A meeting of the Federal Reserve Board was held in Washington on Friday, September 22, 1933, at 3:00 p. m.

PRESENT: Mr. James, Presiding
Mr. Hamlin
Mr. Thomas
Mr. Szymczak
Mr. O'Connor

Mr. Bethea, Assistant Secretary
Mr. Martin, Assistant to the Governor
Mr. Wyatt, General Counsel
Mr. Wingfield, Assistant Counsel
Mr. Paulger, Chief of the Division of Examinations
Mr. Leonard, Federal Reserve Examiner

The application of the Union Trust Company of Maryland, Baltimore, Maryland, for membership in the Federal Reserve System was presented for the Board's consideration. Mr. Wingfield, Assistant Counsel, outlined the proposed plan of reorganization of the trust company and explained the legal difficulties confronting the institution in its effort to meet the requirements for membership imposed by the provisions of the Federal Reserve Act and the regulations of the Federal Reserve Board. He also called attention to a letter dated September 21, 1933, which had been received from Mr. C. S. Bloede, Chairman of the Dissenting Depositors Committee representing depositors of the trust company who object to the proposed plan of reorganization, requesting an opportunity to be heard by the Board in connection with the matter. Mr. Wingfield said that a suggested draft of a letter to be sent to Mr. Hoxton, Federal Reserve Agent at Richmond, regarding the application, had been prepared for the Board's consideration, and that, if the Board could see its way clear to act on the matter at this time, it would enable the applicant to begin immediately to modify its plan of reorganization

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or to take such other action as might be necessary to meet the requirements of membership. Mr. James requested the Assistant Secretary to read to the members of the Board present the proposed letter to Mr. Hoxton, at the conclusion of which Mr. James suggested certain changes to be made therein, and stated that he thought it would be desirable for the Board to grant representatives of the trust company and of the Dissenting Depositors Committee an opportunity for a hearing before taking final action on the institution's application for membership.

A general discussion ensued, at the conclusion of which the Board authorized the Assistant Secretary to send the following letter to Mr. Hoxton, Federal Reserve Agent at Richmond, together with letters to Honorable Jesse H. Jones, Chairman of the board of the Reconstruction Finance Corporation, inclosing a copy of the Board's letter to Mr. Hoxton, and to Mr. C. S. Bloede, Chairman of the Dissenting Depositors Committee, stating that the Board will be glad to afford the committee an opportunity for a hearing before taking final action on the application:

"Reference is made to the application of the Union Trust Company of Maryland, Baltimore, Maryland, for membership in the System.

"From the information submitted it appears that the bank has organized an affiliate, the Augusta Mortgage Company, for the purpose of obtaining funds from the Reconstruction Finance Corporation. It is noted that all but twenty-five of the 1,000 shares of stock in the Augusta Mortgage Company will be owned by the Union Trust Company of Maryland, and that the bank contemplates selling approximately $3,000,000 of its assets to this affiliate, receiving therefor approximately $2,000,000 in cash and a note for $1,000,000 executed by the Augusta Mortgage Company. Section 23A of the Federal Reserve Act, as amended, provides that

'No member bank shall make any loan or any extension of credit to, or purchase securities under repurchase agreement from, any of its affiliates, or invest any of its funds in the capital stock, bonds, debentures, or other such obligations of any such affiliate * * * * * if in the case of any such affiliate the aggregate amount of such loans, extensions of credit, repurchase agreements, investments, and advances against such collateral security will exceed 10 per centum of the capital and surplus of such member bank.'

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"It may also be noted that Section 23A requires specified collateral security for loans or extensions of credit to affiliates by a member bank.

"The capital and surplus of the Union Trust Company of Maryland, after the proposed reorganization, will amount to $4,000,000 and the contemplated extension of credit of $1,000,000 to the affiliate made in anticipation of membership in the System would be contrary to the spirit and purpose of the Act. Under Section 9 of the Federal Reserve Act as amended, a member bank is not authorized (with certain limited exceptions which are not here involved) to invest in corporate stock, and the investment in the stock of the Augusta Mortgage Company made in anticipation of membership in the System would likewise be contrary to the spirit and purpose of the Act.

"The plan of reorganization as submitted provides, among other things, that 20 per cent of the unsecured restricted deposits shall be made immediately available, that 40 per cent of such deposits shall be represented by non-interest bearing certificates of deposit without definite maturity issued by, and to be a direct liability of, the bank; and that 40 per cent of such deposits shall be represented by certificates of beneficial interest to be issued by the City Certificates Corporation, a holding company affiliate to be formed for the purpose of issuing such certificates and of making distribution of funds to holders thereof. The plan contemplates that stock in the holding company is to be exchanged on a share for share basis for stock in the Union Trust Company of Maryland, but it does not appear that all of such stock will be exchanged. While it appears that the certificates to be issued by the City Certificates Corporation are obligations of that corporation, it also appears that the Union Trust Company has entered into an agreement with the City Certificates Corporation to the effect that future earnings of the trust company will be turned over to the City Certificates Corporation for application on the payment of such certificates and that no distribution of assets of the trust company will be made to stockholders of the bank other than the City Certificates Corporation, in the event of liquidation or otherwise, until the certificates issued by the City Certificates Corporation have been paid in full. In these circumstances, it appears that the bank has a liability to the City Certificates Corporation in an amount equal to the amount of the certificates issued by that corporation, which amount is more than twice the amount of all the capital accounts of the bank. It appears, therefore, that such liability of the bank is sufficient not only to impair but to eliminate the entire capital stock of the bank. The liability of the bank under its agreement with the City Certificates Corporation does not appear to be legally different from the liability of the bank referred to in the Board's letter of August 14, 1933 (X-7549). In this connection, attention is also called to the

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"Board's letter of September 21, 1933 (X-7598) also involving comparable circumstances.

"Under the provisions of Section 9 of the Federal Reserve Act, as you know, a State bank may not be admitted to membership in the Federal Reserve System, unless it has an unimpaired capital. Accordingly, it appears that the Union Trust Company would not be eligible for admission to membership in the Federal Reserve System until it has eliminated the liability to the City Certificates Corporation referred to above to an extent at least which would eliminate any impairment of its capital.

"It also appears that the Union Trust Company has two branches located outside of the limits of the City of Baltimore and established subsequent to February 25, 1927. Under the provisions of Section 9 of the Federal Reserve Act as amended by the Banking Act of 1933, a member bank may retain branches established after February 25, 1927, the date of the enactment of the McFadden Act, and located beyond the limits of the city in which the parent bank is situated only if the bank complies with the same terms and conditions, limitations and restrictions as are applicable to the establishment of branches by national banks. Under the provisions of Section 5155 of the Revised Statutes of the United States, a national bank is authorized to establish a branch beyond the limits of the city, town, or village in which it is situated 'if such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restrictions as to location imposed by the law of the State on State banks', provided, of course, that such bank complies with all the other requirements of the law.

"The application of the Union Trust Company was not accompanied by any information with regard to the laws of Maryland now in effect with regard to the establishment of branches, and, when the Board is requested to take further action with regard to the application of the Union Trust Company, it should be furnished with advice as to the present provisions of the laws of Maryland on this point.

"The application of the Union Trust Company was not accompanied by an opinion of your counsel as to whether the plan of reorganization of the Union Trust Company complies with requirements of the State law, and will be legally effective, as is contemplated in cases of this kind, by the Board's letter of July 1, 1933 (X-7482). When the Board is requested to give further consideration to this application, it should be furnished with a copy of such an opinion by your counsel.

"As indicated in its letter dated August 21, 1933 (X-7556), the Board realizes that there may be some instances where the depositors would benefit through a reorganization where the depositors are to

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"waive a part of their claims against the bank if the shareholders' liability were uncollectible and the liquidation of the institution through receivership proceedings would entail a greater loss than through a waiver of deposits; but in the absence of such special circumstances, the Board questions whether it would be justified in admitting a bank to membership on the basis of a reorganization plan under which the shareholders evidently have not assumed a reasonable share of the burden of correcting the bank's unsatisfactory condition. In the case of the Union Trust Company of Maryland, however, evidence of such special circumstances or of the uncollectibility of the shareholders' liability has not been presented, and it is requested that you advise the Board in detail as to the extent this phase of the reorganization was considered by you and the Executive Committee. In this connection, Mr. Fry has advised that your executive committee gave consideration to this phase of the matter and has forwarded a copy of a letter received from the Bank Commissioner of Maryland with regard thereto. However, when this application is again submitted to the Board it will be appreciated if you will advise in detail as to the reasons upon which the conclusion of your committee on this point was based and as to what investigation of the collectibility of the stockholders' liability was made in this particular case.

"The Federal Reserve Board has given careful consideration to this matter and has requested me to advise you that further consideration of the application for membership of the Union Trust Company will be deferred pending a reply from your office covering the matters discussed in this letter and advice as to the necessary corrections which have been or will be made with regard thereto. No attempt has been made in this letter to go into all the detailed questions involved in this matter but only to call attention to the principal problems involved. Since receipt of the application of the Union Trust Company for membership an application has been received for a voting permit from the City Certificates Corporation which will own a majority of the stock of the Trust Company. This matter will receive the Board's consideration and no attempt will be made to comment upon it in this letter.

"The Federal Reserve Board has received a request from Mr. C. S. Bloede, Chairman of the Dissenting Depositors Committee, for an opportunity for a hearing in connection with the application of the Union Trust Company for membership in the Federal Reserve System, and there is inclosed for your information a copy of the letter the Board is forwarding to Mr. Bloede, advising him that it will afford him an opportunity for such a hearing before final action is taken on the application. The Board, of course, will also be glad to afford representatives of the bank an opportunity for a hearing in this matter if they so desire, and you are requested to advise the bank to this effect.

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"Since it is understood that the Reconstruction Finance Corporation is requiring that the Union Trust Company be admitted to membership as a condition of the Reconstruction Finance Corporation advancing any funds in this case, a copy of this letter is being forwarded to the Reconstruction Finance Corporation for its information."

The Board then considered and acted upon the following matters:

The minutes of the meeting of the Federal Reserve Board held on September 9, 1933, were approved.

Letter dated September 21, 1933, from Mr. Sproul, Secretary of the Federal Reserve Bank of New York, and telegrams dated September 20, 1933, from Mr. Curtiss, Chairman of the Federal Reserve Bank of Boston, Mr. Austin, Chairman of the Federal Reserve Bank of Philadelphia, and Mr. Wood, Chairman of the Federal Reserve Bank of St. Louis, September 21, 1933, from Mr. Newton, Chairman of the Federal Reserve Bank of San Francisco, and September 22, 1933, from Mr. Stevens, Chairman of the Federal Reserve Bank of Chicago, all advising that, at meetings of the boards of directors on the dates stated, no changes were made in the banks' existing schedules of rates of discount and purchase.

Without objection, noted with approval.

Reply on September 21, 1933, approved by seven members of the Board, to a letter dated September 14 from Mr. Case, Federal Reserve Agent at New York, recommending that the Board designate the following employees in the Federal reserve agent's department of the bank as "assistant Federal reserve examiners":

Herbert W. Bullock
J. Lawrence Kilduff
S. Herbert Turkus

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The reply stated that each examiner in the employ of the Federal Reserve Board is designated as "Federal Reserve Examiner" or "Assistant Federal Reserve Examiner" as the case may be; that the Board feels that, in order to avoid any possible confusion on the part of member banks, or others, the use of such titles should be confined to employees of the Board; and that, while this aspect of the matter was not brought out in the Board's letter of June 28, 1933, the desirability of drawing a clear cut distinction between examiners in the employ of the Board and examiners in the employ of the various Federal reserve banks has become increasingly apparent in recent months due largely to the expansion and development of the Board's examining staff. The reply also stated that, in the circumstances, the Board approves the designation of Messrs. Bullock, Kilduff and Turkus, respectively, as "assistant examiner" in the Federal reserve agent's department of the bank; that, in this connection, it is suggested that the agent may wish to recall all identification cards which have been issued to employees of the bank examinations department of the bank indicating that any employee has been designated as "Federal Reserve Examiner" or "Assistant Federal Reserve Examiner" and to issue revised identification cards showing their designation as merely "Examiner" or "Assistant examiner" in the employ of the Federal Reserve Bank of New York; and that the Board will be pleased to have the agent's advice as to the action taken in the premises.

Approved.

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Telegraphic reply on September 21, 1933, approved by four members of the Board, to a telegram of that date from Mr. Stevens, Federal Reserve Agent at Chicago, requesting approval of the temporary appointment of two examiners in the Federal reserve agent's department of the bank, with a salary range of from $3,000 to $4,000 per annum. The reply stated that the Board approves the temporary appointments referred to with salary range as stated above, and with the understanding that the agent will submit as soon as possible information with regard to these examiners in accordance with the Board's circular letter of September 20, 1933 (X-7595), with respect to the appointment of examiners at Federal reserve banks.

Approved.

Telegraphic reply on September 21, 1933, approved by six members of the Board, to a telegram dated September 20 from Mr. McClure, Federal Reserve Agent at Kansas City, requesting approval of the temporary appointment as examiners in the Federal reserve agent's department of the bank of Messrs. J. K. Friedebach, Wm. M. Wilson, Dale Ainsworth, and D. W. Wooley. The reply stated that the Board approves the temporary appointments referred to with salaries in the order stated at the rates of $2,400, $2,500, $3,600, and $3,400 per annum, respectively, and that it is understood that the agent has carefully investigated the qualifications of these men and desires approval of their employment in order that they may be loaned to the Federal Deposit Insurance Corporation, which will reimburse the bank for their salaries and expenses. Moreover, the reply requested that the agent forward, for the completion

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of the Board's files, a written recommendation, together with a report containing detailed information with respect to their experience and qualifications, in accordance with circular letter X-7595, dated September 20, 1933.

Approved.

Letters dated September 21, 1933, to Mr. Worthington, Deputy Governor of the Federal Reserve Bank of Kansas City, approved by six members of the Board, stating that, in accordance with the recommendations contained in his letters of September 8 and 12, 1933, the Board approves changes in the personnel classification plan of the Federal Reserve Bank of Kansas City to provide for the establishment of the new positions of "typist-clerk", "typist and entry clerk", and "typist-clerk" in the Federal reserve agent-examination, check collection-return items, and check collection-non-cash collections departments of the bank, respectively.

Approved.

Telegraphic reply on September 21, 1933, approved by six members of the Board, to a telegram dated September 19 from Mr. Newton, Federal Reserve Agent at San Francisco, requesting approval of the temporary appointment of Mr. M. W. Starbuck as an examiner in the Federal reserve agent's department of the bank, with salary at the rate of $300 per month, effective September 18, 1933. The reply stated that the Board approves the temporary appointment referred to with salary at the rate stated.

Approved.

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Letter dated September 21, 1933, to Mr. Curtiss, Federal Reserve Agent at Boston, approved by seven members of the Board, referring to the application of the Guilford Trust Company, Guilford, Maine, for membership in the Federal Reserve System, which trust company has a capital of $100,000, and stating that, in this connection, it has been noted that the trust company has a branch office located at Monson, Maine, which was established January 10, 1930 that it is also understood that the State of Maine has a population of approximately 800,000 inhabitants and that the largest city in the State has a population of approximately 70,000 inhabitants; that under the provisions of section 9 of the Federal Reserve Act, as amended by the Banking Act of 1933, a State member bank may not retain any branches established after February 25, 1927, outside of the corporate limits of the city in which the parent bank is situated unless such bank complies with the same requirements applicable to the establishment of branches by a national bank beyond the limits of the city in which such bank is situated; that one of the conditions prescribed for the establishment of a branch by a national bank outside of the city in which the parent bank is situated is that, when located in a State with a population of less than 1,000,000 inhabitants but more than 500,000 inhabitants which has no city located therein with a population exceeding 100,000 inhabitants, the bank must have a capital of not less than $250,000; and that, in these circumstances, if the Guilford Trust Company is admitted to membership while retaining its branch office at Monson, it must have a capital of at least $250,000 and must comply with the other requirements

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referred to above. The letter also stated that, before the Board takes any action on the application of the Guilford Trust Company, it is suggested that the agent communicate with the trust company and determine what action it desires to take with regard to its branch office at Monson; that if the trust company decides to increase its capital to the required amount and retain the branch office at Monson, the Board would like to have detailed information as to the opportunity for successful operation of the branch, the scope of functions and character of business which is being or will be performed by the branch, and with regard to the policy which is being followed or is proposed to be followed with reference to the supervision of the branch by the head office; and that advice is also requested as to what extent if any the Guilford Trust Company will desire to use its surplus and undivided profits in effecting an increase in its capital. The letter also called attention to the fact that under the specific provisions of section 9 of the Federal Reserve Act and of the National Bank Act, as amended by the Banking Act of 1933, branches established after February 25, 1927, outside of the corporate limits of the city in which the parent bank is situated may be retained by a State member bank only if the establishment and operation of the branch are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restriction as to location imposed by the law of the State. The letter stated that, if the Guilford Trust Company desires to retain the branch office at Monson, the agent is requested to

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furnish the Board with a copy of the Maine statute now in effect authorizing the establishment of branches in that State, or a reference to such statute; and that, if such statute contains any restriction as to location of branches, advice is requested as to whether the location of the branch office at Monson comes within the requirements of the statute.

Approved.

Letter dated September 21, 1933, to Mr. Curtiss, Federal Reserve Agent at Boston, approved by six members of the Board, referring to the application of the County Bank and Trust Company, Cambridge, Massachusetts, for membership in the Federal Reserve System, and stating that, in this connection, it has been noted that a majority of the shares of the capital stock of the bank is owned by the Shawmut Association, Boston, Massachusetts; that if the County Bank and Trust Company be admitted to membership in the Federal Reserve System, it will be necessary for the Shawmut Association to agree to accept the same conditions and limitations as are applicable under section 5144 of the Revised Statutes of the United States, as amended, in the case of holding company affiliates of national banks and to obtain from the Board a voting permit as required by the provisions of sections 9 of the Federal Reserve Act and 5144 of the Revised Statutes, as amended by the Banking Act of 1933; that in acting upon an application for such a voting permit, the Board is required under the law, among other things, to consider the financial condition of the applicant holding company affiliate, the general character of its management and the probable effect of the granting of such permit upon the affairs of the member bank; that the Board does not, at

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this time, have sufficient information with regard to the Shawmut Association to determine whether or not it should be granted a voting permit, and it does not feel that it should act upon the application for membership of the County Bank and Trust Company until it is also in a position to determine whether it can properly grant a voting permit to the holding company affiliate of the bank, the Shawmut Association; that the agent is requested to advise the County Bank and Trust Company that the Board will, therefore, consider its application for membership when an application for a voting permit has been received from the Shawmut Association and the Board has given favorable consideration to such an application; and that it is essential that the voting permit be applied for as soon as possible in order to obviate the necessity of a further examination of the bank applying for membership, since it is important that the information regarding the condition of such bank be current. The letter also stated that, in advising the applying bank of the Board's position in the matter of its application, it is suggested that the agent point out to the institution the undesirability of having such a large amount of its funds invested in loans predicated on real estate, as reflected in the report of examination, and request that in the interim it carry out vigorously the policy recently adopted by its management of eliminating as many of such loans as possible through outside negotiations, advising the Board at the time of the submission of the holding company's application for a voting permit what progress has been made in this direction. The letter stated further that it is noted that the applicant is authorized to exercise trust powers, but that the

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report of examination does not indicate whether such powers are to be exercised; that it is requested, therefore, that the agent develop such information; and that in the event a trust department has been installed or is to be installed, it will be necessary that the Board be given full information as to the nature and extent of the operations and as to the type of management which will be in charge.

Approved.

Telegram dated September 21, 1933, to Mr. Stevens, Federal Reserve Agent at Chicago, approved by six members of the Board, referring to the application of the Chesaning State Bank, Chesaning, Michigan, for permission to withdraw immediately from membership in the Federal Reserve System, and stating that the Board waives the usual requirement of six months' notice of intention to withdraw and that, accordingly, upon surrender of the Federal reserve bank stock issued to the Chesaning State Bank, the Federal Reserve Bank of Chicago is authorized to cancel such stock and make a refund thereon.

Approved.

Letter dated September 21, 1933, to Mr. Case, Federal Reserve Agent at New York, approved by six members of the Board, replying to Assistant Federal Reserve Agent Dillistin's letter of August 17 inclosing the application of the Bergen County National Bank of Hackensack, New Jersey, for permission to act in all fiduciary capacities authorized under section 11(k) of the Federal Reserve Act. The reply stated that the Board has considered this application and, in view of the generally unfavorable character of the bank's assets, the poor earning record,

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the lack of a proven high type and conservative management, and the questionable need of additional fiduciary facilities in the City of Hackensack, feels that it would not be justified in approving the application; and requested that the agent advise the institution accordingly.

Approved.

Letter dated September 21, 1933, to the Mercantile National Bank at Dallas, Texas, approved by six members of the Board, referring to the application filed on the bank's behalf by the Mercantile Bank and Trust Company of Texas, Dallas, Texas, for permission to exercise fiduciary powers under the provisions of section 11(k) of the Federal Reserve Act, and stating that the Board has reconsidered the application and its previous action in the matter, and, effective as of the date when the Mercantile National Bank at Dallas, Texas, was authorized to commence business by the Comptroller of the Currency, grants that bank permission to act, when not in contravention of State or local law, as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in which State banks, trust companies or other corporations which come into competition with national banks are permitted to act under the laws of the State of Texas, only in the specific trusts in which the Mercantile Bank and Trust Company of Texas, Dallas, Texas, had been appointed and was acting on the date of its conversion into such national bank, and which are approved by the Federal Reserve Agent of the Federal Reserve Bank of Dallas for the

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purpose of being taken over by the Mercantile National Bank at Dallas, the exercise of all such rights to be subject to the provisions of the Federal Reserve Act and the regulations of the Federal Reserve Board. The letter also stated that action upon the bank's application for full fiduciary powers is deferred pending receipt of a report of a new examination of the Mercantile National Bank at Dallas.

Approved.

Letter dated September 21, 1933, to Mr. O'Connor, Comptroller of the Currency, approved by five members of the Board, including Mr. Szymczak who requested that the Board's records indicate that he approved the letter with the understanding that the management of the Old National Bank and Union Trust Company will be changed, replying to his memorandum of July 26 recommending that the Old National Bank and Union Trust Company of Spokane, Washington, be permitted to reduce its capital stock from $1,500,000 to $500,000, in accordance with a plan of reorganization which also contemplates the issuance and sale to the Investment and Securities Company, an affiliated company owned by the Old National Corporation, of 5,000 shares of preferred stock of the reorganized bank having a par value of $100 per share; the elimination of undesirable assets and borrowed money; and the waiver by unsecured depositors of the bank of 60% of their claims in consideration of a right to participate in certain eliminated and trusteed assets. The reply stated that, in this connection, it is understood that the Old National Corporation, which owns substantially all of the stock of the Old National Bank and Union Trust Company, is unable to pay an assessment but will

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transfer all of its assets, including the stock of the Old National Bank and Union Trust Company and all other bank stocks owned by it, to the Investment and Securities Company, first, to secure a loan to be made by the Reconstruction Finance Corporation, and, second, to secure the ultimate payment in full of all claims waived by unsecured depositors and other creditors, retaining, however, whatever equity may remain in such assets after the loan of the Reconstruction Finance Corporation and the claims of unsecured depositors and other creditors have been satisfied in full; that it appears that the Old National Corporation owns 14,889 shares of stock of the Old National Bank and Union Trust Company out of a total of 15,000 shares outstanding, and, in addition, owns a majority of the stock of seventeen other banks, of which number thirteen have not been licensed; that the Old National Corporation also owns substantially all of the stock of seven other banks which are in liquidation; and that it owns all of the stock of the Investment and Securities Company, and of the Old National Insurance Agency. The reply stated also that section 5144 of the Revised Statutes, as amended by section 19 of the Banking Act of 1933, provides that shares of stock of a national bank controlled by a holding company affiliate of such bank may not be voted unless such holding company affiliate obtains a permit to vote such stock from the Federal Reserve Board, and such permit is in force at the time such shares are voted; that section 2, subdivision (c) of the Banking Act of 1933 defines a holding company affiliate as including, inter alia, any corporation which owns a majority of the shares of the capital stock of a member

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bank; that, since the Old National Corporation owns substantially all of the stock of the Old National Bank and Union Trust Company of Spokane, a member bank, it would seem clear that it is a holding company affiliate within the meaning of the act; and that, therefore, the necessary vote of shareholders to effect the proposed reduction in the capital stock of the Old National Bank and Union Trust Company cannot lawfully be obtained unless and until such holding company affiliate obtains a voting permit from the Federal Reserve Board. The reply stated further that, while the plan of reorganization is not altogether satisfactory, particularly in view of the fact that practically all of the common stock is pledged and that the local management has no substantial financial interest in the ownership of the bank, it would appear from a review of the information submitted that the reorganized bank on the basis of the proposed plan would be free from criticized assets and in a generally satisfactory financial condition, and that the reorganization of the bank and the twelve unlicensed affiliated banks would release a substantial amount of deposits; and that, in the circumstances, the Board approves the proposed reduction in capital, subject to all the conditions mentioned in the Comptroller's memorandum and subject to the additional conditions set forth in the reply. The reply added that the Board has agreed to issue a voting permit to the Old National Corporation for the sole purpose of enabling it to take such action as may be necessary to consummate the plan for reorganization of the Old National Bank and Union Trust Company and certain other subsidiary banks, which has been submitted to the Comp-

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troller and approved by him, and has authorized the issuance of a permit to the Old National Corporation to vote the stock of the Old National Bank and Union Trust Company and of its other subsidiary member banks solely for the purpose of consummating said plan, if and when a proper application for such permit is filed with the Board.

> Approved, together with a telegram dated September 21, 1933, to Mr. Newton, Federal Reserve Agent at San Francisco, also approved by five members of the Board, advising of the Board's action as outlined above, and stating that the Old National Corporation should file a formal application either with the Federal Reserve Bank of San Francisco or its Spokane branch on F. R. B. Form P-1, that such form of application may be modified to provide that such of the information and instruments required by paragraph 13 thereof as cannot be furnished with the application will be furnished to the Board as soon as possible thereafter; that, upon receipt of said application in proper form, properly executed and duly authorized by the board of directors of the Old National Corporation, the Board should be advised that said application has been received and is in form satisfactory to counsel for the Federal reserve bank; and that the Board will thereupon issue a permit to the Old National Corporation to vote the stock of the banks involved in such reorganization for the purposes referred to in the telegram.

In connection with the above, there was presented a telegram dated September 21, 1933, to Mr. Newton, Federal Reserve Agent at San Francisco, approved by six members of the Board, replying to a telegram of that date from Deputy Governor Clerk of the Federal Reserve Bank of San Francisco, and Mr. A. C. Agnew, Counsel for the Federal reserve bank, stating that the Old National Corporation has filed a proper application on F. R. B. Form P-1 for a permit to vote the stock of the Old National Bank and Union Trust Company of Spokane,

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Washington, and of its other subsidiary member banks. The reply stated that, on the basis of this advice and with the understanding that such application and all accompanying forms have been duly executed, that the execution thereof was duly authorized by the board of directors of the Old National Corporation, and that such application is in form satisfactory to counsel for the Federal reserve bank, the Board has issued a permit entitling the Old National Corporation to cast one vote on each share of stock of the Old National Bank and Union Trust Company of Spokane controlled by it, and to cast one vote on each share of stock of each of its other subsidiary member banks controlled by it; that it is provided, however, that such stock may be voted under said permit solely for the purpose of enabling such banks to consummate a certain plan for the reorganization of the Old National Bank and Union Trust Company of Spokane and of certain other subsidiary banks of the Old National Corporation; and that such plan has heretofore been submitted to the Comptroller of the Currency and approved by his office.

Approved.

Telegram dated September 20, 1933, to Mr. Stevens, Federal Reserve Agent at Chicago, approved by six members of the Board, replying to a telegram dated September 19 from Assistant Federal Reserve Agent Young stating that the State Bank of Cuba, Illinois, an unlicensed member institution, has completed a plan of reorganization; that it has executed an agreement with trustees, representing depositors of the bank who have waived 50% of their claims against the bank, binding

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the bank to use future net earnings for the benefit of waiving depositors; that the bank is anxious to reopen on September 20; and that the Board's views are requested in connection with the question as to whether the Federal reserve bank should recommend to the Treasury Department that the bank be granted a license to reopen. The reply stated that, in the absence of a copy of the agreement referred to, the Board cannot undertake to determine whether it imposes a liability on the bank, but that, if such agreement contains substantially the same provisions as the deferred certificates used in the case of the Farmers State Bank, Chadwick, Illinois, with regard to the satisfaction of claims of waiving depositors out of earnings and before distribution of assets to stockholders, it would seem clear that the contract referred to imposes liability on the bank; and suggested that the agent, if he has not already done so, consult counsel for the Federal reserve bank on this point. The reply stated also that the question whether a license should be issued to a member bank is one for the determination of the Secretary of the Treasury upon the recommendation of the Federal reserve bank rather than for the determination of the Board, but that it would not seem advisable to reopen a member bank having a liability on deferred certificates issued to waiving depositors or a liability on any contract entered into for the benefit of such depositors which, together with the liability of the bank to depositors and other creditors, exceeds the amount of the assets of the bank to an extent which impairs its capital. The reply stated further that the Board is now considering a plan of reorganization of the State Bank of

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Collinsville, Illinois, involving deferred certificates issued to waiving depositors and it is expected will forward a letter to the Auditor of Public Accounts of Illinois with regard to the problems involved within the next few days; that a copy of such letter will be forwarded to the agent for his information; and that it is suggested that, if the agent finds that the contract of the State Bank of Cuba with the trustees representing waiving depositors imposes a liability on the bank which will impair its capital, that the agent consider the advisability of deferring any action in that case until receipt of a copy of the Board's letter to the Auditor of Public Accounts.

Approved.

Letter dated September 20, 1933, to the Federal reserve agents at all Federal reserve banks, approved by seven members of the Board, stating that, in view of the necessity for exceptional care in the selection and approval of examiners at Federal reserve banks, the Board has decided that the procedure set out in the letter shall be followed hereafter; that whenever a new examiner is to be added to the examination division in a Federal reserve agent's department, the field of possible appointees should be carefully canvassed in order to obtain the services of the applicant best fitted for the position; that when a decision is reached as to such a person, the Federal reserve agent's recommendation should be submitted to the Board with detailed information in regard to the experience and qualifications of the person recommended; and that, in order that the Board may be advised fully, it is suggested that the report cover the matter along the following lines:

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"1. Applicant's name, date of birth, nationality, marital status, condition of health, physical defects if any.
"2. Education, including names of schools and colleges attended, periods of attendance, degrees obtained, other training, special examinations and results thereof, and diplomas or certificates received.
"3. Previous employment, names and addresses of employers, periods of employment, positions held and nature of work, salary received in each case, reasons for leaving previous positions, and information obtained from previous employers as to quality of applicant's work. In this connection, care should be exercised to ascertain independently of the applicant the attitude of previous employers with respect to his services and the reasons for termination thereof.
"4. All other experience which would have a bearing on applicant's qualifications as an examiner.
"5. Information as to applicant's indebtedness, if any, whether indebted to member banks, their subsidiaries or affiliates, when indebtedness was contracted, its original amount, progress being made in liquidation, and whether, if tendered appointment by the Federal reserve bank as an examiner, the applicant will resign any official connection he may have with other business concerns and discontinue any other existing relationship which may have an undesirable effect upon his service as an employee of the Federal reserve bank.
"6. Any other information which will be of assistance in the consideration of the recommendation."

The letter also stated that, upon receipt of the recommendation, accompanied by the information requested above, it will be referred to the Chief of the Board's Division of Examinations with the request that he make such investigation as may appear to him to be desirable with regard to the qualifications of the applicant and his fitness for the position, and that he submit a recommendation to the Board with regard to approval of the appointment; that, upon submission of the recommendation of the Chief of its Division of Examinations, the Board will consider the proposed appointment in the light of the information and recommendations received; and that the Federal reserve agent will be advised promptly of the action taken.

Approved.

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Memorandum dated September 16, 1933, from Mr. Smead, Chief of the Division of Bank Operations, recommending that the investment schedules in the next quarterly call report, which schedules are confidential and not made public, be revised so as to require member banks, both national and State, to show, in addition to the book value of their investments, the market value of all investments which have a current ascertainable market value and the appraised value of investments for which no current ascertainable market value is available; and that member banks be advised, at the time the forms for the forthcoming call reports are sent out, that on the next call thereafter they will also be required to report, in the schedules accompanying the memorandum, the appraised value of their loans and of real estate owned in addition to the book value.

Approved.

Letter dated September 20, 1933, to Mr. Dillistin, Assistant Federal Reserve Agent at New York, signed by Mr. Smead, Chief of the Division of Bank Operations, and approved by seven members of the Board, stating that the condition report of the Hamilton Trust Company, Paterson, New Jersey, shows a surplus of $200,000 and undivided profits of $201,003.75, notwithstanding the fact that the retirable value of the preferred stock, $1,725,000, plus the par value of the common stock, $750,000, exceeds the reported book value of preferred and common stock, $575,001, by $1,899,999, and that, inasmuch as the bank cannot have a surplus or undivided profits so long as the book value of capital stock is smaller than the retirable value of preferred stock and par

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value of common stock, the report of the Hamilton Trust Company has been changed so as to show the book value of the capital stock as $976,004.75. The letter also stated that the book value of the capital stock of the Savings Investment and Trust Company, East Orange, New Jersey, has been changed from $2,225,875 to $2,588,812.50, reducing its surplus account from $800,000 to $509,123.49, and eliminating undivided profits of $72,060.99, and that this change makes the book value of capital stock equal to the retirable value of preferred stock (29,035 shares at $37.50 per share) plus the par value of common stock (60,000 shares at $25 per share). The letter stated further that it will be appreciated if Mr. Dillistin will advise the above named banks in regard to these changes and ask them to report the capital accounts accordingly in subsequent condition reports.

Approved.

Letter dated September 21, 1933, to Governor Seay of the Federal Reserve Bank of Richmond, approved by seven members of the Board, referring to his letter of July 18 requesting advice as to whether certain corporations are affiliates of the State-Planters Bank and Trust Company, Richmond, Virginia, within the meaning of section 2(b) of the Banking Act of 1933, The Virginia Fire & Marine Insurance Company, the Broadwell Corporation, and the Green River Mills, Inc., being among such institutions. The letter stated that under date of August 31, 1933, the Board advised Governor Seay that it understood that questions similar to those raised by his inquiries in regard to these three institutions had been submitted by the Comptroller of the

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Currency to the Attorney General of the United States for an opinion; that, in the circumstances, the Board did not feel it could undertake to express an opinion on such questions at that time; and that the Attorney General has now rendered an opinion to the Secretary of the Treasury, but that Governor Seay will note from the copy of the opinion inclosed with the letter that the Attorney General refused to rule on the matters in question. The letter also stated that the Board takes no exception to any of the opinions rendered by counsel for the Federal reserve bank, under date of July 17, 1933, with respect to these questions, and that it agrees generally with his conclusion in respect thereto.

Approved.

Reply on September 21, 1933, approved by seven members of the Board, to a letter dated September 15 from Mr. Newton, Federal Reserve Agent at Atlanta, in response to the Board's letter of August 28, 1933, with regard to the absorption of exchange or collection charges by Atlanta banks in connection with items received by them on deposit from correspondent banks. The reply stated that it appears that it has heretofore been the practice of the clearing house banks in Atlanta, in connection with deposits received from correspondents and payable on demand, to absorb exchange or collection charges in an amount equivalent to 2% of the amount of the collected balance of a correspondent bank; that the Board is of the opinion that the absorption of such charges is clearly in violation of the provisions of section 19 of the Federal Reserve Act which prohibit the payment of interest on deposits

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payable on demand either directly or indirectly by any device whatsoever; and that the Board is, therefore, gratified to note that the clearing house banks of Atlanta are advising their correspondent banks that it is necessary to discontinue the practice of absorbing such charges and that the clearing house banks will not hereafter absorb charges on items received on deposit but will charge them against the depositing bank. The reply also stated that the prohibition contained in the statute upon the payment of interest on deposits payable on demand was enacted in order to assist member banks by eliminating some of the expense in connection with deposit balances; that it would, therefore, seem especially incumbent upon the banks to take such action as may be necessary to comply with both the spirit and the letter of the law on this subject; and that, in the circumstances, the Board will expect clearing house associations voluntarily to prescribe rules forbidding the absorption of exchange or collection charges which may be in conflict either with the spirit and purpose or with the letter of the statute and that such rules will be applicable to all members of such clearing house associations whether or not members of the Federal Reserve System. The reply stated further that it is noted that the bankers of Atlanta contemplate calling a conference of bankers from a number of other southern cities in an endeavor to have action taken in such other cities similar to that taken by the clearing house banks of Atlanta; and that, in this connection, the Board requests that the agent cooperate in this matter with a view to having any clearing house practices which do not conform to the spirit or the letter of the law

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modified or adjusted by voluntary action of the clearing house associations so as to comply with the statute.

Approved.

Letter dated September 21, 1933, to Mr. Wood, Federal Reserve Agent at St. Louis, approved by seven members of the Board, replying to Assistant Federal Reserve Agent Stewart's letter of June 16 with regard to the right of a State member bank in Illinois to deposit securities in its trust department to secure trust funds deposited in its banking department. The reply referred to Mr. Stewart's advice that the Elliott State Bank, Jacksonville, Illinois, had called attention to the fact that a recent court decision has raised a doubt with regard to the right of State banks in Illinois to secure trust funds deposited in the bank's commercial department through the deposit of securities in the trust department; and stated that the Elliott State Bank was admitted to membership subject to the following condition of membership, among others:

> "If trust funds held by such bank are deposited in its banking department or otherwise used in the conduct of its business, it shall deposit with its trust department security in the same manner and to the same extent as is required of national banks exercising fiduciary powers."

The reply also stated that the Board's condition of membership quoted above contemplates that any deposit of securities in the trust department of a member bank to secure trust funds deposited in its banking department or otherwise used in the conduct of its business shall result in the creation of a valid pledge for the security of such funds; that, if under the laws of the State in which a particular State member

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bank is located such a pledge may not lawfully be made, the bank should not deposit trust funds in its banking department or otherwise use such funds in the conduct of its business; and that it is suggested that the agent so advise the Elliott State Bank and suggest that it have its counsel determine whether it may lawfully pledge securities in accordance with the requirements of the condition of membership referred to above to secure trust funds deposited in its banking department. The reply stated further that it is also suggested that the agent request counsel for the Federal reserve bank to advise him with regard to the right of Illinois State member banks to make a valid pledge of securities for the protection of trust funds deposited in their banking departments or otherwise used in the conduct of their business; that, if in his opinion such State member banks may not make a valid pledge for this purpose under the laws of that State, the agent should call this matter to the attention of each State member bank located in Illinois in the Eighth Federal Reserve District which has been admitted to membership subject to the condition of membership quoted above; and that the Board would also like to receive a copy of any opinion rendered by counsel for the Federal reserve bank in the matter.

Approved.

Reply on September 21, 1933, approved by six members of the Board, to a letter dated August 29 from Mr. C. S. McCain, Vice Chairman of the board of The Chase Bank, New York, New York, requesting permission of the Federal Reserve Board for The Chase Bank to purchase from The Chase Corporation 50,000 shares, the entire issue, of the stock

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of The Chase National Executors and Trustees Corporation, Ltd., of London, which was organized to provide facilities for the handling of trust functions of the London branch of the Chase National Bank along the lines conducted by the Chase National Bank in New York. The reply noted that the stock of The Chase National Executors and Trustees Corporation, Ltd., has a par value of £ 5-0-0; that 40% of the par value has been paid in; that the contemplated purchase price of £ 100,000 is the amount of the paid-in capital; and that the ownership of the stock carries with it a liability of £ 150,000 for the unpaid capital subscription; and stated that, according to the report of condition as of June 30, 1933, The Chase Bank had capital and surplus amounting to $6,000,000; that in section IX (b) of Regulation K the Board has given its consent to the purchase by corporations organized under section 25 (a) of the Federal Reserve Act, as is The Chase Bank, of stock in other corporations organized under the laws of any foreign countries, provided that such other corporation is not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States, and that it is not transacting any business in the United States except such as is incidental to its international or foreign business; and that the regulation further provides that, except with the approval of the Board, no corporation organized under section 25 (a) of the Federal Reserve Act shall invest an amount in excess of 15% of its capital and surplus in the stock of any corporation engaged in the business of banking, or an amount in excess of 10% of its capital and surplus in the stock of any other

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kind of corporation. The reply also stated that, in view of the facts as stated in Mr. McCain's letter of August 29, the Board will interpose no objection to the purchase by The Chase Bank of the stock of The Chase National Executors and Trustees Corporation, Ltd., provided that the operations of The Chase National Executors and Trustees Corporation, Ltd., comply in all respects with the provisions above recited relative to the nature of its business.

Approved.

Reply on September 20, 1933, approved by seven members of the Board, to a letter addressed under date of August 8 to the Comptroller of the Currency by Mr. Laurence R. Connor, President of the Agricultural National Bank, Pittsfield, Massachusetts, and referred to the Board for reply, inquiring whether a director of the national bank may at the same time serve as president of the Pittsfield Cooperative Bank under section 33 of the Banking Act of 1933. The reply stated that it appears that a Massachusetts cooperative bank is formed for the purpose of accumulating the savings of its members and loaning such accumulations to them in order to enable individuals to own their own homes; that it also appears that such loans may be made either on real estate or on shares of the bank transferred by the borrowing member to the bank as collateral security; that it is the opinion of the Board that the loans thus made by a Massachusetts cooperative bank to its members on the security of its own stock, as a part of the general plan under which such associations usually operate, are not the type of loans secured by "stock or bond collateral" contemplated by section

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8A of the Clayton Antitrust Act, as amended by section 33 of the Banking Act of 1933; and that, accordingly, that section does not prohibit a director of the national bank from serving at the same time as the president of such cooperative bank.

Approved.

Reply on September 21, 1933, approved by six members of the Board, to a letter dated September 12 from Mr. C. B. Eilenberger, Third Assistant Postmaster General, referring to the Board's letter of September 9 with respect to the question whether deposits of postal savings funds in member banks of the Federal Reserve System may be classified as time deposits within the meaning of the Board's Regulation Q, and stating that the regulations governing the deposits of postal savings funds in banks have been amended by order of the Postmaster General dated August 30, 1933, and that paragraph 1 of section 15 of the regulations, as thus amended, reads as follows:

> "All funds deposited prior to July 1, 1933, in depository banks of the Postal Savings System shall be treated as time deposits, to remain on deposit in such banks for one calendar month from July 1, 1933. All funds deposited after July 1, 1933, in such banks shall likewise be treated as time deposits, for the period including the calendar month next following the date of deposit. At the expiration of such periods and in the event that withdrawal is not made of the deposit at the end of such calendar periods by the Board of Trustees of the Postal Savings System, then such funds shall be considered as having been redeposited for the succeeding calendar month; and likewise redeposited for each and every calendar month thereafter until withdrawal is made. All postal savings funds held by any qualified depository bank in excess of the security value of its collateral shall be promptly disposed of in accordance with the provision of Section 17 of the Banking Regulations."

The reply stated that the Board understands that, under the provisions of the regulations above quoted, deposits of postal savings funds in

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banks may be withdrawn only on the first day of any calendar month and funds not withdrawn on such day shall be considered as having been redeposited for another full calendar month, and also that no such funds may be withdrawn except on the first day of any calendar month even though no interest is paid on such deposits; and that it is the view of the Board that deposits withdrawable only under these conditions may properly be classified as time deposits on which interest may be paid in accordance with the provisions of the Board's Regulation Q, except that amounts considered as redeposited under the terms of the Postmaster General's regulations on the first day of February may not be so classified and no interest may be paid thereon because they are then payable in less than thirty days. The reply also stated that the Board has received a number of inquiries with respect to the question whether postal savings funds may be classified as time deposits on which interest may be paid by member banks, and that, in order that the Board may make appropriate replies to these inquiries, it will be appreciated if the Third Assistant Postmaster General will advise at his early convenience whether any further changes in his regulations with respect to this matter are in contemplation or whether it is expected that the regulations will remain in their present form. In response to the Third Assistant Postmaster General's inquiry with respect to the provisions of the Board's Regulation Q which limit the rate of interest that may be paid by a member bank upon time deposits when considered in the light of section 2 of the Postal Savings Act, approved May 18, 1916, which provides for the

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deposit of postal savings funds in solvent banks at a rate of interest of not less than 2 1/4% per annum, which rate shall be uniform throughout the United States and territories thereof, the reply stated further that there would not appear to be any conflict at the present time between the limitation prescribed in the Board's Regulation Q on the rate of interest which may be paid on time deposits by member banks and the provisions of the statute in question.

Approved.

Reply on September 19, 1933, approved by seven members of the Board, to a letter dated September 5 from Mr. McClure, Federal Reserve Agent at Kansas City; the reply reading as follows:

"Receipt is acknowledged of your letter of September 5, 1933, enclosing copies of letters you have addressed to the State Banking Departments of Missouri and Colorado and advising of other steps you have taken to obtain information with regard to the condition and needs of banks in Groups 3 and 4 and to suggest to the State Banking Departments of the States in your district that banks in such groups make application to the Reconstruction Finance Corporation for the purchase of such preferred stock as may be necessary to place the banks in sound condition. Your efforts in this connection and the cooperation you are giving in working out the problems involved in this matter are greatly appreciated.

"It is noted that you have called the attention of at least one of the State Banking Departments to the fact that the Reconstruction Finance Corporation can supply funds through loans to the purchasers of preferred stock which is subject to double liability, and it is suggested that, if you have not already done so, you call this fact to the attention of the State Banking Departments of the other States located in your district, the laws of which do not authorize banks to issue preferred stock exempt from double liability.

"As you know, the Board has ruled in its letter of August 25, 1933 (X-7561) that capital debentures which represent the indebtedness of the issuing bank for money borrowed rather than a proprietary interest in such bank may not be considered capital stock of the bank for the purpose of determining whether it has sufficient capital to make it eligible for admission to membership in the Federal Reserve System. However, in any case where a bank has

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"sufficient capital stock to make it eligible for membership but the amount of its capital stock and surplus is not adequate from the standpoint of a proper relationship to its deposit liabilities, there would seem to be no objection to the bank obtaining funds for the protection of its depositors through the issuance of capital notes or debentures which would be subject to payment by the bank only after claims of depositors are satisfied. As you know, the Reconstruction Finance Corporation is authorized to purchase legally issued capital notes or debentures of State banks, if the laws of the State in which the bank is located do not authorize the issuance of preferred stock exempt from double liability or if such preferred stock may only be issued by unanimous consent of the stockholders of the bank.

"In this connection, it may be noted that lawfully issued capital debentures of the kind referred to above may properly be included in determining whether capital and surplus funds of a bank are adequate in relation to its total deposit liabilities within the meaning of the Board's usual condition of membership number 15. In any case where capital debentures are issued for protection of depositors, it would be advisable at the time of such issuance to make provision for an appropriate increase of the capital stock of the bank if and when such debentures are retired, in order that the bank may at all times have an adequate amount of capital funds for the protection of its depositors.

"It appears from your letter that the constitution of the State of Nebraska forbids the issuance of bank stock which is not subject to double liability; and it would seem advisable to consider the enactment of legislation in that State authorizing the issuance of such capital debentures if they cannot be issued under existing law.

"It also appears from your letter that Kansas, New Mexico, Oklahoma and Wyoming have no constitutional provisions forbidding the issuance of preferred stock not subject to the double liability; and it would seem advisable to obtain legislation in those States authorizing the issuance of such preferred stock.

"Summarizing the situation, it would seem that:

"(1) If the laws of a State permit banks located in such State to issue preferred stock which is exempt from the double liability, the best method of strengthening the capital structure of banks is for them to issue preferred stock and sell the same to the Reconstruction Finance Corporation, if it cannot be sold to other purchasers.

"(2) If the laws of the State do not permit the issuance of preferred stock exempt from double liability but there is no constitutional provision forbidding the issuance of such stock, it would seem desirable to seek legislation authorizing the issuance of preferred stock exempt from double liability, in order that the assistance of the Reconstruction Finance Corporation may be obtained through the purchase of such stock.

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"(3) If the constitution of a State forbids the issuance of preferred stock exempt from double liability but permits the issuance of preferred stock which is subject to double liability, it would seem desirable to issue such preferred stock and seek a loan from the Reconstruction Finance Corporation to enable the purchasers to pay for it; but would not seem proper in any case for a bank to make loans on the security of its own stock.

"(4) If preferred stock cannot be utilized in any of the ways suggested above as a means of strengthening the capital structure of a bank, it would seem that relief must be sought through the issuance of capital notes or debentures for sale to the Reconstruction Finance Corporation. It would seem possible through this method to obtain the additional protection needed for depositors and to improve the condition of the bank for the purpose of obtaining admission to the Federal Deposit Insurance Fund; but it is not possible by this method to make a bank eligible for membership in the Federal Reserve System if it has insufficient capital to comply with the legal requirements of the Federal Reserve Act. This, however, is not the question presented in your letter. That question covers only the means of bettering the condition of banks to enable them to enter the Deposit Insurance Corporation on a sound basis, and that question I have endeavored to answer fully."

Approved.

Letter dated September 21, 1933, to Honorable Edward J. Barrett, Auditor of Public Accounts of the State of Illinois, Springfield, Illinois, approved by seven members of the Board, and reading as follows:

"Reference is made to the conferences which you and members of your staff had with members of the Federal Reserve Board and the Board's staff on September 11, and 12, 1933, with regard to the obligation of reorganized State banks located in the State of Illinois on deferred certificates which they have issued to their depositors who have waived their right to demand immediate payment of their deposits. Reference is also made to your letter of September 12, 1933, inclosing copies of the Depositor's Agreement and the Deferred Certificate which have been used in the reorganization of the State Bank of Collinsville, Collinsville, Illinois. It is understood that the provisions of this agreement and certificate are substantially similar to the provisions of agreements and certificates which have been used in the reorganization of many other State banks in Illinois, and the Federal Reserve Board has given most careful and sympathetic consideration to the problems involved in this matter.

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"It has been observed that the Depositor's Agreement provides that, in lieu of payment in cash of 50 per cent of his deposit claim, the depositor will accept a deferred certificate issued by the bank for a like amount, payable out of future recoveries on segregated assets and the net profits of the Bank, and before any dividend or returns of any kind or character are payable to stockholders. The Deferred Certificate which is issued by the bank states that the bank agrees to pay the amount represented by the deferred certificate to the holder thereof solely out of the future net profits of the bank and recoveries, but, in all events, before the payment of any dividends to the stockholders of the bank. It further provides that, in the event of liquidation, the termination of the bank's business, the consolidation with or transfer of all or a major part of its assets to another banking institution prior to the payment of the deferred certificate, the holder of the certificate shall be entitled to share in the proceeds of the liquidation, sale, merger, or consolidation after liabilities of the bank to its depositors and other creditors shall have been paid or provided for and that, in any event, the holder of the certificate shall be entitled to priority over any of the stockholders of the bank.

"In these circumstances, it seems apparent that a bank issuing such a deferred certificate assumes a definite obligation to pay the amount of such certificate at some time, and that there is no way by which it can be released from such obligation except by the consent of the certificate holder. The obligation of the bank for the payment of such deferred claim is a liability of the bank, to the same extent as the obligation of the bank to pay the claim of any depositor. The only differences between the two classes of claims are as to time of payment and preference of payment in the event of liquidation, and it seems clear that these differences do not justify a conclusion that there is no liability on the bank for the payment of the deferred certificates described above.

"The Board has considered the suggestion which has been made that the stockholders of the bank have authorized the bank to act merely as agent in distributing to deferred certificate holders future recoveries and earnings, to which the stockholders would normally be entitled, and that, accordingly, the liability for the payment of such deferred certificates is on the stockholders of the bank rather than on the bank itself. However, it does not appear how this can be true, on the basis of the facts involved in the case presented, when the stockholders of the bank are not parties to any of the agreements but such agreements are between the bank itself and the depositors thereof. It may also be noted that there does not appear to be any way in which a stockholder can relieve a bank from its liability to pay the claims of depositors, but that a bank can only be relieved of such liability by the agreement of the depositor and in accordance with the

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"terms of any agreement executed by the depositor. As noted above, the depositors here involved have not relieved the bank of the obligation to pay their deposits but have merely entered into agreements with the bank, permitting a deferment of payment of such claims.

"After a careful consideration of all the circumstances involved in this matter, the Federal Reserve Board is of the opinion that a bank which issues deferred certificates such as the one inclosed in your letter of September 12, 1933, has a liability for the payment of such certificates.

"Under the provisions of Section 9 of the Federal Reserve Act, a State bank may not be admitted to membership in the Federal Reserve System unless it has an unimpaired capital. Accordingly, in any case where a bank has issued deferred certificates of the kind described above and the amount of liability on such certificates, together with the other liabilities of the bank to depositors and other creditors, as compared with the amount of the assets of the bank, is sufficient to impair the bank's capital stock, it would not be eligible for admission to membership in the Federal Reserve System.

"As suggested when you conferred with members of the Board, the fact that reorganized Illinois State banks may not at this time be eligible for admission to membership in the Federal Reserve System on account of an impairment of their capital, as a result of liability on deferred certificates of the kind described above, need not necessarily result in serious consequences to such banks. It is possible that these banks may obtain the benefits of the Federal Deposit Insurance Corporation and, while entitled to such benefits, eliminate their liability on deferred certificates and become eligible for admission to membership in the Federal Reserve System. It is understood that you have taken this matter up with the Federal Deposit Insurance Corporation.

"It would seem that the liability of a bank on such deferred certificates might be eliminated by having the bank transfer all charged off assets to trustees for the benefit of deferred certificate holders and obtain from each certificate holder an agreement releasing the bank from any liability on such certificates and accepting, in lieu thereof, a certificate from the trustees entitling the certificate holder to a pro rata share of any recoveries from the charged off assets transferred to the trustees.

"If deemed advisable, agreements might also be obtained from the stockholders of the bank to the effect that, until all certificates issued by such trustees have been paid in full, the stockholders will transfer to the trustees, for the benefit of the certificate holders, any dividends declared on their stock by the bank. The Board questions the advisability of a bank obtaining any such agreement from its stockholders, since it is apparent that, for a considerable period of time, any dividends on the stock of the bank will not be for the benefit of stockholders

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"and that, for such period, the bank's stock will have little, if any, value from the standpoint of the earnings of the bank and, accordingly, will not be marketable. It appears questionable, therefore, whether on such a basis the people of the community will retain confidence in the bank so as to enable it to maintain or increase its deposits in competition with other banking institutions. The Board feels that, in any case of a reorganization of a bank where the stockholders have done everything possible to discharge their obligation to the bank and to save the depositors from loss, the depositors are not equitably entitled to future earnings of the bank. However, there may be circumstances where the stockholders have not fully discharged their obligation and the depositors have already agreed to a plan of reorganization and accepted the obligation of the bank to conserve future net earnings for the benefit of depositors, until their claims are satisfied, which justify the execution of agreements by stockholders to turn over any dividends to deferred certificate holders, in lieu of the agreement of the bank to conserve earnings for the benefit of such certificate holders.

"As you know, the State Bank of Collinsville, Collinsville, Illinois, is now a member of the Federal Reserve System, and the question involved in that case is whether the Secretary of the Treasury should issue a license to that bank to reopen as a member bank. This question is not one for the determination of the Federal Reserve Board, but, since it is understood that the liability of the bank on the proposed deferred certificates would substantially impair, if not entirely eliminate, its capital, it would not seem advisable to reorganize and reopen this member bank until its capital is restored. It is suggested that, in the case of the State Bank of Collinsville and similar cases, the procedure outlined in the first paragraph commencing on page five of this letter be followed prior to the reopening of the bank in order to eliminate the liability of the bank on deferred certificates and the consequent impairment if not entire elimination of its capital. Of course, as you know, this bank might voluntarily withdraw from membership in the Federal Reserve System and reopen as a nonmember State bank and, after its liability on the deferred certificates has been eliminated, apply for readmission to the Federal Reserve System. The Board feels, however, that it would be more desirable for such elimination of liability to be accomplished prior to the reopening of the bank.

"The Board fully appreciates the efforts you are making to effect sound reorganizations of banks in your State, and it desires to be of all possible assistance to you in this connection. Accordingly, if there is any further information you desire or anything that properly can be done by the Board to be of assistance, it will be appreciated if you will advise the Board."

Approved.

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Letter dated September 20, 1933, to Mr. O'Connor, Comptroller of the Currency, approved by five members of the Board, replying to Deputy Comptroller Awalt's memorandum of August 9; the reply reading as follows:

"Reference is made to Mr. Awalt's memorandum of August 9, 1933, asking to be advised whether the Federal Reserve Board approves of the answer which your office proposes to make to a question arising under Section 23A of the Federal Reserve Act, as amended by Section 13 of the Banking Act of 1933.

"The memorandum states that a national bank has sold certain of its assets to an affiliate, which has given its note in payment therefor, and states that although it has long been the position of your office that such a transaction would not be considered a "loan" under Section 5200 of the Revised Statutes, you contemplate advising the bank that the transaction is to be considered an "extension of credit" to the affiliate by the bank and that consequently it comes within the prohibition of Section 23A.

"Section 5200 of the Revised Statutes places certain limitations upon the total obligations to any national bank of any individual, partnership or corporation, the term "obligation" being defined as the liability of the maker, acceptor, indorser, drawer, or guarantor, who discounts paper with, or sells paper to, or obtains a loan from a national bank. It appears that it has been the position of your office that this provision has reference to transactions involving the borrowing of money from a national bank, and does not have reference to a transaction involving, for instance, the acceptance of a promissory note by a national bank in payment for bonds sold by the national bank, although the latter transaction would constitute an "extension of credit" within the commonly accepted meaning of that phrase.

"Section 23A of the Federal Reserve Act, however, provides that except within certain limitations "no member bank shall (1) make any loan or any extension of credit to" any of its affiliates, (2) invest any of its funds in the stock, bonds or other obligations of any such affiliate, or (3) accept the stock, bonds or other obligations of any such affiliate as collateral for advances to any person. Section 23A therefore covers a broader class of transactions than the discounts and similar transactions involving the borrowing of money which are covered by Section 5200 of the Revised Statutes.

"Therefore, the Board is fully in accord with the conclusion referred to in Mr. Awalt's memorandum that the transaction therein described, whereby the member bank accepts the promissory note of its affiliate in payment for assets of the bank sold to the

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"affiliate, should be considered an "extension of credit" within the meaning of Section 23A of the Federal Reserve Act."

Approved.

Reply on September 20, 1933, approved by seven members of the Board, to a letter addressed under date of August 14 to the Comptroller of the Currency by Mr. George R. Bailey, Vice President of the Harrisburg National Bank, Harrisburg, Pennsylvania; the reply reading as follows:

"Your letter of August 14, 1933, addressed to the Comptroller of the Currency, with reference to whether a Pennsylvania building and loan association is a mutual savings bank within the meaning of section 19 of the Federal Reserve Act, as amended by section 11(b) of the Banking Act of 1933, has been referred to the Federal Reserve Board for reply.

"The Board notes that in your letter to the Board of June 30, 1933, in regard to this matter, the particular association to which you refer was described as a "savings and loan association". In view of the fact, however, that associations so titled have, in Pennsylvania, been regarded as building and loan associations (see Folk v. State Capital Savings and Loan Association, 214 Pa. 529, 63 Atl. 1013), it is assumed by the Board that the association here in question is, in fact, a building and loan association within the meaning of the Building and Loan Code of Pennsylvania, which became effective July 3, 1933.

"Associations which are subject to the provisions of that Code exist primarily for the purpose of granting loans to their shareholders in order to encourage private building enterprise. Such associations issue to their members in series or non-serially shares of stock which may be full-paid, prepaid or paid for in installments. They do not appear to have authority to receive deposits or to perform any of the characteristic functions of a mutual savings bank.

"The Board does not have detailed information as to the type of business in which the association here involved is engaged. If, however, as the Board assumes, such association is one to which the Building and Loan Code is applicable, it is the opinion of the Board that such association cannot be considered a mutual savings bank for the purposes of section 19 of the Federal Reserve Act as amended."

Approved.

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Reply on September 20, 1933, approved by seven members of the Board, to a letter dated August 4 from Mr. Phillip Stockton, President of the Old Colony Trust Company of Boston, Massachusetts; the reply reading as follows:

> "Reference is made to your letter of August 4, 1933, in which you request a ruling on the question whether a corporation, a majority of the stock of which is held by the Old Colony Trust Company as executor or trustee under a will or deed of trust for the benefit of persons named in such instrument other than the trust company or its shareholders, is an affiliate of the member bank within the meaning of the Banking Act of 1933.
>
> "Under date of September 7, 1933, the Attorney General of the United States rendered an opinion to the Secretary of the Treasury, in which he stated that 'it does not seem objectionable to say that I perceive the force of your Solicitor's conclusion that ownership and control through majority stockholding does not include a holding by a bank merely as executor or in some other such fiduciary or representative capacity, subject to control by a court, or by a beneficiary or a principal, and without the incentive and opportunities which might arise from a holding of the stock by the bank as its own property.' Pursuant to this opinion, the Federal Reserve Board will not require a member bank to obtain and publish a report of a corporation the majority of the stock of which is held by the member bank as executor or trustee, provided that the member bank holds such stock subject to control by a court, or by a beneficiary or other principal, and that the member bank may not lawfully exercise control of such stock independently of any order or direction of a court, beneficiary or other principal.
>
> "For your information, there are inclosed herewith a mimeographed copy of the opinion of the Attorney General to which reference is made herein, and a mimeographed copy of a press release relative to the publication of reports of affiliates of member banks."

Approved.

Reply on September 21, 1933, approved by six members of the Board, to a letter addressed under date of July 3 to the Treasury Department by Mr. Edward J. O'Beirne, Elgin, Illinois, and referred to the Board for reply; the reply reading as follows:

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"Further reference is made to your letter of July 3, 1933, referred by the Comptroller of the Currency to the Federal Reserve Board, in which you inquire whether, in view of the provisions of Section 8A of the Clayton Antitrust Act, as amended by Section 33 of the Banking Act of 1933, a director of a national bank may serve as a director of a savings bank which is authorized by its charter to make loans secured by stock or bond collateral, but which does not actually make such loans.

"Inasmuch as Section 8A of the Clayton Antitrust Act specifically applies to corporations 'which shall make loans secured by stock or bond collateral', it is the opinion of the Federal Reserve Board that it does not apply to corporations which do not actually make such loans, even though they have the legal power to do so. Accordingly, that section does not prohibit a director of a national bank from serving at the same time as the director of a savings bank which actually does not make loans secured by stock or bond collateral, notwithstanding the fact that such loans are permitted by its charter."

Approved.

Reply on September 21, 1933, approved by seven members of the Board, to a letter dated July 18 from Mr. A. J. Mount, President of the Central Bank of Oakland, California; the reply reading as follows:

"Reference is made to your letter of July 18, 1933, in which you request to be advised whether, in the opinion of the Federal Reserve Board, the Central Company, a California corporation, is an 'affiliate' of the Central Bank of Oakland, Oakland, California, within the meaning of the Banking Act of 1933.

"From the statements in your letter, the Federal Reserve Board understands that all of the capital stock of the Central Company, with the exception of directors' qualifying shares, was issued in the names of certain individuals as trustees for the stockholders of the Central National Bank of Oakland. The Central National Bank of Oakland was formerly affiliated with the Central Savings Bank of Oakland, the present Central Bank of Oakland, and is now in the hands of a receiver. It appears that a majority of the directors of the Central Company were directors of the Central Bank of Oakland on the date of your letter, but in a telegram under date of July 27, signed by 'A. J. Mount, President, Central National Bank of Oakland', it is stated that no member of the board of directors of the Central Company 'is now a director of this bank'. Although the telegram was signed by you as President of the Central National Bank of Oakland, it is assumed that you had reference therein to the Central Bank of Oakland, and not to the Central National Bank of Oakland.

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"From the information submitted, it would not appear that the Central Company is an 'affiliate' of the Central Bank of Oakland within the meaning of section 2, subparagraph (b), subdivision (1) or (2) of the Banking Act of 1933, unless the shareholders of the Central Bank of Oakland, who own 'more than 50 per centum of the number of shares voted for the election of directors of such bank at the preceding election', and who also own more than 50 per centum of the beneficial interest in the stock of the Central Company, control the latter company, directly or indirectly, through stock ownership or in any other manner, within the meaning of the Act. You state that such stockholders do not control the Central Company, notwithstanding that they own a majority of the beneficial interest in the stock of that company. In the absence of additional information and of an opportunity to examine any agreement under which the shares of the Central Company are trusteed for the benefit of the shareholders of the Central National Bank of Oakland, the Board is unable to determine whether your conclusion in this respect is correct, and it cannot at this time undertake to rule on this point.

"It appears that a majority of the directors of the Central Company were directors of the Central Bank of Oakland until July 25, 1933, when an entire new board of directors of the Central Company was elected. Since a majority of the directors of the Central Company were directors of the Central Bank of Oakland prior to the election of new directors, the Central Company was an 'affiliate' of the Central Bank of Oakland during such time, and the Central Bank of Oakland must obtain and furnish a report of such affiliate as of June 30, 1933, unless the subsequent termination of the affiliation is held to relieve the Central Bank of the duty imposed upon it by law to obtain such report. It is the opinion of the Board that if a State member bank is affiliated with any corporation, business trust, association, or other similar organization, on the date the Board issues a call for condition reports of State member banks and their affiliates, the member bank is required by law to obtain a report of such affiliate as of the date of call, notwithstanding the fact that such affiliation may have been terminated subsequent to that date; and the member bank is also required to publish such report under the same conditions as govern its own condition reports. In this connection, however, you are advised that the Board will offer no objection if the Central Bank of Oakland publishes with any report of condition of the Central Company an explanatory statement of the relationship existing between the two institutions.

"Under date of August 1, 1933, the Board advised you that it understood that a question similar to that discussed above had been submitted by the Comptroller of the Currency to the Attorney General of the United States for an opinion. The Attorney General has now rendered an opinion, but you will note from the copy thereof inclosed herewith that he refused to rule on the matter in question.

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"For your information, there is also inclosed a copy of a press release relative to the publication of reports of affiliates of member banks."

Approved.

Reply on September 21, 1933, approved by six members of the Board, to a letter dated July 20 from Mr. Thomas B. Paton, Assistant General Counsel of the American Bankers Association, New York, New York; the reply reading as follows:

"Receipt is acknowledged of your letter of July 20, 1933, addressed to the Board's General Counsel, inclosing an inquiry from the Montgomery National Bank, Mount Sterling, Kentucky, with reference to whether the absorption by a member bank of a tax on demand deposits imposed by the laws of Kentucky would constitute a payment of interest prohibited by Section 19 of the Federal Reserve Act, as amended by Section 11(b) of the Banking Act of 1933.

"Section 4019a-1 of Carroll's Kentucky Statutes (Baldwin's revision, 1930) provides in effect that every person having a deposit in a bank in the State of Kentucky on the first day of July shall pay to the State a tax assessed at the rate of one-tenth of one per cent. annually upon the amount of such deposit, and that the taxes so imposed shall be paid by the bank 'for and on behalf, and as the agent' of the depositor. Section 4019a-2 provides that no other tax shall be assessed on such deposits in the bank or against the depositor of said deposits by the State or its subdivisions. Under the terms of Section 4019a-3, the bank is authorized to charge to, and deduct from, the deposit of each depositor the amount of the tax so paid 'for and on his behalf', and is expressly given a lien on such deposits to secure repayment of the tax. The statute also provides a penalty for willful failure by the bank to make payment for its depositors.

"It would seem clear that the Kentucky tax on bank deposits is a tax imposed on the depositor, and that the bank acts only as an agent of the depositor in paying such tax. The requirement of the statute that the tax be paid by the bank, and the provision permitting the bank to deduct the amount of the tax paid from the deposit, are merely aids to collection, and do not necessarily effect the incidence of the tax, which falls on the depositor unless the bank voluntarily absorbs such tax. Accordingly, it is the opinion of the Board that the absorption of any such tax by a member bank would constitute an indirect payment of interest within the prohibition of Section 19 of the Federal

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"Reserve Act, as amended, and would be unlawful. Furthermore, it is the opinion of the Board that the amount or size of the tax does not affect the legal principles involved, or alter the conclusion reached herein."

Approved.

Reports of Standing Committee Dated September 21 and 22, 1933, recommending approval of the following changes in stock at Federal reserve banks:

Applications for ORIGINAL Stock:	Shares	
District No. 1.		
Webster National Bank, Webster, Mass.	72	72
District No. 3.		
United States National Bank in Johnstown, Johnstown, Pennsylvania	600	600
	Total	672
Applications for SURRENDER of Stock:		
District No. 4.		
First National Bank, Verona, Pa. (Insolvent)	240	240
District No. 7.		
First National Bank, Peru, Ind. (Insolvent)	120	
First National Bank at Pontiac, Mich. (Insolvent)	450	
First National Bank and Trust Co., Baraboo, Wis. (Insolvent)	120	690
District No. 9.		
First National Bank, Williston, N. Dak. (Voluntary liquidation, succeeded by First International Bank of Williston, N. Dak., nonmember)	60	60
District No. 11.		
Belton National Bank, Belton, Tex. (Being liquidated through conservator)	42	42
	Total	1,032

Approved.

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Thereupon the meeting adjourned.

Assistant Secretary.

Approved:

Chairman, Executive Committee.

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