability" bank stock. While the stock of some State banks is still subject to double liability, I believe the trend is to eliminate such liability and, as you know, it has been eliminated in the case of stock of national banks. If it is practicable to eliminate any reference to double liability in the holding company law, it will simplify the provisions relating to conservation of resources and profits of holding companies.

I shall appreciate it if you will give me any suggestions or criticisms you may have of the attached drafts of bill at your early convenience.

Attachments.

"A"

AMEND S. 3575 TO READ AS FOLLOWS:

A BILL

To prohibit new bank holding companies, to control and regulate existing bank holding companies and prohibit the extension of their control of banking facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That  
section 23A of the Federal Reserve Act, as amended, is amended to read as follows:

"Sec. 23A (a) For the purposes of this section --

"(1) 'Bank holding company' shall mean any company of which two or more banks are subsidiaries, provided that one of such banks is an insured bank.

"(2) 'Insured bank' shall have the meaning assigned to it in section 12B of this Act, as amended.

"(3) 'Company' shall mean any corporation, business trust, association, or other similar organization, not wholly owned by the United States.

"(4) 'Subsidiary' of a specified company shall mean --

"(A) Any company 20 per cent or more of whose outstanding voting shares (excluding shares owned)

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by an organization wholly owned by the United States) are owned by the specified company; or

"(B) Any company the management or policies of which, after appropriate notice to both companies and a reasonable opportunity for hearing, the Board of Governors of the Federal Reserve System determines to be subject to a controlling influence by the specified company.

"(5) Shares of a company shall be deemed to be owned by a specified company --

"(A) If they are owned by any subsidiary of the specified company;

"(B) If they are held by trustees for the benefit of the specified company or its shareholders; or

"(C) If their transfer is conditioned upon the transfer of voting shares of the specified company.

"(6) Shares of a company shall not be deemed to be owned by a specified company if they are held by the latter as fiduciary and neither it nor its shareholders have a beneficial interest therein.

"(7) 'Voting share' shall mean a share which entitles the holder thereof to vote for the election of directors.

"(8) 'Director' shall mean any director, trustee, or other individual exercising similar functions.

"(b) It shall be unlawful for a company to be a bank holding

company if it is not a bank holding company on the effective date hereof or thereafter ceases to be such.

"(c) (1) It shall be unlawful for any bank holding company to become the owner of voting shares of any bank: Provided, That a bank holding company may become the owner of additional shares of a bank which is a subsidiary of the bank holding company and was a subsidiary thereof on January 1, 1938, if it first obtains the Board's permission. The Board shall grant or withhold such permission as the public interest may require.

"(2) After one year after the effective date hereof, it shall be unlawful for any bank holding company to own any bank shares of which it has become the owner subsequent to January 1, 1938, and prior to such effective date: Provided, That the Board shall have authority to grant a bank holding company permission to retain any such shares in like circumstances as permission to acquire shares.

"(3) The Board may assign to designated members of the Board or officers or representatives of the Board, under rules and regulations prescribed by the Board, the performance of its functions under this subsection.

"(d) After one year after the effective date hereof, it shall be unlawful for any bank holding company to have any subsidiary bank which is not a member bank.

"(e) After one year after the effective date hereof, it shall be unlawful for any bank holding company to be engaged

principally in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail or through syndicate participation, of stocks, bonds, debentures, notes, or other securities, or, directly or indirectly, have any interest in, or participate in the management or direction of, any company which is so engaged, or have any subsidiary which is so engaged or has such an interest in, or so participates in the management or direction of, any company so engaged.

"(f) If as a result of a determination by the Board under subsection (a)(4)(B), a bank becomes a subsidiary of a bank holding company, or there exists any other relationship or ownership of bank shares forbidden by subsections (b) to (e), inclusive, the action necessary to correct such improper relationship or ownership of bank shares shall be taken within a period of one year from the date of such determination: Provided, That if the Board finds that the facts upon which such determination and any such resulting relationship or ownership of bank shares are based existed on January 1, 1938, the continuance of the relationship or ownership of bank shares shall be authorized, unless it is such as is forbidden by subsection (d) or (e).

"(g) It shall be unlawful for any bank to establish any branch while it is a subsidiary of a bank holding company.

"(h) (1) Within 60 days after the effective date hereof, each bank holding company shall file with the Board a statement showing: (A) name and address of each of the bank holding company's

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subsidiary banks and address of each branch thereof; (B) name and address of each other bank of which the bank holding company owns shares; (C) number of shares of each class of stock which the bank holding company owns of each bank; (D) detailed information concerning the manner in which such shares are owned; (E) name, address, and nature of business of each of the bank holding company's subsidiaries, other than banks, and the manner in which the relationship arises; and (F) detailed information concerning all changes in the foregoing which have occurred since January 1, 1938, including dates thereof.

"(2) Each bank holding company shall furnish to the Board such reports as may be required by the Board from time to time. Such reports shall contain such information concerning the bank holding company and its subsidiaries as the Board shall deem necessary to disclose fully the relations between such companies, the effect of such relations upon the affairs of the subsidiary banks, and whether the provisions of this section have been complied with.

"(i) Each bank holding company and each subsidiary thereof shall be subject to such examinations by examiners selected or approved by the Board as shall be necessary to disclose fully the relations between such companies, their effect upon the affairs of the subsidiary banks, and whether the provisions of this section have been complied with. The expenses of any such examination may, in the discretion of the Board, be assessed against the bank holding company and, when so assessed, shall

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be paid by such bank holding company. In addition to examinations made by examiners selected or approved by the Board, examiners making examinations of any subsidiary bank may make such examinations of the bank holding company as the appropriate Federal bank supervisory agency may deem necessary to disclose fully the effect of the relations between the bank and the bank holding company upon the affairs of the subsidiary bank.

"(j) Each bank holding company shall take such action within its power as may be necessary to cause each of its subsidiary banks to pursue sound practices and maintain a sound financial condition and to cause the net capital and surplus funds of each such subsidiary bank to be adequate in relation to the character and condition of its assets and to the deposit liabilities and other corporate responsibilities of such subsidiary.

"(k) After December 31, 1938, each bank holding company shall use, to the extent necessary, its net earnings over and above 6 per centum per annum of the book value of its own shares to create and maintain a fund of cash or readily marketable assets, other than bank shares, in an amount equal to 12 per centum of the aggregate par value of all bank shares owned by it. A bank holding company shall allocate additional amounts to such fund as it shall see fit or as shall be necessary in order to comply with other provisions of this subsection. Assets comprising such fund shall be so identified in an appropriate manner

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and shall be kept separate and apart from other assets of the bank holding company. Such assets shall be free and clear of any lien, pledge or hypothecation of any kind or nature. Such assets may be used by the bank holding company to replace capital of its subsidiary banks and to eliminate losses and depreciation from the assets of such banks but shall not be used for any other purpose. Any amounts so used shall be made up within such period as the Board shall prescribe. For the purposes of this subsection, bank shares shall not be deemed to be owned by a bank holding company if they are also owned by a subsidiary of such bank holding company which is also a bank holding company.

"(1) If, after appropriate notice and a reasonable opportunity for hearing, the Board finds that any director or officer of a bank holding company has knowingly participated in or assented to the violation by such bank holding company or any subsidiary thereof of any provisions of this section or of any rules, regulations, or orders of the Board pursuant thereto, the Board may order that such director or officer be removed from office. A copy of such order shall be served upon such director or officer. A copy of such order shall also be served upon the bank holding company of which he is a director or officer, whereupon such director or officer shall cease to be a director or officer of such bank holding company. Any such director or officer removed from office as herein provided who thereafter participates in any manner in the management of such bank holding company shall be



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fined not more than \$5,000 or imprisoned for not more than five years, or both, in the discretion of the court.

"(m) If, after appropriate notice and a reasonable opportunity for hearing, the Board finds that a bank holding company has violated any of the provisions of this section, or rules, regulations, or orders of the Board pursuant thereto, or knowingly permitted or assented to such violation by any subsidiary, the Board may order, as the public interest may require, that during such period as is fixed by the order or pending further order by the Board --

"(1) The bank holding company shall not pay dividends to its shareholders; or

"(2) No insured bank of which the bank holding company owns any shares shall pay dividends on such shares or pay or become liable to pay to the bank holding company or any of its subsidiaries any compensation for supervision or other services; or

"(3) Shares of insured banks owned by the bank holding company shall not be voted and the bank holding company shall not in any manner participate, directly or indirectly, in the management of any insured bank.

Such an order may contain any one or more of the foregoing numbered provisions.

"(n) No bank shall (1) make any loan or extension of credit to, or purchase securities under repurchase agreement from, any

bank holding company of which it is a subsidiary or any company which is a subsidiary of a bank holding company of which such bank is a subsidiary or any company which is an affiliate of such bank within the meaning of section 2(b) of the Banking Act of 1933; or (2) accept the capital stock, bonds, debentures or other such obligations of any such company as collateral security for advances made to any person; or (3) invest any of its funds in the capital stock, bonds, debentures, or other such obligations of any such company or any company which will become such upon said investment: Provided, That the provisions of this subsection shall not apply to a company (1) engaged on June 16, 1934, in holding the bank premises of the bank or in maintaining and operating properties acquired for banking purposes prior to such date; (2) engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation or livestock loan company; (3) in the capital stock of which a national banking association is authorized to invest pursuant to section 25 of this Act, as amended, or a subsidiary of such company, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such company; (4) organized under section 25(a) of this Act, as amended, or a subsidiary of such company, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such company; (5) engaged solely in holding obligations of the United States or obligations fully

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guaranteed by the United States as to principal and interest, the Federal intermediate credit banks, the Federal land banks, the Federal Home Loan Banks, or the Home Owners' Loan Corporation; (6) where the relationship has arisen out of a bona fide debt owed to the bank prior to the date of the creation of such relationship; or (7) where the relationship exists by reason of the ownership or control of any voting shares thereof by the bank as executor, administrator, trustee, receiver, agent, depository, or in any other fiduciary capacity, except where such shares are held for the benefit of all or a majority of the shareholders of the bank; but as to any such company the bank shall continue to be subject to other provisions of law applicable to loans by such bank and investments by such bank in stocks, bonds, debentures, or other such obligations. The provisions of this section shall likewise not apply to indebtedness of any company for unpaid balances due a bank on assets purchased from such bank, or to loans secured by, or extensions of credit against, obligations of the United States or obligations fully guaranteed by the United States as to principal and interest.

"(c) The Board shall have the authority to make, issue, amend and rescind such rules, regulations and orders as it may deem necessary to effectuate the provisions of this section in accordance with its purposes and to prevent evasion of such provisions."

Soc. 2. The paragraph of section 4 of the Federal Reserve

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Act, as amended, which commences with the words "The Board of Governors of the Federal Reserve System shall classify" is amended by striking out all following the colon and inserting in lieu thereof the following: "Provided, That whenever any two or more member banks within the same Federal Reserve district are subsidiaries of the same bank holding company within the meaning of section 23A of this Act, participation by such member banks in any such nomination or election shall be confined to one of such banks, which may be designated for the purpose by such bank holding company."

Sec. 3. The eleventh paragraph of section 9 of the Federal Reserve Act, as amended, which commences with the words "In order to facilitate", is amended by inserting after the words "which is required" the following: "under subsection (d) of section 23A of this Act to become a member of the Federal Reserve System or is required."

Sec. 4. Section 9 of the Federal Reserve Act, as amended, is amended by striking out the twenty-first paragraph, which commences with the words "Each State member bank affiliated with a holding company affiliate."

Sec. 5. The eighteenth paragraph of section 9 of the Federal Reserve Act, as amended, which commences with the words "Any such affiliated member bank which fails," is amended by striking out the following sentence: "For the purposes of this paragraph and the two preceding paragraphs of this section, the

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term 'affiliate' shall include holding company affiliates as well as other affiliates."

Sec. 6. Subsection (c) of section 2 of the Banking Act of 1933, as amended, is repealed.

Sec. 7. (a) The first sentence of section 5144 of the Revised Statutes, as amended, is amended by inserting the word "and" immediately before "(3)" and by changing to a period the comma preceding "and (4)" and striking out that which follows in such sentence.

(b) The second paragraph and all succeeding paragraphs of section 5144 of the Revised Statutes, as amended, are repealed.

Sec. 8. The second paragraph of section 5211 of the Revised Statutes, as amended, is amended by striking out the following sentence: "For the purpose of this section the term 'affiliate' shall include holding company affiliates as well as other affiliates."

Sec. 9. (a) Subsection (d) of section 26 of the Revenue Act of 1936, as amended, is amended to read as follows:

"(d) Bank Holding Companies. - In the case of a bank holding company (as defined in section 23A of the Federal Reserve Act), the amount of the earnings or profits which the Board of Governors of the Federal Reserve System certifies to the Commissioner has been devoted by such company during the taxable year to the acquisition of cash or readily marketable assets, other than bank stock, in compliance with subsection (k) of section 23A of the

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Federal Reserve Act. The aggregate of the credits allowable under this subsection for all taxable years shall not exceed the amount required to be devoted under such subsection (k) to such purposes."

(b) Subdivision (1)(C) of subsection (a) of section 14 of the Revenue Act of 1936, as amended, is amended to read as follows:

"(C) In the case of a bank holding company (as defined in section 23A of the Federal Reserve Act), the amount allowed as a credit under section 26(d)."

(c) Subdivision (1)(D) of subsection (c) of section 102 of the Revenue Act of 1936, as amended, is amended to read as follows:

"(D) In the case of a bank holding company (as defined in section 23A of the Federal Reserve Act), the amount allowed as a credit under section 26(d)."

March 30, 1938.

AMEND S. 3575 TO READ AS FOLLOWS:A BILL

To prohibit new bank holding companies; to control and regulate existing bank holding companies and prevent the expansion of their control of banking facilities; to control and regulate relationships between insured banks and their affiliates; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 23A of the Federal Reserve Act, as amended, is amended to read as follows:

"Sec. 23A (a) For the purposes of this section --

"(1) 'Bank holding company' shall mean any company of which two or more banks are subsidiaries, provided that one of such banks is an insured bank.

"(2) 'Insured bank' shall have the meaning assigned to it in section 12B of this Act, as amended.

"(3) 'Company' shall mean any corporation, business trust, association, or other similar organization, not wholly owned by the United States.

"(4) 'Subsidiary' of a specified company shall mean --

"(A) Any company 20 per cent or more of whose outstanding voting shares (excluding shares owned by an organization wholly owned by the United States)

are owned by the specified company; or

"(B) Any company the management or policies of which, after appropriate notice to both companies and a reasonable opportunity for hearing, the Board of Governors of the Federal Reserve System determines to be subject to a controlling influence by the specified company.

"(5) Shares of a company shall be deemed to be owned by a specified company --

"(A) If they are owned by any subsidiary of the specified company;

"(B) If they are held by trustees for the benefit of the specified company or its shareholders; or

"(C) If their transfer is conditioned upon the transfer of voting shares of the specified company.

"(6) Shares of a company shall not be deemed to be owned by a specified company if they are held by the latter as fiduciary and neither it nor its shareholders have a beneficial interest therein.

"(7) 'Voting share' shall mean a share which entitles the holder thereof to vote for the election of directors.

"(8) 'Affiliate' of a specified bank shall mean any company --

"(A) Which is a subsidiary of the bank;

"(B) Of which the bank is a subsidiary;



"(C) 50 per cent or more of whose voting shares are owned by persons who own 50 per cent or more of the voting shares of the bank (exclusive in both instances of shares owned by an organization wholly owned by the United States);

"(D) Which is a subsidiary of a company which is an affiliate of the bank within the meaning of subdivisions (B) and (C) hereof; or

"(E) Directors of which constitute 25 per cent or more of the directors of the bank.

"(9) 'Person' shall mean any individual or company.

"(10) 'Director' shall mean any director, trustee, or other individual exercising similar functions.

"(b) It shall be unlawful for a company to be a bank holding company if it is not a bank holding company on the effective date hereof or thereafter ceases to be such.

"(c) (1) It shall be unlawful for any bank holding company to become the owner of voting shares of any bank: Provided, That a bank holding company may become the owner of additional shares of a bank which is a subsidiary of the bank holding company and was a subsidiary thereof on January 1, 1938, if it first obtains the Board's permission. The Board shall grant or withhold such permission as the public interest may require.

"(2) After one year after the effective date hereof, it shall be unlawful for any bank holding company to own any bank shares of which it has become the owner subsequent to January 1, 1938, and prior to such effective date: Provided, That the Board shall have authority to grant a bank holding company permission to retain any such shares in like circumstances as permission to acquire shares.

"(3) The Board may assign to designated members of the Board or officers or representatives of the Board, under rules and regulations prescribed by the Board, the performance of its functions under this subsection.

"(d) After one year after the effective date hereof, it shall be unlawful for any bank holding company to have any subsidiary bank which is not a member bank.

"(e) If as a result of a determination by the Board under subsection (a)(4)(B), a bank becomes a subsidiary of a bank holding company, or there exists any other relationship or ownership of bank shares forbidden by subsections (b), (c), (d), or (n), the action necessary to correct such improper relationship or ownership of bank shares shall be taken within a period of one year from the date of such determination: Provided, That if the Board finds that the facts upon which such determination and any such resulting relationship or ownership of bank shares are based

existed on January 1, 1938, the continuance of the relationship or ownership of bank shares shall be authorized, unless it is such as is forbidden by subsection (d) or (n).

"(f) It shall be unlawful for any bank to establish any branch while it is a subsidiary of a bank holding company.

"(g) (1) Within 60 days after the effective date hereof, each bank holding company shall file with the Board a statement containing the following information as of such effective date, as of January 1, 1938, and as of the date of such statement: (1) name and address of each of the bank holding company's subsidiary banks and address of each branch thereof; (2) name and address of each other bank of which the bank holding company owned shares; (3) number of shares of each class of stock which the bank holding company owned of each bank; (4) detailed information concerning the manner in which such shares were owned; and (5) name, address, and nature of business of each of the bank holding company's subsidiaries, other than banks, together with detailed information concerning the manner in which the relationship arises.

"(2) Each bank holding company shall furnish to the Board such reports as may be required by the Board from time to time. Such reports shall contain such information concerning the bank holding company and its subsidiaries as the Board shall deem necessary to disclose fully the relations between such companies,

the effect of such relations upon the affairs of the subsidiary banks, and whether the provisions of this section have been complied with.

"(h) Each bank holding company and each subsidiary thereof shall be subject to such examinations by examiners selected or approved by the Board as shall be necessary to disclose fully the relations between such companies, their effect upon the affairs of the subsidiary banks, and whether the provisions of this section have been complied with. The expenses of any such examination may, in the discretion of the Board, be assessed against the bank holding company and, when so assessed, shall be paid by such bank holding company. In addition to examinations made by examiners selected or approved by the Board, examiners making examinations of any subsidiary bank may make such examinations of the bank holding company as the appropriate Federal bank supervisory agency may deem necessary to disclose fully the effect of the relations between the bank and the bank holding company upon the affairs of the subsidiary bank.

"(i) Each bank holding company shall take such action within its power as may be necessary to cause each of its subsidiary banks to pursue sound practices and maintain a sound financial condition and to cause the net capital and surplus funds of each such subsidiary bank to be adequate in relation to the character and condition

of its assets and to the deposit liabilities and other corporate responsibilities of such subsidiary.

"(j) After December 31, 1938, each bank holding company shall use, to the extent necessary, its net earnings over and above 6 per centum per annum of the book value of its own shares to create and maintain a fund of cash or readily marketable assets, other than bank shares, in an amount equal to 12 per centum of the aggregate par value of all bank shares owned by it. A bank holding company shall allocate additional amounts to such fund as it shall see fit or as shall be necessary in order to comply with other provisions of this subsection. Assets comprising such fund shall be so identified in an appropriate manner and shall be kept separate and apart from other assets of the bank holding company. Such assets shall be free and clear of any lien, pledge or hypothecation of any kind or nature. Such assets may be used by the bank holding company to replace capital of its subsidiary banks and to eliminate losses and depreciation from the assets of such banks but shall not be used for any other purpose. Any amounts so used shall be made up within such period as the Board shall prescribe. For the purposes of this subsection, bank shares shall not be deemed to be owned by a bank holding company if they are also owned by a subsidiary of such bank holding company which is also a bank holding company.

"(k) If, after appropriate notice and a reasonable opportunity for hearing, the Board finds that any director or officer of a bank holding company has knowingly participated in or assented to the violation by such bank holding company or any subsidiary thereof of any provisions of this section or of any rules, regulations, or orders of the Board pursuant thereto, the Board may order that such director or officer be removed from office. A copy of such order shall be served upon such director or officer. A copy of such order shall also be served upon the bank holding company of which he is a director or officer, whereupon such director or officer shall cease to be a director or officer of such bank holding company. Any such director or officer removed from office as herein provided who thereafter participates in any manner in the management of such bank holding company shall be fined not more than \$5,000 or imprisoned for not more than five years, or both, in the discretion of the court.

"(l) If, after appropriate notice and a reasonable opportunity for hearing, the Board finds that a bank holding company has violated any of the provisions of this section, or rules, regulations, or orders of the Board pursuant thereto, or knowingly permitted or assented to such violation by any subsidiary, the Board may order, as the public interest may require, that during such period as is fixed by the order or pending further order by the Board --

"(1) The bank holding company shall not pay dividends to its shareholders;

"(2) No insured bank of which the bank holding company owns any shares shall pay dividends on such shares or pay or become liable to pay to the bank holding company or any of its subsidiaries any compensation for supervision or other services; or

"(3) Shares of insured banks owned by the bank holding company shall not be voted and the bank holding company shall not in any manner participate, directly or indirectly, in the management of any insured bank.

Such an order may contain any one or more of the foregoing numbered provisions.

"(m) No insured bank shall (1) make any loan or extension of credit to, or purchase securities under repurchase agreement from, any of its affiliates; or (2) accept the capital stock, bonds, debentures or other such obligations of any such affiliate as collateral security for advances made to any person; or (3) invest any of its funds in the capital stock, bonds, debentures, or other such obligations of any such affiliate or any company which will become an affiliate upon said investment: Provided, That the provisions of this subsection shall not apply to a company (1) engaged on June 16, 1934, in holding the bank premises of the bank or in maintaining and operating properties acquired for banking purposes prior to such date; (2) engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation or

livestock loan company; (3) in the capital stock of which a national banking association is authorized to invest pursuant to section 25 of this Act, as amended, or a subsidiary of such company, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such company; (4) organized under section 25(a) of this Act, as amended, or a subsidiary of such company, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such company; (5) engaged solely in holding obligations of the United States or obligations fully guaranteed by the United States as to principal and interest, the Federal intermediate credit banks, the Federal land banks, the Federal Home Loan Banks, or the Home Owners' Loan Corporation; (6) where the relationship has arisen out of a bona fide debt owed to the bank prior to the date of the creation of such relationship; or (7) where the relationship exists by reason of the ownership or control of any voting shares thereof by the bank as executor, administrator, trustee, receiver, agent, depository, or in any other fiduciary capacity, except where such shares are held for the benefit of all or a majority of the shareholders of the bank; but as to any such company the bank shall continue to be subject to other provisions of law applicable to loans by such bank and investments by such bank in stocks, bonds, debentures, or other such obligations. The provisions of this section shall likewise not apply



to indebtedness of any company for unpaid balances due a bank on assets purchased from such bank, or to loans secured by, or extensions of credit against, obligations of the United States or obligations fully guaranteed by the United States as to principal and interest.

"(n) After one year after the effective date of this section, no insured bank shall have any affiliate which is engaged principally in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail or through syndicate participation, of stocks, bonds, debentures, notes, or other securities.

"For every violation of this subsection, the bank involved shall be subject to a penalty not exceeding \$1,000 per day for each day during which such violation continues. Such penalty may be assessed by the Board, in its discretion, in the case of a member bank, and by the board of directors of the Federal Deposit Insurance Corporation, in its discretion, in the case of any other bank, and, when so assessed, may be collected by the Federal Reserve bank in the district in which the bank is located or the Federal Deposit Insurance Corporation, respectively, by suit or otherwise.

"If any such violation shall continue for six calendar months after the bank shall have been warned by the Board, in the case of a member bank, or by the board of directors of the Federal Deposit Insurance Corporation, in the case of any other bank, to discontinue

the same, (a) in the case of a national bank, all the rights, privileges, and franchises granted to it under the National Bank Act may be forfeited in the manner prescribed in section 2 of this Act, as amended, or (b) in the case of a State member bank, all of its rights and privileges of membership in the Federal Reserve System may be forfeited in the manner prescribed in section 9 of this Act, as amended, or (c) in the case of any other bank, the insurance of its deposits may be terminated in the manner prescribed in subsection (i) of section 12B of this Act, as amended.

"(o) The term 'affiliate' as used in sections 9, 12B, and 21 of this Act, as amended, and section 5211 of the Revised Statutes, as amended, shall have the meaning assigned to it in subsection (a) of this section.

"(p) The Board shall have the authority to make, issue, amend and rescind such rules, regulations and orders as it may deem necessary to effectuate the provisions of this section in accordance with its purposes and to prevent evasion of such provisions."

Sec. 2. The paragraph of section 4 of the Federal Reserve Act, as amended, which commences with the words "The Board of Governors of the Federal Reserve System shall classify" is amended by striking out all following the colon and inserting in lieu thereof the following: "Provided, That whenever any two or more member banks within the same Federal Reserve district are subsidiaries of the same bank holding company within the meaning of

section 23A of this Act, participation by such member banks in any such nomination or election shall be confined to one of such banks, which may be designated for the purpose by such bank holding company."

Sec. 3. The eleventh paragraph of section 9 of the Federal Reserve Act, as amended, which commences with the words "In order to facilitate", is amended by inserting after the words "which is required" the following: "under subsection (d) of section 23A of this Act to become a member of the Federal Reserve System or is required."

Sec. 4. Section 9 of the Federal Reserve Act, as amended, is amended by striking out the twenty-first paragraph, which commences with the words "Each State member bank affiliated with a holding company affiliate."

Sec. 5. The eighteenth paragraph of section 9 of the Federal Reserve Act, as amended, which commences with the words "Any such affiliated member bank which fails," is amended by striking out the following sentence: "For the purposes of this paragraph and the two preceding paragraphs of this section, the term 'affiliate' shall include holding company affiliates as well as other affiliates."

Sec. 6. Subsection (k) of section 12B of this Act, as amended, is amended by inserting between paragraphs (2) and (3) thereof the following new paragraphs:

"(2a) In connection with their examinations of banks pursuant to the next preceding paragraph, examiners appointed by the board of directors of the Corporation shall make such examinations of the affairs of all affiliates (other than insured banks) of such banks as shall be necessary to disclose fully the relations between such banks and their affiliates and the effect of such relations upon the affairs of such banks. In the event of the refusal to give any information requested in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, the board of directors of the Corporation may, in its discretion, proceed to terminate the insured status of the bank in like manner as provided in subsection (i) of this section."

Sec. 7. Subsection (k) of section 12B of this Act, as amended, is amended by inserting between paragraphs (3) and (4) thereof the following new paragraph:

"(3a) Each bank required to make reports of condition to the Corporation pursuant to the next preceding paragraph shall obtain and furnish to the Corporation reports of each of its affiliates other than insured banks. Such reports shall be in such form as the board of directors of the Corporation may prescribe, shall be verified by the oath or affirmation of the president or other such officer as may be designated by the board of

directors of such affiliate to verify such reports, and shall disclose the information hereinafter provided for as of dates identical with those fixed by the board of directors of the Corporation for reports of the condition of the affiliated bank. Each such report of an affiliate shall be transmitted to the Corporation at the same time as the corresponding report of the affiliated bank, except that the board of directors of the Corporation may, in its discretion, extend such time for good cause shown. Each such report shall contain such information as in the judgment of the board of directors of the Corporation shall be necessary to disclose fully the relations between such affiliate and such bank and to enable the Corporation to inform itself as to the effect of such relations upon the affairs of such bank. The reports of such affiliates shall be published by the bank under the same conditions as govern its own condition reports. The board of directors of the Corporation shall also have the power to call for additional reports with respect to any such affiliate whenever in its judgment the same are necessary in order to obtain a full and complete knowledge of the condition of the bank of which it is an affiliate. Such additional reports shall be transmitted to the Corporation in such form as the board of directors of the Corporation shall prescribe. Any bank which fails to obtain and furnish any report required under this paragraph shall be subject to a penalty of not more than \$100 for each day of such failure, recoverable by the Corporation for its use."

Sec. 8. The last paragraph of section 21 of this Act, as amended, is amended to read as follows:

"Whenever insured banks (as defined by section 12B of the Federal Reserve Act) are required to obtain reports from affiliates, or whenever affiliates are required to submit to examination, the Board of Governors of the Federal Reserve System, the board of directors of the Federal Deposit Insurance Corporation, or the Comptroller of the Currency, as the case may be, may waive such requirements with respect to any such report or examination of any affiliate if in the judgment of the said Board, board of directors, or Comptroller, respectively, such report of examination is not necessary to disclose fully the relations between such affiliate and such bank and the effect thereof upon the affairs of such bank."

Sec. 9. Subsections (b) and (c) of section 2 of the Banking Act of 1933, as amended, are repealed.

Sec. 10. Section 20 of the Banking Act of 1933, as amended, is repealed.

Sec. 11. (a) The first sentence of section 5144 of the Revised Statutes, as amended, is amended by inserting the word "and" immediately before "(3)" and by changing to a period the comma preceding "and (4)" and striking out that which follows in such sentence.

(b) The second paragraph and all succeeding paragraphs of section 5144 of the Revised Statutes, as amended, are repealed.

Sec. 12. The second paragraph of section 5211 of the Revised Statutes, as amended, is amended by striking out the following sentence: "For the purpose of this section the term 'affiliate' shall include holding company affiliates as well as other affiliates."

Sec. 13. (a) Subsection (d) of section 26 of the Revenue Act of 1936, as amended, is amended to read as follows:

"(d) Bank Holding Companies. - In the case of a bank holding company (as defined in section 23A of the Federal Reserve Act), the amount of the earnings or profits which the Board of Governors of the Federal Reserve System certifies to the Commissioner has been devoted by such company during the taxable year to the acquisition of cash or readily marketable assets, other than bank stock, in compliance with subsection (j) of section 23A of the Federal Reserve Act. The aggregate of the credits allowable under this subsection for all taxable years shall not exceed the amount required to be devoted under such subsection (j) to such purposes."

(b) Subdivision (1)(C) of subsection (a) of section 14 of the Revenue Act of 1936, as amended, is amended to read as follows:

"(C) In the case of a bank holding company (as defined in

section 23A of the Federal Reserve Act), the amount allowed as a credit under section 26(d)."

(c) Subdivision (1)(D) of subsection (c) of section 102 of the Revenue Act of 1936, as amended, is amended to read as follows:

"(D) In the case of a bank holding company (as defined in section 23A of the Federal Reserve Act), the amount allowed as a credit under section 26(d)."

March 30, 1938