

ATCIR No 8831
May 13, 1980

To the Addressee:

Enclosed is a copy of a new pamphlet setting forth Regulation L, "Management Official Interlocks," of the Board of Governors of the Federal Reserve System, as adopted July 19, 1979 and amended effective May 9, 1980. The pamphlet incorporates the amendments to Regulation L described in this Bank's Circular No. 8818, dated May 5, 1980.

Questions regarding the regulation may be directed to this Bank's Regulations Division (Tel. No. 212-791-5914).

Circulars Division
FEDERAL RESERVE BANK OF NEW YORK

BOARD OF GOVERNORS
of the
FEDERAL RESERVE SYSTEM

MANAGEMENT OFFICIAL INTERLOCKS

REGULATION L

(12 CFR 212)

Adopted July 19, 1979
As amended effective May 9, 1980



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

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REGULATION L

(12 CFR 212)

Adopted July 19, 1979
As amended effective May 9, 1980

MANAGEMENT OFFICIAL INTERLOCKS*

SECTION 212.1—AUTHORITY, PURPOSE, AND SCOPE

(a) **Authority.** This Part is issued under the provisions of the Depository Institution Management Interlocks Act ("Interlocks Act") (12 U.S.C. 3201 *et seq.*).

(b) **Purpose and scope.** The general purpose of the Interlocks Act and this Part is to foster competition by general prohibiting a management official of a depository institution or depository holding company from also serving as a management official of another depository institution or depository holding company if the two organizations (1) are not affiliated and (2) are very large or are located in the same local area. This Part applies to management officials of State member banks, bank holding companies, and their affiliates.

SECTION 212.2—DEFINITIONS

For the purpose of this Part, the following definitions apply:

(a) "Adjacent cities, towns, or villages" means cities, towns or villages whose borders are within ten road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is regarded as the boundary line of that city, town or village for the purpose of this definition.

(b) "Affiliate" has the meaning given in section 202 of the Interlocks Act. For purposes of section 202, an individual's shares include shares of members of his or her immediate family. For the purpose of section 202(3)(B) of the Interlocks Act, an affiliate relationship based on common ownership does not exist if the appropriate Federal supervisory

agency or agencies determine, after giving the affected persons the opportunity to respond, that the asserted affiliation appears to have been established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the agencies will consider, among other things, whether a person, including members of his or her immediate family, whose shares are necessary to constitute the group owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate with that person's ownership of shares in the other organization. "Immediate family" includes spouse, mother, father, child, grandchild, sister, brother, or any of their spouses, whether or not any of their shares are held in trust.

(c) "Community" means city, town, or village, or contiguous or adjacent cities, towns, or villages.

(d) "Contiguous cities, towns, or villages" means cities, towns, or villages whose borders actually touch each other.

(e) "Depository holding company" means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act) having its principal office located in the United States.

(f) "Depository institution" means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered in the United States and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a "depository institution."

(g) "Depository organization" means a depository institution or a depository holding company.

(h) "Management official" means an employee

* The text corresponds to the Code of Federal Regulations, Title 12, Chapter II, Part 212; cited as 12 CFR 212. The words "this Part" as used herein, mean Regulation L.

or officer with management functions (including a branch manager), a director (including an advisory director or honorary director), a trustee of a business organization under the control of trustees (e.g., a mutual savings bank), or any person who has a representative or nominee serving in any such capacity. "Management official" does not mean a person whose management functions relate exclusively to the business of retail merchandising or manufacturing, for the purposes of section 212.3(c) of this Part, and does not mean a person whose management functions relate principally to the business outside the United States of a foreign commercial bank. "Management official" does not include persons described in the provisos of section 202(4) of the Interlocks Act.

(i) "Office" of a depository institution means a principal office or a branch office located in the United States, but does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office. "Office" of a depository holding company means its principal corporate headquarters.

(j) "Person" means a natural person, corporation, or other business.

(k) "Representative or nominee" means a person who serves as a management official and has an express or implied obligation 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, and the appropriate Federal supervisory agency or agencies will determine, after giving the affected persons an opportunity to respond, whether a person is a "representative or nominee." Certain relationships, including family, employment, or agency relationships, or the ability and exercise of ability by a shareholder of a depository organization to elect a director may be evidence of such an express or implied obligation by the management official to another person. For the purposes of this definition, "person" shall include only natural persons.

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of its depository institution affiliates for the purposes of section 212.3(b) of this Part, and include the total assets of all of its affiliates for purposes of section 212.3(c) of this Part. Total assets of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself

exclusive of the assets of the other offices of the foreign commercial bank.

(m) "United States" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

SECTION 212.3—GENERAL PROHIBITIONS

(a) **Community.** A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) offices of both are located in the same community; (2) offices of depository institution affiliates of both are located in the same community; or (3) an office of one of the depository organizations is located in the same community as an office of a depository institution affiliate of the other.

(b) **SMSA.** A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) offices of both are located in the same Standard Metropolitan Statistical Area ("SMSA") and either has total assets of \$20 million or more; (2) offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of \$20 million or more; or (3) an office of one of the depository organizations is located in the same SMSA as an office of a depository institution affiliate of the other and either the depository organization or the depository institution affiliate has total assets of \$20 million or more.

(c) **Major Assets.** Without regard to location, a management official of a depository organization with total assets exceeding \$1 billion or a management official of any affiliate of the greater than \$1 billion depository organization may not serve at the same time as a management official of a nonaffiliated depository organization with total assets exceeding \$500 million or a management official of any affiliate of the greater than \$500 million depository organization.

SECTION 212.4—PERMITTED INTERLOCKING RELATIONSHIPS

(a) **Interlocking relationships permitted by statute.** The prohibitions of section 212.3 do not apply in the case of any one or more of the following organizations or their subsidiaries:

(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 formally in liquidation, or that is in the hands of a receiver, conservator, or other official exercising a similar function;

(4) a credit union being served by a management official of another credit union;

(5) a State-chartered savings and loan guaranty corporation; or

(6) a Federal Home Loan Bank or any other bank organized solely 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.

(b) **Interlocking relationships permitted by Board order.** A management official or a prospective management official of a State member bank, bank holding company, or affiliate of either may apply for the Board's prior approval to enter into a relationship involving another depository organization that would otherwise be prohibited under section 212.3 of this Part, if the relationship falls within any of the classifications enumerated in this paragraph. If the relationship involves a depository organization subject to the supervision of another Federal supervisory agency as specified in section 207 of the Interlocks Act, the management official or prospective management official must also obtain the prior approval of that other agency.

(1) **Organization in low income area; minority or women's organization.** A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (A) located, or to be located, in a low income or other economically depressed area, or (B) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization specified in (A) or (B) above; (ii) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed

by the appropriate Federal supervisory agency or agencies in any specific case.

(2) **Newly-chartered organization.** A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the newly-chartered organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly-chartered organization commences; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(3) **Conditions endangering safety or soundness.** A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if the primary Federal supervisory agency of one of the depository organizations believes that such depository organization faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(4) **Organization sponsoring credit union.** A management official of a depository organization or its affiliate may serve at the same time as a management official of a Federally-insured credit union that is sponsored by the depository organization or its affiliate primarily to serve employees of the depository organization.

(5) **Loss of management officials due to changes in circumstances.** If a depository organization experiences a change in circumstances described in paragraphs (a)(1), (b)(1), or (b)(2) of section 212.6, and the change requires the termination of service at the depository organization of 50 per cent or more of the organization's directors or of 50 per cent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in paragraphs (a)(2),

(b)(1), and (b)(2) of section 212.6, provided that: (i) The appropriate Federal supervisory agency or agencies determines that the service by such management officials is necessary to provide management or operating expertise; (ii) each management official so affected agrees to sever the prohibited interlocking relationship no later than 30 months after the change in circumstances; (iii) the depository organization submits a proposal for the orderly termination of service by such management officials over the time period provided; and (iv) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

SECTION 212.5—GRANDFATHERED INTERLOCKING RELATIONSHIPS

A person whose interlocking service in a position as a management official of two or more depository organizations 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 such interlocking positions until November 10, 1988, except as provided in section 212.6(a) of this Part.

SECTION 212.6—CHANGES IN CIRCUMSTANCES

(a)(1) **Grandfathered interlocks.** If a person's service as a management official is grandfathered under section 212.5 of this Part, the person must terminate such service if the service becomes prohibited by the occurrence of any of the following changes in circumstances:

(i) **Acquisitions, mergers, and consolidations.** 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 for which prior to the transaction the person could not have served as a management official under section 212.3; or

(ii) **Branching.** 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 affili-

ates, establish offices in a community or SMSA where neither previously had an office.

(2) **Grace period.** 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 all organizations involved in the prohibited interlocking relationship through the date of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs last, 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. If the change in circumstances occurred prior to (May 9, 1980), the change will be considered to have occurred on (May 9, 1980) for purposes of this paragraph.

(b)(1) **Non-grandfathered interlocks; involuntary changes; grace period.** If a person's service as a management official is not grandfathered under section 212.5 and becomes prohibited as a result of an increase in the asset size of an organization due to natural growth, or as a result of a change in SMSA or community boundaries or 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. If the change in circumstances occurred prior to May 9, 1980 the change will be considered to have occurred on May 9, 1980 for purposes of this subparagraph.

(2) **Non-grandfathered interlocks; voluntary changes; grace period.** 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, merger, consolidation, or the establishment of an office, the person may continue to serve as a management official of all organizations involved in the prohibited interlock through the date of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs last, 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. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980 for purposes of this paragraph.

SECTION 212.7—EFFECT OF INTERLOCKS ACT ON CLAYTON ACT

The Board of Governors of the Federal Reserve System regards the provisions of the first three paragraphs of section 8 of the Clayton Act (15 U.S.C. 19) to have been supplanted by the revised and more comprehensive prohibitions on management official interlocks between depository organizations in the Interlocks Act.

SECTION 212.8—ENFORCEMENT

The Board of Governors of the Federal Reserve System administers and enforces the Interlocks Act with respect to State member banks, bank holding companies, and their affiliates, and may refer the case of a prohibited interlocking relationship involving any such organization, regardless of the nature of any other organization involved in the prohibited relationship, to the Attorney General of the United States to enforce compliance with the Interlocks Act and this Part. If an affiliate of a State member bank or bank holding company is primarily subject to the regulation of another Federal supervisory agency, then the Board does not administer and enforce the Interlocks Act with respect to that affiliate.

STATUTORY APPENDIX

INTERLOCKING DIRECTORS

Title II of the Act of November 10, 1978
(92 Stat. 3672)

SEC. 201.

This title may be cited as the "Depository Institution Management Interlocks Act".

SEC. 202.

As used in this title—

(1) the term "depository institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

(2) the term "depository holding company" means a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956, a company which would be a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 but for the exemption contained in section 2(a)(5)(F) thereof, or a savings and loan holding company as defined in section 408(a)(1)(D) of the National Housing Act;

(3) the characterization of any corporation (including depository institutions and depository holding companies), as an "affiliate of," or as "affiliated" with any other corporation means that—

(A) one of the corporations is a depository holding company and the other is a subsidiary thereof, or both corporations are subsidiaries of the same depository holding company, as the term "subsidiary" is defined in either section 2(d) of the Bank Holding Company Act of 1956 in the case of a bank holding company or section 408(a)(1)(H) of the National Housing Act in the case of a savings and loan holding company; or

(B) more than 50 per centum of the voting stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 50 per centum of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings bank on the date of enactment of this Act, and the other corporation is a mutual savings bank; or

(D) one of the corporations is a bank, insured

by the Federal Deposit Insurance Corporation and chartered under State law, the voting securities of which are held by other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by any such other bank in excess of 5 per centum of the paid-in capital and 5 per centum of the surplus of such other bank; or

(E) one of the corporations is a bank, chartered under State law and insured by the Federal Deposit Insurance Corporation, the voting securities of which are held only by persons who are officers of other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by such officers of the other banks in excess of 6 per centum of the paid-in capital and 6 per centum of the surplus of such a bank.

(4) the term "management official" means an employee or officer with management functions, a director (including an advisory or honorary director), a trustee of a business organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity: *Provided*, That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this title, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: *And provided further*, That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this title, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank; and

(5) the term "office" used with reference to a

depository institution means either a principal office or a branch.

[U. S. C., title 12, sec. 3201.]

SEC. 203.

A management official of a depository institution or a depository holding company may not serve as a management official of any other depository institution or depository holding company not affiliated therewith if an office of one of the institutions or any depository institution that is an affiliate of such institutions is located within either—

(1) the same standard metropolitan statistical area as defined by the Office of Management and Budget, except in the case of depository institutions with less than \$20,000,000 in assets in which case the provision of paragraph (2) shall apply, as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or

(2) the same city, town, or village as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or in any city, town, or village contiguous or adjacent thereto.

[U. S. C., title 12, sec. 3202.]

SEC. 204.

If a depository institution or a depository holding company has total assets exceeding \$1,000,000,000, a management official of such institution or any affiliate thereof may not serve as a management official of any other nonaffiliated depository institution or depository holding company having total assets exceeding \$500,000,000 or as a management official of any affiliate of such other institution.

[U. S. C., title 12, sec. 3203.]

SEC. 205.

The prohibitions contained in sections 203 and 204 shall not apply in the case of any one or more of the following or subsidiary thereof:

(1) A depository institution or depository holding company which has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function.

(2) A corporation operating under section 25 or 25A of the Federal Reserve Act.

(3) A credit union being served by a management official of another credit union.

(4) A depository institution or depository holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

(5) A State-chartered savings and loan guaranty corporation.

(6) A Federal Home Loan Bank or any other bank organized specifically to serve depository institutions.

[U. S. C., title 12, sec. 3204.]

SEC. 206.

A person whose service in a position as a management official began prior to the date of enactment of this title and was not immediately prior to the date of enactment of this title in violation of section 8 of the Clayton Act is not prohibited by section 203 or section 204 of this title from continuing to serve in that position for a period of ten years after the date of enactment of this title. The appropriate Federal banking agency (as set forth in section 209) may provide a reasonable period of time for compliance with this title, not exceeding fifteen months, after any change in circumstances which makes such service prohibited by this title.

[U. S. C., title 12, sec. 3205.]

SEC. 207.

This title shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance

Corporation, and savings and loan holding companies.

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration, and

(6) Upon referral by the agencies named in the foregoing paragraphs (1) through (5), the Attorney General shall have the authority to enforce compliance by any person with this title.

[U. S. C., title 12, sec. 3206.]

* * * * *

SEC. 209.

Rules and regulations to carry out this title, including rules or regulations which permit service by a management official which would otherwise be prohibited by section 203 or section 204, may be prescribed by—

(1) the Comptroller of the Currency with respect

to national banks and banks located in the District of Columbia.

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies.

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies, and

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration.

[U. S. C., title 12, sec. 3207.]