

AN ACT

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Bank Holding Company Act of 1945.

Sec. 2. Declaration of Policy.--It is hereby declared to be the policy of Congress, in accordance with which policy all of the provisions of this Act shall be interpreted, to control the creation and expansion of bank holding companies; to separate their business of managing and controlling banks from unrelated businesses; to subject the business and affairs of bank holding companies to the same type of examination and regulation as the banks which they control; and otherwise to provide for more effective regulation and supervision of bank holding companies to the end that their influence and control shall be directed toward the continued pursuit of sound policies and the continued maintenance of sound financial conditions by their subsidiary banks.

Before the expiration of five years following the passage of this Act the Board of Governors of the Federal Reserve System shall report to Congress the results of the administration of this Act, stating what, if any, substantial difficulties have been encountered in carrying out the purposes of this Act, and any recommendations as to changes in the law which in the opinion of the Board would be desirable.

Sec. 3. Definitions.--

(a) "Bank holding company" means (1) any company which directly or indirectly owns, controls or holds with power to vote 10 per centum or more of the voting shares of each of two or more banks; and (2) any company which the Board determines, after notice and opportunity for hearing, directly or indirectly exercises such a controlling influence over the management or policies of two or more banks as to make it necessary or appropriate in the public interest or for the protection of investors or depositors that such company be subject to the obligations, duties and liabilities imposed in this Act upon bank holding companies.

(b) "Bank" means any national bank, or any State bank, banking association, savings bank, or trust company. "State member bank" means any State bank which is a member of the Federal Reserve System. "District bank" means any State bank operating under the Code of Law for the District of Columbia.

(c) "Company" means any corporation, partnership, joint-stock company, business trust, voting trust, association, or an organized group of persons, whether incorporated or not, or any receiver, trustee, or other liquidating agent of any of the foregoing in his capacity as such; excluding, however, any such company which is owned by the United States.

(d) "Board" means the Board of Governors of the Federal Reserve System.

(e) "Subsidiary", with respect to a specified company, means  
(1) any company 10 per centum or more of whose outstanding voting shares

(excluding shares owned by the United States or by any company wholly owned by the United States) is owned by the specified company; or  
(2) any company the management and policies of which the Board determines, after notice and opportunity for hearing, are subject to a controlling influence by the specified company.

Sec. 4. Registration, Reports, and Examinations.--

(a) Within ninety days after the effective date of this Act, every bank holding company shall register with the Board on forms prescribed by the Board, which shall include, with such other information as the Board may require, statements showing (1) its financial condition at the end of its fiscal year last preceding the date of registration including therein the amount of its accumulated net income at such time; (2) name and address of each of the bank holding company's subsidiary banks and address of each branch of each such bank; (3) name and address of each other bank of which the bank holding company owns shares; (4) number of shares of each class of stock of each bank owned by the bank holding company; (5) information concerning the manner in which such shares are owned; (6) 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 (7) such information as the Board may require concerning all changes in the foregoing which have occurred since December 31, 1942, including dates thereof.

The Board may, in its discretion, extend the time within which a bank holding company shall register and file the requisite statement.

(b) Each bank holding company shall furnish to the Board from time to time such reports as may be required by the Board and in such form and detail as the Board may prescribe. 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 among such companies, the effect of such relations upon the affairs of the subsidiary banks, and whether the provisions of this Act have been complied with.

(c) 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 bank holding company and its subsidiaries, the effect of such relations upon the affairs of the subsidiary banks, and whether the provisions of this Act or of the Board's orders, rules, or regulations have been complied with; and the examiner making such an examination shall have power to administer oaths and to examine any of the officers, directors, employees, and agents of such bank holding company or subsidiary under oath. 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.

Sec. 5. Interests in Nonbanking Organizations.--

(a) Except as otherwise provided in this section it shall be unlawful for any bank holding company, after two years after the effective date hereof, to own voting shares of any company other than a bank or to engage in any business other than that of managing or controlling

subsidiary banks. The Board is authorized to extend this period from time to time for not more than one year at a time if, in its judgment, such an extension would not be detrimental to the public interest.

(b) The prohibitions in this section shall not apply to shares owned or acquired by a bank holding company in any company the activities of which the Board has determined are so closely related to the business of managing, operating, or controlling banks as to be a proper incident thereto.

(c) Nor shall the prohibitions in this section apply to shares acquired by a bank holding company from any of its subsidiaries at the request of any Federal or State authority having statutory power to examine such subsidiaries; but such bank holding company shall dispose of such shares within a reasonable time. If, while such bank holding company owns or controls such shares, the Board, after notice and opportunity for hearing, determines that the ownership or control of such shares is resulting in the violation or evasion of any of the provisions of this Act, it may by order require such bank holding company to dispose of such shares forthwith.

Sec. 6. Acquisitions of Bank Shares by Companies.---No plan, undertaking or agreement by or on behalf of any company which would result in that company owning, either directly or indirectly, 10 per centum or more of the voting shares of each of two or more banks, and no plan, undertaking or agreement by or on behalf of any bank holding company to acquire either directly or indirectly any voting shares of a bank, shall be consummated, effectuated and completed except with the prior approval of the Board.



Sec. 7. Acquisition of Bank Assets by Companies.---

(a) No plan, undertaking or agreement by or on behalf of any bank holding company or any of its nonbanking subsidiaries to acquire all or substantially all of the assets of any bank shall be consummated, effectuated or completed except with the prior approval of the Board.

(b) No plan, undertaking or agreement by or on behalf of a banking subsidiary of a bank holding company to acquire all or substantially all of the assets of any bank shall be consummated, effectuated or completed except with the prior approval of (1) the Comptroller of the Currency if the acquiring bank is a national bank or district bank; or (2) the Board if the acquiring bank is a State member bank; or (3) the Federal Deposit Insurance Corporation in the case of any other acquiring bank.

Sec. 8. Borrowing by Bank Holding Company or Its Subsidiaries.---

(a) Except as otherwise provided in this section it shall be unlawful for a bank holding company or any of its nonbanking subsidiaries (i) to receive any loan or extension of credit from any banking subsidiary of such bank holding company or (ii) to sell any securities or other property to any such subsidiary bank.

(b) The prohibition contained in this section shall not apply to such renewals or extensions of any loans or credits outstanding on the effective date of this Act, provided that such renewals or extensions have the prior approval of the Board.

(c) Nor shall the prohibition contained in this section apply to loans or extensions of credit which the Board, by rules, regulations or orders, finds to be necessary and appropriate to meet the proper financial requirements of such nonbanking subsidiaries as are defined in section 5(b) of this Act.

Sec. 9. Service Fees or Benefits.--The Board is authorized, if in its opinion such action is necessary or appropriate for the protection of depositors or investors and after appropriate notice and opportunity for hearing, to determine the reasonableness of any service, management or similar charge or fee or benefit obtained by a bank holding company or any of its subsidiaries from a subsidiary bank of such bank holding company, and to order that all or any part of such charges or fees or benefits which it finds to be unreasonable shall be discontinued. It shall be unlawful for such bank holding company thereafter to assess or obtain any such charge or fee or benefit in contravention of the Board's order.

Sec. 10. Reserve Fund.--After the effective date, every bank holding company shall use all its net earnings over and above 6 per centum per annum of the book value of its own shares to accumulate a fund consisting of cash and of readily marketable assets of the kinds eligible for investment by national banks under the provisions of section 5136 of the United States Revised Statutes in an amount equal to at least 12 per centum of the aggregate par value of all bank shares owned by it. Assets comprising such fund shall be identified in an appropriate manner and shall be kept 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, except as permitted by the Board, shall not be used by the company for any other purpose and any deficiency in such assets resulting from such use shall be replaced at the same rate as above provided.

Sec. 11. Regulations.--The Board shall have the authority to make and issue such rules, regulations, and orders, not inconsistent with the provisions of this Act, as may be necessary to enable it to administer and carry out the purposes of this Act and prevent evasions thereof and it shall likewise have authority to amend, modify, or rescind any such rules, regulations, or orders so made or issued. All powers and functions of the Board prescribed by this Act, other than the issuance, amendment, modification, or rescission of rules, regulations, and orders and the determination of matters of general policy, may be performed through such members of the Board or such officers and employees thereof or such Federal Reserve Banks or officers or employees thereof as the Board may deem advisable in order to facilitate the administration of this Act.

Sec. 12. Hearings, Investigations, and Court Review of Orders.--

(a) In addition to the hearings authorized in this Act, the Board also shall have authority to make such investigations as may be necessary to determine whether any proceeding under this Act should be instituted against a particular person or persons, or with respect to a particular transaction or transactions; and the Board shall keep appropriate records of all hearings and investigations.

(b) For the purpose of any hearing or investigation under this Act, any member of the Board, or any officer thereof designated by it, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, records, or other papers which are relevant or material to



the inquiry. Such attendance of witnesses and the production of any such papers may be required from any place in any State or in any Territory or other place subject to the jurisdiction of the United States at any designated place where such a hearing is being held or investigation is being made.

(c) In case of refusal to obey a subpoena issued to, or contumacy by, any person, the Board may invoke the aid of any court of the United States within the jurisdiction of which such hearing or investigation is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, records, or other papers. And such court may issue an order requiring such person to appear before the Board or member or officer designated by the Board, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. No person shall be excused from attending and testifying or from producing books, records, or other papers in obedience to a subpoena issued under the authority of this Act on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled

to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Any person who without just cause shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, records, or other papers in obedience to the subpoena of the Board, if in his or its power so to do, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or both.

(d) Any person or party aggrieved by an order issued by the Board under this Act may obtain a review of such order in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the Board or upon the Board's secretary at its offices in the city of Washington, and thereupon the Board shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part. No objection to the order of the Board shall be considered by the court unless such objection shall have been urged

before the Board or unless there were reasonable grounds for failure so to do. The finding of the Board as to the facts, if supported by substantial evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Board, the court may order such additional evidence to be taken before the Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Board shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended. The commencement of proceedings to review an order of the Board issued under this Act shall not operate as a stay of the Board's order unless the court otherwise orders.

Sec. 13. Penalties.--

(a) If, after notice and opportunity for hearing, the Board finds that a bank holding company has willfully violated any of the provisions of this Act, or of any rules, regulations, or orders of the Board

issued pursuant thereto, or has knowingly permitted or assented to or participated in any such violation by any subsidiary, the Board may issue an order, effective for such period as may be fixed by the order and containing any one or more of the following prohibitions: (i) That such bank holding company shall not pay any salary or other remuneration to any officer or director of the company found by the Board to have willfully participated in such violation or violations and who was made a party to such hearing by the Board; (ii) that no subsidiary bank of such bank holding company shall pay dividends on shares owned by such bank holding company or pay or become liable to pay to such bank holding company or any of its subsidiaries any service, management, or similar charges or fees, or render any specified benefit; and (iii) that such bank holding company shall not directly or indirectly vote the shares owned by it or otherwise participate in the management or control of any subsidiary bank.

(b) Any person who willfully violates any provision of this Act or any rule, regulation, or order issued by the Board pursuant thereto shall upon conviction be fined not more than \$10,000 or imprisoned not more than two years, or both. Every officer, director, agent and employee of a bank holding company shall be subject to the same penalties for false entries in any book, report, or statement of such bank holding company as are applicable to officers, directors, agents, and employees of member banks for false entries in any books, reports, or statements of member banks under section 5209 of the Revised Statutes, as amended.

Sec. 14. Technical Amendments.---

(a) 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 of the language therein which follows the colon and by inserting in lieu thereof the following: "Provided, That whenever any member bank or member banks within the same Federal Reserve district are subsidiaries of the same bank holding company within the meaning of the Bank Holding Company Act of 1945, participation in any such nomination or election by such member banks, including such bank holding company if it is also a member bank, shall be confined to one of such banks, which may be designated for the purpose by such bank holding company."

(b)(1) The eighteenth paragraph of section 9 of the Federal Reserve Act, as amended, is further amended by striking out the last sentence of such paragraph.

(2) The twenty-first paragraph of section 9 of the Federal Reserve Act, as amended, is repealed.

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

(d)(1) 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 the words "and (4)", and by striking out that which follows in such sentence.

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



(e) The second paragraph of section 5211 of the Revised Statutes, as amended, is further amended by striking out the second sentence of such paragraph.

(f)(1) 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 the Bank Holding Company Act of 1945), 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 of the kinds eligible for investment by national banks under the provisions of section 5136 of the United States Revised Statutes, in compliance with section 10 of the Bank Holding Company Act of 1945. The aggregate of the credits allowable under this subsection for all taxable years shall not exceed the amount required to be devoted under such section 10 to such purposes."

(2) 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 the Bank Holding Company Act of 1945), the amount allowed as a credit under section 26 (d)."

(3) 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 the Bank Holding Company Act of 1945), the amount allowed as a credit under section 26 (d)."

(g)(1) Paragraph 4 of subsection (c) of section 3 of the Investment Company Act of 1940 is amended to read as follows:

"(4) Any bank holding company which is registered with the Board of Governors of the Federal Reserve System pursuant to the Bank Holding Company Act of 1945."

(2) Paragraph (11) of subsection (a) of section 202 of the Investment Advisers Act of 1940 is amended by changing the words "or any holding company affiliate, as defined in the Banking Act of 1933" to read "or any bank holding company, as defined in the Bank Holding Company Act of 1945."

Sec. 15. Separability of Provisions.--If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.