FEDERAL RESERVE BANK OF NEW YORK

[Circular No. 8608
July 23, 1979]

REGULATION L — MANAGEMENT OFFICIAL INTERLOCKS

— Revised Regulation to Implement the Depository Institution Management Interlocks Act
— Proposed Amendments to Regulation L

To All Member Banks and Bank Holding Companies,
and Others Concerned, in the Second Federal Reserve District:

The Board of Governors of the Federal Reserve System, in conjunction with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, has issued a revised Regulation L, "Management Official Interlocks," to implement the provisions of the recently enacted Depository Institution Management Interlocks Act. The Act prohibits certain management official interlocks between depository institutions, depository holding companies, and their affiliates. The five Federal regulatory agencies have also issued for public comment several proposed amendments to the revised regulation.

Following is the text of a joint statement issued by the agencies in this matter:

The Government agencies that supervise federally insured depository institutions today *[July 18, 1979]* announced joint regulations to carry out the provisions of the new Depository Institution Management Interlocks Act.[1]

The general purpose of the Interlocks Act, and the regulations adopted by the Federal agencies to implement it, is to foster competition among depository institutions (banks, savings and loan associations, mutual savings banks and credit unions) and depository holding companies (bank holding companies and savings and loan holding companies) and their affiliates. To this end the Act, which became effective March 10, 1979, prohibits certain interlocking relationships of management officials among (nonaffiliated) depository organizations.

The agencies also asked for public comment on four proposals for amendments to the final regulations they adopted. These concern what existing management interlocks should be "grandfathered," provisions for termination of interlocks that become prohibited by changes in circumstances, criteria for determining whether an individual serving as a management official is a representative or nominee of a principal shareholder and whether the term "person" should include corporations and other businesses as well as natural persons.

The final regulations are effective immediately. However, the agencies will receive written views or arguments concerning them as well as comment on proposed amendments through September 17, 1979.

The final regulations adopted by the five agencies, and the associated proposals, are identical except for technical variations required to accommodate the fact that the agencies regulate different kinds of depository organizations.

The interlock rules issued or proposed by the agencies follow publication of proposed regulations under the Interlocks Act in January, and consideration of comment received. The agencies' final regulations address certain issues not raised in the January proposals.

The principal features of the agencies' regulations under the Interlocks Act include the following:

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[1] Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978.

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GENERAL PROHIBITIONS:

The Interlocks Act generally prohibits the following types of interlocks:

—Except for institutions with assets of less than $20 million, a management official of a depository institution or a depository holding company may not serve as a management official of a nonaffiliated depository institution or holding company if offices of both (or offices of depository institution affiliates of both) are located in the same standard metropolitan statistical area (SMSA).

—Regardless of the size of the depository institution or holding company, a management official of one such institution may not serve in a similar capacity with another such institution if offices of both (or offices of depository institution affiliates of both) are located in the same community (the same or contiguous or adjacent cities, towns or villages).

—Regardless of the geographic location of a depository institution or holding company, a management official of a depository organization (or of an affiliated organization) with assets exceeding $1 billion may not serve at the same time as a management official of a nonaffiliated depository institution or holding company with assets exceeding $500 million, or an affiliate of such an institution.

The Act makes an exception permitting a management official interlock between two credit unions.

EXEMPTIONS:

The agencies said the following four exemptions to the above prohibitions could be granted by the appropriate regulator, with specific prior approval.

1. Exemptions may be granted, for up to five years, in the case of institutions that:

—Are located in low income or economically depressed areas;

—Are controlled or managed by members of minority groups; or

—Are controlled or managed by women.

The purpose of these exemptions is to provide temporary assistance from experienced management, if it appears to be necessary and is desired, in order to encourage development of depository institutions located in low income areas or controlled or managed by minorities or women.

2. In the case of new institutions, temporary exceptions — up to two years — may be granted by the agencies, where necessary and desired, to provide new institutions with experienced management to help them get started, with the expectation that such new institutions would increase the convenience and other benefits to the public of added competition.

3. The agencies may also grant exceptions to depository institutions in a deteriorating condition when the primary Federal supervisory agency believes the institution faces conditions endangering the institution's safety and soundness, subject to certain conditions.

4. The agencies may grant exceptions to credit unions sponsored by depository institutions or depository holding companies primarily to serve the employees of the sponsoring institution or its affiliates. This exception is made on the ground that in these circumstances no competition would exist.

GENERALLY PERMITTED INTERLOCKING RELATIONSHIPS:

A new section of the final regulations concerns interlocking relationships that are permitted by the Interlocks Act. These are interlocks among:

1. A depository organization that does not do business within the United States except as an incident to its activities outside the United States.

2. A corporation operating under Section 25 or 25(a) of the Federal Reserve Act ("Edge Corporations" and "Agreement Corporations").

3. A depository organization that has been placed in liquidation, or that is in the hands of a receiver, or a similar official.

4. A credit union being served by a management official of another credit union.

5. A state-chartered savings and loan guaranty corporation.

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6. A Federal Home Loan Bank or any other bank organized solely (and not only specifically) for the purpose of serving depository institutions (commonly referred to as "bankers' banks") or solely for the purpose of providing securities clearing services and services related thereto for depository institutions, securities companies, or both.

Further interlocking relationships that may be permitted by order of the agencies are listed in the above section on exemptions.

Application to Foreign Banks:

In their January proposal the agencies did not attempt to interpret the application of the Interlocks Act to relationships involving foreign banks or branches or agencies of foreign banks located in the United States, but they asked for comment on this subject.

The final regulations apply the prohibitions of the Interlocks Act to:

—U.S. branches of two foreign banks located in the same city;

—A U.S. branch of a foreign bank and a domestic bank located in the same city;

—Such institutions located in the same SMSA if one of them has total assets of $20 million or more, or, wherever located in the U.S., if the total assets of one of them exceed $500 million and the total assets of the other exceed $1 billion.

The agencies defined total assets of a U.S. branch or agency of a foreign bank to exclude the assets of the parent foreign commercial bank. The term management official has been defined to exclude officials whose functions relate principally to business outside the United States.

The agencies' objective in these rules is to make foreign commercial banks competing in the United States subject to rules under the Interlocks Act to the extent of their activities in this country.

Effect of the Interlocks Act on the Clayton Act:

In the proposals published in January the Federal Reserve Board said it was considering how the first three paragraphs of Section 8 of the Clayton Act might be reconciled with the provisions of the Interlocks Act. These paragraphs generally prohibit employee and director interlocks between member banks and other commercial banks.

The Board has concluded that the comprehensive prohibitions of the Interlocks Act supplant these provisions of the Clayton Act and the Board's final regulation under the Interlocks Act reflects this conclusion.

Definitions:

The final regulations of the five agencies under the Interlocks Act include the following principal definitions:

Depository institution: Commercial banks (including private banks), savings and loan associations, savings banks, trust companies, building and loan associations, homestead associations, cooperative banks, industrial banks and credit unions with their principal office in the United States, and the United States offices of foreign commercial banks.

Depository holding companies: Bank holding companies and savings and loan holding companies with their principal office in the United States.

Depository institutions and depository companies are referred to jointly as *depository organizations.*

Adjacent: Cities, towns or villages that are within 10 miles of one another at their closest point.

Office: Principal offices and branches of depository institutions or depository holding companies located in the United States. Electronic terminals, representative offices of a foreign commercial bank or loan production offices are excluded by the regulation from the definition of office.

Management official: An employee or officer who has management functions (including a branch manager), a director (including honorary or advisory directors), a trustee of a business organization controlled by trustees or any person who has a representative or nominee serving as a management official.

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Management official does not include, for purposes of the Act, a person whose management functions relate exclusively to retail merchandising or to manufacturing, or a person whose management functions relate principally to the business outside the U.S. of a foreign bank.

Affiliates: The agencies will determine if a true commonality of interests between the depository organizations exists, or if a sham affiliation has been effected to avoid the prohibitions of the Act. (For further detail see discussion of "affiliate" at pages six and seven of the preamble to the agencies' regulations.)

Total assets: Assets on a consolidated basis as of the close of the organization's last fiscal year. For a depository holding company, total assets include the total amounts of the holding company's affiliates in some instances and all of its affiliates in others. The assets of the foreign parent bank of a branch or agency in the U.S. are excluded.

PROPOSALS:

At the same time as they issued their final rules under the Interlocks Act the agencies proposed four amendments to these rules and requested public comment on the proposed amendments. These proposals are:

(1) *The grandfathering of interlocks:*

The agencies proposed that those eligible for grandfathered interlocking relationships include: anyone whose service as a management official of a depository organization began before November 10, 1978 and at that time was not in violation of the antitrust provisions of the Clayton Act. The Act provides that grandfathered interlocks may continue until November 10, 1988.

The proposal would provide that a management official whose service with a depository institution and a nonaffiliated depository organization is grandfathered cannot serve as a management official of a corporation that became a depository holding company after November 9, 1978, by acquiring shares of the depository institution.

(2) *Representative or nominee:*

The Interlocks Act defines the term management official to include any person who has a representative or nominee serving as a director or as an employee or officer with management functions.

The agencies propose to amend their final regulations by defining the term "representative or nominee" to mean a person who serves as a management official acting on behalf of another person with respect to the official's management duties.

The appropriate supervisor will make a determination whether a management official is a representative or nominee based on facts in particular cases.

Certain relationships, including family, employment or agency relationships would normally be considered sufficient to establish an express or implied duty of the official to act as a representative or nominee.

The ability of a shareholder to elect a director would not necessarily in itself make a director elected by the shareholder a representative or nominee.

(3) *"Person":*

The agencies are considering three alternative definitions of the term "person," for the purposes of the Interlocks Act:

1. Define "person" to include only natural persons.
2. Define the term to include corporations and other businesses as well as natural persons.
3. Define the term to include corporations, other businesses and natural persons but to limit the applicability with respect to businesses to circumstances where it can be demonstrated that an individual is acting in a representative manner on behalf of the business principal.

The agencies requested comment on these or other alternatives.

(4) *Change in circumstances:*

The Interlocks Act provides that where a change in circumstances causes an interlock to become prohibited, the agencies may allow the relationship to continue for a period of not more than 15 months.

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The agencies proposed that (a) certain specified changes in circumstances after March 9, 1979, would terminate grandfather rights, and (b) certain changes would cause nongrandfathered interlocks to become prohibited. These two classes of changes are discussed below.

In addition to listing events that would constitute such a change in circumstances, the regulations specify time periods within which interlocks would have to be severed.

The agencies proposed that events which would defeat grandfather rights would include: a change in the management official's position that significantly increases the official's responsibilities in a depository organization; acquisition, merger or consolidation of an affected depository organization with another, if that organization (or an affiliate) was one the official could not have served prior to the transaction.

Specified changes that would cause nongrandfathered interlocks to become prohibited are natural growth in an organization's assets size; a change in SMSA or community boundaries, or an acquisition, merger, consolidation or establishment of an office.

Grandfathered rights could be terminated only by changes specified in the proposed amendment. Nongrandfathered relationships could become prohibited by other circumstances, and in that event the agencies would retain the right to prescribe the time limit up to 15 months within which these relationships would have to be terminated.

The revised Regulation L replaces the August 21, 1959 edition of Regulation L, as amended.

Enclosed — for member banks, bank holding companies, and certain foreign institutions affected by the regulation — is a copy of the text of the revised regulation and of the proposed amendments thereto. (Copies will be furnished to others upon request directed to the Circulars Division of this Bank.) These documents will also be published shortly in the *Federal Register;* the regulation will be printed in pamphlet form at a later date and will be sent to you when available.

Comments regarding either the revised Regulation L or the proposed amendments to the regulation must be submitted by September 17, and may be sent to our Consumer Affairs and Bank Regulations Department. Any questions regarding the regulation may also be directed to that Department (Tel. No. 212-791-5914).

PAUL A. VOLCKER,
President.

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FEDERAL RESERVE SYSTEM
[12 C.F.R. Part 212]

DEPARTMENT OF THE TREASURY
Comptroller of the Currency
[12 C.F.R. Part 26]

FEDERAL DEPOSIT INSURANCE CORPORATION
[12 C.F.R. Part 348]

FEDERAL HOME LOAN BANK BOARD
[12 C.F.R. Part 563f]

NATIONAL CREDIT UNION ADMINISTRATION
[12 C.F.R. Part 711]

Resolution No. 79-382

MANAGEMENT OFFICIAL INTERLOCKS

Proposed Amendments to Existing Regulations

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

ACTION: Proposed amendments to existing regulations.

SUMMARY: These proposals, if adopted, would amend the regulations issued under the Depository Institution Management Interlocks Act (Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978) (the "Interlocks Act"). The proposals are issued under the Interlocks Act which prohibits certain management official interlocks between depository institutions, depository holding companies, and their affiliates. Interested persons are invited to submit written data, views or arguments regarding the proposed amendments for a period of 60 days.

DATE: Comments must be received by [September 17, 1979].

ADDRESS: Please send your comments to the Office of the Secretary of the Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. All material submitted should refer to Federal Home Loan Bank Board Resolution No. 79-382. All comments received will be made available for public inspection.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason (202) 452-3564, or John Walker (202) 452-2418, Board of Governors of the Federal Reserve System; Gwenn Hibbs (202) 447-1880, Office of the Comptroller of the Currency;

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Pamela LeCren (202) 389-4453, Federal Deposit Insurance Corporation; Kathleen Topelius (202) 377-6444, Federal Home Loan Bank Board; Ross Kendall (202) 632-4870, National Credit Union Adminsitration.

SUPPLEMENTARY INFORMATION: The Depository Institution Management Interlocks Act was enacted as Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Pub. L. 95-630, 12 U.S.C. § 3201 et seq.). The general purpose of the Interlocks Act, and the final regulations issued thereunder, is to foster competition among depository institutions, depository holding companies, and their affiliates. On February 1, 1979, the agencies published proposed regulations (44 Fed. Reg. 6421) under the Interlocks Act. Final regulations issued under the Interlocks Act have been published in today's Federal Register and are effective immediately. These amendments to the final regulations are being proposed in order to clarify certain issues not specifically addressed in the final regulations. The amendments, if adopted, would define the term "representative or nominee" and would add provisions to the final regulations regarding grandfather rights and changes in circumstances. Additionally, comment is being requested on the issue of whether a corporation is a management official for purposes of the Interlocks Act, and if so, under what circumstances.

1. Grandfathered interlocks. Section 206 of the Interlocks Act provides grandfather rights to certain persons. The proposed amendments state who is eligible for grandfather rights, i.e., any person whose service as a management official of a depository organization began prior to November 10, 1978, which service was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. § 19), may continue to serve in such capacity with the depository organization until November 10, 1988.

The proposed amendments provide that a person whose service as a management official of a depository institution and a nonaffiliated depository organization is grandfathered may not serve as a management official of an organization that after November 9, 1978, becomes a depository holding company as a result of acquiring shares of the depository institution. For example, if the service of a director of Bank A and S&L B in a city is grandfathered, that director may not serve as a director of a new bank holding company (BHC A) that, after November 9, 1978, becomes a bank holding company as a result of acquiring Bank A unless the person terminates the interlocking relationship between Bank A and S&L B. If the director decides to continue the interlocking relationship between Bank A and S&L B, it should be noted that the director may not have a representative or nominee serving as a management official of BHC A. The Federal Reserve Board has taken this position on several occasions. See, e.g., Commercial Bankshares, Inc., 64 Fed. Res. Bull. 883, 884 n.4 (1978).

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2. Change in circumstances. Where a change in circumstances causes a particular interlocking relationship between two depository organizations to become prohibited under the Interlocks Act, section 206 provides that the agencies may allow the relationship to continue for a period of time not exceeding 15 months from the date on which the relationship became prohibited. Under the proposed amendments to the regulations, certain changes in circumstances after March 9, 1979, would defeat grandfather rights and cause interlocking service to become prohibited before November 10, 1988. The proposed amendments enumerate certain events that constitute changes in circumstances, and in each case provide a period of time within which the prohibited interlocking service must be terminated.

Generally, the changes in circumstances that defeat grandfather rights are those of a "voluntary" nature. Those changes in circumstances that would defeat grandfather rights are: (1) a significant increase in management responsibilities by a change in position; (2) certain mergers, acquisitions, or consolidations; and (3) the establishment of certain branches.

Mergers, acquisitions, or consolidations will defeat grandfather rights in those cases in which immediately prior to the merger, acquisition, or consolidation, one of the depository organizations was either (a) an organization for which the person could not have served as a management official or (b) an organization that had a depository institution affiliate for which the person could not have served as a management official. For example, if a person's service as a director of Bank A and Bank B, both having total assets of less than $20 million and located in the same city, is grandfathered, and after March 9, 1979, Bank A is merged into, acquired by, or consolidated with Bank C, having total assets of less than $20 million and located in another city, then the person's grandfather rights would not be defeated. However, if Bank C was located in the same city as Bank A and Bank B, then the person's grandfather rights would be defeated. If Bank A were acquired after March 9, 1979, by a bank holding company (BHC A), having total assets of less than $20 million and located in another city, that had no subsidiary bank located in the same city as Bank A and Bank B, then the person's grandfather rights would not be defeated. However, if BHC A had a subsidiary bank located in the same city as Bank A and Bank B, then the person's grandfather rights would be defeated. If a person's service as a director of Bank A located in one city and a bank holding company (BHC B) located in another city is grandfathered, and BHC B does not have a subsidiary bank located in the same city as Bank A but acquires such a subsidiary bank after March 9, 1979, then the person's grandfather rights would be defeated.

Newly established branches will defeat grandfather rights in those cases in which one of the depository organizations involved in the grandfathered interlocking relationship, or its depository institution

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affiliate, establishes an office in the same city as the other depository organization, or its depository institution affiliate, where no such office existed previously, or both depository organizations, or their depository institution affiliates, establish an office in a city or SMSA where neither previously had an office. For example, if a person's service as a director of Bank A and Bank B located in different cities in the same SMSA is grandfathered, and Bank A establishes its first branch in a city where Bank B already has a branch or its main office, then the person's grandfathered rights would be defeated. If Bank A and Bank B both establish their first branches in the same city, or the depository institution affiliates of Bank A and Bank B both establish their first branches in the same city, then the person's grandfather rights would be defeated. However, if Bank A and Bank B have a branch located in the same city, then the banks may establish additional branches in that city without defeating the person's grandfather rights. If Bank A establishes its first branch in a city where Bank B has no branch but where a depository institution affiliate of Bank B has a branch, then the person's grandfather rights would be defeated.

The proposed amendments provide that when an event occurs that would defeat grandfather rights, the interlocking relationship may continue through the date of the next regularly scheduled annual meeting of shareholders of either of the depository organizations involved, whichever is later. A person whose grandfathered service as a management official of two depository organizations becomes prohibited by a change in circumstances may terminate the prohibited service with one of the depository organizations simply by not being reelected or reappointed as a management official of that depository organization. Allowing this time period within which to terminate interlocks that become prohibited should lessen the disruptive effects of management changes to the organizations involved. The person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but in no case may an interlocking relationship continue for more than 15 months after a change in circumstance occurs that makes the relationship prohibited.

With respect to nongrandfathered interlocking relationships, certain events--whether voluntary or involuntary--may cause an interlocking relationship to become prohibited under the Interlocks Act. The proposed amendments provide that relationships that become subject to the prohibitions of the Interlocks Act as a result of certain "involuntary" changes in circumstances defined in the proposed amendments (changes in boundaries of a city, town, or village, or an SMSA, or natural growth in asset size of a depository organization) normally will be entitled to a 15-month period to comply with the act. The agencies view such changes in circumstances as being largely beyond the control of the depository organizations, and therefore "involuntary."

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The proposed amendments provide that relationships that become subject to the prohibitions of the Interlocks Act as a result of certain "voluntary" changes in circumstances defined in the proposed amendments (mergers, acquisitions, consolidations, and the establishment of branches) normally will be entitled to continue through the date of the next regularly scheduled annual meeting of shareholders of either of the depository organizations involved, whichever is later. The appropriate agency or agencies may be requested to grant an additional extension of time to continue the interlocking relationship, but in no case may an interlocking relationship continue for more than 15 months after a change in circumstances occurs that makes the relationship prohibited.

3. Definition of Representative or Nominee. Section 202(4) of the Interlocks Act defines the term "management official" to include any person who has a "representative or nominee" serving as an employee or officer with management functions or a director. Thus, a person may be regarded as a management official of a depository organization without actually serving as a management official of the organization. The proposed amendments define the term "representative or nominee" to mean a person who serves as a management official under an express or implied duty to act on behalf of another person with respect to management responsibilities. The agencies will make the determination of whether a person is a representative or nominee of another person based on all the facts in a particular case. Under the proposed amendments, certain relationships, including family, employment, or agency relationships, normally will be considered sufficient to establish the existence of an express or implied duty. The agencies believe that the ability of a shareholder of an organization to elect a director and the exercise of that ability would not necessarily make the elected director the representative or nominee of the shareholder. If the director has some relationship with the shareholder with regard to the director's management responsibilities, the director would be considered the shareholder's representative. Finally, if a person who is entitled to a position on the board of an organization asks another person to serve in that position, that other person would be considered a "representative or nominee." This situation might arise where a person entitled to serve on the board of an organization is prohibited from serving by statute or by a cease-and-desist agreement.

4. Representative or nominee of a nondepository corporation or business. As stated above, section 202(4) of the Interlocks Act defines the term "management official" to include "any person" who has a representative or nominee serving as an employee or officer with management functions or a director. Inasmuch as the term "any person" in section 202(4) could include corporations and other businesses, the agencies are considering whether to define the term "person" for purposes of the Interlocks Act so as to exclude corporations or other businesses. If the term "any

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person" applies to corporations, then a nondepository corporation that has one officer serving as a director of one depository organization and another officer serving as a director of another depository organization could be considered to have a representative or nominee serving as a management official of the two depository organizations. Accordingly, the nondepository corporation would be a management official under the Interlocks Act, and, for example, would be prohibited from having one officer serve as a director of one depository organization with total assets exceeding $1 billion and another officer serve as a director of another depository organization with total assets exceeding $500 million. Likewise, the nondepository corporation would be prohibited from having one officer serve as a director of one depository organization in a city and another officer serve as a director of another depository organization in the same city. The agencies are considering three alternatives regarding this issue:

1. Define the term "any person" to mean only natural persons;

2. define the term to mean corporations, other businesses, and natural persons; or

3. define the term to mean corporations, other businesses, and natural persons, and in the case of corporations or other businesses to limit the applicability to those circumstances where an individual acts in a demonstrably representative manner on behalf of the corporate or business principal.

The agencies request comment on these and other alternatives.

Accordingly, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration propose to amend 12 C.F.R. by amending Parts 212, 26, 348, 563f, and 711, respectively, to add new provisions to read as follows:

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FEDERAL RESERVE SYSTEM

[12 C.F.R. Part 212]

[REGULATION L]

PART 212--MANAGEMENT OFFICIAL INTERLOCKS

1. Paragraph (k) of section 212.2 is added to read as follows:

SECTION 212.2--DEFINITIONS

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(k) "Representative or nominee" means a person who serves as a management official and has an express or implied duty to act on behalf of another person with respect to management responsibilities. Whether a person is a "representative or nominee" depends upon the facts in individual cases. Certain relationships, including family, employment, or agency relationships, are normally considered sufficient to establish the existence of such an express or implied duty. The ability of a shareholder of a company to elect a director and the exercise of this ability does not make the director the representative or nominee of the shareholder on the basis of these facts alone. However, if the director has some relationship with the shareholder, for example, a duty arising from an agreement or understanding between the shareholder and the director with regard to the director's management responsibilities, the director is the "representative" of the shareholder. If a person is entitled to a position on the board of directors and that person asks another to serve in that position, that other person is considered a "representative or nominee."

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2. Section 212.5 is added to read as follows:

SECTION 212.5--GRANDFATHERED INTERLOCKING RELATIONSHIPS

(a) A person whose service in a position as a management official of a depository organization began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in that position until November 10, 1988, except as provided in section 212.6(a) of this Part.

(b) A person who may serve under paragraph (a) of this section until November 10, 1988, as a management official of a depository institution and a nonaffiliated depository organization, may not serve as a management official of an organization that after November 9, 1978, becomes a depository holding company as a result of acquiring shares of the depository institution unless the person terminates the interlocking relationship between the depository institution and the nonaffiliated depository organization.

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3. Section 212.6 is added to read as follows:

SECTION 212.6--CHANGE IN CIRCUMSTANCES

(a)(1) If a person's service as a management official is grandfathered under section 212.5 of this Part, the person must terminate such service only if any of the following events occur after March 9, 1979:

(i) In the case of either organization (or a successor organization resulting from acquisition, merger, or consolidation), the person's management responsibilities have been significantly increased within either organization (or its successor) by a change in such person's position;

(ii) one of the depository organizations involved in the interlocking relationship acquires or is acquired by, is merged into or with, or is consolidated with another depository organization that prior to the transaction (A) was a depository organization for which the person could not have served as a management official, or (B) had a depository institution affiliate for which the person could not have served as a management official; or

(iii) one of the depository organizations involved in the grandfathered interlocking relationship, or its depository institution affiliate, establishes an initial office in the same community as the other depository organization, or its depository institution affiliate, or both of the depository organizations, or their depository institution affiliates, establish an office in a community or SMSA where neither previously had an office.

(2) If a person's grandfathered service becomes prohibited under paragraph (a)(1) of this section, the person may continue to serve as a management official of both organizations involved in the prohibited interlocking relationship through the date of the next regularly scheduled annual shareholders' meeting of either organization, whichever occurs later, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances.

(b)(1) If a person's service as a management official is not grandfathered under section 212.5 of this Part and becomes prohibited as a result of an increase in the asset size of an organization due to natural growth, or a change in SMSA, or community boundaries, or

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the designation of a new SMSA, the person has 15 months from the date of the change in circumstances to comply with this Part, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

(2) If a person's service as a management official is not grandfathered under section 212.5 of this Part and becomes prohibited as a result of an acquisition, a merger, a consolidation, or the establishment of an office, the person may continue to serve as a management official of both organizations involved in the prohibited interlock through the date of the next regularly scheduled annual shareholders' meeting of either organization, whichever occurs later, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances.

Board of Governors of the Federal Reserve System, effective July 13, 1979.

(Signed) Theodore E. Allison

Theodore E. Allison
Secretary of the Board

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