

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 4238]
June 9, 1955]

COLLECTIVE INVESTMENT OF TRUST FUNDS

Amendment to Regulation F

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

The Board of Governors of the Federal Reserve System has amended, effective June 13, 1955, section 10(c) of Regulation F, relating to trust powers of national banks. The purpose of the amendment is to permit the collective investment of funds of trusts which are established under employers' pension, profit-sharing, or stock bonus plans, without requiring compliance with the provisions of section 17 of Regulation F, provided each such trust is exempt from Federal income taxes and collective investment is specifically authorized by the trust instrument or by court order. The funds of pension and similar trusts may, as heretofore, be invested in participations in common trust funds operated pursuant to section 17, provided the requirements of that section are complied with.

A copy of the amendment to Regulation F is enclosed; additional copies 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 June 13, 1955, subsection (c) of section 10 of Regulation F is amended to read as follows:

(c) Collective investment of trust¹⁰ funds. - Funds received or held by a national bank as fiduciary shall not be invested collectively¹¹ except that (i) such collective investments may be made in accordance with section 17 of this regulation, and (ii) funds of a trust which forms part of a pension, profit-sharing, or stock bonus plan of an employer for the exclusive benefit of his employees or their beneficiaries and which is exempt from Federal income taxes under the Internal Revenue Code may be invested collectively with funds of other such pension, profit-sharing, or stock bonus plan trusts if such collective investment is specifically authorized by the instrument creating the trust or by court order.^{11a}

¹⁰Unless the context otherwise indicates, the term "trust," as used in this section or in any other part of this regulation, refers to any fiduciary relationship which a national bank is authorized to enter into under the provisions of section 11(k) of the Federal Reserve Act.

¹¹This does not prevent the bank from investing the funds of several trusts in a single real estate loan if the bank owns no participation in the loan and has no interest therein except in its capacity as fiduciary.

^{11a}Section 584 of the Internal Revenue Code of 1954 provides that a common trust fund maintained in conformity with rules and regulations of the Board of Governors of the Federal Reserve System "pertaining to the collective investment of trust funds by national banks" and meeting certain other requirements shall not be subject to Federal income taxation. The rules and regulations of the Board of Governors for the purposes of section 584 are contained solely in section 17 of this regulation; and the permission contained in exception (ii) of section 10(c) is not intended to confer exemption from Federal income taxation under section 584.

AMENDMENT TO APPENDIX TO REGULATION F

ISSUED BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

By Act of August 16, 1954, the Internal Revenue laws of the United States were revised and recodified as the Internal Revenue Code of 1954. There are printed below certain provisions of the Code which are pertinent to section 17 of Regulation F, relating to the establishment and operation of common trust funds. These provisions supersede sections 104(a) and 169 of the former Internal Revenue Code of 1939.

SEC. 581. DEFINITION OF BANK.

For purposes of sections 582 and 584, the term "bank" means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any State, or of any Territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under section 11 (k) of the Federal Reserve Act (38 Stat. 262; 12 U. S. C. 248 (k)), and which is subject by law to supervision and examination by State, Territorial, or Federal authority having supervision over banking institutions. Such term also means a domestic building and loan association.

SEC. 584. COMMON TRUST FUNDS.

(a) Definitions.—For purposes of this subtitle, the term "common trust fund" means a fund maintained by a bank—

(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian; and

(2) in conformity with the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System pertaining to the collective investment of trust funds by national banks.

(b) Taxation of Common Trust Funds.—A common trust fund shall not be subject to taxation under this chapter and for purposes of this chapter shall not be considered a corporation.

(c) Income of Participants in Fund.—

(1) Inclusions in Taxable Income.—Each participant in the common trust fund in computing its taxable 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 taxable income or the ordinary net loss of the common trust fund, computed as provided in subsection (d).

(2) Dividends and Partially Tax Exempt Interest.—The proportionate share of each participant in the amount of dividends to which section 34 or section 116 applies, and in the amount of partially tax exempt interest on obligations described in section 35 or section 242, received by the common trust fund shall be considered for purposes of such sections as having been received by such participant. If the common trust fund elects under section 171 (relating to amortizable bond premium) to amortize the premium on such obligations, for 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 171 as is attributable to such share.

(d) Computation of Common Trust Fund Income.—The taxable income of a 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 taxable 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 deduction provided by section 170 (relating to charitable, etc., contributions and gifts) shall not be allowed; and

(4) the standard deduction provided in section 141 shall not be allowed.

(e) Admission and Withdrawal.—No gain or loss shall be realized by the common trust fund by the admission or withdrawal of a participant. The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant.

(f) Different Taxable Years of Common Trust Fund and Participant.—If the taxable year of the common trust fund is different from that of a participant, the inclusions with respect to the taxable income of the common trust fund, in computing the taxable income of the participant for its taxable year, shall be based upon the taxable income of the common trust fund for any taxable year of the common trust fund ending within or with the taxable year of the participant.

(g) Net Operating Loss Deduction.—The benefit of the deduction for net operating losses provided by section 172 shall not be allowed to a common trust fund, but shall be allowed to the participants in the common trust fund under regulations prescribed by the Secretary or his delegate.

SEC. 6032. RETURNS OF BANKS WITH RESPECT TO COMMON TRUST FUNDS.

Every bank (as defined in section 581) maintaining a common trust fund shall make a return for each taxable year, stating specifically, with respect to such fund, the items of gross income and the deductions allowed by subtitle A, and shall include in the return the names and addresses of the participants who would be entitled to share in the taxable income if distributed and the amount of the proportionate share of each participant. The return shall be executed in the same manner as a return made by a corporation pursuant to the requirements of sections 6012 and 6062.