

*Commissioner Evans*

*for your information*

*Peter Kiernan*

MEMORANDUM

September 13, 1977

TO: Dick Rowe, Director  
Division of Corporation Finance

FROM: Office of Public Affairs *Peter Kiernan*

RE: Preparation of testimony for September 26-27

Chairman Proxmire of the Senate Committee on Banking, Housing and Urban Affairs has invited the Commission to testify at hearings "on the type of banking practices described in the report of the Comptroller of the Currency on the financial affairs of Mr. Bert Lance." The hearings are being held "in order to help the Committee decide whether additional statutory or regulatory safeguards are needed." Commissioner Evans will represent the Commission and will testify on September 26 or 27.

Please prepare a draft of the proposed testimony for Mr. Evans to review on or before Monday, September 19.

Attached are Senator Proxmire's invitation to testify and two documents he enclosed with it, "Guidelines for Witnesses" and a more detailed outline of the issues to be addressed at the hearings. I have also spoken with Lindy Marinaccio of the Committee's staff, who supplemented the outline, which

seems primarily directed toward the bank regulatory agencies. Lindy suggested the following additional issues, which he felt were particularly appropriate for the Commission to address:

(1) What degree of disclosure of insider bank loans is appropriate? All such loans? If not, which loans?

(2) To what extent is the Commission's jurisdiction over banks and their lending practices limited? What authority do we have?

(3) What, if anything, have we learned thus far from our disclosure program relating to bank lending practices?

(4) What, if anything, can we say about any investigative role the Commission may now be taking on with respect to such practices? Are we taking any action with respect to Mr. Lance's banks?

(5) Would we propose any legislation in this area? and

(6) To what extent does life in bank boardrooms and executive offices differ from life in the general corporate world? Are banks particularly susceptible to insider favoritism?

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## United States Senate

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

WASHINGTON, D.C. 20510

September 1, 1977

CHAIRMAN'S OFFICE  
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SEP 7 1977

The Hon. Harold M. Williams  
Chairman  
Securities and Exchange Commission  
500 North Capitol Street  
Washington, D. C. 20549

SEC. & EXCH. COMM.

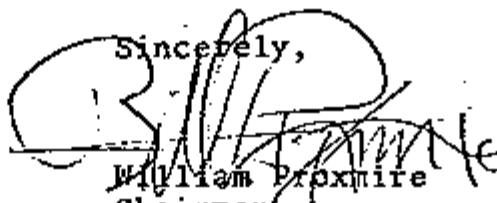
Dear Mr. Chairman:

You are invited to participate in hearings on bank regulation to be held by the Senate Committee on Banking, Housing and Urban Affairs on September 26, 27 and 28. The purpose of the hearings is to gather information on the type of banking practices described in the report of the Comptroller of the Currency on the financial affairs of Mr. Bert Lance in order to help the Committee decide whether additional statutory or regulatory safeguards are needed.

In particular, the Committee is seeking testimony on the subjects listed on the attached outline. The Committee would be interested in your general observations on any or all of the foregoing subjects together with any related statistical information you may have concerning the magnitude and frequency of the banking practices described in this letter. Any questions concerning this hearing should be addressed to Mr. Kenneth McLean of the Committee staff on 224-7391. We will be in touch with you in the near future to discuss your testimony and the date of your appearance. Also enclosed is a copy of our Committee guidelines for prospective witnesses.

Your cooperation with the Committee in conducting these hearings will be most appreciated.

Sincerely,

  
William Proxmire  
Chairman

SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

OUTLINE OF SUBJECTS TO BE CONSIDERED DURING HEARINGS  
ON BANK REGULATION, SEPTEMBER 26, 27, 28, 1977

I. Bank stock loans

- A. How common is it for banks to finance the purchase of bank stock?
- B. To what extent are there abuses involved in bank stock loans such as the extension of credit on preferential terms and conditions, the maintenance of insufficient collateral, the linkage of bank stock loans to correspondent balances with or other services from the lending bank, undesirable ownership, transfers, etc.
- C. How effective have existing laws and regulations been in preventing these abuses?
- D. How many bank stock loan cases have been referred to the Justice Department for criminal prosecution during the last seven years?
- E. What accounts for the infrequent criminal prosecution of bank stock loan cases referred to the Justice Department by the bank regulatory agencies?
- F. What additional safeguards are needed to prevent further abuses in this area?
- G. What are the advantages and disadvantages of the following measures for dealing with the bank stock loan issue?

1. Require a more extensive disclosure of the details of bank stock loans to the directors of the bank involved, to the regulatory agencies, and to the public.
2. Prohibit bank stock loans to officers or directors of correspondent banks.
3. Prohibit bank stock loans at preferential rates compared to other comparable loans.
4. Require banks to pay interest on correspondent balances and to levy explicit charges for correspondent services.
5. Subject all bank stock loans to the margin requirements set by the Federal Reserve Board.
6. Permit depositors or minority shareholders to recover treble damages whenever an officer or director of the bank receives a below market interest rate bank stock loan.

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## II. Loans to Favored Customers

- A. To what extent do banks provide preferential access to credit to certain categories of customers such as:
  1. Officers, directors or major shareholders in other banks;
  2. Officers, directors or major shareholders in banks maintaining a correspondent balance with the lending bank;

3. Officers, directors or major shareholders in companies that do a significant business with the lending bank, either as a depositor, a borrower or both;
  4. Relatives of the officers, directors or major shareholders in the lending bank;
  5. Persons who refer other customers to the lending bank;
  6. Other occupational groups including public officials, journalists, securities analysts, attorneys, etc.
- B. To what extent are preferential loans detected and criticized during the regular bank examination process?
- C. Do the bank regulatory agencies have adequate authority to prohibit preferential loans even in those cases where it cannot be demonstrated that the preferential loan adversely affects the safety or soundness of the bank?
- D. Are additional regulatory or statutory measures needed to curb preferential loans?

### III. Overdrafts

- A. How common is the practice of free overdrafts whereby certain bank customers are permitted to overdraw their checking account without paying an interest or service charge?

- B. What kinds of policies do banks follow in announcing the availability of free overdrafts and in deciding which customers shall be eligible?
- C. To what extent do certain types of customers have preferential access to free overdrafts such as officers, directors, shareholders, or employees of the bank involved or of a correspondent bank?
- D. What regulatory procedures are in place to prevent unfair discrimination in the extension of overdraft credit?
- E. What additional measures are needed to ensure that banks do not unfairly discriminate between customers in the extension of overdraft credit?

IV. Failure to Comply with Banking Laws or Regulations

- A. What is the degree of compliance with various provisions of the banking laws and regulations imposed on bank officers and directors for which there are no criminal penalties for non-compliance? These provisions include limitations on loans to executive officers (12 USC 375a(1)); requirements for bank executive officers to file reports with their boards of directors on their loans from other banks (12 USC 375a (6)); and requirements for the principal officers and directors of national banks to file reports with their banks on their outside business interests (12 CFR 25.3).

B. To what extent would compliance be strengthened if violators were subject to administratively imposed civil penalties as contained in S. 71 or to criminal penalties?

C. To what extent should the reports required under 12 USC 375a be made available to depositors and the general public?



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### GUIDELINES FOR WITNESSES

- 1) Unless otherwise indicated, these guidelines apply to all hearings of the Senate Committee on Banking, Housing and Urban Affairs and its subcommittees.
- 2) Unless otherwise indicated, all hearings will begin at 10 A.M. in Room 5302, Dirksen Office Building.
- 3) Witnesses are required, by Committee rules, to file 100 copies of their written statements 48 hours prior to their appearance except that Sundays and holidays are not to be counted in determining the 48-hour period. Statements should be delivered to Room 5300, Dirksen Office Building, Washington, D. C. 20510. Strict adherence to this rule is essential so that Committee members can read witness statements in advance of a hearing and can develop questions which will lead to a thorough discussion of the issues involved. Witness statements will not be released to the news media before the witness appears.
- 4) Oral presentations of a witness must be limited to a brief summary of the witness' written statement. In no case shall an oral presentation exceed 15 minutes. Strict observance of this rule will enable Committee members to spend more time in discussing a witness' testimony with the witness. A witness' complete written testimony will be published in the hearing record.
- 5) Witnesses should check in Room 5300 prior to the start of the hearing.