FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 4962
November 15, 1960]

Reprints of Regulations K and L

To All Banks, and Others Concerned,
in the Second Federal Reserve District:

Enclosed are copies of Regulations K and L of the Board of Governors of the Federal Reserve System. Both regulations have been reprinted to incorporate outstanding amendments and to conform with the style of the Code of Federal Regulations.

Additional copies of either enclosure will be furnished upon request.

ALFRED HAYES,
President.

BOARD OF GOVERNORS

of the

FEDERAL RESERVE SYSTEM

CORPORATIONS DOING FOREIGN BANKING OR OTHER FOREIGN FINANCING UNDER THE FEDERAL RESERVE ACT

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REGULATION K

(12 CFR 211)

As Amended to November 12, 1958

Print of October 1960

INQUIRIES REGARDING THIS REGULATION

Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the district in which the inquiry arises.

CONTENTS

(This text corresponds to the Code of Federal Regulations, Title 12, Chapter II, Part 211, cited as 12 CFR 211)

REGULATION K

(12 CFR 211)

As amended to November 12, 1958

CORPORATIONS DOING FOREIGN BANKING OR OTHER FOREIGN FINANCING UNDER THE FEDERAL RESERVE ACT

SECTION 211.1—SCOPE AND APPLICATION OF THIS PART

This part is issued by the Board of Governors of the Federal Reserve System (hereinafter called the "Board of Governors") under authority of the Federal Reserve Act. It applies to corporations organized under section 25(a) of that act (U.S.C., title 12, secs. 611-631)* for the purpose of engaging in international or foreign banking or other international or foreign financial operations, and to the extent specified in § 211.11, to corporations having an agreement or undertaking with the Board of Governors under section 25 of the act (U.S.C., title 12, secs. 601–604).*

SECTION 211.2—DEFINITIONS

For the purpose of this part, unless the context otherwise requires—

(*a*) **"Corporation"** when spelled with a capital "C" means a corporation organized under section 25(a) of the Federal Reserve Act.

(*b*) **"Banking"** means the business of receiving or paying out deposits, or accepting drafts or bills of exchange.

(*c*) **"Banking Corporation"** means a Corporation which is engaged in banking.

(*d*) **"Financing Corporation"** means a Corporation which is not engaged in banking except to the extent that it is required by the Secretary of the Treasury to act as fiscal agent of the United States. A Corporation in existence on July 1, 1955 is a Banking Corporation if it was engaged in banking on that date, or a Financing Corporation if not so engaged on that date.

(*e*) **"Abroad"** means in one or more foreign countries or dependencies or insular possessions of the United States.

(*f*) **"Goods"** includes wares, merchandise, commodities and any other tangible personal property (other than money).

(*g*) **"Person"** includes any individual, and any corporation, partnership, association or other similar organization.

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* Pertinent portions of this section are printed in the Appendix.

(*h*) **"Affiliated"** when used with respect to two persons means that, directly or indirectly, either one controls, is controlled by, or is under common control with, the other.

(*i*) **"Capital and surplus"** means (1) paid in and unimpaired capital and (2) surplus.

SECTION 211.3—ORGANIZATION, CORPORATE STRUCTURE AND OWNERSHIP

(*a*) **Articles of association and organization certificate.**—Any number of natural persons, not less than five, desiring to organize a corporation under section 25(a) of the Federal Reserve Act shall (1) enter into articles of association (see Form F. R. 151,[1] which is suggested as a satisfactory form of articles of association); (2) make an organization certificate on Form F. R. 152,[1]; and (3) forward the articles of association and the organization certificate to the Board of Governors. The articles of association shall specify in general terms the objects for which the Corporation is formed, and may contain any other provisions not inconsistent with law which the Corporation may see fit to adopt for the regulation of its business and the conduct of its affairs. Each person intending to participate in the organization of the Corporation shall sign the articles of association and the organization certificate and shall acknowledge the execution of the latter before a judge of some court of record or notary public, who shall certify thereto under the seal of such court or notary.

(*b*) **Name.**—The name of the Corporation is subject to the approval of the Board of Governors, and a preliminary application for that approval may be filed with the Board of Governor on Form F. R. 150.[1] The name shall in no case resemble the name of any other corporation to the extent that it might result in misleading or deceiving the public as to its identity, purpose, connections or affiliations. The name of any Corporation hereafter organized shall so far as practicable indicate the nature of the business contemplated, and shall include the word "international", "foreign", "overseas", or some similar word. No Financing Corporation hereafter organized will be permitted to have the word "bank" or "banking", or any similar word, as part of its name.

(*c*) **Authority to commence business.**—After the articles of association and organization certificate have been filed with and approved by, and a preliminary permit to begin business has been issued by, the Board of Governors, the association shall become and be a body corporate, but none of its powers, except such as are incidental and

[1] Filed as part of original document. Copies available upon request to Federal Reserve System, Washington 25, D. C.

preliminary to its organization, shall be exercised until the Board of Governors has issued to it a final permit to commence business. Before the Board of Governors will issue its final permit to commence business, the president, cashier or secretary, together with at least three of the directors, must certify (1) that each director is a citizen of the United States; (2) that a majority of the shares of capital stock is held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies the controlling interest in which is owned by citizens of the United States; and (3) that of the authorized capital stock specified in the articles of association at least 25 per cent has been paid in in cash and that each shareholder has individually paid in in cash at least 25 per cent of his stock subscription. Thereafter the cashier or secretary shall certify to the payment of the remaining installments as and when each is paid in, in accordance with law.

(*d*) **Amendments to articles of association.**—The articles of association may contain provisions relative to the procedure whereby amendments thereof may be effected in any manner not inconsistent with section 25(a) of the Federal Reserve Act, other applicable law, and this part. No amendment of the articles of association shall become effective unless and until it shall have been approved by the Board of Governors.

(*e*) **General requirements as to capital stock.**—No Corporation may be organized under section 25(a) with capital stock of less than $2,000,000. The par value of each share of stock shall be specified in the articles of association, and no Corporation will be permitted to issue stock of no par value. If there is more than one class of stock, the name and amount of each class and the obligations, rights, and privileges attaching thereto shall be set forth fully in the articles of association. Each class of stock shall be so named, or so described in the stock certificates by which it is represented, as to indicate as clearly as possible its character and any unusual attributes.

(*f*) **Citizenship of shareholders.**—(1) In order to insure compliance at all times with the requirements of section 25(a) of the Federal Reserve Act relating to the United States citizenship of those who hold, own, or control a majority of the shares of capital stock of a Corporation, such stock shall be issuable and transferable only on the books of the Corporation, and no issue or transfer of stock which would cause a violation of such requirements of law or of related provisions of this part shall be made upon the books of the Corporation. The board of directors of the Corporation, acting directly or

through an agent, may, before making any issue or transfer of stock, require such evidence as in their discretion they may think necessary in order to determine whether or not the issue or transfer of the stock would result in such a violation. The decision of the board of directors in each such case shall be final and conclusive as to, and not subject to question by, any person.

(2) If at any time a change in the status of the holder of any shares of a Corporation causes a violation of the requirements of section 25(a) of the Federal Reserve Act relating to the United States citizenship of those who hold, own, or control a majority of the shares of capital stock of a Corporation, the board of directors shall, when apprised of that fact, forthwith serve on the holder of the shares in question a notice in writing requiring such holder within two months to transfer such shares to a person then eligible to acquire such shares. When such notice has been given by the board of directors, the shares of stock so held shall cease to confer any right to vote or to participate in dividends thereafter declared; and the right to vote and to receive dividends shall resume only after, and only with respect to votes cast and dividends declared after, the shares have been transferred as required above. If on the expiration of two months after such notice the shares shall not have been so transferred, the shares shall promptly be sold at public or private sale by the Corporation, as agent for and for the account of the ineligible holder, to a person then eligible to acquire such shares. In the event such shares cannot be sold for a reasonable price and within a reasonable time at such a public or private sale, the shares will, with the approval of the Board of Governors, be forfeited to the Corporation.

(3) The board of directors shall prescribe in the by-laws of the Corporation appropriate rules for the registration of the shares of stock in accordance with the terms of the law and this part. The certificates of stock issued by the Corporation shall contain provisions sufficient to put the holder on notice of the terms of the law and regulations defining the limitations upon the rights of ownership and transfer.

SECTION 211.4—BANKING CORPORATIONS AND FINANCING CORPORATIONS

A Banking Corporation (a) shall not issue or have outstanding any debentures, bonds, promissory notes or similar obligations except promissory notes due within one year evidencing borrowing from banks or bankers, and (b) shall not engage in the business of issuing, underwriting, selling or distributing securities, except to such limited extent as the Board of Governors may, upon application of the Corporation, exempt activities of the Corporation's branch or agency in a foreign

country with respect to obligations of, or obligations unconditionally guaranteed as to principal and interest by, the national government of such country. A Financing Corporation shall not engage in banking except to the extent that it is required by the Secretary of the Treasury to act as fiscal agent of the United States. The Board of Governors may grant permission, subject to such conditions as it may prescribe, for a Banking Corporation to change to a Financing Corporation, or for the reverse.

SECTION 211.5—OPERATIONS ABROAD

(*a*) **General.**—Except as otherwise provided by law or by this part, a Corporation may exercise abroad, through branches or agencies established with the approval of the Board of Governors or through correspondents or other agents, not only the powers specifically set forth in the law or by this part and those incidental thereto, but also such powers as may be usual in the determination of the Board of Governors in connection with the transaction of banking in the case of a Banking Corporation, or other financial operations in the case of a Financing Corporation, in the place in which the Corporation is transacting business. As indicated in § 211.6(*e*)(2), the activities of a Financing Corporation abroad are limited by the requirement that it shall not, by its activities abroad, engage or participate, directly or indirectly, in certain activities in the United States.

(*b*) **Branches.**—With the prior approval of the Board of Governors, a Corporation may establish branches or agencies abroad.

SECTION 211.6—LIMITED OPERATIONS IN THE UNITED STATES

(*a*) **General.**—A Corporation shall not carry on any part of its business in the United States except such as shall be incidental to its international or foreign business. It may not engage in the United States in the business of acting as trustee, or in a like fiduciary capacity, or act in the United States as registrar or in any similar capacity with respect to the servicing in the United States of any security issue distributed therein; but it may act as paying agent in the United States with respect to securities issued by a "foreign state" as defined in section 25(b) of the Federal Reserve Act or by a corporation chartered by such a foreign state and not qualified under the laws of the United States or any State (or the District of Columbia) to do business in the United States. A Corporation may not establish any branch in the United States, but with the prior approval of the Board of Governors may establish agencies in the United States for specific purposes, but not generally to carry on the business of the Corporation. Funds of a

Corporation not currently employed in the international or foreign business of the Corporation in accordance with other provisions of this part, if held or invested in the United States, shall be only in the form of (1) cash, (2) deposits with banks, (3) bankers' acceptances or prime open market commercial paper, or (4) direct obligations of the United States or other investment securities of such kinds, and in such amounts, as the Corporation could purchase within the limitations of section 5136 of the Revised Statutes (U.S.C., title 12, sec. 24) if it were a member bank of the Federal Reserve System. Subject to the other provisions of this part, succeeding paragraphs of this section indicate generally the kinds of transactions by a Corporation which may be considered appropriate in the United States.

(*b*) **Receipt of deposits in United States by Banking Corporations.**—(1) A Banking Corporation may receive only such deposits within the United States as may be incidental to or for the purpose of carrying out transactions abroad. Such deposits may be either time or demand, and shall be subject to all the requirements of Part 217 of this chapter (Reg. Q) (which relates to the payment of interest on deposits and related matters) in the same manner as if the Corporation were a member bank of the Federal Reserve System; but no such deposit shall be a "savings deposit" as defined in said Part 217 of this chapter. If a Banking Corporation receives deposits in the United States, it shall maintain reserves against such deposits in the same manner and amount (but in no event less in the aggregate than 10 per cent of such deposits) as if it were a member bank of the Federal Reserve System, and shall in like manner submit reports of deposits and be subject to all the requirements of Part 204 of this chapter (Reg. D) (which relates to reserves of member banks).

(2) A deposit received in the United States by a Banking Corporation from a foreign depositor will ordinarily be considered incidental to or for the purpose of carrying out transactions abroad provided the deposit is not to be used to make payments for expenses in the United States of a United States office or representative and in addition the deposit (i) is to be used to make payments for transactions abroad, for goods exported or imported, for other direct costs of export or import, or for carrying out transactions with the Corporation under paragraph (*c*), or (*d*) of this section; or (ii) is to be held for reserve or working balance purposes, except that a Banking Corporation shall not receive funds to be held in the United States as time deposits solely for purposes of safekeeping or investment and unrelated to other international or foreign business of the depositor with the Corporation. As used in this paragraph "foreign depositor" means a foreign government, a per-

son conducting business principally at the person's offices or establishment abroad, or a foreign national resident abroad.

(3) A deposit received in the United States by a Banking Corporation from a depositor who is not a foreign depositor will ordinarily be considered incidental to or for the purpose of carrying out transactions abroad provided the deposit is not to be used to make payments for expenses in the United States of a United States office or representative and in addition the deposit (i) is for transmission to a place abroad; or (ii) is to provide collateral or payment for extensions of credit by the Corporation; or (iii) represents proceeds of collections abroad which are to be used to make payments for goods exported or imported or for other direct costs of export or import, or periodically transferred to the depositor's account at another bank; or (iv) represents proceeds of extensions of credit by the Corporation which are to be used for the purposes of the credit extension or to be periodically transferred to the depositor's account at another bank.

(*c*) **Extensions of credit in United States by Banking Corporations.**—It will ordinarily be considered incidental to the international or foreign business of a Banking Corporation for it to engage in any of the following transactions in the United States with respect to extensions of credit:

(1) As principal or as agent for another bank, issue, confirm, or advise letters of credit or other authorizing instrument (or receive and forward to another bank applications therefor) which contemplate the drawing of "qualifying drafts". As used in this paragraph "qualifying drafts" means drafts or bills of exchange drawn, or written receipts given, to cover specific goods in the process of being (i) exported from or imported into the United States, (ii) temporarily stored in the United States as part of such an exportation or importation, (iii) stored abroad, or (iv) shipped within or between places abroad, or to cover (v) performance of specific contracts at places abroad or of specific international or foreign transactions, (vi) cost of operating ships in international or foreign transportation, or (vii) payments in connection with international or foreign transfers of royalties, copyrights or patent rights or with the rendering of services at, or necessary for carrying out projects at, places abroad.

(2) As principal or as agent for another bank, accept, negotiate, present, discount, purchase, or pay "qualifying drafts", if the Corporation or a bank at a place abroad issued, confirmed or advised the authorizing letter of credit or other authorizing instrument or if the office of the Corporation is named in the authorizing instrument as the place of payment or an optional place of payment thereof.

(3) Accept drafts or bills of exchange which are drawn by a bank or

banker located in a place abroad for the purpose of furnishing dollar exchange as required by the usages of trade in such place.

(4) Purchase, discount, or lend on, documentary or other drafts which the Corporation is to send to a place abroad for collection.

(5) Make advances to, or acquire the obligations of, foreign governments; or, if the advances or acquisitions are for the purpose of financing activities abroad or payment for goods exported or imported or other direct costs of export or import (but not expenses in the United States of a United States office or representative), make advances to, or acquire the obligations of, a person conducting business principally at the person's offices or establishments abroad or a foreign national resident abroad.

(6) Finance by loan, acceptance, or otherwise:

(i) The shipment (but not production) of specific goods which are being exported, or being accumulated for export as part of an existing export financing arrangement of the Corporation; or

(ii) The storage of specific goods abroad or the shipment of specific goods between places abroad; or

(iii) The importation of specific goods into the United States, which may include lending against the shipping documents pending arrival of the goods from a place abroad; or

(iv) In the case of specific goods whose importation into the United States was financed by the Corporation, the delivery of the goods to the purchaser through domestic transport facilities or the assembly or packaging of the goods for resale without essential change in the nature of the product.

(*d*) **Other activities in United States by Banking Corporations.**—It will ordinarily be considered incidental to the international or foreign business of a Banking Corporation for it to engage in any of the following other activities in the United States:

(1) Buy and sell spot and future foreign exchange.

(2) Receive checks, drafts, bills of exchange, acceptances, notes, bonds, coupons and other securities for collection abroad, and collect such instruments in the United States when received from customers abroad.

(3) Hold securities in safekeeping for, or buy and sell securities upon the order and for the account and risk of, customers abroad with whom other relationships permitted by this part are maintained.

(*e*) **Activties in United States by Financing Corporations.**—(1) It will ordinarily be considered incidental to the international or foreign business of a Financing Corporation for it to engage in any of the following transactions in the United States:

(i) Finance its own authorized activities (e.g., borrow money or issue its own securities) or hold or invest, in accordance with paragraph (*a*) of this section, funds not currently employed in the international or foreign business of the Corporation.

(ii) Acquire obligations (by purchasing, discounting, or lending thereon) which cover the export of specific goods (including directly related services and other direct costs of the export, but not expenses in the United States of a United States office or representative), have as a primary obligor a foreign government or a person conducting business principally at the person's offices or establishments abroad, and are acquired by the Corporation as part of such export transaction.

(iii) Make advances to, or acquire (by purchasing, discounting, or lending thereon) the obligations of, foreign governments; or, if the advances or acquisitions are for the purpose of financing activities abroad or payment for goods exported (including directly related services and other direct costs of the export, but not expenses in the United States of a United States office or representative), make advances to, or acquire (by purchasing, discounting, or lending thereon) the obligations of, a person conducting business principally at the person's offices or establishments abroad.

(iv) Issue sight letters of credit undertaking to extend credit authorized under other provisions of this paragraph, but in no event contemplating the accepting of any drafts.

(v) Guarantee advances which the Corporation is authorized to make, or obligations it is authorized to acquire, under other provisions of this paragraph.

(vi) Extend credit, by means of advances, guarantees or otherwise, to a corporation in which the Financing Corporation owns all the voting stock, or all except directors' qualifying shares, to enable such subsidiary to extend credit which the Financing Corporation is itself authorized to extend under other provisions of this paragraph.

(2) A Financing Corporation, in issuing, underwriting, selling or distributing securities abroad, shall not engage or participate in the underwriting, sale or distribution of securities in the United States (except the issuance of its own securities), and may not so engage or participate directly or indirectly or through an agency or on a commission or consignment basis or in any other manner. If a security issue is being sold or distributed partly in and partly outside the United States, a Financing Corporation may not underwrite, even on a standby basis, that portion being sold or distributed in the United States (no matter by whom it is being so sold or distributed).

SECTION 211.7—ACCEPTANCES BY BANKING CORPORATIONS

(*a*) **General.**—In accepting drafts or bills of exchange as permitted in §§ 211.5 and 211.6, a Banking Corporation shall comply with the requirements set forth in the succeeding paragraphs of this section.

(*b*) **Maturity.**—No Banking Corporation shall accept any draft or bill of exchange drawn for the purpose of furnishing dollar exchange having at the date of its acceptance more than three months to run, or accept any other draft or bill of exchange having at the date of its acceptance more than six months to run, exclusive in either case of days of grace.

(*c*) **Limitations.**—No acceptances shall be made for the account of any one person in an amount aggregating at any time in excess of 10 per cent of the capital and surplus of the Corporation, unless the transaction is fully secured or unless it represents an exportation or importation of goods and there is a primary obligation to reimburse the Corporation which is also guaranteed by a bank or banker. Whenever the aggregate of acceptances outstanding at any time exceeds the amount of the Corporation's capital and surplus, 50 per cent of all the acceptances in excess of such amount up to twice the amount of the capital and surplus, and all the acceptances outstanding in excess of such double amount, (1) shall be fully secured, or (2) shall represent exportation or importation of goods and shall have a primary obligation to reimburse the Corporation which is also guaranteed by a bank or banker. In accepting drafts drawn for the purpose of furnishing dollar exchange, a Banking Corporation shall be subject to all the limitations and requirements of Part 203 of this chapter (Reg. C) (which relates to acceptances by member banks of drafts and bills of exchange) that would apply if it were a member bank of the Federal Reserve System.

SECTION 211.8—ISSUE OF OBLIGATIONS BY FINANCING CORPORATIONS

(*a*) **General.**—A Financing Corporation is not required to obtain the approval of the Board of Governors before issuing any of its debentures, bonds, promissory notes or other such obligations, but, as specified in § 211.10(*b*), it shall in no event have liabilities outstanding at any time exceeding ten times its capital and surplus. Every Financing Corporation shall carry on its business in accordance with sound financial policies, including among other considerations, a proper regard to the relationship between its assets and the maturities of its obligations, so as to give reasonable asurance that the Corporation will be in a position to pay its obligations as they mature. Further requirements are set forth in paragraphs (*b*), (*c*) and (*d*) of this section with respect

to secured obligations, unsecured obligations, and information to be made available.

(*b*) **Secured obligations.**—All secured obligations issued by a Financing Corporation (except promissory notes due within one year evidencing borrowing from banks or bankers) shall be secured by collateral which, unless placed under the control of the person or persons owning all the obligations secured thereby, shall be transferred and delivered, free of any prior lien, charge, or encumbrance thereon, to a member bank of the Federal Reserve System as the trustee under a trust indenture executed by the Financing Corporation as security for the obligations of the Corporation issued or to be issued thereunder, which trust indenture shall prescribe the general form of such obligations and shall require that every such obligation shall be authenticated by the certificate of the trustee noted thereon.

(*c*) **Unsecured obligations.**—In the event a Financing Corporation issues or has outstanding any unsecured obligations (except promissory notes due within one year evidencing borrowing from banks or bankers), the Corporation shall comply with the following requirements:

(1) While any such unsecured obligations are outstanding, loans or other credits held by the Corporation, or outstanding with its guarantee, shall not have a maturity of more than ten years.

(2) All unsecured obligations issued by the Corporation (except promissory notes due within one year evidencing borrowing from banks or bankers) shall contain a provision, or shall be issued under an agreement, which shall provide that the Corporation will not, during the time any such obligations remain outstanding:

(i) Issue any obligations, regardless of maturity or payee (except in renewal or retirement of an equivalent amount of indebtedness), if immediately thereafter the fair value of the assets of the Corporation, excluding notes, drafts, bills of exchange and other evidences of indebtedness that are in default as to either principal or interest for a period in excess of six months, would be less than 110 per cent of the aggregate principal amount of all borrowings of the Corporation:

(ii) Mortgage, pledge or otherwise subject any of its assets to any lien or charge to secure any indebtedness for borrowed money or to secure any other obligations of the Corporation, unless each person holding any of the Corporation's unsecured obligations (other than obligations specifically subordinated to all other debt of the Corporation), which would remain outstanding after such transaction, either grants his consent or is provided with security substantially equivalent in value (in proportion to obligations held) to that provided by such mortgage, pledge, lien or charge;

(iii) Sell, lease, assign or otherwise dispose of all or substantially all its assets; or

(iv) Declare or pay any dividend (other than a dividend payable in stock of the Corporation) or authorize or make any other distribution (except upon redemption of preferred stock, including payments made for this purpose into a preferred stock sinking fund, in accordance with law and the articles of association of the Corporation) on any stock of the Corporation otherwise than out of the earned surplus of the Corporation as determined in accordance with generally accepted accounting principles.

(*d*) **Information.**—No prospectus, circular, letter, advertisement, or other statement published or issued in any form or manner by a Financing Corporation, or by persons underwriting, selling, or distributing an issue of obligations by the Corporation, shall contain any matter to indicate that any obligations issued by such Corporation or the collateral securing same has in any way received the approval of the Board of Governors or any other agency of the United States or that the collateral securing same has been appraised or approved in any way by the Board of Governors or any other agency of the United States. There shall be set forth on the outside front cover page of every prospectus the following statement in capital letters printed in bold-face roman type at least as large as ten-point modern type and at least two points leaded:

> These securities have not been approved or disapproved by the Board of Governors of the Federal Reserve System or any other agency of the United States nor has the Board or any other agency of the United States passed upon the accuracy or adequacy of this prospectus. These securities are the obligation solely of (Name of Financing Corporation), and no other individual, organization, or group has any direct or indirect responsibility for their payment.

Within forty days after issuing any obligations (except promissory notes due within one year evidencing borrowing from banks or bankers), a Financing Corporation shall file with the Board of Governors copies of all prospectuses and other literature describing or affecting such issue published by the Corporation or its officers or by persons underwriting, selling or distributing the issue, and shall also file with the Board of Governors the information described in subparagraphs (1) through (4) of this paragraph to the extent, if any, that such information is not contained in such prospectuses. The information described in subparagraphs (1) through (4) of this paragraph is as follows:

(1) The amount of the funded debt outstanding and to be created by the obligations offered, including the net price received and to be

received by the Corporation for such obligations, with a brief description of the date, maturity, and character of such debt, rate of interest, character of amortization provisions, and the collateral, if any, provided or to be provided therefor, and a summarized statement of the conditions, if any, under which substitution of collateral is permitted, and if substitution is permissible without notice, a specific statement to that effect.

(2) A balance sheet showing all assets and liabilities, including contingent liabilities, of the Corporation with supporting schedules in the form prescribed by the Board of Governors for reports of condition (Form F.R. 314)[2] and an analysis of surplus showing how and from what sources such surplus was created, all as of the close of business on the date of issuance of the obligations, and giving effect thereto.

(3) A copy of any underlying agreements or indentures affecting the obligations.

(4) A copy of the opinion or opinions of counsel as to the legality of the issue, the validity of any indenture, and the sufficiency of any transfers of collateral executed under any indenture.

SECTION 211.9—INVESTMENTS IN STOCK OF OTHER CORPORATIONS

(*a*) **General.**—With the prior consent of the Board of Governors and subject to the provisions of section 25(a) of the Federal Reserve Act, and this part, a Corporation may purchase and hold stock in other corporations. The succeeding paragraphs of this section indicate the circumstances in which such consent may be granted upon individual application, those in which such consent is ordinarily not granted, and those in which general consent may be granted upon application as to types of situations. Any consent granted by the Board may be conditional, and the conditions prescribed may apply to activities of the Corporation and also to activities of the corporation in which stock is purchased or held. A Corporation may purchase and hold stock where such purchase is necessary to prevent a loss upon a debt previously contracted in good faith; but stock so acquired shall be disposed of within six months from the date of acquisition unless such time is extended by the Board of Governors. If a Corporation makes a permissible purchase of stock, but a later change in circumstances or in this part causes the holding of the stock to be no longer permissible, the Corporation shall dispose of the stock, or the nonconformity with this part shall otherwise be corrected, as promptly as practicable and in any event within six months unless such time is extended by the Board of Governors. As used in this section, the term "stock" includes all certificates of ownership.

[2] See § 262.5 of this chapter. [The Board's Rules of Procedure.]

(*b*) **By Banking Corporations.**—Consent of the Board of Governors for a Banking Corporation to purchase and hold stock in other corporations will not be granted except upon individual application setting forth the relevant facts and circumstances. The Board of Governors ordinarily will not grant consent for a Banking Corporation to purchase and hold stock in a corporation not engaged in banking or closely related activities.

(*c*) **By Financing Corporations.**—Subject to applicable requirements of law and of this part and upon application setting forth the proposed program of the Financing Corporation, the Board of Governors may grant its general consent for a Financing Corporation to purchase and hold stock, up to such amounts and in such circumstances as the Board may prescribe, in generally designated types of corporations which are not engaged in banking and also are neither incorporated, nor qualified to do business in the United States, under the laws of the United States or any State (or the District of Columbia), provided such stock is purchased from a foreign seller by negotiations in which no United States office or establishment of the seller participates, and provided further that such purchase or holding does not cause the Financing Corporation to be affiliated with any person engaged in banking or with any person the stock of which the Corporation would be forbidden to purchase or hold under paragraph (*d*) of this section. In any other instance consent of the Board of Governors for a Financing Corporation to purchase and hold stock will not be granted, except in special cases upon individual application setting forth the relevant facts and circumstances. The Board of Governors ordinarily will not grant consent for a Financing Corporation to purchase and hold stock in a corporation engaged in banking.

(*d*) **Statutory limitations.**—Under section 25(a) of the Federal Reserve Act, the following limitations apply to the purchase or holding of stock by a Corporation:

(1) The corporation whose stock is purchased or held (i) shall be organized under section 25(a) of the Federal Reserve Act, the laws of any foreign country or a colony or dependency thereof, or the laws of any State, dependency, or insular possession of the United States; and (ii) shall not be engaged in the general business of buying or selling goods in the United States; and (iii) shall not be transacting any business in the United States except such as in the judgment of the Board of Governors may be incidental to its international or foreign business.

(2) Except with the prior approval of the Board of Governors in addition to any consent of the Board of Governors otherwise required, a Corporation shall not invest an amount in excess of 15 per cent of its capital and surplus in the stock of any one corporation engaged in the

business of banking, or an amount in excess of 10 per cent of its capital and surplus in the stock of any other kind of corporation.

(3) A Corporation shall not purchase, own, or hold any stock in any other corporation organized under section 25(a) of the Federal Reserve Act or under the laws of any State, which is in substantial competition therewith, or which holds stock in corporations which are in substantial competition with the purchasing Corporation.

SECTION 211.10—GENERAL LIMITATIONS AND RESTRICTIONS

(*a*) **Liabilities of one borrower.**—The total liabilities to a Corporation of any person or government for money borrowed shall at no time exceed in the case of a Banking Corporation 10 per cent of its capital and surplus, or in the case of a Financing Corporation 50 per cent thereof. For the purposes of this paragraph, the cost to a Corporation of any stock owned by it shall, unless otherwise specified by the Board of Governors in a particular case, be treated as if it were a liability of the issuer of the stock for money borrowed; all bonds, notes or other such obligations, whether or not purchased in the open market, shall be treated as such a liability; the liabilities of a partnership or firm shall include those of the several members thereof; the liabilities of a corporation shall include all liabilities incurred by any subsidiary of the corporation for the benefit of the corporation; and the liabilities of a foreign government shall include those of all its departments or agencies which derive their current funds principally from the general tax revenues of the foreign government. The limitations contained in this paragraph shall not apply (1) to obligations in the form of drafts or bills of exchange drawn in good faith against actually existing values; (2) to obligations arising out of the discount of commercial or business paper actually owned by the person negotiating the same; (3) to the liability of a customer on account of an acceptance made by the Corporation for his account unless the Corporation itself holds the acceptance or the acceptance has matured and the customer has failed to place the Corporation in funds to cover payment of the acceptances; (4) to the exent that liabilities are direct obligations of the United States or are secured or covered by unconditional guarantees, commitments, or agreements to take over or to purchase, made by the United States or by any department or establishment of, or corporation wholly owned by, the United States or by the International Bank for Reconstruction and Development or the International Finance Corporation; (5) to a direct obligation of, or obligation unconditionally guaranteed by, a foreign government or its appropriate financial or central banking authority, and with respect to which an institution described in subparagraph (4) of this paragraph has given an unconditional guarantee,

commitment or agreement to take over or to purchase (or has accepted a participation) which covers only a portion of the obligation (or a portion of the total credit, in the case of a participation), but covers it to the extent of at least 25 per cent and in such manner that any default to the Corporation will necessarily include a default to the governmental agency (any such partial but concurrent guarantee, commitment, agreement or participation by such an institution being hereinafter called a "proportionate governmental guarantee"); (6) in the case of a Financing Corporation, to any obligation which is subject to a "proportionate governmental guarantee" and does not exceed 100 per cent of the Corporation's capital and surplus; (7) to direct obligations of the national government of a foreign country in which the Corporation has a branch or agency, or obligations fully and unconditionally guaranteed as to principal and interest by such government, provided such branch or agency has outstanding equal or greater liabilities payable in the same currency; or (8) to such other classes of transactions at a branch or agency of a Corporation in a foreign country as the Board of Governors may, upon application of the Corporation, exclude from the limitations of this paragraph due to special circumstances surrounding such transactions in such country.

(*b*) **Aggregate liabilities of Corporation.**—Except with the prior permission of the Board of Governors, the aggregate outstanding liabilities of (1) a Banking Corporation on account of acceptances, monthly average domestic and foreign deposits, borrowings, guaranties, endorsements and any other such obligations, or (2) a Financing Corporation on account of debentures, bonds, notes, guaranties, endorsements and any other such obligations, shall not exceed ten times the amount of the Corporation's capital and surplus. In determining the amount of the liabilities within the meaning of this paragraph, endorsements of bills of exchange having not more than six months to run, drawn and accepted by others, shall not be included.

(*c*) **Relations of Financing Corporations with affiliated banks.**—Whenever a Financing Corporation is affiliated with a bank in the United States, such Corporation shall not incur any liability to such bank that would cause the total liabilities of such Corporation to such bank to exceed 10 per cent of the capital and surplus of such bank, or cause the total liabilities to such bank of all Financing Corporations affiliated with such bank to exceed 20 per cent of such capital and surplus. For the purposes of this paragraph, a Financing Corporation incurs a liability to a bank whenever such bank or any organization affiliated with such bank (other than such Financing Corporation or any organization controlled by it) makes (i) any investment in, or advance on the collateral security of, capital stock or obligations of

such Corporation or any organization controlled by it, or (ii) any loan or extension of credit to, or any purchase under repurchase agreement from, such Corporation or any organization controlled by it.

(*d*) **Sale of securities with guaranty or endorsement.**—Whenever a Corporation sells, discounts, or negotiates with its endorsement or guaranty any securities, notes, drafts, bills of exchange, acceptances, bankers' acceptances, or other evidence of indebtedness, it shall enter on its books a proper record thereof, describing in detail each such evidence of indebtedness so sold, discounted, or negotiated, the amounts thereof, the parties thereto, the maturity thereof, and the nature of the Corporation's liability thereon. Every financial statement of the Corporation submitted to the Board of Governors or made public in any way shall show the aggregate amount of all such liabilities outstanding as of the date on which such statement purports to show the financial condition of the Corporation.

(*e*) **Reports.**—Each Corporation shall make at least two reports annually to the Board of Governors at such times and in such form as the Board may require. The Board may, in its discretion, require that statements of condition or such other reports as it may specify be published or made available for public inspection.

(*f*) **Examinations.**—Each Corporation shall be examined at least once a year by examiners appointed by the Board of Governors. Each Corporation shall obtain and make available to such examiners, among other things, such information as to the earnings, finances, management and other aspects of any corporation whose stock is held by the Corporation as may be appropriate for appraising such investment and determining its suitability. When required by the Board of Governors, each Corporation shall cause any organization controlled by it to permit such examiners to examine such organization. The cost of examinations shall be fixed by the Board of Governors and paid by the Corporation.

(*g*) **Amendments.**—This part is subject to amendment by the Board of Governors from time to time.

SECTION 211.11—CORPORATIONS WITH AGREEMENTS UNDER SECTION 25 OF THE FEDERAL RESERVE ACT

In addition to any other requirements to which it may be subject, no corporation having an agreement or undertaking with the Board of Governors under section 25 of the Federal Reserve Act shall purchase or hold any asset, or otherwise exercise any of its powers in the United States or abroad in any manner, which would not be permissible under the provisions of this part if such corporation were a Banking Corporation.

APPENDIX

STATUTORY PROVISIONS

Section 25 of the Federal Reserve Act reads in part as follows:

Capital and surplus required to exercise powers

Sec. 25. Any national banking association possessing a capital and surplus of $1,000,000 or more may file application with the Board of Governors of the Federal Reserve System for permission to exercise, upon such conditions and under such regulations as may be prescribed by the said board, either or both of the following powers:

Establishment of foreign branches

First. To establish branches in foreign countries or dependencies or insular possessions of the United States for the furtherance of the foreign commerce of the United States, and to act if required to do so as fiscal agents of the United States.

Purchase of stock in corporations engaged in foreign banking

Second. To invest an amount not exceeding in the aggregate ten per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the United States or of any State thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions.

* * * * *

Application for permission to exercise powers

Such application shall specify the name and capital of the banking association filing it, the powers applied for, and the place or places where the banking or financial operations proposed are to be carried on. The Board of Governors of the Federal Reserve System shall have power to approve or to reject such application in whole or in part if for any reason the granting of such application is deemed inexpedient, and shall also have power from time to time to increase or decrease the number of places where such banking operations may be carried on.

Examinations and reports of condition

Every national banking association operating foreign branches shall be required to furnish information concerning the condition of such branches to the Comptroller of the Currency upon demand, and every member bank investing in the capital stock of banks or corporations described above shall be required to furnish information concerning the

condition of such banks or corporations to the Board of Governors of the Federal Reserve System upon demand, and the Board of Governors of the Federal Reserve System may order special examinations of the said branches, banks, or corporations at such time or times as it may deem best.

Agreement to restrict operations

Before any national bank shall be permitted to purchase stock in any such corporation the said corporation shall enter into an agreement or undertaking with the Board of Governors of the Federal Reserve System to restrict its operations or conduct its business in such manner or under such limitations and restrictions as the said board may prescribe for the place or places wherein such business is to be conducted. If at any time the Board of Governors of the Federal Reserve System shall ascertain that the regulations prescribed by it are not being complied with, said board is hereby authorized and empowered to institute an investigation of the matter and to send for persons and papers, subpoena witnesses, and administer oaths in order to satifsy itself as to the actual nature of the transactions referred to. Should such investigation result in establishing the failure of the corporation in question, or of the national bank or banks which may be stockholders therein, to comply with the regulations laid down by the said Board of Governors of the Federal Reserve System, such national banks may be required to dispose of stockholdings in the said corporation upon reasonable notice.

* * * * *

Section 25(a) of the Federal Reserve Act reads as follows:

Organization

Sec. 25(a). Corporations to be organized for the purpose of engaging in international or foreign banking or other international or foreign financial operations, or in banking or other financial operations in a dependency or insular possession of the United States, either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions as provided by this section, and to act when required by the Secretary of the Treasury as fiscal agents of the United States, may be formed by any number of natural persons, not less in any case than five: *Provided,* That nothing in this section shall be construed to deny the right of the Secretary of the Treasury to use any corporation organized under this section as depositaries in Panama and the Panama Canal Zone, or in the Philippine Islands and other insular possessions and dependencies of the United States.

Articles of association

Such persons shall enter into articles of association which shall specify in general terms the objects for which the association is formed and may contain any other provisions not inconsistent with law which the association may see fit to adopt for the regulation of its business and the conduct of its affairs.

Execution of articles of association; contents of organization certificate

Such articles of association shall be signed by all of the persons intending to participate in the organization of the corporation and, thereafter, shall be forwarded to the Board of Governors of the Federal Reserve System and shall be filed and preserved in its office. The persons signing the said articles of association shall, under their hands, make an organization certificate which shall specifically state:

First. The name assumed by such corporation, which shall be subject to the approval of the Board of Governors of the Federal Reserve System.

Second. The place or places where its operations are to be carried on.

Third. The place in the United States where its home office is to be located.

Fourth. The amount of its capital stock and the number of shares into which the same shall be divided.

Fifth. The names and places of business or residence of the persons executing the certificate and the number of shares to which each has subscribed.

Sixth. The fact that the certificate is made to enable the persons subscribing the same, and all other persons, firms, companies, and corporations, who or which may thereafter subscribe to or purchase shares of the capital stock of such corporation, to avail themselves of the advantages of this section.

Filing organization certificate; issuance of permit

The persons signing the organization certificate shall duly acknowledge the execution thereof before a judge of some court of record or notary public, who shall certify thereto under the seal of such court or notary, and thereafter the certificate shall be forwarded to the Board of Governors of the Federal Reserve System to be filed and preserved in its office. Upon duly making and filing articles of association and an organization certificate, and after the Board of Governors of the Federal Reserve System has approved the same and issued a permit to begin business, the association shall become and be a body corporate,

and as such and in the name designated therein shall have power to adopt and use a corporate seal, which may be changed at the pleasure of its board of directors; to have succession for a period of twenty years unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or by an Act of Congress or unless its franchises become forfeited by some violation of law; to make contracts; to sue and be sued, complain, and defend in any court of law or equity; to elect or appoint directors, all of whom shall be citizens of the United States; and, by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, require bonds of them, and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure and appoint others to fill their places; to prescribe, by its board of directors, by-laws not inconsistent with law or with the regulations of the Board of Governors of the Federal Reserve System regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed.

Powers; regulations of Board of Governors of the Federal Reserve System

Each corporation so organized shall have power, under such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe:

Banking powers

(a) To purchase, sell, discount, and negotiate, with or without its indorsement or guaranty, notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell, with or without its indorsement or guaranty, securities, including the obligations of the United States or of any State thereof but not including shares of stock in any corporation except as herein provided; to accept bills or drafts drawn upon it subject to such limitations and restrictions as the Board of Governors of the Federal Reserve System may impose; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the Board of Governors of the Federal Reserve System may prescribe, but in no event having liabilities outstanding thereon at any one time exceeding ten times its capital stock and surplus; to receive deposits outside of the United States and to receive only such deposits within the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or

insular possessions of the United States; and generally to exercise such powers as are incidental to the powers conferred by this Act or as may be usual, in the determination of the Board of Governors of the Federal Reserve System, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with the powers specifically granted herein. Nothing contained in this section shall be construed to prohibit the Board of Governors of the Federal Reserve System, under its power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation organized under this section receives deposits in the United States authorized by this section it shall carry reserves in such amounts as the Board of Governors of the Federal Reserve System may prescribe, but in no event less than 10 per centum of its deposits.

Branches

(b) To establish and maintain for the transaction of its business branches or agencies in foreign countries, their dependencies or colonies, and in the dependencies or insular possessions of the United States, at such places as may be approved by the Board of Governors of the Federal Reserve System and under such rules and regulations as it may prescribe, including countries or dependencies not specified in the original organization certificate.

Ownership of stock in other corporations

(c) With the consent of the Board of Governors of the Federal Reserve System to purchase and hold stock or other certificates of ownership in any other corporation organized under the provisions of this section, or under the laws of any foreign country or a colony or dependency thereof, or under the laws of any State, dependency, or insular possession of the United States but not engaged in the general business of buying or selling goods, wares, merchandise or commodities in the United States, and not transacting any business in the United States except such as in the judgment of the Board of Governors of the Federal Reserve System may be incidental to its international or foreign business: *Provided, however,* That, except with the approval of the Board of Governors of the Federal Reserve System, no corporation organized hereunder shall invest in any one corporation an amount in excess of 10 per centum of its own capital and surplus, except in a corporation engaged in the business of banking, when 15 per centum of its capital and surplus may be so invested: *Provided further,* That no corporation organized hereunder shall purchase, own, or hold stock or certificates of ownership in any other corporation organized hereunder

or under the laws of any State which is in substantial competition therewith, or which holds stock or certificates of ownership in corporations which are in substantial competition with the purchasing corporation.

Purchase of stock to prevent loss on debt previously contracted

Nothing contained herein shall prevent corporations organized hereunder from purchasing and holding stock in any corporation where such purchase shall be necessary to prevent a loss upon a debt previously contracted in good faith; and stock so purchased or acquired in corporations organized under this section shall within six months from such purchase be sold or disposed of at public or private sale unless the time to so dispose of same is extended by the Board of Governors of the Federal Reserve System.

Restrictions on business in United States

No corporation organized under this section shall carry on any part of its business in the United States except such as, in the judgment of the Board of Governors of the Federal Reserve System, shall be incidental to its international or foreign business: *And provided further,* That except such as is incidental and preliminary to its organization no such corporation shall exercise any of the powers conferred by this section until it has been duly authorized by the Board of Governors of the Federal Reserve System to commence business as a corporation organized under the provisions of this section.

Corporation trading in commodities or attempting to control prices

No corporation organized under this section shall engage in commerce or trade in commodities except as specifically provided in this section, nor shall it either directly or indirectly control or fix or attempt to control or fix the price of any such commodities. The charter of any corporation violating this provision shall be subject to forfeiture in the manner hereinafter provided in this section. It shall be unlawful for any director, officer, agent, or employee of any such corporation to use or to conspire to use the credit, the funds, or the power of the corporation to fix or control the price of any such commodities, and any such person violating this provision shall be liable to a fine of not less than $1,000 and not exceeding $5,000 or imprisonment not less than one year and not exceeding five years, or both, in the discretion of the court.

Capital stock

No corporation shall be organized under the provisions of this section with a capital stock of less than $2,000,000, one-quarter of which must be paid in before the corporation may be authorized to begin business,

and the remainder of the capital stock of such corporation shall be paid in installments of at least 10 per centum on the whole amount to which the corporation shall be limited as frequently as one installment at the end of each succeeding two months from the time of the commencement of its business operations until the whole of the capital stock shall be paid in: *Provided, however,* That whenever $2,000,000 of the capital stock of any corporation is paid in the remainder of the corporation's capital stock or any unpaid part of such remainder may, with the consent of the Board of Governors of the Federal Reserve System and subject to such regulations and conditions as it may prescribe, be paid in upon call from the board of directors; such unpaid subscriptions, however, to be included in the maximum of 10 per centum of the national bank's capital and surplus which a national bank is permitted under the provisions of this Act to hold in stock of corporations engaged in business of the kind described in this section and in section 25 of the Federal Reserve Act as amended: *Provided further,* That no such corporation shall have liabilities outstanding at any one time upon its debentures, bonds, and promissory notes in excess of ten times its paid-in capital and surplus. The capital stock of any such corporation may be increased at any time, with the approval of the Board of Governors of the Federal Reserve System, by a vote of two-thirds of its shareholders or by unanimous consent in writing of the shareholders without a meeting and without a formal vote, but any such increase of capital shall be fully paid in within ninety days after such approval; and may be reduced in like manner, provided that in no event shall it be less than $2,000,000. No corporation, except as herein provided, shall during the time it shall continue its operations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. Any national banking association may invest in the stock of any corporation organized under the provisions of this section, but the aggregate amount of stock held in all corporations engaged in business of the kind described in this section and in section 25 of the Federal Reserve Act as amended shall not exceed 10 per centum of the subscribing bank's capital and surplus.

Citizenship of stockholders

A majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States.

Members of Board of Governors of the Federal Reserve System as directors, officers, or stockholders

No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any corporation organized under the provisions of this section, or of any corporation engaged in similar business organized under the laws of any State, nor hold stock in any such corporation, and before entering upon his duties as a member of the Board of Governors of the Federal Reserve System he shall certify under oath to the Secretary of the Treasury that he has complied with this requirement.

Shareholders' liability; corporation not to become member of Federal reserve bank

Shareholders in any corporation organized under the provisions of this section shall be liable for the amount of their unpaid stock subscriptions. No such corporation shall become a member of any Federal reserve bank.

Forfeiture of charter for violation of law

Should any corporation organized hereunder violate or fail to comply with any of the provisions of this section, all of its rights, privileges, and franchises derived herefrom may thereby be forfeited. Before any such corporation shall be declared dissolved, or its rights, privileges, and franchises forfeited, any noncompliance with, or violation of such laws shall, however, be determined and adjudged by a court of the United States of competent jurisdiction, in a suit brought for that purpose in the district or territory in which the home office of such corporation is located, which suit shall be brought by the United States at the instance of the Board of Governors of the Federal Reserve System or the Attorney General. Upon adjudication of such noncompliance or violation, each director and officer who participated in, or assented to, the illegal act or acts, shall be liable in his personal or individual capacity for all damages which the said corporation shall have sustained in consequence thereof. No dissolution shall take away or impair any remedy against the corporation, its stockholders, or officers for any liability or penalty previously incurred.

Voluntary liquidation

Any such corporation may go into voluntary liquidation and be closed by a vote of its shareholders owning two-thirds of its stock.

Insolvency; appointment of receiver

Whenever the Board of Governors of the Federal Reserve System shall become satisfied of the insolvency of any such corporation, it may appoint a receiver who shall take possession of all of the property and

assets of the corporation and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller of the Currency of the United States: *Provided, however,* That the assets of the corporation subject to the laws of other countries or jurisdictions shall be dealt with in accordance with the terms of such laws.

Stockholders' meetings; records; reports; examinations

Every corporation organized under the provisions of this section shall hold a meeting of its stockholders annually upon a date fixed in its by-laws, such meeting to be held at its home office in the United States. Every such corporation shall keep at its home office books containing the names of all stockholders thereof, and the names and addresses of the members of its board of directors, together with copies of all reports made by it to the Board of Governors of the Federal Reserve System. Every such corporation shall make reports to the Board of Governors of the Federal Reserve System at such times and in such form as it may require; and shall be subject to examination once a year and at such other times as may be deemed necessary by the Board of Governors of the Federal Reserve System by examiners appointed by the Board of Governors of the Federal Reserve System, the cost of such examinations, including the compensation of the examiners, to be fixed by the Board of Governors of the Federal Reserve System and to be paid by the corporation examined.

Dividends and surplus fund

The directors of any corporation organized under the provisions of this section may, semiannually, declare a dividend of so much of the net profits of the corporation as they shall judge expedient; but each corporation shall, before the declaration of a dividend, carry one-tenth of its net profits of the preceding half year to its surplus fund until the same shall amount to 20 per centum of its capital stock.

Taxation

Any corporation organized under the provisions of this section shall be subject to tax by the State within which its home office is located in the same manner and to the same extent as other corporations organized under the laws of that State which are transacting a similar character of business. The shares of stock in such corporation shall also be subject to tax as the personal property of the owners or holders thereof in the same manner and to the same extent as the shares of stock in similar State corporations.

Extension of corporate existence

Any corporation organized under the provisions of this section may at any time within the two years next previous to the date of the expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Board of Governors of the Federal Reserve System for its approval to extend the period of its corporate existence for a term of not more than twenty years, and upon certified approval of the Board of Governors of the Federal Reserve System such corporation shall have its corporate existence for such extended period unless sooner dissolved by the act of the shareholders owning two-thirds of its stock, or by an Act of Congress or unless its franchise becomes forfeited by some violation of law.

Conversion of State corporation into Federal corporation

Any bank or banking institution, principally engaged in foreign business, incorporated by special law of any State or of the United States or organized under the general laws of any State or of the United States and having an unimpaired capital sufficient to entitle it to become a corporation under the provisions of this section may, by the vote of the shareholders owning not less than two-thirds of the capital stock of such bank or banking association, with the approval of the Board of Governors of the Federal Reserve System, be converted into a Federal corporation of the kind authorized by this section with any name approved by the Board of Governors of the Federal Reserve System: *Provided, however,* That said conversion shall not be in contravention of the State law. In such case the articles of association and organization certificate may be executed by a majority of the directors of the bank or banking institution, and the certificate shall declare that the owners of at least two-thirds of the capital stock have authorized the directors to make such certificate and to change or convert the bank or banking institution into a Federal corporation. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a Federal corporation. The shares of any such corporation may continue to be for the same amount each as they were before the conversion, and the directors may continue to be directors of the corporation until others are elected or appointed in accordance with the provisions of this section. When the Board of Governors of the Federal Reserve System has given to such corporation a certificate that the provisions of this section have been complied with, such corporation and all its stockholders, officers, and employees, shall have the same powers and privileges, and shall be subject to the same duties,

liabilities, and regulations, in all respects, as shall have been prescribed by this section for corporations originally organized hereunder.

Criminal offenses of officers and employees

Every officer, director, clerk, employee, or agent of any corporation organized under this section who embezzles, abstracts, or willfully misapplies any of the moneys, funds, credits, securities, evidences of indebtedness or assets of any character of such corporation; or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, debenture, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of such corporation with intent, in either case, to injure or defraud such corporation or any other company, body politic or corporate, or any individual person, or to deceive any officer of such corporation, the Board of Governors of the Federal Reserve System, or any agent or examiner appointed to examine the affairs of any such corporation; and every receiver of any such corporation and every clerk or employee of such receiver who shall embezzle, abstract, or willfully misapply or wrongfully convert to his own use any moneys, funds, credits, or assets of any character which may come into his possession or under his control in the execution of his trust or the performance of the duties of his employment; and every such receiver or clerk or employee of such receiver who shall, with intent to injure or defraud any person, body politic or corporate, or to deceive or mislead the Board of Governors of the Federal Reserve System, or any agent or examiner appointed to examine the affairs of such receiver, shall make any false entry in any book, report, or record of any matter connected with the duties of such receiver; and every person who with like intent aids or abets any officer, director, clerk, employee, or agent of any corporation organized under this section, or receiver or clerk or employee of such receiver as aforesaid in any violation of this section, shall upon conviction thereof be imprisoned for not less than two years nor more than ten years, and may also be fined not more than $5,000 in the discretion of the court.

Representation that United States is liable for obligations

Whoever being connected in any capacity with any corporation organized under this section represents in any way that the United States is liable for the payment of any bond or other obligation, or the interest thereon, issued or incurred by any corporation organized hereunder, or that the United States incurs any liability in respect of any act or omission of the corporation, shall be punished by a fine of not more than $10,000 and by imprisonment for not more than five years.

BOARD OF GOVERNORS

of the

FEDERAL RESERVE SYSTEM

INTERLOCKING BANK DIRECTORATES UNDER THE CLAYTON ACT

▼

REGULATION L

(12 CFR 212)

As amended effective August 21, 1959

Print of October 1960

INQUIRIES REGARDING THIS REGULATION

Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the district in which the inquiry arises.

November 2, 1960

ERRATUM SHEET

In the October 1960 print of Regulation L on page 3 Section 212.2 (d) (5) contains a misprinted word "Continuous" should read "Contiguous."

CONTENTS

REGULATION L
(12 CFR 212)

As amended effective August 21, 1959

INTERLOCKING BANK DIRECTORATES UNDER THE CLAYTON ACT*

SECTION 212.0—SCOPE OF PART

This part is based upon and issued pursuant to the provisions of section 8 of the Clayton Act (38 Stat. 732, 49 Stat. 718; 15 U.S.C. 19).[1]

SECTION 212.1—PROHIBITIONS

Under section 8 of the Clayton Act, except as stated in § 212.2.

(*a*) **Directors, officers, and employees of member banks.**—No person who is a director, officer, or employee of a member bank of the Federal Reserve System can legally be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia;

(*b*) **Private bankers.**—No private banker[2] can legally be at the same time a director, officer, or employee of any bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia.

SECTION 212.2—EXCEPTIONS

The provisions of section 8 of the Clayton Act:

(*a*) **Persons other than private bankers or directors, officers, or employees of member banks.**—Do not apply to a person who is neither a private banker nor a director, officer, or employee of a member bank of the Federal Reserve System;

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*The text corresponds to the Code of Federal Regulations, Title 12, Chapter II, Part 212; cited as 12 CFR 212.

[1] Section 32 of the Banking Act of 1933 (49 Stat. 709; 12 U.S.C. 78) is applicable in certain circumstances to interlocking relationships between member banks and underwriters and dealers in securities. See Part 218.

Section 17 (c) of the Public Utility Act of 1935 (49 Stat. 831; 15 U.S.C. 79g (c)) is applicable in certain circumstances to interlocking relationships between banks and public utility companies and public utility holding companies. Inquiries regarding this section should be addressed to the Securities and Exchange Commission and not to the Board of Governors of the Federal Reserve System.

Section 305 (b) of the Federal Power Act (49 Stat. 856; 16 U.S.C. 825d (b)) is applicable in certain circumstances to interlocking relationships between public utility companies and banks which are authorized by law to underwrite or participate in the marketing of securities of a public utility. Inquiries regarding this section should be addressed to the Federal Power Commission and not to the Board of Governors of the Federal Reserve System.

[2] The term "private banker" means an unincorporated individual engaged in the banking business or a member of an unincorporated firm engaged in such business.

(*b*) **Banks not organized under National Bank Act, State law, or laws of District of Columbia.**—Do not prohibit a private banker or a director, officer, or employee of a member bank of the Federal Reserve System from being at the same time a director, officer, or employee of any number of other banking institutions not organized under the National Bank Act or under the laws of any State or of the District of Columbia[3];

(*c*) **Relationships lawfully existing on August 23, 1935.**—Do not prohibit, until February 1, 1939, any interlocking relationship involving a member bank, which was in existence on August 23, 1935, the date of the enactment of the Banking Act of 1935, and which, at that time, was lawful under the Clayton Act, either (1) because it was authorized by a permit[4] then in effect[5] or (2) because it was otherwise not subject to the prohibitions of the Clayton Act[6];

(*d*) **Exceptions applicable to directors, officers, and employees of member banks.**—Do not prohibit a director, officer, or employee of a member bank of the Federal Reserve System from being at the same time a director, officer, or employee of any number of the following:

(1) Banks, banking associations, savings banks, or trust companies, more than 90 per cent of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per cent of the stock;

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[3] In other words, the provisions of section 8 of the Clayton Act do not prohibit a private banker or a director, officer, or employee of a member bank of the Federal Reserve System from being at the same time a director, officer, or employee of any number of the following:

(*a*) Joint Stock Land banks, Federal Land banks, Federal Reserve banks, Federal Intermediate Credit banks, The Central Bank for Cooperatives, Federal Home Loan banks, foreign banking corporations organized under section 25(a) of the Federal Reserve Act (41 Stat. 378, as amended; 12 U.S.C. 611-631) and other institutions organized under laws of the United States other than the National Bank Act;

(*b*) Banking institutions organized under the laws of territories, dependencies, or insular possessions of the United States, such as Puerto Rico or the Canal Zone, and not organized under the National Bank Act; and

(*c*) Banking institutions organized under the laws of foreign countries.

Federal Savings and Loan Associations and Federal Credit Unions are not organized under the National Bank Act or under the laws of any State or of the District of Columbia, and therefore are excepted on that ground irrespective of whether they are "banks" or "banking associations" within the meaning of the statute.

[4] Relationships which were lawful on August 23, 1935, because authorized by a permit then in effect were lawful within the meaning of this exception irrespective of whether the permittee was then also serving in other relationships which were within the prohibitions of the Clayton Act but which were not authorized by such permit.

[5] It is immaterial whether or not such permit contained a provision limiting its duration, provided it was in effect on August 23, 1935.

[6] The provisions of the Clayton Act regarding interlocking bank directorates in effect prior to August 23, 1935, are analyzed in Regulation L, Series of 1933, which was published in the Federal Reserve Bulletin for November 1933, page 711.

(2) Banks, banking associations, savings banks, or trust companies which have been placed formally in liquidation or which are in the hands of receivers, conservators, or other officials exercising similar functions;

(3) Corporations principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which have entered into agreements with the Board of Governors of the Federal Reserve System pursuant to section 25 of the Federal Reserve Act (39 Stat. 755, 41 Stat. 285, 286; 12 U.S.C. 601-605);

(4) Banks, banking associations, savings banks, or trust companies, more than 50 per cent of the common stock of which is owned directly or indirectly[7] by persons who own directly or indirectly[7] more than 50 per cent of the common stock of such member bank;

(5) Banks, banking associations, savings banks, or trust companies not located and having no branch in the same city, town, or village as that in which such member bank or any branch thereof is located, or in any city, town, or village continuous or adjacent thereto[8];

(6) Banks, banking associations, savings banks, or trust companies not engaged in a class or classes of business[9] in which such member bank is engaged;

(7) Mutual savings banks having no capital stock;

(*e*) **Exceptions applicable to private bankers.**—Do not prohibit a private banker from being at the same time a member of any number of firms of private bankers, or from being at the same time a director, officer, or employee of any number of the following:

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[7] The following are clear illustrations of indirect ownership: (1) where more than 50 per cent of the stock of one bank is owned by the other bank; (2) where more than 50 per cent of the stock of one bank is held in trust for the shareholders of the other bank; and (3) where more than 50 per cent of the stock of one bank is owned by a corporation all the stock of which is owned by the shareholders of the other bank.

[8] The Board has interpreted the term "contiguous" as referring to cities, towns, and villages whose corporate limits touch or coincide at some point, and has interpreted the word "adjacent" as referring to cities, towns, and villages which, although not actually "contiguous" within the above interpretation of that word, are located in such close proximity and are so readily accessible to each other as to be in practical effect a single city, town, or village, as for example, cities, towns, or villages separated only by a water-course, or a suburb of a city separated from that city by an intervening suburb.

[9] The phrase "class or classes of business" refers to the various types of business engaged in by such institutions involving relationships with customers, such as (1) receiving commercial deposits, (2) receiving savings deposits, (3) carrying checking accounts, (4) making commercial loans, (5) making real estate loans, (6) making loans on stock or bond collateral, (7) making "personal" loans of the character usually made by Morris Plan or Industrial banks, (8) engaging in corporate trust business, and (9) engaging in individual trust business.

(1) Banks, banking associations, savings banks, or trust companies, more than 90 per cent of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per cent of the stock;

(2) Banks, banking associations, savings banks, or trust companies which have been placed formally in liquidation or which are in the hands of receivers, conservators, or other officials exercising similar functions;

(3) Corporations principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which have entered into agreements with the Board of Governors of the Federal Reserve System pursuant to section 25 of the Federal Reserve Act (39 Stat. 755, 41 Stat. 285, 286; 12 U.S.C. 601-605);

(4) Mutual savings banks having no capital stock.

SECTION 212.3—RELATIONSHIPS PERMITTED BY BOARD

In addition to any relationships covered by the foregoing exceptions, not more than one of the following relationships is hereby permitted[10] by the Board of Governors of the Federal Reserve System in the case of any one individual:

(*a*) **Morris Plan bank or similar institution.**—Any private banker or any director, officer, or employee of a member bank of the Federal Reserve System may be at the same time a director, officer, or employee of not more than one cooperative bank, credit union or other similar institution; and any private banker or any director, officer, or employee of a member bank of the Federal Reserve System who is lawfully serving as a director, officer, or employee of a Morris Plan bank or similar institution on January 31, 1939 may continue such service until June 1, 1940;

(*b*) **Pending consolidation or merger.**—Any director, officer, or employee of a member bank of the Federal Reserve System may be at the same time a director, officer, or employee of not more than one other bank, banking association, savings bank, or trust company if the records of both institutions show that active consideration is being given to the consolidation or merger of such member bank and such other bank, banking association, savings bank, or trust company, or

[10] The provisions formerly contained in section 8 of the Clayton Act authorizing the issuance of individual permits by the Board were repealed by section 329 of the Banking Act of 1935, and the Act now provides that the Board "may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof * * *." (See first paragraph of section 8 (49 Stat. 718; 15 U.S.C. 19).) Accordingly, individual permits will no longer be issued.

that active consideration is being given to the purchase of a substantial portion of the assets and the assumption of a substantial portion of the liabilities of one such institution by the other;

Provided, That no interlocking relationship permitted pursuant to this paragraph shall continue for a period or periods aggregating more than six months;[11]

(*c*) **Member banks not exercising trust powers and trust companies not holding deposits.**—Any director, officer, or employee of a member bank of the Federal Reserve System which does not exercise trust powers may be at the same time a director, officer, or employee of not more than one trust company which does not receive or hold deposits,[12] and any director, officer, or employee of a trust company which is a member of the Federal Reserve System and which does not receive or hold deposits[12] may be at the same time a director, officer, or employee of not more than one bank, banking association, or savings bank which does not exercise trust powers;

(*d*) **Exceptions applicable to a private banker.**—Any private banker may be at the same time a director, officer, or employee of not more than one of the following:

(1) A bank, banking association, savings bank, or trust company organized under the laws of any State or of the District of Columbia which is not a member bank of the Federal Reserve System;

(2) A member bank more than 50 per cent of the common stock of which is owned directly or indirectly by such private banker or by a firm of private bankers of which he is a member;

(3) A member bank not located and having no branch in the same city, town, or village as that in which such private banker or a firm of private bankers of which he is a member maintains a place of business, or in any city, town, or village contiguous or adjacent thereto;[13]

(4) A member bank not engaged in a class or classes of busi-

[11] In the case of any relationship existing on the date this part becomes effective, such 6 months period shall begin to run on the effective date of this part.

[12] For the purpose of paragraph (c), the term "deposits" shall not include funds received and held in a fiduciary capacity.

[13] The Board has interpreted the term "contiguous" as referring to cities, towns, and villages whose corporate limits touch or coincide at some point, and has interpreted the word "adjacent" as referring to cities, towns and villages which, although not actually "contiguous" within the above interpretation of that word, are located in such close proximity and are so readily accessible to each other as to be in practical effect a single city, town, or village, as for example, cities, towns, or villages separated only by a water-course, or a suburb of a city separated from that city by an intervening suburb.

ness[14] in which such private banker or a firm of private bankers of which he is a member is engaged;

(*e*) [Reserved]

(*f*) **Restrictions.**—Any director, officer, or employee of a member bank of the Federal Reserve System may be at the same time a director, officer, or employee of not more than one bank which is principally engaged in international or foreign banking and which does not receive deposits or make loans in the United States except as may be incidental to its international or foreign business.

SECTION 212.4—ENFORCEMENT

(*a*) **Action by Federal Reserve Agent.**—Each Federal Reserve Agent shall cause the information contained in reports of examination of member banks and other information available to him from other sources to be analyzed in the light of the provisions of section 8 of the Clayton Act relating to interlocking relationships involving banks; and, in the case of any apparent violation of that section, shall communicate with the banking institutions and with the director, officer or employee involved, with a view of ascertaining whether the relationships involved are in conformity with the law, and if not, obtaining compliance with the law.

(*b*) **Reports to Board.**—In each case in which, after taking the steps outlined above, the Federal Reserve Agent finds that the relationships involved are in violation of the law and have not been brought into conformity with the law within a reasonable time after the matter was brought to the attention of the banking institutions and the officer, director or employee involved, the Federal Reserve Agent shall report the facts to the Board of Governors of the Federal Reserve System with a recommendation as to the action to be taken.

SECTION 212.5—AMENDMENTS

This part is subject to amendment or repeal, in whole or in part, in the discretion of the Board of Governors of the Federal Reserve System.

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[14] The phrase "class or classes of business" refers to the various types of business engaged in by such institutions involving relationships with customers, such as (1) receiving commercial deposits, (2) receiving savings deposits, (3) carrying checking accounts, (4) making commercial loans, (5) making real estate loans, (6) making loans on stock or bond collateral, (7) making "personal" loans of the character usually made by Morris Plan or Industrial banks, (8) engaging in corporate trust business, and (9) engaging in individual trust business.

APPENDIX

STATUTORY PROVISIONS

Section 8 of the Clayton Act (U.S.C., title 15, sec. 19), as amended by the Banking Act of 1935, reads in part as follows:

SEC. 8. No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof:

(1) A bank, banking association, savings bank, or trust company, more than 90 per centum of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per centum of the stock.

(2) A bank, banking association, savings bank, or trust company which has been placed formally in liquidation or which is in the hands of a receiver, conservator, or other official exercising similar functions.

(3) A corporation principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which has entered into an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 of the Federal Reserve Act.

(4) A bank, banking association, savings bank, or trust company, more than 50 per centum of the common stock of which is owned directly or indirectly by persons who own directly or indirectly more than 50 per centum of the common stock of such member bank.

(5) A bank, banking association, savings bank, or trust company not located and having no branch in the same city, town, or village as that in which such member bank or any branch thereof is located, or in any city, town, or village contiguous or adjacent thereto.

(6) A bank, banking association, savings bank, or trust company not engaged in a class or classes of business in which such member bank is engaged.

(7) A mutual savings bank having no capital stock.

Until February 1, 1939, nothing in this section shall prohibit any director, officer, or employee of any member bank of the Federal Reserve System, or any branch thereof, who is lawfully serving at the same time as a private banker or as a director, officer, or employee of any other bank, banking association, savings bank, or trust company, or any branch thereof, on the date of enactment of the Banking Act of 1935, from continuing such service.

The Board of Governors of the Federal Reserve System is authorized and directed to enforce compliance with this section, and to prescribe such rules and regulations as it deems necessary for that purpose.

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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 capacity shall not be affected and he shall not become or be deemed amendable 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.