



Investment Company Institute

1775 K Street, N.W., Washington, D.C. 20006 ☐ (202) 293-7700

January 25, 1972

TO: MEMBERS - NO. 6 - 72

RE: FEDERAL RESERVE SYSTEM REGULATION CONCERNING A  
MEMBER OF A BANK HOLDING COMPANY COMPLEX ACTING  
AS AN ADVISER TO AN INVESTMENT COMPANY

Attached for your information is a copy of an amendment, promulgated yesterday, by the Federal Reserve Board of its Regulation Y. The amended regulation permits a bank holding company (as used in this memorandum, a bank holding company includes not only the holding company but also any banking or non-banking subsidiary) to act as investment adviser to an investment company, subject to stringent limitations.

The limitations include the following:

(1) The holding company may not sponsor, organize or control a mutual fund. This restriction does not apply to the holding company's activities as investment adviser to a closed-end investment company so long as the closed-end investment company is not "primarily or frequently" engaged in the issuance, sale or distribution of securities.

(2) The holding company may not act as investment adviser to an investment company which has a name similar to, or a variation of, the name of the holding company or any subsidiary bank.

(3) The holding company (and its bank and non-bank subsidiaries) may not purchase in their sole discretion and in a fiduciary capacity (including as managing agent) securities of an investment company for which the holding company acts as investment adviser. Nor may the holding company (and its bank and non-bank subsidiaries) purchase for their own account securities of an investment company for which the holding company acts as investment adviser, or extend credit to any such investment company, or accept the securities of any such investment company as collateral for a loan which is for the purpose of purchasing securities of the investment company.

(4) The holding company may not engage "directly or indirectly" in the sale or distribution of securities of any investment company for which it acts as investment adviser.

In further explaining this prohibition, the new amendment states:

"Prospectuses or sales literature should not be distributed by the holding company, nor should any such literature be made available to the public at any offices of the holding company.

In addition, officers and employees of bank subsidiaries should be instructed not to express any opinion with respect to advisability of purchase of securities of any investment company for which the bank holding company acts as investment adviser. Customers of banks in a bank holding company system who request information on an unsolicited basis regarding any investment company for which the bank holding company acts as investment adviser may be furnished the name and address of the fund and its underwriter or distributing company, but the names of bank customers should not be furnished by the bank holding company to the fund or its distributor. Further, a bank holding company should not act as investment adviser to a mutual fund which has offices in any building which is likely to be identified in the public's mind with the bank holding company."

(5) If the holding company acts both as custodian and investment adviser for an investment company, it must exercise care to maintain at a minimal level demand deposit accounts of the investment company which are placed with a bank affiliate and should not invest cash funds of the investment company in time deposit accounts (including certificates of deposit) of any bank affiliate.

The amended Regulation treats the Glass-Steagall Act of 1933 (which divorced the banking from the securities business) and the decision of the Supreme Court of the United States in Investment Company Institute v. Camp, as applicable to a holding company's activities as investment adviser.

The amended Regulation was promulgated after a hearing before the Federal Reserve Board at which the Institute urged that bank holding companies (and their subsidiaries) not be permitted to sponsor their own mutual funds, and further that if bank holding companies are to be permitted to act as investment advisers to investment companies their activities should be subject to certain detailed restrictions. The amended Regulation incorporates many of the restrictions urged by the Institute.

Robert L. Augenblick

Attachment