FR 609
Rev. 10/59

Minutes for January 17, 1961

To: Members of the Board

From: Office of the Secretary

Attached is a copy of the minutes of the Board of Governors of the Federal Reserve System on the above date.

It is not proposed to include a statement with respect to any of the entries in this set of minutes in the record of policy actions required to be maintained pursuant to section 10 of the Federal Reserve Act.

Should you have any question with regard to the minutes, it will be appreciated if you will advise the Secretary's Office. Otherwise, please initial below. If you were present at the meeting, your initials will indicate approval of the minutes. If you were not present, your initials will indicate only that you have seen the minutes.

Chm. Martin
Gov. Szymczak
Gov. Mills
Gov. Robertson
Gov. Balderston
Gov. Shepardson
Gov. King

Minutes of the Board of Governors of the Federal Reserve System on Tuesday, January 17, 1961. The Board met in the Board Room at 10:00 a.m.

PRESENT: Mr. Martin, Chairman 1/
Mr. Balderston, Vice Chairman
Mr. Szymczak
Mr. Mills
Mr. Robertson
Mr. Shepardson
Mr. King

Mr. Sherman, Secretary
Mr. Kenyon, Assistant Secretary
Mr. Fauver, Assistant to the Board
Mr. Hackley, General Counsel
Mr. Solomon, Director, Division of Examinations
Mr. Hexter, Assistant General Counsel
Mr. Chase, Assistant General Counsel
Mr. Nelson, Assistant Director, Division of Examinations
Mr. Rudy, Special Assistant, Legal Division
Miss Hart, Assistant Counsel
Mr. Leavitt, Supervisory Review Examiner, Division of Examinations

Items circulated or distributed to the Board. The following items, which had been circulated or distributed to the Board and copies of which are attached to these minutes under the respective item numbers indicated, were approved unanimously:

	Item No.
Letter to the Federal Reserve Bank of New York expressing the opinion that, on the basis of facts submitted, the prohibitions of section 32 of the Banking Act of 1933 would not apply to certain interlocking relationships between member banks and Investors Management Company, Inc., Elizabeth, New Jersey.	1

1/ Withdrew from meeting at point indicated in minutes.

	Item No.
Letter to The Chase Manhattan Bank, New York, City, approving the establishment of a branch at East 66th Street and Avenue U, Borough of Brooklyn.	2
Letter to Fidelity-Philadelphia Trust Company, Philadelphia, Pennsylvania, approving the establishment of a branch at Olney Avenue and Fairhill Street and an additional investment in bank premises.	3
Letter to The Harter Bank & Trust Company, Canton, Ohio, approving the establishment of a branch at 230 South Chapel Street, Louisville, Ohio.	4
Letter to The Elyria Savings & Trust Company, Elyria, Ohio, approving the establishment of a branch at 336 Second Street.	5
Letter to Minden Bank & Trust Company, Minden, Louisiana, approving the establishment of a branch in Sarepta.	6
Letter to State Bank and Trust Company, Ann Arbor, Michigan, approving the application for fiduciary powers submitted on behalf of the national bank into which it is to be converted.	7

Applicability of section 20 and section 32 of Banking Act of 1933 to real estate investment organizations (Items 8 and 9). There had been distributed to the members of the Board copies of a memorandum from the Legal Division dated January 6, 1961, regarding correspondence from the Federal Reserve Banks of Philadelphia and San Francisco which raised the question of the applicability of section 20 and section 32 of the Banking Act of 1933 to relationships between member banks and certain organizations

that would invest their assets in real estate or real estate development and would raise their capital by a single issue of their shares. Section 20 makes it unlawful for a member bank to be affiliated with an organization "engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes or other securities". Section 32 makes it unlawful for an officer, director, or employee of a member bank to be at the same time an officer, director, employee, or partner of an organization "primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities".

The question presented through the Federal Reserve Bank of San Francisco involved the organization and proposed activities of a company known as Union Investment Co., and the relationship thereof to the Union Bank, a State member bank located in Los Angeles, California. The question presented through the Federal Reserve Bank of Philadelphia involved the eligibility of officers and directors of member banks to act as trustees of a newly authorized real estate investment trust being organized to take advantage of the provisions of Public Law 86-779, approved September 14, 1960, the principal purpose of which was to permit collective investment in real estate assets, through the medium of a real estate investment trust, without subjecting the income of such trust to Federal income taxes,

thus affording to its shareholders the same benefits as those enjoyed by stockholders of investment companies whose assets ordinarily consist of corporate stocks and bonds.

The memorandum from the Legal Division commented that it would be difficult to conclude that the real estate activities of the organizations in question would constitute a securities business within the meaning of the law. Therefore, the principal question was whether the issuance of stock in connection with their organization would alone be sufficient to bring them under sections 20 and 32. The Legal Division was of the opinion that these sections would not be applicable in the present instances, this conclusion being based primarily on the fact that the organizations would raise their capital in a manner comparable to that by which any business enterprise might raise its capital; that is, by a single initial issue of shares. Some members of the Legal Division also placed heavy reliance upon the legislative history of the statutory provisions, which indicated that Congress did not have in mind any organizations except those engaged in the underwriting and flotation of stocks, bonds, and similar securities.

The memorandum pointed out that the conclusion reached by the Legal Division did not seem to be logically consistent with the conclusion stated in a ruling published in the April 1960 issue of the Federal Reserve Bulletin that a closed-end investment company in process of organization and actively engaged in issuing and selling its own shares is in the same

position relative to section 32 as an open-end company. The Legal Division now believed that section 32 should not be regarded as applicable to a company (whether or not an investment company) merely because it was engaged in making the initial issue of its stock, and that the section should be regarded as applicable only if the issuance of the stock was more or less continuous and in substantial amounts. Nevertheless, even though the Board agreed with this conclusion, it might prefer not to reverse the April 1960 ruling, perhaps on the ground that the activities of a closed-end investment company are so close to the securities market that such a company should be regarded as covered by the law while it is making an initial offering of its stock in the process of organization. According to previous Board rulings, however, a closed-end investment company after its organization is no more a securities company than a manufacturing company. Moreover, the position taken in the April 1960 ruling involved the strained result that a director of a member bank could not serve as a director of a closed-end investment company until its initial issuance of stock was completed, but could serve thereafter, and that if the company should later increase its stock the director would have to resign from the board of the investment company for the temporary period during which the new stock was being issued. For these reasons, some members of the staff felt that the logical course would be to reverse the April 1960 ruling.

Submitted with the memorandum were drafts of letters to the Federal Reserve Banks of Philadelphia and San Francisco reflecting the conclusion of the staff with respect to the non-applicability of sections 20 and 32 in the particular circumstances concerned. Despite the conclusion stated therein, each of the letters contained language calling attention to possible dangers of the described arrangements that should be borne in mind not only by examiners but also by the management of banks concerned.

In commenting on the matter, Mr. Hackley noted that the organizations in question would be engaged in making real estate loans and investments and that they would not be engaged in distributing or floating stocks, bonds, or similar securities. Thus, they would appear to be brought under the coverage of sections 20 and 32, if at all, only because of the issuance of stock in connection with their organization, and in both cases the issuance of stock was expected to be completed within a relatively short period. In 1941, and again in 1951, the Board took the position that open-end investment companies engaging in frequent issuance of their own stock in substantial amounts relative to their outstanding stock would be covered by section 32 on the ground that such issuances of stock were essential to the continuation of the company. By the same token, closed-end investment companies were not regarded as being subject to section 32. However, as pointed out in the Legal Division's memorandum, in April 1960 the Board published a ruling in which it took the position that even a closed-end investment company, while

in process of organization and engaged in the issuance of its own stock, would fall within the provisions of the law. On that basis, Counsel for the Federal Reserve Banks of Philadelphia and San Francisco had expressed the view in the present cases that the proposed real estate investment organizations would be covered. Counsel for the member bank in California with which one of the proposed organizations was to be affiliated had submitted a brief which included the argument that the law was not intended to apply to a company solely because it was issuing its own stock, and that the Congress had in mind situations where companies were distributing the stock of other companies. Nevertheless, taken literally, the law would seem to cover the issuance of stock regardless of whether it was stock of the company involved, if such issuance was a substantial part of the company's business. On the other hand, it could be said that when a company was in process of organization, obviously its principal activity would be the issuance of its own stock. If thereafter it would not be engaged in a business which would bring it within the law, it would seem rather arbitrary to say that the law applied to the company while it was in the process of organization. On such a basis, almost any company could be subject to sections 20 and 32 while it was in the process of organization. In contrast, if a company should initially issue its stock over a long period of time or if, after organization, it issued its own stock frequently and in substantial amounts in relation to its stock outstanding, the situation would be different.

Mr. Chase, one of those who preferred that the 1960 ruling not be reversed, brought out that all of the members of the legal staff had reached the same conclusion with respect to the two cases now before the Board. However, the lines of reasoning used in reaching that conclusion varied somewhat, and this might affect the result in future cases. He considered it important to bear in mind that sections 20 and 32 were first enacted because the Congress had found that the commingling of commercial and investment banking was a contributing factor to the difficulties that resulted in the 1929 crash and the Bank Holiday of 1933. Accordingly, in the Banking Act of 1933 the Congress included a number of provisions designed to separate commercial and investment banking, among them sections 20 and 32. Rather early in the administration of those provisions of the law, the Board decided that they should be applied not only to situations that the Congress obviously had in mind, but also to relationships between commercial banks and open-end investment companies engaged continuously in the issuance of their own shares. Until recently, however, the Board did not extend its position to include closed-end investment companies. In connection with one of the cases now before the Board, counsel for the member bank had submitted a brief which reviewed the legislative history and concluded that sections 20 and 32 should not be considered applicable to any organization not in the securities business. This was consistent with the recommendation of the Legal Division in these two cases, which was based on the conclusion that

the organizations in question were outside the field that the Congress had in mind in enacting sections 20 and 32 of the Banking Act of 1933. As to closed-end investment companies, while the Board had never ruled until April 1960 that they were subject to the provisions of the law, on the other hand the Board had always taken the position that a company might be subject thereto if it became actively engaged in the issuance of its own shares. On certain occasions the Board had considered whether a company should be placed in the same category as an open-end investment company because it was engaged in a new issue of its shares, and the Board had ruled negatively because some special reason for the issue was involved, such as a capital gains situation. In other circumstances, however, if a closed-end investment company became actively engaged in issuing its own shares, its position might become quite similar to that of an open-end company. Therefore, Mr. Chase felt that reversal of the 1960 ruling was not required.

Mr. Hackley pointed out that it was agreed that a closed-end investment company might become subject to the provisions of the statute if it engaged in issuing its own shares on frequent occasions in substantial amounts. Unless that happened, however, Mr. Hackley felt that a closed-end company would be no more subject to the provisions of the law than, for example, a shoe company. He found it difficult to conclude that a closed-end company, while issuing its shares in the normal process of corporate

organization, would be subject to sections 20 and 32 while a shoe company would not.

Miss Hart commented that this was an area where it was easy to take either position. On the whole, however, she felt that she would prefer to retain the 1960 ruling, on the basis that a closed-end investment company was so much involved in the securities business that any time it issued its own stock, except in a specialized situation, it was engaged in the business of issuing securities. The Congress had seen fit to say that a bank director should not be connected with a company engaged in the issuance of securities, whereas it had not seen fit to specify that such a director should not be connected with a company engaged in making or recommending investments in real estate. As one looked at the underlying purpose of the legislation, it appeared to be aimed at relationships between banks and companies actively engaged in issuing securities.

Mr. Hackley said that there was no strong feeling on the matter and that the difficulty was simply in resolving the seeming inconsistency between the 1960 ruling and the position taken in the letters proposed to be approved by the Board. If the two could be reconciled, it might be preferable not to reverse the 1960 ruling. However, it might be difficult for other parties to understand the Board's rationale if the proposed letters were issued and the 1960 ruling remained outstanding.

Mr. Hackley went on to say that affiliations with real estate investment trusts could, of course, lead to abuses somewhat similar to those that

the Congress had in mind as growing out of the affiliation of member bank directors with securities companies. Therefore, each of the proposed letters included a caveat that bank examiners and bank management should be aware of the possibility of such abuses. However, the statute did not appear to cover that type of relationship.

Mr. Hexter pointed out that continuation of the 1960 ruling would mean that if a member bank director wished to become a director of a new closed-end investment company and made inquiry, the answer presumably would be in the negative. However, following the initial issuance of securities by the company, he might become a director. It was hard to see how the purpose of the Congress, that is, the separation of commercial banking and investment banking, would be served if it were said that a man could not become a director initially when it was known that he was going on the board of directors later. Moreover, in respect to infrequent subsequent issues of securities, the individual would have to leave the board of directors while such an operation was in process, but he could subsequently return to the board of directors.

Mr. Solomon said that admittedly there were some potential evils in the type of relationships envisaged by the cases now before the Board. However, as Mr. Hackley had pointed out, it must be recognized that the statute did not appear to be aimed at such relationships. Therefore, it

seemed feasible only to call attention to the potential evils in such manner as to alert bank examiners and bank management to the problem.

Governor Mills expressed agreement with the conclusion reached in the memorandum from the Legal Division concerning the cases currently under consideration by the Board. As to the 1960 ruling, he felt that it should not be reversed at this time, although the matter might properly come up for review at a later date. He indicated that he was much concerned about the potential evils that could grow out of the enactment of Public Law 86-779, which he felt opened the door to undesirable types of speculation in the real estate field. Its provisions offered windfall profits in existing situations and held out a temptation for others to go into the field. When it came to relationships with commercial banks, he believed that the inclusion of the caveats found in the proposed letters was highly important. Further, he had in mind questions concerning the holding company affiliate status of a real estate investment trust under the existing statutes and the Board's position if a bank holding company should desire to organize a subsidiary that would engage in business as a real estate investment trust. In such event, the Board presumably would be faced with the question of determining whether the activity would be so closely related to banking as to deserve exemption under section 4(c)(6) of the Bank Holding Company Act. In all the circumstances, Governor Mills said, he would prefer not to reverse the ruling of April 1960 at this time. Also, he felt that

the Board should look with great care to the possibility that holding company problems could arise from the position proposed to be taken today.

Mr. Solomon then described how some degree of compatibility might be found between the April 1960 ruling and the position taken in the proposed letters to the Philadelphia and San Francisco Reserve Banks, depending on the circumstances surrounding the issuance of shares of a closed-end investment company, particularly the period of time during which it was envisaged that the issuance of shares would take place.

Mr. Hackley suggested, in line with Mr. Solomon's comment, that the appropriate course might be to clarify, rather than reverse, the 1960 ruling, so as to indicate that it would continue to be applicable in a situation where the process of organization of a closed-end company would extend over a period longer than normally required.

Chairman Martin stated that he shared all of the apprehensions that had been expressed. His question, however, about retaining the 1960 ruling was whether the Board would be acting ultra vires. In his opinion, the Board should not attempt to correct things that the Congress had not seen fit to correct by statute, merely because it foresaw the possibility of certain abuses. If the law clearly did not cover a situation such as referred to in the 1960 ruling, then it would appear to him that the ruling should be changed.

Mr. Chase commented that the Board's 1941 ruling on open-end investment companies was in effect an extension of the law. Despite certain arguments made to the Board at the time, the Board decided to construe the

provisions of the law as being applicable to such companies. As to the closed-end investment company, the principal point was whether it was going to get its shares sold within a relatively brief period. In a case where that was so, he would not object to changing the 1960 ruling.

Mr. Hackley said he had in mind that if the two letters under consideration today should be approved by the Board, the staff could prepare a new ruling based on those letters for publication in the Federal Register and the Federal Reserve Bulletin. The new ruling could also make clear the intent of the 1960 ruling.

Governor Robertson stated that he would have no difficulty with the recommendation of the Legal Division concerning the questions presented through the Philadelphia and San Francisco Reserve Banks. Further, it was his strong feeling that the position taken in the April 1960 ruling constituted an interpretation of the law going beyond the intent of the statute. If left outstanding in its present form, the ruling would be inconsistent with the position now recommended by the Legal Division and it would stand as an undue extension of the language of the statute by an administrative agency. Therefore, it should be clarified.

Governors Shepardson, King, and Szymczak having indicated that their views were similar to those expressed by Governor Robertson, the proposed letters to the Federal Reserve Banks of Philadelphia and San Francisco were approved, with the understanding that the substance of the

views expressed therein, along with a clarification of the ruling of April 1960, would be prepared for publication and that the draft would be presented to the Board for review prior to being published. Copies of the approved letters to the Philadelphia and San Francisco Reserve Banks are attached as Items 8 and 9, respectively.

Miss Hart and Mr. Rudy then withdrew from the meeting.

Submission of record on bank merger cases. Governor Robertson reported having received a telephone call from the Comptroller of the Currency, who referred to the statutory requirement that each of the Federal bank supervisory agencies include in its annual report a record of applications under the Bank Merger Act that had been approved by it, along with a statement of the basis for approval in each case and the summary statement of the Department of Justice regarding its views on the competitive aspects of the transaction. The Comptroller pointed out that the annual reports of the three agencies might not be available for some time and stated reasons why it might be desirable for the three agencies to submit in advance to the Banking and Currency Committees the record of actions taken under the Bank Merger Act.

Governor Robertson indicated that he would be inclined to go along with the suggestion of the Comptroller of the Currency, on the assumption that the same procedure would be followed by each of the three Federal bank supervisory agencies. He understood that the Division of Examinations

could have available shortly for the Board's consideration a draft of the pertinent portion of the Board's Annual Report for 1960.

In reply to a question, Governor Robertson said he would not be inclined in this instance to weigh too heavily the problem of creating a precedent.

Chairman Martin expressed the same view, stating that the question of establishing a precedent would not concern him too much in these circumstances. In further comments, he mentioned the desirability of submitting the Board's Annual Report for 1960 as promptly as possible and added that if a portion of the material to be included in an Annual Report should be requested by appropriate committees of the Congress on any occasion, he felt that the Board would have no recourse except to comply to the best of its ability.

Ensuing discussion reflected an understanding that any material on actions taken on applications under the Bank Merger Act that might be submitted to the Banking and Currency Committees in advance of the Annual Report would be in the same form as the material later to be incorporated in the Annual Report.

The Division of Examinations was then requested to make available for the Board's consideration a draft of the material being prepared for the Annual Report relative to actions taken on applications under the Bank Merger Act, in order that the Board might consider the advance

submission of such material to the Banking and Currency Committees pursuant to the procedure suggested by the Comptroller of the Currency.

All of the members of the staff except Messrs. Sherman, Kenyon, and Fauver then withdrew from the meeting.

Appointment of director. After discussion of possible appointees concerning whom biographical data had been distributed, it was agreed to request the Chairman of the Federal Reserve Bank of St. Louis to ascertain whether Edward B. LeMaster, President of Edward LeMaster Co., Inc., Memphis, Tennessee, would accept appointment, if tendered, as a director of the Memphis Branch for the unexpired portion of the term ending December 31, 1963, with the understanding that the appointment would be made if it were found that Mr. LeMaster was available. If Mr. LeMaster was not available, it was agreed that a similar procedure should be followed with respect to James F. Rieves, Jr., General Manager of the Kuhn Farms, Marion, Arkansas.

> Secretary's Note: It having been ascertained that Mr. LeMaster would accept the appointment if tendered, an appointment telegram was sent to him on January 18, 1961.

Should a vacancy occur among the Class C directors of the Federal Reserve Bank of St. Louis, the staff was requested to bear in mind that the Board would like to consider William King Self, President of the Riverside Chemical Company, Marks, Mississippi. Information concerning Mr. Self had been distributed in connection with the vacancy on the Board of Directors of the Memphis Branch.

Chairman Martin was called from the meeting before the Board reached its decision on the appointment of Mr. LeMaster. Before leaving, however, he stated that he would be agreeable to whatever selection might be made by the Board from among the possible appointees who had been suggested.

The meeting then adjourned.

Secretary's Note: Pursuant to recommendations contained in memoranda from appropriate individuals concerned, Governor Shepardson today approved on behalf of the Board acceptance of the resignations of the following persons on the Board's staff, effective the dates indicated:

Sondra W. Elrod, Statistical Clerk, Division of Research and Statistics, effective at the close of business January 16, 1961.

Jeannette V. Breden, Assistant Manager, Cafeteria, Division of Administrative Services, effective at the close of business January 27, 1961.

Secretary

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 1
1/17/61

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

January 17, 1961

Mr. Howard D. Crosse, Vice President,
Federal Reserve Bank of New York,
New York 45, New York.

Dear Mr. Crosse:

Receipt is acknowledged of your letter of January 5, 1961 enclosing a copy of a letter dated November 28, 1960 from Messrs. Shearman & Sterling & Wright, containing information as to some changes in the factual situation existing when the Board considered the application of section 32 of the Banking Act of 1933 to interlocking relationships between certain member banks and Investors Management Company, Inc., Elizabeth, New Jersey.

In its letter of October 12, 1954 the Board expressed the view that upon the facts then before it the interlocking relationships would not fall within the provisions of the statute. The Board's decision was based upon the conclusion that Investors Management Company, Inc., and Long & Co., should be regarded as separate and distinct corporate entities. The Board agrees with your bank and its counsel that none of the changes reported in the letter of November 28, 1960 has been a basic change in the relevant facts of the situation as considered by the Board in arriving at its decision in 1954.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 2
1/17/61

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

January 17, 1961

Board of Directors,
The Chase Manhattan Bank,
New York, New York.

Gentlemen:

Pursuant to your request submitted through the Federal Reserve Bank of New York, the Board of Governors of the Federal Reserve System approves the establishment of a branch on the southwest corner of East 66th Street and Avenue U, Borough of Brooklyn, New York, by The Chase Manhattan Bank, New York, New York, provided the branch is established within one year from the date of this letter.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 3
1/17/61

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

January 17, 1961

Board of Directors,
Fidelity-Philadelphia Trust Company,
Philadelphia, Pennsylvania.

Gentlemen:

Pursuant to your request submitted through the Federal Reserve Bank of Philadelphia, the Board of Governors approves the establishment of a branch by Fidelity-Philadelphia Trust Company, Philadelphia, Pennsylvania, on the southeast corner of Olney Avenue and Fairhill Street, Philadelphia, Pennsylvania, provided the branch is established within one year from the date of this letter.

The Board of Governors also approves, under the provisions of Section 24A of the Federal Reserve Act, an additional investment of not to exceed $108,000 in bank premises by Fidelity-Philadelphia Trust Company for the purpose of providing quarters for the above branch.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 4
1/17/61

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

January 17, 1961

Board of Directors,
The Harter Bank & Trust Company,
Canton, Ohio.

Gentlemen:

Pursuant to your request submitted through the Federal Reserve Bank of Cleveland, the Board of Governors approves the establishment by The Harter Bank & Trust Company of a branch at 230 South Chapel Street, Louisville, Ohio, provided the branch is established within six months from the date of this letter.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 5
1/17/61

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

January 17, 1961

Board of Directors,
The Elyria Savings & Trust Company,
Elyria, Ohio.

Gentlemen:

Pursuant to your request submitted through the Federal Reserve Bank of Cleveland, the Board of Governors approves the establishment of a branch at 336 Second Street, Elyria, Ohio, by The Elyria Savings & Trust Company provided the branch is established within six months from the date of this letter.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 6
1/17/61

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

January 17, 1961

Board of Directors,
Minden Bank & Trust Company,
Minden, Louisiana.

Gentlemen:

Pursuant to your request submitted through the Federal Reserve Bank of Dallas, the Board of Governors of the Federal Reserve System approves the establishment by Minden Bank & Trust Company, Minden, Louisiana, of a branch in Sarepta, Louisiana, provided the branch is established within six months from the date of this letter.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 7
1/17/61

January 17, 1961

Board of Directors,
State Bank and Trust Company,
Ann Arbor, Michigan.

Gentlemen:

The Board of Governors of the Federal Reserve System has given consideration to the application for permission to exercise fiduciary powers made by State Bank and Trust Company, Ann Arbor, Michigan, on behalf of National Bank and Trust Company of Ann Arbor, Ann Arbor, Michigan, the national bank into which it is to be converted, and grants such national bank authority, effective if and when the proposed conversion is consummated, to act, when not in contravention of State or local law, as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State of Michigan. The exercise of such rights shall be subject to the provisions of Section 11(k) of the Federal Reserve Act and Regulation F of the Board of Governors of the Federal Reserve System.

After the conversion becomes effective and the Comptroller of the Currency authorizes the national bank to commence business, you are requested to have the board of directors of National Bank and Trust Company of Ann Arbor adopt a resolution ratifying your application for permission to exercise fiduciary powers, and a certified copy of the resolution so adopted should be forwarded to the Federal Reserve Bank of Chicago for transmittal to the Board for its records. When a copy of such resolution has been received by the Board, a formal certificate indicating the fiduciary powers that the national bank is authorized to exercise will be forwarded.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 8
1/17/61

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

January 17, 1961

Mr. Robert N. Hilkert,
First Vice President,
Federal Reserve Bank of Philadelphia,
Philadelphia 1, Pennsylvania.

Dear Mr. Hilkert:

Further reference is made to your letter of October 20, 1960, and enclosures relating to the applicability of section 32 of the Banking Act of 1933 to the eligibility of officers and directors of member banks to act as trustees of a newly authorized real estate investment trust.

The facts as outlined in the correspondence are, briefly, that the trust is being organized so as to take advantage of Public Law 86-779 approved September 14, 1960, the principal purpose of which was to permit collective investment in real estate assets, through the medium of a real estate investment trust, without subjecting the income of that trust to Federal income taxes, thus affording to its shareholders the same benefits as those enjoyed by stockholders of investment companies whose assets ordinarily consist of corporate stocks and bonds. The initial issue of the shares of the proposed trust will aggregate approximately $10 million, offered to the public by a group of underwriters, and it is understood that it is expected that the distribution would be complete "in not more than a few days", although it is indicated that after it has operated for some period of time, the trust might decide to sell additional shares (letter of October 17, 1960, from Drinker Biddle & Reath). The trust may hold unimproved land or rental income land, whether residential, commercial, or industrial. The great bulk of its income will be derived from rents, interest on mortgages, capital gains on the sale of real estate, and other forms of real estate income.

It appears, therefore, that the proposed real estate investment trust will not invest its assets in corporate stocks and bonds and will raise its capital by a single issue of stock in a manner similar to that in which any other business enterprise might

raise its capital. In the circumstances, the Board is of the opinion that section 20 and section 32 of the Banking Act of 1933 will not be applicable to the trust. Of course, if it should later appear that the sale of the trust's shares is to continue over a long period of time, or that additional shares are to be issued frequently and in substantial amounts, relative to the size of the corporation's capital structure, or if there should be any other material change in the facts as outlined in this letter and in the letters referred to above, it might be necessary for the Board to reconsider the matter.

The Board believes that the proposed arrangement could involve some danger to the member banks whose directors would be serving as trustees because the trust might be so identified in the minds of the public with the member bank that any financial reverses suffered by the trust might affect the confidence of the public in the banks or might unduly incline the management of the banks toward supporting the trust and rescuing it from financial difficulties, should they occur. The interlocking relationships might tend to impair the independent judgment that should be exercised by a bank in appraising its credits; and this could raise questions in connection with the credits extended by the banks to the trust. These considerations should be borne in mind not only by the examiners who examine the member banks in the future but also by the management of those banks.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 9
1/17/61

January 17, 1961

Mr. H. N. Mangels, President,
Federal Reserve Bank of San Francisco,
San Francisco 20, California.

Dear Mr. Mangels:

On October 19, 1960, Loeb and Loeb, attorneys for Union Bank, Los Angeles, California, wrote the Board of Governors enclosing a copy of their letter of June 27, 1960, to Mr. Millard and of his reply of August 10 regarding "the formation and activation of an affiliate of Union Bank to be known as Union Investment Co." On November 18, 1960, Mr. S. B. Burnham, Vice President of the bank, wrote the Board supplementing the information with respect to the organization and proposed activities of Union Investment Co. With this letter was submitted a brief prepared by Mr. Westwood and Mr. Gribbon of the firm of Covington & Burling, Washington, D. C., counsel for Union Bank. Copies of these papers (except the letters of June 27 and August 10) are enclosed.

It is understood that the plan which is being considered is as follows. The shareholders of Union Bank will either be given the shares of Union Investment Co. or will be given a dividend in cash by Union Bank and will have the right or option to apply the dividends to the purchase of Union Investment Co. shares. The initial paid-in capital of Union Investment Co. would be slightly in excess of $100,000. Thereafter, Union Investment Co. would issue rights to its shareholders permitting them to acquire additional shares to provide additional capital which might aggregate $6 million. The letter of June 27 says that the trust department of Union Bank "would act as agent for Union Investment Co. under a contract which would contemplate that the Trust Department would find and negotiate investments along the following lines and would receive a fee for this service. Such investments might be in the nature of loans to provide capital for the acquisition of unimproved real estate, to be used for the construction of business buildings or possibly shopping centers. In addition to the interest to be paid for the loan, it would be expected that a percentage of the profits would be received by Union Investment Co. It is possible that capital would be advanced for the acquisition of oil drilling rights and here again in addition to interest some percentage of the profits would be expected. Such investments would normally

not be bankable transactions but would probably originate through contacts with bank customers and would be in the form of a referral to the investment company, inasmuch as the bank would feel that the investment was speculative or for any other reason not a bankable one."

The letter of November 18 states that "it is believed that the entire amount of necessary capital will be raised without making an offering to anyone other than stockholders of Union Investment Co." and that, once the necessary Government clearances have been obtained, "the rights offering will extend over a period of not more than thirty to sixty days." The letter further states that it is believed that the $6 million equity capital "will be sufficient to finance the company's proposed activities for the foreseeable future, and no further sales of Union Investment Co. stock either to its stockholders or to the public are presently contemplated."

The letter of November 18 further states that Union Investment Co. does not propose to buy or sell the securities of other companies, that the business of the company will be to make loans for capital investment purposes, and that it is contemplated that at no time will Union Investment Co. engage in underwriting or selling the securities of any other company, and that its Articles of Incorporation will restrict it from engaging in any such activity.

Since Union Investment Co. and Union Bank initially will have the same stockholders, directors, and officers, and will therefore be affiliated, the principal question presented is whether section 20 or section 32 of the Banking Act of 1933 will be applicable. Section 20 makes it unlawful for a member bank to be affiliated with a corporation principally engaged in "the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities", and section 32 forbids a member bank to have interlocking directors, officers, or employees with a corporation primarily engaged in this type of business.

It appears that Union Investment Co. will engage in the business of making loans for and participating in "commercial ventures of a long-term nature, with primary emphasis upon some phase of real estate development, including exploration for natural resources." It will not be engaged in the business of investing and reinvesting its assets in stocks and bonds. It will raise its capital (after the initial issue to shareholders of Union Bank) by means of a single offering which is expected to extend over a period of "not more than thirty to sixty days." In the circumstances, the Board is of the opinion that the Union Investment Co. will not be "primarily" engaged

in the business described in section 32, or "principally" engaged in that business within the meaning of section 20. Of course, if it should later appear that the sale of the company's shares is to continue over a long period of time, or that additional shares are to be issued frequently and in substantial amounts, relative to the size of the corporation's capital structure, or if there should be any other material change in the facts as outlined in this letter and in the letters referred to above, it might be necessary for the Board to reconsider the matter.

It seems clear that under the facts as outlined above, Union Investment Co. would be affiliated with the Union Bank within the meaning of section 2(b)(2) of the Banking Act of 1933, and that the provisions of law regarding examination of affiliates and restricting loans to affiliates would be applicable.

The Board believes that the proposed arrangement may involve some danger to Union Bank because the Union Investment Co. might be so closely identified in the minds of the public with Union Bank that any financial reverses suffered by the company might affect the confidence of the public in the bank or might unduly incline the management of the bank toward supporting the investment company and rescuing it from financial difficulties, should they occur. The interlocking relationships and interests between the Union Bank and Union Investment Co. might tend to impair the independent judgment that should be exercised by a bank in appraising credits; this could raise serious questions in connection with credits extended by the bank to Union Investment Co. or to interests being financed by Union Investment Co. These considerations should be borne in mind not only by the examiners that examine the bank in the future but also by the management of the bank.

It will be appreciated if your Bank will advise the Union Bank of the Board's views.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

Enclosures