

A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Thursday, September 1, 1938, at 11:30 a. m.

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

Mr. Morrill, Secretary
Mr. Carpenter, Assistant Secretary

The action stated with respect to each of the matters hereinafter referred to was taken by the Board:

The minutes of the meeting of the Board of Governors of the Federal Reserve System held on August 31, 1938, were approved unanimously.

Telegram to Mr. Wood, Vice President of the Federal Reserve Bank of St. Louis, reading as follows:

"Retel August 30, 1938, regarding condition of membership numbered 17 to which 'Manufacturers Bank & Trust Company of St. Louis', St. Louis, Missouri, is subject. It is understood that, in complying with section 61 of Act approved July 1, 1898, as amended by Act approved June 22, 1938, bank will merely give its own bond to secure deposits of money of bankrupt estates made with bank. Condition of membership numbered 17 does not apply in situation of this kind, but was intended to prohibit bank from acting as surety for another."

Approved unanimously.

Letter to Mr. Hamilton, President of the Federal Reserve Bank of Kansas City, reading as follows:

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"Inclosed herewith is a copy of a letter, dated August 11, 1938, addressed to the Board's General Counsel by Mr. Norman W. Baker, of the trust department of The Exchange National Bank of Colorado Springs, Colorado, requesting an interpretation of a portion of subsection (a) of section 10 of Regulation F. Mr. Baker is being informed that you will advise him concerning this matter.

"As you know, subsection (a) of section 10 of Regulation F reads as follows:

'(a) Private trusts. - Funds received or held by a national bank as fiduciary shall, with the approval of the trust investment committee and subject to the rules of law applicable to fiduciaries, be invested promptly and in strict accordance with the will, deed or other instrument creating the trust. When the instrument creating the trust contains provisions expressly authorizing the bank, its officers or its directors to exercise a discretion in the matter, funds received or held in trust shall be invested only with the approval of the trust investment committee. When such instrument does not specify the character or class of investments to be made and does not expressly vest in the bank, its officers or its directors a discretion in the matter, funds received or held in trust shall be invested, with the approval of the trust investment committee, in any investments in which corporate or individual fiduciaries in the State in which the bank is acting may lawfully invest.'

"Provisions quite comparable to the foregoing have been contained in Regulation F since 1919, but apparently their interpretation and application have caused no great difficulty and the Board has not had occasion to issue any rulings with respect thereto. However, the following comments may be of assistance to you in connection with the present inquiry.

"While Mr. Baker refers only to the third sentence quoted above, and particularly to the words 'character or class of investments', it is believed that consideration should be given to the subsection as a whole.

"From the first sentence of the subsection, it appears that if a trust instrument contains any provisions relating to the kind of investments to be made or to the exercise of discretion by the bank with respect thereto, the bank

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"must act in strict accordance with such provisions, subject to the rules of law applicable to fiduciaries in the jurisdiction in which the bank is acting. The interpretation of such provisions is a matter for determination by the courts of such jurisdiction. In view of Mr. Baker's comments, it should be noted that such provisions of a trust instrument clearly may describe investments in terms of 'quality' as well as 'form'.

"The second sentence of the subsection merely provides, in effect, that where there is express authority to exercise discretion with respect to investments, such discretion shall be exercised by the trust investment committee of the bank.

"From the foregoing, it appears that the scope of the third sentence of the subsection is narrowly limited to those instances in which the trust instruments are wholly silent with respect to the kind (or 'character or class') of investments to be made or the exercise of discretion with respect thereto. Thus, it seems clear that it has no application to the trust created by the instrument from which Mr. Baker quotes."

Approved unanimously.

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

"This refers to your letter of August 10, 1938, with inclosures, which crossed our letter of August 9, 1938, relating to compliance by State Security Bank, Brigham City, Utah, with its condition of membership requiring it to deposit security with its trust department if trust funds are deposited by it in its own banking department or otherwise used in the conduct of its business.

"It is noted that your counsel and the State authorities have expressed the opinion that the bank may validly pledge securities to secure trust funds deposited by it in its banking department, even though security is not required by State law because the trust instruments expressly provide that the trust funds may be so deposited. In the absence of court decisions or other authoritative rulings to the contrary, the Board feels that it should accept their opinion, although it appears that the question

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"is not free from doubt. It is noted, with approval, that you have called upon the bank to comply with the condition of membership by depositing security with its trust department if any trust funds are deposited by it in its banking department. In the circumstances, no further action by the Board appears necessary.

"However, in the light of the correspondence concerning this matter, it is believed that, for your information in connection with similar situations which may arise, it should be pointed out that it is the Board's view that the condition of membership in question is not nullified by the fact that a member bank subject thereto cannot validly pledge securities to secure trust funds deposited by it in its own banking department or otherwise used in the conduct of its business; instead, in such circumstances, the condition makes it necessary for the bank to refrain from so using trust funds (see the Board's letter of March 8, 1935, (X-9143). Thus, in the case under consideration there clearly was a violation of the condition but it was felt that, before any action was taken by the Board, it should be advised with respect to the question whether the bank could comply with the condition by depositing security with its trust department."

Approved unanimously.

Letter to Mr. Clerk, First Vice President of the Federal Reserve Bank of San Francisco, reading as follows:

"This refers to your letter of June 1, 1938, inclosing a copy of your letter of the same date to Mr. John M. Grant, president of Transamerica Corporation, relating to compliance by Transamerica Corporation with its agreement to divest itself of its ownership, control, and interest in securities companies, and to cease participating in the management or direction thereof, within five years from the date of its application for a voting permit.

"In the absence of further word from you, it is assumed that you have not received a reply to your letter to Mr. Grant. In view of this fact and the approach of the date by which the agreement must be complied with, it will be appreciated if you will ascertain from Transamerica Corporation what, if any, change in the relationship between

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"It and Bankamerica Company has been made or is contemplated. Similar information with respect to the relationship between Transamerica Corporation and Bankamerica-Blair Corporation also is desired.

"As you know, a request for some of the information above outlined is also included in the form of the report of condition which Transamerica Corporation has been requested to submit. However, since the submission of that report has been deferred at the request of Transamerica Corporation, it is deemed desirable to develop the information referred to above without waiting for the submission of that report."

Approved unanimously.

Letter to Mr. Martin, President of the Federal Reserve Bank of St. Louis, reading as follows:

"The Board has given further consideration to the request of banks in 13 counties in western Missouri for transfer from the Eighth to the Tenth Federal Reserve District, and would like to have its representatives discuss certain problems connected therewith with an operating official and counsel for your bank and an operating official and counsel for the Federal Reserve Bank of Kansas City. It would be helpful if a meeting for this purpose could be held in St. Louis on Tuesday, September 13, for the purpose of discussing these problems.

"It will be appreciated if you will advise the Board by wire whether it will be convenient for an operating official and counsel for your bank to have representatives of the Federal Reserve Bank of Kansas City and the Board meet at your bank on Tuesday, September 13, for this purpose."

Approved unanimously, together with a letter to Mr. Hamilton, President of the Federal Reserve Bank of Kansas City, reading as follows:

"The Board has given further consideration to the request of banks in 13 counties in western Missouri for transfer from the Eighth to the Tenth Federal Reserve District, and would like to have its representatives discuss certain

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"problems connected therewith with an operating official and counsel for your bank and an operating official and counsel for the Federal Reserve Bank of St. Louis.

"It will be appreciated if you will advise the Board by wire whether it will be convenient for an operating official and counsel for your bank to be in St. Louis on Tuesday, September 13, for this purpose."

Letter to Mr. Leedy, Vice President of the Federal Reserve Bank of Kansas City, reading as follows:

"Receipt is acknowledged of your letter of August 26, 1938 regarding the applicability of section 8 of the Clayton Act to Mr. Nathan Rieger who is vice president and director of Mercantile Home Bank & Trust Company of Kansas City and also a director of the Stock Yards National Bank of Kansas City.

"The only question presented is as to the applicability of paragraph 6 of section 8 of the Clayton Act, and the corresponding provision of section 2(d)(6) of Regulation L which reads:

'The provisions of section 8 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;'

"With regard to this question Mr. Rieger states that the business of the Mercantile Home Bank & Trust Company 'is with local merchants, local wholesalers and individuals,' and does not include 'any active country banking business', whereas the business of the Stock Yards National Bank 'is principally that of country banking and of the cattle industries'.

"In preparing the revised edition of Regulation L after section 8 was amended by the Banking Act of 1935, the Board made a further careful study of the statute and of its legislative history, and its conclusion with respect to the above

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"provision is stated in footnote 9 on page 7 of Regulation L which reads:

'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 (1) receiving commercial deposits, (2) receiving savings deposits, (3) carrying checking accounts, (4) making commercial loans, (5) making real estate loans, (6) making loans on stock or bond collateral, (7) making "personal" loans of the character usually made by Morris Plan or Industrial banks, (8) engaging in corporate trust business, and (9) engaging in individual trust business.'

"Accordingly, a relationship involving two banks which are both engaged in one or more of the classes of business described in this footnote does not come within the exception stated in section 2(d)(6) of Regulation L even though there are differences in the clientele of the two banks such as those described by Mr. Rieger. Therefore, the Board sees no reason to differ with the advice which you have given Mr. Rieger to the effect that his service does not come within the exception."

Approved unanimously.

Memorandum dated September 1, 1938, from Mr. Foulk, Fiscal Agent, recommending that, for the reason stated in the memorandum, the amount of \$15.00 be added to the item "Rental and Repairs (Furniture and Equipment)" in the current budget for the office of the Fiscal Agent.

Approved unanimously.

Thereupon the meeting adjourned.

Charles Morris
Secretary.

Approved:

Frank Ransom
Vice Chairman.