Minutes of actions taken by the Board of Governors of the Federal Reserve System on Thursday, September 9, 1954.

PRESENT: Mr. Martin, Chairman
Mr. Szymczak
Mr. Vardaman
Mr. Robertson

Mr. Carpenter, Secretary
Mr. Kenyon, Assistant Secretary

Minutes of actions taken by the Board of Governors of the Federal Reserve System on September 8, 1954, were approved unanimously.

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

> The Board concurs in the views of the Presidents of the Federal Reserve Banks, as stated in the final minutes of the meeting of the Presidents' Conference on June 21-22, 1954, concerning the desirability of modifying the current policy with respect to the furnishing of credit information by Federal Reserve Banks. The following statement of policy reflects these views, and this letter supersedes the Board's letters dated November 10, 1921, and August 6, 1941 (X-3245, F.R.L.S. 8330 and S-277, F.R.L.S 8330.1), which are hereby cancelled.
>
> Credit information with respect to individual banks, corporations, associations, partnerships, and individuals will not be furnished by Federal Reserve Banks to any member bank or other bank or party except as stated below:
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> 1. A Federal Reserve Bank may furnish credit information with respect to banks, corporations, associations, partnerships, and individuals as follows:
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> (a) To the Board of Governors of the Federal Reserve System and to other Federal Reserve Banks; and
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> (b) To others when the furnishing of such information is expressly authorized by any applicable statute.

2. A Federal Reserve Bank may furnish credit information with respect to corporations (other than banks), associations, partnerships, and individuals as follows:

(a) Where the furnishing of such information is authorized by the source from which the information was obtained;

(b) To appropriate officers and agents of agencies of the United States Government authorized pursuant to section 301 of the Defense Production Act of 1950 as amended, to guarantee defense production loans;

(c) To departments, agencies, or instrumentalities of the United States Government when the information requested is to be used in connection with the letting or proposed letting of Government contracts; and

(d) To appropriate parties where the information relates to borrowers in cases in which a Federal Reserve Bank is the sole lending institution involved in the extension of credit.

3. A Federal Reserve Bank may furnish credit information with respect to banks and business concerns, including information as to the financial condition and reputation of the management, to foreign central banks which maintain accounts with the Federal Reserve Bank, with the understanding that the Federal Reserve Bank shall not supply information obtained from bank examination reports or any information concerning banks which would be inconsistent with its position as a supervisory authority. The furnishing of such information shall be deemed to be in accordance with the provisions of the Statement of Procedure with Respect to Foreign Relationships of Federal Reserve Banks, dated January 1, 1944, and enclosed with the Board's letter of December 14, 1943 (S-718, F.R.L.S. 5720).

Certain outstanding letters from the Board to the Federal Reserve Banks regarding the furnishing of various types of information to specified departments or agencies of the United States Government are hereby cancelled, along with letters

X-3245 and S-277. These letters are as follows:

X-7089-a	February 13, 1932	F.R.L.S. 8331
X-7112-a	March 5, 1932	F.R.L.S. 8332
S-140	January 4, 1939	F.R.L.S. 8333
S-253	March 11, 1941)	
S-273	June 30, 1941)	
S-276	July 22, 1941)	F.R.L.S. 8334
S-276-a	July 18, 1941)	
S-276-b	July 22, 1941)	

Approved unanimously.

Letter for the signature of Chairman Martin to the Honorable Homer E. Capehart, Chairman, Joint Committee on Defense Production, United States Senate, Washington, D. C., reading as follows:

> In response to your letter of August 14, 1954, there is attached, for inclusion in the proposed report of the Joint Committee on Defense Production being prepared pursuant to section 712(b) of the Defense Production Act, as amended, information relating to the operations carried out by the Board under authority of that Act.

Approved unanimously.

Letter to Bingham, Dana & Gould, 1 Federal Street, Boston, Massachusetts, reading as follows:

> This refers further to your letter of July 20, 1954, and the Board's acknowledgement of July 28, 1954, regarding the provisions of section 9 of the standard form of V-loan guarantee agreement, as amended October 1, 1953.
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> As indicated in the Board's letter of July 28, this matter was referred to the Department of Defense for an expression of its views. Advice has now been received from the Chairman of the Contract Finance Committee of the Department of Defense expressing the view that the change suggested in your letter would not be desirable.
>
> The amendment made in 1953 to section 9 of the guarantee agreement was adopted only after consultation with the guaranteeing agencies and after consideration

of all phases of the question. The points raised in your letter were fully considered at that time. It was realized that the amendment would have the effect, as indicated in your letter, of depriving the guarantor of certain benefits since, as a result of the amendment, the financing institution could institute proceedings against persons other than the borrower without first obtaining the guarantor's consent. The guaranteeing agencies within the Department of Defense, however, felt that it was desirable to amend the provisions in question in order to make it entirely clear that the guarantor, when the holder of the obligation, should not be penalized to the advantage of the lender by an increase in the guaranteed percentage to 100 per cent by reason of the failure of the guarantor to take legal proceedings against the Government itself or against companies or persons other than the borrower. As you know, the reasons for the amendment were set forth in a statement published in the October 1953 issue of the Federal Reserve Bulletin at page 1050.

When this matter was previously the subject of discussion with the Department of Defense, a representative of that Department stated with regard to the October 1953 amendment to the guarantee agreement that there is definitely no policy or inclination on the part of the Defense Department to minimize the enforcement of claims against the Government assigned as collateral for V-loans, that the Department is fully aware of the resulting situation in cases like the Davis Aircraft case but feels that the solution is to attempt to work out a fair and reasonable adjustment of the disputed claims in such cases, and that in any event cases of the kind in question are very exceptional.

Approved unanimously, with
a copy to the Federal Reserve
Bank of Boston.

Letter to Mr. Wm. Walter Phelps, c/o Sumner Ford, Esquire, Messrs. Breed, Abbott & Morgan, 15 Broad Street, New York, New York, reading as follows:

Your letter of July 20, 1954 which was sent to Mr. Wiltse, Vice President of the Federal Reserve Bank of New York, by Mr. Sumner Ford under date of August 2, 1954,

has been forwarded to the Board of Governors. Your letter asks for a reconsideration of the question whether section 32 of the Banking Act of 1933 is applicable to you by reason of your being a limited partner of the firm of Goodbody & Co., New York, and a director of The Hackensack Trust Company, Hackensack, New Jersey.

As you point out, the Board, after considering all of the pertinent information which was submitted through the Federal Reserve Bank of New York, decided that Goodbody & Co. was "primarily engaged" in the business of underwriting and distributing securities as described in section 32; and it would follow that your services, described above, would be prohibited by that statute.

You request reconsideration on three grounds. The first is that only 5.7 per cent of the income of Goodbody & Co. in 1953 was derived from the type of business described in section 32, whereas in the case considered by the Supreme Court of the United States, Board of Governors v. Agnew, 329 U. S. 441, the percentage was considerably higher.

The Court did not say that the percentages appearing in the opinion in the Agnew case were the minimum percentages which would satisfy the test of "primarily engaged" in the statute. On the contrary, the Court indicated that any amount which was not unsubstantial would meet the test of the statute, saying, "the line between substantial and unsubstantial seems to us to be the one indicated by the words 'primarily engaged.'" Furthermore, percentage figures alone should not be considered, but a number of other factors are pertinent, including those enumerated in Mr. Wiltse's letter of May 25, 1954 to you.

The second point which you make is that The Hackensack Trust Company has never purchased any securities from Goodbody & Co., which has done little, if any, underwriting business in the State of New Jersey. However, the situation considered by the Supreme Court in the Agnew case was similar, since the Court said "Nor has the firm done business with the bank since the fall of 1941", which was the year in which the two respondents in that case became associated with the firm.

The third ground on which you ask for reconsideration is that you are only a limited partner, and in this connection you cite the New York statute and court decisions showing the limitations on the part which a special partner may take in the conduct of the business of his firm.

Since the Board cannot issue individual permits, it could exempt a limited partner only by amending Regulation R. Following the amendment of the statute in 1935 (which, among other things, refers specifically to a "partner") the Board carefully considered the desirability of making such an exception. On several subsequent occasions it has reconsidered the question. In each instance it has decided that, in view of a limited partner's interest in the underwriting and distributing business, it should not make the exception. After careful consideration of the situation which you present, the Board does not feel that it would be justified in changing its position in this regard.

In the circumstances the Board believes that section 32 is applicable to your service as a director of The Hackensack Trust Company and as a limited partner of Goodbody & Co.

Approved unanimously, for transmittal through the Federal Reserve Bank of New York.

Secretary