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Statement of
Wm. McC. Martin, Jr., Chairman,
Board of Governors of the Federal Reserve System,
before the
Senate Committee on Banking and Currency,
on S. 1642

June 24, 1963

I appear today in response to your invitation to present the views of the Board of Governors of the Federal Reserve System on S. 1642, which would amend the Securities Exchange Act of 1934.

The responsibilities of the Board of Governors have a relationship to one important objective of the bill--to extend the reporting, proxy, and "insider-trading" provisions of the 1934 Act, which are now applicable only to "listed companies", to certain companies whose securities are traded in the over-the-counter market. These provisions, as applied to listed securities, have proved their value over a period of almost thirty years. Meanwhile the economic importance of the over-the-counter markets and of the stocks traded in them has greatly increased. In the judgment of the Board of Governors, the proposed extension of those requirements to widely held securities that are traded in the over-the-counter market would be beneficial to investors. Although the Board has not made an independent study of the criteria prescribed by S. 1642 to determine which over-the-counter securities would be subject to the extended requirements, they appear to us to be reasonable.

More directly relevant to the Board's work is the question whether the extended requirements should apply to bank stocks that are

widely held. As the Committee knows, very few bank stocks are listed on securities exchanges, and these requirements of the 1934 Act heretofore have not applied to them. However, it has been estimated that of the several thousand actively-traded over-the-counter stocks that would be reached by S. 1642, between 10 and 15 per cent are stocks of banks. These include most of the larger banks, and the group probably holds a substantial majority of the commercial banking assets of our country.

The commercial banking system is one of the most closely supervised industries in the United States, subject to numerous laws and regulations, detailed examination, and requirements of reports to bank supervisors, both State and Federal. The objectives of bank supervision are, however, fundamentally different from those of the Securities Exchange Act. Bank supervision is intended to assist in maintaining a sound, serviceable banking structure, and to protect bank depositors. As an incident to these principal functions, supervision also benefits bank shareholders in important ways. However, most of the information about a bank that is developed by the supervisory authorities must necessarily be treated by them as confidential, and the data now available to a bank's shareholders or prospective shareholders do not appear to provide all that they would need in order to make sound investment decisions.

Congress has sought in the Securities Acts to assure the availability of information that would enable members of the public to make

their own decisions intelligently. This seems a very sound principle, and just as applicable to bank stocks as to other stocks. Similarly, the Board feels that stockholders in banks are entitled to the protection of the "insider trading" provisions of the Securities Exchange Act.

If these provisions are to be applied to banks, as the bill provides, there still remains the question of what agency should administer them. Any regulations or procedures should take into account the fact that banks are already subject to extensive Governmental supervision. At the same time, efficiency and economy of administration must be considered, and the full benefits of the bill can be realized only if the reports of different banks are readily comparable with each other.

Under the bill as introduced, administration of the provisions of the 1934 Act as applied to bank stocks might be divided among the three Federal bank supervisory agencies. Under this kind of arrangement, responsibility would be fragmented and the tasks less efficiently performed. Considerable expansion of staffs in these agencies would be necessary, merely to do work that would duplicate what the Commission's staff would be doing with respect to corporations generally.

The inefficiency of placing the administration in the hands of bank supervisory agencies, rather than the SEC, would seem to vary among the different areas of regulation. The administration of proxy rules for bank stocks would be a minor addition to the SEC's work in this field, while for any other agency, if there is contemplated the

kind of scrutiny by the administering agency that the SEC gives to proxy statements of nonbank issuers, this would be a costly arrangement involving the working out of criteria and standards as well as forms, procedures, and the like. Likewise, as for the control of "insider trading" in bank stocks, it would appear that administration by the SEC would be a relatively minor addition to its regulation of such trading in other stocks. As to the handling of regular financial statements under section 13 of the Act, a case can be made for having this done by bank supervisory agencies, although in our judgment the balance of advantages lies strongly on the side of vesting that responsibility also in the SEC, to be performed with the advice of the banking agencies.

It is also possible under the bill that the provisions might be administered partly by one or two of the bank supervisory agencies and partly by the SEC. But, to the extent that some banks were governed by regulatory requirements different from those imposed upon other competing banks, inequities and claims of unfairness inevitably would arise. In the effort to avoid such inequities, there might ensue a tendency toward lower standards than would be desirable in the public interest.

Furthermore, if a division of administration among two or more agencies led to different reporting requirements for different groups of banks, this would tend to defeat one of the purposes of the bill, namely, to provide investors with information that would

enable them to make useful comparisons among securities. Even assuming that the information required by each of these agencies was entirely adequate, any differences among them would prevent the ready comparison of figures relating to different banks. Of course it is possible, as well as desirable, that the various agencies might agree on a form that would be the same for all classes of banks. But, if all banks were then to use the same form and were subject to the same definitions and instructions and so forth, there would be no benefit in dividing the administration of this kind of requirement among several agencies when there exists in the SEC an agency that is equipped to handle it for banks along with other classes of issuing companies.

Chairman Cary has made it clear that the Securities and Exchange Commission would consult and cooperate with the bank supervisory agencies in order to avoid unnecessary duplication and to assure that the actions of the Commission in this field would be consistent with those of the banking authorities. The Securities Exchange Act already provides that the Commission's reporting requirements, for any company whose accounting methods are already regulated by the Government, must not be inconsistent with those other requirements. Beyond a mere formal compliance with this, I think the public interest will require that a real spirit of cooperation be maintained, and I believe that it will be forthcoming.

To sum up the Board's position, we feel that the provisions relating to reports, proxies, and insider trading should be extended

to over-the-counter as well as listed stocks and should apply to bank stocks as well as other stocks, but that it would be preferable if those provisions were administered by the SEC and not by bank supervisory agencies.
