A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Tuesday, March 23, 1937, at 2:30 p. m.

PRESENT: Mr. Ransom, Vice Chairman
Mr. Broderick
Mr. Szymczak
Mr. McKee
Mr. Davis

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:

The minutes of the meeting of the Board of Governors of the Federal Reserve System held on March 16, 1937, were approved unanimously.

The minutes of the meetings of the Board of Governors of the Federal Reserve System held on March 17, 18, and 19, 1937, were approved and the actions recorded therein were ratified unanimously.

Telegrams to Messrs. Powell and Sargent, Secretaries of the Federal Reserve Banks of Minneapolis and San Francisco, stating that the Board approves the establishment without change by the Minneapolis bank on March 22, 1937, and by the San Francisco bank today, of the rates of discount and purchase in their existing schedules.

Approved unanimously.

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

"Reference is made to the report of examination of the 'Union Trust Company of Maryland', Baltimore, Maryland, as of November 30, 1936, and to your letter of February 3, 1937,

"inclosing an office memorandum prepared by Examiner Mercer regarding his investigation, in connection with the examination of the bank, of the acquisition by the bank and the City Certificates Corporation of Certificates of Beneficial Interest held in the treasury of the City Certificates Corporation.

"From the information furnished it appears that debtors have been permitted to buy at a discount certificates held by others and to surrender such certificates in settlement of their obligations; that the bank has accepted cash from debtors with the understanding that certificates would be purchased and applied for the account of such debtors at a later time; that the proceeds of the sale of collateral securing the obligations of bankrupts, deceased persons and others with whom no agreement was had with respect to the purchase of certificates have been applied by the bank to the purchase of certificates; and that purchases by the bank of such certificates have been deferred to influence the market price of the certificates.

"It is understood that the examiner does not feel that any friendly settlements have been made nor that certificates have been accepted when obligations were otherwise collectible. The statement is made, however, that, in most cases, when cash was accepted with the understanding that the bank would act as agent for the debtor and would purchase certificates at a later date to be used in final settlement of his obligation, the note or other evidence of indebtedness has been canceled and returned to the debtor and that, in all such cases, the bank has not considered itself bound to effect the proposed purchase. Therefore, no real distinction appears between such a transaction or the application of funds realized from the sale of pledged collateral to the purchase of certificates and the purchase of certificates with cash received from any other source.

"Condition of membership numbered 23, accepted by the Union Trust Company of Maryland, and the agreement executed by the City Certificates Corporation in compliance with the condition of membership, provide that, except with the written consent of the Federal Reserve Agent and the State Bank Commissioner, any purchase of certificates or any distribution to holders thereof should be made only on a pro rata basis. It is recognized that, in the settlement of a debt, it may be necessary to acquire assets of any nature which the debtor may have to offer and that if neither the bank nor the City Certificates Corporation was a party to the acquisition of Certificates of Beneficial Interest by the debtor, such certificates might be accepted in some circumstances by the bank or City Certificates Corporation in settlement of debts without violating either the condition of membership to which

"the bank is subject or the agreement executed by the City Certificates Corporation. The Board feels, however, that both the spirit and the letter of the condition and the agreement are violated by the purchase of certificates by the bank or corporation, either as principal or as agent, with cash received (1) from the proceeds of the sale of collateral, (2) from debtors for the purpose of purchasing certificates to be used in settlement of their debts, (3) in settlement of an obligation with the understanding that the bank might with the proceeds purchase such certificates, and (4) from any other source or for any other purpose.

"The Board also feels that the bank's practice, after acquiring cash for the purpose of purchasing certificates, of deferring the purchase for the express purpose of holding down the market price of certificates cannot help but affect adversely the position of certificate holders who may wish to dispose of their certificates to other purchasers, and places the bank in the position of appearing to be attempting to profit, if not actually profiting, at the expense of the certificate holders, which would be an embarrassing position if the fact became generally known.

"The Board requests that you advise the bank of its position in the matter and request that all activities in violation of condition of membership numbered 23 or the agreement executed by the City Certificates Corporation be discontinued immediately.

"As you know, the management has presented tentative plans for the liquidation of the Corporation and a distribution to certificate holders at an early date, and it will be appreciated if you will advise whether there have been any further developments in this connection."

Approved unanimously.

Letter to Mr. M. H. Roberts, Cashier, Citizens State Bank, Jamestown, Indiana, reading as follows:

"Referring to your letter of February 26, the fifth paragraph of Section 9 of the Federal Reserve Act, which among other things requires State bank members to submit condition reports to their respective Federal Reserve banks, contains the following provision:

'Such reports of condition shall be in such form and shall contain such information as the Board of Governors of the Federal Reserve System may require and shall be published by the reporting banks in

"'such manner and in accordance with such regulations as the said Board may prescribe.'

"In view of this mandatory provision of law, the Board cannot waive the requirement for publication of condition reports rendered by State bank members of the Federal Reserve System to their respective Federal Reserve banks. The Board is, however, anxious to facilitate insofar as practicable the single publication of condition reports rendered by State bank members pursuant to requirements of State and Federal law. Accordingly, all Federal Reserve banks have been advised that, if and when the form of condition report prescribed by a State banking department is identical with the corresponding form prescribed by the Board, the Federal Reserve bank may accept a single publication of reports of condition rendered to the State banking department pursuant to the requirements of State law and to the Federal Reserve bank pursuant to the Federal Reserve Act provided the following words appear immediately above the caption 'Assets';

'Published in accordance with a call made by the State banking department of (State) and by the Federal Reserve bank of this district.'

The Board has further advised the Federal Reserve banks that, if the State law or the State banking department requires State banks to show in published reports of condition certain information not called for by the form of condition report prescribed by the Board, single publication of the condition report rendered by a State bank member to the State banking department and to the Federal Reserve bank may be accepted provided that the additional information required by the State law or the State banking department is shown following the information called for by the Board's form and under a heading reading substantially as follows:

'Following additional items are published pursuant to requirements of State law (or State banking department).'

"As you perhaps know, a number of conferences have been held in the last two years with representatives of State banking departments with the view of bringing about a substantial uniformity in the forms of condition reports prescribed by Federal and State authorities. The work in this respect has progressed to the point that we are hopeful that such uniformity will be obtained in the near future and that the necessity for duplicate publication of condition reports by State bank members of the Federal Reserve System will be avoided."

Approved unanimously.

Letter dated March 22, 1937, to Mr. Fry, Vice President of the Federal Reserve Bank of Richmond, reading as follows:

"Reference is made to your letter of February 24, 1937, with inclosures presenting for determination by the Board the question whether the services of Messrs. E. Asbury Davis and Blanchard Randall as directors of The First National Bank of Baltimore and Safe Deposit and Trust Company of Baltimore, both of Baltimore, Maryland, are in violation of section 8 of the Clayton Act, as amended.

"Subject to certain exceptions, section 8 of the Clayton Act, as amended, provides in part as follows:

'No * * * director, officer or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the laws of any State or of the District of Columbia, or any branch thereof * * *.'

The provisions formerly contained in the section authorizing the issuance of individual permits by the Board were repealed, as you know, by section 329 of the Banking Act of 1935, and under the provisions of the section as it now reads the question whether a director, officer or employee of a member bank of the Federal Reserve System may serve any other bank, banking association, savings bank or trust company organized under the laws of any State or of the District of Columbia is dependent upon whether such service comes within any of the exceptions contained in the statute or the Board's Regulation L.

"The only exceptions which appear to have any bearing on the present question are those set forth in paragraphs (c) and (d)(6) of section 2 of the Board's Regulation L revised effective January 4, 1936, which read as follows:

'The provisions of section 8 of the Clayton Act:

* * *

'(c) Do not prohibit, until February 1, 1939, any interlocking relationship involving a member bank, which was in existence on August 23, 1935, the date of the enactment of the Banking Act of 1935, and which, at that time, was lawful under the Clayton Act either (a) because it was authorized by a permit then in effect or (b) because it was otherwise not subject to the prohibitions of the Clayton Act.

'(d) Do not prohibit a director, officer or employee of a member bank of the Federal Reserve System

"'from being at the same time a director, officer, or employee of any number of the following:

* * *

'(6) Banks, banking associations, savings banks or trust companies not engaged in a class or classes of business in which such member bank is engaged.'

"It appears from the report of examination of The First National Bank of Baltimore as of December 21, 1936, made by national bank examiners that Mr. E. Asbury Davis was elected a director of Safe Deposit and Trust Company of Baltimore after January 1, 1936, and, therefore, that he apparently was not serving the latter institution on August 23, 1935, the date of enactment of the Banking Act of 1935. Accordingly, the exception set forth in paragraph (c) of section 2 of the Board's Regulation L is apparently not applicable to his services with these institutions.

"In view of the fact that Mr. Randall was serving both of these institutions on August 23, 1935, the question whether this exception is applicable to him depends upon whether such services were authorized by a permit then in effect, or, if not, whether such services were not prohibited by the Clayton Act. With respect to the first question, it appears from the Board's files that in 1916 Mr. Randall made application under the provisions of section 8 of the Clayton Act to serve as director and vice president of The First National Bank of Baltimore and as director of Safe Deposit and Trust Company of Baltimore and that this application was approved by the Board's Clayton Act Committee on September 7, 1916. According to information furnished by the office of the Comptroller of the Currency The First National Bank of Baltimore (Charter number 204) was placed in voluntary liquidation September 11, 1916, and its business was taken over by The Merchants-Mechanics National Bank of Baltimore (Charter number 1413). The present The First National Bank of Baltimore operates under charter number 1413, having acquired its present title June 30, 1928. Accordingly, it appears that Mr. Randall did not have a permit authorizing him to serve The First National Bank of Baltimore (Charter No. 1413) and Safe Deposit and Trust Company of Baltimore on August 23, 1935, and that therefore the exception set forth in paragraph (c) of section 2 of the Board's Regulation L is not applicable to his services to these institutions, unless such services were not then within the prohibitions of the Clayton Act.

"The question whether Mr. Randall's services with these two institutions were within the prohibitions of the Clayton Act on August 23, 1935 depends upon two further questions. First, was Safe Deposit and Trust Company making loans secured

"by stock or bond collateral on that date within the meaning of section 8A of the Clayton Act? If it was not, section 8A did not prohibit the relationships. Second, if Safe Deposit and Trust Company was not doing any 'commercial banking business', section 8 of the Clayton Act did not prohibit the relationships. It should be borne in mind, however, that unless both sections were inapplicable, the relationships were prohibited. The information in the Board's files does not show whether or not Safe Deposit and Trust Company was making loans secured by stock or bond collateral on that date, although it is doing so at this time, and apparently was doing so in 1933, as is indicated by the Clayton Act applications filed by Mr. Charles S. Rieman and Mr. Howard Bruce at the end of that year. The question whether it was doing no 'commercial banking business' at that time is based also upon a question of fact. In this connection it appears possible that the principles discussed in Selden v. Equitable Trust Company, 94 U. S. 419, may be applicable. Mr. Randall may possibly wish to submit further information to you in connection with these matters.

"The exception set forth in paragraph (d) (6) of the Board's Regulation L is applicable only in the event that the banks involved are not engaged in any of the same class or classes of business. As stated in footnote numbered 9 of the Regulation, 'the phrase "class or classes of business" refers to the various types of business engaged in by such institutions involving relationships with customers, such as * * * *(5) making real estate loans, (6) making loans on stock or bond collateral, * * * * (8) engaging in corporate trust business, and (9) engaging in individual trust business.'

"According to the information submitted with your letter of February 24, 1937, Safe Deposit and Trust Company of Baltimore (1) in special cases makes loans secured by real estate, (2) in special cases makes loans secured by stock or bond collateral, (3) engages in corporate trust business, and (4) engages in individual trust business. From information contained in the report of examination of The First National Bank of Baltimore made by national bank examiners as of December 21, 1936, that institution (1) makes loans secured by real estate and (2) makes loans secured by stock or bond collateral. In addition, this institution (1) engages in corporate trust business and (2) engages in individual trust business, the report of examination of the trust department made by national bank examiners as of April 20, 1936, showing trust assets of approximately $7,900,000. The bank's trust accounts included 147 individual trusts and 19 corporate trusts, bonds outstanding under corporate trusts administered by the bank aggregating approximately $23,000,000. It is noted from the copy of the letter dated February 4, 1937,

"from Mr. Morton M. Prentis, president of The First National Bank of Baltimore, to you, that Safe Deposit and Trust Company of Baltimore conducts only a fiduciary business and is not a bank of deposit in the ordinary sense, that it has no commercial accounts but confines itself strictly to activities of all kinds of a fiduciary nature, that The First National Bank of Baltimore operates a trust department which has only been active within the past ten years, that in the opinion of Mr. Prentis there is no substantial competition between the two institutions, and that 'the only phase of their respective businesses which might be construed as identical is that both act in fiduciary capacities'.

"Since the amendment of section 8 of the Clayton Act made by the Banking Act of 1935 the question of substantial competition is no longer the test of prohibited relationships. As is indicated in footnote numbered 9 of Regulation L, the applicability of the exception to which it relates is not predicated upon the relative volume of the various types of business transacted by the two institutions but rather upon the fact that both institutions transact some of the same 'class or classes of business'. Since The First National Bank of Baltimore and Safe Deposit and Trust Company of Baltimore are engaged in some of the same class or classes of business, the exception set forth in paragraph (d)(6) of the Board's Regulation L, revised effective January 4, 1936, is not applicable to the services of Messrs. Davis and Randall with these institutions.

"Accordingly, except for the possibility that the exception set forth in paragraph (c) of section 2 of Regulation L may be applicable to Mr. Randall on the grounds discussed above, it appears that neither Mr. Randall nor Mr. Davis may lawfully continue their services as directors of both of the above institutions. Please inform them in accordance with these views and advise the Board as to the disposition of the matter."

Approved unanimously.

Thereupon the meeting adjourned.

Assistant Secretary.

Approved:

Vice Chairman.