

# FEDERAL RESERVE BANK

OF DALLAS

Dallas, Texas, June 23, 1964

## USE OF MESSENGER SERVICE BY STATE MEMBER BANKS

To All State Member Banks in the  
Eleventh Federal Reserve District:

There follows the text of a statement released by the Board of Governors of the Federal Reserve System with respect to whether the use of messenger service by State member banks involves the operation of a branch.

The Board of Governors has been asked whether an arrangement under which a State member bank provides "messenger service" for a customer, subject to an agreement that the messenger acts as agent for the customer, would involve the operation of a branch by the bank.

Section 9 of the Federal Reserve Act (12 U.S.C. 321) provides, in effect, that a State member bank, if permitted to do so by State law, may establish branches on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by national banks, except that the approval of the Board of Governors, instead of the Comptroller of the Currency, shall be obtained before a branch may be established by a State member bank. It is apparent that it was the intent of Congress that national banks and State member banks should have substantially equal opportunity to establish branches.

Section 5155 of the Revised Statutes (12 U.S.C. 36), relating to branches of national banks, provides that the term "branch" shall be held to "include any branch bank, branch office, branch agency, additional office, or any branch place of business . . . at which deposits are received, or checks paid, or money lent."

Whether any of the banking transactions described in the law, or other banking transactions, are conducted at an "additional office" or other "place of business" can be determined only on the basis of particular factual situations. The question here presented refers only to "messenger service" provided by the bank, without any indication of the purpose of the service or the exact circumstances in which it would be provided.

It is assumed, however, that the service in question would involve picking up deposits at the respective addresses of particular customers and the payment of checks drawn by such customers on the bank; that the "messenger" normally would be an armored car owned by the bank or by an independent contractor; that the cost of the service would be borne by the bank; that, in the case of deposits, there would be a written agreement between the bank and the customer under which the messenger would act as agent of the customer and the bank would assume no liability for the funds collected until they were received by it from the messenger at the bank's premises; and that, in the case of payment of checks, the checks would be presented at the bank's premises by the messenger acting as agent of the customer and the proceeds received by the messenger for transmittal to the customer, with no liability on the part of the bank for such proceeds after their delivery to the messenger.

Assuming the facts to be as stated above, the Board does not regard such arrangements as involving the establishment and operation of branches by State member banks. Whether the use of messenger service in other circumstances would constitute branch banking would, of course, have to be determined on the basis of the facts involved.

Yours very truly,

Watrous H. Irons

President