



FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 75-185
December 15, 1975

American Revolution Bicentennial!

TO ALL MEMBER BANKS IN THE ELEVENTH FEDERAL RESERVE DISTRICT:

There is quoted below the text of a letter dated December 12, 1975, from the Board of Governors of the Federal Reserve System to the Presidents of all Federal Reserve Banks:

On November 20, 1975, the President announced a number of actions intended to provide a comprehensive response on the part of the federal government to any discrimination against American citizens or firms that might arise from foreign boycott practices. Two elements of the President's announcement relate to the possible involvement of commercial banks in such practices:

First, the President has directed the Secretary of Commerce to amend regulations under the Export Administration Act to prohibit U.S. exporters and "related service organizations" from answering or complying in any way with boycott requests that would cause discrimination against U.S. citizens or firms on the basis of race, color, religion, sex, or national origin. The term "related service organizations" is defined to include banks. Accordingly, banks that become involved in a boycott request related to an export transaction from the U.S. will be required to report any such involvement directly to the Department of Commerce.

Second, the President has encouraged the Board of Governors and the other federal financial regulatory agencies to issue statements to financial institutions within their respective jurisdictions emphasizing that discriminatory banking practices or policies based upon race or religious belief of any customer, stockholder, employee, officer, or director are incompatible with the public service function of banking institutions in this country.

The Board of Governors strongly supports the President's statement in this regard. Banking is clearly a business affected with a public interest. Banking institutions operate under public franchises, they enjoy a measure of governmental protection from competition, and they are the

recipients of important government benefits. The participation of a U.S. bank, even passively, in efforts by foreign nationals to effect boycotts against other foreign countries friendly to the United States--particularly where such boycott efforts may cause discrimination against United States citizens or businesses--is, in the Board's view, a misuse of the privileges and benefits conferred upon banking institutions.

One specific abuse that has been called to the attention of the Board of Governors is the practice of certain U.S. banks of participating in the issuance of letters of credit containing provisions intended to further a boycott against a foreign country friendly to the U.S. The practice appears to have arisen in commercial transactions between U.S. exporters and foreign importers, in which the importer has arranged for the issuance of a bank letter of credit as a means of making payment to the exporter for the goods he has shipped. In some cases the importer has required, as one of the conditions that must be satisfied before payment can be made by the U.S. bank to the exporter, that the exporter provide a certificate attesting that it is not connected in any way with a country or firm being boycotted by the importer's home country, or is otherwise in compliance with the terms of such a boycott. Such provisions go well beyond the normal commercial conditions of letters of credit, and cannot be justified as a means of protecting the exported goods from seizure by a belligerent country. Moreover, by creating a discriminatory impact upon U.S. citizens or firms who are not themselves the object of the boycott such provisions may be highly objectionable as a "secondary" boycott.

While such discriminatory conditions originate with and are imposed at the direction of the foreign importer who arranges for the letter of credit, U.S. banks that agree to honor such conditions may be viewed as giving effect to, and thereby becoming participants in, the boycott. The Board believes that even this limited participation by U.S. banks in a boycott contravenes the policy of the United States, as announced by the President and as set forth by Congress in the following declaration in the Export Administration Act of 1969 (50 U.S.C. App. Section 2402(5)):

It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of

furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States.

The Board also notes that the agreement by a U.S. bank to observe such discriminatory conditions in a letter of credit may constitute a direct violation of the federal antitrust laws or of applicable state anti-boycott laws.

You are requested to inform member banks in your district of the Board's views on this matter, and in particular, to encourage them to refuse participation in letters of credit that embody conditions the enforcement of which may give effect to a boycott against a friendly foreign nation or may cause discrimination against U.S. citizens or firms.

If you have any questions regarding this matter, please contact this Bank's Examination Department at (214) 651-6274.

Sincerely yours,

Ernest T. Baughman

President