

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 6271]
January 8, 1969]

INTERPRETATION BY BOARD OF GOVERNORS
Regulation R — Relationships With Dealers in Securities Under Section 32
of the Banking Act of 1933

To All Member Banks in the Second Federal Reserve District:

Printed below is an excerpt from the *Federal Register* of January 3, containing an interpretation by the Board of Governors of the Federal Reserve System of its Regulation R, entitled "Relationships With Dealers in Securities Under Section 32 of the Banking Act of 1933."

Additional copies of this circular will be furnished upon request.

ALFRED HAYES,
President.

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

**SUBCHAPTER A—BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM**

**PART 218—RELATIONS WITH DEALERS
IN SECURITIES UNDER SECTION
32, BANKING ACT OF 1933**

**Applicability to Bank Holding
Companies**

**§ 218.114 Interlocking service between
securities companies and bank hold-
ing companies.**

(a) The Board has recently considered whether section 32 of the Banking Act of 1933 (12 U.S.C. 78) and this part (Regulation R) prohibit a person primarily engaged in securities activities described in section 32, or associated with an organization so engaged, from serving as an officer, director, or employee of a holding company proposed to be organized by a member bank to own all the stock of such bank.

(b) Section 32 provides in relevant part that: "No officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or

distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve [at] the same time as an officer, director, or employee of any member bank * * *."

(c) As the U.S. Supreme Court observed in *Board of Governors v. Agnew*, 329 U.S. 441 (1946), "Section 32 is directed to the probability or likelihood, based on the experience of the 1920's, that a bank director interested in the underwriting business may use his influence in the bank to involve it or its customers in securities which his underwriting house has in its portfolio or has committed itself to take. * * * It [section 32] is a preventive or prophylactic measure."

(d) In an earlier interpretation, the Board had concluded that section 32 did not prohibit a partner of a securities firm from serving as a director of a long-established holding company, with seven nonbank subsidiaries, that recently had acquired the controlling stock of a member bank. In distinguishing that situation from the present matter, the Board observed that the predominant—in fact, almost the sole—function of the proposed bank holding company would be to hold the stock of the bank. It therefore appeared to the Board that the affairs of the member bank and the holding company would be so closely identified and

functionally related that the same possibilities of abuse which section 32 was designed to guard against would be present in the case of a director of the holding company as in the case of a director of the member bank. To give cognizance to the separate corporate entities in such a situation, would, in the Board's opinion, partially frustrate Congressional purpose in enacting the statute.

(e) The Board concluded that where the principal activity of a holding company is the ownership and control of banks, including one or more member banks, the holding company and each member bank subsidiary should be considered as constituting together a single entity for section 32 purposes, so that a person who is primarily engaged in section 32 business or associated with an organization so engaged is prohibited by that law from serving as an officer, director, or employee of such a holding company.

(12 U.S.C. 248(1). Interprets or applies 12 U.S.C. 78)

Dated at Washington, D.C., the 20th day of December 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-29; Filed, Jan. 2, 1969;
8:45 a.m.]