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MEMORANDUM

December 7th,
1929Mr. C. A. Worthington,
Deputy Governor:

I have carefully considered the letter of Governor Harding with reference to the interpretation which he has requested the Federal Reserve Board to make as to the right of a Federal reserve bank in isolated cases to require the pledge of securities from a non-member bank as a condition to forwarding cash letters direct to such non-member bank. In connection therewith I have also read and considered the letter of Mr. Wyatt of November 7th, and letters of Counsel for the Federal Reserve Bank of Atlanta, and the Federal Reserve Bank of Richmond.

I concur in the view that the interpretation that Governor Harding desires made as to this matter is not inconsistent with the uniform policy adopted at the last conference of Governors, and accordingly, I see no objection to agreeing to the practice as outlined by him.

I do not feel at all certain, however, that the recent amendment to Regulation J would permit of the interpretation which Governor Harding desires. This amendment, as I read it, in terms as definite and positive as words can make them denies the right to the owner of any check or the bank forwarding the same to a Federal reserve bank to participate in any fund, collateral or other property in the possession of the Federal reserve bank. It seems to me that it could be contended with some force that no Federal reserve bank by agreement could create or give to the owner or forwarder of a check the very rights which the Regulation expressly provides shall not exist. As to whether an interpretation of the Regulation by the Federal Reserve Board, as Governor Harding desires, would affect the question I express no opinion, but if the practice of making special arrangements is to be recognized it seems to me that to remove any question of doubt about the matter, it would be well to consider a further amendment to Regulation J, which would clarify the matter. This might be done by the addition of the following, or other apt words, at the end of Paragraph 6 of Section 5 of the Regulation: "in the absence of a written agreement with the Federal reserve bank".

H. G. Leedy

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MEMORANDUM

December 7th,
1929Mr. C. A. Worthington,
Deputy Governor:

The suggestion made by Mr. J. H. Blair, Deputy Governor of the Federal Reserve Bank of Chicago that a further amendment be made to Paragraph 6 of Regulation J, so as to refer not only to funds, collateral and other property of drawee banks, but also of all other banks to which a Federal reserve bank may send items for collection, has, in my opinion, considerable merit.

If Regulation J, taken as a whole, is susceptible of interpretation that the owner or holder of a check forwarded to a Federal reserve bank for collection has any right or interest in any fund, collateral or property in the possession of the Federal reserve bank, no reason occurs to me why the right should be prohibited in instances where items are forwarded to drawee banks, and not prohibited where items are forwarded to banks other than drawee banks. As I construe Regulation J, as now amended, no right in funds, collateral or other property in the possession of a Federal reserve bank exists on the part of the owner or forwarder of any item whatever, whether the same be forwarded to the drawee or some other bank, but inasmuch as the Regulation specifically provides that no right shall exist in funds, collateral or property of a drawee bank, it might be contended that on account of the prohibition as to funds, collateral and property of drawee banks it is implied that the right does exist as to funds, collateral and property of banks other than drawee banks. If such contention should be successfully made, the owner or forwarding bank would of course be entitled to the benefit of the fund, collateral or other property in possession of the Federal reserve bank, and this without reference to any negligence on the part of the Federal reserve bank.

I can see no possible harm in the proposed additional amendment, and, as indicated, some substantial benefit might come from it.

H. G. Leedy

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