

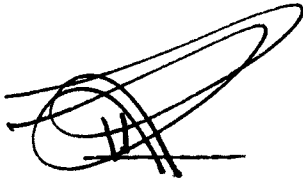
BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM

## Office Correspondence

Date September 9, 1938To Chairman EcclesSubject: Banking LegislationFrom Ronald RansomCONFIDENTIAL

In connection with Title III of the Banking Act of 1935 the term "technical amendments" came into use in relation to certain types of amendments to existing banking laws. The designation is generally accepted as meaning amendments not of a controversial nature, but which would strengthen and improve Federal banking statutes. So used, many important amendments can be suggested under this heading that could be favored as part of a general legislative program which would not constitute such a program or necessarily be recommended in the absence of other legislation of which they might be a part. Of course the necessity for such amendments would depend in any instance on the nature of other proposals of a substantive kind. Such substantive changes might eliminate necessity for some of the amendments that would otherwise be in order.

Mr. Vest, Assistant General Counsel, has prepared a list of possible technical amendments to the laws affecting the Federal Reserve System. The list is not intended to contain proposals which should provoke any serious controversy, although opinions may differ as to their desirability. Mr. Vest states that the list includes a large number of proposals, some of which are of relatively small importance and a number of which he personally would not favor. These have been included in order that the list may be made as complete as possible since others may feel that they are desirable. A copy of his list is attached for the information of the Board.



Confidential

September 12, 1938.

POSSIBLE TECHNICAL AMENDMENTS TO THE LAWS  
AFFECTING THE FEDERAL RESERVE SYSTEM

There is set forth below a list of possible technical amendments to the laws affecting the Federal Reserve System to which consideration might be given in connection with any proposed banking legislation.

BOARD OF GOVERNORS

Assignment of duties. - An amendment authorizing the Board of Governors to assign to designated members of the Board or its representatives, under rules and regulations prescribed by the Board, the performance of specific duties and functions, not including the determination of national or System policies, the power to make rules and regulations, or any power which under the Act is required to be exercised by a specified number of members of the Board. (Sec. 11 F.R. Act)

Facilitating hearings by the Board. - In connection with all hearings conducted by the Board regarding the removal of directors and officers of member banks, the expulsion of State banks from the Federal Reserve System, the revocation of voting permits, and similar matters, an amendment giving the Board authority similar to that possessed by the Federal Trade Commission, the Interstate Commerce Commission and other administrative agencies to have testimony taken by one or more members of the Board or by such trial examiners as it may designate, and authorizing the Board or its designated representatives to administer oaths and to subpoena witnesses and documents and to serve notice by registered mail. (Sec. 11 F.R. Act)

Service of Board member as director of the Bank for International Settlements. - An amendment making it clear that a member of the Board of Governors, with the approval of the President of the United States, may serve as a director of the Bank for International Settlements, in order to enable the Board more effectually to carry out its functions under section 14(g) of the Federal Reserve Act with regard to relationships of Federal Reserve Banks with foreign banks and bankers. (Sec. 14(g) F.R. Act)

Correction of error in number of members of the Board. - The last sentence of the fourth paragraph of section 10 in connection with vacancies in the membership of the Board of Governors refers to six members when it obviously should be seven. This might be cured by a clarifying amendment. (Sec. 10 F.R. Act)

FEDERAL RESERVE BANKS AND FEDERAL RESERVE AGENTS

Separation of offices of Chairman and Federal Reserve Agent. - An amendment authorizing the Board of Governors in its discretion to designate one of the class C directors to serve only as Chairman of the board of directors of the Federal Reserve bank and to appoint a different person, who need not be a director, to serve as Federal Reserve Agent. Relieve the Chairman of all statutory duties except those of director and the duty of presiding at meetings of the board of directors, provided that other present statutory duties of the Chairman and the Agent may, in the Board's discretion, be performed by the Chairman or by the Agent or by the Federal Reserve bank. (Sec. 4 F.R. Act)

Assistant Federal Reserve Agents. - An amendment authorizing an Assistant Federal Reserve Agent to perform the duties of the Agent during a vacancy in the latter's office and eliminating the requirement that an Assistant Agent be a person of "tested banking experience". (Sec. 4 F.R. Act)

By-laws of the Federal Reserve Banks. - An amendment providing that the by-laws of the Federal Reserve banks shall be subject to approval of the Board of Governors. (Sec. 4 F.R. Act)

Loans to groups of member banks. - An amendment eliminating the authority of Federal Reserve banks to make loans to groups of member banks, inasmuch as the authority has never been used and there will probably never be any occasion for its use.

Limitation of continuous service of Federal Reserve bank directors. - An amendment forbidding Federal Reserve bank directors to serve more than two consecutive terms of three years each. (Sec. 4 F.R. Act)

Subscriptions to Federal Reserve bank stock. - Amendments making it clear that newly organized national banks are required to subscribe for Federal Reserve bank stock and must comply with provisions of the Federal Reserve Act. (Sec. 5 F.R. Act)

Penalty for paying out notes of another Federal Reserve bank. - An amendment repealing the provision which prohibits a Federal Reserve bank from paying out notes of another Federal Reserve bank, except under penalty of a tax of ten per cent. (Sec. 16 F.R. Act)

Federal Reserve bank notes. - The authority contained in this section and in other sections of the Act relating to the issuance of Federal Reserve bank notes might be eliminated in view of the fact that this authority will cease in any event when the President declares by proclamation that the emergency recognized in his proclamation of March 6, 1933, has terminated. (Sec. 18 F.R. Act)

Approval of examiners by Board of Governors. - An amendment authorizing Federal Reserve banks to use their employees in connection with the examinations of large State member banks without necessarily having such employees approved by the Board of Governors as examiners. (Sec. 9 F.R. Act)

#### STATE MEMBER BANKS

Termination of membership of bank in an unsafe condition. - An amendment authorizing the Board of Governors to terminate the membership of a State member bank which is in an unsafe condition, and a similar amendment to the National Bank Act giving the Comptroller authority to close a national bank before it becomes insolvent. (Sec. 9 F.R. Act)

Publication of reports of examination. - An amendment giving to the Board the same power to publish reports of examination of State member banks or their affiliates as is now given to the Comptroller of the Currency in connection with national banks and their affiliates for failure to comply with recommendations or suggestions of the Comptroller based on examinations thereof. (Sec. 9 F.R. Act)

Incorporation into law of certain of Board's present conditions of membership. - An amendment requiring the Board's approval before a State member bank causes or permits any change to be made in the general character of its business or in the scope of its corporate powers, requiring each State member bank to conduct its business and to exercise its powers with due regard to the safety of its depositors, and possibly incorporating into the law some of the other standard conditions of membership now imposed on State member banks. Also, possibly an amendment authorizing the Board to regulate the powers exercised by State member institutions, including trust powers, rather than merely to prescribe conditions of membership relating to such institutions. (Sec. 9 F.R. Act)

Removal of branches. - An amendment providing that the removal of a branch of a State member bank from one town to another shall be subject to approval of the Board of Governors. (Sec. 9 F.R. Act)

Waiver of membership requirements. - An amendment to make effective immediately, instead of in 1941, the Board's authority to waive requirements for admission to membership for the purpose of facilitating the admission of any State bank which is required to be a member in order to continue in an insured status. (Sec. 9 F.R. Act)

Forfeiture of membership of State member banks. - An amendment authorizing the Board to require a State member bank to forfeit its membership whenever such bank has failed to comply with provisions of State law to which the Bank is subject. (Sec. 9 F.R. Act)

#### NATIONAL BANKS AND MEMBER BANKS GENERALLY

Deposits of securities to secure trust funds. - An amendment making it clear that a deposit of securities must be made to secure trust funds used by a national bank in its banking department whether such funds are considered as deposits or are investments. Also an amendment which would exempt national banks from the necessity of pledging securities for trust funds used in the banking department to the extent that such funds are insured under the Federal Deposit Insurance Corporation. (Sec. 11(k) F.R. Act)

Authority of Board over trust powers of national banks. - An amendment authorizing the Board to revoke trust powers whenever it may determine, under procedure similar to that prescribed in section 30 of the Banking Act of 1933, that such trust powers are being unlawfully or otherwise improperly exercised and providing that the Board shall have authority when granting trust powers to prescribe such conditions or requirements in connection therewith as it may deem necessary or desirable. (Sec. 11(k) F.R. Act)

Limitations on insured loans. - An amendment providing that mortgage loans insured under Title II of the National Housing Act should not be subject to the limitations on the aggregate amount of real estate loans which may be made by national banks. At the present time this limitation is the aggregate of capital and surplus or 60 per cent of time and savings deposits, whichever is greater, and applies to insured loans as well as other real estate loans. (Sec. 24 F.R. Act)

Deposits with private bankers. - An amendment to make the provision restricting deposits by a member bank with a nonmember bank to not more than 10 per cent of the member bank's capital and surplus applicable to deposits by a member bank with a firm of private bankers. (Sec. 19 F.R. Act)

Payment of dividends by mutual savings banks. - An amendment to clarify the question whether the distribution of net earnings by mutual savings banks is to be considered a payment of interest within the meaning of section 19 of the Federal Reserve Act relating to the payment of interest on deposits and of section 24 of the Federal Reserve Act regarding the maximum rate of interest authorized by State law. (Secs. 19 and 24 F.R. Act)

Circulation of false statements about member banks. - An amendment to make it a crime to circulate false statements about, or to blacklist a member bank. (Sec. 22 F.R. Act)

Incorrect reference to section 20 of the Federal Reserve Act. - An amendment to correct a reference in the statute to "national banking associations" subject to the reserve requirements set forth in "section 20" of the Federal Reserve Act and to make the provision refer to member banks subject to the provisions of section 19. (Sec. 11(e) F.R. Act)

Loans on obligations of the United States and of States and municipalities. - In view of the fact that there is no limitation in the law on the amount of obligations of the United States or of States or political subdivisions thereof which a member bank may purchase, an amendment to eliminate the limitations on loans on the security of such obligations which are contained in section 11(m) of the Federal Reserve Act and section 5200 of the Revised Statutes. (Sec. 11(m) F.R. Act)

Loans to executive officers made prior to June 16, 1933. - An amendment to extend or make permanent the period during which loans made to executive officers prior to June 16, 1933, may be extended or renewed. (Sec. 22(g) F.R. Act)

Reports of loans to executive officers. - An amendment providing that the failure of an executive officer to make the required reports of his indebtedness to other banks is punishable by removal from office under section 30 of the Banking Act of 1933. (Sec. 22(g) F.R. Act)

Loans to executive officers out of trust funds. - An amendment to make it clear that the law does not apply to any loan which constitutes an asset of a trust estate acquired by the member bank subsequent to the date of the loan, and also an amendment to permit a member bank to lend trust funds to an officer of the bank in accordance with directions contained in the trust instrument. (Sec. 22(g) F.R. Act)

Loans to affiliates. - In order to prevent evasion of the limitations on loans to affiliates by a member bank through making loans to organizations which, although not technically affiliates, are to all intents and purposes as closely related to the member bank as technical affiliates, an amendment might be adopted to make the provisions of the statute applicable to all units which are definitely part of a group and not merely to those which are technical affiliates. Also an amendment clarifying the question whether a loan which is secured to any extent by stock of an affiliate must be included in computing the limitations under section 23A at the full amount of the loan or merely at the amount of the collateral. (Sec. 23A F.R. Act)

Loans to examiners. - An amendment limiting the prohibition on loans to examiners to loans to examiners who at the time the loans are made could reasonably be expected to be called upon to examine the lending banks in the usual course of business. The law might also be amended so as (1) to exclude from its prohibition the acquisition of loans by a bank in good faith in the usual course of business, and (2) to make the provisions of the first and second paragraphs of this section prohibiting loans to examiners more uniform, and (3) to make the disqualification of a convicted examiner from holding office as a national bank examiner or Federal Deposit Insurance Corporation examiner extend also to disqualification as a Federal Reserve examiner. (Sec. 22(a) F.R. Act)

Examiners performing other service for compensation. - An amendment making Federal Reserve examiners subject to the provisions which prohibit national bank examiners from performing any other service for compensation for a national bank. (Sec. 22(b) F.R. Act)

Disclosure of information by examiners. - An amendment forbidding examiners to disclose, not only the names of borrowers of the collateral for loans, as under the existing law, but also forbidding them to disclose any other information obtained in the course of examinations. (Sec. 22(b) F.R. Act)

#### SECURITIES EXCHANGE ACT

Credit by brokers not on registered or exempted securities. - An amendment to broaden the Board's powers to permit brokers to extend or maintain credit without collateral or on collateral other than registered or exempted securities. (Securities Exchange Act of 1934)

Greater flexibility of provisions regarding margin requirements. - An amendment which would clarify the Board's authority to grant specific exemptions from its regulations regarding brokers' margin requirements, and would eliminate the necessity for the regulation being confined to credit extended to persons who are technically "customers". (Securities Exchange Act of 1934)

Clarification of term "carrying". - An amendment which would specifically authorize the Board to define the term "carrying" in such a way that any loan made on the collateral of a security could be held to be for the purpose of carrying the security. (Securities Exchange Act of 1934)

Clarification of authority for margin requirements on short sales, etc. - An amendment which would clarify the Board's authority to prescribe margin requirements on certain transactions such as short sales of securities and contracts to buy or sell unissued securities, about which there might be some question as to whether or not there is technically an extension of credit. (Securities Exchange Act of 1934)

Power to exempt securities, etc. - An amendment authorizing the Board, as to the margin requirement provisions, to exempt securities, define the term "equity security" and prescribe rules to prevent evasion by means of the transaction of business in foreign countries. (Securities Exchange Act of 1934)

#### MISCELLANEOUS

Definition of the term "bad debts". - An amendment to the law to change the definition of the term "bad debts" in connection with the determination of the right of a bank to pay dividends. This might be done by providing that a debt should not be classified as a bad debt if it is either fully secured or in process of collection. Under the present law it must be both fully secured and in process of collection to escape the classification of a bad debt if interest thereon is six months past due. (Sec. 5204 U.S.R.S.)

Quorum for meetings of shareholders of national banks. - An amendment providing that the holders of not less than a specified percentage of the shares of stock of a national bank shall constitute a quorum at meetings of stockholders, in order to prevent evasion of the provisions of law relating to holding company affiliates. (Sec. 5144 U.S.R.S.)



Interlocking directorates with securities companies. - An amendment to make this section applicable to interlocking directorates between member banks and organizations engaged in the securities business, regardless of whether they are primarily so engaged. (Sec. 32 Banking Act of 1933)

Definition of term "affiliate" and "holding company affiliate". - Amendments to these definitions to provide that stock owned by the Reconstruction Finance Corporation shall not be considered in determining whether holding company affiliate or affiliate relationships exist. Amendments to the definitions clarifying the meaning of the phrase "more than 50 per cent of the number of shares voted for the election of directors of any one bank at the preceding election". (Sec. 2 Banking Act of 1933)

Use of banking quarters for other purposes. - An amendment which would exclude from the banking quarters of a member bank or a nonmember insured bank the offices of other organizations engaged in building and loan, brokerage, securities, insurance or trust business, the activities of which might prove embarrassing to the bank. (Sec. 24A F.R. Act)

Compensation of members of the Industrial Advisory Committees. - An amendment providing that members of the industrial advisory committees shall be entitled to receive from the Federal Reserve bank a reasonable compensation as well as reasonable expenses. (Sec. 13b F.R. Act)

Use of the term "bank", etc. - An amendment restricting use of the words "bank", "banker", "banking", and "trust" to banking and trust institutions which operate under the supervision and regulation of State or Federal banking departments. (Sec. 21(a) Banking Act of 1933)

Federal Advisory Council. - An amendment to provide for the appointment and service of alternates in the case of the absence or disability of members of the Federal Advisory Council. (Sec. 12 F.R. Act)

Dividends on capital stock of insured banks. - An amendment to subsection (v)(3) changing the word "of" to "if" in order to correct a clerical error apparent in the present law. (Sec. 12B F.R. Act)

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