The Banking Affiliates Act

Mr. President, There is a responsibility incumbent in the Congress to review existing laws and, where unnecessary administrative or regulatory burdens have been found, to revise them. A need exists today to revise a portion of the Federal Reserve Act known as Section 23A. In addition to being unnecessarily restrictive, Section 23A is, in the words of the Federal Reserve Board, "inordinately complex and poorly drafted." In other words, it is very hard for managers of institutions affected by this provision to conform to its requirements because its terms are unclear.

Mr. President, the Federal Reserve Board's description of Section 23A dates from its Annual Report of 1977. Four years have elapsed since the Board first recommended to Congress that the section be revised and improved, and I believe it is high time that action be taken to implement the Board's recommendations. In order to initiate this process, I am today introducing a bill which was transmitted by the Federal Reserve Board to then-Chairman Proxmire of the Banking Committee in April 1979. It is my understanding that the Board may have some modifications of this bill to propose in the near future, and, if so, I shall be happy to incorporate them in a later version. Nevertheless, I believe it is important to start the process of congressional review promptly, and that is why I am acting today.

As I understand it, the Banking Committee will be holding hearings in October on comprehensive legislation not yet introduced, and it is my hope that at some point in the committee's consideration of the comprehensive legislation, my bill to revise Section 23A will be included.

Background

Section 23A was enacted as part of the Banking Act of 1933 (Glass-Steagall Act) and originally applied only to banks that are members of the Federal Reserve System. In 1966, Congress amended Section 23A to include all federally-insured commercial banks. The purpose of the statute is to curb abuses in extensions of credit by banks to their non-bank affiliates, in the context back in 1933 of stock speculation transactions. Unfortunately, the effect of the statute has been to compartmentalize banks and their affiliated non-bank subsidiaries within a bank holding company. This artificially restricts the flow of funds that would otherwise occur between and among the subsidiaries of a bank holding company.

The current provisions of Section 23A make little sense today in view of the enormously broadened powers Congress has conferred on the Federal Reserve Board and the other bank regulators. Under the Bank Holding Company Act, for example, the Congress in 1974 extended cease-and-desist powers to include bank holding companies and their non-bank subsidiaries. There is no question that the

authority now residing in the bank regulatory agencies is ample to meet any kind of supervisory problem that may arise in connection with a commercial banking transaction. Moreover, the existence of elaborate examination programs in the agencies provides a mechanism for enforcement of their authority.

Meanwhile, however, Section 23A exists principally as it was enacted in 1933. It has the perverse effects of requiring a bank holding company to:

1) buy and sell federal funds only with banks outside its own corporate enterprise;

2) incur additional expense by allocating participations in loans among affiliated banks;

3) maintain in each subsidiary bank a separate inventory of pledgable assets to meet collateral requirements in Section 23A.

The bill I am introducing today will eliminate these undesirable effects. It will permit unlimited transactions (except for the purchase of low quality assets) between and among affiliated banks in a bank holding company when 80% or more of the stock of these banks is owned by the parent company. Thus, the typical multi-bank holding company will be able to deal with its subsidiary banks in a manner similar to the way a single bank deals with its branches. The artificial restrictions on federal funds transactions, the lack of flexibility in moving surplus funds around to meet loan demand, and the separate inventories of pledgable assets will all be eliminated.

There is more to the bill than I have briefly outlined above, and I ask unanimous consent that a summary of the Board's proposal, which was submitted to the Congress with its draft bill in 1979, be printed in the Record immediately following my remarks.

Suffice it to say that this legislation is recommended by the Federal Reserve Board, and is supported by the Association of Bank Holding Companies and numerous individual bank holding companies. I believe it is a non-controversial proposal which will provide considerable relief to the institutions affected. More importantly, enactment of my bill will be a further indication that government can act to improve regulatory and supervisory practices which impose unnecessary burdens on business.