

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 5375]
August 22, 1963

Deposits of Trustees in Bankruptcy
as "Savings Deposits" Under Regulation Q

To All Member Banks of the Second
Federal Reserve District:

Public Law 88-16 of May 8, 1963 amended section 47 of the Bankruptcy Act (11 U.S.C. 75(a)(2)) so as to authorize trustees in bankruptcy to "deposit all money received by them in designated depositories initially in demand deposits; and subsequently, if authorized by the court, in interest-bearing savings deposits, time certificates of deposit, or time deposits-open account." This amendment has given rise to a number of questions as to whether such deposits qualify as "savings deposits" under Regulation Q, which limits savings deposits to individuals and certain types of organizations.

This matter has been considered by the Board of Governors of the Federal Reserve System and on August 16, 1963, the Board issued an opinion, a copy of which is printed on the reverse side of this circular, on the question. This opinion will be published in the *Federal Register* and in the *Federal Reserve Bulletin*.

Additional copies of this circular will be furnished upon request.

ALFRED HAYES,
President.

(OVER)

Deposits of Trustees in Bankruptcy as "Savings Deposits"

The opinion of the Board of Governors of the Federal Reserve System has been requested as to whether the authority under section 19 of the Federal Reserve Act to define "savings deposits" and the definition of that term, as contained in Regulation Q, which limits savings deposits to individuals and certain types of organizations, are affected by Public Law 88-16 of May 8, 1963, which amended section 47 of the Bankruptcy Act (11 U.S.C. 75(a)(2)) so as to authorize trustees in bankruptcy to "deposit all money received by them in designated depositories initially in demand deposits; and subsequently, if authorized by the court, in interest-bearing savings deposits, time certificates of deposit, or time deposits-open account;".

Prior to this amendment to the Bankruptcy Act, trustees in bankruptcy were required by judicial decisions to obtain creditors' consent to make other than demand deposits. There is nothing in the legislative history of this amendment to indicate that its purpose was more than to eliminate the need for creditors' consent for deposits in interest-bearing savings or time deposits. In the absence of any evidence of intent to modify section 19 of the Federal Reserve Act and the Board's authority thereunder, it is the opinion of the Board that the definition of savings deposits in Regulation Q has not been affected by this amendment to the Bankruptcy Act.

Under section 217.1(e)(1)(i) of Regulation Q, a "savings deposit" must be (1) a deposit to the credit of one or more individuals or certain types of organizations or (2) a deposit as to which the "entire beneficial interest" is held by individuals or such organizations. A trustee in bankruptcy holds the assets of the bankrupt estate for the benefit of the bankrupt's creditors. Accordingly, it is the Board's opinion that a deposit by a trustee in bankruptcy may not be classified as a savings deposit under Regulation Q except in those rare instances in which all of the bankrupt's creditors are individuals or organizations of the types described in the regulatory definition of a "savings deposit."

It would be permissible, of course, for funds of a trustee in bankruptcy to be classified as time deposits under Regulation Q. In this connection, it may be noted that, as a result of the action taken by the Board of Governors and the Federal Deposit Insurance Corporation on July 17, 1963, member and nonmember insured banks could now pay interest at a rate up to 4 per cent on a time deposit of a trustee in bankruptcy having a maturity of not less than 90 days.

August 16, 1963.