A meeting of the Executive Committee of the Board of Governors of the Federal Reserve System was held in Washington on Tuesday, September 3, 1935, at 11:30 a. m.

PRESENT: Mr. Thomas, Vice Chairman
Mr. James
Mr. Szymczak

Mr. Morrill, Secretary
Mr. Bethea, Assistant Secretary

The Committee acted upon the following matters:

Memorandum dated August 30, 1935, from Mr. Thomas, Assistant Director of the Division of Research and Statistics, recommending that Miss Lois Crim, a stenographer in the Division, be granted an additional leave of absence with pay on account of illness for a period of fifteen days from September 2, 1935.

Approved unanimously.

Letter to Mr. Sargent, Assistant Federal Reserve Agent at the Federal Reserve Bank of San Francisco, reading as follows:

"Reference is made to the application of the 'California Bank', Los Angeles, California, for permission to retain and operate the three branches, known as the Ocean Park, Atlantic Avenue, and Beverly Hills branches, which were established subsequent to February 25, 1927, and which are located outside of the corporate limits of the City of Los Angeles. The application has been held in abeyance awaiting (1) receipt of a current report of examination, and (2) the enactment of the Banking Act of 1935.

"In view of all of the circumstances and your recommendation, the Board, under authority of section 9 of the Federal Reserve Act as amended by section 338 of the Banking Act of 1935, approves the application of the California Bank for the retention and operation of the Ocean Park, Atlantic Avenue, and Beverly Hills branches. Please advise the bank accordingly."

Approved unanimously.

Letter dated August 31, 1935, approved by three members of the Board, to Mr. Walsh, Federal Reserve Agent at the Federal Reserve Bank of Dallas, reading as follows:

"Reference is made to the reports of examination of the 'Dallas Bank and Trust Company', Dallas, Texas, as of January 12, 1934, and February 23, 1935, and the correspondence in connection therewith regarding the criticisms of the trust department.

"Your letter of July 13, 1934, transmitting a letter dated July 9, 1934, from the chairman of the board of the Dallas Bank and Trust Company, reported that the bank had taken steps to correct many of the criticisms of your trust examiner. The report of examination as of February 23, 1935, however, again contains severe criticisms of the department, and in the confidential section of the report the examiner states that profits are the sole standard of conduct in the department and that no regard is paid to trust principles or the equity of various beneficiaries if it conflicts with the profit account. Such a situation, if it exists, is a severe indictment of those charged with formulating the policies of the department.

"It has been noted that in a letter dated April 11, 1935, the chairman of the executive committee of the bank reported that since the date of examination a trust committee, trust officer, and an assistant trust officer had been appointed, and that, while the board of directors did not fully agree with the justness of many of the criticisms offered by your examiner, they did think well of several of the suggestions made and had instructed the officers to go into the matter fully and make such changes as may be necessary to overcome criticisms of that department hereafter if possible.

"As stated in the Board's letter of June 14, 1934, acceptance of trust funds, however small and unprofitable they may be, creates a responsibility which can only be discharged if every transaction for the trust be made solely with the best interests of the trust in mind. In this connection particular reference is made to the comments of the examiner regarding trust No. 353, - a guardianship account, whose sole asset is reported to be $162.17 cash. The report shows that the bank has taken out a fidelity bond for $2,000 to qualify as guardian and, in accordance with its practice, has charged the premium therefor to the guardianship account. It is understood that the practice previously criticized of purchasing such bonds from its affiliate has been discontinued but the examiner reports that attorney's fees of about $15 have been charged each guardianship account for switching bonds. With further respect

"to this trust, the following comments are taken from the report of examination:

"'In the case of #353, the ward is 16 years old. Her natural guardian has applied to the bank for additional allowance of $15 per month for her education, but by a letter of 2-19-35, the bank has declined to consider an allowance stating that they must reserve $20 per year for cost of $2,000 bond, $10 per year for probate and attorney's fees, and since she will not be of age for five years, she really has only $12.17 to her credit. If this letter had not been in the file, this examiner would not have believed that such a misguided conception of trustees duty to its ward existed. The bank was advised to get its attorney's opinion as to paying out the $15 monthly on court order until fund was exhausted, at which time it might apply for a discharge as financial guardian.'

"The smallest trust of a department should reflect the fundamental policies and principles as clearly as the largest trust, and it will be appreciated, therefore, if, following the next examination, you will forward a detailed report regarding the guardianship account No. 353, showing a digest of the terms and conditions under which the account was accepted, a list of assets received, and a statement of income, expenses, and distributions to the beneficiary. It is inconceivable that such a situation as reported by the examiner with reference to this account should exist in a bank which operates a trust department ostensibly in the interests of the beneficiaries of the accounts entrusted to its care.

"It is assumed that the report of the next examination of the trust department of the bank will include full information as to the corrections made of the matters criticized by your examiner and as to the policies in force following the appointment of the trust committee, which, according to the chairman of the executive committee, has been charged with the general supervision of the operations of the department."

Approved unanimously.

Letter to "The West Side National Bank of Yakima", Yakima, Washington, reading as follows:

"The Board of Governors of the Federal Reserve System has given consideration to your application for permission to exercise fiduciary powers, and grants you authority 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 Washington, the exercise of all such rights to be subject to the provisions of the Federal Reserve Act and the regulations of the Board of Governors of the Federal Reserve System.

"This letter will be your authority to exercise the fiduciary powers granted by the Board. A formal certificate covering such authorization will be forwarded to you in due course."

Approved unanimously.

Letter to the Federal reserve agents at all Federal reserve banks, reading as follows:

"The Federal Deposit Insurance Corporation has requested that the following provisions of paragraph (1) of subsection (1) of section 12B of the Federal Reserve Act as amended by the Banking Act of 1935 be called to the special attention of all State member banks to which they are applicable:

"'On and after the effective date, the Corporation shall insure the deposits of all insured banks as provided in this section: Provided, That the insurance shall apply only to deposits of insured banks which have been made available since March 10, 1933, for withdrawal in the usual course of the banking business: Provided further, That if any insured bank shall, without the consent of the Corporation, release or modify restrictions on or deferments of deposits which had not been made available for withdrawal in the usual course of the banking business on or before the effective date, such deposits shall not be insured.'

"It will be appreciated, therefore, if you will call such statutory provisions to the attention of all State member banks in your district having deposits which, because of their restricted status or deferred maturity, are not insured under subsection (1) quoted above. Please advise the Board of the name of each such bank, together with the amount of restricted or deferred deposits as of August 23, 1935, the effective date of the Banking Act of 1935, and the terms of such restrictions or deferments."

Approved unanimously.

Letter to Mr. Fletcher, Acting Federal Reserve Agent at the

Federal Reserve Bank of Cleveland, reading as follows:

"This refers to Mr. Evans' letter of August 27, 1935, and the previous correspondence, in regard to the manner in which 'The Ohio-Merchants Trust Company', Massillon, Ohio, acquired certain real estate, the bank's liability under the mortgage on such property, and its method of reporting such liability.

"It would appear on the basis of the information submitted that the view of your counsel that the bank's liability under the mortgage in question is primary rather than contingent is correct, and ordinarily there would be no question but that such liability should be reported as a direct liability of the bank. It is understood, however, that the property subject to the mortgage is not carried as an asset of the bank, that the property is being managed by the mortgagee, who has made no demands upon the bank for payment under the mortgage, that the mortgage matured in August, 1935, and that there is some question as to the position of the various parties concerned, and that your office recognizes that it would be extremely unfortunate and perhaps seriously prejudicial to the bank to require it at this time to show the mortgage as a direct liability. In view of the circumstances, and the opinion expressed in Mr. Evans' letter that it is to the best interests of the bank to permit it for the time being to show the mortgage as a contingent liability, no objection will be offered to such procedure. It is expected, however, that the matter will be adjusted as promptly as possible and that the liability under the mortgage will be properly reported as soon as the status of the various parties to the transaction is determined, which it appears should be accomplished within a short time inasmuch as the mortgage has recently matured."

Approved unanimously.

Letter to Mr. H. B. Rowe, Cashier, The First National Bank, Alderson, West Virginia, reading as follows:

"Your letter of July 25, 1935, addressed to Honorable Carter Glass and inquiring whether the maximum rate of interest payable by banks is soon to be reduced has been referred to the Board for reply.

"The recently enacted Banking Act of 1935 incorporates certain changes in section 19 of the Federal Reserve Act with regard to the prescribing of rates of interest payable by member banks on time and savings deposits. The pertinent portion of section 19 as amended reads as follows:

"'The Board of Governors of the Federal Reserve System shall from time to time limit by regulation the rate of interest which may be paid by member banks on time and savings deposits, and shall prescribe different rates for such payment on time and savings deposits having different maturities, or subject to different conditions respecting withdrawal or repayment, or subject to different conditions by reason of different locations, or according to the varying discount rates of member banks in the several Federal Reserve districts.'

The Board now has in the course of preparation a revision of its Regulation Q relating to the payment of deposits and interest thereon by member banks and it may be necessary, in view of the changes which have been made in the law, to make some modification of the maximum rate of interest payable on certain types of time or savings deposits or by certain member banks. We are unable to advise you at this time, however, as to what changes, if any, may be made.

"Other than such changes in the maximum rate as may be necessary in order to conform to the changes in the law above mentioned, the Board does not at this time contemplate any action to make a further reduction in the maximum rate of interest payable by member banks on time or savings deposits.

"We are unable to advise you as to what action the Federal Deposit Insurance Corporation may contemplate taking with regard to the rate of interest payable by nonmember insured banks upon time and savings deposits."

Approved unanimously.

Letter to the Federal Housing Administration, reading as follows:

"The Board has received an inquiry from a State bank which is a member of the Federal Reserve System with regard to the possible investment of trust funds held by a member bank in mortgages insured under Title II of the National Housing Act. In this connection, there is inclosed a copy of a proposed letter advising the member bank, through the Board's Federal Reserve Agent at the Federal Reserve Bank of St. Louis, of the Board's views in the premises, and it will be appreciated if you will advise whether you have any objection to the proposed letter.

"An inquiry similar to the one referred to above has also been received from a national bank. The inquiry by the national bank is being referred to the Comptroller of the Currency for consideration, and a copy of the Board's proposed reply to the

"inquiry of the State member bank is also being furnished to the office of the Comptroller of the Currency for consideration."

Approved unanimously, together with a letter to Mr. O'Connor, Comptroller of the Currency, reading as follows:

"There is inclosed herewith for your consideration and disposition a copy of a letter and inclosure which the Board has received from the Assistant Federal Reserve Agent at the Federal Reserve Bank of St. Louis relating to an inquiry by a national bank with reference to the investment of trust funds in mortgages insured under Title II of the National Housing Act.

"The Board has received a similar inquiry from a member State bank and there is inclosed a copy of the Board's proposed reply for your consideration. A copy of this letter has been forwarded to the Federal Housing Administration with the request that the Board be advised whether it has any objection thereto, and you will be advised of any advice received from the Federal Housing Administration."

In connection with the above matter, the proposed letter to Mr. Wood, Federal Reserve Agent at the Federal Reserve Bank of St. Louis, which was also approved unanimously, and copies of which were inclosed with the letters to the Federal Housing Administration and the Comptroller of the Currency, read as follows:

"This refers to Mr. Stewart's letters of May 25, 1935, and August 22, 1935, relating to inquiries from the W. B. Worthen Company, Little Rock, Arkansas, and the Commercial National Bank of Little Rock with regard to the possible investment of trust funds held by a member bank in mortgages insured under Title II of the National Housing Act. Among other papers, Mr. Stewart has forwarded a copy of a circular addressed to financial institutions by the Federal Housing Administration and it has been observed that such circular specifically states that it is not to be construed as permitting the pooling of insured mortgages in the hands of a trustee for the purpose of issuing participation certificates or other such evidences of interest.

"The authority of a member bank to invest trust funds in mortgages or other securities depends upon the terms of the particular trust instruments, court orders, and State laws. A

"bank, however, should, of course, exercise proper discretion within the limits thus prescribed and act at all times in accordance with the principles of sound trust practices governing the investment of trust funds with careful consideration of the needs of each particular trust. Within the above considerations, mortgages, including mortgages insured under Title II of the National Housing Act, would constitute a proper investment for trust funds.

"It has been observed that the trust examiner for your bank has pointed out that the purchase of mortgages from the trustee's own banking department or subsequent sale thereto would involve self-dealing, and, accordingly, would be objectionable under fundamental principles applicable to the administration of trusts. Your examiner has also pointed out that under such fundamental principles it would be objectionable if the fiduciary institution should retain a commission for making the mortgage loan or a service charge in connection with the servicing of the mortgages.

"In investing trust funds in insured mortgages, a fiduciary is subject to the same fundamental principles of trust administration as in the acquisition of any other investment, and it is understood that the Federal Housing Administration contemplated that institutions exercising fiduciary powers would conform to such principles in connection with insured mortgages when that Administration called to the attention of fiduciary institutions the availability of such mortgages for investment of trust funds. It appears that the suggestions which have been made by your examiner to the effect that the insured mortgages might be acquired from another approved mortgagee would be helpful to the member bank in complying with the fundamental principles applicable to trust investments. It is possible, also, that the trust agreements, or, in the case of court trusts, the court orders may provide for the retention by the bank, as a part of the authorized trust fees covering the administration of the trusts, of the service charge authorized by the Federal Housing Administration. Also, if in any case the trust instrument or the court order specifically provided for the investment in a described insured mortgage to be purchased from the bank, such investment might not be objectionable in the particular case, provided, of course, that in any such case the persons executing the trust instrument or the court were fully advised of the facts involved. However, in view of the fundamental principles which the courts have applied to the investment of trust funds and dealings between a trustee and beneficiaries of a trust, the Board deems it undesirable for trust instruments to contain general authorizations for trust funds to be invested in assets of the trustee institution.

"Since one of the inquiries to which you referred was received from a national bank, that inquiry is being referred to the Comptroller of the Currency for attention, and the Comptroller is being furnished with a copy of this letter."

Telegram to Mr. Timberlake, Assistant Statistician, Federal Reserve Bank of Minneapolis, reading as follows:

"Retel August 30. Board will consider whether balances payable in dollars due from American branches of foreign banks are a proper deduction from gross demand deposits in determining the amount of net demand deposits subject to reserve under section 19 of Federal Reserve Act as amended by section 324 of Banking Act of 1935. Pending determination of this question the Board will offer no objection to the inclusion of such balances in item 6 of schedule I form 105 and the deduction of such balances from gross demand deposits in determining amount of net demand deposits subject to reserve in accordance with basis for ruling under old law referred to in March 1928 Bulletin at page 208."

Approved unanimously.

Memorandum dated August 29, 1935, from Mr. Van Fossen, Assistant Chief, Division of Bank Operations, referring to a memorandum dated August 23, 1935, which was approved by the Board on August 27, 1935, in which Mr. Smead had submitted for approval certain changes in the forms used by State bank members in obtaining and publishing reports of their affiliates, such changes to be contingent upon the adoption by the Comptroller of the Currency of substantially similar provisions for waiver of reports of affiliates of national banks as those adopted by the Board for the waiver of reports of affiliates of State bank members. Mr. Van Fossen stated in his memorandum that at a conference with members of the Comptroller's staff following the submission of Mr. Smead's memorandum referred to above, the Comptroller's

representative had suggested that the proposed instructions to appear on the reverse side of Form 220a, Publisher's Copy of Report of Affiliate, be changed by striking out the following paragraph at the end of such instructions:

> "NOTE: Section 21 of the Federal Reserve Act as amended by the Banking Act of 1935 provides that whenever banks are required to obtain reports from affiliates (other than holding company affiliates) the Board of Governors of the Federal Reserve System may waive the submission of reports of affiliates of State member banks if, in its judgment, such reports are not necessary to disclose fully the relations between such affiliates and such banks and the effect thereof upon the affairs of such banks. Unless the requirement for the submission of a report by an affiliate is waived by the provisions printed on form 220b, the report of such affiliate must be submitted on form 220."

by adding at the end of the first sentence of the instructions: "unless the requirement for the submission of a report by an affiliate is waived by the provisions printed on Form 220b", and by inserting in the third line of the first sentence of the instructions the words "to obtain". He stated also that Mr. Smead had agreed to the foregoing changes, subject to the Board's approval, and that they had been embodied in the printer's proof submitted with his (Mr. Van Fossen's) memorandum. Mr. Van Fossen stated further that, since he understood the text of the Federal Reserve Act would be reprinted with the designation of Federal Reserve Board changed to Board of Governors of the Federal Reserve System, corresponding changes had also been made in those portions of the text of the Act which are quoted on the report forms.

The suggested changes in the proposed instructions on the reverse side of Form 220a were approved unanimously.

Letter to Mr. Peyton, Federal Reserve Agent at the Federal Reserve Bank of Minneapolis, reading as follows:

"Inclosed herewith is a copy of a letter of May 22, 1935, received from Mr. Gardner B. Perry, Vice President, Northwest Bancorporation, Minneapolis, Minnesota, concerning the holding company affiliate and affiliate relationships of member banks of which both Northwest Bancorporation and the Reconstruction Finance Corporation own stock.

"As the Board has frequently stated, the existence or the nonexistence of 'control' is a question of fact which must be determined in the light of the facts and circumstances of each particular case. Accordingly the Board's rulings in situations involving the problem referred to in the inclosed letter have been based on specific statements of fact. However, it may be stated generally that it is the Board's view that, in determining whether an organization is a holding company affiliate of a member bank of which the Reconstruction Finance Corporation owns a portion of the stock, the stock owned by the Reconstruction Finance Corporation should be considered in the same manner as stock owned by other stockholders and should be deemed to be controlled by that corporation in the absence of contrary facts or circumstances in the particular case under consideration.

"The Board is also of the opinion that the same principle should apply in determining whether an organization is an affiliate of such a bank. However, it is the Board's view that an affiliate relationship does not arise as the result of ownership of stock of a member bank and another organization by the Reconstruction Finance Corporation.

"Questions concerning the existence of holding company affiliate or affiliate relationships as the result of control through proxies executed in connection with stock owned by the Reconstruction Finance Corporation might arise in the same manner as if the stock were otherwise owned. In this connection it may be stated that the Board has previously expressed the view that under the law the significant issue is whether stock control exists at the time of the determination as to whether a holding company affiliate or affiliate relationship exists.

"Representatives of Northwest Bancorporation have probably discussed this matter with you previously but it will be appreciated if you will advise them further in the light of this general expression of the Board's views. It should be pointed out that the question whether an organization is an affiliate of a national bank falls, of course, within the jurisdiction of the Comptroller of the Currency and should be referred to him. In connection with the granting of voting permits, consideration will be given by the Board

"to the question whether the holding company affiliate relationships with particular banks have been terminated. If in discussing this matter with representatives of Northwest Bancorporation any further question arises, the Board will be glad to advise you in the light of the facts of any particular case."

Approved unanimously.

Letter dated August 31, 1935, approved by three members of the Board, to Mr. Stanford E. Abel, Vice President, Hechinger Engineering Corporation, Washington, D. C., reading as follows:

"Receipt is acknowledged of your letter of August 29, 1935, requesting the Board to amend the terms of its invitation for bids for the demolition of temporary building number 5 so as to specify the rate of wages to be paid under the proposed demolition contract.

"Your request has reference to section 25 of the form of demolition contract wherein it is provided that the rate of wages for all laborers and mechanics employed by the contractor or any subcontractor shall be not less than the prevailing rate of wages for work of a similar nature in the District of Columbia. It is also provided that in case any dispute arises as to what is the prevailing rate of wages for work of a similar nature the matter shall be referred to the Secretary of Labor for determination if it cannot be adjusted by the Contracting Officer.

"In view of the fact that the invitation for bids has been published and given general distribution and the further fact that the date fixed for the opening of bids is Tuesday, September 3, 1935, it is impractical at this late date to postpone the time prescribed for the opening of bids. Accordingly, after careful consideration of the reasons which you have given in support of your request, the Board has concluded that it should not take the action which you have proposed.

"In this connection it should be pointed out that the prevailing rate of wages referred to in the contract is the rate of wages prevailing at the time of the performance of the contract and that under the contract any differences as to the rate of wages then prevailing which cannot be otherwise adjusted will become a matter for the consideration of the Secretary of Labor."

Approved unanimously.

There was then presented the following application for a change in stock of a Federal reserve bank:

Application for ORIGINAL Stock:	Shares	
District No. 7.		
The Chicago Heights National Bank, Chicago Heights, Illinois	72	72

Approved unanimously.

Thereupon the meeting adjourned.

Chester Mowill
Secretary.

Approved:

E J Thomas
Vice Chairman.