

## NATIONAL BANK BRANCHES IN FOREIGN COUNTRIES

JULY 27, 1962.—Referred to the House Calendar and ordered to be printed

Mr. SPENCE, from the Committee on Banking and Currency, submitted the following

### REPORT

[To accompany S. 1771]

The Committee on Banking and Currency, to whom was referred the bill (S. 1771) to improve the usefulness of national bank branches in foreign countries, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE OF BILL

S. 1771 would add a new paragraph to section 25 of the Federal Reserve Act so as to authorize the Federal Reserve Board to issue regulations which would permit foreign branches of national banks to exercise, in addition to powers which they may exercise under other provisions of law, such further powers as are usual in connection with banking operations in the places where the foreign branches transact business. The bill specifically provides also that such regulations could not authorize a foreign branch to engage in any business in goods, wares, or merchandise; nor in the business of underwriting, selling, or distributing securities except to such limited extent as the Board may deem necessary with respect to securities issued by any foreign state, or political subdivision thereof.

#### NEED FOR LEGISLATION

In the legislative recommendations of the Federal supervisory agencies to the Senate Committee on Banking and Currency (committee print, 84th Cong., 2d sess.) the Federal Reserve Board expressed the opinion that legislation which was similar to this bill would reduce the obstacles to effective competition by national banks abroad by permitting the powers of foreign branches to be adjusted more realistically to the conditions existing in places where they are located, while at the same time providing suitable safeguards to assure that

such foreign branches would not engage in such business as investment banking or manufacturing.

The Board of Governors has also expressed the opinion that through the regulatory authorization of certain limited kinds of guaranties, repurchase agreements, acceptance financing, real estate loans, and other practices usual to the banking business abroad but restricted under existing laws relating to national banks, the activities of foreign branches of national banks abroad may be greatly facilitated, under appropriate regulations, without jeopardizing the integrity of American banking.

Testimony from representatives of national banks having a considerable number of foreign branches indicated that their branches were primarily engaged in the financing of import and export transactions. They advised your committee that American banks operating branches in foreign countries are at a competitive disadvantage with local banks or banks of other foreign countries if the American branches cannot perform the banking functions that are normal in the country where such branches are located.

A representative of one of the largest American banks engaged in international banking advised that their experience over a period of approximately 45 years demonstrated clearly that the establishment of foreign branches under section 25 of the Federal Reserve Act has furthered the foreign commerce of the United States. This witness further stated such foreign branches of American banks have served as important factors in stimulating development in those countries and in serving the interests of our Government there. Notwithstanding this good experience in the past the witness testified that foreign branches could do a still better job if this bill is passed.

#### BANK SUPERVISORY AGENCIES

All of the bank supervisory agencies in formal reports have reported favorably on the bill.

The committee wishes to make clear to the Federal regulatory agency involved that it does not believe nor intend that this legislation should offer any opportunity for tax evasion. Additionally the committee requests that in the implementation of this legislation by regulation that every effort be made to guard against the creation of any such opportunities.

#### CONCLUSION

The committee wants to take constructive action to increase the exports of this country because it believes that expanded American exports are the best single method of enabling this country to achieve relative balance in its international payments and thereby protect its gold reserve. This bill is a right step in that direction. No objections to the bill have been made known to the committee.

BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM,  
Washington, September 11, 1961.

HON. BRENT SPENCE,  
*Chairman, Banking and Currency Committee,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: It is our understanding from Mr. Robert L. Cardon, clerk and general counsel of your committee, that you would like to have a report from the Board on the bill, S. 1771, now pending before your committee.

S. 1771 would amend section 25 of the Federal Reserve Act to permit the Board of Governors of the Federal Reserve System by regulations to authorize foreign branches of national banks to exercise, in addition to powers which they may exercise under other provisions of law, "such further powers as may be usual" in connection with the business of banking in the places where such branches transact business. The exercise of such additional powers would be subject to such conditions as the Board's regulations might prescribe, and the regulations could not authorize a foreign branch to engage in a general business in goods, wares, or merchandise, nor in the business of underwriting, selling, or distributing securities.

S. 1771 is virtually identical to section 44(f) of title II of S. 1451 (85th Cong.), the "Financial Institutions Act of 1957," which passed the Senate on March 21, 1957. In recommending such an amendment in 1956, the Board of Governors expressed the opinion that it would reduce the obstacles to effective competition by national banks abroad. (Legislative recommendations of the Federal supervisory agencies to the Senate Committee on Banking and Currency, Oct. 12, 1956 (committee print, 84th Cong., 2d sess.), pp. 111-112.)

The Board of Governors continues of the opinion that such legislation is desirable "for the furtherance of the foreign commerce of the United States," the express purpose for which national banks were originally authorized to establish branches abroad (12 U.S.C. 601). Accordingly, the Board of Governors recommends the passage of S. 1771.

Sincerely yours,

WM. McC. MARTIN, Jr.

SEPTEMBER 14, 1961.

HON. BRENT SPENCE,  
*Chairman, Committee on Banking and Currency,  
House of Representatives, Washington, D.C.*

MY DEAR MR. CHAIRMAN: Reference is made to your request for a report on S. 1771, a bill to improve the usefulness of national bank branches in foreign countries.

The proposed bill would permit the Board of Governors of the Federal Reserve System to issue regulations to authorize foreign branches of national banks to exercise powers which are usual in connection with the transaction of the business of banking in the places where the foreign branches transact business. This legislation is necessary because in some places foreign branches of national banks cannot exercise powers normally incident to banking in these places and, therefore, cannot serve to the fullest extent possible the banking

needs of their customers. For example, national banks are limited in their authority to guarantee obligations of others, whereas in some foreign countries this is a usual and necessary activity of banking institutions. The proposed legislation would enable the Board of Governors of the Federal Reserve System to permit foreign branches of national banks to engage in this activity and other similar activities to the extent and subject to whatever safeguards are deemed necessary.

It is the view of this Department that the proposed legislation will benefit the national banking system and the interests of the United States abroad, and that it will help to carry out the original purpose for which national banks were authorized to establish foreign branches. Accordingly, the Treasury Department favors the proposed legislation and urges its enactment.

The Department was advised by the Bureau of the Budget that there was no objection from the standpoint of the administration's program to the submission of an identical report on this bill to the Senate committee.

Very truly yours,

ROBERT H. KNIGHT,  
*General Counsel.*

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FEDERAL DEPOSIT INSURANCE CORPORATION,  
OFFICE OF THE CHAIRMAN,  
*Washington, September 11, 1961.*

HON. BRENT SPENCE,  
*Chairman, Committee on Banking and Currency,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Mr. Cardon of your staff has requested that the Corporation submit to your committee its views on S. 1771, a bill which has as its overall purpose the improvement of the usefulness of national bank branches in foreign countries.

The proposed bill would permit the Board of Governors by regulations to authorize branches of national banks in foreign countries, or dependencies or insular possessions of the United States, to exercise such additional powers as may be usual in connection with the business of banking in the places where the foreign branches are transacting business, subject to conditions and requirements prescribed in such regulations. Such regulations may not authorize a foreign branch to engage in the production, distribution or sale of goods or in the investment banking business except as the Board of Governors may deem to be necessary with respect to securities issued by any foreign government or any department, district, province, county, possession, or other similar governmental organization or subdivision of a foreign government and any agency or instrumentality thereof.

National banks with capital and surplus of \$1 million or more are now authorized, with the approval of the Board of Governors and upon such conditions and under such regulations as the Board may prescribe, to establish branches in foreign countries or dependencies or insular possessions of the United States for the furtherance of foreign commerce of the United States. National banks with the same approval may invest an amount up to 10 percent of their capital stock and surplus in the stock of one or more banks or corporations chartered under the laws of the United States or any State thereof

and principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States. The Board of Governors has also power from time to time to increase or decrease the number of places where such banking operations may be carried on (12 U.S.C. 601-604).

The Board of Governors is now authorized to approve the establishment of corporations under the laws of the United States to do a foreign banking business (12 U.S.C. 611-631). Among the stated powers of such a foreign banking corporation is the right "to exercise such powers \* \* \* as may be usual, in the determination of the Board of Governors of the Federal Reserve System, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with the powers specifically granted herein" (12 U.S.C. 615).

The Corporation supports the views expressed by the Board of Governors on this proposal to the effect that the powers of foreign branches of national banks should be adjusted more realistically to the conditions existing in foreign countries to enable foreign branches to operate and compete more effectually in the countries where they do business. As examples, the Board has pointed out that foreign branches of national banks, unlike the banks in some foreign countries, may not give guarantees for the payment of customs duties, or for the payment of funds when specified deliveries are made or other transactions performed and may not accept drafts for shipments within the foreign country, in which it is located, even though they may accept drafts for shipments within the United States. Such disparities would seem to impair the usefulness and competitive strength of foreign branches of national banks. Under the proposed bill the Board of Governors could permit guarantees in certain circumstances and also relieve foreign branches of restrictions that apply to operations at home but are not appropriate abroad. The Board has indicated that the broader powers it would grant would be limited to established commercial banking practices in the particular foreign country and kept within prudent limits.

The Corporation approves this proposal and endorses its enactment.

We have been advised by the Bureau of the Budget that it has no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

ERLE COCKE, Sr., *Chairman.*

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## SECTION 25 OF THE FEDERAL RESERVE ACT

## FOREIGN BRANCHES

SEC. 25. Any national banking association possessing a capital and surplus of \$1,000,000 or more may file application with the Board of Governors of the Federal Reserve System for permission to exercise, upon such conditions and under such regulations as may be prescribed by the said board, either or both of the following powers:

First. To establish branches in foreign countries or dependencies or insular possessions of the United States for the furtherance of the foreign commerce of the United States, and to act if required to do so as fiscal agents of the United States.

Second. To invest an amount not exceeding in the aggregate ten per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the United States or of any State thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions.

Until January 1, 1921, any national banking association, without regard to the amount of its capital and surplus, may file application with the Board of Governors of the Federal Reserve System for permission, upon such conditions and under such regulations as may be prescribed by said board, to invest an amount not exceeding in the aggregate 5 per centum of its paid-in capital and surplus in the stock of one or more corporations chartered or incorporated under the laws of the United States or of any State thereof and, regardless of its location, principally engaged in such phases of international or foreign financial operations as may be necessary to facilitate the export of goods, wares, or merchandise from the United States or any of its dependencies or insular possessions to any foreign country: *Provided, however,* That in no event shall the total investments authorized by this section by any one national bank exceed 10 per centum of its capital and surplus.

Such application shall specify the name and capital of the banking association filing it, the powers applied for, and the place or places where the banking or financial operations proposed are to be carried on. The Board of Governors of the Federal Reserve System shall have power to approve or to reject such application in whole or in part if for any reason the granting of such application is deemed inexpedient, and shall also have power from time to time to increase or decrease the number of places where such banking operations may be carried on.

Every national banking association operating foreign branches shall be required to furnish information concerning the condition of such branches to the Comptroller of the Currency upon demand, and every

member bank investing in the capital stock of banks or corporations described above shall be required to furnish information concerning the condition of such banks or corporations to the Board of Governors of the Federal Reserve System upon demand, and the Board of Governors of the Federal Reserve System may order special examinations of the said branches, banks, or corporations at such time or times as it may deem best.

Before any national bank shall be permitted to purchase stock in any such corporation the said corporation shall enter into an agreement or undertaking with the Board of Governors of the Federal Reserve System to restrict its operations or conduct its business in such manner or under such limitations and restrictions as the said board may prescribe for the place or places wherein such business is to be conducted. If at any time the Board of Governors of the Federal Reserve System shall ascertain that the regulations prescribed by it are not being complied with, said board is hereby authorized and empowered to institute an investigation of the matter and to send for persons and papers, subpoena witnesses, and administer oaths in order to satisfy itself as to the actual nature of the transactions referred to. Should such investigation result in establishing the failure of the corporation in question, or of the national bank or banks which may be stockholders therein, to comply with the regulations laid down by the said Board of Governors of the Federal Reserve System, such national banks may be required to dispose of stock holdings in the said corporation upon reasonable notice.

Every such national banking association shall conduct the accounts of each foreign branch independently of the accounts of other foreign branches established by it and of its home office, and shall at the end of each fiscal period transfer to its general ledger the profit or loss accrued at each branch as a separate item.

*Regulations issued by the Board of Governors of the Federal Reserve System under this section, in addition to regulating powers which a foreign branch may exercise under other provisions of law, may authorize such a foreign branch, subject to such conditions and requirements as such regulations may prescribe, to exercise such further powers as may be usual in connection with the transaction of the business of banking in the places where such foreign branch shall transact business. Such regulations shall not authorize a foreign branch to engage in the general business of producing, distributing, buying or selling goods, wares, or merchandise; nor, except to such limited extent as the Board may deem to be necessary with respect to securities issued by any "foreign state" as defined in section 25(b) of this Act, shall such regulations authorize a foreign branch to engage or participate, directly or indirectly, in the business of underwriting, selling, or distributing securities.*

