

FEDERAL RESERVE BOARD

163

WASHINGTON

X-7557

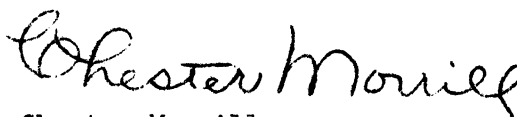
ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

August 22, 1933.

Dear Sir:

There is attached hereto, for your information, a copy of a letter addressed by the Board under date of July 20, 1933, to the Secretary of the Treasury, together with a copy of a reply dated August 7, 1933, from Under Secretary Acheson, with regard to the admission to membership and the licensing of State banks which have obtained agreements from their depositors restricting the withdrawal of deposits. A copy of the letter to the Governor of Ohio, referred to in this correspondence, is also attached.

Very truly yours,



Chester Morrill,
Secretary.

Inclosures.

TO ALL F. R. AGENTS EXCEPT CLEVELAND.

X-7557-a

C O P Y.

July 20, 1933.

Honorable W. H. Woodin,
Secretary of the Treasury,
Washington, D. C.

Dear Mr. Secretary:

There is inclosed a letter, together with a copy thereof for your files, which the Federal Reserve Board has received from the Governor of the State of Ohio, requesting advice as to whether a nonmember State bank which has obtained agreements from its depositors restricting their right to withdraw their deposits would be ineligible for admission to membership in the Federal Reserve System. The Board's proposed reply to this letter is also inclosed for your consideration.

Section 9 of the Federal Reserve Act requires the Federal Reserve Board in acting upon the application of any State bank for membership in the Federal Reserve System, to consider, among other things, the financial condition of the applying bank. Accordingly, in a case of the kind referred to above the Board gives careful consideration to the circumstances out of which the necessity for the restriction agreements arose, their terms and their effect on the condition of the applying bank, and its ability to repay such restricted deposits. In a few such cases, the Board has admitted the bank to membership in the System, where after a careful consideration of all the circumstances involved, the Board found that its condition was satisfactory.

Honorable W. H. Woodin - 2

Upon the consideration of Governor White's letter there was brought to the Board's attention the ruling of your Department of April 3, 1933, with regard to licenses granted to member banks to reopen and which reads as follows:

"Member banks which have been granted Federal licenses to reopen are not permitted to take advantage of any State Stabilization Act providing for limitation of withdrawals or otherwise to operate on restricted basis. Federal reserve banks are authorized and directed to advise any member bank which has been granted a license to reopen that unless it reopens to the full extent permitted by such license it will be necessary to revoke its license. If such member bank fails to reopen to the full extent permitted by its license after being thus advised, Federal reserve banks are authorized and directed to revoke the license of such member bank heretofore granted."

In this connection, however, attention was also called to the following statement contained in a telegram which the Secretary of the Treasury sent to State Banking Authorities in each State on March 11, 1933, with regard to the licensing of member banks:

"The Secretary of the Treasury will not permit any member bank, state or national, to open in any such Federal Reserve city unless opened for normal business on an unrestricted basis, except so far as affected by legal contracts between the banks and depositors with respect to withdrawals or notice of withdrawals."

The Board, of course, does not wish to approve any applications of State banks for membership in the Federal Reserve System under circumstances which may later subject such banks to the revocation of the license granted by your Department at the time of their admission

Honorable W. H. Woodin - 3

to membership. Accordingly, it will be appreciated if you will give consideration to the proposed attached letter to the Governor of the State of Ohio and give the Board any suggestions you may have with regard thereto.

Respectfully,

(signed) Chester Morrill

Chester Morrill,
Secretary.

Inclosures

X-7557-b

C O P Y.

August 7, 1933.

My dear Mr. Morrill:

Receipt is acknowledged of your letter of July 20 with which you transmitted for consideration a proposed reply to a letter of June 30 from the Governor of the State of Ohio in regard to the position of the Federal Reserve Board with respect to applications of State banks for membership in the Federal reserve system in cases where such banks have obtained agreements from their depositors restricting to some extent the right to withdraw their deposits. You called attention to a telegram which was sent on March 11, 1933, by the Secretary of the Treasury to the State Banking authorities, and to a ruling of this department of April 3, 1933, the latter containing the following statement:

"Member banks which have been granted Federal licenses to reopen are not permitted to take advantage of any State Stabilization Act providing for limitation of withdrawals or otherwise to operate on restricted basis. Federal reserve banks are authorized and directed to advise any member bank which has been granted a license to reopen that unless it reopens to the full extent permitted by such license it will be necessary to revoke its license. If such member bank fails to reopen to the full extent permitted by its license after being thus advised, Federal reserve banks are authorized and directed to revoke the license of such member bank heretofore granted."

It is noted that under the Federal Reserve Act the Federal Reserve Board, in acting upon the application of any State bank for membership in the Federal reserve system, considers, among other things, the financial condition of the applying bank; that in any case involving restriction agreements the Board gives careful consideration to the circumstances out of which the necessity for the agreements arose, their terms and their effect on the condition of applying bank, and its ability to repay such restricted deposits; that in a few such cases the Board has admitted banks to membership in the system where, after careful consideration of all the circumstances involved, the condition of the banks was found to be satisfactory; but that the Board does not wish to approve applications under circumstances which may later subject the banks to the revocation of the licenses granted by this department at the time of their admission.

- 2 -

After considering the views set forth in the proposed letter to Governor White, this department has no suggestions to offer regarding it, and the Secretary of the Treasury, upon the appropriate recommendation in each such case, will authorize the issuance of a license to a State bank, when the Federal Reserve Board has approved the bank's application for membership. It may be added that, in similar circumstances, the Secretary of the Treasury will issue a license to a reorganized national bank or a national bank organized to take over the assets of another bank, upon the approval of the Comptroller of the Currency. It follows, therefore, that the Secretary of the Treasury will not revoke a license issued heretofore, because of the existence of agreements of depositors of the kind referred to, restricting their right of withdrawal of deposits, which were in force at the time of the approval granted by the Federal Reserve Board or the Comptroller of the Currency. To this extent the ruling of April 3, 1933, quoted above, may be regarded as having been modified.

As copies of the ruling of April 3, 1933, were sent to the Federal reserve banks, it will be appreciated if you will transmit a copy of this letter to each of the Federal Reserve Banks for their information.

Very truly yours,

(Signed) Dean Acheson

Acting Secretary of the Treasury.

Chester Morrill, Esq.,

Secretary, Federal Reserve Board.

C O P Y

August 21, 1933.

Honorable George White,
Governor, State of Ohio,
Columbus, Ohio.

My dear Governor:

It is evident from your letter of June 30 that you have not been fully advised as to the position of the Federal Reserve Board with respect to applications of State banks for membership in the Federal Reserve System in cases where such banks have obtained agreements from their depositors restricting to some extent their right of withdrawal of their deposits. The Board has taken the position that the fact that there are in existence agreements of depositors waiving their right to demand payment of a portion of their deposits for a specified period of time does not make a bank ineligible for membership in the Federal Reserve System, and the Board, in a few instances of this kind, has admitted banks to membership in the System where their condition was otherwise satisfactory.

Section 9 of the Federal Reserve Act requires the Federal Reserve Board in acting upon the application of any State bank for membership in the Federal Reserve System to consider, among other things, the financial condition of the applying bank. Accordingly, in a case of this kind the Board gives careful consideration to the circumstances out of which the necessity for the waiver agreements arose, their terms and their effect on the condition of the applying bank, and its ability to repay such restricted deposits.

Honorable George White

- 2 -

X-7557-c

As your letter indicates that you are in agreement with the view that a bank applying for membership in the Federal Reserve System must have an adequate unimpaired capital, it may interest you to know that the Board now prescribes for each bank applying for membership in the Federal Reserve System the following condition:

"Such bank shall maintain an amount of paid-up and unimpaired capital and unimpaired surplus which, in the judgment of the Federal Reserve Board, will be adequate in relation to its total deposit liabilities, having due regard to the general principle that a bank's capital and surplus ordinarily should not be less than one-tenth of the average amount of its aggregate deposit liabilities and, in some circumstances, should be more than one-tenth of such amount."

In some cases involving so-called waivers of deposits which have come to the Board's attention, it has been found that, although depositors waived their right to demand immediate payment of their deposits, the bank remained liable to repay such deposits at some future time and, when such liability was taken into consideration, the bank's capital was impaired or wiped out. In such a case, of course, the bank was not eligible for membership in the Federal Reserve System.

You have directed attention to the form of agreement which it appears was exacted by the _____ of _____, Ohio, from its depositors; and it is noted that this agreement places in the hands of the officers of the bank the power either to pay or to withhold any amount due any depositor within the 80% restriction, since the statement is made that "the bank reserves the absolute right to withhold payment of any check and to refuse any withdrawal of funds, whether commercial or savings account or certificate of deposit, when

the officers of the bank, in their sole judgment, determine that such action is in the best interest of the bank and its depositors". The existence of such an agreement in the case of a bank in sound condition and otherwise able to meet all of the requirements of admission to membership in the Federal Reserve System would raise a serious question as to the justification for vesting solely in the discretion of the officers of the bank a power to discriminate among depositors which might be exercised unfairly and arbitrarily and which would leave not only the drawers of such checks but also the subsequent holders in due course in uncertainty as to whether payment might be refused at any time. This would be of especial concern to the Federal reserve banks in view of the fact that they handle for collection practically all checks drawn on member banks and deposited with banks in other cities. In the circumstances, the Board would not admit a bank to membership while it has in force an agreement of this kind.

It is further noted that the agreement inclosed with your letter also involves an agreement by the stockholders of the bank authorizing the payment of any dividends on their stock to depositors who have released the bank from liability for 20% of their deposits until such depositors have been repaid the amount so released. It appears that, in these circumstances, the stock of the bank will have little, if any, value from the standpoint of earnings of the bank for a considerable period and accordingly will not be marketable. It is questionable whether on such basis the people of the community will retain confidence in a bank so as to enable it to maintain or increase its deposits.

Honorable George White

- 4 -

X-7557-c

As you know, the State of Ohio is within the district of the Federal Reserve Bank of Cleveland. All applications of State banks in Ohio for admission to the Federal Reserve System must be filed with the Federal Reserve Agent at the Federal Reserve Bank of Cleveland; and it is suggested that you refer any bank which may be interested in submitting an application to Mr. L. B. Williams, Federal Reserve Agent at the Federal Reserve Bank of Cleveland, who is the Board's official representative in that district, and who, I am sure, will be glad to give detailed information regarding the conditions under which such bank may be admitted to the System and assist it in every way possible in the circumstances.

Very truly yours,

(Signed) E. R. Black

Governor.