

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

**Circular No. 78-9
January 25, 1978**

**IMPROPER PAYMENTS BY BANKS
AND BANK HOLDING COMPANIES**

**TO ALL MEMBER BANKS
AND BANK HOLDING COMPANIES IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:**

The Board of Governors of the Federal Reserve System,
Comptroller of the Currency, and Federal Deposit Insurance Corpor-
ation have issued a policy statement concerning improper payments
by banks and bank holding companies. Printed on the reverse of
this circular is a copy of the press release and a copy of the FEDERAL
REGISTER document is enclosed.

All member banks are included in this distribution for
informational purposes.

Sincerely yours,

Robert H. Boykin

First Vice President

Enclosure



FEDERAL RESERVE

press release

For immediate release

January 17, 1978

The Federal bank regulating agencies today issued notice that political contributions and certain other questionable payments by banks and bank holding companies may be regarded as unsafe and unsound banking practices subject to appropriate corrective action.

In a joint policy statement the agencies said they will use their full legal authority to halt such practices, including cease and desist orders and referrals to law enforcement agencies for possible prosecution. Such payments may also become a relevant factor in consideration of applications submitted by organizations that made them.

The policy statement was issued by the Comptroller of the Currency (supervisor of national banks), the Federal Deposit Insurance Corporation (Federal supervisor of insured State chartered banks that are not members of the Federal Reserve System) and the Federal Reserve Board (supervisor of State chartered member banks and of bank holding companies).

Referring to recent disclosures by a small number of banks and bank holding companies of certain questionable payments the statement expressed the belief of the Federal regulators that continuation of such practices would reflect unfavorably on the banking system as a whole and thus undermine public confidence.

The text of the joint policy statement is attached.

**FEDERAL RESERVE SYSTEM
COMPTROLLER OF THE CURRENCY
FEDERAL DEPOSIT INSURANCE CORPORATION**

**Joint Policy Concerning Improper Payments
by Banks and Bank Holding Companies
Docket No. R-0140**

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, and Federal Deposit Insurance Corporation.

ACTION: Policy Statement.

SUMMARY: The policy statement reflects the judgment of the bank supervisory agencies that certain questionable payment practices as have been disclosed by a few banks and bank holding companies, may, in addition to their possible illegality, constitute unsafe and unsound banking practices. Notification is given that the agencies intend both to take appropriate steps under the law to deal with such practices where found to exist, and to adopt additional examination procedures to evaluate the effectiveness of individual institutions' controls for ensuring that improper and illegal payments are not undertaken.

EFFECTIVE DATE: January 13, 1978.

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Jr., Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3269); Robert B. Serino, Director of Enforcement and Compliance, Comptroller of the Currency (202-447-1847); or Gerald F. Lamberti, Projects and Planning Specialist, Federal Deposit Insurance Corporation (202-389-4483).

SUPPLEMENTARY INFORMATION: This policy statement is issued pursuant to the Financial Institutions Supervisory Act, 12 U.S.C. 1818, and supervisory authority of the Board of Governors of the Federal Reserve

System with respect to member banks, bank holding companies, Edge and Agreement Corporations; the Comptroller of the Currency with respect to national banks; and the Federal Deposit Insurance Corporation with respect to nonmember insured banks.

Statement of
Policy Concerning Improper and Illegal Payments
by Banks and Bank Holding Companies

In recent years a number of United States corporations have disclosed that they have engaged in certain questionable practices with respect to foreign and domestic payments. These practices have included improper and illegal political contributions, bribes, kickbacks, etc., and have taken place, in some instances, with the knowledge, consent and even the participation of senior corporate management. Many of the foreign payments, legal under United States law at the time they were made, would, as a result of the recently enacted Foreign Corrupt Practices Act of 1977, Pub. L. No. 95-213, 91 Stat. 1494 (1977), be illegal if made today. In addition, under Federal and State laws, certain political contributions and other types of payments are illegal.

Recently, a few banks and bank holding companies have disclosed that, over a period of time, they also have engaged in questionable payment practices either directly or through subsidiary banks. Of the questionable payment practices disclosed to date, most have consisted of domestic political contributions. While information presently available does not indicate any significant involvement by banks or bank holding companies in any of the other types of questionable payment practices disclosed by other United States corporations, the agencies recognize

that the circumstances in which questionable domestic and foreign payments were made by corporations may influence banks and bank holding companies. Thus, although the available information indicates that the number of banking firms that have engaged in improper payment practices is small, federal bank supervisory agencies are concerned that such practices, if permitted to continue, would come to reflect adversely on the banking system as a whole. It is the judgment of the agencies that the practice of making political contributions and certain other payments, in addition to their possible illegality, may constitute an unsafe or unsound banking practice.

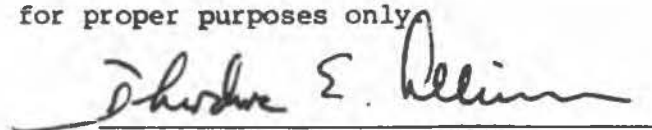
The devices used by banking organizations to make political payments have included compensatory bonuses to employees, improperly designated expense accounts, excessive fees or salaries paid to officers, and low or zero interest rate loans. In addition, political contributions have been made by providing equipment and services without charge to candidates for office. Many of these devices involved clear departures from acceptable accounting practices. Consequent lack of corporate accountability raises serious questions regarding the effectiveness of an institution's own internal audit procedures. For banking organizations to engage in illegal or unethical activities and to attempt to conceal those activities by the use of irregular accounting practices could only serve to undermine public confidence in the banking system.

All banks and bank holding companies subject to the Federal supervisory authority of the Board, the Comptroller of the Currency and the FDIC are expected not only to conduct their operations in accordance with applicable laws but to refrain from making payments that may con-

stitute unsafe and unsound banking practices. Where violations of law or unsafe and unsound banking practices result from improper payments, the appropriate agency will exercise its full legal authority, including cease and desist proceedings and referral to the appropriate law enforcement agency for further action, to ensure that such practices are terminated. In appropriate circumstances, the fact that such payments have been made may reflect so adversely on an organization's management as to be a relevant factor in connection with the consideration of applications submitted by the organization.

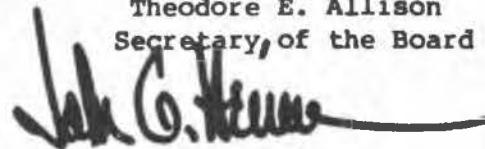
In the near future, the agencies expect to institute additional procedures in conjunction with their general and specialized examinations of banks and bank holding companies designed to evaluate individual institutions' controls for ensuring adherence to provisions of law prohibiting unsafe or unsound practices, including the making of contributions to or corporate expenditures on behalf of candidates for elective office, officials of foreign or domestic governments, and others. Banks and bank holding companies are urged to review their own corporate policies and accounting practices to ensure that the funds of the institution are applied for proper purposes only.

Dated: January 9, 1978



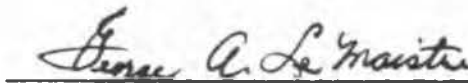
Theodore E. Allison
Secretary, of the Board

Dated: January 11, 1978



John G. Heimann
Comptroller of the Currency

Dated: January 13, 1978



George A. LeMaistre
Chairman, FDIC