

Office Correspondence

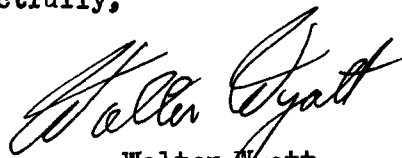
Date August 5, 1935.From Governor Eccles
Mr. Wyatt, General Counsel.Subject: Methods by which membership
in Federal Reserve System can
be made more attractive.

16-852

In accordance with a request which you made sometime ago, I am handing you herewith a memorandum prepared by Mr. Owens, Assistant Counsel, listing various methods by which membership in the Federal Reserve System can be made more attractive without legislation compelling all banks to join the Federal Reserve System. The memorandum lists separately the steps which can be taken without legislation and those which would require legislation.

For your convenience, there is also attached a printed copy of my opinion on the Constitutionality of Legislation Providing a Unified Commercial Banking System for the United States, on pages 20 and 21 of which there are listed various legislative steps which could be taken with this object in view.

Respectfully,

Walter Wyatt,
General Counsel.

Attachments.

METHODS BY WHICH MEMBERSHIP IN FEDERAL RESERVE SYSTEM
CAN BE MADE MORE ATTRACTIVE

Without Legislation

1. The Federal Reserve banks may refuse to accept nonmember clearing accounts. (Section 13 of Federal Reserve Act, Board's copy, p. 57).

2. The Federal Reserve banks may refuse to furnish safekeeping facilities to nonmember banks. (The extent of such service appears to be negligible.)

3. The Federal Reserve banks may refuse to make wire transfers for nonmember banks.

4. The Federal Reserve banks may refuse to forward coin and currency to nonmember banks in exchange for other kinds of money and currency. (Inasmuch as the Federal Reserve banks have accepted the duties of sub-treasuries of the United States there is doubt as to whether they could lawfully refuse to exchange coin and currency for nonmember banks. See Federal Reserve Board Annual Report for 1920, p. 72).

5. The Federal Reserve banks may discontinue absorbing the shipping charges on coin and currency forwarded to nonmember banks. (It appears from a letter from the Board to Governor Harrison of the Federal Reserve Bank of New York, dated April 24, 1935, that the Federal Reserve Bank of New York is the only bank absorbing such charges. In a letter from the Board to Governor Harrison, dated May 21, 1935, the Board agreed with the suggestion of Governor Harrison that a decision regarding the discontinuance of the absorption of these charges should be deferred until it was determined whether the Banking Act of 1935 would contain a

provision requiring all insured banks to become members of the Federal Reserve System by July 1, 1937.)

6. The Federal Reserve Board may refuse to grant permission to member banks to act as the medium or agent of nonmember banks in obtaining rediscounts at the Federal Reserve banks. (Section 19 of Federal Reserve Act, Board's copy, p. 82).

7. The Federal Reserve Board may be able to persuade the Treasury Department to refrain from depositing public funds of the United States in nonmember banks. (Section 15 of the Federal Reserve Act (Board's copy, p. 68) contains a provision that no public funds shall be deposited in any nonmember bank but this section was modified by the First, Second, and Third Liberty Bond Acts (Board's copy, p. 170-172) which provided that proceeds arising from the sale of the bonds described in those acts should be deposited in such banks and trust companies as the Secretary of the Treasury, in his discretion, might designate. Section 15 of the Federal Reserve Act was also modified by the Postal Savings Act, as amended, (Board's copy, p. 174) which provides that Postal Savings funds shall be deposited in member banks of the Federal Reserve System if one or more member banks are located in the city, town, village, or locality where the Postal Savings deposits are received and if the member banks will receive such deposits on the terms prescribed by the Postal Savings Act, but if there is no member bank in such location or if the member bank or banks are unwilling to receive Postal Savings deposits on the

terms specified, such funds may be deposited in nonmember banks. Under the provision of section 61 of the Bankruptcy Act, 11 U.S.C.A. section 101, funds of bankrupt estates may be deposited in any bank designated by a court of bankruptcy as a depository. Section 3 of the Act of March 3, 1933, 11 U.S.C.A. section 101a, provides that where local banks are unable or unwilling to give the required security, bankruptcy funds may be deposited in postal savings depositories.)

With Legislation

1. An amendment providing that, notwithstanding any other provision of law, no Federal Reserve bank shall make discounts for, extend credit to, purchase obligations of, or extend any privileges of membership to, any nonmember bank, would cover all the points numbered one to six, inclusive, above.

2. The seventh point would be covered by amendments to section 61 of the Bankruptcy Act, 11 U.S.C.A. section 101, and to section 3 of the Act of March 3, 1933, 11 U.S.C.A. section 101a, so as to provide that funds of bankrupt estates may be deposited only in member banks of the Federal Reserve System, under such conditions with respect to security as shall be required by courts of bankruptcy, and by amendments to the Postal Savings Act and to the First, Second, and Third Liberty Bond Acts requiring that all deposits of Postal Savings funds and funds derived from the sale of United States bonds, certificates of indebtedness and Treasury bills be deposited only in member banks of the Federal

Reserve System.

3. Under the provisions of the last paragraph of section 13 of the Federal Reserve Act (Board's copy, p. 64) the Federal Reserve banks may make advances to any individual, partnership, or corporation secured by direct obligations of the United States. The Board has ruled that the words "individual, partnership or corporation" include a nonmember bank within the meaning of this paragraph. An amendment to section 13 providing that, notwithstanding any other provision of law, no Federal Reserve bank shall make discounts for, extend credit to, purchase obligations of, or extend any privilege of membership to, any nonmember bank, would cover this point.

The above suggestions would make membership in the Federal Reserve System more attractive to nonmember banks without necessarily forcing nonmember banks either to stop receiving deposits or to become members of the System. For suggestions as to methods by which nonmember banks could be forced either to discontinue the acceptance of deposits or to become national banks, see opinion of Mr. Wyatt re "Constitutionality of Legislation Providing a Unified Commercial Banking System for the United States" published at p. 166 of the March 1933 issue of the Federal Reserve Bulletin.