

PROGRAM FOR CONFERENCE OF COUNSEL FOR FEDERAL RESERVE BANKS

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TO BE HELD AT WASHINGTON, D. C., ON JUNE 9, 1930.

1. To what extent are Federal reserve banks liable for losses on checks heretofore handled in view of the decision of the Supreme Court of the United States in the case of Early v. Federal Reserve Bank of Richmond.
2. What amendments, if any, should be made to Regulation J in the light of the decision referred to in order to clarify the legal rights and responsibilities of the Federal reserve banks and if possible to protect them from any unwarranted liability. In this connection the attached list shows the text of amendments to Regulation J which have been specifically suggested or recommended.
3. What changes, if any, should be made in the check collection circulars of the Federal reserve banks for the purposes stated in paragraph (2) above.
4. What should be the attitude of the Federal reserve banks with reference to releasing to receivers of insolvent banks the reserve balances of such banks where checks on such banks have been charged to the accounts of the drawers but no remittances have been made to the Federal reserve banks.
5. What defenses should be interposed to suits brought against Federal reserve banks based on the doctrine of the decision in the Early case.
6. What changes, if any, should be made in the practices of the Federal reserve banks in handling checks in the light of the decision in the Early case.

7. What other amendments to Regulation J, if any, than those suggested above, should be adopted for the purpose of clarity, uniformity or other reason.

8. A discussion with representatives of the Office of the Comptroller of the Currency with regard to the subject stated in paragraph (4) above and other matters arising out of the decision in the Early case.

9. A discussion of the pending revision of Treasury Department Circular No. 176, containing regulations governing the deposit of public moneys and the payment of Government warrants and checks.

TEXT OF SUGGESTED AMENDMENTS TO REGULATION J.

(a) Amendment to paragraph (4) of Section V of Regulation J, which was recommended by a majority of the last Conference of Counsel and of the Governors' Conference and was adopted by the Federal Reserve Board but has never become effective, to make that paragraph read as follows:

"(4) Checks received by a Federal reserve bank on its member or nonmember clearing banks will ordinarily be forwarded or presented direct to such banks and such banks will be required to remit or pay therefor at par in cash, by bank drafts acceptable to the collecting Federal reserve bank, by telegraphic transfers of bank credits acceptable to the collecting Federal reserve bank, or by authorizing the collecting Federal reserve bank to charge their reserve accounts or clearing accounts."

(b) An amendment to paragraph (6) of Section V of Regulation J, which was recommended by a majority of the last Conference of Counsel and of the Governors' Conference and was adopted by the Federal Reserve Board but never became effective, to make that paragraph read as follows:

"(6) The amount of any check for which payment in actually and finally collected funds is not received shall be charged back to the forwarding bank, regardless of whether or not the check itself can be returned. In such event, neither the owner or holder of any such check, nor the bank which sent such check to the Federal reserve bank for collection, shall have any right of recourse upon, interest in, or right of payment from, any fund, reserve, collateral, or other property of the drawee bank in the possession of the Federal reserve bank."

(c) Two amendments to paragraph (6) of Section V of Regulation J, each intended to meet the suggestion of Deputy Governor Blair of the Federal Reserve Bank of Chicago. One of these amendments would make paragraph (6) read as follows:

"The amount of any check for which payment is actually and finally collected funds is not received shall be charged back to the forwarding bank, regardless of whether or not the check itself can be returned. In such event, neither the owner or holder of any such check, nor the bank which sent such check to the Federal reserve bank for collection, shall have any right or recourse upon, interest in, or payment from, any fund, reserve, collateral, or other property of the drawee bank or of any bank to which such checks had been sent for collection in the possession of the Federal reserve bank."

The other amendment would make paragraph (6) read as follows:

"The amount of any check for which payment is actually and finally collected funds is not received shall be charged back to the forwarding bank regardless of whether or not the check itself can be returned. In such event, neither the owner nor holder of any such check, nor the bank which sent such check to the Federal reserve bank for collection, shall have any right ~~of~~ recourse upon, interest in, or right of payment from, any funds received, collateral, or other property of the drawee bank, or other agent, in the possession of the Federal reserve bank."

(d) An amendment to paragraph (6) of Section V of Regulation J suggested by Mr. Agnew in his letter of April 18, 1929, to Mr. Wyatt, to add to that paragraph the following sentence:

"No draft, authorization to charge or other order upon funds of a remitting bank in the possession of a Federal Reserve Bank, issued for the purpose of settling items handled under the terms of this Regulation, will be paid after receipt by such Federal Reserve Bank of notice of suspension of such remitting bank."

(e) An amendment to paragraph (4) of Section V of Regulation J suggested by Mr. Logan in his letter of May 6, 1929 to Mr. Wyatt, to make that paragraph read as follows:

"(4) Checks received by a Federal reserve bank on its member or nonmember clearing banks will ordinarily be forwarded or presented direct to such banks and such banks will be required to remit or pay therefor at par.

"Such remittance or payment may be made in cash, or by bank draft acceptable to the collecting Federal reserve bank, or with the consent of the collecting Federal reserve bank by authorized charges against balances with it, or by other funds or transfers acceptable to the collecting Federal reserve bank."

(f) An amendment to paragraph (6) of Section V of Regulation J, suggested by Mr. Logan in his letter of April 4, 1930, and by Mr. Agnew in his letter of April 25, 1930, to make that paragraph read as follows:

"(6) The amount of any check for which payment in actually and finally collected funds is not received shall be charged back to the forwarding bank, regardless of whether or not the check itself can be returned. In such event, neither the owner or holder of any such check, nor the bank which sent such check to the Federal reserve bank for collection, shall have any right of recourse upon, interest in, or right of payment from the reserve balance of the drawee bank with the Federal reserve bank."

(g) Amendments to paragraphs (2) and (3) of Section IV of Regulation J suggested by Mr. Logan in his letter of April 9, 1930 to Mr. Wyatt, to add at the end of each of these paragraphs the following:

"provided, however, that the Federal reserve bank may in its discretion refuse at any time to permit the withdrawal or other use of credit given for any item for which the Federal reserve bank has not yet received payment in actually and finally collected funds."

(h) A proposed revision of Section V of Regulation J prepared by Mr. Wyatt and attached hereto.