



BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM  
WASHINGTON

X-9617

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

June 12, 1936.

Dear Sir:

There is inclosed, for your information, a copy of a letter to the Federal Reserve Agent at the Federal Reserve Bank of Boston, with regard to the question whether a deposit of trust funds by a State member bank in a State nonmember bank in excess of 10 per cent of the capital and surplus of the member bank is a violation of one of the conditions of membership to which the bank is subject.

Very truly yours,

A handwritten signature in dark ink, appearing to read "L. P. Bethea".

L. P. Bethea,  
Assistant Secretary.

Inclosure.

TO ALL FEDERAL RESERVE AGENTS

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June 11, 1936.

Mr. Frederic H. Curtiss,  
Federal Reserve Agent,  
Federal Reserve Bank of Boston,  
Boston, Massachusetts.

Dear Mr. Curtiss:

In the report of examination of the trust department of The \_\_\_\_\_ Trust Company, \_\_\_\_\_, \_\_\_\_\_, made as of October 7, 1935, the examiner for your bank has presented the question whether a deposit of trust funds in a State nonmember bank by The \_\_\_\_\_ Trust Company in excess of 10 per cent of the capital and surplus of the latter is a violation of the following condition of membership to which it is subject:

"Such bank shall reduce to an amount equal to 10 per cent of its capital and surplus all balances in excess thereof, if any, which are carried with banks or trust companies which are not members of the Federal Reserve System, and shall at all times maintain such balances within such limit."

Section 19 of the Federal Reserve Act provides, in part, that:

"No member bank shall keep on deposit with any State bank or trust company which is not a member bank a sum in excess of ten per centum of its own paid-up capital and surplus."

While the condition of membership does not adopt the precise language used in section 19 of the Federal Reserve Act, the Board feels that, in so far as the present question is concerned, the same interpretation should be given to both requirements.

As you know, in a ruling published on page 572 of the Federal Reserve Bulletin for the year 1922, the Board distinguished between

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trust funds deposited in another member bank by a member bank as fiduciary and deposits made by the member bank in its own right and ruled that a deposit falling within the former classification should be treated by the depository member bank as an individual deposit rather than a bank deposit and, therefore, may not be included by the depository bank among the amounts due to "other banks" from which the amounts due from other banks may be deducted in computing its required reserve under the provisions of section 19 of the Federal Reserve Act.

While the provision of section 19 of the Federal Reserve Act giving rise to the 1922 ruling was amended by the Banking Act of 1935, the Board is of the opinion that the principle announced in that ruling should be applied in the present case. In the circumstances, you are advised that a deposit of trust funds with a State nonmember bank by a member bank as fiduciary in excess of 10 per cent of the member bank's capital and surplus is not prohibited by the provision of section 19 or the condition of membership quoted above. Attention is also called to the fact that the limitation contained in this provision and in the condition of membership is based upon a specified percentage of the "capital and surplus" of the member bank and that it would be possible for all the funds of one trust to be deposited with a nonmember bank and still not exceed such specified percentage. It would seem that, had Congress intended the limitation of section 19 to apply to a deposit of trust funds, it would have provided an appropriate limitation for the protection of individual trusts bearing a relation to the funds

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of each individual trust rather than to the capital and surplus of the member bank.

Of course, in any case a bank exercising fiduciary powers is charged with the responsibility of exercising due care in handling the funds of any trust which it is administering and, in carrying out its responsibility, such a bank, when it deposits trust funds in another bank, must among other things give consideration to what part of the funds of any individual trust and what aggregate amount of trust funds it is justified in depositing in any other single bank. If, in the light of comments contained herein, you or your examiner should feel at any time that The \_\_\_\_\_ Trust Company or any other member bank has not exercised appropriate care in depositing trust funds in another bank, you should take the matter up with the member bank.

Very truly yours,

(Signed) Chester Morrill

Chester Morrill,  
Secretary.