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Minutes for October 27, 1965

To: Members of the Board

From: Office of the Secretary

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

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

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

Chm. Martin _____

Gov. Robertson _____

Gov. Balderston _____

Gov. Shepardson _____

Gov. Mitchell _____

Gov. Daane _____

Gov. Maisel _____

Minutes of the Board of Governors of the Federal Reserve System on Wednesday, October 27, 1965. The Board met in the Board Room at 10:00 a.m.

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

Mr. Sherman, Secretary
Mr. Kenyon, Assistant Secretary
Mr. Molony, Assistant to the Board
Mr. Cardon, Legislative Counsel
Mr. Fauver, Assistant to the Board
Mr. Hackley, General Counsel
Mr. Solomon, Director, Division of Examinations
Mr. O'Connell, Assistant General Counsel
Mr. Shay, Assistant General Counsel
Mr. Hooff, Assistant General Counsel
Mr. Leavitt, Assistant Director, Division of Examinations
Mr. Thompson, Assistant Director, Division of Examinations
Miss Eaton, General Assistant, Office of the Secretary
Mr. Morgan, Staff Assistant, Board Members' Offices
Miss Hart and Mrs. Heller, Senior Attorneys, Legal Division
Mr. Egertson, Supervisory Review Examiner, Division of Examinations

Ratification of actions. Actions taken at a meeting of the available members of the Board on Tuesday, October 26, 1965, as recorded in the minutes of that meeting, were ratified by unanimous vote.

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

	Item No.
Letter to The Farmers and Merchants Bank of Vandalia, Vandalia, Illinois, approving an investment in bank premises.	1
Letter to State Savings Bank of Lebanon, Lebanon, Missouri, approving the declaration of a dividend in December 1965.	2
Letter to Citizens Commercial & Savings Bank, Flint, Michigan, approving the establishment of a branch at 3267 Van Slyke Road, Flint Township.	3

With regard to Item No. 3, Governor Shepardson noted that the capital situation at Citizens Commercial & Savings Bank, previously the subject of comment, had not been corrected. That being the case, he questioned whether the Board should approve the establishment of the branch without further reference to the matter.

Mr. Leavitt said this was a good bank except that capital was below the optimum level. The capital situation had been the subject of comment in connection with the recent examination of the bank. The branch in question was one that would impose relatively small additional pressure on the bank's capital. The Division of Examinations had felt that Citizens Bank should be given a chance to reply to the Federal Reserve Bank of Chicago's inquiry as to what it intended to do about the capital situation before question was raised again at Board level.

Governor Robertson commented that if the Federal Reserve Bank had asked the bank to correct the situation and the Board made no reference to it in the proposed letter, this might be misconstrued as a difference in approach between the Board and the Reserve Bank.

Mr. Solomon then suggested that it might be appropriate to check with the Reserve Bank and use language in the Board's letter reflecting a consistency of approach. There was agreement with this suggestion, and the letter sent to the bank, as attached, reflects subsequent staff conversation with the Reserve Bank.

Applicability of Bank Holding Company Act to industrial banks (Items 4, 5, and 6). A memorandum dated October 20, 1965, from the Legal Division relating to the question of the status of an industrial bank under the Bank Holding Company Act had been distributed, along with a supplemental memorandum dated October 26. The memoranda concluded that such an institution was a "bank," for purposes of the Holding Company Act, when it issued investment certificates that were repaid, in practice, on demand; an interpretation published by the Board in 1963 held that such certificates constituted "deposits." However, the Legal Division concluded that an industrial bank would cease to be a "bank" if it stopped issuing new certificates, or accepting additional payments on outstanding certificates; and an industrial bank that had been accepting "savings deposits" could cease to be a "bank" if it required actual written notice of at least thirty days before permitting withdrawals.

The question arose out of an inquiry by Zions Utah Bancorporation, Salt Lake City, Utah. Zions controlled a commercial bank and proposed to acquire the assets of Lockhart Corporation, a company controlling, among other interests, three industrial banks in Utah and one

in Colorado. If any of the four were "State banks" under section 2(c) of the Act, Zions would become a bank holding company as a result of the proposed transaction. Because of the time factor involved in a proposed underwriting of its securities, Zions preferred to alter the operations of the industrial banks in such a way that they would cease to be "State banks."

In a letter of September 21, 1965, Zions asked whether the Board would deem it a sufficient change in operations so that the institutions would no longer be "banks" under the Act if Lockhart's three Utah industrial banks, which formerly issued investment certificates that were repaid on demand but were in process of transferring all such certificate accounts to a savings and loan association, not only ceased to accept new accounts but also ceased to accept additions to old accounts; and if the Colorado industrial bank, which had been accepting savings deposits on the same basis as commercial or savings banks, informed its depositors that henceforth thirty days' written notice would be required in advance of any withdrawal from a savings account.

The Board's staff believed that under the proposed alteration the three Utah industrial banks would not come within the terms of the 1963 interpretation. The Colorado institution presented a more difficult question, since it would continue to accept funds in accounts that were called "savings deposits," but the staff felt that the proposed requirement of thirty-day written notice in advance of withdrawal could be

regarded as sufficient to remove the institution from the definition of a "State bank" for purposes of the Holding Company Act.

Because it appeared that a considerably larger number of industrial banks than had been supposed actually did accept funds from the public that were repaid in practice on demand, the staff had also reconsidered the basis for the 1963 interpretation. It concluded once more that the test expressed there was probably the best that could be developed from two points of view: (1) approximating the original intent of Congress, and (2) feasibility and fairness of administration. The Federal Deposit Insurance Corporation had taken the stand that it would not insure anything that was not legally called a deposit, and it was understood a number of States, including Colorado, had changed their statutes so that industrial banks could accept something called savings deposits and become eligible for insurance.

The Legal Division recommended that an interpretation be published based on the present case. If the Board agreed, it was also suggested that the Reserve Banks be asked to bring the matter to the attention of those companies that may have failed to realize that investment certificates, or thrift certificates, were "funds accepted from the public," and hence deposits, for purposes of the Holding Company Act, if in practice repaid on demand.

After summary comments by Miss Hart, Mr. Hackley added that the Legal Division had given the matter a great deal of consideration. It

had been a difficult problem. One might say that this was an extension of the intent of the Holding Company Act to cover institutions that the Congress had not meant to cover. But on the other hand the Act did define a "bank" to include a savings bank or trust company. It was true that during the Congressional debate there were some indications from Senator Robertson that the Act was intended to cover only commercial banks. However, unless the Board took the recommended position, there would be considerable room for evasion of the Holding Company Act simply by applying various names to institutions or by applying various terms to transactions involving the receipt of funds payable on demand. In effect the Legal Division was recommending a clarifying interpretation, one that would be consistent with the interpretation issued in 1963.

Governor Mitchell asked whether the Federal Deposit Insurance Corporation treated savings certificates of this kind as deposits, and Miss Hart said she understood they did not. In those cases where State law had been amended so that such funds were called savings deposits they were insurable, but the Corporation held that unless funds were called deposits they were not insurable. Governor Mitchell then asked whether the Corporation would insure deposits in institutions that were not banks, and Mr. Hackley said they insured funds only in institutions that received deposits, as defined in the Federal Deposit Insurance Act. Governor Mitchell observed that savings and loan associations in practice paid out share accounts on demand, and Mr. Hackley replied that it seemed

necessary to conclude that savings and loan associations were not banks for purposes of the Bank Holding Company Act, principally because the Congress itself made the distinction and enacted a separate holding company act for savings and loan associations on the clear assumption that they were not covered by the Bank Holding Company Act. Governor Mitchell commented that he did not relish a situation where one agency held an institution to be a bank and another agency held that the same institution was not a bank, to which Mr. Hackley replied that the proposed interpretation was solely for the purpose of carrying out the intent of the Bank Holding Company Act. Governor Mitchell then said that he had great reservations about the whole business, but that he would go along with the proposed interpretation.

The other members of the Board also indicated that they concurred in the proposed interpretation. There was, however, agreement with a minor language change suggested by Governor Daane.

Accordingly, the proposed interpretation with respect to the applicability of the Bank Holding Company Act to industrial banks was approved unanimously, along with letters to counsel for Zions Utah Bancorporation and to the Federal Reserve Banks. Copies of the interpretation and the respective letters are attached as Items 4, 5, and 6. Approval also was given to letters to three corporations owning industrial banks for the purpose of advising them of the possibility that they should register as bank holding companies in light of the 1963 interpretation and the current interpretation.

Governor Shepardson referred at this point to a matter that he said had been of concern to him for some time. When the Bank Holding Company Act was passed and the initial cases came up involving definition of competition in relevant areas, it was decided that institutions such as savings and loan associations would not be taken into consideration. It seemed to him that regardless of legislative niceties this position was inappropriate as a practical matter. He felt that it would be appropriate to ask the staff to reconsider the situation.

Mr. Hackley expressed agreement. He recalled that the position that competition furnished by savings and loan associations should not be considered in determining the effect of a proposed transaction on competition "in the banking field" was taken principally on the theory that savings and loan associations were not banks for purposes of the Bank Holding Company Act. On the other hand, the Board did consider the competition furnished by savings banks. But when the Bank Merger Act was passed there was a certain amount of legislative history indicating that it was intended to be applied in the light not only of banking competition but competition afforded by savings and loan associations and other types of financial institutions. The inconsistency had troubled him, and he thought it would be a good idea to have a further study made.

Mr. O'Connell indicated that he had much the same view. In holding company cases there had typically been statements by applicants

that they were in severe competition with savings and loan associations. However, if the position was taken that this type of competition should be considered in analyzing the market impact, there would be some difficulty in amassing the data necessary to make comparisons.

Mr. Shay observed that in merger cases the staff had not listed savings and loan associations along with banks in analyzing the competitive situation in a given area. Only in cases where there had been substantial competition from savings and loan associations or other financial intermediaries had close consideration been given to such institutions. Their presence was mentioned and discussed in the pertinent memoranda, but it had been given significant attention only in cases where the competition was very considerable.

Governor Mitchell commented that the greatest competition banks faced today for time deposits came from savings and loan associations, and Governor Daane observed that the savings and loans were almost always factors of consequence in the competitive situation.

Governor Shepardson then remarked that, whatever the situation may have been in years past, the discussion today supported the view that the competitive market had changed. Perhaps legislation should be sought in an effort to reconcile some of the inconsistencies of existing legislation.

Mr. Hackley commented that what the legal staff had been trying to do in several cases, including the case on which the Board had just

acted, was to be realistic. In the Zions Utah Bancorporation case, the thought was to recognize that the industrial banks were doing business in much the same manner as commercial or savings banks. In applying the Holding Company Act it should be possible to give a broader interpretation to competition "in the banking field" so as to include, as far as practicable, the effect of a proposed transaction in the light of competition afforded by savings and loan associations and other types of financial institutions in the relevant area.

Mr. Solomon commented that it should not be too difficult to work in savings and loan associations as a practical matter. In making an analysis it seemed reasonable first to look at banks only, because in many cases it would be found that the answer was quite clear. As a second step, however, if the facts seemed to warrant it, the staff could look at the other financial intermediaries.

Request for access to records (Items 7 and 8). A request had been made of the San Francisco Reserve Bank by Bronson, Bronson & McKinnon, a San Francisco law firm representing the Federal Deposit Insurance Corporation in connection with litigation between the Corporation and A. M. R., Inc., et al., for access to certain records of the Reserve Bank. Board authorization was sought for access to these records in a letter from the law firm to Mr. O'Connell dated October 14, 1965. Copies of this letter had been distributed, along with a draft of reply.

The litigation, according to the law firm's letter, concerned the actions taken by the banking agencies prior to the closing of San

Francisco National Bank. The firm's investigation indicated that personnel of the Federal Deposit Insurance Corporation had had several conversations with personnel of the Reserve Bank prior to the closing of the national bank. Those conversations and all documents pertaining to them would be relevant evidence. In order that the witnesses for the Corporation and the Reserve Bank could not be compromised or surprised, it was considered important that the law firm examine the records of the Reserve Bank.

These records included primarily three types of documents: (1) all correspondence among the Federal agencies regarding the national bank, and with the national bank; (2) all correspondence and memoranda of conversations occurring among the Federal agencies, and with the national bank; and (3) correspondence and other documents pertaining to the borrowings by the national bank from the Reserve Bank. The Corporation was reported to be making available to the Reserve Bank the documents it had available on these same subjects, and the law firm believed a mutual exchange of information was necessary to protect the position of both the Corporation and the Reserve Bank. The depositions of witnesses from the Reserve Bank would be taken shortly, and it was suggested that the information be exchanged prior to the taking of those depositions.

In commenting on the wording of the proposed reply, Mr. O'Connell said the Reserve Bank apprehended that in the near future the Federal

Deposit Insurance Corporation might be required to sue the Reserve Bank in its (the Corporation's) role as receiver of San Francisco National Bank; also that defendant savings and loan associations in proceedings instituted by the Corporation might file suit against the Reserve Bank. In the circumstances, counsel for the Reserve Bank had suggested that the letter to the law firm be so worded as to provide some latitude for the Reserve Bank to protect itself in such ways as might seem prudent in light of the probability of the aforementioned suits being filed.

Mr. O'Connell also mentioned that officers of the Reserve Bank were to give depositions in early November, and he read as a matter of information a telegram from the Reserve Bank indicating how it was proposed to proceed in reference to these depositions.

The letter to Bronson, Bronson & McKinnon was then approved unanimously. A copy is attached as Item No. 7. A copy of a letter sent to the Federal Reserve Bank of San Francisco in this connection is attached as Item No. 8.

Messrs. Shay, Hooff, Thompson, and Egertson, and Miss Hart and Mrs. Heller then withdrew from the meeting.

Ownership of bank stock by examining personnel (Items 9, 10, and 11). A memorandum on this subject from the Division of Examinations dated October 15, 1965, had been distributed to the Board. It pointed out that in a letter dated February 10, 1964, (S-1907), the Board set forth certain general principles for conduct of System personnel. One

principle was that it would be inappropriate for a member of the staff of a Reserve Bank to purchase stock of a bank or an affiliate thereof (except possibly where the actual relationship of the affiliate to the bank was remote); officers and employees occupying responsible positions who held or acquired stock of banks or affiliates should dispose of it as promptly as practicable without causing undue hardship. In the Board's letter of March 15, 1965, (S-1946), an additional principle relating to examining personnel stated that "In keeping with the general principle outlined in the Board's letter of February 10, 1964, (S-1907), and with particular reference to the views expressed in that letter with respect to the acquisition and disposition of bank stock by a member of the staff of a Reserve Bank, it shall be the responsibility of the Federal Reserve Bank to obtain information as to ownership of stock, debentures, etc., of banks or bank affiliates by its examining personnel and to determine, on the basis of circumstances present in each individual case, the appropriate measures to be taken to avoid embarrassment to the Bank or the Federal Reserve System and to prevent questions being raised with respect to the independence of the individual's judgment or his ability to perform satisfactorily the duties of his position. The Federal Reserve Banks will continue to require examining personnel to submit periodic reports, at least annually, to the board of directors regarding such holdings of stocks, debentures, etc., of banks or affiliates thereof, and will record for review by the Board's examiners the

restriction(s) imposed on the examining activities of the individual reporting such holdings."

Presidents Hickman and Scanlon of the Federal Reserve Banks of Cleveland and Chicago had requested specific rulings, in light of the foregoing letters, because in each of their Banks a member of the examining force owned bank stock, the stock having been held in each instance when appointment to the examining staff was approved. In the circumstances, a general review had been made by the Division of Examinations. Information available through examination of the Reserve Banks indicated that, aside from the Cleveland and Chicago cases, there were no instances of ownership of bank stock by examining personnel except at Philadelphia, where Vice President Campbell owned shares of two Fourth District banks that had been acquired through inheritance and Assistant Vice President Case owned a few shares of a large Twelfth District bank, also acquired through inheritance. In the cases of Messrs. Campbell and Case, the stock had been received subsequent to their employment in the examining function.

Submitted with the memorandum were draft letters to the three Reserve Banks concerned. The letters to Presidents Hickman and Scanlon would state that the examiners in question could retain the bank stock they owned, with the understanding that the Reserve Banks would continue to prohibit them from examining the banks in which they owned stock or any bank that might compete with those banks. The letter to President

Bopp (Philadelphia) would suggest that Messrs. Campbell and Case dispose of their bank stock when this could be done without undue hardship.

In discussion Governor Robertson indicated that he was not certain about the position proposed to be taken in the Philadelphia cases; ownership of stock of banks located outside the District would hardly affect the judgment of the persons concerned. Consequently, he would be inclined at most to request disposition of the stock whenever that could be done without undue inconvenience. Governor Shepardson agreed that such a position would seem reasonable.

Governor Mitchell observed that the problem involved was primarily of a public relations nature. There would seem to be no reason why Mr. Case could not dispose of his stock, which enjoyed a ready market. If the other three individuals also disposed of their stock, then it could be said that there were no bank examiners in the System who owned bank stock. But a requirement for disposition could involve some injustice, and he would not ask any of the three men to dispose of their stock except at a convenient time. Governor Daane expressed agreement with Governor Mitchell. The latter, in further comments, made clear that he would not put pressure on any of the three men to dispose of his stock. They should know that their cases were unique in the System, but he would not ask them to dispose of their stock unless there was a reasonable opportunity.

There appeared to be general agreement with such an approach.

Question was raised whether transfer of stock to a wife's name would be regarded as a satisfactory solution, and comments by members of the Board were to the effect that it would be better than nothing, a step in the right direction. It was noted that stocks held in the names of wives were not required to be included in the periodic reports submitted to the boards of directors by Reserve Bank personnel.

At the conclusion of the discussion it was agreed that the letters to the three Reserve Banks would be modified in line with the views expressed at this meeting. Copies of the letters subsequently sent to the Federal Reserve Banks of Philadelphia, Cleveland, and Chicago are attached as Items 9, 10, and 11.

Messrs. O'Connell and Leavitt then withdrew from the meeting.

Director appointments. The following actions were taken with respect to the appointment of Chairmen, Deputy Chairmen, and Class C directors at the Federal Reserve Banks and appointment of directors at Federal Reserve Bank branches, with the understanding that advice of the appointments would be sent to the respective appointees at an appropriate time and that public announcement would be made near the end of the year in accordance with the usual practice:

The following were reappointed as Class C directors of the Federal Reserve Banks indicated, each for a three-year term beginning January 1, 1966:

Name	Bank
D. Robert Yarnall, Jr.	Philadelphia
Logan T. Johnston	Cleveland
Wilson H. Elkins	Richmond
Dean A. McGee	Kansas City

The following were reappointed as directors of the Federal Reserve Bank branches indicated, each for a three-year term beginning January 1, 1966:

Name	Branch
Maurice R. Forman	Buffalo
R. Stanley Laing	Cincinnati
F. L. Byrom	Pittsburgh
E. Wayne Corrin	Baltimore
Eugene C. Gwaltney, Jr.	Birmingham
Guy S. Peppiatt	Detroit
Carey V. Stabler	Little Rock
C. Hunter Green	Louisville
Sam Cooper	Memphis
D. B. Campbell	Houston

The following were reappointed as directors of the Federal Reserve Bank branches indicated, each for a two-year term beginning January 1, 1966:

Name	Branch
Edwin C. Koch	Helena
John T. Harris	Omaha
Arthur G. Coons	Los Angeles
Graham J. Barbey	Portland
William McGregor	Seattle

The following were designated as Chairmen and Federal Reserve Agents of the Federal Reserve Banks indicated for the year 1966, with compensation fixed at an amount equal to the fees that would be payable to any other director of the same Bank for equivalent time and attendance to official business:

Name	Bank
Erwin D. Canham	Boston
Everett N. Case 1/	New York
Walter E. Hoadley	Philadelphia
Joseph B. Hall	Cleveland
Edwin Hyde	Richmond
Jack Tarver	Atlanta
Franklin J. Lunding	Chicago
Judson Bemis	Minneapolis
Homer A. Scott	Kansas City
Carl J. Thomsen	Dallas

1/ This constituted reaffirmation of the intent expressed at a previous Board meeting.

The following were appointed as Deputy Chairmen of the Federal Reserve Banks indicated for the year 1966:

Name	Bank
William Webster	Boston
Willis J. Winn	Philadelphia
Logan T. Johnston	Cleveland
William H. Grier	Richmond
Smith D. Broadbent, Jr.	St. Louis
Dolph Simons	Kansas City
John D. Fredericks	San Francisco

In the case of other appointments, reappointments, or designations for terms beginning January 1, 1966, procedures were agreed upon that would permit the matters to be considered by the Board in due course.

The meeting then adjourned.

Secretary's Note: Governor Shepardson today approved on behalf of the Board memoranda recommending the following actions relating to the Board's staff:

Salary increase

Elsie Q. Davis, Statistical Assistant, Division of Research and Statistics, from $6,155 to $6,615 per annum, effective October 27, 1965.

Acceptance of resignation

Charles A. Sloke, Guard, Division of Administrative Services, effective at the close of business October 22, 1965.

Secretary

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 1
10/27/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 27, 1965

Board of Directors,
The Farmers and Merchants Bank of Vandalia,
Vandalia, Illinois.

Gentlemen:

The Board of Governors of the Federal Reserve System approves, under the provisions of section 24A of the Federal Reserve Act, an additional investment in bank premises by The Farmers and Merchants Bank of Vandalia of not to exceed $70,000 for the purpose of constructing an addition to the present quarters and drive-in and customer parking facilities.

Very truly yours,

(Signed) Karl E. Bakke

Karl E. Bakke,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 2
10/27/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 27, 1965

Board of Directors,
State Savings Bank of Lebanon,
Lebanon, Missouri.

Gentlemen:

The Board of Governors of the Federal Reserve System approves, under the provisions of paragraph 6 of Section 9 of the Federal Reserve Act and Section 5199(b) of United States Revised Statutes, the declaration of a dividend of $12,600 by State Savings Bank of Lebanon, to be declared in December 1965. This letter does not authorize any future declarations of dividends that would require the Board's approval under the foregoing statutes.

Very truly yours,

(Signed) Karl E. Bakke

Karl E. Bakke,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 3
10/27/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 27, 1965.

Board of Directors,
Citizens Commercial & Savings Bank,
Flint, Michigan.

Gentlemen:

The Board of Governors of the Federal Reserve System approves the establishment by Citizens Commercial & Savings Bank, Flint, Michigan, of a branch at 3267 Van Slyke Road, Flint Township, Genesee County, Michigan, provided the branch is established within one year from the date of this letter.

The Board has noted that capital structure of this bank is somewhat below a desirable amount, and understands that this matter is to be discussed with the Federal Reserve Bank of Chicago.

Very truly yours,

(Signed) Karl E. Bakke

Karl E. Bakke,
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

Industrial Banks as "Banks" under Bank Holding Company Act

The Board of Governors recently considered (1) whether certain industrial banks are "banks" within the meaning of section 2(c) of the Bank Holding Company Act of 1956, and the interpretation published in 1963 Federal Reserve Bulletin 165 (12 C.F.R. 222.116); and (2) if so, whether certain changes in the operations of the institutions would remove them from the "bank" category. Section 2(c) defines "bank" to include "any national banking association or any State bank, savings bank, or trust company . . . ."

Classification of industrial banks for purposes of the Holding Company Act is difficult, because they perform some of the functions of commercial or savings banks, particularly in the consumer loan field, but differ from such banks in other respects. It is clear from the legislative history of the Act that Congress did not intend to include all financial intermediaries within the definition of "banks" in section 2(c). The Board concluded, in its 1963 interpretation, that an industrial bank should not be regarded as a "bank" for this purpose

> " . . . unless in a particular case, regardless of the title of the institution or the form of the transaction, it accepts deposits subject to check or otherwise accepts funds from the public that are, in actual practice, repaid on demand, as are demand or savings deposits held by commercial banks." (Emphasis in original.)

In the situations recently considered, one of the industrial banks formerly issued "investment certificates" to the public in exchange for funds, and such certificates were repaid, in practice, on demand. Consequently, that institution was a "bank" under the above-cited interpretation of the Board. However, in 1964 it ceased issuing investment certificates in exchange for funds deposited with it and began a gradual program of transferring outstanding certificate accounts of this nature to a savings and loan association. The industrial bank no longer issues new certificates or accepts additional payments on outstanding certificates.

Based on these facts, the Board concluded that the industrial bank in question is no longer accepting funds from the public within the terms of the interpretation quoted above and consequently is no longer a "bank" within the meaning of the Act.

The second situation presented a somewhat different question. In that case the industrial bank accepts what are described as "savings deposits", as permitted by applicable State law. Heretofore, these deposits have been repaid on demand, and for this reason the institution would constitute a "bank" under the above-quoted interpretation. However, the institution proposes to "notify all holders of savings accounts that henceforth such accounts would not be paid /immediately/ upon request but that a written notice of withdrawal would be required to be presented" to the institution "for some period of time /not less than 30 days/ prior to withdrawal." In order "to cover the emergency cash needs of a holder . . ., /the industrial bank/ would loan such holder the cash required not in excess of the balance in the savings account, such loan to be secured by pledge of the savings account and the loan to bear interest at prevailing rates for such loans", but in no event less than 2 per cent more than the interest rate currently being paid on the pledged savings.

After the proposed change was put into effect, savings deposits accepted by the industrial bank would no longer be "in actual practice repaid on demand." Accordingly, the Board concluded that, when the proposed change was consummated, the institution would no longer be a "bank" within the purview of the Holding Company Act.

October 27, 1965.

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Item No. 5
10/27/65

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 28, 1965.

Mr. George A. Blackstone,
Heller, Ehrman, White & McAuliffe,
14 Montgomery Street,
San Francisco, California. 94104

Dear Mr. Blackstone:

This refers to your letter of September 21, 1965, supplementing your letter of June 8, 1965, in which you requested a determination by the Board as to the status of Zions Utah Bancorporation, Salt Lake City, Utah ("Zions"), under section 2(c) (12 U.S.C. 1841) of the Bank Holding Company Act of 1956 ("the Act") in regard to a proposed acquisition of the assets of Lockhart Corporation ("Lockhart").

Section 2(a) of the Act defines the term "bank holding company" to include "any company . . . which directly or indirectly owns, controls, or holds with power to vote, 25 per centum or more of the voting shares of each of two or more banks . . .". The term "bank" is defined by section 2(c) as meaning "any national banking association or any State bank, savings bank, or trust company . . .". Lockhart controls four industrial banks, three in the State of Utah, and one located in the State of Colorado. If any one or more of these institutions is a "State bank" within the meaning of the Act, then Zions, which already controls a national bank, Zions First National Bank, Salt Lake City, Utah, would become a bank holding company upon consummating the acquisition.

Section 3(a) of the Act forbids any action to be taken which results in a company becoming a bank holding company under section 2(a) without prior approval of the Board. Section 3(d) forbids approval of any application which would permit a bank holding company to acquire control of "any additional bank located outside of the State in which such bank holding company maintains its principal office and place of business or in which it conducts its principal operations" with one exception not applicable in the present case. This section would forbid the acquisition by Zions of the Colorado subsidiary of Lockhart, if that subsidiary were a "bank" under the Act.

Your letter asks whether, assuming the Board determined the four industrial banks mentioned above to have been "State banks" prior to certain described changes in their methods of operations, they would cease in the Board's opinion to be such "State banks" after the changes had been consummated, so that Zions could, without seeking the Board's prior approval and without violating the prohibitions of the Act, proceed to acquire the assets of Lockhart.

Because they perform many of the functions of commercial or savings banks, particularly in the consumer loan field, classification of industrial banks for purposes of the Act has given rise to difficulties. The legislative history of the Bank Holding Company Act indicates that Congress did not intend to define all financial intermediaries as "banks", only those engaged in what can be described in general terms as "commercial banking". After some six years' administrative experience, the Board concluded, in an interpretation published at 1963 Federal Reserve Bulletin 165 (12 CFR § 222.116) that an industrial bank will not be considered to be engaged in commercial banking functions

> ". . . unless in a particular case, regardless of the title of the institution or the form of the transaction, it accepts deposits subject to check or otherwise accepts funds from the public that are, in actual practice, repaid on demand, as are demand or savings deposits held by commercial banks." (italics in original)

The three Utah industrial banks in question had until recently been issuing investment certificates and had been repaying, and continue to repay, outstanding certificates on demand. The Board's interpretation mentions, among transactions in which an industrial bank customarily accepts funds from the public, issuance of "installment or paid-up investment certificates unrelated to loan transactions". Accordingly, under the terms of the interpretation, these three subsidiaries of Lockhart were until recently "State banks" for purposes of section 2(c).

However, about a year ago, Lockhart determined as a matter of policy to cease issuing installment certificates that were not related to specific loans, and began a gradual program of transferring outstanding certificate accounts to a savings and loan association that is a subsidiary of the holding company. While this program has not yet been completed, you have informed the Board that the three Utah institutions no longer issue new certificates, and have also ceased accepting additional payments against outstanding certificates. Based on these facts, it is the opinion of the Board that the three subsidiaries in question are no longer accepting funds from the public within the terms of the interpretation quoted above, and should no longer be regarded as "State banks" within the meaning of the Act.

The Colorado industrial bank presents a somewhat different question. That institution accepts and will continue accepting savings deposits, as State law permits it to do. As a result, the Colorado subsidiary is clearly a "State bank" within the meaning of section 2(c) of the Act, as interpreted by the Board. However, you propose that the institution shall "notify all holders of savings accounts that henceforth such accounts would not be paid upon request but that a written notice of withdrawal would be required to be presented to . . .[the institution] for some specified period of time prior to withdrawal". It is understood the period of time in question would be not less than thirty days.

You also state that "To cover emergency cash needs of a holder . . .[the institution] would loan such holder the cash required not in excess of the balance in the savings account, such loan to be secured by pledge of the savings account and the loan to bear interest at prevailing rates for such loans." It is understood that such rates would be at least two per cent over the interest paid on savings.

While this proposal presents a much closer question, it appears that after it was put into effect, savings deposits accepted by the Colorado subsidiary would no longer be "in actual practice, repaid on demand". Accordingly, the Board is of the opinion that once the change had been consummated, the subsidiary would no longer be a "State bank" within the meaning of section 2(c) of the Act.

This interpretation necessarily depends upon the facts which have been submitted to the Board. Other or different facts might well require a different conclusion.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

S-1971

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 28, 1965.

Dear Sir:

Enclosed is an interpretation of the Board, which will shortly appear in the Federal Register and the Federal Reserve Bulletin, regarding the question whether certain industrial banks are "State banks" within the meaning of the interpretation published at 1963 Federal Reserve Bulletin 165 (12 CFR 222.116), and section 2(c) of the Bank Holding Company Act of 1956 (18 U.S.C. 1841); and if the answer is affirmative, whether certain described changes in the method of operations of the institutions would effectively remove them from the "State bank" category.

As can be seen from the conclusions expressed in this interpretation, which relates to an actual case, a company controlling two or more industrial banks of the kinds described, or controlling one such industrial bank and a commercial bank, savings bank, or trust company, would be a bank holding company, within the meaning of section 2(c) of the Act. For this reason, the Board also considered the question whether such a company would have violated section 5(a) of the Act by failing to register as a bank holding company after publication of the 1963 interpretation had put it on notice as to the Board's views.

Where a company controlled two or more industrial banks of the second or "savings deposit" type, or one such industrial bank together with a commercial or other bank described in section 2(c), then it seems clear that the company should have considered itself a bank holding company after the 1963 interpretation was published. The situation is somewhat different as to companies which are bank holding companies only because they control one or more industrial banks issuing investment certificates that are in practice repaid on demand.

The Board believes that the conclusion expressed in the enclosure, that investment certificates not connected with specific loans represent "funds received from the public" within the meaning of the 1963 interpretation, and that if such certificates are repaid, in practice,

on demand, the institution issuing them must be considered to be a "State bank" as defined in section 2(c), derives necessarily from the language of the 1963 interpretation itself, and that no alternative reading would be well supported. However, there is no explicit statement to this effect in the interpretation. Moreover, there is also an implication that relatively few industrial banks will be found to be "State banks" under its terms, whereas it appears that in some parts of the country, at least, it is a fairly prevalent practice for industrial banks to issue investment certificates that are repaid, in practice, on demand.

Accordingly, the Board believes that except in special circumstances indicating a different conclusion, it would be difficult to support a charge that a company had willfully violated the Act by failing to register as a bank holding company where such registration would have been required only because the company controlled one or more industrial banks issuing investment certificates of the kind under discussion. However, the Board believes that publication of the enclosed interpretation will remove any future excuse for failure by holding companies so situated to register as bank holding companies under the Act, and would appreciate your Bank making every possible effort to call the matter to the attention of any holding companies controlling industrial banks that may be located in your District.

Very truly yours,

Merritt Sherman,
Secretary.

Enclosure.

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS.

Item No. 7
10/27/65

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 27, 1965.

Charles A. Legge, Esq.,
Bronson, Bronson & McKinnon,
255 California Street,
San Francisco, California. 94111

Re: Federal Deposit Insurance Corporation v.
A.M.R., Inc., et al., U.S.D.C. N.D. of Cal.,
No. 43272

Dear Mr. Legge:

This acknowledges your letter of October 14, 1965, addressed to Mr. O'Connell of the Board's staff, confirming a telephone conversation in connection with the above litigation, wherein you refer to an earlier request made by you of counsel for the Federal Reserve Bank of San Francisco for access to certain records of the Reserve Bank in connection with the litigation, and you state your understanding that your request of the Reserve Bank is now pending before the Board, and you ask that the Board authorize your access, on behalf of the FDIC, to the records generally identified in your October 14 letter. It is noted that the FDIC expresses its willingness to make available to counsel for the Reserve Bank documents in possession of the FDIC relating to the subjects covered by the documents you seek.

The Board is in accord with the FDIC's desire to prepare as fully as possible witnesses from the FDIC and the Federal Reserve Bank for any testimony that they may be called upon to give in this matter, either in pre-trial depositions or during trial of the case. Similarly, the Board concurs in the view of the FDIC that an appropriate exchange of information is highly desirable insofar as such exchange may properly secure the respective positions of the FDIC and the Federal Reserve Bank.

Accordingly, the Board has authorized the staff of the Federal Reserve Bank of San Francisco to make available to the FDIC, as plaintiff in the pending suit against A.M.R., Inc., et al., such of the documents in its files that fall within the three broad categories set forth in your October 14 letter as may by their nature constitute

"unpublished information" as that term is defined and discussed in Section 261.2 of the Board's Rules Regarding Information, Submittals, and Requests, 12 CFR Part 261.

In view of the fact that from neither your letter nor an earlier letter from the Reserve Bank on the same subject is the Board able to know the exact contents of the specific documents that may fall within the three categories set forth in your letter, the authorization given to the staff of the Reserve Bank contemplates that as to all documentation considered to constitute "unpublished information of the Board", the members of the Reserve Bank's staff, acting under this authorization, will make the further determination that access to specific documents will reasonably assure accomplishment of the purposes implicit in the FDIC's request. Should the Reserve Bank have question as to whether particular documents fall within the scope of the authorization herein given, we are certain that any steps necessary to a resolution of such questions will be taken with your time schedule requirements in mind.

A copy of this letter is being forwarded to the Federal Reserve Bank of San Francisco.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

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BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 8
10/27/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 27, 1965.

Mr. H. E. Hemmings,
First Vice President,
Federal Reserve Bank of San Francisco,
San Francisco, California. 94120

Re: Federal Deposit Insurance Corporation v.
A.M.R., Inc., et al., U.S.D.C. N.D. of Cal.,
No. 43272

Dear Mr. Hemmings:

This refers to the above litigation and to a letter of October 14, 1965, from Mr. Charles A. Legge, a member of the firm representing the FDIC in this litigation, wherein he submits a request for access to certain records in the possession of your Bank, to be utilized by Mr. Legge in preparation for pre-trial depositions and possibly during the conduct of the trial of the case. Your letter of October 15, 1965, hereby acknowledged, discusses Mr. Legge's request and contains a recommendation of your Bank that the Board authorize Mr. Legge's access to the requested information.

As you know, Mr. William R. Bollow of your legal staff conferred on Monday and Tuesday of this week with the Board's legal staff regarding Mr. Legge's request. During these conversations, Mr. Bollow made known your Bank's wish that the extent to which Mr. Legge is granted access to your Bank's records take into consideration the possibility that the FDIC may, in its role as receiver for San Francisco National Bank, feel required to bring suit against your Bank in connection with the advances made to San Francisco National Bank. Accordingly, it was agreed that the recommendation for authorization that would be presented to the Board would be so couched as to give appropriate consideration to the contingency mentioned.

The Board has authorized your Bank to make available to Mr. Legge the documents sought, to the extent and under the circumstances reflected in the enclosed copy of letter which the Board has today sent to Mr. Legge. We will assume that your Bank's counsel will, in respect to the several documents included in the categories enumerated by Mr. Legge, exercise whatever judgment is necessary to accomplish most effectively the mutual purposes of your Bank and the FDIC in the pending action and secure the Federal Reserve Bank's position along the lines aforementioned.

Very truly yours,
(Signed) Merritt Sherman
Merritt Sherman,
Secretary.

Enclosures

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Item No. 9
10/27/65

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

December 27, 1965.

Mr. Karl R. Bopp, President,
Federal Reserve Bank of Philadelphia,
Philadelphia, Pennsylvania. 19101

Dear Mr. Bopp:

In its letters of February 10, 1964 (S-1907, FRLS #9054), and March 15, 1965 (S-1946-c, FRLS #9189), the Board restated its views with respect to actions by officers and employees of Federal Reserve Banks that might embarrass the System. The letters also expressed the Board's views regarding the ownership of bank stock by Reserve Bank personnel holding responsible positions.

In the light of these letters, the Board recently reviewed the ownership of bank stock by examining personnel. During this review it was noted that Vice President Campbell owns, jointly with his wife, stock in two member banks, both located in the Fourth Federal Reserve District. Assistant Vice President Case holds in his own name 20 shares of stock of the Bank of America, N.T.&S.A. The stock owned by these individuals was acquired by inheritance subsequent to employment in the examining department.

The Board is confident that ownership of these bank stocks will not in any way affect the objectivity of either Mr. Campbell or Mr. Case. However, the 20 shares of stock of Bank of America, N.T.&S.A. that are owned by Mr. Case are readily marketable, and the Board believes that these should be disposed of promptly since it is difficult to see how such sale could involve undue hardship. In Mr. Campbell's case, the stock owned may not be readily marketable and sale might cause undue hardship. For this reason, the Board does not require that Mr. Campbell sell the stock at this time. However, if an opportunity should arise whereby he could dispose of his stock without undue financial loss or burden, it is assumed that he would take advantage of such opportunity.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

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BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 10
10/27/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

December 16, 1965.

Mr. W. Braddock Hickman, President,
Federal Reserve Bank of Cleveland,
Cleveland, Ohio 44101.

Dear Mr. Hickman:

This refers to your letter of September 13, 1965, in which you requested the Board's views regarding ownership of stock of The Harrison Deposit Bank & Trust Company, a nonmember bank located in Cynthiana, Kentucky, by Examiner E. R. Gossett.

The Board has reviewed all of the circumstances regarding the ownership of this bank stock by Examiner Gossett. It noted that when Mr. Gossett was employed he reported owning the stock as a result of an inheritance and that letters approving his appointments as assistant examiner and later as examiner noted this fact. The Board's approval of his appointment was given with the understanding that he would not participate in any examination of the bank concerned so long as he owned stock in it. Moreover, it is the Board's understanding that as a matter of practice the Federal Reserve Bank of Cleveland does not permit Mr. Gossett to participate in the examination of any bank considered to be in competition with The Harrison Deposit Bank & Trust Company.

After reviewing your letter and the circumstances of this matter, the Board has concluded that Mr. Gossett should not be required to dispose of stock in The Harrison Deposit Bank & Trust Company at this time. If an opportunity should arise whereby Mr. Gossett could dispose of his stock without undue financial loss or burden, it is assumed that he would take advantage of such opportunity. It is understood, of course, that you will continue to impose the same restrictions as in the past regarding Mr. Gossett's participation in examinations of this bank or ones in competition with it.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

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BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 11
10/27/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

December 27, 1965.

Mr. Charles J. Scanlon, President,
Federal Reserve Bank of Chicago,
Chicago, Illinois 60690.

Dear Mr. Scanlon:

This refers to your letter of September 2, 1965, in which you requested the Board's views regarding ownership of stock in Frankenmuth State Bank, an insured nonmember bank located in Frankenmuth, Michigan, by Assistant Examiner John P. Trinklein.

The Board has reviewed all of the circumstances regarding the ownership of this bank stock by Assistant Examiner Trinklein. It noted that when Mr. Trinklein was employed he reported owning this stock as a gift from his father and that the letter approving his appointment as assistant examiner noted this fact. The Board's approval of his appointment was given with the understanding that he would not participate in any examination of the bank concerned so long as he owned stock in it. Moreover, it is the Board's understanding that as a matter of practice the Federal Reserve Bank of Chicago does not permit Mr. Trinklein to participate in the examination of any bank considered to be in competition with Frankenmuth State Bank.

After reviewing your letter and the circumstances of this matter, the Board has concluded that Mr. Trinklein should not be required to dispose of stock in Frankenmuth State Bank at this time. If an opportunity should arise whereby Mr. Trinklein could dispose of his stock without undue financial loss or burden, it is assumed that he would take advantage of such opportunity. It is understood, of course, that you will continue to impose the same restrictions as in the past regarding Mr. Trinklein's participation in examinations of this bank or ones in competition with it.

Very truly yours,

Merritt Sherman,
Secretary.