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Minutes for October 21, 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

W

Gov. Mills

[Signature]

Gov. Robertson

R.

Gov. Balderston

CCB

Gov. Shepardson

[Signature]

Gov. Mitchell

[Signature]

Minutes of the Board of Governors of the Federal Reserve System on Monday, October 21, 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. Sherman, Secretary  
Mr. Kenyon, Assistant Secretary  
Mr. Broida, Assistant Secretary  
Mr. Young, Adviser to the Board and Director,  
Division of International Finance  
Mr. Fauver, Assistant to the Board  
Mr. Spencer, General Assistant, Office of the  
Secretary

Messrs. Koch, Garfield, Holland, Williams,  
Dembitz, Altmann, Eckert, Fisher, Gehman,  
Osborne, Partee, Peret, Wernick, and Yager  
of the Division of Research and Statistics

Messrs. Furth, Hersey, Katz, Emery, Gekker,  
Gemmill, Goldstein, Lupo, Maroni, and  
Swerling of the Division of International  
Finance

Economic review. The Division of International Finance commented on international financial conditions, after which the Division of Research and Statistics presented information relating to the domestic economy, which included a review of money market developments.

Following discussion based on those reviews, all members of the staff except Messrs. Sherman, Kenyon, Fauver, and Spencer withdrew and the following entered the room:

Mr. Farrell, Director, Division of Bank Operations  
Mr. Solomon, Director, Division of Examinations

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Mr. Johnson, Director, Division of Personnel Administration  
Mr. Hexter, Assistant General Counsel  
Mr. Leavitt, Assistant Director, Division of Examinations  
Mr. Bakke, Senior Attorney, Legal Division

Discount rates. The establishment without change by the Federal Reserve Banks of New York, Philadelphia, Minneapolis, and San Francisco on October 17, 1963, of the rates on discounts and advances in their existing schedules was approved unanimously, with the understanding that appropriate advice would be sent to those Banks.

Circulated item. The following item, a copy of which is attached to these minutes as Item No. 1, was approved unanimously:

Letter to the Federal Reserve Bank of Cleveland approving a revision in the minimum of Grade 1 of the salary structures for the Cincinnati and Pittsburgh Branches, and noting the cancellation of the salary structure applicable to employees of the Record Center resulting from the closing of the Athens office.

Mr. Johnson then withdrew from the meeting.

Report on competitive factors (Wichita Falls, Texas). There had been distributed a draft of report to the Federal Deposit Insurance Corporation on the competitive factors involved in the proposed merger of The Texas Bank, Wichita Falls, Texas, with First State Bank of Wichita Falls, Wichita Falls, Texas.

The conclusion of the draft report stated that a merger of the two banks would not have an adverse effect on competition.

In discussion it was brought out that, because Texas law does not permit branch banking, a merger of the banks would result in the closing of the banking office of The Texas Bank. Thus, residents of

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the area near Sheppard Air Force Base would lose one of their two alternative sources of banking services. It was noted, in this connection, that the merger would still be approvable if there were valid reasons to offset, as seemed possible, the adverse competitive effect in the Air Force Base area.

Agreement was then expressed with a suggested deletion of a sentence in the body of the report relating to the competitive situation, following which the report was approved unanimously for transmittal to the Corporation, with the understanding that the conclusion would read as follows:

A merger of The Texas Bank, Wichita Falls, Texas, with First State Bank of Wichita Falls, Wichita Falls, Texas, would have an adverse effect on competition only to the extent that it would result in the elimination of one of two banking offices serving persons residing in the area near Sheppard Air Force Base.

Application of New Jersey Trust Company. There had been distributed a memorandum dated October 16, 1963, from the Division of Examinations recommending approval of an application by New Jersey Trust Company, Asbury Park, New Jersey, for permission to establish a branch in the Borough of Oceanport, Monmouth County, New Jersey.

Mr. Leavitt stated that subsequent to the time this matter was placed on today's agenda, a question had arisen with respect to the filing date of the application. When the case was originally discussed with the Federal Reserve Bank of New York, it was understood

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that the application of New Jersey Trust Company had been filed prior to September 25, 1963, the date on which First Merchants National Bank, Asbury Park, New Jersey, filed an application to establish a branch in Oceanport. Therefore, it seemed that the application of New Jersey Trust Company had priority. However, Mr. Leavitt said, he later called the Federal Reserve Bank of New York to determine the exact date on which the application of New Jersey Trust Company had been filed and was informed that the bank apparently had not submitted a recent application to the State Bank Commissioner; the application approved by the State Bank Commissioner for a branch in Oceanport was one submitted several years ago by New Jersey Trust Company of Long Branch prior to its merger with Asbury Park and Ocean Grove Bank. Since, in these circumstances, there seemed to be some question as to which application should be regarded as having priority, the Federal Reserve Bank of New York was asked to explore this matter further. Accordingly, it was suggested that Board action be deferred.

Following discussion, it was understood that action on the application of New Jersey Trust Company to establish a branch in Oceanport would be deferred pending receipt of additional information from the Federal Reserve Bank of New York.

Federal Reserve notes (Item No. 2). There had been distributed under date of October 17, 1963, a draft of telegram to the Federal Reserve Banks regarding the issuance of the one dollar Federal Reserve

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notes expected to be shipped to all Federal Reserve Banks and branches during November 1963. The draft telegram would point out that some special interest had been indicated in the low-numbered notes of the new series, and that the Board believed it would be undesirable to release any low-numbered notes to individuals, regardless of their position. The telegram would go on to relate that a suggestion had been made that such notes be retained in the archives of the Board and the Reserve Banks, and the Reserve Banks would be invited to submit their comments with regard to the disposition of the low-numbered notes.

At the Board's request, Mr. Farrell commented on the matter, noting that it had been reported to the Board previously that there had been raised with the staff informally certain questions regarding the distribution of the initial Federal Reserve notes of the \$1 denomination. The view of the Board had been that any such questions should be addressed to the Board by letter for determination.

Mr. Farrell went on to mention that during recent conversations with the Treasury Department, he had conveyed this view of the Board. Subsequently, in conversation with a Reserve Bank officer regarding the problem the suggestion had been made that sets of the lower-numbered notes of all the Reserve Banks be retained in the archives of the Board and the twelve Federal Reserve Banks. The proposed telegram would solicit the views of the Reserve Banks.

Following further discussion, the telegram to the Federal Reserve Banks was approved unanimously. A copy is attached as Item No. 2.

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Whitney Holding Corporation (Item No. 3). There had been distributed a memorandum dated October 17, 1963, from the Legal Division with regard to a request by Whitney Holding Corporation, New Orleans, Louisiana, for a further extension of time within which to comply with the condition contained in the Board's order of May 3, 1962, approving the formation of Whitney Holding Corporation, that Whitney National Bank in Jefferson Parish, Louisiana, be opened for business within six months.

The memorandum brought out that opponents of the holding company had secured a temporary injunction against the Comptroller of the Currency from the United States District Court for the District of Columbia preventing the Comptroller from issuing the requisite charter to the Jefferson Parish bank to do business. In a collateral action, a petition for review of the Board's order, pursuant to section 9 of the Bank Holding Company Act, was filed in the United States Court of Appeals for the Fifth Circuit in New Orleans. Since the injunction precluded Whitney from complying with the Board's six-month proviso regarding the opening of the new bank, Counsel for the Corporation petitioned the Board for modification of its order to extend the time for compliance so that litigation to have the injunction dissolved could be pursued. The request was granted by the Board, and the required date for opening of the Jefferson Parish bank was extended until November 4, 1963.

Litigation concerning the injunction was still in progress, with no definite date for its conclusion in sight, and Counsel for Whitney

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Holding Corporation was now petitioning the Board for another extension of time within which to comply with the condition imposed by the Board.

For reasons stated, however, the memorandum expressed the opinion that the Board had no jurisdiction to modify its original order. There was set forth a comprehensive discussion of the authority of the Board to modify an order under the Bank Holding Company Act while judicial review was pending, from which reasoning it was concluded that the court would have exclusive jurisdiction after the record of a case had been transmitted to the court. It was therefore recommended by the Legal Division that Whitney Holding Corporation be advised to seek appropriate relief from the Court of Appeals, where the petition for review was pending.

A draft of letter to Counsel for Whitney Holding Corporation indicating that the Board was of the opinion that it lacked jurisdiction to grant the extension of time requested was attached to the memorandum.

At the Board's request Mr. Bakke commented on the matter, his remarks being based largely on the contents of the October 17 memorandum, following which there was general discussion of the question.

Governor Mills expressed some concern that if there was a shadow of doubt about the legal interpretation that an extension of time such as requested was within the exclusive jurisdiction of the Court, Whitney Holding Corporation should be given the benefit of that doubt. He noted,

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among other things, that the Board's previous order granting an extension of time would expire on November 4, which raised the question whether the Court would have time to hear the case.

Mr. Hexter said when Whitney Holding Corporation first requested an extension of the time within which Whitney National Bank in Jefferson Parish was to be opened for business, the significance of the fact that the record of the case was already in the hands of the Court had escaped the notice of the legal staff. He and Mr. Bakke had reviewed the matter thoroughly, and he was satisfied that Mr. Bakke's reasoning was clearly correct. Thus, although there might be always some slim area of doubt on a legal question of this kind, it appeared that Counsel for Whitney Holding Corporation had been in error in the first instance in requesting an extension of time from the Board. There had also been an oversight on the part of the Board's staff in recommending favorable action by the Board on the request.

Governor Robertson pointed out that in any event Whitney Holding Corporation was not left without recourse; it could seek relief from the Court. Furthermore, even if the Board acted on the request, the Court could still take a different position.

In further discussion, Mr. Hexter pointed out that the statute gives a reviewing court specific authority to modify orders of the Board.

Regarding the point that the extension of time previously granted by the Board would expire on November 4, Mr. Bakke said that the Court

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would be entitled to grant interim relief pending determination of the case on its merits. Counsel for Whitney could petition the Court for an appropriate extension of time pending resolution of the case on its merits, and the Court could issue an immediate order to that effect.

Mr. Fauver referred to a recent article in the American Banker indicating that the Court of Appeals had denied the petition of Whitney for rehearing, and it was understood that the Legal Division would consider the pertinence of this aspect of the matter. It was noted, however, that in any event Counsel for Whitney might wish to petition the Supreme Court for certiorari.

A suggestion was made by Governor Mitchell that the Board possibly could grant the request for an additional extension of time, while advising Whitney that such action probably was not of much value and that Whitney should seek action from the Court to protect its interests. In discussion of this suggestion, Mr. Hexter expressed the view that it was doubtful whether the Board, contrary to sound principles of law, should attempt to modify a Board order when it did not have the power to do so. Chairman Martin then commented that in a matter of this kind it would seem appropriate for the Board to follow the advice of its legal staff.

Following further discussion, the letter to Counsel for Whitney Holding Corporation was approved. A copy is attached as Item No. 3.

Request for report on competitive factors. Mr. Solomon reported that the Federal Reserve Bank of Dallas had received an informal request

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for a copy of the report made by the Board to the Comptroller of the Currency on the competitive factors involved in the proposed consolidation of Texas National Bank of Houston, Houston, Texas, and The National Bank of Commerce of Houston, Houston, Texas. (This report was transmitted on October 16, 1963.) The request was made of the Dallas Reserve Bank by the two banks involved in the proposed consolidation.

Following discussion, it was the consensus that the Board should not make an exception to the general position it had previously decided upon that a request for a report on competitive factors should be directed to the supervisory authority to whom the report had been rendered. Accordingly, the Federal Reserve Bank of Dallas should inform the two Houston banks that their request should be presented to the Comptroller of the Currency.

Secretary's Note: Subsequent to this meeting, the Division of Examinations received a letter from the Federal Reserve Bank of Dallas informing the Board that the two Houston banks had asked that their request for a copy of the report on competitive factors be withdrawn.

The meeting then adjourned.

Secretary's Notes: Acting in the absence of Governor Shepardson, Governor Robertson approved on behalf of the Board on October 18, 1963, a letter to the Federal Reserve Bank of Boston (attached Item No. 4) approving the appointment of David F. Evans as assistant examiner.

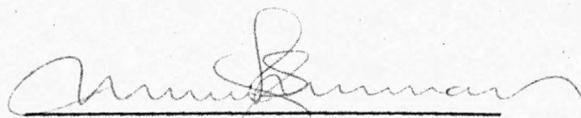
Governor Shepardson today approved on behalf of the Board the following items:

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Letter to the Federal Reserve Bank of New York (attached Item No. 5) approving the appointment of Leonard F. Hoffman as assistant examiner.

Memorandum from the Division of Administrative Services recommending an increase in the basic annual salary of Edward Cross, Photographer (Off-set) in that Division, from \$6,781 to \$6,968, effective October 27, 1963.



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Secretary

BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM

WASHINGTON 25. D. C.

Item No. 1  
10/21/63

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

October 21, 1963



CONFIDENTIAL (FR)

Mr. Roger R. Clouse,  
Vice President and Secretary,  
Federal Reserve Bank of Cleveland,  
Cleveland, Ohio.

Dear Mr. Clouse:

In response to your letter of October 4, 1963, the Board of Governors has approved the following revised minimum ranges of the salary structures at the Cincinnati and Pittsburgh branches, effective September 3, 1963:

Cincinnati	Grade 1	\$2,626
Pittsburgh	Grade 1	\$2,652

The Board has noted the cancellation of the salary structure applicable to employees of the Record Center, resulting from the closing of the Athens Office.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,  
Secretary

T E L E G R A M  
LEASED WIRE SERVICEBOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON

October 21, 1963.

Presidents of all Federal Reserve Banks

Limited numbers of the new \$1 Federal Reserve notes are expected to be shipped to all Federal Reserve Banks and Branches during November. Shortage of silver may necessitate issuance of some of these notes during December, but issues in large quantities will probably not be required or desirable for several months thereafter.

Treasury and Board staff are presently drafting a press statement announcing the first issuance of the new notes. Draft of this statement will be submitted to your Bank for comments before release.

Some special interest has been indicated in the Number 1 notes (and possibly other low numbers) of the new series. The Board believes it would be undesirable to release any very low numbered notes to individuals, regardless of their position, and that uniform System policy would be desirable in this regard. Suggestion has been made that such notes should be retained in archives of Banks and Board; for example, Boston might keep its own Number 1 note and furnish other Banks and Board with Numbers 2 through 13, with other Reserve Banks following a similar procedure. Board would appreciate any comments your Bank may care to make with regard to disposition of low numbered notes.

(Signed) Merritt Sherman

SHERMAN.

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

Item No. 3  
10/21/63

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

October 21, 1963.

Malcolm L. Monroe, Esq.,  
Monroe & Lemann,  
Whitney Building,  
New Orleans, Louisiana. 70130

Re: Your case #1562-131-D

Dear Mr. Monroe:

This is in reply to your letter of September 24, 1963, requesting a further extension of time within which to comply with the condition contained in the Board's order of May 3, 1962, approving the formation of Whitney Holding Corporation, that Whitney National Bank in Jefferson Parish be opened for business within six months thereafter. This condition was the subject of an order by the Board on October 19, 1962, wherein the time for compliance was extended until November 4, 1963.

The reason for these requested extensions is the inability of Whitney Holding Corporation to comply with the requirement in the Board's original order regarding time of opening of the proposed new bank, due to an injunction entered by the United States District Court for the District of Columbia on July 6, 1962, preventing the Comptroller of the Currency from issuing the requisite charter.

The Board has carefully considered your most recent request, and is of the opinion that it lacks jurisdiction to grant an extension of time.

Section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. 1848) provides, in pertinent part, that -

"Upon the filing of such petition [i.e., a petition for judicial review of an order of the Board issued under the Act] the court shall have jurisdiction to affirm, set aside, or modify the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper. . . ."

Malcolm L. Monroe, Esq.

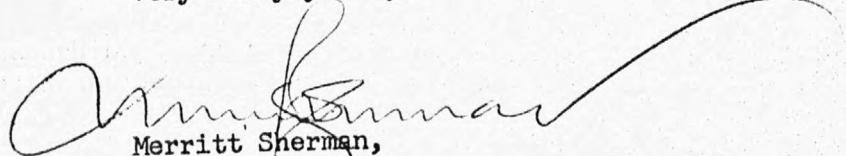
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Prior to its amendment in 1958, the foregoing section provided that upon the filing of the transcript in the case the reviewing court would acquire the stated jurisdiction. A review of the legislative history of the statute effecting the 1958 amendment of section 9 (P. L. 85-791; 72 Stat. 941) leads to the conclusion that, although the statutory language quoted above does not expressly so state, a proper construction of section 9 is that the Board has concurrent jurisdiction with the reviewing court in regard to modification of the order involved only until the record in the case has been transmitted to the court, at which time the court's jurisdiction becomes exclusive. This is consistent with established principles of administrative law concerning judicial review of agency actions.

In light of the foregoing, and in view of the fact that the Board has filed the record in your case with the United States Court of Appeals for the Fifth Circuit, it is the Board's opinion that any request for an extension of time within which to comply with the Board's order should be addressed to that Court.

The Board recognizes that its position in this matter is inconsistent with the action of a year ago, whereby your first request for extension was granted. However, at that time the Board did not take into consideration the matter of statutory construction discussed above, and therefore did not have the benefit of the guidance afforded thereby in acting upon the petition then before it.

Very truly yours,



Merritt Sherman,  
Secretary.

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

Item No. 4  
10/21/63

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

October 21, 1963

Mr. Luther M. Hoyle, Vice President,  
Federal Reserve Bank of Boston,  
Boston, Massachusetts.

Dear Mr. Hoyle:

In accordance with the request contained in Mr. Aubrey's letter of October 10, 1963, the Board approves the appointment of David F. Evans as an assistant examiner for the Federal Reserve Bank of Boston. Please advise the effective date of the appointment.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,  
Assistant Secretary.



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

Item No. 5  
10/21/63

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

October 21, 1963

CONFIDENTIAL (FR)

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

Dear Mr. Crosse:

In accordance with the request contained in your letter of October 11, 1963, the Board approves the appointment of Leonard F. Hoffman as an assistant examiner for the Federal Reserve Bank of New York. Please advise the effective date of the appointment.

It is noted that Mr. Hoffman owns seven shares of stock of Lewis County Trust Company, Lowville, New York, a State member bank, and that he will dispose of this stock prior to his employment by your bank.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,  
Assistant Secretary.