

A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Thursday, January 16, 1936, at 11:30 a. m.

PRESENT: Mr. Eccles, Chairman
Mr. Thomas, Vice Chairman
Mr. Hamlin
Mr. Miller
Mr. James
Mr. Szymczak

Mr. Morrill, Secretary
Mr. Bethea, Assistant Secretary
Mr. Carpenter, Assistant Secretary

Consideration was given to each of the matters hereinafter referred to and the action stated with respect thereto was taken by the Board:

Letter to Mr. Wood, Chairman of the Federal Reserve Bank of St. Louis, stating that the Board approves the establishment without change by the bank on January 15, 1936, of the rates of discount and purchase in its existing schedule.

Approved unanimously.

Telegram to Mr. Austin, Federal Reserve Agent at the Federal Reserve Bank of Philadelphia, reading as follows:

"Your letter January 14. Board approves for your bank, effective as of December 4, 1935, minimum rate of 1/2 of 1% and maximum rate of 2% on an annual or flat basis on commitments to make industrial advances."

Approved unanimously.

Letter to Mr. Case, Federal Reserve Agent at the Federal Reserve Bank of New York, reading as follows:

"This refers to Mr. Gidney's letter of January 11, 1936, and its inclosures, relating to the holding company

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"affiliate status of Morristown Trust Company, Morristown, New Jersey.

"Pursuant to the request of such company, the Board has determined that Morristown Trust Company is not engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, banking associations, savings banks, or trust companies, within the meaning of section 2(c) of the Banking Act of 1933, as amended by section 301 of the Banking Act of 1935. Accordingly, such company is not a holding company affiliate for any purposes other than those of section 23A of the Federal Reserve Act.

"Inclosed herewith is a letter of advice to Morristown Trust Company which you are requested to transmit to that company. A copy of the letter is also inclosed for your files. As you will note, the Board expressly reserves the right to make a further determination of this matter at any time on the basis of the then existing facts. In this connection it is requested that you advise the Board if, at any time, you believe that this matter should again be considered by it."

Approved unanimously, together with a letter to Mr. Edward K. Mills, President, Morristown Trust Company, Morristown, New Jersey, reading as follows:

"This refers to your letter of January 10, 1936, to the Federal Reserve Agent at the Federal Reserve Bank of New York, relating to the holding company affiliate status of your company.

"The Board understands that your company was organized and is operated for the purpose of conducting a general banking and trust business; that your company and an individual hold as co-fiduciaries 6,666 of the 10,000 outstanding shares of stock of The First National Bank of Morristown, Morristown, New Jersey; that your company also holds, in various fiduciary capacities, shares of stock of several other banks, but that in no case do such shares constitute a majority of the outstanding shares of the bank; that your company does not own or control any other bank stock; and that your company was not organized and is not operated for the purpose of managing or controlling banks.

"In view of the above facts, the Board has determined that your company is not engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, banking associations, savings banks, or trust companies, within the meaning of section 2(c) of the Banking

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"Act of 1933, as amended by section 301 of the Banking Act of 1935, and therefore, it is not a holding company affiliate for any purposes other than those of section 23A of the Federal Reserve Act. Accordingly, it is not necessary for your company to obtain a voting permit in order to vote the stock which it owns or controls of The First National Bank of Morristown.

"If, however, your company should acquire control over any other bank, or the facts should otherwise differ from those stated above to an extent which would indicate that your company might be engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, this matter should again be submitted to the Board for its determination. The Board reserves the right to make a further determination of this matter on the basis of the then existing facts.

"It is noted that you call particular attention to the fact that your company holds the stock of The First National Bank of Morristown as one of two co-fiduciaries and it appears that a question has been raised as to whether, in view of that fact, your company is a holding company affiliate of such bank for any purpose. In the absence of full information, the Board has not considered or ruled upon that question."

Letter to Mr. Fletcher, Acting Federal Reserve Agent at the Federal Reserve Bank of Cleveland, reading as follows:

"This refers to Mr. Anderson's letter dated December 24, 1935, which presents the question whether a certain agreement submitted by the Union Trust Company of Pittsburgh and inclosed with his letter, complies with the requirements of Regulation Q concerning time deposits, open account.

"It is understood that the agreement submitted is a continuing contract covering deposits made from time to time, and permitting withdrawals from time to time. The agreement states that the funds deposited in the account cannot be withdrawn except after thirty days' notice, as therein provided. The agreement also states that notices are given by the depositor of his intention to withdraw all funds in the account on the last day of the thirty day period ending on a certain date and, in like manner, on the last day of each subsequent successive thirty day period. Any balance remaining in the account at the close of business on the last day of each successive thirty day period shall immediately be reinstated as a time deposit in the account subject to the aforesaid suc-

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"cessive notices of intention to withdraw. The agreement also provides that withdrawals from the account pursuant to the notices given may be made only on the maturity dates specified by the notices, namely, the last day of any of the thirty day periods.

"The agreement provides that funds deposited in the account at dates other than maturity dates will not become subject to withdrawal until thirty days after the maturity date next succeeding the date of deposit.

"As stated by Mr. Anderson, it appears that this agreement is substantially similar to the agreement under which Postal Savings funds are deposited in member banks. The agreement under which Postal Savings deposits are made was approved by the Board in a ruling published at page 768 of the Federal Reserve Bulletin for December, 1933.

"In the opinion of the Board, the agreement submitted by the Union Trust Company of Pittsburgh complies with the requirements of section 1(d) of Regulation Q, and deposits made pursuant to such agreement may be classified as time deposits, open account.

"Under the provisions of the supplement to Regulation Q, the maximum rate of interest payable by a member bank on a deposit made pursuant to such agreement would be 1 per cent per annum."

Approved unanimously.

Letter to Mr. Sproul, Deputy Governor of the Federal Reserve Bank of New York, reading as follows:

"Receipt is acknowledged of your letter of January 4, 1936, and inclosures, with regard to capital repayments under the second syndicate credit to the National Bank of Hungary.

"The Board has noted particularly the contents of the letter dated November 30, 1935, from the National Bank of Hungary, and the suggestion contained in your letter of December 31, 1935, to the Bank for International Settlements that it is not too soon for the National Bank of Hungary to begin to formulate a program for the disposition of the central bank credits at maturity in October, 1936."

Approved unanimously.

Memorandum dated January 10, 1936, from Messrs. Goldenweiser and

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Currie, Director and Assistant Director, respectively, of the Division of Research and Statistics, with regard to the proposed study by the Division of changes in large deposit accounts of selected banks between the autumn of 1933 and the autumn of 1935, classified by character of depositors, for the purpose of throwing light on what classes of deposits, commercial, industrial, or financial, account for the large increase in the total deposits for this period. The memorandum stated that as a result of test studies made by The National City Bank of New York and the Bankers Trust Company, and further canvassing of the problem, it was proposed that the three largest banks in the country be asked to report for two dates and classify their deposit accounts of over \$500,000, that the next eleven largest banks be asked to do so for deposits of \$250,000, and that some seventy-nine of the other largest banks be asked to classify accounts over \$100,000, and that the dates of October 25, 1933, and November 1, 1935, had been chosen in order to permit comparisons with call report figures. The memorandum also stated that from the test studies and from information derived from examiners' reports it was believed that demand deposits in excess of the minima suggested would amount to from 30 to 40 percent of the total demand deposits in these banks and would account for a substantial part of the increase in deposits. The memorandum further stated that if the Board approved the procedure as set forth above, it was proposed to send the following letter to the chairmen of all Federal reserve banks, together with a suggested form of letter to be sent to the banks selected for the study:

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"In connection with its studies on current and recent monetary developments the Division of Research and Statistics is desirous of obtaining a classification of deposits for October 25, 1933 and November 1, 1935. Inclosed is a list of the banks in your district which have been selected for the purpose, together with the minimum size deposit to be listed in each case. It will be appreciated if you will ask for their cooperation in supplying this information and in this connection I am inclosing for your consideration a draft of a letter to be sent to the selected banks. Forms and instructions are also inclosed.

"Two of the largest banks in the country have already made a classification at our request and reported that it involved very little labor. In addition, representatives of eleven large banks have expressed their willingness to cooperate. It is not anticipated, therefore, that you will encounter any reluctance to supply the information."

Approved unanimously. The suggested form of letter to be sent to the banks selected for the study read as follows:

"The Division of Research and Statistics of the Board of Governors of the Federal Reserve System is conducting a study of movements of deposit accounts. In order to throw light upon the causes of the movements that have occurred in recent years it would be most helpful to secure a classification of deposits by type of business for 1933 and 1935. This information would aid in interpreting recent monetary developments, throw light upon the extent to which various classes of business are in a position to finance an increased volume of business activity without recourse to borrowing from the banks or capital markets, and would contribute to our knowledge of the volume of money available for investment.

"Complete information on this matter would call for a listing of all deposits, which would involve too much work and expense. It has been found, however, through the cooperation of two of the largest banks and from other information, that a listing of large deposits on two dates, classified sufficiently broadly so as to preclude identification of individual accounts, would involve little work and yet would cover a substantial proportion of the total.

"Your cooperation in providing this information would be much appreciated. The specific request is a listing for October 25, 1933 and November 1, 1935 of your deposit accounts which were in excess of \$ _____ on either of these dates,

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"classified under the broad headings of manufacture, trade, public utilities, railroads, finance, foreign, personal and other. No publicity will be given to the information for individual banks, as the information is desired purely for statistical purposes.

"Separate forms for the listing of demand and time deposits and instructions for filling them out are inclosed. If more forms are required, I shall be very happy to supply them."

Letter to Mr. B. L. Ross, President, Phillips National Bank of Helena, Helena, Arkansas, reading as follows:

"This refers to your letter of December 7, 1935, asking certain questions with respect to the making of loans by member banks to their executive officers.

"It is understood that you desire to be advised whether the Chairman of the Board of Directors of your bank may lawfully continue in such capacity while there remains outstanding a loan made to him by your bank in July, 1935, in the amount of \$4,000. You state that such Chairman of the Board of Directors of your bank is inactive and receives no compensation as Chairman of the Board other than a regular director's fee which is received by all other directors.

"As you perhaps know, subsection (g) of section 22 of the Federal Reserve Act, prohibiting the making of loans to executive officers of member banks, was amended by the Banking Act of 1935, approved August 23, 1935, so as to eliminate the criminal penalties previously provided for the violation of its provisions. In lieu of such penalties, it is now provided that an executive officer of a member bank accepting a loan or extension of credit in violation of the provisions of this subsection is subject to removal from office in the manner prescribed by section 30 of the Banking Act of 1933. However, it appears that the criminal penalties must be regarded as still in force with respect to acts committed prior to the amendment of section 22(g) by the Banking Act of 1935, on August 23, 1935, in view of the provisions of section 29 of title 1 of the United States Code, which provides as follows:

'The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing Act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.'

In the circumstances, therefore, it appears that the answer to

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"your question depends upon whether the loan made by your bank in July 1935, to the Chairman of your Board of Directors was in violation of the provisions of section 22(g) of the Federal Reserve Act as it was then in force.

"In construing the provisions of that section prior to its amendment by the Banking Act of 1935, it was the position of the Board that it could not appropriately express an opinion as to who were 'executive officers' within the meaning of its provisions since penalties of fine or imprisonment were provided for violations thereof and since the determination of the question whether a particular case should be prosecuted for a criminal violation of the subsection was a matter entirely within the jurisdiction of the Department of Justice. Accordingly, the Board cannot properly advise you as to whether the loan to which you refer constituted a violation of the law.

"Under the present law, the Board of Governors of the Federal Reserve System is authorized to issue regulations and to define the term 'executive officer' for the purposes of the subsection in question; and in accordance with this authority, the Board has defined the term 'executive officer' in section 1(b) of its recently issued Regulation O, effective January 1, 1936, to include the Chairman of the Board of Directors, regardless of whether he is active in the performance of the duties of his office. However, as indicated above, the determination of the question who are to be considered 'executive officers' in the case of apparent violations arising prior to August 23, 1935, the date of the enactment of the Banking Act of 1935, is a matter which appears to be properly within the jurisdiction of the Department of Justice.

"You further request to be advised whether a member bank may lawfully advance an executive officer his salary for the ensuing month, i.e., whether, for example, you might on January 1 credit an executive officer his salary for the month of January without violating the law.

"It will be noted that subsection (c) of section 1 of the Board's Regulation O provides that the terms 'loans', 'loaning', 'extension of credit', and 'extend credit' include, among other things, 'any advance of unearned salary or other unearned compensation for periods in excess of 30 days'. Strictly interpreted, this provision would preclude the advance of unearned salary for any full month having 31 days. However, where an officer's salary is computed on a monthly basis, the Board will not regard the advance of unearned salary for a month having more than 30 days as a loan or extension of credit within the meaning of the Board's regulation.

"For your information, there is inclosed herewith a copy of the Board's Regulation O, effective January 1, 1936."

Approved unanimously, together with a
letter to Mr. Wood, Federal Reserve Agent

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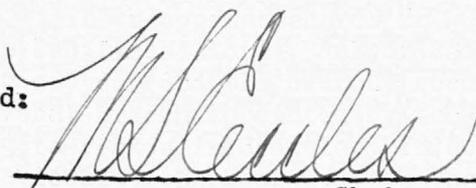
at the Federal Reserve Bank of St. Louis,
reading as follows:

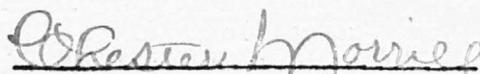
"Referring to your letter of December 11, 1935, with inclosure, there is inclosed herewith a copy of a letter which the Board has today addressed to the President of Phillips National Bank, Helena, Arkansas, in reply to a letter received from that bank dated December 7, 1935, presenting certain questions with respect to the making of loans to executive officers of member banks. It is understood that you have already received a copy of the bank's letter to the Board.

"As indicated in the Board's letter to the Phillips National Bank, it is the opinion of the Board that, notwithstanding the repeal of the criminal provisions of section 22(g) of the Federal Reserve Act by the Banking Act of 1935, they must be regarded as still in effect with respect to acts committed prior to their repeal. Accordingly, the question whether the loan made by the bank to the Chairman of its Board of Directors in July, 1935, was a violation of the law must be determined from a consideration of the provisions of section 22(g) as they were then in force. Since the matter involves a national bank, a copy of the Board's letter to the President of Phillips National Bank, Helena, Arkansas, has been transmitted to the Comptroller of the Currency for such action as he considers advisable."

Thereupon the meeting adjourned.

Approved:


Chairman.


Secretary.