

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 70-308
December 18, 1970

REPRINT OF REGULATION S
BANK SERVICE ARRANGEMENTS

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

Enclosed is the new larger size reprint
of Regulation S, as adopted effective April 3, 1963.
No amendments to the Regulation have been issued
subsequent to its adoption.

The small size Regulation S should be
destroyed.

Yours very truly,

P. E. Coldwell

President

Enclosure (1)

**BOARD OF GOVERNORS
of the
FEDERAL RESERVE SYSTEM**

BANK SERVICE ARRANGEMENTS

REGULATION S

(12 CFR 219)

As adopted effective April 3, 1963



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the Federal Reserve district in which the inquiry arises.

REGULATION S

(12 CFR 219)

As adopted effective April 3, 1963

BANK SERVICE ARRANGEMENTS*

SECTION 219.1—AUTHORITY AND SCOPE

This Part implements the provisions of section 5 of the Bank Service Corporation Act, Public Law 87-856, approved October 23, 1962 (sec. 5, 76 Stat. 1132; 12 U.S.C. 1865), in the application thereof to arrangements for the performance of bank services for State banks that are members of the Federal Reserve System. Under that section of the Act, no State member bank may cause to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises, unless assurances satisfactory to the Board of Governors of the Federal Reserve System are furnished to the Board by both the bank and the party performing such services that the performance thereof will be subject to regulation and examination by the Board to the same extent as if such services were being performed by the bank itself on its own premises. Such assurances are required by the Act whether the bank services are performed by bank service corporations in which the Act authorizes banks to invest, or by others. Under section 1(b) of the Act, the term "bank services" means services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or other clerical, book-

keeping, accounting, statistical, or similar functions performed for a bank.

SECTION 219.2—FORM OF ASSURANCES

Unless additional or different assurances are considered necessary by the Board in specific cases, the assurances referred to in § 219.1 of this Part may be submitted in the form of a letter (or separate letters) signed by a duly authorized officer of the State member bank and by the party (or a duly authorized officer or representative of such party) that will perform the bank services for the bank, stating, in substance, that the bank and the party performing such services have entered into an agreement that the performance of the services will be subject to regulation and examination by the Board to the same extent as if such services were being performed by the bank itself on its own premises. All such letters of assurances shall be addressed to the Board of Governors of the Federal Reserve System in care of the Federal Reserve Bank of the district in which the State member bank has its main office.

SECTION 219.3—TIME FOR FURNISHING ASSURANCES

As to any arrangement for the performance of bank services entered into or renewed after the effective date of this Part, assurances complying with § 219.2 shall be furnished prior to the performance of any service for the bank under the bank service arrangement. With respect to any

* This text corresponds to the Code of Federal Regulations, Title 12, Chapter II, Part 219, cited as 12 CFR 219. The words "this Part", as used herein, mean Regulation S.

bank service arrangement entered into prior to the effective date of this Part, such assurances shall be furnished within 30 days after the effective date of this Part, unless a letter of assurances covering such bank service arrangement has been furnished previously pursuant to the Board's "Statement for State Member Banks on the 'Bank Service Corporation Act'" issued October 23, 1962 (Federal Reserve Bulletin, November 1962, page 1428).

SECTION 219.4—SPECIAL SITUATIONS

Assurances complying with § 219.2 need not be furnished in connection with arrangements for bank services which are immediately necessary be-

cause of emergency conditions or situations or are required for short periods of time due to unusually heavy work demands, if the State member bank promptly advises the Federal Reserve Bank of its district of the circumstances involved and of the length of time during which any of the bank's books or records or any banking media will be removed from the bank's premises and of the location thereof, and unless the bank is advised by the Federal Reserve Bank that such assurances must be furnished. Unless specifically requested by the Board, assurances complying with § 219.2 need not be furnished in connection with any arrangement by a State member bank for the performance of legal, advisory, and administrative services, such as transportation or guard services.

STATUTORY APPENDIX

Act of October 23, 1962

For the purposes of this Act—

SEC. 1. (a) The term "Federal supervisory agency" means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Board of Directors of the Federal Deposit Insurance Corporation.

(b) The term "bank services" means services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank.

(c) The term "bank service corporation" means a corporation organized to perform bank services for two or more banks, each of which owns part of the capital stock of such corporation, and at least one of which is subject to examination by a Federal supervisory agency.

(d) The term "invest" includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment.

SEC. 2. (a) No limitation or prohibition otherwise imposed by any provision of Federal law exclusively relating to banks shall prevent any two or more banks from investing not more than 10 per centum of the paid-in and unimpaired capital and unimpaired surplus of each of them in a bank service corporation.

(b) If stock in a bank service corporation has been held by two banks, and one of such banks ceases to utilize the services of the corporation and ceases to hold stock in it, and leaves the other as the sole stockholding bank, the corporation may nevertheless continue to function as such and the other bank may continue to hold stock in it.

SEC. 3. Whenever a bank (referred to in this section as an "applying bank") subject to examination by a Federal supervisory agency applies for a type of bank services for itself from a bank service corporation which supplies the same type of bank services to another bank, and the applying bank is competitive with any bank (referred to in this section as a "stockholding bank") which holds

stock in such corporation, the corporation must offer to supply such services by either—

(1) issuing stock to the applying bank and furnishing bank services to it on the same basis as to the other banks holding stock in the corporation, or

(2) furnishing bank services to the applying bank at rates no higher than necessary to fairly reflect the cost of such services, including the reasonable cost of the capital provided to the corporation by its stockholders,

at the corporation's option, unless comparable services at competitive overall cost are available to the applying bank from another source, or unless the furnishing of the services sought by the applying bank would be beyond the practical capacity of the corporation. In any action or proceeding to enforce the duty imposed by this section, or for damages for the breach thereof, the burden shall be upon the bank service corporation to show such availability.

SEC. 4. No bank service corporation may engage in any activity other than the performance of bank services for banks.

SEC. 5. (a) No bank subject to examination by a Federal supervisory agency may cause to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises, unless assurances satisfactory to the agency prescribed in subsection (b) of this section are furnished to such agency by both the bank and the party performing such services that the performance thereof will be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises.

(b) The assurances required by subsection (a) of this section shall be given, in the case of—

(1) a national banking association or a bank operating under the code of laws for the District of Columbia, to the Comptroller of the Currency;

(2) a bank (other than a bank described in paragraph (1)) which is a member of the Federal Reserve System, to the Board of Governors of the Federal Reserve System; and

(3) a bank (other than a bank described in paragraph (1) or (2)) whose deposits are insured by the Federal Deposit Insurance Corporation, to the Board of Directors of the Federal Deposit Insurance Corporation.

[U.S.C. title 12, 1861-1865.]