

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-6006

March 29, 1928.

SUBJECT: New Clayton Act Regulation and Forms.

Dear Sir:

There is enclosed for your information a copy of the Act of March 9, 1928, amending Section 8 of the Clayton Anti-trust Act so as to broaden the powers of the Federal Reserve Board in the matter of granting permits for interlocking bank directorates. You will observe that the Board is now authorized to grant such permits whenever in its judgment it is not incompatible with the public interest, and also that it is no longer necessary for a member bank to be involved in order for the Board to be authorized to grant such permits.

The Board has recently revised its Regulation L pertaining to interlocking bank directorates so as to conform to the law as amended. This regulation has not yet been printed but a mimeographed copy is enclosed herewith for your advance information.

The various forms used in connection with the administration of the Clayton Act are also being revised and a supply of such forms will be forwarded to you as soon as they can be printed. Hereafter, all applications should be submitted to the Board on the new forms.

Please advise the Board as soon as possible how many copies of the new regulation and forms you will require.

Very truly yours,

J. C. Noell,
Assistant Secretary.

Enclosures.

TO ALL FEDERAL RESERVE AGENTS.

FEDERAL RESERVE BOARD

REGULATION L, SECOND SERIES OF 1928.

(Superseding Regulation L of 1928)

INTERLOCKING BANK DIRECTORATES UNDER THE
CLAYTON ACT

Section I. Definitions

Within the meaning of this regulation--

The term "bank" shall include any bank, banking association or trust company organized or operating under the laws of the United States or of any State thereof.

The term "national bank" shall be construed to apply not only to national banking associations but also to banks, banking associations, and trust companies organized or operating under the laws of the United States, including all banks and trust companies doing business in the District of Columbia, regardless of the sources of their charters.

The term "resources" shall be construed to mean an amount equal to the sum of the deposits, capital, surplus, and undivided profits.

The term "State bank" shall include any bank, banking association, or trust company incorporated under State law.

The term "private banker" shall apply to any unincorporated individual engaging in one or more phases of the banking business as that term is generally understood and to any member of an unincorporated firm engaging in such business.

The term "Edge corporation" shall mean any corporation organized under the provisions of Section 25(a) of the Federal Reserve Act, as amended.

The term "city of over 200,000 inhabitants" includes any city, incorporated town, or village of more than 200,000 inhabitants, as shown by the last preceding decennial census of the United States. Any bank located anywhere within the corporate limits of such city is located in a city of over 200,000 inhabitants within the meaning of the Clayton Act, even though it is located in a suburb or an outlying district at some distance from the principal part of the city.

Section II. Prohibitions of
Clayton Act

Under section 8 of the Clayton Antitrust Act--

(1) No person who is a director or other officer or employee of a national bank having resources aggregating more than \$5,000,000 can legally serve at the same time as director, officer, or employee of any other national bank, regardless of its location.

(2) No person who is a director in a State bank or trust company having resources aggregating more than \$5,000,000 or who is a private banker having resources aggregating more than \$5,000,000 can legally serve at the same time as director of any national bank, regardless of its location.

(3) No person can legally be a director, officer, or employee of a national bank located in a city of more than 200,000 inhabitants who is at the same time a private banker in the same city or a director, officer, or employee of any other bank (State or national) located in the same city, regardless of the size of such bank.

The eligibility of a director, officer, or employee under the foregoing provisions is determined by the average amount of deposits, capital, surplus, and undivided profits as shown in the official statements of such bank, banking association, or trust company filed as provided by law during the fiscal year next preceding the date set for the annual election of directors, and when a director, officer, or employee has been elected or selected in accordance with the provisions of the Clayton Act it is lawful for him to continue as such for one year thereafter under said election or employment.

When any person elected or chosen as a director, officer, or employee of any bank is eligible at the time of his election or selection to act for such bank in such capacity his eligibility to act in such capacity is not affected by reason of any change in the affairs of such bank from whatsoever cause until the expiration of one year from the date of his election or employment.

Section III. Exceptions

The provisions of section 8 of the Clayton Act--

(1) Do not apply to mutual savings banks not having a capital stock represented by shares.

(2) Do not prohibit a person from being at the same time a director, officer, or employee of a national bank and not more than one other national bank, State bank, or trust company, where the entire capital stock of one is owned by the stockholders of the other.

(3) Do not prohibit a person from being at the same time a class A director of a Federal reserve bank and also an officer or director, or both an officer and a director, in one member bank.

(4) Do not prohibit a person who is serving as director, officer, or employee of a national bank, even though it has resources aggregating over \$5,000,000, from serving at the same time as director, officer, or employee of any number of State banks and trust companies, provided such State institutions are not located in the same city of over 200,000 inhabitants as the national bank and do not have resources aggregating in the case of any one bank more than \$5,000,000.

(5) Do not prohibit a person from serving at the same time as director, officer, or employee of any number of national banks, provided no two of them are located in the same city of over 200,000 inhabitants and no one of them has resources aggregating over \$5,000,000.

(6) Do not prohibit a person who is not a director, officer or employee of any national bank from serving at the same time as officer, director, or employee of any number of State banks or trust companies, regardless of their locations and resources.

(7) Do not prohibit a person who is an officer or employee but not a director of a State bank from serving as director, officer, or employee of a national bank, even though either or both of such banks have resources aggregating over \$5,000,000, provided both banks are not located in the same city of over 200,000 inhabitants.

(3) Do not prohibit a person who is an officer or employee but not a director of a national bank from serving at the same time as director, officer, or employee of a State bank, even though either or both of such banks have resources aggregating over \$5,000,000, provided both banks are not located in the same city of over 200,000 inhabitants.

(9) Do not prohibit a private banker or an officer, director or employee of any bank or a Class A director of a Federal reserve bank from being at the same time an officer, director or employee of not more than two other banks within the prohibitions of the Clayton Act, if there is in force a permit therefor issued by the Federal Reserve Board.

Exceptions cumulative.--The above exceptions are cumulative.

Section IV. Permission of the Federal Reserve Board.

(a) In General.--Section 8 of the Clayton Antitrust Act, as amended by the Acts of May 15, 1916, May 26, 1920, and March 9, 1928, authorizes the Federal Reserve Board to permit any private banker or any officer, director, or employee of any bank, banking association, or trust company, or any class A director of a Federal reserve bank to serve as director, officer, or employee of not more than two other banks, banking associations, or trust companies coming within the prohibitions of the Clayton Act, if in the judgment of the Federal Reserve Board it is not incompatible with the public interest.

(b) When obtained.--Inasmuch as this exception to the prohibitions of the Clayton Act applies only when "there is in force a permit therefor issued by the Federal Reserve Board," it is a violation of the law to serve two or more banks in the prohibited classes before such a permit has been obtained. A permit should be obtained, therefore, before becoming an officer, director, or employee of more than one bank in the prohibited classes. It may be procured before the person applying therefor has been elected as director or appointed an officer or employee of any bank in the prohibited classes.

(c) Applications for permission.--A person wishing to obtain a permit from the Federal Reserve Board to serve banks coming within the prohibitions of the Clayton Act should--

(1) Make formal application on F. R. B. Form 94, or, if a private banker, on F. R. B. Form 94d. Each of these forms is made a part of this regulation.

(2) Obtain from each of the banks involved a statement on F. R. B. Form 94a, which is made a part of this regulation, showing the character of its business, together with a copy of its last published statement of condition, and, if a private banker, make a statement on F. R. B. Form 94e showing the

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character of his or his firm's business.

(3) Forward all these papers to the Federal reserve agent of his district, who will attach his recommendation on F. R. B. Form 94b, which is made a part of this regulation, and forward them in due course to the Federal Reserve Board.

(d) Compatibility with the Public Interest. - In determining whether the issuance of such a permit would be compatible with the public interest, the Federal Reserve Board will consider:

- (1) Whether the banks involved are natural competitors;
- (2) Whether their having the same directors, officers or employees would tend to lessen competition or to restrict credit; and

- (3) Any other facts having a bearing upon the interest of the public in such banks as affected by their having the same directors, officers or employees.

(e) Approval or disapproval.--As soon as an application is acted upon by the board, the applicant will be advised of the action taken. If the board approves the application, a formal permit to serve on the banks involved will be issued to the applicant.

(f) Hearing. - If it appears to the Board that it would be incompatible with the public interest to grant such permit the Board will so notify the applicant and will afford him every opportunity to present any additional facts or arguments bearing on the subject before making any final decision in the case.

(g) Effect of permits. -A permit once granted continues in force until revoked, and need not be renewed.

(h) Revocation.--All permits, however, are subject to revocation whenever the Federal Reserve Board, after giving reasonable notice to the persons to whom they were issued and affording them an opportunity to be heard, finds that the public interest requires their revocation.

Section V. Permits Under Section 25 Of The Federal Reserve Act.

With the approval of the Federal Reserve Board, any director, officer, or employee of a member bank which has invested in the stock of any corporation principally engaged in international or foreign banking or financial operations or banking in a dependency or insular possession of the United States, under the provisions of section 25 of the Federal reserve act, may serve as director, officer, or employee of any such foreign bank or financial corporation.

Applications for approval.--The approval of the Federal Reserve Board for such interlocking directorates may be obtained through an informal application in the form of a letter addressed to the Federal Reserve Board either by the officer, director, or employee involved, or in his behalf by one of the banks which he is serving. Such application should be sent directly to the Federal Reserve Board.

Section VI. Permits To Serve Edge Corporations

With the approval of the Federal Reserve Board--

(1) Any officer, director, or employee of any member bank may serve at the same time as director, officer, or employee of any Edge corporation in whose capital stock the member bank shall have invested.

(2) Any officer, director, or employee of any Edge corporation may serve at the same time as officer, director, or employee of any other corporation in whose capital stock such Edge corporation shall have invested under the provisions of the Edge Act.

Applications for approval.-- Such approval may be obtained through an informal application in the form of a letter addressed to the Federal Reserve Board either by the director, officer, or employee involved, or in his behalf by one of the banks or corporations involved. Such applications should be sent directly to the Federal Reserve Board.