

A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Saturday, October 3, 1936, at 11:00 a. m.

PRESENT: Mr. Broderick
Mr. Szymczak

Mr. Bethea, 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:

Memorandum dated October 2, 1936, from Mr. Goldenweiser, Director of the Division of Research and Statistics, recommending the temporary appointment as a junior research assistant in the Division for a period of eight months of Mr. Robert Dwight Fenn, with salary at the rate of \$50.00 per month, effective as of the date upon which he enters upon the performance of his duties. The question of the appointment of Mr. Fenn, who is an intern of the National Institute of Public Affairs, was discussed at the meeting of the Board on September 29, 1936.

Approved unanimously.

Telegram to Mr. Sargent, Vice President of the Federal Reserve Bank of San Francisco, reading as follows:

"Re your letter September 16, 1936, submitting application of 'Central Bank of Oakland', Oakland, California, for permission to effect an adjustment of its capital accounts which will result in a net reduction of \$450,000 in outstanding capital. The Board, in view of the information submitted, and your favorable recommendation, interposes no objection to the proposed transaction as outlined in your

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"letter and the bank's application, and waives full compliance in this instance with the requirements of condition of membership numbered 18 to which bank is subject."

Approved unanimously.

Letter to Mr. Fry, Vice President of the Federal Reserve Bank of Richmond, reading as follows:

"This refers to your letter dated September 23, 1936, regarding the question whether a member bank may classify a deposit of The Glenwood Cemetery as a savings deposit under the definition contained in section 1(e) of Regulation Q.

"It appears from your letter that The Glenwood Cemetery is a mutual organization operated for the purpose of supplying burial facilities for its members and that each purchaser of a lot automatically becomes a member of the organization. It is further understood that no dividends or profits are paid to the members of the organization and that all moneys over and above expenses go to an endowment fund, the income from which is used for the upkeep of the cemetery after all the lots are sold.

"You state that your Counsel is satisfied that the cemetery organization is not operated for profit, but is in doubt as to whether it may be considered as an organization operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes.

"In its letter dated June 22, 1936 (X-9627), the Board expressed the opinion that organizations engaged in the sale and maintenance of cemetery lots may be considered as organizations operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes within the meaning of section 1(e) of Regulation Q. Accordingly, on the basis of the facts submitted in your letter, it appears that The Glenwood Cemetery is an organization operated primarily for the above purposes and that deposits of such organization may be classified by member banks as savings deposits if they comply with the other requirements of the regulation."

Approved unanimously.

Letter to Honorable Leo T. Crowley, Chairman, Federal Deposit

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Insurance Corporation, reading as follows:

"This refers to a letter of August 25, 1936, addressed by Mr. John Nichols on your behalf to Mr. Ransom, inclosing a copy of a Regulation V which the Federal Deposit Insurance Corporation proposes to issue with regard to the insurance of trust funds and requesting suggestions regarding the proposed regulation and advice as to whether or not it contains anything that would appear objectionable.

"Members of the staff of the Federal Deposit Insurance Corporation have heretofore conferred with members of the Board's staff regarding two earlier drafts of this proposed regulation; and, on June 18 and July 30, 1936, respectively, members of the Board's staff furnished Judge Birdzell with copies of informal memoranda containing suggestions regarding the two earlier drafts.

"The Board recognizes, of course, that the determination of what provisions are to be included in the proposed regulation rests exclusively with your Corporation, and that the determination of which, if any, of the suggested changes should be adopted is a matter to be decided by your Corporation. However, the Board is glad to respond to the request for an expression of opinion regarding the proposed regulation and to take this opportunity to express its views with regard to certain of the more important matters heretofore discussed by members of its staff with representatives of your Corporation.

"Section 2 of the proposed regulation recognizes that an insured fiduciary bank may maintain with another bank a 'general trust account' in which trust funds of more than one trust estate may be deposited in the name of the insured fiduciary bank, without identifying the trust estates which are the beneficial owners of such funds and without allocating to such account on the records of the depositing insured fiduciary bank trust funds in specific amounts belonging to particular trust estates. The proposed regulation also contemplates that such an account might be maintained by the trust department of an insured fiduciary bank in another department of the same institution. It further appears from section 5 of the proposed regulation that, where an insured fiduciary bank maintains more than one 'general trust account', the amount of the funds of a particular trust estate which are carried in the 'general trust account' in a particular bank would be determined by the ap-

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"plication of a mathematical formula which is described in section 5. It is understood that this mathematical formula is based on a presumption that funds belonging to a particular trust estate are averaged among all of the 'general trust accounts' maintained by the insured fiduciary bank. In other words, the mathematical formula will be applied on the theory that funds of a particular trust estate carried in 'general trust accounts' can properly be presumed to have been distributed among all 'general trust accounts' on the basis of the ratio of the amount of funds carried in each 'general trust account' to the total amount of funds carried in all 'general trust accounts'.

"The Board feels that the maintenance by fiduciary institutions of 'general trust accounts' in the manner described in the regulation is contrary to recognized principles relating to the administration of trusts. In this connection attention is invited to the following statement contained in Bogert on Trusts, vol. 3, p. 1888:

'It is also a breach of trust of this type if the trustee commingles two distinct trust funds. If the same person is trustee of two trusts, even though there is some identity in the personnel of the two groups of cestuis, he should set up the trusts separately, tag the property of each with the appropriate name, and keep the res of each trust distinct both physically and with respect to all records and marks of identification. He should not maintain a single bank account for the two trusts, nor should he use a mixed fund to purchase a mortgage as an investment. There has been some tendency, however, to permit the mingling of two or more trust funds in an investment, provided the trustee keeps accurate books with regard to the shares of each trust, and each cestui is given notice of his exact interest.'

"Attention is also invited to the following statement contained in the Restatement of the Law of Trusts of the American Law Institute, vol. 1, p. 457:

'Where the trustee holds the funds of numerous beneficiaries, and it would be unreasonable and not subserve any purpose in protecting the interests of the beneficiaries of the several trusts to require him to keep separate the funds of the different trusts, it may be proper for the trustee to mingle funds of the

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"different trusts by deposit thereof in a common bank account. Thus, ordinarily a trust company can properly deposit in a single trust account in another bank the funds of several trusts, provided that it keeps an accurate record of the contributions of the separate trusts. * * *

"The practice to which implied approval would be given in the proposed regulation not only would violate these principles but also might result in actual inequities by causing certain trusts to share in losses which they would not be required to share in if these principles were adhered to. For example, suppose that an insured fiduciary bank maintains 'general trust accounts' with three other insured banks, Bank A, Bank B and Bank C. Suppose that the last deposit made by the insured fiduciary bank in a general trust account with Bank A was made on September 1, 1936, that funds were received by a particular trust estate on September 15, 1936, and that Bank A closed on account of insolvency on September 30, 1936. In such a case it could be demonstrated that none of the funds received by the trust in question on September 15 could have been deposited in the 'general trust account' maintained with Bank A, because the fiduciary bank made no deposit with Bank A after such funds were received. In such a case the application of the formula contained in the proposed regulation might lead to inequitable results because it might require this particular trust estate to share in a loss which it would not have shared in if the fiduciary bank had kept records identifying the particular trusts whose funds were deposited in particular banks. In such a case an attempt to apply the formula contained in the proposed regulation might result in expensive litigation involving a number of different trusts and the proposed regulation might be held to be invalid.

"Moreover, it appears that the provisions of the proposed regulation relating to 'general trust accounts' and for the application of the mathematical formula described in section 5 of the proposed regulation do not contain any provision relating to funds which may be carried in the trust department of an insured fiduciary bank. It is understood that in some instances so-called working balances are carried in the trust departments of fiduciary institutions. Although such balances may be in small amounts, it would seem clear that if a trust institution does not show on its

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"books where the funds of particular trust estates are carried, it would not be possible to apply accurately the mathematical formula described in section 5 of the proposed regulation in a case where a balance is carried in the trust department of the insured fiduciary bank.

"It is understood that, in their discussions with the members of the Board's staff, the representatives of your Corporation recognized the fact that the maintenance of 'general trust accounts' may be in conflict with established trust principles but felt that an existing situation must be recognized and that provision must be made in the regulation for any such accounts which may be carried. However, such a provision in the regulation would be a recognition of the practice of mingling trust funds in such accounts in the manner described and might be construed as an approval, or even encouragement, of the practice by an administrative body charged with supervision of banking institutions.

"In the circumstances, the Board is of the opinion that the proposed regulation is subject to serious objections. If, notwithstanding such objections, your Corporation decides that the regulation should contain provisions relative to 'general trust accounts', it is suggested that there be inserted a statement, perhaps in a footnote, that such provisions are not to be construed as approving the practice of mingling trust funds in such a manner and are included in the regulation solely for the purpose of clarifying the status of any such accounts in the event of the closing of the banks in which they are carried.

"Your courtesy in affording the Board an opportunity to express its views to you in this matter is greatly appreciated."

Approved unanimously.

Letter to Mr. Wesley C. Mitchell, Director of Research, National Bureau of Economic Research, Inc., New York, New York, reading as follows:

"This refers to your letter of August 7, addressed to Chairman Eccles, in which you suggest that the call report of condition of State bank members of the Federal Reserve System be changed to make provision for reporting

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"separately the amount of real estate loans on urban residential property and on urban commercial property, respectively, instead of merely the total of urban real estate loans as at present, and that the present item 'Other real estate owned' be subdivided so as to show separately the amount represented by farm land, by urban residential property, and by urban commercial property.

"On June 30, 1936 State bank members of the Federal Reserve System reported \$927,648,000 of real estate loans other than on farm land and national bank members reported \$1,156,374,000. The amount of 'Other real estate owned' was reported as of the same date by State bank members as \$195,442,000 and by national bank members as \$184,015,000. Special data collected as of June 30, 1936 at the request of the Department of Agriculture indicate that the reported figures of 'Other real estate owned' included \$11,331,000 and about \$27,000,000, respectively, of farm real estate owned by State and national bank members.

"In view of the relatively large amounts involved, particularly in the case of real estate loans other than on farm land, it doubtless would be of value to make the breakdowns suggested in your letter. Your suggestion has, therefore, been carefully considered. In that connection we have been in touch informally with the offices of the Comptroller of the Currency and the Federal Deposit Insurance Corporation, and we understand that the Comptroller of the Currency has decided that he would not be warranted in asking national banks to report the additional data, in view of the burden of reports already imposed upon them. As you know, the forms of call reports of national banks and of State bank members are now substantially uniform and it has been the Board's policy to maintain this uniformity, insofar as practicable, since it is obvious that comparable figures for all member banks as a whole are of much greater value than any figures that might be available for only one class of member banks.

"Apparently the suggested break-down of real estate loans other than on farm land, so as to show separate figures of loans on urban residential property and on urban commercial property, would not be sufficient since a certain amount of reported real estate loans (other than on farm land) represent loans on such non-urban real estate as mining properties. In order, therefore, to obtain the desired figures of real estate loans on urban residential and on urban commercial properties, it would be necessary to subdivide the present

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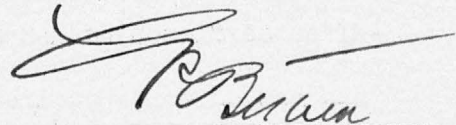
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"item into three parts, namely, urban residential property, urban commercial property, and all other real estate (except farm land). It may also be pointed out that there would be certain difficulties of definition arising from the fact that in a given community there may be improved property which is occupied partly for commercial purposes and partly for residential purposes, and unimproved property which might be improved either for residential or commercial purposes.

"In view of the above considerations and of the additional burden which would be imposed upon State bank members if they were requested to furnish the desired information, the Board does not feel warranted in asking for it at this time."

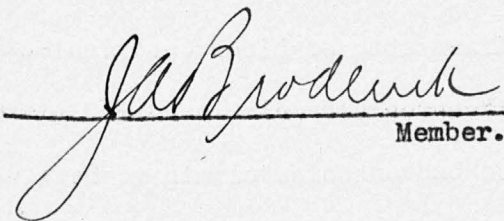
Approved unanimously.

Thereupon the meeting adjourned.



Assistant Secretary.

Approved:



Member.