....ANNOUNCEMENT BY THE BOARD....

Section 8 of the Clayton Act, which becomes effective on October 15, 1916, prohibits private bankers under certain conditions from serving as officers or directors of member banks.

A number of inquiries have been received asking the Board's interpretation of the language "private banker" as used in the Clayton Act. As the Board is required, under the provisions of the Clayton Act, to prosecute those violating its terms, it is necessary that it should make clear its interpretation of the language used in order that the banks may comply with the letter and spirit of the Act.

The purpose of the Act, as its title implies, was to prevent unlawful restraints and monopolies. It is obvious, therfore, that Congress intended to prohibit common control of member banks and of private bankers engaged in the same activities as member banks, and that it intended to preserve competition in cities of more than two hundred thousand inhabitants between member banks, private bankers, and other incorporated banks, and likewise intended to preserve competition between member banks, regardless of their location, and State banks, trust companies, or private bankers having aggregate resources of more than five million dollars.

In this view the Board interprets the term "private banker" to include partnerships or individuals who are engaged in the banking business, as that term is generally understood, -- including those partnerships and individuals who solicit or receive deposits subject to check, who do a foreign exchange, acceptance, loan or discount business, or who purchase and sell and distribute issues of securities by which capital is furnished for business or public enterprises.

The term "private banker" is interpreted not to include the ordinary stock, note, or commodity broker, unless a substantial proportion of his profits are derived from, or a substantial part of his business consists in, one or more of the banking activities described, nor is it interpreted to include partnerships or individuals using only their own funds in making loans or investments.

No private banker whose partnership or firm assets aggregate more than five million dollars is eligible, under the terms of the Clayton Act, to serve as a director of any member bank, and no private banker, regardless of the amount of partnership or firm assets, is eligible to serve as a director, other officer or employee of any member bank located in a city of more than 200,000 inhabitants, if such firm or partnership is located in the same city.

The Kern Amendment to the Clayton Act does not authorize the Federal Reserve Board to grant permission to such private bankers to serve as officers or directors of a member bank even though it appears that they are not in substantial competition with such member bank.

October 6, 1916.