

X-9048

December 15, 1934.

SUBJECT: Approval of Reduction of Preferred
Stock or Capital Notes or Debentures
by the Federal Reserve Board.

Dear Sir:

This refers to a question raised by one of the Federal Reserve Agents with regard to whether or not the approval of the Federal Reserve Board of the retirement of preferred stock of a national bank or of the retirement of capital notes or debentures or preferred stock of a State member bank is required.

In connection with the inquiry regarding the retirement of preferred stock of a national bank, you are advised that the Board has heretofore taken the position that in view of the provisions of section 302 of the Emergency Banking Act of March 9, 1933, the Board's approval is not required with respect to the reduction of preferred stock of a national bank. Under the terms of such section 302, preferred stock issued by national banks is made subject to retirement in such manner and upon such conditions as may be provided in the Articles of Association of the bank, with the approval of the Comptroller of the Currency.

Under the provisions of the Federal Reserve Act a State

member bank is not required to obtain the approval of the Federal Reserve Board of a reduction in its capital stock, either common or preferred, unless the particular State member bank is subject to a condition of membership requiring the Board's approval of a reduction of its capital stock. The Board feels that in any case where the Board's approval of the reduction of the capital stock of a State member bank is required under a condition of membership such approval would be required of a reduction of preferred stock as well as common stock.

Under the provisions of section 9 of the Federal Reserve Act, as amended, as you know, the terms "capital" and "capital stock", for the purposes of membership of State banks in the Federal Reserve System, shall include the amount of outstanding capital notes or debentures legally issued by the applying bank and purchased by the Reconstruction Finance Corporation. In view of this fact, the Board feels that in any case where, under a condition of membership, the Board's approval of the reduction of the capital stock of a State member bank is required, approval of the reduction of capital notes or debentures lawfully issued by such bank and purchased by the Reconstruction Finance Corporation would also be required. On the other hand, in the case of any State member bank not subject to such a condition of membership, the Board's approval of a reduction of such capital notes or debentures issued by the bank would not be required.

The board understands that provision is usually made, among other things, for the retirement from time to time of capital notes or debentures or preferred stock out of earnings of the bank and that, accordingly, there may be numerous reductions in comparatively small amounts of capital notes or debentures or preferred stock issued by State member banks. In the circumstances, the Board feels that it is appropriate to authorize the respective Federal Reserve Agents, in cases in which the Board's approval is required, to approve on the Board's behalf reductions of capital notes or debentures or preferred stock issued by State member banks where, in the opinion of the Federal Reserve Agent, all of the circumstances involved warrant such a reduction and where after such reduction is accomplished the member bank will have an unimpaired capital and surplus of not less than one-tenth of the amount of its deposit liabilities. Each of the Federal Reserve Agents is accordingly hereby authorized to approve on behalf of the Board, in the circumstances and within the limitations described, reductions of capital notes or debentures or preferred stock issued by State member banks in any case where the Board's approval of such reduction is required.

It is requested that in any such case the Board be advised for its records of the reduction which has been effected with the Agent's approval. Of course, should any case arise in which for any reason the Federal Reserve Agent is in doubt as to the wisdom

of the proposed reduction or is unwilling to give his approval thereto under the authority granted herein, the bank's application may be submitted to the Board for determination, together with current information as to the condition of the applying bank, its reason for desiring to effect the reduction and any other information, including the agent's comments and recommendation, which may be of assistance to the Board in passing upon the application.

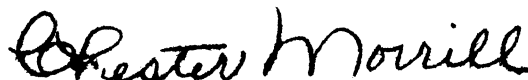
It is assumed, of course, that in passing upon any proposed reduction of capital notes or debentures or preferred stock, the Agent will give consideration to the general condition of the institution and the sufficiency of its remaining capital structure, with due regard to the maintenance of lawful capital requirements and an adequate ratio of capital to deposits in view of all the circumstances involved in the particular case.

While, as noted above, the Board's approval of reductions of capital stock or capital notes or debentures is not required under the law in some cases, the Board feels, in view of the important effect which a reduction in the capital stock of a bank may have on its financial condition, that the respective Federal Reserve Agents should endeavor to keep themselves informed as to any proposed reductions in the capital stock or capital notes or debentures of State member banks, whether the Board's approval is required in such cases or not, and to take such action as may be appropriate in any case where the

proposed reduction would not be to the best interests of the bank.

The Board would like to be advised for its records of each reduction effected in the capital stock or capital notes or debentures of a State member bank, and the Board will be glad to give consideration to any such proposed reduction in any case in which the Federal Reserve Agent feels that the circumstances warrant, even though the Board's approval of the reduction is not required under the conditions of membership to which the particular State member bank is subject.

Very truly yours,



Chester Morrill,
Secretary.

TO ALL FEDERAL RESERVE AGENTS.