

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARDMay 28,
1928.SUBJECT: QUESTION WHETHER COURTS TAKE JUDICIAL NOTICE
OF REGULATIONS OF FEDERAL RESERVE BOARD

Dear Sir:

Counsel for various Federal reserve banks frequently request this office to furnish them with certified copies of the regulations of the Federal Reserve Board for use in litigation. In view of the decision in Capital Grain and Feed Co. v. Federal Reserve Bank of Atlanta, 3 Fed.(2nd) 614, to the effect that a regulation of the Federal Reserve Board is not such a departmental action as will be judicially noticed without pleading, this undoubtedly is a wise precaution in any case in which a Federal reserve bank relies upon the regulations of the Federal Reserve Board.

For your information, however, I am enclosing herewith an extract from a very able article on "Statutes and Statutory Construction" contained in Federal Statutes Annotated, (2nd Ed.) 21, from which it appears that the courts will take judicial notice of departmental regulations. I personally believe that, in the interest of the entire Federal Reserve System, we should endeavor to establish the principle that the courts should take judicial notice of the regulations of the Federal Reserve Board.

With kindest personal regards, I am,

Very truly yours,

Walter Wyatt,
General Counsel.

Enclosure.

TO ALL FEDERAL RESERVE BANK COUNSEL.

EXTRACT FROM ARTICLE ON "STATUTES AND STATUTORY CONSTRUCTION".

1 Federal Statutes Annotated (2d Edition) 21.

"Departmental regulations. - The general rule is that 'wherever by the express language of any act of Congress, power is entrusted to either of the principal departments of government to prescribe rules and regulations for the transaction of business in which the public is interested, and in respect to which they have a right to participate, and by which they are to be controlled, the rules and regulations prescribed in pursuance of such authority become a mass of that body of public records of which the courts take judicial notice.' (Citing *Caha v. U. S.*, 152 U.S. 222, 14 S. Ct. 513, 38 U.S. (L. ed.) 415, where Mr. Justice Brewer said: 'Without attempting to notice all the cases bearing upon the general question of public notice we may refer to the following: *U. S. v. Teschmaker*, 22 How. 405, 16 U.S. (L. ed.) 353; *Romero v. U.S.*, 1 Wall. 721, 17 U.S. (L. ed.) 627; *Armstrong v. U. S.*, 13 Wall. 154, 20 U.S. (L. ed.) 614; *Jones v. U. S.*, 137 U.S. 202, 11 S. Ct. 80, 34 U.S. (L. ed.) 691; *Knight v. U. S. Land Assoc.*, 142 U.S. 169, 12 S. Ct. 258, 35 U.S. (L. ed.) 974; *Jenkins v. Collard*, 145 U.S. 546, 12 S. Ct. 868, 36 U.S. (L. ed.) 812.' To the same point see *Bruce v. U.S.*, (C.C.A.) 202 Fed. 98; *U.S. v. Van Wert*, 195 Fed. 974; *U.S. v. Louisville, etc., R. Co.*, 165 Fed. 936; *U.S. v. Moody*, 164 Fed. 269; *Numberger v. U.S.*, (C.C.A.) 156 Fed. 721; *U.S. v. Burkett*, 150 Fed. 208; *Wilkins v. U.S.*, (C.C.A.) 96 Fed. 837; *U.S. v. Flournoy Live-Stock, etc., Co.*, 71 Fed. 578. See further in the same line *The Paquete Habana*, 175 U.S. 696, 20 S. Ct. 290, 44 U.S. (L. ed.) 320; *Heath v. Wallace*, 138 U.S. 584, 11 S. Ct. 380, 34 U.S. (L. ed.) 1063; *Southern Pac. R. Co. v. Groeck*, 68 Fed. 612.) Such rules and regulations duly prescribed have the force of law. (Citing *U.S. v. Eaton*, 144 U.S. 688, 12 S. Ct. 764, 36 U.S. (L. ed.) 591; *Wilkins v. U.S.*, (C.C.A.) 96 Fed. 841.)