

A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Wednesday, March 18, 1936, at 2:15 p. m.

PRESENT: Mr. Eccles, Chairman
 Mr. Broderick
 Mr. Szymczak
 Mr. McKee
 Mr. Ransom
 Mr. Morrison

Mr. Morrill, Secretary
 Mr. Bethea, Assistant Secretary
 Mr. Carpenter, Assistant Secretary
 Mr. Clayton, Assistant to the Chairman

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

Telegrams to Messrs. Curtiss, Austin and Wood, Chairmen of the Federal Reserve Banks of Boston, Philadelphia and St. Louis, respectively, stating that the Board approves the establishment without change by the respective banks today of the rates of discount and purchase in their existing schedules.

Approved unanimously.

Letter to Mr. Arthur C. Lamson, Marlborough, Massachusetts, reading as follows:

"This refers to your letter of February 6, 1936, inquiring whether your indebtedness to the Peoples National Bank of Marlborough, Massachusetts, renders your service as vice president of that bank unlawful under the provisions of section 22(g) of the Federal Reserve Act and the Board's Regulation O, relating to loans to executive officers of member banks. It is noted that you are not an active executive officer of the bank.

"It appears that a part of your indebtedness to the Peoples National Bank of Marlborough, in the amount of \$3500, was incurred prior to June 16, 1933, the date upon which section 22(g) of the Federal Reserve Act was enacted

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"into law. Section 22(g), as amended, provides that loans made to an executive officer prior to June 16, 1933, may be renewed or extended under certain conditions for periods expiring not later than June 16, 1938. Therefore, it would appear that that part of your indebtedness to the Peoples National Bank of Marlborough incurred prior to June 16, 1933, may be renewed or extended if you comply with the requirements of the law and the Board's regulations applicable to such loans which are described in section 4 of the Board's Regulation O. A copy of the regulation is inclosed herewith.

"It does not appear when the balance of your indebtedness to the Peoples National Bank of Marlborough, in the amount of \$2428, was incurred. Accordingly, it is not possible to advise you definitely as to such latter indebtedness, but comments regarding certain provisions of section 22(g) may be of assistance to you. Violations of section 22(g), when it was first enacted on June 16, 1933, were made subject to criminal penalties. However, this section was amended by the Banking Act of 1935, approved August 23, 1935, so as to eliminate the criminal penalties for violations occurring after such amendment and authorize the Board to prescribe regulations to enforce compliance with the provisions of that section. It appears that the criminal penalties must be regarded as still in force with respect to violations committed prior to August 23, 1935, in view of the provisions in section 29, 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.'

"If, therefore, any of your indebtedness was incurred subsequent to June 16, 1933, but prior to August 23, 1935, the question whether a violation of section 22(g) was involved would depend upon the provisions of that section prior to the amendment of August 23, 1935. Since any such violation is subject to criminal penalties, the Board has taken the position that it cannot appropriately express an opinion as to whether a violation is involved, since the determination of whether in a particular case a violation should be prosecuted is a matter

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"entirely within the jurisdiction of the Department of Justice. Accordingly, the Board cannot properly advise you, if any part of your indebtedness was incurred subsequent to June 16, 1933, but prior to the amendment to section 22(g) of August 23, 1935, whether such indebtedness involves a violation of the law.

"If any part of your indebtedness to the Peoples National Bank of Marlborough was incurred subsequent to the amendment to section 22(g) of August 23, 1935, such indebtedness falls within the scope of the Board's Regulation O. In this connection, the definition of 'executive officer' contained in section 1(b) of Regulation O includes every vice president regardless of whether he is active. After careful consideration of the matter, the Board has reached the conclusion that, in carrying out the responsibilities placed upon it by the law to prescribe rules and regulations as it may deem necessary to effectuate the provisions of section 22(g) in accordance with its purposes, inactive vice presidents cannot properly be exempted from the definition of the term 'executive officer'. Accordingly, in prescribing general regulations applicable to all member banks, such vice presidents have been included in the definition of the term 'executive officer'. In fairness to other member banks affected, an exception to the regulation could not properly be made in a particular case."

Approved unanimously.

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

"In connection with the question whether the Clayton Act permit issued to Mr. Louis Curtis on December 6, 1923 was still effective on the date of the enactment of the Banking Act of 1935 so as to render lawful his service as a director of The Merchants National Bank of Boston and as a member of the firm of Brown Brothers Harriman & Co., consideration has been given to your letter of January 14, 1936, and to a letter dated February 3, 1936, from the Federal Reserve Agent at New York, furnishing additional information regarding the matter.

"The additional information shows that on December 31, 1930, the firm of Brown Brothers & Company, which was covered by the permit, was composed of fifteen partners, three of whom resigned on that day, and that four other individuals, whose capital contributions and individual customers' accounts

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"were added to the firm's existing assets and liabilities, were added to the partnership, the name of which was changed to Brown Brothers Harriman & Co. The additional information also shows that these additions to the partnership did not result in any substantial change in the character or scope of the firm's business.

"In the circumstances, the Board is of the same opinion as that stated in your letter and in the letter from the Federal Reserve Agent at New York, namely, that Mr. Curtis' permit was still effective on the date of the enactment of the Banking Act of 1935, and that therefore, under the provisions of the Clayton Act and section 2(c) of Regulation L, he may lawfully continue to serve as a director of The Merchants National Bank of Boston and as a member of the firm of Brown Brothers Harriman & Co. until February 1, 1939."

Approved unanimously.

Thereupon the meeting adjourned.

Approved:

W. S. S. S.
Chairman.

W. S. S. S.
Secretary.