

FEDERAL RESERVE BANK
OF NEW YORK
Fiscal Agent of the United States

[Circular No. 1858, June 28, 1938
Reference to 1932 Treasury
Department Circular No. 92 Revised,
as amended.]

Special Deposits of Public Moneys Under the Act of Congress
Approved September 24, 1917, as Amended

*To designated special depositaries of public moneys and other
banks and trust companies in the Second Federal Reserve District:*

There is enclosed a copy of the Ninth Supplement dated June
9, 1938, to Treasury Circular No. 92 (Revised).

GEORGE L. HARRISON,
President.

SPECIAL DEPOSITS OF PUBLIC MONEYS UNDER THE
ACT OF CONGRESS APPROVED SEPTEMBER 24, 1917
AS AMENDED

1938
Ninth Supplement
Department Circular No. 92
(Revised)

TREASURY DEPARTMENT
Office of the Secretary
Washington, June 9, 1938

Accounts and Deposits

TO FEDERAL RESERVE BANKS AND OTHER BANKS AND
TRUST COMPANIES INCORPORATED UNDER THE
LAWS OF THE UNITED STATES OR OF ANY STATE:

Treasury Department Circular No. 92, dated February 23, 1932, as amended, is hereby further amended to include obligations of the Federal National Mortgage Association. Paragraph 11, therefore, under the caption "Collateral Security" will read as follows:

"11. FEDERAL LAND BANK BONDS, OBLIGATIONS OF THE FEDERAL HOME LOAN BANKS, AND OBLIGATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.-- Bonds of the Federal Land Banks, obligations of the Federal Home Loan Banks, and obligations of the Federal National Mortgage Association; all at face value."

Wayne C. Taylor
Acting Secretary of the Treasury

FEDERAL RESERVE BANK
OF NEW YORK

June 30, 1938.

To Each State Member Bank in the
Second Federal Reserve District:

We transmit to you herewith a copy of the "Investment Securities Regulation" as signed and promulgated by the Acting Comptroller of the Currency on the 27th day of June, 1938.

This regulation has been issued by virtue of the authority vested in the Comptroller of the Currency by paragraph "Seventh" of Section 5136 of the Revised Statutes of the United States. It supersedes prior regulations governing the purchase of "investment securities" and is effective from and after July 1, 1938. The regulation is applicable not only to national banks but also to State member banks of the Federal Reserve System, since Section 9 of the Federal Reserve Act, as amended, provides in part as follows:

"State member banks shall be subject to the same limitations and conditions with respect to the purchasing, selling, underwriting, and holding of investment securities and stock as are applicable in the case of national banks under paragraph 'Seventh' of Section 5136 of the Revised Statutes, as amended."

George L. Harrison,
President.

TREASURY DEPARTMENT

COMPTROLLER OF THE CURRENCY

WASHINGTON

INVESTMENT SECURITIES REGULATION

By virtue of the authority vested in the Comptroller of the Currency by paragraph Seventh of Section 5136 of the Revised Statutes, the following regulation is promulgated:

SECTION I

(1) An obligation of indebtedness which may be purchased for its own account by a national bank or State member bank of the Federal Reserve System, in order to come within the classification of "investment securities" within the meaning of paragraph Seventh of said Section 5136, must be a marketable obligation, i.e., it must be salable under ordinary circumstances with reasonable promptness at a fair value; and with respect to the particular security, there must be present one or more of the following characteristics:

(a) A public distribution of the securities must have been provided for or made in a manner to protect or insure the marketability of the issue; or,

(b) Other existing securities of the obligor must have such a public distribution as to protect or insure the marketability of the issue under consideration; or,

(c) In the case of investment securities for which a public distribution as set forth in (a) or (b) above can not be so provided, or so made, and which are issued by established commercial or industrial businesses or enterprises, that can demonstrate the ability to service such securities, the debt evidenced thereby must mature not later than ten years after the date of issuance of the security and must be of such sound value or so secured as reasonably to assure its payment; and such securities must, by their terms, provide for the amortization of the debt evidenced thereby so that at least 75% of the principal will be extinguished by the maturity date by substantial periodic payments: Provided, that no amortization need be required for the period of the first year after the date of issuance of such securities.

(2) Where the security is issued under a trust agreement, the agreement must provide for a trustee independent of the obligor, and such trustee must be a bank or trust company.

(3) All purchases of investment securities by national and State member banks for their own account must be of securities "in the form of bonds, notes, and/or debentures, commonly known as investment securities"; and every transaction which is in fact such a purchase must, regardless of its form, comply with this regulation.

SECTION II

(1) Although the bank is permitted to purchase "investment securities" for its own account for purposes of investment under the provisions of R.S. 5136 and this regulation, the bank is not permitted otherwise to participate as a principal in the marketing of securities.

(2) The statutory limitation on the amount of the "investment securities" of any one obligor or maker which may be held by the bank, is to be determined on the basis of the par or face value of the securities, and not on their market value.

(3) The purchase of "investment securities" in which the investment characteristics are distinctly or predominantly speculative, or the purchase of securities which are in default, whether as to principal or interest, is prohibited.

(4) Purchase of an investment security at a price exceeding par is prohibited, unless the bank shall:

(a) Provide for the regular amortization of the premium paid so that the premium shall

be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or

(b) Set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under (a) above.

(5) Purchase of securities convertible into stock at the option of the issuer is prohibited.

(6) Purchase of securities convertible into stock at the option of the holder or with stock purchase warrants attached is prohibited if the price paid for such security is in excess of the investment value of the security itself, considered independently of the stock purchase warrants or conversion feature. If it is apparent that the price paid for an otherwise eligible security fairly reflects the investment value of the security itself and does not include any speculative value based upon the presence of a stock purchase warrant or conversion option the purchase of such a security is not prohibited.

(7) As to purchase of securities under repurchase agreement, subject to the limitations and restrictions set forth in the law and this regulation:

(a) It is permissible for the bank to purchase "investment securities" from another under an agreement whereby the bank has an option or a right to require the seller of the securities to repurchase them from the bank at a price stated or at a price subject to determination under the terms of the agreement, but in no case less than the value at the time of repurchase.

(b) It is permissible for the bank to purchase "investment securities" from another under an agreement whereby the seller or a third party guarantees the bank against loss on resale of the securities.

(c) It is not permissible for the bank to purchase "investment securities" from another under an agreement whereby the seller reserves the right or the option to repurchase said securities itself or through its nominee at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement, have the right or option to compel the seller to repurchase the securities at a price stated or at a price subject to determination under the terms of the agreement.

(8) As to repurchase agreements accompanying sales of securities,

(a) It is permissible for the bank selling securities to another to agree that the bank shall have an option or right to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement, but in no case in excess of the market value at the time of repurchase.

(b) It is not permissible for the bank selling securities to another to agree that the purchaser shall have the right or the option to require the bank to repurchase said securities at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement, have the right or option to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement.

In view of the fact that some banks may have bought or sold securities under a form of agreement which is prohibited by this regulation, the bank should either terminate or modify same so as to conform to this regulation, where such action may lawfully be taken. Existing agreements of the prohibited type must not be renewed.

EXCEPTION

The restrictions and limitations of this regulation do not apply to securities acquired through foreclosure on collateral, or acquired in good faith by way of compromise of a doubtful claim or to avert an apprehended loss in connection with a debt previously contracted, or to real estate securities acquired pursuant to Section 24 of the Federal Reserve Act, as amended.

This regulation supersedes prior regulations governing the purchase of "investment securities" and is effective from and after July 1, 1938.

Signed and promulgated this 27th day of June, 1938.

MARSHALL R. DIGGS,
Acting Comptroller of the Currency.

STATUTORY PROVISIONS

The purchase for its own account of investment securities by a national bank is governed by paragraph Seventh of Section 5136 of the Revised Statutes of the United States, as amended, which paragraph now reads as follows:

"Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this title. The business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock: *Provided, That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe.* In no event shall the total amount of the investment securities of any one obligor or maker, held by the association for its own account, exceed at any time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, except that this limitation shall not require any association to dispose of any securities lawfully held by it on the date of the enactment of the Banking Act of 1935. *As used in this section the term 'investment securities' shall mean marketable obligations evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, and/or debentures, commonly known as investment securities, under such further definition of the term 'investment securities' as may by regulation be prescribed by the Comptroller of the Currency.* Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation. The limitations and restrictions herein contained as to dealing in, underwriting and purchasing for its own account, investment securities shall not apply to obligations of the United States, or general obligations of any State or of any political subdivision thereof, or obligations issued under authority of the Federal Farm Loan Act, as amended, or issued by the Federal Home Loan Banks or the Home Owners' Loan Corporation, or obligations which are insured by the Federal Housing Administrator, pursuant to section 207 of the National Housing Act, if the debentures to be issued in payment of such insured obligations are guaranteed as to principal and interest by the United States or obligations of national mortgage associations: *Provided, That in carrying on the business commonly known as the safe-deposit business the association shall not invest in the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business in an amount in excess of 15 per centum of the capital stock of the association actually paid in and unimpaired and 15 per centum of its unimpaired surplus.*"

Section 9 of the Federal Reserve Act, as amended, provides in part as follows:

"State member banks shall be subject to the same limitations and conditions with respect to the purchasing, selling, underwriting, and holding of investment securities and stock as are applicable in the case of national banks under paragraph 'Seventh' of Section 5136 of the Revised Statutes, as amended."

FEDERAL RESERVE BANK
OF NEW YORK

June 30, 1938.

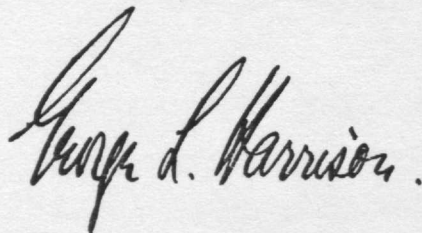
Semiannual Dividend

GENTLEMEN :

The board of directors of Federal Reserve Bank of New York has declared a dividend for the six months' period ending June 30, 1938, at the rate of six per centum per annum on the paid-in capital stock of the bank, payable on the thirtieth day of June, 1938 to stockholders as shown by the books of the bank at the close of business on that date.

Your reserve account is therefore being credited today with \$ _____, the amount of the dividend due you.

Respectfully,

A handwritten signature in cursive script that reads "George L. Harrison". The signature is written in dark ink and is positioned above the printed name.

President.

FEDERAL RESERVE BANK
OF NEW YORK

July 1, 1938.

*To all Member Banks in the
Second Federal Reserve District:*

It is announced with deep regret that I. WARD WATERS,
Manager of the Cash Custody Department of the Federal
Reserve Bank of New York, died yesterday, June 30, 1938.

Respectfully,

GEORGE L. HARRISON,
President.