

To Board of Governors

December 20, 1945

From Mr. Hackley

Reorganization Bill.

On December 13, 1945, both Houses of Congress agreed to the Conference Report on the Reorganization Bill (H.R. 4129) and that Bill is now awaiting the President's signature.

General provisions

The Bill is generally similar to the Reorganization Act of 1939. It authorizes the President to prepare reorganization plans which may provide for the transfer of the whole or any part of any agency or any of its functions to the jurisdiction of any other agency, for the abolition of any agency or any of its functions, for the consolidation of separate agencies, and for the consolidation of functions within the same agency. In any such plan, the President may change the name of any agency affected by the plan and may provide for the appointment and compensation of the head or assistant heads of any affected agency, except that he may not make any appointment for a term of more than four years or provide for compensation at a rate in excess of \$10,000 per annum.

When a plan is transmitted to Congress by the President, it becomes effective after the expiration of 60 calendar days of continuous session of Congress, provided the plan is not disapproved during that time by a concurrent resolution of the two Houses. No reorganization plan may become effective unless it is transmitted to Congress before April 1, 1948.

Applicability to Board

The Board of Governors, not being specifically exempted, would be subject to reorganization under the Bill.

The only agencies which are expressly exempted from the Bill are the Interstate Commerce Commission, Federal Trade Commission, Securities and Exchange Commission, National Mediation Board, National Railroad Adjustment Board, and Railroad Retirement Board. In addition, however, the Bill is not applicable to the Comptroller General or to the General Accounting Office since it is provided that they shall not be included within the meaning of the term "agency".

Status of FDIC

The Senate Bill had included the FDIC among those agencies expressly exempted. However, as changed by the Conference Committee, the Bill does not exempt the FDIC, but does accord a separate status to that agency, along with the Tariff Commission, Communications Commission, and Veterans Administration. No reorganization plan may provide for a reorganization affecting the FDIC "if it also provides for

a reorganization which does not affect such agency", except that this prohibition shall not apply to the transfer to such agency of the whole or any part of the functions of any other agency.

While the language of the Bill is somewhat ambiguous, it seems to mean that, while the FDIC is not exempted from reorganization, any plan which affects that agency must not contain any provision which does not affect the FDIC, in other words, that such a plan must be submitted to Congress for separate consideration. The fact that the Bill expressly excepts from this provision the transfer of functions of other agencies to the FDIC seems to support the view that functions may be transferred from the FDIC to another agency provided only that the plan making such transfer does not provide for any other reorganization not involving the FDIC.

Under this interpretation, it would appear that the President could, if he desired, transfer the FDIC to the Board by a plan of reorganization which contained no other provisions. In this connection, a statement made by Senator Murdock on the floor of the Senate is significant. In answer to Senator Vandenberg's query as to the status of the FDIC, Senator Murdock replied that, under the Bill, the President could "send up a plan which would transfer the FDIC to the Comptroller of the Currency, or, let us say, to the Federal Reserve System, but nothing else could be included in that reorganization not affecting the FDIC." (Daily Congressional Record, Vol. 91, No. 221, December 13, 1945.) If this interpretation prevails, it would seem possible for the President to transfer the Office of the Comptroller of the Currency to the Board of Governors in a general reorganization plan and, in a separate plan, also to transfer the FDIC to the Board.

(Signed) Howard H. Hackley.