Minutes of actions taken by the Board of Governors of the Federal Reserve System on Friday, September 7, 1951.

PRESENT: Mr. Martin, Chairman
Mr. Szymczak
Mr. Evans
Mr. Norton
Mr. Powell

Mr. Carpenter, Secretary
Mr. Sherman, Assistant Secretary
Mr. Kenyon, Assistant Secretary

Minutes of actions taken by the Board of Governors of the Federal Reserve System on September 6, 1951, were approved unanimously.

Telegrams to the Federal Reserve Banks of Boston, New York, Philadelphia, Cleveland, Richmond, Atlanta, Chicago, St. Louis, Minneapolis, Kansas City, Dallas, and San Francisco stating that the Board approves the establishment without change by the Federal Reserve Bank of San Francisco on September 4, by the Federal Reserve Banks of Richmond, Atlanta, and St. Louis on September 5, by the Federal Reserve Banks of New York, Philadelphia, Cleveland, Chicago, Minneapolis, Kansas City, and Dallas on September 6, 1951, and by the Federal Reserve Bank of Boston today, of the rates of discount and purchase in their existing schedules.

Approved unanimously.

Memorandum dated September 4, 1951, from Mr. Bethea, Director, Division of Administrative Services, recommending increases in the basic annual salaries of the following employees in that Division,

effective September 16, 1951:

Name	Title	Salary Increase From	To
Mary E. Sanders	Secretary to Mr. Bethea	$3,450	$3,575
Elsie N. Carrick	Stenographer	3,275	3,355
Alene D. Carroll	Charwoman	2,190	2,260

Approved unanimously.

Memorandum dated September 6, 1951, from Mr. Sloan, Director, Division of Examinations, recommending that the resignation of Miss Zoe Gratsias, Stenographer in that Division, be accepted to be effective, in accordance with her request, at the close of business September 14, 1951.

Approved unanimously.

Memorandum dated September 4, 1951, from Mr. Sloan, Director, Division of Examinations, recommending that, effective as of the date upon which he enters upon the performance of his duties after having passed the usual physical examination, and subject to the completion of a satisfactory employment investigation, Ralph A. Paulson be appointed as an Assistant Federal Reserve Examiner, on a temporary indefinite basis, with salary at the rate of $3,450 per annum, and with official headquarters at Minneapolis, Minnesota.

By unanimous vote, Mr. Ralph A. Paulson was appointed an Examiner to examine federal reserve banks, member banks of the Federal Reserve System, and corporations operating under the provisions of Sections 25 and 25 (a) of the Federal Reserve Act, for all purposes of the Federal Reserve Act and of all other Acts of Congress pertaining to examinations

made by, for, or under the direction of the Board of Governors of the Federal Reserve System, and was designated as an Assistant Federal Reserve Examiner, on a temporary indefinite basis, with official headquarters at Minneapolis, Minnesota, and with basic salary at the rate of $3,450 per annum, all effective as of the date upon which he enters upon the performance of his duties after having passed the usual physical examination and subject to the completion of a satisfactory employment investigation.

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

"Reference is made to your letter of August 27, 1951, submitting the request of the Wilmington Trust Company, Wilmington, Delaware, for approval of the establishment of a branch at Milford Crossroads, approximately two miles north of Newark, Delaware.

"It is noted that the establishment of the proposed branch has been approved by the appropriate State authorities and in view of your recommendation, the Board of Governors approves the establishment and operation of a branch at Milford Crossroads, Delaware, by the Wilmington Trust Company, Wilmington, Delaware, provided that such branch is established within eighteen months of the date of this letter and with the understanding that Counsel for the Reserve Bank will review and satisfy himself as to the legality of all steps taken to establish the branch."

Approved unanimously.

Letter to Mr. Osterhus, Manager, Bank Examinations Department of the Federal Reserve Bank of New York, reading as follows:

"Reference is made to your letter of September 4, 1951, submitting a request by the Hempstead Bank, Hempstead, New York, for a 90 day extension of time within which the establishment of a proposed branch at Bethpage, New York, may be accomplished under the approval granted by the Board on March 22, 1951.

"In view of your recommendation, the Board extends to December 22, 1951, the time within which establishment of the branch may be effected."

Approved unanimously.

Letter to the Honorable Ernest Greenwood, House of Representatives, Washington, D. C., reading as follows:

"The current scarcity of pennies has forced the Federal Reserve Bank of New York to ration them in the attempt to distribute the available supplies equitably. The case of the Peoples National Bank of Patchogue, New York, referred to in your letter of August 27, is therefore not an exception. We are, however, sending a copy of your letter and of this reply to the Federal Reserve Bank of New York.

"We have been in touch with the Mint and understand that the current shortage of pennies is due in part to the greatly increased demand for coins since the outbreak of the conflict in Korea, in part to appropriation problems, and primarily at the present time to difficulties in connection with the inability of the Mint to obtain the necessary supplies of copper. We understand that the Mint has ample facilities to supply all the coins the country can use if it can obtain the necessary metals and that it is prepared to undertake the heavy operations which would promptly and substantially ease the coin shortage when adequate supplies of metals are made available.

"In order to help meet the situation, the Director of the Mint has recently issued a statement urging that all small coins now held in children's banks and other household depositories be returned to circulation."

Approved unanimously.

Letter to the Honorable Herbert H. Lehman, United States Senate, Washington, D. C., reading as follows:

"The current scarcity of nickels has forced the Federal Reserve Bank of New York to ration them in the

"attempt to distribute the available supplies equitably. The case of the Hanover Bank, New York, reported in the telegram from The Horn and Hardart Company which you referred to the Board on August 30, is therefore not an exception. We are, however, sending a copy of your letter and of this reply to the Federal Reserve Bank of New York.

"We have been in touch with the Mint and understand that the current shortage of nickels is due in part to the greatly increased demand for coins since the outbreak of the conflict in Korea, in part to appropriation problems, and primarily at the present time to difficulties in connection with the inability of the Mint to obtain the necessary supplies of copper and nickel. We understand that the Mint has ample facilities to supply all the coins the country can use if it can obtain the necessary metals and that it is prepared to undertake the heavy operations which would promptly and substantially ease the coin shortage when adequate supplies of metals are made available.

"In order to help meet the situation, the Director of the Mint has recently issued a statement urging that all small coins now held in children's banks and other household depositories be returned to circulation."

Approved unanimously.

Letter to Mr. Young, President of the Federal Reserve Bank of Chicago, reading as follows:

"This refers to your letter of August 23, 1951, regarding the classification of member banks for election purposes.

"It is noted that your directors, at a meeting on the same date, voted after full discussion that no change be made in the present classification for the year 1951. It is noted also that the directors voted further that consideration be given before the end of the year to a change in the classification for the year 1952.

"In view of the action of your directors, the Board will make no change in the classification at this time, with the understanding that consideration will be given before the end of the year to a change in the classification so that it will conform more

"closely to the formula suggested by the Board in its letter of September 19, 1934 (X-8012)."

Approved unanimously.

Letter to Mr. Phelan, Vice President of the Federal Reserve Bank of New York, reading as follows:

"This refers to your letter of August 30, 1951, enclosing a draft of a proposed Supplement No. 2 to the Fiscal Agency Agreement dated as of February 6, 1950, between the Federal Reserve Bank of New York and the International Bank for Reconstruction and Development, which would amend Schedule A of the Fiscal Agency Agreement so that it will be applicable to a proposed issue of bonds by the International Bank, together with copies of related documents.

"The Board of Governors approves the execution by your Bank of an agreement with the International Bank in the form or substantially in the form of the proposed Supplement No. 2 enclosed with your letter."

Approved unanimously.

Letter to Mr. J. L. Robertson, Acting Comptroller of the Currency, Washington, D. C., reading as follows:

"This is in response to your letter of August 21, 1951, with its enclosures, regarding the question whether a practice being followed by a particular national bank involves an indirect payment of interest on demand deposits in violation of section 19 of the Federal Reserve Act and the Board's Regulation Q. It is understood that the national bank in question has offered to collect checks drawn on nonpar banks by sending them for collection to a certain nonmember insured bank in the South which would absorb the exchange charges made by the drawee banks, thus enabling the depositors of the checks to obtain payment at par.

"As you know, for many years the Board has consistently followed the general policy of not ruling on questions

"whether particular practices involve a payment of interest in violation of Regulation Q except after consideration of all the facts and circumstances of the particular case as developed in the course of examinations of the member banks involved. That policy has proved to be the most feasible basis for dealing with cases of this kind.

"However, in a similar case involving the practice described in your letter the Board has heretofore expressed the opinion that, since the member bank does not itself absorb exchange charges, it would not appear that there is a payment of interest by the member bank in violation of the law or the Board's Regulation Q. The Board feels, of course, that such a practice is an undesirable one, since it lends support to the making of exchange charges by nonmember banks and encourages the circuitous routing of checks. The practice obviously grows out of the fact that regulations applicable to nonmember insured banks do not preclude such banks from absorbing exchange charges in connection with the routine collection for their depositors of checks drawn on other banks.

"In this connection, as you know, the amount of the deposit balance which a member bank may maintain with a nonmember bank is limited by law to 10 per cent of the member bank's capital and surplus. While it is recognized that in the case of many banks this provision will not constitute an effective restriction, it is possible that in some instances it will have a deterrent effect upon this practice. It is hoped that the practice will not grow and that it will not be followed generally by other institutions."

Approved unanimously.

Telegram to the Presidents of all Federal Reserve Banks and Vice Presidents in charge of Detroit and Los Angeles branches:

"Demand has arisen for V-loan statistics under Defense Production Act classified by number of employees of borrower, and consensus of interested groups is to obtain data requested herein. Accordingly, please report number of employees of borrowers approximately as of time of application for V loan, as follows:

A. Reports on Form F. R. 577 submitted for months subsequent to August 1951 should show--

"Line 4(a) - Approximate number of employees of borrower,

and, if borrower is affiliated with other concerns under common ownership or control--

Line 4(b) - Approximate number of employees of borrower and affiliated concerns under common ownership or control.

B. Similar information for all cases covered by Forms 577 heretofore submitted including forms for August 1951 should be supplied at your early convenience in lists by guaranteeing agency showing name of borrower and application number."

Approved unanimously.

Telegram to the Presidents of all Federal Reserve Banks and Managing Officers of Federal Reserve Bank Branches, prepared in accordance with the action taken at the meeting of the Board on September 4, reading as follows:

"We are mailing to you today copies of an interpretation of Regulation W on the subject of trade-ins which will be W-165 S-1390. The interpretation, together with a brief press statement, is being given to the press at 3 p.m., September 7, 1951, for release in the morning papers of September 10, 1951.

"We are also air mailing you today an explanatory letter W-166 S-1391 with respect to this interpretation. The letter is for the use of Reserve Bank personnel only.

"In order to get this information to you as promptly as possible the press release and interpretation are set out below. This telegram is also being sent to all Reserve Bank Branches.

Statement for the Press

"The Board of Governors has today issued a statement concerning the provisions of the Defense Production Act Amendments and of Regulation W, Consumer Credit, which permit trade-ins to be counted for all or part of the minimum down payment required under the regulation. The statement, which is in the form of an interpretation of the regulation, emphasizes that the new provisions of the statute and the regulation do not repeal the requirement that a down payment must be obtained. It stresses, also, that a trade-in allowance cannot be counted against the down payment required under the regulation except to the extent it reflects a

"bona fide trade-in or exchange of property having a value that bears a reasonable relationship to the amount credited."

Interpretation of Regulation W

"Since the amendment to Regulation W which was made following the amendment of the Defense Production Act, and which became effective July 31, 1951, questions have been received concerning trade-ins in connection with the instalment sale of listed articles, particularly articles listed in Groups B, C, and D of the Supplement to the regulation.

"It should be noted that the new provisions of the statute and the regulation do not repeal the requirement that a down payment must be obtained. Two provisions of the regulation are of special importance here. One is section 6(c)(3) which requires that a trade-in be described in the Registrant's records and that the Registrant set out 'the monetary value assigned thereto in good faith'. The other is section 8(j)(7) which requires that 'any rebate or sales discount' be deducted in calculating the 'cash price' of the listed article, and that the required down payment be determined on the basis of the 'cash price.... net of any rebate or sales discount'.

"The provisions of the statute and regulation, especially those quoted above, prohibit certain practices which would attempt to use fictitious trade-in allowances to evade the down payment requirements. This is true even though the regulation does not necessarily require that trade-in allowances counted against down payments be limited to the actual market value of the trade-in or to the amount for which the Registrant expects to be able to sell it. Some of the more important principles forbidding fictitious trade-in allowances are indicated below.

"1. It is evident that a transaction would involve a rebate or sales discount rather than a trade-in where the Registrant in fact did not receive delivery and possession of the property for which a so-called trade-in allowance was granted. In such a case an actual trade-in has not occurred, and labelling the transaction as a 'trade-in' will not change its essential characteristic as a mere rebate or discount. The Registrant has received nothing in part payment by virtue of the so-called trade-in and has merely reduced the price of the article sold. Accordingly, the required down payment would have to be obtained on the basis of the 'cash price' of the article net of such reduction.

"2. A transaction would similarly conflict with the requirements of the regulation where there was applied against the required down payment a so-called trade-in allowance in substantial amount for property having a value that was nominal or negligible, or that bore no reasonable relationship to the so-called allowance. Among transactions that would thus conflict would be many made on the basis of a substantial uniform allowance for all so-called trade-ins irrespective of their make, model, or condition.

"3. A trade-in could not be counted as a down payment to the extent that there had been any offsetting increase in the price of the article being sold. The price to be used as a standard here would be the actual value at which the Registrant at the time is selling the same or like articles with an all-cash down payment or on a comparable basis; that price might, of course, be lower than the 'list' price.

"4. From the foregoing it may be noted that a trade-in allowance cannot be counted against the down payment required under the regulation except to the extent that it reflects a bona fide trade-in or exchange of property. The regulation does not prevent a Registrant from giving rebates or discounts, or from calling them anything he may like; but no matter what he may choose to call them for his own purposes, they obviously cannot take the place of the down payment required by the regulation and cannot excuse the Registrant from the requirement that he actually obtain the required down payment. In other words, a Registrant is entirely free to give any trade-in allowances, rebates, or discounts that he desires; but such allowances, rebates, or discounts cannot be used as a cloak to conceal evasions of the down payment requirements of the regulation contrary to the principles here set out.

"5. Under section 8(a) of the regulation the Registrant is required in any given case to keep such records as are relevant to establishing that his treatment of an allowance as a trade-in or exchange in payment or part payment of the required down payment is in conformity with the foregoing and with the requirements of the regulation."

Approved unanimously, together with the following letter to the Presidents of all Federal Reserve Banks.

"The replies of the Reserve Banks to our letter of August 10, 19519 submitting a tentative draft of an interpretation regarding trade-ins under Regulation W were of

"great assistance in our consideration of the problem. In order to assist in the desirable exchange of information on this subject among those who work on the problem, we are discussing it rather fully below and we are not marking this letter as confidential. However, it will be apparent that, although the material headed 'Analysis and Examples' (other than the discussion of W-98 and of the work of investigators) might be used to some extent in answering inquiries, most of the letter should be treated as confidential and for use only within the Reserve Bank.

"As might be expected in view of the novelty of some phases of the problem, there was a considerable range of opinion among the Reserve Banks. Some suggested that the interpretation be tightened by reversing W-112 and forbidding all allowances to be counted against the required down payment to the extent that they exceed the reasonable market value of the trade-in. Some suggested that the interpretation be issued about as submitted for comments. Some suggested that the interpretation as it relates to over-allowances be made less restrictive than in the tentative draft. Some suggested that the interpretation be issued only for the use of Reserve Bank personnel, or that no interpretation be issued at all.

"After carefully considering the various aspects of the problem, the Board has decided to issue an interpretation in the form set out in W-165, S-1390, of this date, a copy of which is enclosed. The arrangement and wording of the interpretation has been changed from the tentative draft, but the substance is not greatly altered. Some of the considerations that led to these conclusions are outlined below.

"First of all, it is fully recognized that the problem with respect to trade-ins that is posed by the Defense Production Act Amendments is extremely difficult at best, and one for which it is unlikely that any completely satisfactory solution can be found.

"Much can be said for the suggestion that allowances counted against down payments be limited to fair market value. Three reasons seemed persuasive against that position. First, the Board had taken a contrary position in W-112 with respect to automobiles. It might be claimed that Congress, in extending the automobile rule to other

"articles, had in mind the principle of that ruling. Even if the System might be sustained legally in reversing the ruling in these circumstances -- a point on which there might be some question -- it would raise a real possibility of Congressional sponsors of the amendment feeling that the System was trying to thwart the Congressional intention. Secondly, a change in the rule would almost certainly have to be applied not only to appliances, televisions, etc., but also to automobiles. In the latter field it would cause especially great disruption in well-established trade practices. Thirdly, it seemed likely that the test would still remain so indefinite that it would be extremely hard to apply in practice and might place conscientious Registrants under an especially heavy burden as compared with less conscientious competitors. In view of these considerations, the Board reluctantly decided to continue the general principle regarding over-allowances as stated in W-112.

"However, it was felt that there is still room for an interpretation that will prevent the more flagrant abuses, will be reasonably susceptible of enforcement, and will help to preserve respect for the regulation and the System. It is hoped that the rationale of the published interpretation will be reasonably evident from the interpretation itself, but for your further background information we are giving below an item-by-item analysis of the interpretation and a few examples illustrating the various degrees of difficulty involved in the various aspects of the problem.

Analysis and Examples

"Three unnumbered paragraphs - The first three paragraphs of the interpretation, which are unnumbered, attempt to give some general background of the problem and to emphasize that down payment requirements are still in effect.

"Paragraph Numbered 1 deals with what is probably the simplest case. Most people would probably agree, for example, that there has not really been any trade-in if a Registrant purports to give the customer a $50 allowance for the customer's wrist watch but never obtains possession of the watch.

"Paragraph 2 deals with several cases of increasing degrees of difficulty. Suppose, for example, that the Registrant purports to give the customer a $50 allowance

"for an empty cigarette package. Most people probably would agree that such a valueless or nominal trade-in is essentially the same as the preceding case of no real trade-in at all.

"Paragraph 2 - 'Value . . .negligible' - What if the trade-in is not completely worthless or nominal but its value is negligible? For example, the cigarette package might be full instead of empty. It probably would be agreed that this also is similar to the case of no real trade-in.

"Paragraph 2 - 'No reasonable relationship' - What if the value of the trade-in is more than negligible, but still is so completely out of proportion to the purported allowance that on even the most generous valutaions the trade-in would bear no reasonable relationship to the alleged allowance? To be more specific, suppose the Registrant purports to allow $50 for a new necktie that definitely has value but could be readily purchased for not more than $5. This case is admittedly more difficult. Some might attempt to argue that to hold it a violation of the regulation would conflict with W-112 or even with the statute. However, it is believed that the forbidding of such a practice is authorized by the statute and distinguishable from W-112. The difference from the ordinary over-allowances covered in W-112 is admittedly one of degree. But the difference is so great as to become virtually a difference of kind. It is hard to describe a hard and fast line between the two, but in actual practice most cases probably will tend to be fairly far over to one side or the other and not along the border. The situation might be said to be roughly comparable in some respects to those in which some courts have considered it desirable to distinguish between 'negligence' and 'gross negligence'. For example: Massaletti v. Fitzroy (1917, Mass.) 118 NE 168. Notes 4 ALR 1197 et seq., 96 ALR 910 et seq; 65 CJS 1270 et seq.

"We recognize that if investigators tried to check each transaction to apply the 'no reasonable relationship' principle it would impose a great burden. It seems likely, however, that the principle will help to stop the most flagrant abuses, and that it need not be unduly burdensome to Registrants or investigators. In this respect there is some similarity to the interpretation on sets and

"groups contained in W-98, Regulation W Loose-leaf #640. For example, in theory it might be extremely difficult for an investigator to determine after the fact whether or not certain articles were 'merchandised as a single unit.' In practice, however, the rule seems to have stopped certain rather flagrant practices that tended to weaken respect for the regulation. Investigators are fully justified if they do not always make the elaborate inquiries that would be necessary to discover some possible violations of the sets and groups interpretation, and it would seem that the net effect of the interpretation is salutary.

"Paragraph 2 - 'Uniform allowances' - The last sentence of paragraph 2 is a specific application of the principles stated in the earlier part of the paragraph. It does not say that all transactions made on the basis of a substantial uniform allowance would violate the regulation. It says that 'many' would -- which seems to be the case. Therefore, advertisements flatly offering such allowances to be applied against the required down payment would seem to be objectionable. If the advertiser does what he purports to do he will violate the regulation. If he does not do what he purports to do, the advertisement would probably be misleading and of interest to Better Business Bureaus, etc.

"Paragraphs 3, 4, and 5 - Paragraph 3 simply restates the principle of W-112 forbidding so-called trade-in allowances that are offset by price increases. The second sentence of the paragraph adds a little concreteness that probably will have less application for automobiles than for other listed articles. Paragraph 4 summarizes the good faith principle that underlies the whole interpretation. Paragraph 5 calls attention to the record-keeping requirements.

* * * * *

"We have discussed the general trade-in problem informally with members of the Joint Congressional Committee on Defense Production established by the Defense Production Act. We did not ask them to approve or disapprove the position stated in the interpretation and this letter. However, the general outlines of the position were made known to them, and for your confidential information we can say that the position impressed them as reasonable."

Telegram to the Presidents of all Federal Reserve Banks, reading as follows:

"The agenda for the System conference on Regulation X to be held September 14 is as follows:

I. Introductory comments
II. Recent legislative developments
  a. Modification of terms of regulation
  b. Critical defense housing areas
  c. Nonresidential construction for defense purposes
III. Proposed amendments
  a. Leasing arrangements
  b. Exceptions to cover delayed settlement payments
  c. Others
IV. Administration and interpretation
  a. Determination of value
  b. When is construction completed?
  c. Financing resales
  d. Subterfuges and evasions
  e. Other administrative and interpretative problems
V. Registration
  a. Status of registration
  b. Analysis of registration
  c. Ascertainment and registration of persons unaware of the regulation
  d. Other problems
VI. Effects of general and regulatory credit policies on real estate finance
  a. Availability of mortgage funds
  b. Sales of completed houses blocked by regulation
VII. General
  a. Educational activities
  b. Advisory committees
  c. Research and surveys
  d. Coordination with Voluntary Credit Restraint Program
  e. Enforcement reports

"In addition to the above topics, matters connected with enforcement of Regulation X will be discussed at time Regulation W enforcement is covered."

Approved unanimously.

Letter for the signature of the Chairman to Mr. Stefano Siglienti, President, Italian Bankers Association, 49 Piazza del Gesu, Rome, Italy, reading as follows:

"Several months ago you were kind enough to invite the Board of Governors of the Federal Reserve System to send a delegate to the International Credit Conference to be held in Rome from October 18th to 24th under the sponsorship of your Association.

"At that time we were compelled to reply that much as we would like to accept your invitation it did not appear that we would be able to be represented. We stated, however, that, if circumstances should change in any respect, we would communicate with you again.

"I am pleased to advise you that arrangements have now been completed for Governor R. M. Evans, a member of the Board of Governors, to travel to Europe this fall to attend the meeting of the United Nations' World Food and Agriculture Organization, which he helped organize, and to consult with officials of several European central banks. Governor Evans has indicated that he will endeavor to arrange his itinerary so as to be present for at least a portion of the International Credit Conference, and we are desirous that he do so, feeling that much benefit will be derived from his attendance. In the circumstances, we should like at this time to designate Governor Evans as representative of the Board at the Conference. It is noted from your letter of invitation that additional information relating to the program would be available from the Secretariat of the Conference, and we should appreciate being furnished with any materials which you feel might be of interest to Governor Evans."

Approved unanimously.

Secretary.