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ADDRESS REPLY TO
FEDERAL RESERVE BOARD

January 2, 1918.

X-1341

CONFIDENTIAL

SUBJECT: DRAFTS MADE PAYABLE, OR PAYABLE
IF DESIRED, AT A DESIGNATED BANK.

Dear Sir:

I inclose for your confidential information copy of a letter from the Board's General Counsel which relates to drafts drawn by firms or corporations upon themselves and made payable, or payable if desired, at a designated bank.

The Board is inclined to agree with the view taken by its General Counsel, but before formally adopting the opinion would be glad to have an expression of the views of your bank on the subject together with a statement as to what its practice is regarding such items.

In this connection I desire to call attention to an opinion rendered by the Attorney General of the United States several months ago, which takes the position that the Federal Reserve Banks are not authorized to receive items which involve the payment of exchange charges.

Very truly yours,

Governor.

FEDERAL RESERVE BOARD
WASHINGTON

C O P Y.

December 31, 1918.

Dear Governor:

Under Section 13 of the Federal Reserve Act, Federal Reserve Banks are authorized to receive from other Federal Reserve Banks, solely for the purposes of exchange or collection, checks drawn upon other Federal Reserve Banks, and checks and drafts payable upon presentation.

It appears from the correspondence submitted that it is customary for some of the larger firms or corporations to issue drafts drawn upon themselves payable at a designated bank. One of the Federal Reserve Banks has objected to receiving these items for collection on the ground that they are not checks and because this form of instrument is used by the drawer to enable him to issue these drafts without first depositing the money with the bank at which it is payable, to protect them.

From a legal standpoint, if the instruments in question are in negotiable form, that is to say, if they contain an unconditional order on the drawee to pay a fixed sum to a designated person, there is no objection to a Federal Reserve Bank receiving them for collection.

Under Section 87 of the Negotiable Instruments Law -

"Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon."

This Section is omitted in Illinois, Nebraska and South Dakota. In Minnesota, the word "not" is interpolated so that in that State a draft would not be equivalent to an order on a bank to pay the same. In the other States which have adopted the Negotiable Instruments Law such a draft could be treated to all intents and purposes as a draft on the bank at which it is payable. The Negotiable Instruments Law has now been adopted by all of the States except Georgia and Texas.

In some instances which have been brought to the attention of this Office, the instrument presented does not contain an unconditional order to pay a fixed sum and is therefore technically non-negotiable. In such cases a Federal Reserve Bank is entirely justified in declining to receive such items for collection.

The Board's attention has been called to the fact that some question has been raised as to the receipt on deposit of checks or drafts drawn by Federal Treasurers of the Railroad Administration against various railroad companies. While the forms used by the Railroad Administration are not entirely uniform, an examination of practically all of these forms furnished this Office by the Director of Finance and Purchases of the United States Railroad Administration, indicates that these drafts are in negotiable form and there would seem to be no reason why they should not be handled as any other bank checks. The fact that in some instances the check or draft is accompanied by an explanatory voucher showing the details to enable the auditor to make proper distribution, should not affect the negotiability of the instrument.

Respectfully,

(Signed) M. C. ELLIOTT.

General Counsel.

For Governor Harding.