FDIC
FEDERAL DEPOSIT INSURANCE CORPORATION

NEWS RELEASE

FOR RELEASE UPON DELIVERY

PR-27-76 (3-26-76)

Statement on

S. 2304, 94th Congress

A bill "To strengthen the supervisory authority of the Federal banking agencies over financial institutions and their affiliates."

Presented to the

Senate Committee on Banking, Housing and Urban Affairs,
United States Senate

by

Robert E. Barnett, Chairman
Federal Deposit Insurance Corporation

March 26, 1976

I appreciate this opportunity to testify in support of S. 2304, 94th Congress, a bill "To strengthen the supervisory authority of the Federal banking agencies over financial institutions and their affiliates". As you know, the bill was proposed jointly by the FDIC, the Comptroller of the Currency and the Federal Reserve. Its enactment would provide much needed assistance for preventing certain types of abuses that in the past have led some banks to fail and would better enable the regulatory agencies in the future to attempt to correct such "problem bank" situations before they reach the terminal stage. The need for this type of legislation was underscored by former FDIC Chairman Frank Wille in his July 21, 1975 statement before the House Committee on Financial Institutions Supervision, Regulation and Insurance, a copy of which is attached hereto as Appendix A.

In his September 5, 1975 letter to Senator Proxmire forwarding this proposed legislation to the Congress, Federal Reserve Chairman Arthur Burns discussed in some detail the background circumstances giving rise to this proposal. I will briefly summarize these circumstances to refresh the Committee's memory in this regard.

CIVIL PENALTIES

In a number of areas of bank regulation there is no totally effective deterrent to violation of various limitations and restrictions imposed by Federal statute. Although such violations can severely affect a bank's safety and soundness, the only sanction a bank faces in some cases is the possible issuance of a cease and desist order requiring it to reverse a particular transaction or to refrain from committing similar future violations. One example is section 23A of the Federal Reserve Act which

(in conjunction with section 18(j) of the Federal Deposit Insurance Act) imposes stringent limitations on loans and other dealings between insured banks and their affiliates. However, since there are no specific penalties for violation thereof, a bank holding company or other person experiencing financial pressure may cause a subsidiary bank to violate such restrictions knowing that, if such violations are discovered, the only sanction would be the possible issuance of a cease and desist order designed to rectify the violation and prevent further such transgressions.

While the cease and desist order is quite useful for some purposes, it is not as significant a deterrent to violations of restrictions on inter-affiliate or insider lending as a daily money penalty would be. Accordingly, sections 1 and 7 of the bill would authorize the Federal Reserve and the FDIC to impose up to $1,000 per day civil penalties for violations of section 23A of the Federal Reserve Act relating to inter-affiliate dealings or section 22 of the Federal Reserve Act covering bank loans to their own executive officers. Similarly, section 2 of the bill would authorize the imposition of up to $100 per day civil penalties for violations of Regulation Q type restrictions relating to the payment of interest on deposits (§ 19 of the Federal Reserve Act).

In addition, section 6(e) of the bill would authorize the imposition of a civil penalty against any bank or any officer, director, employee, agent or other person participating in the bank's affairs for violation of a cease and desist order or consent agreement which has become final under section 8(b) or (c) of the Federal Deposit Insurance Act. Section 6(e) would provide for a civil penalty of up to $10,000 for each day the offending bank or individual willfully refuses to obey the order. The authority to impose such a fine for violating a final cease and desist order would serve to emphasize the gravity of such an order.

Under section 8(k) of the FDI Act, a cease and desist order does not become final unless entered into by consent or until the time has run for filing a petition for review with the appropriate U. S. Court of Appeals and no petition has been filed or perfected, or the petition so filed is not subject to further review by the Supreme Court. In either event, the party must have exhausted the administrative and judicial remedies afforded to him under the Act. If the party then continues to disobey an order, the appropriate agency can apply to the proper U. S. District Court to secure its enforcement. However, the threat of a court enforcement and possible contempt proceedings should not be the only deterrent at this point. The party has been given every opportunity to have his day in court. He should not be allowed to further impede the effect of the order simply to secure another delay and should be subject to a substantial monetary penalty for each day that he does so, as provided in the bill.

In imposing civil money penalties under the bill's provisions, the appropriate bank regulatory agency would be required to take into account the financial resources and the good faith of the bank or person charged with the violation, as well as the history of previous violations. Hopefully, the utility of such penalties would be primarily in their deterrent effect, and the actual imposition of fines could be used sparingly.

INSIDER LOANS

Our experience has indicated the need for more vigorous supervision by bank boards of directors and bank supervisory agencies of transactions between an insured nonmember bank and "insiders" of the bank. Abusive self-dealing has been a significant contributing factor in more than half

of all bank failures since 1960, including the failure of 30 nonmember insured banks. Losses to the deposit insurance fund as a result of these failures are likely to exceed $175 million. A review of existing and past "problem" bank cases also reveals abusive self-dealing as a significant source of difficulty. Even where the immediate result is not the bank's failure or its designation as a bank requiring close supervision, an insider transaction that is not effected on an "arm's length" basis may lead to a diminution of the bank's earnings and an erosion of its capital -- thereby increasing the risk of loss to depositors and minority shareholders and ultimately to the deposit insurance fund. Also, insider transactions whose terms and conditions cannot be justified constitute a diversion to insiders of resources that properly belong to all shareholders on a pro rata basis, as well as a misallocation of a community's deposited funds.

For these reasons the FDIC on February 25, 1976 adopted a new regulation dealing with insider transactions. The regulation seeks to minimize abusive self-dealing through the establishment of procedures which insure that bank boards of directors supervise such transactions effectively and which better enable FDIC examiners to identify and analyze such transactions. The board of directors of each insured nonmember bank will be required, effective May 1, 1976, to review and approve each insider transaction involving assets or services having a fair market value greater than $20,000 for a bank having assets under $100 million, $50,000 for a bank between $100 and $500 million in assets, or $100,000 for a bank with assets over $500 million. In addition, certain record-keeping requirements, including a record of dissenting votes cast by members of bank boards of directors, will be imposed in order to foster effective internal controls over such transactions by the bank itself and to facilitate examiner review.

A more complete explanation of the FDIC's new "insider" regulation will be found in our February 25, 1976 press release issued in this connection, which is attached as Appendix B hereto.

In addition to these new regulatory requirements, it is our opinion that more explicit statutory lending limitations on the amount of a bank's loans to its insiders would be helpful in preventing banks from incurring undue risks by lending excessive amounts to insiders and their related business enterprises. Such limits are necessitated by the fact that a bank may be less subject to the restraints imposed by prudence and sound judgment when making loans to its insiders and their related interests than it would be in making loans to unrelated individuals or business enterprises.

Accordingly, we believe further substantive restrictions should be placed on transactions between banks and insiders. Specifically, it would be desirable to amend section 22 of the Federal Reserve Act to impose additional restrictions on loans by a bank to its own officers and directors and to major stockholders and corporations affiliated with such individuals. Accordingly, sections 3 and 7 of the bill would provide that the existing limits under applicable Federal or State law on loans to one borrower would apply with respect to loans by any member or nonmember insured bank to any one of its officers and directors and to any other individual holding more than five percent of its voting securities, including loans to companies controlled by such officer, director, or five percent shareholder. These provisions would require that loans or extensions of credit to any one of its officers, directors or five percent shareholders and to all companies controlled by such person be aggregated and that the aggregate of such credit not exceed applicable Federal or State one-borrower limits.

ADMINISTRATIVE ENFORCEMENT

While the provisions of the bill discussed above are designed in large part to prevent problem bank situations from developing, the bill also contains several provisions intended to assist in dealing with problem bank situations once they arise. Presently under § 8(e) of the Federal Deposit Insurance Act the appropriate Federal bank regulatory agency is authorized to remove a bank director or officer who has engaged in a violation of a law, rule or regulation, participated in an unsafe or unsound practice, violated a final cease and desist order, or breached his fiduciary duty -- but only if such violation involves personal dishonesty and where substantial financial loss to the bank or other damage to its depositors can be demonstrated. Because of the difficulty of proving circumstances amounting to personal dishonesty, the present law effectively bars removal of individuals even if they have repeatedly demonstrated gross negligence in the operation or management of the bank or willful disregard for its safety and soundness.

While we realize that the congressional objective underlying the "personal dishonesty" requirement was to protect bank officers and directors from arbitrary or capricious administrative action, we believe that in light of recent experience it is necessary to balance the interests of the individual bank officer or director against those of the bank's depositors and shareholders, and ultimately against the public interest in maintaining the integrity of the Federal deposit insurance fund. To strike this balance, we strongly recommend enacting the provisions of section 6(d) of the bill, which add to the standard of personal dishonesty an alternative standard which would recognize the need to remove those officers and directors whose gross negligence in the operation or management of a bank or whose willful disregard

of its safety and soundness threatens the financial safety of the institution. We believe that the present hearing and judicial review requirements are sufficient to shield bank officers and directors from arbitrary or capricious administrative action.

Recent experience also indicates that a bank may be harmed not only by the misconduct of its own officers and directors but also by the misconduct of others who are in a position to influence its affairs. However, it is often difficult or impossible to reach such persons through removal proceedings or through cease and desist action brought against the bank itself. Accordingly, we also recommend the amendments contained in section 6(a) and (c) of the bill, which would amend paragraphs (b) and (c) of section 8 of the Federal Deposit Insurance Act to provide that the appropriate regulatory agency may bring cease and desist proceedings against directors, officers, employees, agents and other persons participating in the conduct of the affairs of a bank, as well as against the bank itself as permitted under present law. We believe that the ability to reach such officers, directors and other persons participating in a bank's affairs through cease and desist orders would result in a greater ability to correct situations which might otherwise result in serious detriment to the bank.

There are other provisions in the bill which relate to bank holding companies or to other matters within the special cognizance of the Comptroller of the Currency or the Federal Reserve. While we support the bill in toto, we defer to these other agencies for detailed discussions of such provisions. Also, in response to the request contained in your March 15, 1976 letter, there is attached hereto as Appendix C a resume of administrative enforcement proceedings conducted by the FDIC during the past five years. Finally, we would recommend that the Committee also

act favorably with respect to a related bill (S. 2233) which contains various noncontroversial, "housekeeping" amendments to the Federal Deposit Insurance Act.

Attachments

APPENDIX A

FDIC
FEDERAL DEPOSIT INSURANCE CORPORATION

NEWS RELEASE

FOR RELEASE UPON DELIVERY

PR-57-75 (7-21-75)

Legislative proposals under FDIC consideration as a result of the failure of United States National Bank and related enforcement problems

Presented to the

Subcommittee on Financial Institutions,
Supervision, Regulation and Insurance
Committee on Banking, Currency and Housing
House of Representatives

by

Frank Wille, Chairman
Federal Deposit Insurance Corporation

July 21, 1975

This statement outlines a number of legislative proposals the FDIC is considering which might curb some of the abuses that led to the downfall of United States National Bank and have or could lead to the failure of similarly operated banks.

I. AFFILIATES: A broader definition of affiliate for lending purposes

USNB, which was in fact controlled by C. Arnholt Smith, extended massive credit to other enterprises controlled by Smith, yet these credit extensions apparently did not violate the provisions of § 23A of the Federal Reserve Act limiting loans to "affiliates" of member banks (made applicable to non-member banks by § 18(j) of the Federal Deposit Insurance Act). Section 23A incorporates the definition of "affiliate" found in Section 2a of the Banking Act of 1933 (12 U.S.C. § 221a). As presently written, Section 2a limits the term "affiliate" to those entities which are controlled by shareholders who control more than 50 percent of the shares of a bank's voting stock, and Smith himself did not directly control a majority of the voting shares of USNB. We believe that this definition should be changed to encompass shareholders who have actual control over the management or policies of a bank even though they own less than a majority of its voting shares.[1/]

This change was previously suggested by the Comptroller of the Currency in his prepared statement before this Subcommittee on December 11, 1974.

1/ The term "affiliate", as defined in Section 2a, is used in other sections of the Federal Reserve Act as well as Section 23A. Each of those sections will be separately examined to determine whether the recommended broadening of the definition of "affiliate" is similarly desirable.

II. CONGLOMERATES: Tighter limits on lending to entities under common control

Although there are federal and state laws which limit loans to a single borrower, many corporate borrowers have been able to avoid such limits through the simple expedient of having each of their subsidiaries borrow separately from the same bank, with the parent company refraining from any direct borrowing from that bank. The danger is that laws or regulations which treat corporate subsidiaries as separate entities for bank lending limit purposes will result in aggregate excessive loans to ostensibly separate entities which are in reality part of a single enterprise. When that enterprise fails, normally the loans to all of the entities go "sour".

For example, USNB extended credit to the Westgate-California conglomerate in amounts far in excess of the legal limit imposed on loans by a national bank to any one borrower (12 U.S.C. § 84). It was able to do so because the parent company (now in Chapter 10 proceedings) didn't borrow directly. In construing § 84, the Comptroller of the Currency has ruled that obligations of subsidiary corporations are generally not considered obligations of the parent if the parent corporation is not itself borrowing from the same bank (12 C.F.R. § 7.1310), and this construction in the view of most lawyers is supported by the language of the statute.

To counter this problem, the FDIC favors changes in both federal and state lending limits, where necessary, which would allow the supervisory authorities to treat loans to entities under common control as loans to a single borrower.

III. INSIDERS: Tighter limits on lending to insiders and their related business interests

Lending limits should prevent banks from incurring undue risks by lending excessive amounts to insiders and their related business enterprises. A bank may be less subject to the restraints imposed by prudence and sound judgment when making loans to these insiders and their related interests than it would be in making loans to unrelated individuals or business enterprises.

In line with Governor Holland's testimony last Wednesday, we recommend that § 22 of the Federal Reserve Act (12 U.S.C. § 375a) be amended so as to cover directors and controlling shareholders of a member bank in addition to its executive officers, and to business enterprises which such directors, controlling shareholders and executive officers control. We also agree that loans to these individuals should be aggregated with loans to companies controlled by them for the purpose of applying state and federal lending limits. Since many states impose no legal restraints on loans to a bank's own executive officers, directors or controlling shareholders, we recommend that Section 22 of the Federal Reserve Act be extended to encompass those State-chartered banks which are insured by the FDIC but do not belong to the Federal Reserve System.

Parenthetically, I might add that the FDIC is considering regulations which would impose on banks tighter internal controls and recordkeeping requirements for transactions with insiders. We plan to publish these proposed regulations for public comment within the next few weeks.

IV. FINES: Administrative fines for major banking law violations

A special problem has to do with the absence of penalties for violations of major federal banking laws, such as §§ 22 and 23A of the Federal Reserve Act. I previously recommended that § 22 be extended to cover insured nonmember as well as member banks. Section 23A already applies to insured nonmember banks by virtue of § 18(j) of the Federal Deposit Insurance Act. Neither section includes any provision for a fine in the event of its violation, yet both sections are important in preventing the kinds of abuses often found in problem banks.

We recommend that Congress authorize the appropriate bank regulatory agency to assess a fine against any bank or individual willfully violating § 22 or § 23A, or willfully refusing to obey any lawful regulation issued pursuant thereto. Such fine would be in the nature of a civil rather than a criminal penalty and would vary in amount, within the maximum set by law, at the discretion of the agency.

We recognize the severity of this remedy but feel that it often constitutes the only effective method of deterring harmful violations. Termination of a bank's insurance has long been recognized as too severe to be used in any but extreme situations. Cease and desist proceedings are useful but the threat of a cease and desist order, standing alone, has not always proved to be a sufficient deterrent to those who would willfully violate laws or regulations. Hopefully, the threat of a fine would deter conduct that could cause irreparable injury to a bank.

We also recommend the imposition of a fine for the willful violation of any effective and outstanding cease and desist order issued by an agency under

§ 8(b) or § 8(c) (12 U.S.C. §§ 1818(b) and (c)) of the Federal Deposit Insurance Act where the order has become final. In this case, the fine would be imposed for each day that the offending bank or individual willfully refuses to obey the order. The imposition of a fine for violating a cease and desist order which has become final would serve to emphasize the gravity of such an order. Under § 8(k) (12 U.S.C. § 1818(k)), a cease and desist order does not become final unless entered into by consent or until the time has run for filing a petition for review with the appropriate U. S. court of appeals and no petition has been filed or perfected, or the petition so filed is not subject to further review by the Supreme Court. In either event, the party must have exhausted the administrative and judicial remedies afforded him under the Act. If the party then continues to disobey an order, the appropriate agency can apply to the proper U. S. district court to secure its enforcement. However, the threat of court enforcement and possible contempt proceedings should not be the only deterrent at this point. The party has been given every opportunity to have his day in court. He should not be allowed to further impede the effect of the order simply to secure another delay and should be subject to a substantial monetary penalty for each day that he does so.

V. REMOVAL: Individuals who willfully disregard the safety and soundness of an institution

As you know, § 8(e) (12 U.S.C. § 1818(e)) of the Federal Deposit Insurance Act authorizes the removal of a bank director or officer who has engaged in a violation of a law, rule or regulation, participated in an unsafe or unsound practice, violated a final cease and desist order, or breached his fiduciary duty; but only where his actions also involve personal dishonesty and are

seen as causing substantial financial loss to the bank or damage to its depositors. This effectively bars the removal of an officer or director who has repeatedly demonstrated gross negligence or willful disregard for the safety and soundness of his bank, thereby causing it substantial financial injury, but who has not been shown to have engaged in any act amounting to personal dishonesty.

Although we recognize the effort on the part of Congress to shield those who are innocent of any personal wrongdoing from arbitrary or capricious administrative action, we feel that some effort should be made to balance the interests of the individual bank officer or director against those of its depositors and shareholders, and ultimately the Federal deposit insurance fund. This can be done by adding to the Act as an alternative to the standard of personal dishonesty, a new standard which would recognize the need to remove those whose reckless conduct threatens the financial safety of their insitutions. Since removal under § 8(e) is an administrative remedy which may not be put into effect until a hearing has been afforded the party in question, providing him with an opportunity to put on his defense, he is adequately protected against arbitrary and capricious administrative action. In addition, he has the right to petition a court of appeals to modify or set aside the removal order.

VI. CEASE AND DESIST: Extension of order to certain persons

Our experience suggests that a bank may be harmed not only by the misconduct of its own management but also by the misconduct of others who are in a position to influence its affairs. However, it is often difficult to reach such persons through a cease and desist proceeding brought against the bank itself.

Section 8(b) (12 U.S.C. § 1818(b)) of the Federal Deposit Insurance Act empowers the appropriate federal banking agency to bring a cease and desist proceeding against a bank that is engaged in a violation of a law, rule or regulation, or an unsafe or unsound practice. We recommend that § 8(b) be amended to expressly include persons such as directors, officers, controlling shareholders and others participating in the conduct of the affairs of the bank. This would enable the appropriate agency to control the participation in the affairs of a bank of those persons who have either violated a law, rule or regulation, or engaged in an unsafe or unsound practice, or participated with others in such violations or practices.

FDIC NEWS RELEASE

FOR IMMEDIATE RELEASE

PR-13-76 (2-25-76)

FDIC ADOPTS FINAL REGULATION ON INSIDER TRANSACTIONS OF NONMEMBER COMMERCIAL BANKS

Chairman Frank Wille announced today that the Board of Directors of the Federal Deposit Insurance Corporation has adopted in final form a regulation aimed at curbing abuses which may occur in the context of transactions between an insured State nonmember commercial bank and "insiders" of the bank. The regulation becomes effective May 1, 1976, and is similar to but not identical with the proposed regulation on the same subject issued by the FDIC for comment on September 4, 1975.

According to Chairman Wille, the experience of the Corporation has indicated the need for more vigorous supervision of such transactions by bank boards of directors and bank supervisory agencies. Abusive self-dealing has been a significant contributing factor in more than half of all bank failures since 1960, including the failure of 30 nonmember insured commercial banks. Losses to the deposit insurance fund as a result of these failures are likely to exceed $175 million. A review of existing and past "problem" bank cases also reveals abusive self-dealing as a significant source of difficulty. Even where the immediate result is not the bank's failure or its designation as a bank requiring close supervision, an insider transaction that is not effected on an "arm's length" basis may lead to a diminution of the bank's earnings and an erosion of its capital--thereby increasing the risk of loss to depositors and minority shareholders and ultimately to the deposit insurance fund. Also, insider transactions whose terms and conditions cannot be justified constitute a diversion to insiders of resources that properly belong to all shareholders on a pro rata basis, as well as a misallocation of a community's deposited funds.

The regulation seeks to minimize abusive self-dealing through the establishment of procedures which insure that bank boards of directors supervise such transactions effectively and which better enable Corporation examiners to identify and analyze such transactions. The board of directors of each insured nonmember commercial bank will be required to review and approve each insider transaction involving assets or services having a fair market value greater than a specified amount which varies with the size of the bank. In addition, certain record keeping requirements, including a record of dissenting votes cast by members of bank boards of directors, will be imposed in order to foster effective internal controls over such transactions by the bank itself and to facilitate examiner review.

The term "insider" is defined in the regulation as any director; any officer or employee who participates or has authority to participate in major policy-making functions of a bank; and any other person who has direct or indirect control over the voting rights of more than ten percent of the shares of any class of voting stock of a bank, or who otherwise controls the management or policies of a bank. An "insider transaction" would include, with limited exceptions, any business transaction between an insured nonmember bank or a majority-owned subsidiary of such a bank and an insider or certain persons related to such an insider. Included in the scope of this coverage are transactions between a State nonmember bank and a holding company parent or other

entities within a holding company system. An insider transaction would also encompass transactions between the bank and a noninsider where the transaction ultimately inures to the tangible economic benefit of an insider or persons related to an insider.

The regulation makes it clear that formal compliance with the board of directors review and approval requirements it imposes neither relieves the bank of its duty to conduct its operations in a safe and sound manner nor prevents the Corporation from taking whatever supervisory action it deems necessary and appropriate with respect to any insider transaction or group of insider transactions. Such supervisory action could include cease and desist proceedings, removal proceedings, and the termination of deposit insurance under section 8 of the Federal Deposit Insurance Act. Finally, the regulation sets forth factors which will be considered by the Corporation's Board of Directors in determining whether such insider transaction or transactions indicate the presence of unsafe or unsound banking practices. These factors include: whether, because of preferential terms and conditions, such transactions are likely to result in significant loan losses, excessive costs, or other significant economic detriment to the bank which would not occur in a comparable arm's length transaction with a person of comparable creditworthiness or otherwise similarly situated; whether transactions with an insider and all persons related to that insider are excessive in amount, either in relation to the bank's capital and reserves or in relation to the total of all transactions of the same type; or whether from the nature and extent of the bank's insider transactions it appears that certain insiders are abusing their positions with the bank.

As adopted, the regulation would not apply to the 329 FDIC-insured mutual savings banks. The Corporation will at an early date publish for comment its intention to amend the newly adopted regulation so that it will apply to these mutual savings banks.

Chairman Wille emphasized that although the Corporation has determined that insider transactions require special supervision by bank boards of directors and close scrutiny by the Corporation's examiners, this determination does not mean that all transactions with insiders or their interests are detrimental to the bank in question or that such transactions should be automatically rejected. Accordingly, the Corporation has neither prohibited nor significantly restricted a bank's ability to enter into such transactions. Similarly, an effort has been made to avoid the imposition of costly and unduly burdensome record keeping or reporting requirements. In short, according to Chairman Wille, the regulation represents an attempt on the part of the Corporation to deal with a problem of serious concern in a manner which is both effective and equitable, taking into account the diverse interests of the bank, its customers and shareholders, and the FDIC itself.

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TITLE 12 -- BANKS AND BANKING

CHAPTER III -- FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B -- REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 337 -- UNSAFE AND UNSOUND BANKING PRACTICES

Approval and Record Keeping Requirements Pertaining to Insider Transactions

1. On September 3, 1975 the Federal Deposit Insurance Corporation (the "FDIC") published for comment a notice of proposed rulemaking pursuant to the authority in sections 7(a), 8(a), 8(b), 8(e), 9 Tenth, 10(b) and 10(c) of the Federal Deposit Insurance Act [12 U.S.C. sections 1817(a), 1818(a), 1818(b), 1818(e), 1819 Tenth, 1820(b) and 1820(c)]. [40 Fed. Reg. 40548.] The notice indicated that the Board of Directors (the "Board") of the FDIC was considering addition of a new section 337.3 to Part 337 of Title 12 of the Code of Federal Regulations for the purpose of curbing abuses which arise out of the dealings of insiders with insured nonmember banks. The period for public comment ended October 31, 1975. After careful review and consideration of the views and arguments of those who commented on the proposed regulation, the Board has determined that the proposed section 337.3 should be adopted with certain modifications. Accordingly, the regulation was adopted as modified by resolution of the Board on February 25, 1976. Its requirements will become effective on May 1, 1976.

This action is based on the experience of the Corporation which indicates that many banks have suffered loan losses, loss of revenue, excessive costs and other substantial economic detriment as a result of ill-considered transactions with insiders. The need for more rigorous supervision of such transactions by boards of directors and bank supervisory agencies is indicated by the fact that abusive self-dealing has been the primary cause or a significant contributing cause in more than half of all bank failures since 1960, including the failure of 30 nonmember insured banks. The most dramatic example of the harm which can result from abusive self-dealing is the 1973 failure of the United States National Bank, San Diego, California, for which the Corporation has had to establish a reserve of $150 million for loss to the deposit insurance fund. Review of existing and past

"problem" bank cases also reveals insider overreaching as a significant source of serious difficulty. Moreover, an insider transaction that is not effected on an "arm's length" basis will lead to a diminution of earnings and an erosion of capital, even where the immediate result is not the bank's failure or its designation as a "problem" institution. It follows, therefore, that insider transactions whose terms and conditions cannot be justified when viewed in light of all the circumstances surrounding the transaction, increase the risk of loss to depositors and ultimately to the deposit insurance fund. In addition, insider transactions whose terms and conditions cannot be justified constitute a diversion to insiders of resources that properly belong to all shareholders on a pro rata basis, as well as a misallocation of a community's deposited funds.

The regulation seeks to minimize the risk of such abuse in insured nonmember banks by requiring meaningful board of director review of significant insider transactions and by requiring the maintenance of certain records designed to facilitate internal control and examiner analysis of these transactions and to document the fairness of these transactions to the bank. In order to provide guidance to bank boards, the regulation lists some of the factors which the Corporation would consider in determining whether an insider transaction or group of insider transactions indicates the presence of an "unsafe or unsound" banking practice and what kind of corrective supervisory action is warranted.

Although the Corporation has determined that insider transactions require special supervision by bank boards of directors and close scrutiny by the Corporation's examiners, this determination does not mean that all transactions with insiders or their interests are detrimental to the bank in question, or that they should be discouraged. Accordingly, the Corporation has chosen not to prohibit or restrict such transactions 1/. Similarly, the Corporation has chosen not to impose costly and burdensome record keeping or reporting requirements. Rather, the focus of the

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1/ Several comments reflected the misconception that the regulation seeks to prohibit or discourage insider transactions. The Corporation recognizes that in many instances such transactions are not only appropriate but highly desirable and that in certain smaller banking markets they may be inevitable and essential to the provision of adequate banking services. It must be emphasized, therefore, that the regulation is aimed at insuring that insider transactions are effected on terms which are fair to the bank and its shareholders and do not involve overreaching and abuse by insiders.

proposed regulation is the establishment of internal bank procedures which will minimize the potential for abuse that is inherent in a conflict of interest situation. In short, the Corporation has sought to strengthen existing institutional mechanisms--the bank's board of directors and the examination process--to deal with the problem of insider abuse.

Scope of the Regulation

The regulation applies to all insured State nonmember commercial banks and to any majority-owned subsidiary of such a bank. It defines an "insider" as any director; any officer or employee who participates or has authority to participate in major policy-making functions or any other person who has direct or indirect control over the voting rights of more than ten percent of the shares of any class of voting stock of a bank or otherwise controls the management or policies of the bank 2/. An insider tranaction is considered to be any business transaction or series of related business transactions 3/ between an insured State nonmember bank or a majority-owned subsidiary of such a bank and an insider, certain close relatives of an insider, or business interests

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2/ The phrase "or otherwise controls the management or policies of a bank" was added to the definition of "insider" because the experience of the Corporation indicates that significant influence and even effective control over the affairs of a bank can be exerted by one who is neither an employee, officer, director, nor significant shareholder. For example, a management contract may give one not otherwise connected with a bank substantial influence over the affairs of the institution.

3/ In an explanatory footnote to subsection (a)(6), the regulation states: "The phrase 'series of related business transactions' includes transactions which are in substance part of an integrated business arrangement or relationship such as borrowings on a line of credit, law firm billings, or recurring transactions of a similar nature within a holding company system."

of an insider 4/. Any transaction between the bank and a non-insider where the transaction is made in contemplation of the person becoming an insider or where the transaction ultimately inures to the tangible economic benefit of an insider, or persons related to an insider, is also considered to be an insider transaction.

4/ The regulation states that the definition of insider transaction includes "any business transaction or series of related business transactions" between a bank and an "insider" or a "person related to an insider". The term "insider" includes "any other person who has direct or indirect control over the voting rights of ten percent of the shares of any class of voting stock of a bank or otherwise controls the management or policies of a bank", and the term "person related to an insider" includes, in addition to certain close relatives, "any person controlling, controlled by or under common control with an insider". It should be noted that this definitional framework results in application of the regulation to many intra-holding company transactions.

A number of comments objected to the regulation on the ground that, in the holding company context, it would cover a great many routine transactions, rendering compliance impractical and burdensome. The Corporation has sought to lessen this burden through the addition of the provision in section (b) which allows the bank to approve "a series of related transactions involving the same insider" as if they were a single transaction. In the holding company context this would allow the bank's board to approve and review similar transactions of a recurring nature, with the parent or another affiliate, as a group rather than singly.

Secondly, in the event that the regulation does have unduly burdensome effects that the Corporation has not anticipated, the bank may resort to the waiver provision contained in Part 337 of FDIC regulations, which states:

> "An insured State nonmember bank has the right to petition the Board of Directors of the Corporation for a waiver of this Part or any subpart thereof with respect to any particular transaction or series of similar transactions. A waiver may be granted at the discretion of the Board upon a showing of good cause. All such petitions should be filed with the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 - 17th Street, N.W., Washington, D.C. 20429."

Board of Directors Review and Approval

Under the regulation, the board of directors of each insured State nonmember bank will be required to review and approve each insider transaction involving assets or services having a fair market value greater than a specified amount which varies with the size of the bank 5/. Although not specifically required by the regulation, prior review and approval is desirable and should occur except under circumstances which render such review and approval clearly impractical. Where prior review and approval by the board of directors is clearly impractical, subsequent action should occur as soon as possible.

For the purpose of applying the review and approval requirement schedule, the regulation provides that any loan or other extension of credit involving an insider is to be aggregated with the outstanding balances of all other loans or extensions of credit involving that insider. The regulation explains that "a loan or extension of credit involves a specific insider when the loan is made to that insider, to a person related to that insider, or to any other person where the loan or extension of credit inures to the tangible economic benefit of that insider or a person related to that insider". When the amount of such loans or other extensions of credit reaches the prescribed minimum amount in the schedule, board of directors review and approval will be required.

The inclusion of a schedule of minimum dollar amounts that will trigger the approval requirement is based upon a determination that effective board of directors review is possible only if the number of transactions subject to review is limited. Accordingly, the Corporation will require approval only for those insider transactions which, alone or taken in the aggregate, are deemed significant relative to the size of the bank. However, the inclusion of such a schedule is not intended to suggest that insider overreaching involving a transaction smaller than the minimum amount will not be the subject of examiner comment or corrective action on the part of the Corporation.

The regulation, as adopted, contains the proviso that a bank's board of directors need not review and approve a given insider transaction that would otherwise require approval under the schedule if the

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5/ Certain transactions are expressly excluded from the coverage of the regulation. These include: deposit account activities (other than the payment by the bank of interest on time deposits which are in amounts of $100,000 or more); safekeeping transactions; credit card transactions; and activities undertaken in the capacity of securities transfer agent or municipal securities dealer.

transaction is a part of a series of related business transactions involving the same insider which the board has reviewed and approved, and if the board has specified the terms and conditions under which such transactions may take place. The inclusion of this proviso, which was not in the regulation as originally proposed, reflects the recognition that board approval of frequently recurring transactions of a similar nature would in many instances prove burdensome and costly, especially in the holding company context. In the judgment of the Corporation, the benefits of board of directors approval can be realized without such costs, by the board's consideration of the series of transactions and by its establishment of appropriate guidelines within which the terms and conditions of the individual transactions must be effected.

Record Keeping

In order to facilitate examiner review of insider transactions and to foster effective internal control over such transactions by bank boards, the regulation imposes three record keeping requirements. First, the minutes of the meeting where approval of an insider transaction or group of insider transactions is given would be required to reflect the nature of the transaction, the parties to the transaction, the fact that such review was undertaken and approval given, the names of individual directors who voted to approve or disapprove the transaction, and, in the case of negative votes, an optional statement by each dissenting director of his or her reasons for voting to disapprove the proposed insider transaction. Second, the regulation requires each bank to maintain a record of insider transactions requiring review and approval under subsection (b) in a manner and form that will enable examiner personnel to identify readily such insider transactions. And, third, the regulation requires that files pertaining to such insider transactions be accessible to examiners and contain all documents and other material relied upon by the board in approving each transaction, including the name of the insider, the insider's position or relationship that causes such person to be considered an insider, the date on which the transaction was approved by the board, the type of insider transaction and the relevant terms of the transaction, any other pertinent facts which serve to explain or support the basis for the board's decision, and any statements filed by directors who voted not to approve the transaction setting forth their reasons for such a vote. In this regard, it should be noted that the regulation does not require the maintenance of a separate set of files for insider transactions. The thrust of these record keeping requirements is to insure that insider transactions are clearly identifiable, that files pertaining to such transactions are readily accessible to examiner personnel (through indexing or some other system), and that the files contain appropriate documentation.

Knowledge of Insider Transactions

In order to facilitate compliance with its approval and review requirements, the regulation requires an insider having knowledge of a proposed insider transaction with which he or she is involved to give timely notice of such transaction to the bank's board of directors. Also, when the bank itself becomes aware of the existence of a completed insider transaction which has not been reviewed and approved in compliance with the regulation, the bank will be required to report such transaction promptly in writing to the FDIC Regional Director with jurisdiction over the bank.

Supervisory Guidelines

Finally, the regulation makes it clear that formal compliance with its review and approval requirements neither relieves the bank of its obligation to conduct its operations in a safe and sound manner nor prevents the Corporation from taking whatever supervisory action it deems necessary and appropriate with respect to any insider transaction or group of insider transactions, including the institution of formal proceedings under section 8 of the Federal Deposit Insurance Act. In addition, the regulation sets forth the factors which will be considered by the Corporation's Board of Directors in determining whether such transaction or transactions indicate the presence of unsafe or unsound banking practices. These factors include: whether, because of preferential terms and conditions, such insider transactions are likely to result in significant loan losses, excessive costs, or other significant economic detriment which would not occur in a comparable arm's length transaction with a person of comparable creditworthiness or otherwise similarly situated; whether transactions with an insider and all persons related to that insider are excessive in amount, either in relation to the bank's capital and reserves or in relation to the total of all transactions of the same type; or whether from the nature and extent of the bank's insider transactions it appears that certain insiders are abusing their positions with the bank.

2. The new §337.3 reads as follows:

Section 337.3 Insider Transactions

(a) Definitions.

(1) Bank. The term "bank" means an insured State nonmember bank, other than a mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), and any majority-owned subsidiary of such bank.

(2) Person. The term "person" means a corporation, partnership, association, or other business entity; any trust; or any natural person.

(3) Control. The term "control" (including the terms "controlling," "controlled by," and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of a bank, whether through the ownership of voting securities, by contract, or otherwise.

(4) Insider. The term "insider" means any officer or employee who participates or has authority to participate in major policy-making functions of a bank, any director of a bank, or any other person who has direct or indirect control over the voting rights of ten percent of the shares of any class of voting stock of a bank or otherwise controls the management or policies of a bank.

(5) Person related to an insider. The term "person related to an insider" means any person controlling, controlled by or under common control with an insider, and also, in the case of a natural person, means:

a. an insider's spouse;

b. an insider's parent or stepparent, or child or stepchild; or

c. any other relative who lives in an insider's home.

(6) Insider transaction. The term "insider transaction" means any business transaction or series of related business transactions* between a bank and:

a. an insider of the bank;

b. a person related to an insider of the bank;

c. any other person where the transaction is made in contemplation of such person becoming an insider of the bank; or

d. any other person where the transaction inures to the tangible economic benefit of an insider or a person related to an insider.

(7) Business transaction. The term "business transaction" includes, but is not limited to, the following types of transactions:

a. loans or other extensions of credit;

b. purchases of assets or services from the bank;

c. sales of assets or services to the bank;

d. use of the bank's facilities, its real or personal property, or its personnel;

e. leases of property to or from the bank;

f. payment by the bank of commissions and fees, including brokerage commissions and management, consultant, architectural and legal fees; and

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* The phrase "series of related business transactions" includes transactions which are in substance part of an integrated business arrangement or relationship such as borrowings on a line of credit, law firm billings, or recurring transactions of a similar nature within a holding company system.

g. payment by the bank of interest on time deposits which are in amounts of $100,000 or more.

For the purpose of this regulation, the term does not include deposit account activities other than those specified above in subsection (a)(7)(g), safekeeping transactions, credit card transactions, trust activities, and activities undertaken in the capacity of securities transfer agent or municipal securities dealer.

(b) Approval and Disclosure of Insider Transactions.

An insider transaction, either alone or when aggregated in accordance with subsection (c), involving assets or services having a fair market value amounting to more than:

(1) $20,000 if the bank has not more than $100,000,000 in total assets;

(2) $50,000 if the bank has more than $100,000,000 and not more than $500,000,000 in total assets; or

(3) $100,000 if the bank has more than $500,000,000 in total assets

shall be specifically reviewed and approved by the bank's board of directors, provided, however, that, when an insider transaction is part of a series of related business transactions involving the same insider, approval of each separate transaction is not required so long as the bank's board of directors has reviewed and approved the entire series of related transactions and the terms and conditions under which such transactions may take place.*

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*Although not specifically required by the proposed regulation, prior review and approval is desirable and should occur except under circumstances in which such review and approval is clearly impractical. Where prior review and approval by the board of directors is clearly impractical, subsequent action should occur as soon as possible.

The minutes of the meeting at which approval is given shall indicate the nature of the transaction or transactions, the parties to the transaction or transactions, that such review was undertaken and approval given, and the names of individual directors who voted to approve or disapprove the transaction or transactions. In the case of negative votes, a brief statement of each dissenting director's reason for voting to disapprove the proposed insider transaction or transactions shall be included in the minutes if its inclusion is requested by the dissenting director.

(c) Aggregation of Loans or Other Extensions of Credit Which Are Insider Transactions.

Any loan or extension of credit involving an insider shall be aggregated with the outstanding balances of all other loans or extensions of credit involving that insider. For purposes of this regulation, a loan or extension of credit involves a specific insider when the loan or extension of credit is made to that insider, to a person related to that insider, or to any other person where the loan or extension of credit inures to the tangible economic benefit of that insider or a person related to that insider.

(d) Bank Files Maintained for Insider Transactions.

Each bank shall maintain a record of insider transactions requiring review and approval under subsection (b) in a manner and form that will enable examiner personnel to identify such insider transactions. Files pertaining to such insider transactions shall be readily accessible to examiners and shall contain all documents and other material relied upon by the board in approving each transaction, including the name of the insider, the insider's position or relationship that causes such person to be considered an insider, the date on which the transaction was approved by the board, the type of insider transaction and the relevant terms of the transaction, any other pertinent facts which serve to explain or support the basis for the board's decision, and any statements submitted for the

minutes or the file by directors who voted not to approve the transaction setting forth their reasons for such vote.

(e) Discovery of Insider Relationship.

When a bank becomes aware of the existence of an insider relationship after entering into a transaction for which approval would have been required under subsection (b), the bank shall promptly report such transaction in writing to the Regional Director of the Corporation in charge of the Region in which the bank is headquartered.

(f) Knowledge of Proposed Insider Transaction.

Any insider, having knowledge of an insider transaction between the bank and:

(1) that insider;

(2) a person related to that insider; or

(3) any other person where the transaction inures to the tangible economic benefit of that insider or person related to that insider

shall give timely notice of such transaction to the bank's board of directors.

(g) Supervisory Action in Regard to Certain Insider Transactions.

Notwithstanding compliance with the review and approval requirements of subsection (b), the Corporation will take appropriate supervisory action against the bank, its officers or its directors when the Corporation determines that an insider transaction, alone or when aggregated with other insider transactions, is indicative of unsafe or unsound practices. Such supervisory action may involve institution of formal proceedings under section 8 of the Federal Deposit Insurance Act. Among the factors which the Corporation will consider in determining the presence of unsafe or unsound banking practices involving insider transactions are:

(1) whether, because of preferential terms and conditions, such insider transactions are likely to result in significant loan losses, excessive costs, or other significant economic detriment which would not occur in a comparable arm's length transaction with a person of comparable creditworthiness or otherwise similarly situated;

(2) whether transactions with an insider and all persons related to that insider are excessive in amount, either in relation to the bank's capital and reserves or in relation to the total of all transactions of the same type; or

(3) whether, from the nature and extent of the bank's insider transactions, it appears that certain insiders are abusing their positions with the bank.

3. This §337.3 shall become effective on May 1, 1976.

By Order of the Board of Directors, February 25, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION

Alan R. Miller
Executive Secretary

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Attached is a case-by-case summary of 39 Cease and Desist actions issued by the Corporation since January 1971. It should be noted that several such actions are now in various stages of processing.

In addition to the listing, it should also be noted a number of other Cease and Desist actions have been authorized by the Corporation's Board of Directors which were never stipulated to by banks or adopted in final form by our Board because of favorable interim affirmative actions on the part of either the banks or management-shareholders. In effect, the threat of a Cease and Desist action has caused many favorable affirmative action programs on the part of banks which negated the need for finalizing the authorized Cease and Desist actions.

Also attached is a summary of each of the three formal written agreements between banks and the Corporation which were ratified by our Board of Directors. In the case of formal written agreements, noncompliance thereof can be enforced by a subsequent Cease and Desist action.

Section 8(m) of the Federal Deposit Insurance Act provides the State supervisory authorities with the opportunity to initiate independent corrective action after the Corporation has served notice of intent to take formal action. While in most cases the State supervisory authorities choose to join the Corporation in any such action, some State banking laws do provide for independent cease and desist actions which have been utilized in a number of instances -- either prior to notice of intent on the part of the Corporation or subsequent thereto.

A compilation of these State supervisory authority cease and desist actions is not maintained by the FDIC, but the corrective orders are analyzed and checked for compliance on a case-by-case basis at each examination of the involved banks.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Bank No.

Summary

1 Deposits--$64,556,000

Cease and Desist order entered on 6-17-71. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to reduction in volume of municipal bonds, other assets realignment to improve liquidity, curtailment of direct and indirect loans to insiders, acceptable management, and injection of new capital funds.

Order terminated 12-10-71 following the sale of controlling interest by the unsatisfactory management, sale of new capital funds, substantial compliance with the Cease and Desist order, and the designation of new management.

2 Deposits--$46,107,000

Cease and Desist order entered on 7-12-71. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to elimination of transactions with self-serving ownership.

Order terminated 1-12-73 following change of stock control and a revamping of the board of directors.

3 Deposits--$7,328,000

Cease and Desist order entered on 7-12-71. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to elimination of transactions with self-serving ownership.

Order terminated 5-1-72 following the sale of controlling interest by the unsatisfactory management and restoration of the capital accounts to an acceptable level.

4 Deposits--$1,025,000

Cease and Desist order entered on 7-12-71. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to elimination of transactions with self-serving ownership.

Order terminated 4-17-72 following the sale of controlling interest by the unsatisfactory management and restoration of the capital accounts to an acceptable level.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Bank No.	Summary
5	Deposits--$20,238,000 Cease and Desist order entered on 7-12-71. Bank ordered to cease and desist unsafe and unsound practices and take affirmative action with respect to elimination of transactions with self-serving ownership. Order terminated 12-10-71 following the sale of controlling interest by the unsatisfactory management and restoration of the capital to an acceptable level.
6	Deposits--$5,096,000 Cease and Desist order entered on 7-12-71. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to correction of violations of laws and regulations, correction of operating deficits, and restoration of the capital accounts to an acceptable level. Order terminated 7-8-74 following substantial compliance with corrective orders, favorable trends, improved prospects and augmented capital.
7	Deposits--$4,649,000 Cease and Desist order entered on 11-19-71. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to elimination of transactions with a self-serving ownership and management. Order terminated 5-2-74 following change of control, management and asset improvement.
8	Deposits--$6,513,000 Cease and Desist order entered on 1-6-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to providing its shareholders with adequate information pertaining to the conditions and activities of the bank in full compliance with various requirements of Sections 12, 13 and 14 of the Securities Exchange Act of 1934 and Section 335 of the Federal Deposit Insurance Corporation's Rules and Regulations. Substantial compliance with the order was accomplished in 1972 although the order remains outstanding.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Bank No. — Summary

9 — Deposits--$5,128,000

Cease and Desist order entered on 2-15-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to misuse of credit facilities by controlling stockholders.

Order terminated 5-29-74 when compliance with all conditions was accomplished.

10 — Deposits--$18,866,000

Cease and Desist order entered on 3-31-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to hazardous lending policies and inadequate capital caused by incompetent active management and a complacent directorate.

Order terminated 8-28-73 when substantial compliance with almost all conditions had been accomplished.

11 — Deposits--$1,795,000

Cease and Desist order entered on 5-5-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to sharply declining asset condition and capital inadequacy resulting from two successive inept management/ownership groups.

Order terminated 6-25-73 following change of management/ownership, improved asset condition and substantial compliance with other parts of the order.

12 — Deposits--$3,614,000

Cease and Desist order entered on 5-5-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to an excessive volume of high-risk loans, sizeable loan losses, and inadequate capital which resulted from policies of a liberal, self-serving and domineering controlling owner and weak, ineffective management.

Only partial compliance has been accomplished--new management--and order remains outstanding.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Bank No.	Summary
13	Deposits--$59,975,000 Cease and Desist order entered on 8-18-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to failure to correct repeated and flagrant violations of applicable laws and regulations. Order terminated 5-14-73 upon compliance with requirements contained therein.
14	Deposits--$3,742,000 Cease and Desist order entered on 11-21-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to excessive risk in the loan account, inadequate capital, willful and continued violations of applicable statutes, and generally unsatisfactory operations resulting from liberal lending policies of self-serving controlling interests. Order terminated 6-19-74 following substantial compliance with the corrective requirements.
15	Deposits--$4,703,000 Cease and Desist order entered on 11-21-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to excessive exposure in the loan account, increasing loan losses, an inadequate and diminishing level of capital, and unsatisfactory operations under the self-serving domination of the controlling interests. Order terminated 2-8-74 after substantial improvements in the bank's asset-capital condition and operations within the constraints of the Cease and Desist order.
16	Deposits--$1,953,000 Cease and Desist order entered on 12-4-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to excessive risk in the loan account, increasing losses and a shrinking level of capital which resulted from liberal lending policies fostered by the bank's management/ownership. Order terminated 2-8-74 following examinations which disclosed improvements, and full or substantial compliance with all corrective provisions.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Bank No. Summary

17 Deposits--$1,309,000

Cease and Desist order entered on 12-18-72. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to an excessive volume of classified loans, inadequate capital and poor liquidity resulting from expansionary and liberal policies of inexperienced management/ ownership.

The bank was in substantial compliance with the order at the latest examination but the order remains outstanding.

18 Deposits--$2,528,000

Cease and Desist order entered on 2-12-73. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to excessive adversely classified loans, and an inadequate capital structure which developed as a result of liberal lending policies and the weak management ability of ownership and its subservient staff.

Order terminated 2-11-75 following substantial improvement in the bank's asset-capital condition.

19 Deposits--$28,025,000

Cease and Desist order entered 4-23-73. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to heavy and severe adverse classifications of loans extended to a group of related construction firms which resulted in violations of law, heavy losses, deterioration of other segments of the loan portfolio, and capital inadequacy.

Order terminated 12-23-74 following the elimination of the adversely classified concentrations of credit and the injection of new capital funds.

20 Deposits--$3,829,000

Cease and Desist order entered 5-21-73. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to excessive risk in the loan account, a declining level of capital protection, deficit earnings resulting from heavy loan losses and other problems stemming from a management dispute resulting in the resignation of three directors including the former executive officer. The order to cease and desist included requirements for management improvements, rehabilitation of asset condition, a capital improvement program, and adoption of written lending and internal operating policies.

Recommendation for termination in process, based on substantial compliance with order.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Bank No.	Summary
21	Deposits--$3,057,000 Cease and Desist order entered 6-25-73. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to excessive adversely classified credits involving several out-of-area and/or self-serving loans, potential losses from irregularities, and inadequate capital protection. Order terminated 8-11-75 as conditions were fulfilled including the injection of new equity capital.
22	Deposits--$2,913,000 Cease and Desist order entered 7-31-73. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to unsound securities transactions and excessive municipal bond holdings which threatened the solvency of the bank through the resulting market depreciation, illiquid position and trading losses incurred. Bank was found in substantial compliance with the order at subsequent examinations but the order remains outstanding.
23	Deposits--$5,466,000 Cease and Desist order entered 7-31-73. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to the failure to comply with Federal Reserve Regulation Z. Order terminated 11-26-75 after bank was found to be in compliance with the order.
24	Deposits--$51,573,000 Cease and Desist order entered 9-24-73. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to providing acceptable management, implementing and maintaining lending, investment, and operating policies in accord with sound banking practices, conforming to all applicable laws, rules, regulations, and reducing the excessive volume of weak credits. Order terminated 11-26-75 when the bank was found to be in compliance with the order.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Bank No. Summary

25 Deposits--$4,136,000

Cease and Desist order entered 10-15-73. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to high volume of adversely classified loans, an excessive delinquency ratio, continued violations of laws and regulations, and deteriorated capital adequacy which resulted from the increasingly liberal lending policies of the controlling stockholder and executive officer, coupled with a complacent directorate and incompetent staff.

Order terminated 9-2-75 following improvements in asset quality, substantial compliance with requirements included in the order to cease and desist, and the revitalization of sincere concern to effect improvements by the staff and directorate.

26 Deposits--$13,887,000

Cease and Desist order entered 1-29-74. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to excessive loan classifications, inept and self-serving management, violations of law, concentrations of credit, and uncontrolled expenses.

Order terminated 7-24-74 following the sale of control of the bank to a new group and injection of capital funds.

27 Deposits--$3,911,000

Cease and Desist order entered 4-11-74. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to serious asset problems which developed as total loan volume was rapidly expanded, capital inadequacy developed as the loan portfolio deteriorated in credit quality, hazardous lending and collection policies, and violations of laws and regulations.

Termination was recommended on 1-8-76 when the bank was found to be in substantial compliance; however, due to the illness of the bank's chief executive officer the termination recommendation has been held in abeyance.

28 Deposits--$2,857,000

Cease and Desist order entered on 6-7-74. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to the heavy volume of adverse classifications, speculative land contracts to out-of-territory borrowers, lack of sound lending, investment and operating policies, and an inadequate capital structure.

Bank subsequently closed.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Bank No.	Summary
29	Deposits--$49,542,000 Cease and Desist order entered 6-11-75. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to the large volume of adversely classified loans which far exceeded capital and reserves, and centered in two massive concentrations of credit. Other weaknesses consisted of an overloaned and illiquid position, inadequate capital protection, and numerous, frequent and flagrant violations. The order has been substantially complied with although the injection of new capital funds remains to be accomplished. Management officials and their attorneys continue to contest the order. The order remains outstanding.
30	Deposits--$15,114,000 Cease and Desist order entered 10-15-74. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to the massive volume of weak loans, and loan losses taken in recent years, an inadequate margin of capital protection, an overloaned and illiquid position, poor earnings, and a pattern of numerous and repeated violations. The bank is in substantial compliance with the order and a recommendation to terminate the action is in process.
31	Deposits--$18,380,000 Cease and Desist order entered 3-26-75. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to unauthorized and unlawful acts by its officers, directors or employees, including the exceeding of lending limits and the acceptance of securities collateral without observing prudent banking practices to prepare for the lawful and orderly disposition of such securities in the event such disposition became necessary. Order outstanding.
32	Deposits--$9,924,000 Cease and Desist order entered 5-9-75. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to acceptable management, reduction of adversely classified assets and loan volume, adherence to loan policy, compliance with laws, rules and regulations, loan documentation, internal routine and controls, injection of new capital funds, and discontinuance of cash dividends. Order outstanding.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Summary

Bank No.	
33	Deposits--$7,202,000 Cease and Desist order entered on 5-9-75. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to acceptable management, reduction of adversely classified assets, curtailment of loans to insiders, injection of new capital, reduction of borrowings and loan volume, compliance with laws, rules and regulations and loan policy, and discontinuance of cash dividends. Order outstanding.
34	Deposits--$6,501,000 Cease and Desist order entered on 6-19-75. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to acceptable management, reduction of adversely classified assets, injection of new capital, compliance with laws, rules and regulations and loan policy, provisions for adequate liquidity, borrowings, and discontinuance of cash dividends. Order outstanding.
35	Deposits--$1,833,000 Cease and Desist order entered 8-11-75. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to acceptable management and management policies, reduction of adversely classified assets, provisions for adequate capital and liquidity, and compliance with laws, rules and regulations and loan policy. Order outstanding.
36	Deposits--$6,046,000 Cease and Desist order entered 8-28-75. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to acceptable management, reduction of adversely classified assets, injection of new capital, and compliance with laws, rules and regulations and loan policy. Order outstanding.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Cease and Desist Actions)

Bank No.	Summary
37	Deposits--$5,305,000 Cease and Desist order entered 10-17-75. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to reduction of adversely classified assets and compliance with laws, rules and regulations and loan policy. Order outstanding.
38	Deposits--$7,742,000 Cease and Desist order entered 1-29-76. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to acceptable management, reduction of adversely classified assets, injection of new capital, limitations on advances of credit to borrowers, compliance with laws, rules and regulations, retention of credit life and accident insurance commissions, discontinuance of cash dividends, and elimination of a concentration of credit. Order outstanding.
39	Deposits--$9,129,000 Cease and Desist order entered 2-18-76. Bank ordered to cease and desist from unsafe and unsound practices and take affirmative action with respect to reduction of adversely classified assets, refraining from participating in any new loans and in any extension, renewal, refinancing, or additional extension of loans acquired from closely related banks, compliance with laws, rules and regulations including Financial Recordkeeping Regulations and the Fair Credit Reporting Act, injection of new capital, and discontinuance of dividends. Order outstanding.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(b)
(Formal Written Agreements)

Bank No. Summary

1 Deposits--$12,251,000

Written agreement entered into on 10-27-71. Bank agreed for purposes of effecting correction of unsafe and unsound practices to take affirmative action with respect to providing acceptable management, eliminating and reducing adversely classified assets, correction of internal control deficiencies, adoption of and compliance with an internal audit program, correction of and future compliance with all applicable laws, rules and regulations, and adoption of and compliance with a written loan policy.

The most recent examinations of January 1974 and November 1975 indicate substantial compliance with the agreement. The most recent report of examination is being reviewed in the Review Section and consideration is being given to recommending that the agreement be terminated.

2 Deposits--$13,957,000

Written agreement entered into on 3-2-72. Bank agreed for purposes of effecting correction of unsafe and unsound practices to take affirmative action with respect to providing acceptable management, eliminating and reducing adversely classified assets, adoption of and compliance with a written loan policy, injection of new capital, establishment of an unearned income account, adoption of and compliance with an internal audit program, correction of internal control deficiencies, and correction of and future compliance with all applicable laws, rules and regulations.

The agreement is outstanding; however, the 7-14-75 FDIC examination report indicates the bank appears to be in substantial compliance with the agreement.

3 Deposits--$1,958,000

Written agreement entered into on 2-14-73. Bank agreed for purposes of effecting correction of unsafe and unsound practices to take affirmative action with respect to the controlling shareholder purchasing for a period of three years from date and within 60 days after the completion of any FDIC examination of the bank, any loan which was classified Loss or Doubtful in subject bank that originated in the controlling shareholder's chain of banks, other than subject bank, and any loan held by and originating outside subject bank's regular trade area, and subject bank was to divest itself of any loan originated in any of the controlling shareholder's banks which were held in subject bank that had been classified Substandard at another of the affiliated banks and purchased by subject bank.

The agreement is outstanding, however, stock control has changed and the most recent examination as of 2-27-76 is being processed in the Regional Office and indicates substantial compliance. Consideration is being given by the Regional Office to recommend termination of the agreement.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(a)
(Action to Terminate Insured Status)

Attached is a case-by-case summary of 19 Termination of Insurance actions issued by the Corporation since January 1971. It should be noted that several such actions are now in various stages of processing.

In addition to the listing, it should also be noted a number of other Termination of Insurance actions have been recommended but were withdrawn prior to action by our Board because of favorable interim affirmative actions on the part of either the banks or management-shareholders. As in the case of Cease and Desist actions, the threat of Termination of Insurance has caused many favorable affirmative action programs on the part of banks which negated the need for finalizing the actions.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(a)
(Action to Terminate Insured Status)

Bank No.

Summary

1 Deposits--$11,143,000

Notice of Intention to Terminate Insured Status issued 1-22-71. Bank was found in an unsafe and unsound condition and ordered to provide an active and capable management, eliminate by charge-off or otherwise certain classified assets, correct all violations of law listed in the report of examination, and to adopt and strictly follow written loan policies if continued insured status was desired.

The action was terminated 6-30-71 when subject was merged with another bank.

2 Deposits--$13,419,000

Notice of Intention to Terminate Insured Status issued 3-12-71. Bank was found in an unsafe and unsound condition and ordered to provide an active and capable management, eliminate from its books certain assets, by charge-off or otherwise, correct all violations of law listed in the examination report, adopt and strictly follow written loan policies, pay no cash dividends without the prior consent of the Banking Commissioner and the FDIC, reduce the loan-to-deposit ratio, not accept or acquire, directly or indirectly, brokered deposits, eliminate from its capital accounts all income collected but not earned, and to provide adequate capital and reserves if continued insured status was desired.

The action was terminated 12-17-71 based upon substantial compliance with the corrective orders.

3 Deposits--$3,827,000

Notice of Intention to Terminate Insured Status issued 6-30-71. Bank was found in an unsafe and unsound condition and ordered to provide an active and capable management, eliminate from its books certain assets, by charge-off or otherwise, reduce the remaining classified assets, correct all violations of law listed in the report of examination, adopt and strictly follow satisfactory written loan policies, pay no cash dividends without the prior consent of the Commissioner of Banking and the FDIC, and put the assets of the bank in such form and condition as to be acceptable to the Commissioner of Banking and the FDIC if continued insured status was desired.

The action was terminated 4-6-73 based upon substantial compliance with the corrective orders.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(a)
(Action to Terminate Insured Status)

Bank No.	Summary
4	Deposits--$5,925,000 Notice of Intention to Terminate Insured Status issued 11-19-71. Bank was found in an unsafe and unsound condition and ordered to provide an active and capable management, eliminate from its books certain assets, by charge-off or otherwise, refrain from extending credit, directly or indirectly for the benefit of a director, reduce the remaining classified assets, adopt and strictly follow satisfactory written loan policies, pay no cash dividends without the prior consent of the Commissioner of Banking and the FDIC, and the assets of the bank were to be put in such form and condition as to be acceptable to the Commissioner of Banking and the FDIC if continued insured status was desired. The action was terminated 7-7-72 based upon substantial compliance with the corrective orders.
5	Deposits--$12,609,000 Notice of Intention to Terminate Insured Status issued 12-17-71. Bank was found in an unsafe and unsound condition and ordered to eliminate from its book assets, by charge-off or otherwise, certain classified assets, and other assets of the bank were to be put in a satisfactory form and condition if continued insured status was desired. The action was terminated 7-14-72 based upon substantial compliance with the corrective orders.
6	Deposits--$8,202,000 Notice of Intention to Terminate Insured Status issued 1-27-72. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, adopt acceptable loan policies, correct violations of law, and provide acceptable capital funds if continued insured status was desired. The action was terminated 5-14-73 based upon substantial compliance with the corrective order.
7	Deposits--$4,079,000 Notice of Intention of Terminate Insured Status issued 3-17-72. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, adopt acceptable loan policies, correct violations of law, and provide acceptable capital funds if continued insured status was desired. The action was terminated 12-4-72 based upon substantial compliance with the corrective order.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(a)
(Action to Terminate Insured Status)

Bank No. Summary

8 Deposits--$1,857,000

Notice of Intention to Terminate Insured Status issued 5-1-72. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, adopt acceptable loan policies, and provide acceptable capital funds if continued insured status was desired.

The action was terminated 6-11-73 based upon substantial compliance with the corrective order.

9 Deposits--$12,649,000

Notice of Intention to Terminate Insured Status issued 10-30-72. Bank was found in an unsafe and unsound condition and ordered to eliminate or reduce adversely classified assets, obtain supporting documents prior to extending credits, adopt acceptable loan policies, and provide acceptable capital funds if continued insured status was desired.

The action was terminated 3-1-74 based upon substantial compliance with the corrective order.

10 Deposits--$5,540,000

Notice of Intention to Terminate Insured Status issued 11-21-72. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, obtain supporting documents prior to extending credits, strictly adhere to its written loan policies, correct violations of laws and provide acceptable capital funds if continued insured status was desired.

The action was terminated 5-29-74 based upon substantial compliance with the corrective order.

11 Deposits--$3,913,000

Notice of Intention to Terminate Insured Status issued 5-14-73. Bank was found in an unsafe and unsound condition and ordered to eliminate or reduce adversely classified assets, adopt acceptable loan policies, correct violations of law, and provide acceptable capital if continued insured status was desired.

The action was terminated 8-11-75 based upon substantial compliance with the corrective orders and the termination of affiliation with the bank by the control ownership.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(a)
(Action to Terminate Insured Status)

Bank No.	Summary
12	Deposits--$18,555,000 Notice of Intention to Terminate Insured Status issued 6-28-74. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, adopt acceptable loan policies, and correct violations of law if continued insured status is desired. The action to terminate insured status is in the hearing stage.
13	Deposits--$13,765,000 Notice of Intention of Terminate Insured Status issued 8-12-74. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, adopt acceptable loan policies, pay no cash dividends without prior written consent, provide acceptable capital, and correct violations of law if continued insured status was desired. The action was terminated 8-11-75 because of temporary compliance; however, due to further deterioration and the length of time since the issuance of the initial order, a new order was simultaneously issued.
14	Deposits--$6,557,000 Notice of Intention to Terminate Insured Status issued 8-12-74. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, adopt acceptable loan policies, limit investment in securities to U. S. Government and/or Agency obligations maturing within five years, cease paying preferential rates of interest on certificates of deposit or other obligations to ownership interests, and correct violations of law if continued insured status was desired. The Commissioner of Banking closed the bank on 5-30-75.
15	Deposits--$4,174,000 Notice of Intention to Terminate Insured Status issued 6-19-75. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, reduce its loan volume, adopt and comply with a loan policy, discontinue cash dividends, and obtain a certain level of capital if continued insured status was desired. Bank closed on 1-12-76.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(a)
(Action to Terminate Insured Status)

Bank No.	Summary
16	Deposits--$821,000 Notice of Intention to Terminate Insured Status issued 7-25-75. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, define an acceptable trade area, curtail direct and indirect loans to insiders, restrict its loan volume, comply with certain investment restrictions, comply with all applicable laws, rules, and regulations, discontinue cash dividends, and obtain a certain level of capital if continued insured status is desired. An examination to determine the extent of correction was made on 11-25-75 and the bank was found not to be in compliance with the order. A recommendation to continue the action is in process.
17	Deposits--$13,849,000 Notice of Intention to Terminate Insured Status issued 8-11-75. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, reduce and maintain loan volume at a certain level, eliminate all adversely classified insider loans and reduce and maintain all such loans at a certain level, adopt and comply with a loan policy, discontinue cash dividends, obtain a certain level of capital, comply with all applicable laws, rules, and regulations, and refrain from participating in any transactions with a certain affiliate if continued insured status is desired. An examination to determine the extent of correction was made on 10-31-75 and the bank was found not to be in compliance with the order. The action is now in the hearing stage.
18	Deposits--$16,089,000 Notice of Intention to Terminate Insured Status issued 9-16-75. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, adopt and comply with a loan policy, provide for an orderly liquidation of certain stock holdings, comply with applicable laws, rules, and regulations, appoint a committee to approve and control expenses, discontinue cash dividends, and obtain a certain level of capital if continued insured status is desired. An examination to determine the extent of correction has just been completed and a determination will be made as to whether the action should be continued.

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act - Section 8(a)
(Action to Terminate Insured Status)

Bank No.	Summary
19	Deposits--$15,883,000 Notice of Intention to Terminate Insured Status issued 10-9-75. Bank was found in an unsafe and unsound condition and ordered to provide acceptable management, eliminate or reduce adversely classified assets, reduce and maintain loan volume at a certain level, reduce its overdue loans not to exceed a certain percentage of outstanding loans, maintain a primary and secondary reserve position equal to a certain percentage of total resources, adopt and comply with loan and investment policies, and obtain a certain level of capital if continued insured status was desired. Bank closed on 10-24-75.