

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON



X-2306
ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

September 4, 1935.

SUBJECT: Interpretation of Section 5204
of the Revised Statutes.

Dear Sir:

There is inclosed for your information a copy of a letter from Mr. R. L. Austin, Federal Reserve Agent at the Federal Reserve Bank of Philadelphia, which presents certain questions regarding the classification of certain obligations as "bad debts" under section 5204 of the United States Revised Statutes. Since that statute relates by its terms to national banks, Mr. Austin's letter was referred to the Comptroller of the Currency for his consideration, and there is also inclosed a copy of a letter received from the Comptroller of the Currency in this connection.

Very truly yours,

A handwritten signature in cursive script that reads "Chester Morrill".

Chester Morrill,
Secretary.

Inclosures.

TO ALL FEDERAL RESERVE AGENTS EXCEPT
FEDERAL RESERVE AGENT AT PHILADELPHIA

COPY

X-9306-a

FEDERAL RESERVE BANK OF PHILADELPHIA

925 CHESTNUT STREET

November 7, 1934.

Federal Reserve Board,

Washington, D. C.

Subject: Request for interpretation
of Section 5204, U.S.
Revised Statutes.

Dear Sirs:-

The provisions of Section 9 of the Federal Reserve Act require State member banks, among other things, to conform to those provisions of law imposed on national banks which relate to the payment of unearned dividends. Section 5204 of the United States Revised Statutes states that no dividends may be paid by a national banking association in an amount greater than its net profits on hand, deducting therefrom losses and bad debts, the latter being defined as "all debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same are well secured, and in process of collection".

In interpreting the definition of "Bad debts" as given in Section 5204 in connection with our examinations of state bank members we are in doubt as to the applicability thereto of two classes of debts, viz., First, demand loans, the payment of the principal of which has not been formally requested, but which are in arrears as to interest

for a period of six months or more from the time when such interest is due in accordance with the bank's policy of sending out interest bills; and second, bonds, in default of interest for six months or more, the principal of which has not matured either by reason of the original terms of the obligations or through formal declaration by the corporate trustee following default in the payment of interest. In defining "bad debts" reference is made in Section 5204 to all debts due to any association", and it is not clear whether debts which have not matured are "due" within the meaning of that section of the statutes.

In order that we may furnish proper instructions to our examiners governing their appraisal and classification of the assets of state bank members we would appreciate receiving an expression of your opinion as to whether or not the two classes of obligations referred to above should be regarded as "bad debts" as referred to in Section 5204.

Very truly yours,

(Signed) R. L. AUSTIN

Chairman of the Board, and
Federal Reserve Agent.

COPY

FR

X-9306-b

TREASURY DEPARTMENT
COMPTROLLER OF THE CURRENCY
WASHINGTON

August 27, 1935.

Secretary,
Federal Reserve Board,
Washington, D. C.

Dear Sir:

Reference is had to your letter of February 14, referring to our reply of December 19, 1934, to your letter of December 13, 1934, regarding the classification of certain obligations as "bad debts" under Section 5204, United States Revised Statutes.

This is to confirm your understanding of the construction to be placed upon our letter in the following respects:

If a note or bond is well secured and in the process of collection, this office would not classify it as a bad debt in any event.

In so far as bonds are concerned, it is understood that a bond is not classified as a statutory bad debt, unless the actual maturity has been reached or the bond has matured according to its terms through some default and, in addition, the interest thereon is past due and unpaid for a period of six months; and all or part of this six months' period might have run before the bond matured.

In connection with notes payable on demand, it is understood that in the absence of State law fixing the date of maturity, it is our position that such notes fall due within a reasonable time which is held, further, to be the time for which the bank usually draws its paper, and ordinarily not over six months; and that such notes are not classified as statutory bad debts until, in addition to having matured as outlined above, payment of interest has become due in accordance with the terms of the instrument or the custom of the bank and such interest has been unpaid for a period of six months from the time when payment of such interest thus became due, but that all or part of this last mentioned six months' period might have run before the note matured. For example, if a bank, following its custom of presenting bills for interest quarterly, presents for payment on April 1, a bill for interest

accrued to that date on a demand note dated January 1 which does not expressly provide for interest payment dates, and such interest remains past due and unpaid, the note would not become a statutory bad debt until after October 1, and would not then be so classified if amply secured and in process of collection.

It is understood, further, that ample security may consist of good collateral or indorsements which can be readily realized upon to the full extent of the debt, and that an obligation is not considered "in process of collection" merely because a demand for payment has been made without further steps to enforce collection in accordance with the terms of the instrument or by due process of law.

Very truly yours,

(Signed) J. F. T. O'CONNOR

J. F. T. O'CONNOR
Comptroller