

Bank of Canada

Ottawa January 10th, 1940

The Hon. Marriner S. Eccles,
Chairman of the Board of Governors,
Federal Reserve System,
Washington.

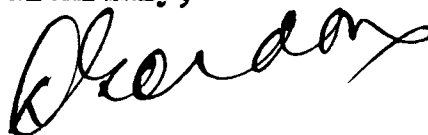
Dear Sir,

I am enclosing herewith, for your information, a copy of The Canada Gazette of January 8th containing further Regulations (Nos. 44 to 51 inclusive) in connection with our Foreign Exchange Control Order of September 15th last.

I am,

Dear Sir,

Yours faithfully,



Deputy Governor

Enclosure



THE CANADA GAZETTE

LA GAZETTE DU CANADA

OTTAWA, MONDAY, JANUARY 8, 1940

GOVERNMENT NOTICE

REGULATIONS OF THE FOREIGN EXCHANGE CONTROL BOARD

CERTIFIED EXTRACT from the Minutes of a Meeting of the Foreign Exchange Control Board held in Ottawa, on the 5th day of January, 1940.

ON motion duly made and seconded the following Regulations numbered 44 to 51 inclusive, were passed and enacted:

Payment of Interest on Government Securities and on Publicly Issued Corporate Securities

44. No permit shall be required for the payment to a non-resident in Canadian currency of any interest on securities issued or guaranteed by any Canadian Government, municipal or other authority, or on securities issued and offered for public subscription by any society, company or corporation whose head office is in Canada whether such securities were acquired by such non-resident before or after the coming into force of the Foreign Exchange Control Order. Any Authorized Dealer may, without the issue of any permit, sell foreign exchange to such a non-resident to the extent of the Canadian currency so payable provided that for the purpose of such sale of foreign exchange the Authorized Dealer is satisfied, by inspection of the relative interest cheque or by proof of ownership submitted by or on behalf of such non-resident, that the securities in question were owned by such non-resident.

Payment of Dividends

45. (a) A resident company wishing to pay a dividend in Canadian currency on any class of its capital stock, any shares of which are owned by one or more non-residents, must apply to the Board for permission thirty days in advance of the proposed date of payment. The application must be made on Form DIV, and approval of such application will be sufficient authority for payment of the dividend in question to all non-resident shareholders without the obtaining of separate permits on Form G.

(b) A resident company applying under paragraph (a) may simultaneously request that its non-

resident shareholders be enabled to convert the Canadian-currency value of their dividends into foreign exchange through an Authorized Dealer at the official selling rates prescribed by the Board. If more than 10 per cent of the shares on which the dividend is being paid are held by non-residents, this request must be accompanied by evidence that the dividend is to be paid from undistributed current earnings as defined in Regulation 47, or any accumulation thereof. Upon approval of such request, the company may mark each dividend cheque payable to a non-resident shareholder, "F.E.C.B.-DIV....," followed by the serial number of the permit for the payment of the dividend to non-residents. Upon presentation of a dividend cheque so marked an Authorized Dealer may, if satisfied that the payee is a non-resident, sell to such non-resident foreign exchange to the equivalent of the Canadian-currency value of the dividend payment.

(c) A company having a substantial number of non-resident shareholders may apply to have special arrangements made, through the company's bankers or paying agents, to facilitate conversion by non-resident shareholders, at their option, of the amount of the dividend into foreign exchange at the official selling rates prescribed by the Board and in force on a specified date. Application may also be made for special arrangements where dividend payments are to be made otherwise than by cheque.

(d) A resident company having special reason to pay a dividend in foreign exchange may apply to the Board for permission thirty days in advance of the proposed date of payment. The application shall be made by letter accompanied by Form DIV.

(e) An application may be made for the payment of dividends out of current earnings for the financial year then current, in advance of the final determination of such current earnings. Each such application must be made on or accompanied by Form DIV, supported by evidence that the current earnings for the full financial year are likely to exceed the amount of the dividends to be paid.

Payment of Interest by a Resident Company to a Non-Resident Parent Company

46. A resident company or branch desiring to make a payment of interest to a non-resident parent company or head office, or to a subsidiary of its non-resident parent company, on moneys owing on open account or on notes or other obligations of the resident company or branch held by such non-resident parent company or head office or subsidiary of such non-resident parent company, shall, unless Regulation 44 applies to such payment, apply to the Board for permission thirty days in advance of the proposed date of payment. The application shall be made on Form DIV, if payment is to be made in Canadian currency. If the payment is to be made in foreign exchange, or if the non-resident recipient desires to convert the Canadian-currency value of such payment into foreign exchange through an Authorized Dealer, the application shall be by letter accompanied by Form DIV, supported by evidence that the payment is to be made out of undistributed current earnings as defined in Regulation 47, or any accumulation thereof.

Definition of Current Earnings

47. (a) The term "current earnings" whenever used in these Regulations shall mean the net income or profit of the financial year ending June 30, 1939, or on any date subsequent thereto as shown by the company's annual financial statements, reported upon by its auditors, if any, or certified to by a responsible official of the company after:

- (i) The deduction of the aggregate of all income, profits or excess profits taxes paid or estimated to be payable to any government or municipality in respect of such net income or profits.
 - (ii) The deduction of the losses, or proper proportion of losses of any subsidiary or controlled company or if more than one, the aggregate of such losses less profits to the extent not provided for in such statement.
 - (iii) Any other diminution of such income or profits made or to be made for the purpose of determining the taxable income for such period under the Income War Tax Act of the Dominion of Canada other than in respect of:
 - (1) Dividends received from any resident or non-resident company;
 - (2) The amount of any depletion allowances permitted as a deduction in determining the taxable income under the Income War Tax Act in excess of any provision made in the company's annual financial statements;
 - (3) Any other diminution which in the opinion of the Board should not be taken into account.
 - (iv) Any other adjustments which in the opinion of the Board should be properly made in determining the amount of current earnings for the purposes of Regulations 45 and 46.
- (b) The same general principles will apply in determining the current earnings of a partnership or unincorporated business.

48. Regulations 44 to 47 inclusive shall apply to all instruments of payment in favour of non-residents payable subsequent to February 3, 1940, in respect of interest or dividends; Regulations 11 and 31 respecting payment of interest and dividends to non-residents are repealed except with respect to instruments of payment payable on or before February 3, 1940.

49. Paragraphs (d) and (e) of Regulation 19 are repealed and the following substituted therefor:

- (d) Each such company will continue to use Form B in connection with exports of goods from Canada, and shall write or stamp the BD permit number thereon above the title of the form as follows: "BD Permit No." If the exports are to be paid for in foreign exchange which is to be deposited in the authorized foreign-currency account, Form B shall also contain in the body of the Form the statement "Settlement through authorized foreign-currency account." Form D shall not be used in connection with any export.
- (e) Each such company will continue to use Form E in connection with imports of goods into Canada, and shall write or stamp the BD permit number thereon above the title of the form as follows: "BD Permit No." If such imports are to be paid for out of the authorized foreign-currency account, Form E shall also contain in the body of the Form the statement "Settlement through authorized foreign-currency account."

50. Paragraphs (d) and (e) of Regulation 21 are repealed and the following substituted therefor:

- (d) Each such company will continue to use Form B in connection with exports of goods from Canada, and shall write or stamp the BD permit number thereon above the title of the form as follows: "BD Permit No." If the exports are to be settled for through the authorized inter-company account, Form B shall also contain in the body of the Form the statement "Settlement through authorized inter-company account." Form D shall not be used in connection with any export.
- (e) Each such company will continue to use Form E in connection with imports of goods into Canada, and shall write or stamp the BD permit number thereon above the title of the form as follows: "BD Permit No." If such imports are to be settled for through the authorized inter-company account, Form E shall also contain in the body of the Form the statement "Settlement through authorized inter-company account."

51. Paragraph (g) of Regulation 1 is amended by striking out the words "One Hundred Dollars or the equivalent thereof" and substituting therefor the words "One Hundred Dollars in United States currency or the equivalent thereof."

Certified to be a true copy, and in accordance with the Minutes of the Board.

D. GORDON,
Chairman (Alternate).