FEDERAL RESERVE BANK OF DALLAS

November 6, 1933.

REGULATION L
INTERLOCKING BANK DIRECTORATES AND OTHER RELATIONSHIPS UNDER THE CLAYTON ACT

To the Member Bank Addressed:

For your information and guidance, I am enclosing a copy of the Federal Reserve Board's Regulation L, Series of 1933, (superseding Regulation L, Series of 1930) which relates to interlocking bank directorates and other relationships under the Clayton Act.

If any director, officer or employee of the bank addressed has entered into, or desires to enter into any of the prohibited relationships referred to in Regulation L, and does not already hold a permit therefor from the Federal Reserve Board, he should make application for such a permit, in accordance with the provisions of Regulation L.

Section 8A of the Clayton Act (the new amendment added to that Act by the Bankink Act of 1933) prohibits certain interlocking relationships between a member bank and any corporation (except a mutual savings bank) or partnership which, after January 1, 1934, shall make loans secured by stock or bond collateral. Where such relationships are covered by permits that have already been issued by the Federal Reserve Board (even though issued prior to the enactment of Section 8A), it is unnecessary for the individuals involved to obtain **new** permits. It should be borne in mind, however, that all permits issued by the Board prior to June 16, 1933, covered interlocking relationships involving **banking institutions only**; whereas the new prohibitions in Section 8A apply also to relationships in which a **non-banking institution** may be involved, and in such cases it is of course, necessary for permits to be obtained if the interested parties desire to continue such relationships after January 1, 1934. The Federal Reserve Board has authority to issue such permits if it is convinced that it would not be incompatible with the public interest to do so.

Forms for use in applying for permits may be procured from this office upon request.

Yours very truly,

E. E. Walsh

Federal Reserve Agent.

Enclosure

FEDERAL RESERVE BOARD

INTERLOCKING BANK DIRECTORATES AND OTHER RELATIONSHIPS UNDER THE CLAYTON ACT

REGULATION L

Effective November 1, 1933

REGULATION L, SERIES OF 1933

(Superseding Regulation L, Series of 1930)

INTERLOCKING BANK DIRECTORATES AND OTHER RELATIONSHIPS UNDER THE CLAYTON ACT

SECTION I. STATUTORY PROVISIONS

Sections 8 and 8A of the Clayton Antitrust Act approved October 15, 1914, as amended by the Acts of May 15, 1916, May 26, 1920, March 9, 1928, March 2, 1929, and June 16, 1933.[1]

SEC. 8. That from and after two years from the date of the approval of this Act no person shall at the same time be a director or other officer or employee of more than one bank, banking association, or trust company organized or operating under the laws of the United States, either of which has deposits, capital, surplus, and undivided profits aggregating more than $5,000,000; and no private banker or person who is a director in any bank or trust company organized and operating under the laws of a State, having deposits, capital, surplus, and undivided profits aggregating more than $5,000,000, shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States. The eligibility of a director, officer, or employee under the foregoing provisions shall be determined by the average amount of deposits, capital, surplus, and undivided profits as shown in the official statements of such bank, banking association, or trust company filed as provided by law during the fiscal year next preceding the date set for the annual election of directors, and when a director, officer, or employee has been elected or selected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter under said election or employment.

No bank, banking association, or trust company organized or operating under the laws of the United States, in any city or incorporated town or village of more than two hundred thousand inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association, or trust company located in the same place: *Provided,* That nothing in this section shall apply to mutual savings banks not having a capital stock represented by shares, to joint-stock land banks organized under the provisions of the Federal Farm Loan Act, or to other banking institutions which do no commercial banking business: *Provided further,* That a director or other officer or employee of such bank, banking association, or trust company may be a director or other officer or employee of not more than one other bank or trust company organized under the laws of the United States or

[1]Amended by sec. 25 of the Federal Reserve Act as amended Sept. 7, 1916, and by act approved Dec. 24, 1919, amending the Federal Reserve Act, as to corporations engaged in foreign banking and financial operations. See secs. 25 and 25(a) of Federal Reserve Act.

any State where the entire capital stock of one is owned by stockholders in the other: *And provided further,* That nothing contained in this section shall forbid a director of class A of a Federal reserve bank, as defined in the Federal Reserve Act, from being an officer or director, or both an officer and director, in one member bank: *And provided further,* That nothing in this Act shall prohibit any private banker from being an officer, director, or employee of not more than two banks, banking associations, or trust companies, or prohibit any officer, director, or employee of any bank, banking association, or trust company, or any class A director of a Federal reserve bank, from being an officer, director, or employee of not more than two other banks, banking associations, or trust companies, whether organized under the laws of the United States or any State, if in any such case there is in force a permit therefor issued by the Federal Reserve Board; and the Federal Reserve Board is authorized to issue such permit if in its judgment it is not incompatible with the public interest, and to revoke any such permit whenever it finds, after reasonable notice and opportunity to be heard, that the public interest requires its revocation.

The consent of the Federal Reserve Board may be procured before the person applying therefor has been elected as a class A director of a Federal reserve bank or as a director of any member bank.

* * * * *

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacty shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

SEC. 8A. That from and after the 1st day of January, 1934, no director, officer, or employee of any bank, banking association, or trust company, organized or operating under the laws of the United States shall be at the same time a director, officer, or employee of a corporation (other than a mutual savings bank) or a member of a partnership organized for any purpose whatsoever which shall make loans secured by stock or bond collateral to any individual, association, partnership, or corporation other than its own subsidiaries.

SECTION II. DEFINITIONS

Within the meaning of this regulation—

The term "bank" shall include any bank, banking association, or trust company organized or operating under the laws of the United States or of any State thereof.

The term "national bank" shall be construed to apply not only to national banking associations but also to banks, banking associations, and trust companies organized or operating under the laws of the United States,

including all banks and trust companies doing business in the District of Columbia, regardless of the sources of their charters.

The term "resources" shall be construed to mean an amount equal to the sum of the deposits, capital, surplus, and undivided profits, and, in the case of a bank, banking association or trust company, shall be determined by the average amount of deposits, capital, surplus, and undivided profits as shown in the official statements of such bank, banking association or trust company filed as provided by law during the fiscal year next preceding the date set for the annual election of directors.

The term "state bank" shall include any bank, banking association, or trust company incorporated under State law, except banks doing business in the District of Columbia, referred to above.

The term "private banker" shall apply to any unincorporated individual engaging in one or more phases of the banking business as that term is generally understood and to any member of an unincorporated firm engaging in such business.

The term "Edge corporation" shall mean any corporation organized under the provisions of section 25(a) of the Federal Reserve Act, as amended.

The term "city of over 200,000 inhabitants" includes any city, incorporated town, or village of more than 200,000 inhabitants, as shown by the last preceding decennial census of the United States. Any bank located anywhere within the corporate limits of such city is located in a city of over 200,000 inhabitants within the meaning of the Clayton Act, even though it is located in a suburb or an outlying district at some distance from the principal part of the city.

SECTION III. PROHIBITIONS OF CLAYTON ACT

(*a*) Under section 8 of the Clayton Antitrust Act, except as noted below under section IV (a)

(1) No person who is a director or other officer[2] or employee of a national bank having resources aggregating more than $5,000,000 can legally serve at the same time as director, officer, or employee of any other national bank, regardless of its location.

(2) No person who is a director in a State bank or trust company having resources aggregating more than $5,000,000 or who is a private banker having resources aggregating more than $5,000,000 can legally serve at the same time as director of any national bank, regardless of its location.

(3) No person can legally be a director, officer,[2] or employee of a national bank located in a city of more than 200,000 inhabitants who is at the same time a private banker in the same city or a director, officer, or employee of any other bank (State or national) located in the same city, regardless of the size of such bank.

[2]The Federal Reserve Board has ruled that a Conservator of a national bank is not a director, officer, or employee of such bank within the meaning of the Clayton Antitrust Act.

(*b*) Under section 8A of the Clayton Antitrust Act, except as noted below under section IV (b)—

From and after January 1, 1934, no person can legally be director, officer or employee of a national bank who is at the same time a director, officer or employee of a corporation (other than a mutual savings bank) or a member of a partnership organized for any purpose whatsoever which shall make loans secured by stock or bond collateral to any individual, association, partnership or corporation other than its own subsidiaries.

(*c*) The prohibitions of section 8 and section 8A are cumulative, i.e., the prohibitions contained in section 8A of the Clayton Antitrust Act are in addition to those contained in section 8 thereof.

SECTION IV. EXCEPTIONS

There are certain exceptions to section 8 and certain exceptions to section 8A, but they are not identical. Therefore, all the exceptions applicable to each section are stated separately below in order to avoid confusion.

(*a*) The provisions of section 8 of the Clayton Act—

(1) Do not apply to mutual savings banks not having a capital stock represented by shares.

(2) Do not apply to joint-stock land banks organized under the provisions of the Federal Farm Loan Act.

(3) Do not apply to banking institutions which do no commercial banking business.

(4) Do not prohibit a person from being at the same time a director, officer, or employee of a national bank and not more than one other national bank, State bank, or trust company, where the entire capital stock of one is owned by stockholders in the other.

(5) Do not prohibit a person from being at the same time a class A director of a Federal reserve bank and also an officer or director, or both an officer and a director, in one member bank.

(6) Do not prohibit a person who is serving as director, officer, or employee of a national bank, even though it has resources aggregating over $5,000,000, from serving at the same time as director, officer, or employee of any number of State banks and trust companies, provided such State institutions are not located in the same city of over 200,000 inhabitants as the national bank and do not have resources aggregating in the case of any one bank more than $5,000,000.

(7) Do not prohibit a person from serving at the same time as director, officer, or employee of any number of national banks, provided no two of them are located in the same city of over 200,000 inhabitants and no one of them has resources aggregating over $5,000,000.

(8) Do not prohibit a person who is not a director, officer, or employee of any national bank from serving at the same time as officer, director, or employee of any number of State banks or trust companies, regardless of their locations and resources.

(9) Do not prohibit a person who is an officer or employee but not a director of a State bank from serving as director, officer, or employee of a national bank, even though either or both of such banks have resources aggregating over $5,000,000, provided both banks are not located in the same city of over 200,000 inhabitants.

(10) Do not prohibit a person who is an officer or employee but not a director of a national bank from serving at the same time as director, officer, or employee of a State bank, even though either or both of such banks have resources aggregating over $5,000,000, provided both banks are not located in the same city of over 200,000 inhabitants.

(11) Do not prohibit a director, officer, agent, or employee of a member bank which has invested in the stock of any corporation principally engaged in international or foreign banking or financial operations or banking in a dependency or insular possession of the United States, under the provisions of section 25 of the Federal Reserve Act, from being at the same time a director, officer, agent, or employee of any such foreign bank or financial corporation, if the Federal Reserve Board has granted its approval.[3]

(12) Do not prohibit any officer, director, agent, or employee of any member bank from being at the same time a director, officer, agent, or employee of any Edge corporation in whose capital stock the member bank shall have invested under the provisions of section 25 or section 25(a) of the Federal Reserve Act, if the Federal Reserve Board has granted its approval.[3]

(13) Do not prohibit an officer, director, agent, or employee of an Edge corporation from being at the same time a director, officer, agent, or employee of any other corporation in whose capital stock such Edge corporation shall have invested under the provisions of section 25(a) of the Federal Reserve Act, if the Federal Reserve Board has granted its approval.[3]

(14) Do not prohibit a private banker or an officer, director, or employee of any bank or a class A director of a Federal reserve bank from being at the same time an officer, director, or employee of not more than two other banks within the prohibitions of the Clayton Act, if there is in force a permit therefor issued by the Federal Reserve Board.

[3]If a director, officer, agent, or employee is affected only by section 8 of the Clayton Act, informal application for the approval of the Federal Reserve Board under section 25 or 25(a) of the Federal Reserve Act may be made in the form of a letter addressed to the Board either by the director, officer, agent, or employee involved or in his behalf by one of the banks which he is serving, such application to be delivered to the Federal reserve agent at the Federal reserve bank of the district in which the bank now served by the applicant is located. However, if a director, officer or employee is affected by section 8A of the Clayton Act, it is necessary for him to apply for and obtain a formal permit in accordance with the provisions of section V of this regulation, since the above exceptions do not apply to section 8A of the Clayton Act.

The above exceptions are cumulative; but apply only to the prohibitions of section 8. The exceptions to section 8A are stated below:

(*b*) The provisions of section 8A of the Clayton Act—

(1) Do not prohibit a person who is a director, officer, or employee of a national bank from being at the same time a director, officer or employee of a mutual savings bank.

(2) Do not prohibit a person who is a director, officer, or employee of a national bank from being at the same time a director, officer or employee of a corporation or a member of a partnership which shall make loans secured by stock or bond collateral only to its own subsidiaries.

(3) Do not prohibit a person who is a director, officer or employee of a national bank from being at the same time a director, officer or employee of a corporation or a member of a partnership which does not actually make loans secured by stock or bond collateral, even though such corporation or partnership is permitted by law to make such loans.

(4) Do not prohibit a person who is not a director, officer, or employee of any national bank from serving at the same time as an officer, director, or employee of any number of State banks or trust companies, whether members of the Federal Reserve System or not.

(5) Do not prohibit a private banker or an officer, director, or employee of any bank or a class A director of a Federal reserve bank from being at the same time an officer, director, or employee of not more than two other banks within the prohibitions of the Clayton Act, if there is in force a permit therefor issued by the Federal Reserve Board.

The above exceptions are cumulative, but apply only to the prohibitions of section 8A. The exceptions to section 8 are stated separately in section IV (*a*) of this regulation.

SECTION V. PERMISSION OF THE FEDERAL RESERVE BOARD

(*a*) **In general.**—Section 8 of the Clayton Antitrust Act, as amended by the acts of May 15, 1916, May 26, 1920, and March 9, 1928, authorizes the Federal Reserve Board to permit any private banker or any officer, director, or employee of any bank, banking association, or trust company, or any class A director of a Federal reserve bank to serve as director, officer, or employee of not more than two other banks, banking associations, or trust companies coming within the prohibitions of the Clayton Act, if in the judgment of the Federal Reserve Board it is not incompatible with the public interest, and permits may be issued covering relationships between banks which are prohibited by section 8A as well as those prohibited by section 8.

The Federal Reserve Board is authorized only to issue permits covering private bankers and directors, officers and employees of banks, banking

associations and trust companies, and therefore cannot issue a permit to a director, officer or employee of a national bank or a class A director of a Federal reserve bank to be a director, officer or employee of a corporation other than a bank, banking association or trust company, or to be a member of a partnership other than a firm of private bankers.[4]

(*b*) **When obtained.**—Inasmuch as this exception to the prohibitions of the Clayton Act applies only when "there is in force a permit therefor issued by the Federal Reserve Board", it is a violation of the law to serve two or more banks in the prohibited classes before such a permit has been obtained. A permit should be obtained, therefore, before becoming an officer, director, or employee of more than one bank in the prohibited classes. It may be procured before the person applying therefor has been elected a director or appointed an officer or employee of any bank in the prohibited classes.

(*c*) **Applications for permission.**—A person wishing to obtain a permit from the Federal Reserve Board to serve banks coming within the prohibitions of the Clayton Act should—

(1) Make formal application on F. R. B. Form 94, or, if a private banker, on F. R. B. Form 94d.

(2) Obtain from each of the banks involved a statement on F. R. B. Form 94a, showing the character of its business, together with a copy of its last published statement of condition, and, if a private banker, make a statement on F. R. B. Form 94e showing the character of his or his firm's business.

(3) Forward all these papers, *in duplicate*, to the Federal reserve agent of his district, who will attach his recommendation on F. R. B. Form 94b and forward them to the Federal Reserve Board.

Each of the forms referred to in this subsection is made a part of this regulation.

(*d*) **Compatibility with the public interest.**—In determining whether the issuance of such a permit would be compatible with the public interest, the Federal Reserve Board will consider—

(1) Whether the banks involved are natural competitors;

(2) Whether their having the same directors, officers, or employees would tend to lessen competition or to restrict credit;

(3) The condition and the character of the management of the banks with which the applicant is connected and the extent of his responsibility therefor;

(4) Whether the applicant discharges the duties and responsibilities of his office by attending directors' meetings or otherwise;

(5) Whether the applicant, his family or his interests have abused the credit facilities of the bank or banks he is already serving;

[4]See, however, exceptions Nos. 11, 12, and 13 on page 7.

(6) Whether the applicant's influence upon the banks involved in his application is likely to be helpful or harmful to such banks;

(7) The nature and extent of the loans made by each of such banks secured by stock or bond collateral and the policy of each bank with respect to making such loans; and

(8) Any other factors having a bearing upon the effect which the issuance of the permit may have upon the public interest.

(*e*) **Burden is upon applicant and banks involved.**—In view of the fact that sections 8 and 8A of the Clayton Antitrust Act forbid interlocking relationships between banks of certain classes except in cases where the Federal Reserve Board finds the specific interlocking relationships not incompatible with the public interest and grants permits therefor, the burden must rest upon each applicant for such a permit, and upon the banks involved, to show to the satisfaction of the Board that it would not be incompatible with the public interest to permit him to serve the banks involved.

(*f*) **Approval or disapproval.**—As soon as an application is acted upon by the Board, the applicant will be advised of the action taken.

If the Board approves the application, a formal permit to serve the banks involved will be issued to the applicant.

(*g*) **Hearing.**—If it appears to the Board that it would be incompatible with the public interest to grant such a permit, the Board will so notify the applicant and will afford him every opportunity to present any additional facts or arguments bearing on the subject before making final decision in the case.

(*h*) **Effect of permits.**—A permit once granted continues in force until revoked, and need not be renewed.

(*i*) **Revocation.**—All permits, however, are subject to revocation whenever the Federal Reserve Board, after giving reasonable notice to the persons to whom they were issued and affording them an opportunity to be heard, finds that the public interest requires their revocation.