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substantial amounts relative to the total amount of shares outstanding.

[26 FR 868, Jan. 28, 1961. Redesignated at 61 FR 57289, Nov. 6, 1996]

§ 250.404 Serving as director of member bank and corporation selling own stock.

(a) The Board recently considered the question whether section 32 of the Banking Act of 1933 (12 U.S.C. 78) would be applicable to the service of a director of a corporation which planned to acquire or organize, as proceeds from the sale of stock became available, subsidiaries to operate in a wide variety of fields, including manufacturing, foreign trade, leasing of heavy equipment, and real estate development. The corporation had a paid-in capital of about $60,000 and planned to sell additional shares at a price totaling $10 million, with the proviso that if less than $3 million worth were sold by March 1962, the funds subscribed would be refunded. It thus appeared to be contemplated that the sale of stock would take at least a year, and there appeared to be no reason for believing that, if the venture proved successful, additional shares would not be offered so that the corporation could continue to expand.

(b) The Board concluded that section 32 would be applicable, stating that although § 218.102, as clarified by § 218.104, related to closed-end investment companies, the rationale of that interpretation is applicable to corporations generally.

[26 FR 2456, Mar. 23, 1961. Redesignated at 61 FR 57289, Nov. 6, 1996]

§ 250.405 No exception granted a special or limited partner.

(a) The Board has been asked on several occasions whether section 32 of the Banking Act of 1933 (12 U.S.C. 78) is applicable to a director, officer, or employee of a member bank who is a special or limited partner in a firm primarily engaged in the business described in that section.

(b) Since the Board cannot issue an individual permit, it can exempt a limited or special partner only by amending part 218 (Regulation R). After the statute was amended in 1935 so as to make it applicable to a *partner,* the Board carefully considered the desirability of making such an exception. On several subsequent occasions it has reconsidered the question. In each instance the Board has decided that in view of a limited partner's interest in the underwriting and distributing business, it should not make the exception.

[27 FR 7954, Aug. 10, 1962. Redesignated at 61 FR 57289, Nov. 6, 1996]

§ 250.406 Serving member bank and investment advisor with mutual fund affiliation.

(a) The opinion of the Board of Governors of the Federal Reserve System has been requested with respect to service as vice president of a corporation engaged in supplying investment advice and management services to mutual funds and others (''Manager'') and as director of a member bank.

(b) Section 32 of the Banking Act of 1933 (12 U.S.C. 78), forbids any officer, director, or employee of any corporation ''primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities * * *'' to serve at the same time as an officer, director, or employee of a member bank.

(c) Manager has for several years served a number of different open-end or mutual funds, as well as individuals, institutions, and other clients, as an investment advisor and manager. However, it appears that Manager has a close relationship with two of the mutual funds which it serves. A wholly owned subsidiary of Manager (''Distributors''), serves as distributor for the two mutual funds and has no other function. In addition, the chairman and treasurer of Manager, as well as the president, assistant treasurer, and a director of Manager, are officers and directors of Distributors and trustees of both funds. It appears also that a director of Manager is president and director of Distributors, while the clerk of Manager is also clerk of Distributors. Manager, Distributors and both funds are listed at the same address in the local telephone directory.

(d) While the greater part of the total annual income of Manager during the