

FEDERAL RESERVE BANK  
OF NEW YORK

[ Circular No. 2982 ]  
July 28, 1945

AMENDMENTS TO SECTION 17, "COMMON TRUST FUNDS", OF REGULATION F  
OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
RELATING TO "TRUST POWERS OF NATIONAL BANKS"

Effective September 1, 1945

To all Member Banks in the

Second Federal Reserve District:

The Board of Governors of the Federal Reserve System has recently issued certain amendments, effective September 1, 1945, to section 17, entitled "Common Trust Funds", of its Regulation F relating to "Trust Powers of National Banks". The texts of such amendments are transmitted herewith, together with the text of an amendment to the appendix to Regulation F. A printed copy of Regulation F, as amended effective June 1, 1940, was distributed with our circular No. 2068 dated May 31, 1940. There have been no other amendments since June 1, 1940.

The amendments to section 17 increase from \$25,000 to \$50,000 the maximum amount of funds of any one trust which may be invested in a Common Trust Fund, provide certain restrictions on a bank's advertising as to Common Trust Funds, and make certain other minor changes principally of a clarifying nature. The amendment to the appendix merely sets forth the provisions of subsections (c) and (d) of section 169 of the Internal Revenue Code, entitled "Common Trust Funds", as amended by the Acts of October 21, 1942, and May 29, 1944.

Additional copies of this circular will be furnished upon request.

ALLAN SPROUL,  
President.

TRUST POWERS OF NATIONAL BANKS  
AMENDMENT TO REGULATION F

ISSUED BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Effective September 1, 1945, section 17 of Regulation F relating to Common Trust Funds is amended in the following respects:

The third paragraph of subsection (a) is amended to read as follows:

The purpose of this section is to permit the use of Common Trust Funds, as defined in section 169 of the Internal Revenue Code,<sup>17</sup> for the investment of funds held for true fiduciary purposes; and the operation of such Common Trust Funds as investment trusts for other than strictly fiduciary purposes is hereby prohibited. No bank administering a Common Trust Fund shall issue any document evidencing a direct or indirect interest in such Common Trust Fund in any form which purports to be negotiable or assignable. The trust investment committee of a bank operating a Common Trust Fund shall not permit any funds of any trust to be invested in a Common Trust Fund if it has reason to believe that such trust was not created or is not being used for bona fide fiduciary purposes. A bank administering a Common Trust Fund shall not, in soliciting business or otherwise, publish or make representations which are inconsistent with this paragraph or the other provisions of this regulation and, subject to the applicable requirements of the laws of any State, shall not advertise or publicize the earnings realized on any Common Trust Fund or the value of the assets thereof.

The second paragraph of subsection (c)(3) is amended to read as follows:

The bank shall, without charge, send a copy of the latest report of such audit annually to each person to whom a regular periodic accounting of the trusts participating in the Common Trust Fund ordinarily would be rendered or shall send advice to each such person annually that the report is available and that a copy will be furnished without charge upon request. Except as may be required by the applicable laws of any State, the bank shall not publish or authorize the publication of any such report or the information contained therein and each copy furnished to any person as herein provided must bear a statement to the effect that the publication of such copy or the information contained therein is unauthorized.

Subsection (c)(4) is amended to read as follows:

(4) *Value of assets to be determined periodically.* — Not less frequently than once during each period of three months the trust investment committee of a bank administering a Common Trust Fund shall determine the value of the assets in the Common Trust Fund as of the dates which the Plan provides for the valuation of assets. No participation shall be admitted to or withdrawn from the Common Trust Fund except (1) on the basis of such valuation and (2) as of such a valuation date. A reasonable period, not to exceed 7 days, following each valuation date may be used to make the computations necessary to determine the value of the Fund and of the participations therein. No participation shall be admitted to or withdrawn from the Common Trust Fund unless a written request for or notice of intention of taking such action shall have been entered in the records of the bank and approved by the trust investment committee, on or before the valuation date. No such request or notice may be canceled or countermanded after the valuation date.

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<sup>17</sup> For applicable provisions of the Internal Revenue Code, see Appendix.

The first paragraph of subsection (c)(5) is amended to read as follows:

(5) *Miscellaneous limitations.*—No funds of any trust shall be invested in a participation in a Common Trust Fund if such investment would result in such trust having invested in the aggregate in the Common Trust Fund an amount in excess of 10 per cent of the value of the assets of the Common Trust Fund at the time of investment, as determined by the trust investment committee, or the sum of \$50,000, whichever is less. If the bank administers more than one Common Trust Fund under this subsection, no investment shall be made which would cause any one trust to have invested in the aggregate in all such Common Trust Funds an amount in excess of the sum of \$50,000; and, if the bank administers Funds under both subsections (c) and (d) of this section, no investment shall be made which would cause any one trust to have invested in the aggregate in all such Funds an amount in excess of the sum of \$50,000. In applying the limitations contained in this paragraph, if two or more trusts are created by the same settlor or settlors and as much as one-half of the income or principal or both of each trust is payable or applicable to the use of the same person or persons, such trusts shall be considered as one.

The first paragraph of subsection (d)(4) is amended to read as follows:

(4) *Value of assets to be determined periodically.*—Not less frequently than once during each period of three months the trust investment committee of a bank administering a Mortgage Investment Fund shall determine the value of the assets in the Mortgage Investment Fund as of the dates which the Plan provides for the valuation of assets. No participation shall be admitted to or withdrawn from the Mortgage Investment Fund except as of such a valuation date. A reasonable period, not to exceed 7 days, following each valuation date may be used to make the computations necessary to determine the value of the Fund and of the participations therein. No participation shall be admitted to or withdrawn from the Mortgage Investment Fund unless, on the basis of such valuation, the value of the assets of the Mortgage Investment Fund, exclusive of accrued income, is at least equal to the amount of the outstanding participations. No participation shall be admitted to or withdrawn from the Mortgage Investment Fund unless a written request for or notice of intention of taking such action shall have been entered in the records of the bank and approved by the trust investment committee, on or before the valuation date. No such request or notice may be canceled or countermanded after the valuation date.

The first paragraph of subsection (d)(5) is amended to read as follows:

(5) *Miscellaneous limitations.*—No funds of any trust shall be invested in a participation in a Mortgage Investment Fund if such investment would result in such trust having invested in the aggregate in the Mortgage Investment Fund an amount in excess of the sum of \$1,200 or 2 per cent of the amount of the outstanding participations in the Mortgage Investment Fund, whichever is greater at the time of investment, or in any event in excess of the sum of \$10,000. If the bank administers more than one Mortgage Investment Fund, no investment shall be made which would cause any one trust to have invested in the aggregate in all such Mortgage Investment Funds an amount in excess of the sum of \$10,000; and, if the bank administers Funds under both subsections (c) and (d) of this section, no investment shall be made which would cause any one trust to have invested in the aggregate in all such Funds an amount in excess of the sum of \$50,000. In applying the limitations contained in this paragraph, if two or more trusts are created by the same settlor or settlors and as much as one-half of the income or principal or both of each trust is payable or applicable to the use of the same person or persons, such trusts shall be considered as one.

## AMENDMENT TO APPENDIX TO REGULATION F

ISSUED BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Subsections (c) and (d) of section 169 of the Internal Revenue Code, entitled "Common Trust Funds", were amended by the Acts of October 21, 1942, and May 29, 1944, to read as follows:

### (c) INCOME OF PARTICIPANTS IN FUND—

(1) INCLUSIONS IN NET INCOME.—Each participant in the common trust fund in computing its net income shall include, whether or not distributed and whether or not distributable—

(A) As part of its gains and losses from sales or exchanges of capital assets held for not more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for not more than 6 months.

(B) As part of its gains and losses from sales or exchanges of capital assets held for more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 6 months.

(C) Its proportionate share of the ordinary net income or the ordinary net loss of the common trust fund, computed as provided in subsection (d).

(2) CREDIT FOR PARTIALLY EXEMPT INTEREST.—The proportionate share of each participant in the amount of interest specified in section 25(a) received by the common trust fund shall for the purposes of this Supplement be considered as having been received by such participant as such interest. If the common trust fund elects under section 125 to treat the premium on bonds, the interest on which is allowable as a credit under section 25(a) (1) or (2), as amortizable, for the purposes of the preceding sentence the proportionate share of the participant of such interest received by the common trust fund shall be his proportionate share of such interest (determined without regard to this sentence) reduced by so much of the deduction under section 23(v) as is attributable to such share.

(d) COMPUTATION OF COMMON TRUST FUND INCOME.—The net income of the common trust fund shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(1) There shall be segregated the gains and losses from sales or exchanges of capital assets;

(2) After excluding all items of gain and loss from sales or exchanges of capital assets, there shall be computed—

(A) An ordinary net income which shall consist of the excess of the gross income over deductions; or

(B) An ordinary net loss which shall consist of the excess of the deductions over the gross income;

(3) The so-called "charitable contribution" deduction allowed by section 23(o) shall not be allowed.

(4) The standard deduction provided in section 23(aa) shall not be allowed.