

609  
9/61

Minutes for February 18, 1963

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

WM

Gov. Mills

[Signature]

Gov. Robertson

R

Gov. Balderston

CCB

Gov. Shepardson

[Signature]

Gov. King

[Signature]

Gov. Mitchell

MM

Minutes of the Board of Governors of the Federal Reserve System on Monday, February 18, 1963. The Board met in the Board Room at 10:00 a.m.

PRESENT: Mr. Martin, Chairman  
Mr. Balderston, Vice Chairman  
Mr. Robertson  
Mr. Shepardson  
Mr. Mitchell

Mr. Sherman, Secretary  
Mr. Kenyon, Assistant Secretary  
Mr. Young, Adviser to the Board and Director,  
Division of International Finance  
Mr. Molony, Assistant to the Board  
Mr. Fauver, Assistant to the Board  
Mr. Hackley, General Counsel  
Mr. Noyes, Director, Division of Research  
and Statistics  
Mr. Farrell, Director, Division of Bank  
Operations  
Mr. Solomon, Director, Division of  
Examinations  
Mr. Furth, Adviser, Division of International  
Finance  
Mr. Goodman, Assistant Director, Division of  
Examinations  
Mr. Young, Senior Attorney, Legal Division  
Mr. Doyle, Attorney, Legal Division  
Mr. Poundstone, Review Examiner, Division  
of Examinations

Report on S. 374 and S. 474. There had been distributed a memorandum from the Legal Division dated February 13, 1963, submitting a draft of letter to Senator Robertson, Chairman of the Senate Banking and Currency Committee, reporting on bills S. 374 and S. 474, both of which provided for the establishment by the Federal Home Loan Bank Board of an International Home Loan Bank. The two bills were substantially

2/18/63

-2-

the same as a draft bill on which the Board reported unfavorably to the Bureau of the Budget by letter dated August 29, 1961. The draft letter with respect to S. 374 and S. 474 would also report adversely.

In discussion, suggestions were made that resulted in an abbreviation of the proposed letter that had been distributed to the Board for consideration. In this modified form, the letter containing an adverse recommendation was approved unanimously for transmittal to Senator Robertson.

Secretary's Note: Following the meeting on February 20, 1963, the Chairman informed the Secretary that after further discussion the Board had agreed that the report to Senator Robertson on S. 374 and S. 474, approved on February 18, would not be sent at this time. Subsequently, the request of Senator Robertson for a report on these bills was withdrawn.

Mr. Young (Legal Division) withdrew from the meeting at this point.

Certification of checks drawn on account in overdraft (Items 1 and 2). There had been distributed a memorandum from the Legal Division dated February 14, 1963, submitting a draft of letter to Congressman Henry C. Schadeberg of Wisconsin, who had written to the Board requesting certain information in behalf of Mr. Angus O. Matheney, President of Panama Plumbing and Supply, Inc. (Plomeria Panama, S. A.), Balboa, Canal Zone. Mr. Matheney was being sued by the First National City Bank of New York, Panama City Branch, Republic of Panama. The memorandum pointed out that previously the Board had had correspondence with Mr. Matheney and his

2/18/63

-3-

attorney concerning the same matter. The substance of the replies made to those persons in the earlier correspondence would be covered in the proposed letter to Congressman Schadeberg.

The memorandum also pointed out that Mr. Matheney had enclosed with one of his letters copies of statements of the Panama City Branch of First National City Bank showing deposits and withdrawals in the account of Plomeria Panama, S. A., during various months from March 1959 to November 1960. These statements indicated that the account was frequently in overdraft status and that on numerous occasions checks were certified by the bank while the account was in such status. Congressman Schadeberg's letter and the enclosed letter to him from Mr. Matheney made no specific reference to this information with respect to the certification of checks. However, as the Legal Division's memorandum brought out, section 5208 of the United States Revised Statutes makes it unlawful for any officer, director, agent, or employee of a member bank to certify any check drawn upon the bank unless the drawer has on deposit in the bank, at the time the check is certified, funds in an amount not less than the amount of the check. In the case of a national bank, certification of a check in such circumstances would render the bank subject to receivership proceedings by the Comptroller of the Currency. (A State member bank would be subject to forfeiture of membership proceedings under section 9 of the Federal Reserve Act.) Also, section 1004 of the United States Criminal Code provides that the

2/18/63

-4-

officer, director, agent, or employee of the member bank would be subject, on conviction, to a penalty of not more than \$5,000 or imprisonment for not more than five years, or both.

This presented a question as to what action should be taken by the Board in view of the information in its possession. The memorandum suggested, as alternative possibilities, that the information received from Mr. Matheney might be brought to the attention of the Department of Justice, that it might be brought to the attention of the Comptroller of the Currency, that it might be referred to the Federal Reserve Bank of New York with a request that the Reserve Bank ask First National City Bank for an explanation, or that the Board might write directly to the national bank to obtain an explanation.

In discussion, certain minor changes in the draft of letter to Congressman Schadeberg were suggested, following which unanimous approval was given to a letter in the form attached as Item No. 1.

The alternative courses of action with respect to the information that had been submitted to the Board regarding the certification of checks against insufficient funds were then considered, and it was agreed that the information should be referred to the Comptroller of the Currency. A copy of the letter subsequently sent to the Comptroller is attached as Item No. 2.

Mr. Farrell then withdrew from the meeting.

2/18/63

-5-

Regulation K. Pursuant to the understanding at the meeting on January 30, 1963, there had been distributed a memorandum from the Legal Division dated February 13, 1963, submitting a revised draft of Regulation K, Corporations Doing Foreign Banking or Other Foreign Financing under the Federal Reserve Act. This draft was intended to reflect the discussion by the Board at several recent meetings concerning proposed changes in the Regulation. It also incorporated several minor changes of wording suggested by the Legal Division, the most important of which was an abbreviation of the so-called statement of national purpose.

The draft revision differed from the present Regulation K in several major respects. The formal distinction between foreign banking and foreign financing corporations had been eliminated, although the substance of the distinction had been maintained for the most part by inserting where necessary the words "engaged in banking" and "not engaged in banking." There had been a substantial modification of the procedure by which Edge Act corporations would be allowed to invest in the stock of other corporations. The general consent provisions had been removed, and stock investments would be permitted without specific prior consent of the Board, within certain limitations. The draft also provided that the Board would not grant such specific consents as were still required if the proposed investments would be contrary to the foreign policy or international economic objectives of the United States.

2/18/63

-6-

Further, the draft regulation would remove the restriction against the acceptance of time deposits from foreign depositors solely for the purpose of safekeeping or investment; it would permit the acquisition of certain credits subsequent to initiation of export or import transactions; and it would require acceptance transactions to conform to the provisions of Regulation C, relating to acceptance by member banks of drafts or bills of exchange.

The memorandum noted that consideration had been given in the Legal Division to the possibility of a more extensive and throughgoing revision of Regulation K that would eliminate the reiteration of statutory requirements, abolish certain restrictions on the activities of Edge Act corporations, permit such corporations to engage to a limited extent in both banking and financing abroad if such operations were totally segregated within the corporation, and otherwise simplify the Regulation. After consultation with Mr. Goodman, however, it had been decided to confine the revision at this juncture to the specific changes previously considered by the Board. Should the Board favor the revision now submitted, it would presumably be published in the Federal Register for the receipt of comments.

In introductory comments, Governor Mitchell indicated that with one exception he was in general agreement with the substantive provisions of the revised draft of Regulation K. He noted, however, that the draft was about as long as the present Regulation. In the view of the Legal Division, with which he was inclined to agree, the

2/18/63

-7-

Regulation could be shortened considerably, principally by eliminating certain statutory provisions and condensing the sections dealing with the organization of corporations under section 25 (a) of the Federal Reserve Act and the issuance of obligations by such corporations.

This might have some value, especially from the public relations standpoint. The question, therefore, was whether the Board would want to give the Legal Division additional time to work on the matter with this objective in mind.

Governor Mitchell then turned to Mr. Hackley, who said the Legal Division understood that an original objective of the current study of Regulation K was to simplify, streamline, and to some extent liberalize the Regulation with a view to permitting regulated corporations to operate more effectively and at the same time relieve them and the Board from unnecessary detail. It was the belief of the Division that the Regulation could be shortened considerably, along the lines Governor Mitchell had indicated, particularly since the Regulation was addressed to a sophisticated audience and the pertinent statutory provisions would be contained in an appendix to the Regulation. This probably would require some changes that would be, in a sense, changes of substance; they would be subject, of course, to approval by the Board. Given some leeway, however, he agreed with Mr. Shay (who was unable to be present today because of illness) that the Regulation could be shortened appreciably,

2/18/63

-8-

in a manner that would be in line with the Board's objectives when it decided to undertake the current study.

In discussion that followed, Governor Shepardson said it had also been his understanding, when the review of Regulation K was started, that an objective was to cut down and simplify the Regulation. He had been surprised at the length of the draft revision. Chairman Martin expressed the view that Mr. Hackley's suggestion for further work by the Legal Division was a good one. Governor Mitchell also expressed agreement, although he felt that the changes of substance to which Mr. Hackley had referred might result in reconsideration of decisions already made with respect to various provisions of the Regulation. He observed that the initial effort in connection with the current study of Regulation K had been to get the substantive issues on the table. That had been done, and the principal issues had now been settled, at least as far as he was concerned. He would favor going ahead with the job of trying to simplify the Regulation, but he would hope that this could be accomplished within a relatively short period of time.

There followed further discussion of the task confronting the Legal Division. Several suggestions were made as to how it was felt that the work might be accomplished most expeditiously, and the discussion concluded with an understanding that the Division would proceed as promptly as possible after the return of Mr. Shay to his office.

2/18/63

-9-

At this point Mr. Goodman made a statement in which he commented that simplicity of expression was admittedly to be desired and that a shortening of the Regulation might have some public relations value. He went on to say, however, that over the years the inclusion of certain material in the present Regulation K had had the effect of minimizing correspondence, in that interested parties could be referred to the provisions of the Regulation. He also noted that some of the provisions of the Regulation had been included for the purpose of dealing with specific questions that had arisen concerning actual or prospective practices of Edge Act corporations. He pointed out further that the present Regulation had been drafted by a legal committee headed by Mr. Solomon following, and in the light of, extensive studies conducted several years ago by the so-called Neal Committee. Mr. Goodman observed that the current study of Regulation K had been in process for more than a year and that questions were being raised by supervised institutions and by the press. He had hoped that the Board might decide to publish the available draft of revised Regulation in the Federal Register for the receipt of comments.

Governor Mitchell said that he had discussed this aspect of the matter with both Mr. Goodman and Mr. Shay. He felt that there was merit in some of the points brought out by Mr. Goodman. On balance, however, he thought it would be worth while to attempt a shortening of the Regulation along the lines that had been suggested. It was his view that much of this could be done without affecting the substance of the Regulation.

2/18/63

-10-

Governor Robertson indicated that he would like to raise several questions before the Regulation was remanded to the Legal Division for redrafting. He referred first to the interest he had expressed on previous occasions in having the staff study the effect of operations by corporations subject to Regulation K from the standpoint of the U. S. balance of payments.

Mr. Furth responded that data bearing on this point had been made available to him by Mr. Goodman. From these data it seemed quite clear that the operations of Edge Act and agreement corporations had exerted no appreciable effect one way or the other on the U. S. balance of payments. Foreign deposits held by such corporations just about equaled their foreign investments. Total deposits--except for deposits of the Virgin Islands National Bank, which should not be counted from the balance of payments point of view--were about \$240 million, and Mr. Goodman felt sure that at least 15 per cent of such deposits were domestic. Therefore, foreign deposits could be estimated at about \$200 million. Foreign investments--including acceptances, which Mr. Goodman assumed were primarily foreign--amounted to about \$210 million. As to what might happen in the future, particularly having in mind some of the investments recently approved for Edge Act and agreement corporations, that was anybody's guess. Activities might be in substantially larger volume than the rather petty operations conducted thus far, but he felt no better qualified than others to make any

2/18/63

-11-

estimate. Future operations might have a considerable impact on the balance of payments or they might have little impact; they could conceivably result in an inflow of funds into the United States.

Governor Robertson brought out that his only interest was in trying to appraise whether the Board, by means of Regulation K, was encouraging greater outflows of capital from the United States at a time when there was so much concern with the balance of payments. If so, he saw a likelihood of criticism. No one could know what might happen in the future, of course, but it seemed necessary to formulate some judgment.

Mr. Furth replied that he had always felt it might be a good idea if Regulation K at least made it possible for the Board to act when and if the Board thought developments were not going the way it hoped they would. One might contemplate a capital outflow as the result of certain recent or prospective investments, but this could not be foretold. He doubted that there could be too much criticism of the Board for approving investments in instances where it had been alleged that there would be a positive effect from the standpoint of the balance of payments.

There followed comments by Governor Mitchell and Mr. Furth on statements that had been placed on record in connection with certain recent requests for permission to make stock investments.

2/18/63

-12-

Governor Robertson then directed attention to several of the provisions of the current draft revision of Regulation K, his inquiries leading in some instances to suggestions for rephrasing that it was understood would be taken into account by the Legal Division. Other questions raised by Governor Robertson led to further consideration of substantive issues involved in the revision of the Regulation.

One of these questions related to the provisions of the draft revision that would state that, subject to certain prescribed limitations and conditions, a corporation organized under section 25(a) of the Federal Reserve Act could, without the specific consent of the Board, acquire stock in other corporations if the acquisition appeared to be clearly consistent with the development of the foreign commerce of the United States.

Governor Mitchell commented that this involved a vital point. The effort had been to get away from a procedure whereby the Board had to approve in advance every acquisition that an Edge Act or agreement corporation desired to make. The idea was to place the burden of proof on the corporation, with the understanding that stock acquisitions would be subsequently reported and the Board would have an opportunity to raise questions. This approach seemed to require that the corporations be given some guidance, and it was thought logical to specify that a stock acquisition should be in furtherance of the national interest as well

2/18/63

-13-

as the corporate interest. When the Congress said that Edge Act corporations should be subject to regulation by the Federal Reserve, there seemed to him to be an implication that their operations should have a public purpose.

There followed discussion as to whether certain types of hypothetical investments would qualify as transactions that could be entered into without specific prior consent under the provisions of the draft revision of Regulation K. A suggestion was made that the Regulation might provide that stock acquisitions could be made without specific Board consent when they would "appear to further the foreign commerce of the United States."

Another question raised by Governor Robertson was whether there was good reason to provide that, except with the specific prior consent of the Board, which would ordinarily not be granted, no corporation organized under section 25(a) could purchase and hold stock in a corporation engaged in banking if the section 25(a) corporation issued or had outstanding any debentures, bonds, promissory notes, or similar obligations except promissory notes due within one year evidencing borrowing from banks or bankers.

Governor Mitchell commented that this was a place in the Regulation where a substantive distinction between foreign banking corporations and foreign financing corporations would remain. He did not have any strong feeling on this point. However, Mr. Goodman felt

2/18/63

-14-

there was a rather substantial advantage in retaining this restriction, and he (Governor Mitchell) had been persuaded that there was some slight advantage.

Mr. Goodman said that in his view the Regulation should not allow organizations that went out and raised money in the capital markets to have investments in banks all over the world. There might come a time, he felt, when the Board would feel embarrassed if such an organization owned stock in some bank. He noted that although at the moment all Edge Act corporations were owned by banks, there was no reason why this should necessarily continue to be the case. In his opinion, it would be desirable to keep the banking business fairly closely restricted.

Mr. Hackley suggested that the Regulation might be simplified if it provided only that a regulated corporation engaged in banking or in holding stock of foreign banks could not also engage in the underwriting, sale, or distribution of securities. However, it might do no harm, he thought, if the Regulation also provided that such a corporation could issue debentures with maturities in excess of one year with the specific consent of the Board.

Governor Robertson then commented that he was neutral on the matter; he had raised the question only because the reasons for the inclusion of this provision in the Regulation were not clear to him. If others saw good reason for retaining the provision, he would not object.

2/18/63

-15-

Governor Mitchell noted that it seemed important that the question be resolved, and Governor Shepardson expressed agreement. The latter added that in his view the restriction on the issuance of debentures probably should be included, although he had no strong feeling one way or the other. At the conclusion of the discussion, Governor Robertson suggested that the pertinent provision of the draft of revised Regulation be retained. It would always be possible to drop the provision, he noted, but it would be more difficult to move in the opposite direction. Governor Mitchell observed that perhaps some comments would be forthcoming after the proposed Regulation was published.

At the instance of Governor Mitchell, consideration was then given to the so-called statement of national purpose of Edge Act corporations, as set forth in the most recent draft of Regulation. This draft would note that the Congress, in enacting section 25(a) of the Federal Reserve Act, provided for the establishment of foreign or international banking or financial corporations operating under Federal supervision with powers sufficiently broad to enable them effectively to compete with similar foreign institutions and to afford to the United States exporter and importer in particular--and to United States commerce, industry, and agriculture in general--at all times a means of financing their international business. Governor Mitchell pointed out that this represented a condensation of the statement of national purpose contained in

2/18/63

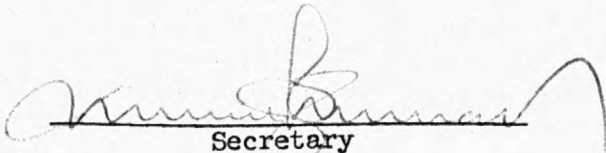
-16-

an earlier draft. His preference was for the earlier draft. He had no great brief for it, but to him it came closer to establishing a Board position regarding the nature of the public interest involved in the operations of Edge Act corporations. In his opinion, this was quite important. The abbreviated version, he thought, left out some essential material.

The discussion at today's meeting concluded with an observation by Mr. Molony that when a revised draft of Regulation K was published in the Federal Register it would seem desirable to issue a press release giving a digest of the proposed changes of substance and indicating that comments were invited. There was general agreement with this observation.

The meeting then adjourned.

Secretary's Note: Governor Shepardson today approved on behalf of the Board a memorandum dated February 14, 1963, from Mr. Kelleher, Director, Division of Administrative Services, advising that Mrs. Grace Cormany had given the Board formal notice terminating her agreement to operate the beauty shop in the Board's building, effective February 21, 1963, and recommending that a letter attached to the memorandum be sent to Mrs. Dominga Maria Quinones setting forth the terms and conditions under which she would be permitted to operate the beauty shop in the Federal Reserve building.

  
Secretary



BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM  
WASHINGTON

Item No. 1  
2/18/63

OFFICE OF THE CHAIRMAN

February 19, 1963

The Honorable Henry C. Schadeberg,  
House of Representatives,  
Washington 25, D. C.

Dear Mr. Schadeberg:

With your letter of February 8, 1963, you enclosed a copy of a letter to you of February 5, 1963, which appears to have been written by Mr. Angus O. Matheney, President, Panama Plumbing & Supply, Inc. (Plomeria Panama, S.A.), Balboa, Canal Zone, asking that someone research two legal questions in order that he and his legal counsel may present their case in a law suit.

As the letter to you of February 5 indicates, Mr. Matheney and also his attorney, Mr. Albert J. Joyce, Jr., of Balboa, already have made inquiry of the Board concerning the subject of his letter to you, and the Board has replied to those inquiries as fully as the incomplete information presented by them and related circumstances seemed to warrant.

From the letter of February 5 and also from the earlier inquiries received by the Board just mentioned, it appears that The First National City Bank of New York, Panama City Branch, Republic of Panama, has instituted a suit, apparently against Mr. Matheney or his company, in the United States District Court for the Canal Zone, under the laws of the Republic of Panama. As stated in the letter of February 5, the two questions of interest to Mr. Matheney and his attorney in connection with this litigation are:

"1. Under the laws of the United States Code, title 12, section 632, must not a National Bank, in any civil suit when tried in a Federal Court of the United States be tried under the laws of the United States, and not the laws of a Foreign Country?

"2. Under what law of the United States Code or The National Bank Act is a National Bank permitted to make 'OVERDRAFT' agreements without security or collateral? We think that the National Bank Act does not even permit them to make overdraft agreement with security or collateral."

The Honorable Henry C. Schadeberg    -2-

Neither in the letter to you of February 5 nor in any of the earlier correspondence received by the Board concerning this litigation have the substantive issues between the parties to the law suit been explained. At the same time, this correspondence has indicated an awareness of section 25(b) of the Federal Reserve Act (U.S.C., title 12, sec. 632) with respect to which it would appear from the letter of February 5 that Mr. Matheney's counsel and the court may have different views. It is apparent from the earlier inquiries concerning the matter that counsel for Mr. Matheney has examined the Federal banking laws and also the banking laws of the Republic of Panama. In this connection, reference also has been made in such inquiries to section 5208 of the United States Revised Statutes (U.S.C., title 12, sec. 501) concerning, among other things, the certification by a national bank of a check drawn against insufficient funds. With respect to national banks, that statute provides for administration by the Comptroller of the Currency. A criminal penalty is provided by section 1004 of the United States Criminal Code (U.S.C., title 18, sec. 1004).

As Mr. Matheney was advised by the Board in a recent reply, the Board believes that it is not appropriate for it to attempt to assess the situation of interest to him from either a legal or supervisory standpoint. There are many situations that can arise between a bank and its customers with respect to which interested bank supervisory agencies may have no jurisdiction and with respect to which the rights of the parties are determinable entirely upon the basis of provisions of law other than those administered or enforced by a particular agency of the Government. In addition, it would be inappropriate for the Board, at least in the first instance, to attempt to construe or interpret any laws of the Republic of Panama that might be applicable in any given situation.

Mr. Matheney also was advised that, since the matter of interest to him appeared to be involved in a pending judicial proceeding, it would seem improper for the Board to express any views on the matter. It has been the Board's practice to refrain from appearing to assist parties whose questions are before a court for adjudication. A contrary practice would seem especially inappropriate where, as in the situation in question, all of the facts and circumstances are not made known.

The Honorable Henry C. Schadeberg -3-

The foregoing, of course, will not enable you to supply the help sought in the letter of February 5. I hope, however, that you will appreciate the Board's position in matters of this kind and that this letter will be of some assistance to you in considering the matter.

With all good wishes.

Sincerely yours,

(Signed) Wm. McC. Martin, Jr.

Wm. McC. Martin, Jr.

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

Item No. 2  
2/18/63



ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

February 19, 1963

Comptroller of the Currency,  
Treasury Department,  
Washington 25, D. C.

Dear Mr. Comptroller:

There are enclosed copies of a letter to the Board of Governors from Representative Henry C. Schadeberg dated February 8, 1963, with its enclosure; Chairman Martin's reply to Representative Schadeberg dated February 19, 1963; and certain bank statements delivered by the Panama City Branch of the First National City Bank of New York to Plomeria Panama, S. A., copies of which were enclosed with a letter addressed to the Board under date of January 28, 1963 by Mr. Angus O. Matheney, President, Plomeria Panama, S. A.

This matter is being referred to your office for your information and for any action that you may deem appropriate.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,  
Secretary.

Enclosures