CONFIDENTIAL.

August 5, 1915.

Sir:

In your letter of August 4, 1915, you have raised the question whether a national bank may legally enter into an agreement under which it obligates itself for a specified period to accept drafts drawn upon it and growing out of transactions involving the importation or exportation of goods having not more than six months sight to run.

The opinion of July 9, 1915, upon which your letter to Mr. Strong was apparently based, related to the right of a national bank to accept a draft which it was obligated to renew at maturity, such obligation being, as stated in the opinion, "written on or accompanying such acceptance." Such an agreement would in substance be equivalent to an acceptance for a period longer than six months and therefore illegal, because, being written on or accompanying the draft, it would become a part of the acceptance and bind all parties, including the holder, to the renewal.

The question now presented is not a question of the renewal of the draft itself because it is not contemplated that the holder be bound in any way and because the original draft must be paid at maturity in the usual manner. The question presented is just as stated above, namely, whether a national bank may enter into an agreement, in the nature of a revolving letter of credit, under which such bank obligates itself for a certain period of time to accept up to a certain amount all drafts drawn upon it, such drafts being of the kind and maturity required by the Federal Reserve Act.

An agreement of this character involves not an obligation upon the bank to renew a particular draft, such renewal to bind all parties, including the holder, but rather involves an obligation upon the bank for the benefit of the drawer to extend its acceptances credit for the period of time specified in the agreement.

The principles applicable to this question were fully discussed in an opinion, dated June 29, 1915, to which your attention is respectfully directed, and in the answer to the first question in the opinion of July 9, 1915, in which it was stated that a national bank could contract to accept in the future.

It is well settled that a corporation can exercise only those powers specifically granted by law and such powers as are incidental to those thus granted. Section 13 of the Federal Reserve Act authorises a national bank to accept drafts and bills of exchange of a specified kind. Section 5136, subsection third, Revised Statutes, authorizes such banks to "make contracts," such authority evidently being intended to give the right to contract to do those things which are authorized by law. The power to contract must, therefore, give a national bank the power to enter into an agreement to accept drafts or bills of exchange drawn upon it provided they are of the kind and maturity demanded by Section 13.

Consequently, it seems clear that a national bank may enter an agreement by which it binds itself for a specified period, under its power to contract, to accept drafts in the future, provided that each draft is of the requisite maturity and that the obligation to give further credit does not attach to the draft itself.

Under such a general agreement the drawer could at maturity of a certain draft, demand an extension of the bank's credit in the form of another acceptance, provided the aggregate of such acceptances outstanding shall not exceed the amount authorized under the letter of credit, but such extension would not bind the holder of the original acceptance which must be paid at maturity in the usual manner. So, also, a national bank could at the time of accepting a particular draft agree to extend its credit at the maturity of the original draft, if, as stated above, such an agreement covers merely the drawer and the drawee and does not attach to the draft itself in such a way as to bind the holder thereof.

It is absolutely essential to allow national banks to utilize this form of acceptance credit in a manner which will enable them successfully to compete with other more firmly established acceptance houses. It is to the interest of both the banks and their customers that acceptance transactions be handled in the manner demanded by established custom and clearly authorized by law, otherwise the purpose of the Act and the intent of Congress would be frustrated.

Respectfully,

G. L. HARRISON,

Assistant Counsel.

Hon. Charles S. Hamlin,
Governor.

8/16/15.