Minutes for August 22, 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 proposed to place in the record of policy actions required to be kept under the provisions of section 10 of the Federal Reserve Act an entry covering the item in this set of minutes commencing on the page and dealing with the subject referred to below:

Page 16 Revision of Regulation K, Corporations Engaged in Foreign Banking and Financing Under 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. Mills _____

Gov. Robertson _____

Gov. Balderston _____

Gov. Shepardson _____

Gov. King _____

Gov. Mitchell _____

Minutes of the Board of Governors of the Federal Reserve System on Thursday, August 22, 1963. The Board met in the Board Room at 10:00 a.m.

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

Mr. Kenyon, Assistant Secretary
Mr. Fauver, Assistant to the Board
Mr. Hackley, General Counsel
Mr. Shay, Assistant General Counsel
Mr. Furth, Adviser, Division of International Finance
Mr. Conkling, Assistant Director, Division of Bank Operations
Mr. Goodman, Assistant Director, Division of Examinations
Mr. Leavitt, Assistant Director, Division of Examinations
Mr. Landry, Assistant to the Secretary
Mr. Bakke, Senior Attorney, Legal Division
Mr. Doyle, Attorney, Legal Division
Mr. Porter, Law Clerk, Legal Division

Circulated items. The following items, copies of which are attached hereto under the respective item numbers indicated, were approved unanimously:

	Item No.
Letter to County Trust Company, White Plains, New York, approving the establishment of a branch at 509 Gramatan Avenue, Mount Vernon, branch operations conducted at Broad and Locust Streets, Mount Vernon, to be discontinued simultaneously with the establishment of the new branch.	1

Item No.

Letter to Citizens Fidelity Bank and Trust Company, Louisville, Kentucky, approving the establishment of a branch in the Chenoweth Plaza Shopping Center on Brownsboro Road near Chenoweth Lane. 2

Report on S. 1642 (Item No. 3). Under date of August 20, 1963, copies had been distributed of a memorandum from Mr. Hackley attaching a draft of letter to the House Committee on Interstate and Foreign Commerce reporting on S. 1642, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934. Among other things the bill, which had been passed by the Senate on July 30, 1963, would extend reporting requirements, proxy rules, and "insider trading" provisions of the Securities Exchange Act to banks whose securities are traded in the over-the-counter market. The draft letter would note that a copy of the Board's report of June 21, 1963, on H. R. 6789, a bill substantially similar to S. 1642, was being enclosed for convenient reference. (On June 21, 1963, a report also was made to the Senate Committee on Banking and Currency on the originally introduced version of S. 1642.)

The memorandum recalled that the June 21 report favored extension of reporting requirements, proxy rules, and "insider trading" provisions to banks but urged that they be administered by the Securities and Exchange Commission rather than by the Federal banking agencies. At that time the bill would have provided for delegation of the Commission's

functions as to banks to the Federal banking agencies on their request, but the bill as passed by the Senate, and as it was now before the House Committee, would require administration of the provisions in question by the three Federal banking agencies.

At the request of the Board, Mr. Hackley commented on the draft report, basing his comments substantially upon his memorandum.

During further discussion, Governor Mills raised the question whether the Board might wish to reconsider its position on the proposed legislation. The draft letter would take an adverse position, he noted, on a bill that had passed the Senate and met with the approval not only of the banking fraternity but also, he would judge, of the Federal Deposit Insurance Corporation and the Comptroller of the Currency. This would leave the Federal Reserve Board as the sole contestant against approval of the bill. The Board majority had originally approached this legislation with the thought that the Securities and Exchange Commission should carry the entire program and prescribe the regulations, but the decision, in the Senate at least, had moved in the direction of placing administrative responsibility with the three Federal bank supervisory agencies. In so doing, the Senate failed to remove the Board's earlier criticism to the effect there might not be uniformity in the administration of the law by the three banking agencies. As he had felt strongly from the beginning, however, the matter should have been handled by vesting authority with the Securities and Exchange Commission

to prescribe regulations under which the bank supervisory agencies would handle delegated powers. It was hardly likely, he thought, that the Commission would not give credence to the thinking of the bank supervisory authorities as to the most practical approach to discharging the statutory responsibilities. With the Commission supplying guidelines, and consultations taking place between the bank supervisory agencies and the Commission, it should be possible to achieve the uniformity that was sought. It seemed to him that there was an opportunity at this point for the Board constructively to call attention to an approach that would solve its own difficulties and achieve uniform administration of this particular law and the responsibilities that would go with it.

When Chairman Martin commented that the proposed letter would simply carry forward a position that the Board previously had taken, Governor Mills responded that since the Board's position was stated originally, the Senate had passed a bill that varied from the original bill. He felt that this provided an opportunity for a revision of the Board's views, if the Board should choose to revise them.

Governor Robertson raised the question whether there should be inserted in the letter a provision to the effect that uniformity of administration might be achieved by asking the Securities and Exchange Commission to draw up regulations, to which Chairman Martin

replied that this possibility had been explored and was opposed, he understood, by the Comptroller of the Currency, following which the Securities and Exchange Commission had worked out the general approach embodied in the current bill. The Chairman continued to feel that it would be preferable for the Securities and Exchange Commission to administer the proposed legislation, and in his view the Board should not change signals at this point.

There developed to be a consensus favoring the position suggested by Chairman Martin, but several changes of language in the proposed letter were suggested and agreed upon, principally for the purpose of making clear that if the current bill were enacted the Board would discharge the responsibilities assigned to it to the best of its ability. Accordingly, approval was given to a letter to the Chairman of the House Committee on Interstate and Foreign Commerce in the form attached as Item No. 3, Governor Mills dissenting.

Mr. Cardon, Legislative Counsel, joined the meeting during the preceding discussion.

Letter to Congressman Celler regarding merger applications (Item No. 4). In a letter dated August 14, 1963, Chairman Celler of the House Committee on the Judiciary requested an opportunity for his staff to examine applications to the Board for bank mergers in connection with a study of the problem of interlocking relationships among banks that was being made by the Antitrust Subcommittee of the Committee on

the Judiciary. In a memorandum dated August 21, 1963, from the Division of Examinations that transmitted a proposed reply to Mr. Celler, it was noted that in July 1963 the Board made available to the House Banking and Currency Committee 56 merger applications filed with the Board in 1960 and 1961. Since such applications had already been made available to one Committee of the Congress, there would seem to be no reason why they should not be made available to another Congressional Committee. The draft reply would note that since the Board retained only one copy of each merger application for its files, some of the applications requested could not be made available until their return to the Board from the House Banking and Currency Committee.

In discussion, Governor Shepardson suggested that it be made clear in the proposed letter that the request from the Judiciary Committee was understood to include only those merger applications that had been acted upon by the Board, and that it did not include pending applications. There was general agreement with this suggestion.

The letter was then approved unanimously in the form attached as Item No. 4.

Mr. Molony, Assistant to the Board, joined the meeting at this point.

Whitney Holding Corporation matter (Item No. 5). By order dated May 3, 1962, the Board approved the application of Whitney Holding Corporation, New Orleans, Louisiana, to become a bank holding company

by acquiring stock of Whitney National Bank of New Orleans and Whitney National Bank in Jefferson Parish, a proposed new bank. Following the Board's approval, but before Whitney National Bank in Jefferson Parish could be opened for business, certain banks in Louisiana (1) filed suit in the United States District Court for the District of Columbia seeking to enjoin the Comptroller of the Currency from permitting the new bank to open for business, and (2) petitioned the United States Court of Appeals, New Orleans, to set aside the Board's May 3 order approving formation of the bank holding company. On December 5, 1962, the District Court entered an order enjoining the Comptroller from issuing a certificate of authority to Whitney National Bank in Jefferson Parish to open for business. From this order, both the Comptroller and Whitney National Bank in Jefferson Parish filed a notice of appeal. On August 14, 1963, the Court of Appeals for the District of Columbia rendered a decision with respect to the following two issues: (1) the legal right of opposing banks to challenge in court the Comptroller's determination to issue a certificate of authority to Whitney National Bank in Jefferson Parish, and (2) the validity of the District Court order restraining and enjoining the Comptroller from issuing such certificate. With respect to the first issue, the Court of Appeals affirmed the District Court's finding; with respect to the second issue, the Court of Appeals held that the District Court had correctly enjoined the Comptroller from issuing a certificate of authority for the reason

that the proposed banking facility would be in reality a branch office of Whitney National Bank of New Orleans and that establishment of it was forbidden by a Louisiana statute applicable to State banks and made applicable to national banks by provisions of Federal law. In its decision the Court of Appeals also held it unnecessary to decide whether the formation of Whitney Holding Corporation as a bank holding company was prohibited by Act 275 of the State of Louisiana, which was enacted into law subsequent to the Board's order of May 3, 1962. This State law made it unlawful for a bank holding company or subsidiary thereof to open any bank for business after the date of the Act.

In a distributed memorandum from the Legal Division dated August 21, 1963, reference was made to receipt of a letter of August 20, 1963, from the Department of Justice asking for any comments and recommendations that the Board might have on the advisability of seeking rehearing and/or certiorari in the cases decided by the Court of Appeals. Attached to the memorandum was a draft of reply stating that from the Board's viewpoint there appeared to be no particular need for such action, considering particularly the manner in which the Court had framed its decision.

Following comments by Mr. Shay, Governor Mills inquired regarding the apparent effect of the Court decision in relation to the Board's responsibilities under the Bank Holding Company Act. Mr. Hackley replied that in the opinion of the Legal Division this matter had been decided on

the particular facts of the given case, on the basis of which the Court felt warranted in piercing the corporate veil. Mr. Hackley did not believe that the decision would constitute a precedent for holding that every subsidiary bank of a bank holding company in a nonbranch State would constitute the establishment of a branch contrary to State law. In the Whitney case, the funds for the establishment of the proposed new bank were supplied by Whitney National Bank of New Orleans and some members of the Board's staff had felt at the outset that this was in effect a subterfuge.

Governor Mills then inquired whether the proposed letter should not be amplified to explain why the decision reached by the Court was not considered applicable to the ordinary functioning of the Board's responsibilities under the Bank Holding Company Act. There was general agreement with this suggestion, and with certain language to implement it that was suggested by Mr. Hackley.

In light of a point raised by Governor Balderston, it was also agreed that there should be inserted in the proposed letter a sentence expressing the Board's understanding that the decision of the Court of Appeals in no way implied that the Board was obliged to construe and apply State branch banking statutes in the course of considering applications under the Bank Holding Company Act.

For the purpose of further clarification, Governor Shepardson inquired whether the Court decision should be interpreted to mean that

in future holding company cases of a somewhat similar nature the Board should be prepared to look into the question whether a proposed subsidiary bank would be in effect a branch. Mr. Hackley replied in the negative, expressing the opinion that the question whether a proposed subsidiary bank would be in effect a branch of a State bank would be a matter for decision and determination by the respective States; if the proposed subsidiary bank was to be a national bank, the matter would be one for determination by the Federal courts, as in the New Orleans case.

Question was raised with regard to the necessity or appropriateness of a paragraph in the draft letter which would state that the issue on which the Court decision turned would seem to be of direct and primary significance so far as it concerned the functions of the Comptroller of the Currency, and that for that reason the Department of Justice might wish to rely primarily upon the Comptroller's views with respect to the advisability of seeking rehearing or certiorari. After discussion of this point, Mr. Hackley suggested alternative language that would state the assumption that the Department, in reaching its ultimate conclusion in this matter, would solicit the views of the Comptroller since the decision would appear to have a direct and substantial impact upon his functions. There was general agreement with this suggestion.

At the conclusion of the discussion, unanimous approval was given to a letter to the Department of Justice in the form attached as Item No. 5.

Mr. Bakke then withdrew from the meeting.

Publication of information regarding applications. On July 2, 1963, the Board discussed the possibility of expanding its weekly K.2 release to include the receipt of applications for approval of the establishment of branch offices, domestic or foreign. Before acting, however, it was thought advisable to obtain the views of the Federal Reserve Banks not only with regard to this question but also with respect to the inclusion of applications and actions on other matters in the nature of licensing functions. Accordingly, the views of the Reserve Banks were requested in a letter dated July 22, 1963, concerning the release of information with respect to branch applications, applications to form Edge Act corporations under section 25(a) of the Federal Reserve Act, applications to invest in agreement corporations under section 25 of the Federal Reserve Act, applications for permission to carry reduced reserves, and applications for admission to membership in the Federal Reserve System.

Copies had been distributed under date of August 16, 1963, of a memorandum from Mr. Fauver summarizing the views of the Reserve Banks received in response to the July 22 letter of the Board. It appeared that the Reserve Banks generally favored publicizing applications for branches, both foreign and domestic, and for the establishment of, or investment in, Edge Act and agreement corporations. On the question of announcing applications for permission to carry reduced reserves the Banks were about evenly divided, but a majority were against any announcement of applications for membership. On the basis of the views expressed

by the Reserve Banks, and also taking into account the degree of public interest as evidenced by inquiries on various occasions, it was Mr. Fauver's recommendation, as stated in his memorandum, that: (1) the weekly K.2 release be expanded to include applications for branches, both foreign and domestic, and applications to form, or invest in, Edge Act and agreement corporations, and to establish any branches thereof, as well as actions on such applications; and (2) there be no change regarding announcement of applications for admission to, or withdrawal from, membership in the System, or regarding applications for permission to carry reduced reserves. With respect to the membership and reduced reserves questions, the memorandum noted that admissions to and withdrawals from membership now appeared in the weekly K.3 release at the time such changes became effective and that information on permission granted to member banks to carry reduced reserves had been published in the Federal Reserve Bulletin about once each year.

Following comments by Mr. Fauver based substantially on his memorandum, Governor Mitchell expressed the thought that the granting of permission to a bank to carry reduced reserves was a matter of concern to the banking community, because it was possible that an injustice would be done by granting such permission to one bank in a reserve city but not to others that might wish to apply if they were aware of the situation. It appeared to him that it would be in the public interest to announce applications for permission to

carry reduced reserves and actions thereon, and he noted that the Federal Reserve Bank comments were rather evenly divided.

In further discussion, Mr. Goodman suggested that under the procedures prescribed by the revised Regulation M, Foreign Branches of National Banks, there might be little interest to the public at large in the fact that a national bank had advised the Board that it was proposing to establish an additional branch in a country in which the bank was already operating, or in the fact that the Board had interposed no objection. It was his opinion that it might be preferable, instead of making public announcement, simply to respond to any specific inquiries about pending foreign branch proposals. Mr. Goodman also pointed out, as to Edge corporations, that it was the Board's practice to grant preliminary permits. He felt it would be sufficient to report actions taken in this area rather than the filing of applications.

In discussion of these points, Mr. Shay suggested that under the new Regulation M procedure, the fact that a national bank sent to the Board a notice that it proposed to establish a foreign branch unless the Board objected within a period of 30 days, constituted in effect the filing of an application. From the standpoint of the public interest, this could easily be regarded as the filing of an application. Then, if the prescribed 30-day period elapsed without Board objection, that might be considered as constituting approval. He concurred with the view of Mr. Fauver that it would be desirable to go as far as possible in announcing publicly the receipt of applications.

Chairman Martin commented at this point that if the Board wished to discourage public speculation in such matters, this could be done best by laying all the cards on the table. If that were done, public interest would tend to be reduced, generally speaking, to those cases where there was something involved that actually warranted attention.

Governor Shepardson indicated that he agreed with such an approach. The matter of announcement of the filing of applications for foreign branches, on which he had had some question, apparently could be covered in the manner outlined by Mr. Shay. He had no feeling that the Board should not announce everything appropriate for announcement, and he tended to agree with Governor Mitchell's view on the matter of applications to carry reduced reserves.

Governor Robertson also expressed the view that the Board should put everything on the table. This would include the filing of applications for membership in the Federal Reserve System, where he felt that the same arguments were generally applicable as on the question of announcing applications for the establishment of branches.

Governor Mills indicated that his preference would be to accept the recommendations set forth in Mr. Fauver's memorandum, as modified by the suggestions of Mr. Goodman. If the Board went a little slowly in the matter of making announcements, it could always go further if,

after additional consideration, that should seem desirable. He noted that Mr. Fauver's recommendations were in line with the opinions of the majority of the Federal Reserve Banks.

Chairman Martin, however, expressed the view that if it appeared likely that the Board was going to come eventually to a full disclosure of applications and actions, it might be better to move in that direction immediately. Governors Robertson and Shepardson indicated that they agreed.

Chairman Martin also commented that he thought Governor Robertson's position on announcing applications for membership in the Federal Reserve System was correct. If applications were filed, and the applicant banks were not sufficiently sound to qualify for admission to membership, one might say that the public had a right to know.

Mr. Conkling commented that the only real interest of the Division of Bank Operations had to do with the announcing of applications and actions with respect to the carrying of reduced reserves. While there appeared to have been little general interest in this type of action, several years ago the practice was instituted of publishing in the Federal Reserve Bulletin on approximately an annual basis the cases in which such applications had been granted. He felt that the banks in the cities affected usually were aware of such applications, and he doubted the necessity of announcing them.

Governor Mitchell observed, however, that in Chicago for many years it apparently was not known generally that some banks had received the privilege of carrying reduced reserves.

Chairman Martin then commented that all of the points that had been raised were worthy of consideration. Nevertheless, it seemed to him that on balance less difficulty would be caused by putting everything on the table.

Thereupon, Governor Mills' reservations having been noted, it was agreed to institute a procedure for expanding the weekly K.2 release to include notice of the receipt of applications for the establishment of branches, domestic and foreign, for the establishment of, or investment in, Edge Act and agreement corporations, for permission to carry reduced reserves, and for membership in the Federal Reserve System. It was understood that the announcement of applications would be made at such time as applications in form suitable for consideration by the Board had been received at the Board's offices. It was also understood that a procedure likewise would be instituted for the announcement of actions on the various types of applications hereinbefore mentioned.

Messrs. Molony, Cardon, and Conkling then withdrew from the meeting.

Revision of Regulation K (Items 6 and 7). Pursuant to the understanding at the meeting on July 3, 1963, copies had been distributed,

with a memorandum from the Legal Division and the Division of Examinations dated August 20, 1963, of "edited" and "clean" drafts of a revision of Regulation K, Corporations Doing Foreign Banking or Other Foreign Financing Under the Federal Reserve Act. At its July 3 meeting the Board had directed that a redraft of the proposed revision of Regulation K be forwarded for comment to the supervised institutions, the Federal Reserve Banks, and interested Government agencies. Copies of letters received in response were distributed to the Board under date of August 16, 1963.

The memorandum from the Legal Division and the Division of Examinations indicated that most of the changes shown in the draft regulation were editorial in nature. With respect to the procedural question whether there should be a meeting with representatives of the supervised institutions regarding the revision of Regulation K, the memorandum expressed the view that since careful consideration had been given to all comments received and since many of the suggestions made had been adopted in the draft revision, no oral presentation by the supervised institutions would seem necessary.

Governor Mitchell noted that the changes incorporated in the present revised draft of Regulation K were based in part on an effort to make the Regulation consistent with the recently revised Regulation M, Foreign Branches of National Banks. Also, it would be in order to take

into consideration certain objections to the earlier draft that had been raised by the supervised institutions, as set forth in the staff memorandum.

Attention then turned to the procedure to be followed in reviewing the revised draft of Regulation K, and it was agreed to follow the section-by-section analysis set forth in the memorandum. Governor Mills indicated at this point that his participation in the review of the draft regulation would be subject to the over-all consideration that he intended, for reasons he would explain later, to dissent from adoption of the revised Regulation K.

The first question considered in reviewing the proposed regulation on a section-by-section basis was whether a statement of national purpose should be retained in section 211.1. The Division of Examinations had expressed the view that such a statement should be retained, while the Legal Division was of the opinion it should be omitted.

After discussion a consensus was reached that the statement of national purpose should be retained, although with certain changes in the draft language. (Governor Shepardson indicated that he would have been inclined to agree with the Legal Division because he questioned whether anything significant would be accomplished by the inclusion of the statement.)

Governor Mitchell then reviewed the language of the proposed sections 211.2, 211.3, 211.4, 211.5, and 211.6, and questions in connection

therewith, and it was indicated in each instance that no change should be made in the provisions of the revised draft. As to section 211.7, relating to operations in the United States, the draft regulation included a listing of specific types of business that would be permissible. The inclusion of such a listing was favored by the Division of Examinations, but the Legal Division suggested its deletion. Governor Mitchell expressed agreement with the view of the Division of Examinations, and this view was concurred in by other members of the Board. With one minor exception, the remaining parts of section 211.7 were accepted in the form set forth in the draft regulation.

Discussion then turned to the section on acceptances that had been included in the previous draft revision of Regulation K but did not appear in the latest draft. Two subsections, relating to character and maturity of acceptances, had been omitted in order to establish conformity with the recently revised Regulation M; a subsection on amount limitations would be transferred to section 211.9, relating to limitations and restrictions. Accordingly, an Edge corporation would be free to make acceptances under its statutory authority without limitation as to character or maturity, and subject only to amount limitations. The New York Reserve Bank had expressed the view informally that the problem be faced in Regulation C, Acceptance by Member Banks of Drafts or Bills of Exchange, before omitting the two subsections, and the Division of Examinations felt that no difficulty would be created

if those subsections were retained in the revised Regulation K. The Legal and Examinations Divisions agreed, however, that the restrictions for Edge corporations in this regard should be the same as for member banks. The Board had long taken the position that State member banks were not restricted by Regulation C as to the character and maturity of acceptances, and the Comptroller of the Currency had recently held that national banks were not so limited. For these and other reasons, the recently revised Regulation M had subjected foreign branches of national banks only to the amount limitations of Regulation C. The Legal Division felt, therefore, that there was no sufficient reason to impose restrictions on the acceptance powers of Edge corporations that would be more severe than those applicable to State member banks and to national banks (including their foreign branches).

In a discussion of this point, Governor Robertson indicated that he would be inclined to retain the subsections contained in the earlier draft, adding that if the Board wanted to make a change in Regulation K after it had reviewed Regulation C, this could always be done. In the meantime, there would apparently be no great harm to Edge corporations.

Governor Mitchell referred, on the other hand, to the discussion that had occurred with regard to the acceptance provisions of the revised Regulation M, and pointed out that the current draft of Regulation K would be consistent with the Board's decision on Regulation M.

Mr. Hackley noted that Regulation M related to the powers of foreign branches of national banks. In the case of Regulation K, it might be said that there was not the same problem of equity as between different types of banks.

In further discussion of this question, Chairman Martin asked for confirmation that the earlier draft of Regulation K would be inconsistent with Regulation M. Mr. Shay replied in the affirmative, adding that to the extent that Edge corporations and foreign branches were alternatives, there would be a loss of equality. Governor Balderston indicated that he favored the principle of keeping Regulation M and Regulation K as much alike as possible, and Chairman Martin and Governor Shepardson expressed agreement. Accordingly, the consensus favored the treatment of acceptance powers found in the latest draft of Regulation K.

Consideration was given next to the provisions of section 211.8, relating to investments in shares of stock in other corporations. In the latest revised draft, general consent was provided for an Edge corporation to acquire shares of corporations organized under foreign law if such acquisition was incidental to an extension of credit by the Edge corporation to the corporation whose shares were acquired, if the acquisition consisted of shares in a foreign bank, or if the acquisition was otherwise likely to further the development of U. S. foreign commerce, provided that no such acquisition would cause an

Edge corporation to hold 25 per cent or more of the voting shares of a foreign bank and that the aggregate amount invested in the shares of any other corporation (as being likely to further the development of U. S. foreign commerce) would not exceed $200,000.

Governor Mitchell indicated that he would favor the language of the revised draft, following which Mr. Hackley noted that the question whether an acquisition of stock would further the development of the foreign commerce of the United States involved a matter of judgment. Presumably, if an Edge corporation felt that such an acquisition would further the development of U. S. foreign commerce, it would have permission to go ahead and acquire the stock under the general consent.

After further consideration, the language of the revised draft was indicated to be acceptable to the members of the Board. It was also agreed to retain a provision indicating that Edge corporations, if they wished, could request an advisory opinion of the Board as to whether a particular acquisition would be covered by the general consent.

There were no further questions with respect to the provisions of section 211.8 except for a question raised by Governor Shepardson regarding the reporting requirements. These stated, among other things, that an Edge corporation must inform the Board within 30 days after the close of each quarter with respect to any acquisition or disposition of

shares during that quarter, including information concerning shareholders (known to the issuing corporation) holding 10 per cent or more of any class of the corporation's shares (and the amount held by each). Governor Shepardson inquired whether such information was essential; it would be required only in the case of known shareholders. Mr. Goodman replied that a relatively new area of administration was involved, which suggested proceeding cautiously. With more experience, it might be thought appropriate to propose some modification of the reporting requirements. He believed that only in rare instances would the names of the larger shareholders not be known to the issuing corporation. At the conclusion of the discussion of this point, Governor Shepardson indicated that although he still had reservations, he would not pursue the matter further at this time.

The provisions of sections 211.9 and 211.10, relating, respectively, to limitations and restrictions and to corporations with agreements under section 25 of the Federal Reserve Act, were accepted without change.

There followed discussion of the question whether arrangements should be made for supervised institutions to appear before the Board before the revised Regulation K was issued, and there was general agreement that in the circumstances this step would not seem necessary.

There was also discussion as to the date on which the revised Regulation should be made effective, and agreement was reached on an effective date of September 1, 1963.

Thereupon, subject to the understanding that the changes agreed upon at this meeting would be incorporated, the revised Regulation K was adopted, effective September 1, 1963, Governor Mills dissenting. A copy of the revised Regulation in the form in which it was published in the Federal Register pursuant to this action is attached as Item No. 6. A copy of the press release issued on August 23, 1963, is attached as Item No. 7.

In explanation of his dissent, Governor Mills said he thought the decisions reached against the background of the staff memorandum of August 20, 1963, were correct, and further that the positions taken in the staff memorandum on several questions were correct because they were in the direction of retaining some vestige of control over the operations of Edge corporations. However, the essential effect of the Regulation, in his opinion, was to open the gates to improper financial and banking practices. It was stated in the first part of the Regulation that Edge corporations should confine the scope of their activities, both in the United States and abroad, to practices consistent with high standards of banking and financial prudence, but he did not believe that the principle espoused at that point was carried out in the body of the Regulation. He had found the same difficulties in the recently revised Regulation M. The authorities granted in the area of acceptances and guarantees were vehicles for permitting credit transactions that would not be consistent with sound banking practices in this country.

While he recognized that the revised regulations reflected an effort to allow Edge corporations and national banks to compete more effectively abroad, this did not mean that subsidiaries or branches of American banks should be permitted to engage in transactions that, so far as the domestic operations of the parent banks were concerned, had been regarded as questionable, at best, over the years. Authorities such as to make acceptances for indefinite periods of time, to issue letters of credit for indefinite periods for unknown purposes, and to underwrite, sell, and distribute securities abroad in a manner prohibited in the United States were not, in his opinion, proper authorities to grant. As to the acceptance and guarantee provisions, there the Board was permitting Edge corporations to advance their credit and expand their risk exposure to a great extent in areas that under Regulation C were properly confined to transactions with limited maturities, and of a self-liquidating nature. Principles of long standing were being disregarded because American banks had taken the bit in their teeth, were not looking back at history, and were willing to engage in transactions that in the past had involved banks in serious difficulties. In addition, the greater liberality to accept and guarantee and to make investments would encourage the outflow of gold and dollars from the United States at a time when a critical balance of payments problem existed. He construed the liberalized authorities, particularly those relating to acceptances and guarantees, as a completely inappropriate

grant of powers to Edge corporations that was not consistent with prudent banking practices in the United States and should not be regarded as consistent with prudent financial practices. The administration of the provisions would inflict a burden on examiners to determine insolvent credits of the Edge corporations, and they would be able to enter their criticisms effectively only after there had been defaults and losses.

Governor Robertson said that he voted for adoption of the revised Regulation K with reluctance, because he felt that the timing of adoption of the revised Regulation was inappropriate. The revised Regulation provided more liberal opportunities for investments abroad at a time when the balance of payments problem was of great concern. The revised Regulation went so far as to authorize the acquisition of shares by Edge corporations when such acquisitions were not related to the financing of U. S. international trade. He would have much preferred it if the matter had been dealt with five years ago, or it were possible to deal with it a couple of years hence.

Governor Shepardson likewise stated that he wished the problem could have been dealt with earlier. That not having being done, however, he could not see what would be gained by deferring action. Such action perhaps was unfortunate in the context of the existing balance of payments problem, but it seemed that a purpose of the Edge Act--like the purpose of the recent statutory amendment pertaining to the powers of

foreign branches of national banks--was to afford more opportunity for United States financial institutions to engage in international activities. The whole approach had been in the direction of liberalization, though admittedly this involved moving into an area of incomplete information. In the circumstances, he felt that the Board should provide all of the liberality that seemed reasonable, at least on an exploratory basis, with any necessary rebuilding of fences later if that should be found necessary.

Governor Balderston commented that he considered it imperative that the foreign activities of U. S. banks and Edge corporations be handled by a single Federal bank supervisory agency. One of the important reasons for making Regulations M and K consistent with each other was to resist pressure for a separation of regulatory powers. This was one reason he had favored simplification of the two regulations in a mutually consistent manner.

In further discussion, Governor Robertson suggested that it would be desirable, under present and anticipated circumstances, to augment the staff of the Division of Examinations that was concerned with problems of international banking and financing, and there appeared to be general agreement with this expression by Governor Robertson.

The foregoing action by the Board in adopting the revised Regulation K included authorization to the Board's staff to make appropriate changes in the forms for articles of association and

organization certificates (F.R. 151 and F.R. 152) of Edge corporations, so as to conform with the provisions of the revised Regulation.

The meeting then adjourned.

Secretary's Notes: Governor Shepardson today approved on behalf of the Board the following recommendations contained in a memorandum from the Division of Personnel Administration dated August 21, 1963, with regard to arrangements in the case of James A. McIntosh, Technical Assistant in the Division of Bank Operations, who had selected an academic year's period of study at Stanford University, Palo Alto, California, as recipient of a Career Education Award from the National Institute of Public Affairs: (1) that Mr. McIntosh be granted leave with pay for the academic year 1963-64, beginning on September 14, 1963; (2) that the Board pay the travel costs of Mr. McIntosh and his family, with Government transportation requests to be used for the travel of his family and Mr. McIntosh to be paid for his use of private automobile at the rate of 12 cents a mile from Washington to Palo Alto and return, plus necessary per diem; (3) that Mr. McIntosh be paid 12 cents a mile, plus necessary per diem and other expenses such as parking fees, in connection with his assignment by the Division of Bank Operations to review and discuss, at the Federal Reserve Bank of San Francisco, matters pertaining to functional expense reports; (4) that the cost of moving necessary household goods be paid direct to the carrier by the Board; (5) that should arrangements to sublease his apartment not materialize, and should it become necessary to place the remainder of his furniture in storage, the Board make direct remittance to the storage company for the costs involved; and (6) that Mr. McIntosh be permitted to obtain a travel advance for the amount of expenditures he would be expected to make through December 31, 1963; that he account for this travel advance at the end of the year; and that he be permitted another travel advance for expenditures through the remainder of his stay at Stanford, to be accounted for upon his return. It was anticipated that at any time during his period at Stanford, or at the conclusion of that period, Mr. McIntosh might submit a revised estimate of expenses

with a request for possible additional payments by the Board. It was stated in the memorandum that nothing in the recommendations with respect to this case should be considered as establishing a precedent for future award winners or for other training activities, or as changing the Board's present practices with regard to leave of absence for completion of doctoral dissertations.

Pursuant to the recommendation contained in a memorandum from the Division of Data Processing, Governor Shepardson also approved today on behalf of the Board the granting of military leave to Bernard A. Thomasson, Operator-Tabulating Equipment, Division of Data Processing, for a two-year tour of duty beginning August 30, 1963.

Kenneth A. Bryan
Assistant Secretary

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

Item No. 1
8/22/63

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

August 22, 1963

Board of Directors,
County Trust Company,
White Plains, New York.

Gentlemen:

The Board of Governors of the Federal Reserve System approves the establishment of a branch at 509 Gramatan Avenue, Mount Vernon, Westchester County, New York, by County Trust Company, provided the branch is established within one year from the date of this letter, and provided further that branch operations conducted at Broad and Locust Streets, Mount Vernon, Westchester County, New York, are discontinued simultaneously with the establishment of the above branch.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

(The letter to the Reserve Bank stated that the Board also had approved a six-month extension of the period allowed to establish the branch; and that if an extension should be requested, the procedure prescribed in the Board's letter of November 9, 1962 (S-1846), should be followed.)

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

Item No. 2
8/22/63

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

August 22, 1963

Board of Directors,
Citizens Fidelity Bank and Trust Company,
Louisville, Kentucky.

Gentlemen:

The Board of Governors of the Federal Reserve System approves the establishment of a branch by Citizens Fidelity Bank and Trust Company in the Chenoweth Plaza Shopping Center on Brownsboro Road near Chenoweth Lane in Louisville, Kentucky, 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.

(The letter to the Reserve Bank stated that the Board also had approved a six-month extension of the period allowed to establish the branch; and that if an extension should be requested, the procedure prescribed in the Board's letter of November 9, 1962 (S-1846), should be followed.)

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

Item No. 3
8/22/63

OFFICE OF THE CHAIRMAN

August 22, 1963

The Honorable Oren Harris, Chairman,
Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington 25, D. C.

Dear Mr. Chairman:

This is in response to your communication of August 13, 1963, requesting a report on S. 1642, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934.

This bill, which passed the Senate on July 30, 1963, is substantially similar to H. R. 6789 on which the Board reported in its letter to you of June 21, 1963. A copy of that letter is enclosed herewith for your convenient reference. (A memorandum enclosed with that letter, regarding the language of section 3(e) of H. R. 6789, is not enclosed with this letter, since the memorandum is not pertinent to the language of S. 1642.)

As stated in its letter of June 21, the Board is principally concerned with those provisions of the bill that would extend reporting requirements, proxy rules, and "insider trading" provisions of the Securities Exchange Act to certain corporations, including banks, whose securities are traded in the over-the-counter market. The Board believes that such provisions should be applicable to banks and that they should be administered by the Securities and Exchange Commission in the case of banks as well as in the case of corporations generally. For this reason, the Board questioned the advisability of section 3(e) of H. R. 6789 which would have provided for the delegation of the Commission's functions with respect to banks to the Federal bank regulatory agencies upon the request of such agencies.

As amended and passed by the Senate, S. 1642, the bill now before your Committee, would require the reporting, proxy, and "insider trading" provisions of the bill to be administered by the appropriate Federal bank regulatory agencies in the case of banks, instead of providing for delegation of the Commission's functions in this respect upon request of the banking agencies.

The views expressed by the Board in its letter of June 21 are equally applicable to S. 1642; and therefore the Board recommends the deletion of section 3(e) of that bill. In the Board's opinion, fragmentation of responsibility for administration of the provisions of the bill applicable to banks, as contemplated by section 3(e), would result in inequities, inefficiency, and unnecessary confusion. However, if your Committee should nevertheless endorse, and if the Congress should enact, S. 1642 in its present form, the Board is prepared to carry out the new responsibilities that would be placed upon it.

Sincerely yours,

(Signed) Wm McC. Martin, Jr.

Wm. McC. Martin, Jr.

Enclosure

Item No. 4
8/22/63

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

OFFICE OF THE CHAIRMAN

August 23, 1963

The Honorable Emanuel Celler, Chairman,
Committee on the Judiciary,
House of Representatives,
Washington 25, D. C.

Dear Mr. Chairman:

This is in reply to your letter of August 14, 1963, requesting that Mr. Philip Marcus of your staff be permitted to examine certain bank merger applications.

As you know, applications to merge are submitted to one of the three Federal bank supervisory agencies. I assume that you wish to see only those applications in which the continuing bank was to be a State member bank of the Federal Reserve System and which, therefore, were filed with the Board of Governors of the Federal Reserve System.

In a relatively few instances the Board has ordered a public hearing or public oral presentation of views with respect to a proposed merger, and in these instances the application is available for public inspection except for certain portions containing information of such nature that its disclosure would not be in the public interest. While the Board publishes statements with its announced decisions, insofar as practicable it attempts to avoid disclosing unpublished information concerning the business of individual banks and particularly of individual bank customers, and it hopes that such information in the applications will continue to be so treated.

The Board will make available to Mr. Marcus such merger applications as he may wish to examine that have been acted upon by the Board. In this connection, however, I should mention that 56 merger applications have been forwarded to the House Banking and Currency Committee. These include 14 applications filed with the Board in 1960 and 42 filed in 1961. As the Board retains only one copy of a merger application for its files, we would be unable to make those applications available until they have been returned to us.

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. 5
8/22/63

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

August 22, 1963.

Mr. Carl Eardley,
Second Assistant,
Civil Division,
United States Department of Justice,
Washington, D.C. 20530.

Attention: Mr. Morton Hollander, Chief,
Appellate Section

Re: Whitney National Bank v. Bank of New Orleans (C.A.D.C. No. 17672)

Saxon v. Bank of New Orleans (C.A.D.C. No. 17681)

Dear Mr. Eardley:

Your letter of August 20, 1963 (CE:MH:DLR 145-3-562), asked for any comments or recommendations that the Board may have with respect to the advisability of a rehearing and/or certiorari in connection with the decision of August 14, 1963, in the above-captioned cases.

The Board understands that the decision in question was predicated upon the particular facts of the cases at bar warranting piercing of the corporate veil, and that the holding would not constitute a precedent with respect to the usual relationship between a bank holding company and a proposed subsidiary bank. It is further understood that the decision in no way implies that the Board is obliged to construe and apply State branch banking statutes in the course of considering applications under the Bank Holding Company Act of 1956. Accordingly, it is believed that the manner in which the Court framed its decision does not specifically affect the Board's function under that Act. Therefore, from the Board's point of view, there appears to be no particular need for seeking either rehearing or certiorari.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

It is assumed, however, that in reaching your ultimate conclusion in this matter the views of the Comptroller of the Currency will be solicited, since the decision would appear to have a direct and substantial impact upon his functions.

Very truly yours,

(Signed) Kenneth A. Kenyon

Kenneth A. Kenyon,
Assistant Secretary.

TITLE 12--BANKS AND BANKING

CHAPTER II--FEDERAL RESERVE SYSTEM

SUBCHAPTER A--BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. K]

PART 211--CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT

1. Effective September 1, 1963, Part 211 is revised to read as follows:

Sec.

AUTHORITY: §§ 211.1 to 211.10 issued under 12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 611-631; 12 U.S.C. 601-604a.

§ 211.1 Authority, scope, and national purpose.

(a) Authority and scope.--This part is issued by the Board of Governors of the Federal Reserve System (the "Board") under authority of

the Federal Reserve Act (the "Act"). It applies to corporations organized under section 25(a) of the Act (12 U.S.C. 611-631) and, to the extent specified in § 211.10, to corporations having an agreement or undertaking with the Board under section 25 of the Act (12 U.S.C. 601-604a).

(b) National purpose.--The Congress, in enacting section 25(a) of the Act, provided for the establishment of international banking and financial corporations operating under Federal supervision with powers sufficiently broad to enable them to compete effectively with similar foreign-owned 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 international trade.

In light of the public purposes involved, Corporations should be able in their activities abroad to operate, as best meets their corporate policies, through branches, agencies, and correspondents or through direct and indirect ownership in foreign-chartered companies engaged in banking or other international or foreign operations, so long as their credit and other activities are in the interest of the United States. Corporations shall confine the scope of their operations both in the United States and abroad to practices consistent with high standards of banking or financial prudence. Activities in the United States shall be restricted to operations clearly related to international or foreign business.

§ 211.2 Definitions.

For the purposes of this part, unless the context otherwise requires--

(a) "Abroad", "foreign", or "foreign country" refers to one or more foreign nations or colonies, dependencies, or possessions thereof, overseas territories, dependencies, or insular possessions of the United States, or the Commonwealth of Puerto Rico.

(b) "Capital and surplus" means paid-in and unimpaired capital and surplus.

(c) "Corporation" when spelled with a capital "C" means a corporation organized under section 25(a) of the Act.

(d) A Corporation is "engaged in banking" whenever it has aggregate demand deposits and acceptance liabilities exceeding its capital and surplus.

(e) "Person" includes an individual or an organization.

(f) "Organization" includes a corporation, government, partnership or association, or any other legal or commercial entity.

§ 211.3 Organization and ownership of shares.

(a) Organization.--A proposed Corporation shall become a body corporate upon issuance by the Board of a preliminary permit approving its name, articles of association, and organization certificate.1/

1/ Appropriate forms for articles of association and organization certificate (FR 151 and 152, Revised 9-1-'63), filed as part of the original document, may be obtained from the Federal Reserve Bank of the district in which the home office of the Corporation is to be located.

The name shall include "international", "foreign", "overseas", or some similar word, but may not resemble the name of any other organization to an extent that might mislead or deceive the public. After issuance of its preliminary permit, a Corporation may (1) elect officers and otherwise complete its organization and (2) invest in obligations of the United States Government; but none of its other powers may be exercised until the Board has issued to it a final permit to commence business. No amendment to the articles of association shall become effective until approved by the Board.

(b) Ownership of shares.--Shares of stock in a Corporation (which may not include no-par value shares) shall be issuable and transferable only on its books, and no issue or transfer that would cause a violation of section 25(a) of the Act shall be so effected. A Corporation shall notify the Board as soon as possible of any change in status of a shareholder which causes a violation of said section 25(a) and shall take such action with respect thereto as the Board may direct. Each class of shares shall be so named and described in the share certificates as to indicate its character and any unusual attributes, and such certificates shall conspicuously set forth the substance of (1) limitations upon the rights of ownership and transfer of shares imposed by said section 25(a) and this part and (2) rules which the Corporation shall prescribe in its by-laws to insure compliance with this paragraph.

§ 211.4 Issuance of obligations.

Except in accordance with prior Board approval, no Corporation may issue or have outstanding any debentures, bonds, promissory notes (other than notes due within one year), or similar obligations.

§ 211.5 Underwriting, sale, and distribution of securities.

(a) General.--Except as permissible for member banks under section 5136 of the Revised Statutes (12 U.S.C. 24), a Corporation engaged in banking may not engage in the business of underwriting, selling, or distributing securities other than obligations of the national government of a foreign country in which it has a branch or agency.2/

(b) In the United States.--No Corporation may (1) engage in the business of selling or distributing securities in the United States (except private placements of participations in its investments or extensions of credit) or underwrite any portion thereof so sold or distributed or (2) act in the United States as trustee, registrar, or in any similar capacity, with respect to securities distributed in the United States.

§ 211.6 Branches and agencies.

(a) In the United States.--A Corporation may not establish any branch in the United States, but with prior Board approval may establish

2/ Including obligations issued by any agency or instrumentality, and supported by the full faith and credit, of such a government.

agencies in the United States for specific purposes, but not generally to carry on its business.

(b) Abroad.--With prior Board approval, a Corporation may establish branches or agencies abroad. If a Corporation has established a branch or agency in a foreign country, it may, unless otherwise advised by the Board, establish other branches or agencies in that country after thirty days' notice to the Board with respect to each such branch or agency.

(c) Suspending operations abroad during disturbed conditions.--The officer in charge of a branch or agency abroad may suspend its operations during disturbed conditions which, in his judgment, make conduct of such operations impracticable; but every effort shall be made before and during such suspension to serve its depositors and customers. Full information concerning any such suspension shall be promptly reported to the home office of the Corporation, which shall immediately send a copy thereof to the Board through the Federal Reserve Bank of its district.

§ 211.7 Limited operations in the United States.

(a) General policy.--It is the Board's general policy to permit Corporations to transact, subject to section 25(a) of the Act and this part, such limited business in the United States as is usual in financing international commerce, including deposit facilities; loan, overdraft, advance, acceptance, and other credit facilities; commercial letters of credit; foreign collections; purchase and sale of foreign

exchange; remittance of funds abroad; purchase, sale, and custody of securities and acceptances for account of customers abroad; and foreign credit information.

(b) Employment of funds.--Funds of a Corporation not currently employed in its international or foreign business, if held or invested in the United States, shall be only in the form of (1) cash, (2) deposits with banks, (3) bankers' acceptances, or (4) obligations of, or obligations fully and unconditionally guaranteed by, the United States, any State thereof, or any department, agency, or establishment of, or corporation wholly owned by, the United States.

(c) Receipt of deposits.--It will ordinarily be considered incidental to or for the purpose of carrying out transactions abroad for a Corporation to receive in the United States demand and time (but not savings) deposits that are not to be used to pay expenses in the United States of an office or representative therein--

(1) from foreign governments, persons conducting business principally at their offices or establishments abroad, and individuals resident abroad and

(2) from any other person if the deposit (i) is to be transmitted abroad, (ii) is to provide collateral or payment for extensions of credit by the Corporation, (iii) represents proceeds of collections abroad which are to be used to pay for goods exported or imported or for other direct costs of export or import, or periodically transferred to the depositor's

account at another financial institution, or (iv) represents proceeds of extensions of credit by the Corporation.

Such deposits shall be subject to Parts 204 (Reg. D) and 217 (Reg. Q) and be reported in the same manner as if the Corporation were a member bank of the Federal Reserve System; but in no event shall reserves against such deposits be less in the aggregate than 10 per cent.

(d) Other permissible activities.--It will ordinarily be considered incidental to the international or foreign business of a Corporation for it to engage in the following transactions in the United States:

(1) Finance the following types of transactions, including payments or costs (but not expenses in the United States of an office or representative therein) incident thereto: (i) contracts, projects, or activities performed abroad, (ii) the importation into or exportation from the United States of goods, (iii) the delivery through domestic transport facilities of goods so imported or their assembly or packaging for resale without essential change therein, if the Corporation financed the importation, and (iv) the domestic shipment or temporary storage (but not production) of goods being exported or accumulated for export, if the Corporation is financing their exportation;

(2) Take over or acquire subsequent participations in extensions of credit, or acquire obligations, growing out of transactions it could have financed at inception under (1) above;

(3) Guarantee customers' debts or otherwise agree for their benefit to make payments on the occurrence of readily ascertainable

events,3/ if the guarantee or agreement specifies its maximum monetary liability thereunder and is related to a type of transaction described in (1) above;

(4) Buy and sell spot and future foreign exchange;

(5) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad, and collect such instruments in the United States for customers abroad;

(6) Hold securities in safekeeping for, or buy and sell securities upon the order and for the account and risk of, customers abroad;

(7) Act as paying agent for securities issued by foreign governments or other organizations organized under foreign law and not qualified under the laws of the United States or any State or the District of Columbia to do business in the United States.

§ 211.8 Investments in shares of other corporations.

(a) General consent.--Subject to section 25(a) of the Act4/ and this part, the Board hereby grants its general consent for any Corporation to acquire (other than through a broker, dealer, or stock exchange firm or representative) and hold the shares of corporations

3/ Including, but not limited to, such types of events as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or nonconformance of shipping documents.

4/ Including the limitations therein based on capital and surplus.

organized under foreign law if such acquisition (1) is incidental to an extension of credit by the Corporation to the corporation whose shares are acquired, (2) consists of shares in a foreign bank, or (3) is otherwise likely to further the development of United States foreign commerce; but no acquisition under this paragraph may cause a Corporation to hold 25 per cent or more of the voting shares[5/] of a foreign bank and the aggregate amount invested in the shares of any other corporation under (3) above may not exceed $200,000 or its equivalent. A Corporation may request an advisory opinion of the Board as to whether a particular acquisition is covered by the preceding sentence.

(b) Specific consent.--Prior specific consent of the Board is required with respect to the acquisition of any shares by a Corporation in any situation not covered by § 211.8(a) or the ninth paragraph of section 25(a) of the Act.

(c) Conditions.--(1) Shares of stock in a corporation shall be disposed of as promptly as practicable if (i) such corporation should engage in the business of underwriting, selling, or distributing securities in the United States or (ii) the Corporation is advised by the Board that their holding is inappropriate under section 25(a) of the Act or this part.

(2) In computing the amount which may be invested in the shares of any corporation under section 25(a) of the Act or § 211.8(a),

5/ Exclusive of rights to acquire shares.

there shall be included any such investments in other corporations controlled by such corporation. Unless otherwise specified, "shares" in this section includes any rights to acquire shares.

(d) Reports.--A Corporation shall inform the Board through the Federal Reserve Bank of its district within thirty days after the close of each quarter with respect to any acquisition or disposition of shares during that quarter, including the following information concerning any corporation whose shares it acquired for the first time (unless previously furnished): (1) Recent balance sheet and income statement, (2) brief descriptions of the corporation's business (including full information concerning any such business transacted in the United States), the shares acquired, and any related credit transaction, (3) lists of directors and principal officers (with address and principal business affiliation of each) and of all shareholders (known to the issuing corporation) holding 10 per cent or more of any class of the corporation's shares (and the amount held by each), and (4) information concerning the rights and privileges of the various classes of shares outstanding.

§ 211.9 Limitations and restrictions.

(a) Acceptances.--A Corporation shall be and remain fully secured as to (1) 50 per cent of all acceptances outstanding in excess of the amount of its capital and surplus, (2) all acceptances in excess of twice such amount, and (3) all acceptances for any one person in excess

of 10 per cent of such amount, except to the extent any such excess represents the international shipment of goods and is fully covered by primary obligations to reimburse it which are also guaranteed by banks or bankers.

(b) Liabilities of one borrower.--Except as the Board may otherwise specify, the total liabilities to a Corporation of any person shall at no time exceed 50 per cent of the Corporation's capital and surplus, or 10 per cent thereof if it is engaged in banking. In this paragraph "liabilities" includes: any obligations for money borrowed and shares of stock; unsecured liabilities resulting from issuance by the Corporation of guarantees or similar agreements (described in § 211.7(d)(3)), the aggregate of which liabilities incurred for any person may in no event exceed 10 per cent of any Corporation's capital and surplus; in the case of a partnership or firm, liabilities of the members thereof; in the case of a corporation, liabilities incurred for its benefit by other corporations which it controls; and in the case of a foreign government, the liabilities of its departments or agencies deriving their current funds principally from its general tax revenues. The limitations of this paragraph shall not apply to (1) bills or drafts drawn in good faith against actually existing values, (2) obligations arising out of the discount of commercial or business paper actually owned by the negotiator, (3) any acceptance made by a Corporation which has not matured and is not held by it, or

(4) obligations to the extent supported by the full faith and credit of the following:

(i) The United States or any department, agency, or establishment thereof or corporation wholly owned thereby, the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, or the Inter-American Development Bank;

(ii) A foreign national government or its appropriate financial or central banking authority, if at least 25 per cent of such an obligation or of the total credit is also supported by the full faith and credit of, or participated in by, any institution designated in (i) above in such manner that default to the Corporation will necessarily include default to such institution;

(iii) The national government of any foreign country in which the Corporation has a branch or agency with at least equal outstanding liabilities payable in the same currency;

(iv) Any person if the Corporation is not engaged in banking and the obligations or total credit are subject to 25 per cent support or participation of the type described in (ii) above; but the total liabilities of such person to the Corporation shall at no time exceed 100 per cent of its capital and surplus.

(c) Aggregate liabilities.--Except with prior Board permission, a Corporation's aggregate outstanding liabilities on account of

acceptances, monthly average deposits, borrowings, guarantees, endorsements, debentures, bonds, notes, and other such obligations shall not exceed ten times its capital and surplus; provided that aggregate outstanding unsecured liabilities under guarantees or similar agreements (described in § 211.7(d)(3)) may in no event exceed 50 per cent of its capital and surplus. In this paragraph "liabilities" does not include endorsements of bills having not more than six months to run, drawn and accepted by others.

(d) Relations with banks.--A Corporation controlled by a bank may not incur any liability to such bank that would cause (1) the total of such liabilities to exceed 10 per cent of the bank's capital and surplus or (2) the total liabilities to such bank of all Corporations which it controls to exceed 20 per cent thereof. A Corporation incurs a liability to a bank under this paragraph whenever such bank or any organization controlled by such bank (other than the Corporation or any organization controlled by it) makes (i) any investment in, or advance on the security of, the shares or obligations of such Corporation or any organization controlled by it or (ii) any extension of credit to, or any purchase under repurchase agreement from, such Corporation or any organization controlled by it.

(e) Endorsement or guaranty.--A Corporation which endorses or guarantees any securities, notes, bills, drafts, acceptances, or other evidences of indebtedness shall enter on its books proper records

thereof, describing in detail each such instrument, including its amount, its maturity, the parties thereto, and the nature of the Corporation's liability thereon. Every financial statement of the Corporation submitted to the Board or made public in any way shall show the aggregate of such liabilities outstanding as of the date such statement purports to show the Corporation's financial condition.

(f) Reports.--Each Corporation shall make at least two reports annually to the Board at such times and in such form as the Board may prescribe. The Board may require that statements of condition or other reports be published or made available for public inspection.

(g) Examinations.--Examiners appointed by the Board will examine each Corporation at least once a year. Each Corporation shall obtain and make available to such examiners, among other things, information as to the earnings, finances, management, and other relevant aspects of any organization whose shares it holds. When required by the Board, a Corporation shall cause any organization controlled by it to submit to examination by examiners selected or auditors approved by the Board. The cost of examinations shall be fixed by the Board and paid by the Corporation.

§ 211.10 Corporations with agreements under section 25 of the Act.

In addition to any other requirements to which it may be subject, no corporation having an agreement or undertaking with the Board under section 25 of the Act shall purchase or hold any asset or otherwise

exercise any power in the United States or abroad in any manner not permissible for a Corporation engaged in banking.

2a. The purposes of this revision are (1) to clarify, simplify, and condense this part and to delete therefrom provisions which merely reiterate statutory requirements, (2) to incorporate for the first time statements of national purpose and of general policy concerning operations in the United States, (3) to eliminate in large measure the former distinction between "Banking" and "Financing" Corporations, (4) to require prior Board approval for the issuance of debentures or similar obligations by any Corporation, (5) to liberalize the procedure under which Corporations may invest in the shares of other corporations, (6) to simplify the procedure for establishing branches or agencies abroad, (7) to modify restrictions regarding receipt of deposits in the United States, (8) to permit subsequent financing of transactions which a Corporation could have financed at inception, (9) to impose tighter restrictions on permissible investment of funds in the United States, (10) to prescribe limitations on exercise of the guarantee power, and (11) otherwise to modify this part as seems appropriate.

b. This part was the subject of a Notice of Proposed Rule Making published in the Federal Register (28 F. R. 2588, March 16, 1963) and was adopted by the Board after consideration of all relevant material, including responses received from interested persons pursuant to said notice. The prior publication described

in section 4(c) of the Administrative Procedure Act is unnecessary in connection with this part for the reasons and good cause found as stated in § 262.1(e) of this chapter, and especially because this part operates mainly to relieve restrictions otherwise applicable and such prior publication would not aid the persons affected or otherwise serve any useful purpose and would prevent this part from becoming effective as promptly as desirable for the convenience of the institutions affected.

Dated at Washington, D. C., this 23rd day of August, 1963.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

(Signed) Kenneth A. Kenyon

Kenneth A. Kenyon,
Assistant Secretary.

(SEAL)

FEDERAL RESERVE

press release

Item No. 7 2900
8/22/63

For immediate release August 23, 1963.

The Board of Governors has adopted a revision, effective September 1, 1963, of its Regulation K affecting "Corporations Engaged in Foreign Banking and Financing Under the Federal Reserve Act". The revision follows a comprehensive review of the existing rules, in effect since January 15, 1957, that are applicable to so-called Edge Act and Agreement corporations operating under sections 25 and 25(a) of the Federal Reserve Act. Presently there are 30 Edge Act corporations (including four which have not opened for business) and five Agreement corporations.

The primary objective of the revision was to enable Edge Act and Agreement corporations to operate more effectively in financing international and foreign commerce. Another important objective was to shorten and simplify the Regulation by deleting provisions which merely reiterated statutory requirements.

The revision eliminates the formal distinction between "Banking" and "Financing" Corporations. The substance of this distinction has also been considerably modified. For example, in § 211.2(d) it is stated, in effect, that a Corporation is not "engaged in banking" unless its total demand deposits and acceptance liabilities

exceed its capital and surplus. If a Corporation is engaged in banking under this definition, it would be precluded by § 211.5(a) from engaging, even abroad, in the business of underwriting, selling, or distributing securities except to the extent permissible for member banks under section 5136 of the Revised Statutes or for foreign branches of national banks under the new Regulation M; and the applicable limitation in § 211.9(b) on its total holdings of the liabilities of any one borrower would be 10 per cent of its capital and surplus (rather than 50 per cent thereof if it were not "engaged in banking").

Since Edge Act corporations were regarded under the former Regulation as either "Banking Corporations" or "Financing Corporations", some may wish to combine these activities, as permitted by the revision, by amending their articles of association in accordance with the usual procedure. It is possible that some member banks having both types of Corporations may want to merge them into a single Corporation in view of the changes made in the revised Regulation.

With respect to substantive matters the revision also differs from the former Regulation K in the following major respects:

1. For the first time the Regulation would contain a statement of national purpose in § 211.1(b). It will also be noted that a statement of general policy concerning operations in the United States has been added in § 211.7(a).

2. Prior Board approval is required in § 211.4 with respect to the issuance by any Corporation of debentures, bonds, or similar obligations. This provision for prior approval replaces detailed provisions of the former Regulation.

3. The procedure for establishing branches or agencies abroad has been simplified in § 211.6(b) so that a Corporation which has established a branch or agency in a particular foreign country with Board approval may, unless otherwise advised by the Board, establish additional branches or agencies in that country after 30 days' notice to the Board.

4. The revision represents a substantial modification and simplification of the procedure by which Corporations are allowed to invest in the stock of other corporations. For example, it would be unnecessary under § 211.8(a) for a Corporation to apply for specific Board consent (1) to acquire shares incidental to an extension of credit, (2) to purchase less than 25 per cent of the voting shares of a foreign bank, or (3) to invest up to $200,000 in the shares of a foreign corporation if such investment would be likely to further the development of United States foreign commerce.

5. The restrictions of the former Regulation would be relaxed in § 211.7(c)(1) to allow Corporations to accept time deposits from foreign depositors for the purpose of safekeeping or investment.

6. The provisions of the former Regulation would also be relaxed in § 211.7(d)(2) to permit a Corporation to take over or acquire participations in credits or obligations relating to transactions which it could have financed at inception.

7. The restrictions in § 211.7(b) regarding a Corporation's investment in the United States of funds not currently employed in its international business would be tightened so as to preclude the purchase of open market commercial paper and domestic "investment securities", other than United States Government or State obligations.

8. The guarantee power of Corporations has been patterned after that of foreign branches of national banks under the recently adopted revision of Regulation M [§§ 211.7(d)(3), 211.9(b) and (c) of the revision of Regulation K].

The revision has been prepared in light of comments received by the Board subsequent to publication of a proposed revision of the Regulation in the Federal Register of March 16, 1963. The text of the revision is attached.

Attachment