

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

R-456



ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 3, 1939

Dear Sir:

The Committee of Counsel, designated by the Chairman of the Conference of Presidents, recommended to the Standing Committee on Collections on January 11, 1939, that the Board of Governors issue a regulation covering the collection of noncash items. This recommendation was approved by the Standing Committee on Collections and subsequently, on March 6, 1939, was approved by the Conference of Presidents.

Pursuant to the recommendation, a preliminary draft of a regulation covering the collection of noncash items was prepared by the Board's Counsel and submitted to Counsel for all the Federal Reserve banks and to the Standing Committee on Collections early in April. This preliminary draft was considered by the Committee of Counsel at its meeting in Washington April 20-22, and the Committee submitted the following recommendation on this subject to the Standing Committee on Collections:

"The Committee of Counsel submits herewith for the consideration of the Standing Committee on Collections a revised draft (Exhibit 3 attached) of the proposed new regulation relating to 'collection of noncash items'.

"While this draft has necessarily been somewhat hurriedly prepared, Counsel are of the opinion that in substance it is in a form which might appropriately be adopted, except that there is some disagreement among Counsel as to the advisability of paragraph (5). This paragraph deals with a matter which is essentially one of policy. If the Standing Committee on Collections should be of the opinion that it would be good policy to adopt paragraph (5), the Committee of Counsel believe that the language used in that paragraph is substantially appropriate."

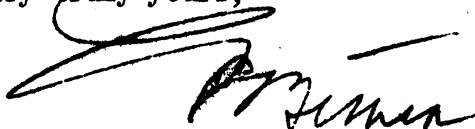
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R-456

The Standing Committee on Collections discussed the revised draft of the proposed regulation, and it was suggested that the Board of Governors submit the revised draft to all of the Federal Reserve banks for review.

There is enclosed herewith a draft of the proposed regulation, as revised by the Committee of Counsel with some changes suggested by the Standing Committee on Collections. There is also enclosed a copy of paragraph (5) mentioned in the recommendation of the Committee of Counsel (designated as Exhibit 4 attached to the Committee's recommendation) but omitted from the revised draft of the regulation because the Standing Committee on Collections felt that it should not be included. It will be appreciated if you will give consideration to the proposed regulation in consultation with your Counsel and submit to the Board not later than May 31, 1939, any comments or suggestions that you may consider advisable.

Very truly yours,



L. P. Bethea,
Assistant Secretary.

Enclosures

TO PRESIDENTS OF ALL FEDERAL RESERVE BANKS

R-456-a

April 21, 1939

REGULATION

Approved, effective , 1939.

COLLECTION OF NONCASH ITEMS

AUTHORITY FOR REGULATION

This regulation is based upon and issued pursuant to the provisions of subsection (i) of section 11, the first paragraph of section 13, and the 14th and 15th paragraphs of section 16 of the Federal Reserve Act.

SECTION 1. DEFINITION OF NONCASH ITEMS

As used in this regulation, the term "noncash items" means any items of the following classes when payable within the continental United States:

- (1) Maturing notes, acceptances, bankers' acceptances, certificates of deposit, bills of exchange, and drafts with or without securities, bills of lading or other documents attached;
- (2) Drafts and orders on savings deposits with pass books attached;
- (3) Checks, drafts and other cash items which have previously been dishonored or on which special advice of

payment or dishonor is required; 1/

(4) Maturing bonds and coupons (other than obligations of the United States and its agencies which are redeemed by Federal Reserve banks as fiscal agents);

(5) State and municipal warrants, including both orders to pay addressed to officers of States and political subdivisions thereof and also any special or general obligations of States and political subdivisions thereof;

(6) All other evidences of indebtedness and orders to pay, except checks and bank drafts drawn on or payable by a nonmember bank which cannot be collected at par in funds acceptable to the Federal Reserve bank of the district in which such nonmember bank is located.2/

1/ Any check, draft, or other item which is normally handled as a cash item will not be handled as a noncash item unless special conditions require that this be done, and the Federal Reserve bank will decide whether such special conditions exist.

2/ Checks and bank drafts drawn on or payable by a nonmember bank which can not be collected at par in funds acceptable to the Federal Reserve bank of the district in which such nonmember bank is located, and which may not be received under the terms of Regulation J, likewise may not be received as noncash items under the terms of this regulation.

SECTION 2. RECEIPT OF ITEMS FOR COLLECTION

Each Federal Reserve bank may receive for collection non-cash items from member and nonmember clearing banks in its district, from other Federal Reserve banks, and from all member and nonmember clearing banks in other Federal Reserve districts which are authorized to route direct for the credit of their respective Federal Reserve banks, subject to the terms and conditions of this regulation.

SECTION 3. TERMS OF COLLECTION

Every member or nonmember clearing bank which sends non-cash items to any Federal Reserve bank for collection shall by such action be deemed: (a) To authorize the Federal Reserve banks to handle such items subject to the terms and conditions of this regulation; (b) To warrant its own authority to give the Federal Reserve banks such authority; (c) To agree to indemnify any Federal Reserve bank for any loss or expense sustained (including but not limited to attorneys' fees and expenses of litigation) resulting from the failure of such sending bank to have such authority, or resulting from such Federal Reserve bank's guaranty of prior endorsements, or resulting from any action taken by the Federal Reserve bank within the scope of its authority for the purpose of collecting such noncash items; and (d) To guarantee all prior endorsements on such items whether or not a specific guaranty is incorporated in an endorsement of the sending bank.

(1) A Federal Reserve bank will act only as agent of the bank from which it receives such noncash items and will assume no liability except for its own negligence and its guaranty of prior endorsements.

(2) A Federal Reserve bank may present such noncash items with any accompanying documents for payment direct to the person, firm or corporation on which they are drawn or by or through which they are payable or collectible, or may present them for payment or forward them for collection direct to the bank on which they are drawn, at which they are payable, or through which they are payable or collectible; or, in its discretion, may forward them to another agent with similar authority to present them for payment or forward them for collection. The bank upon which any such noncash item may be drawn, or at which the same may be payable or through which the same may be payable or collectible shall be deemed to be a proper agent for collection within the meaning of this regulation.

(3) Noncash items received by a Federal Reserve bank payable in other districts will be forwarded for collection to the Federal Reserve bank of the district in which such items are payable; except that, when in the judgment of the Federal Reserve bank the size or character of the item or other special circumstances justify such action, any such item, in the discretion of the Federal Reserve bank, may be

forwarded for collection direct to the bank on which they are drawn, at which they are payable, or through which they are payable or collectible, or may be forwarded for collection to another agent with authority to present them for payment direct to the person, firm, or corporation on which they are drawn or by or through which they are payable or collectible or to present them for payment direct to the bank on which they are drawn, at which they are payable or through which they are payable or collectible.

(4) A Federal Reserve bank may, in its discretion and at its option, accept from a drawee bank in payment of or from any collecting agent in remittance for such noncash items, cash, checks, bank drafts, transfers of funds or bank credits, or other forms of payment or remittance, acceptable to the collecting Federal Reserve bank. The Federal Reserve bank shall not be liable for the failure of a drawee bank or any agent to collect, or to pay, or remit for, such noncash items, nor for any loss resulting from the acceptance from a drawee bank or any agent, in lieu of cash, of any other form of payment or remittance authorized herein, nor for the nonpayment of, or failure to realize upon, any bank draft or other medium of payment or remittance which may be accepted from a drawee bank or any collecting agent.

(5) Bank drafts and other forms of payment or remittance received by a Federal Reserve bank in payment of or in remittance

for noncash items handled under the terms of this regulation will be collected, at the option of the Federal Reserve bank, either under the terms and conditions of this regulation or under the terms and conditions of Regulation J of the Board of Governors of the Federal Reserve System.

(6) No draft, authorization to charge, or other order, upon any reserve balance, clearing account, deposit account, or other funds of a paying, remitting, or collecting 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, acted upon, or honored after receipt by such Federal Reserve bank of notice of suspension or closing of such paying, remitting, or collecting bank.

(7) With respect to any noncash item sent direct by a member or nonmember clearing bank in one district to a Federal Reserve bank in another district, the relationships and the rights and liabilities existing between the member or nonmember clearing bank, the Federal Reserve bank of its district and the Federal Reserve bank to which the noncash item is sent will be the same, and the relevant provisions of this regulation will apply, as though the member or nonmember clearing bank had sent such noncash item to the Federal Reserve bank of its district with its endorsement and guaranty of prior endorsements and such Federal Reserve bank had sent the noncash item to the other Federal Reserve bank with its

endorsement and guaranty of prior endorsements.

SECTION 4. OTHER RULES

Each Federal Reserve bank may also promulgate rules not inconsistent with the terms of the law or of this regulation, governing the details of its noncash collection operations. Such rules may be set forth by each Federal Reserve bank in circulars to its member and nonmember clearing banks and shall be binding upon any member or nonmember clearing bank which sends any non-cash item to such Federal Reserve bank for collection or to any other Federal Reserve bank for the account of such Federal Reserve bank for collection.

R-456-b

EXHIBIT 4

The following is the paragraph (5) referred to in the report of the Committee of Counsel dated April 21, 1939. It was omitted from the proposed regulation on noncash collections as re-drafted after a conference with the Standing Committee on Collections which felt that it should not be included. In order to avoid confusion, it is suggested that, if any reference is made to it in correspondence, it be referred to as "Exhibit 4" instead of "Paragraph (5)", since the attached draft of the regulation contains a different paragraph numbered (5).

(5) A Federal Reserve bank may, in its discretion and at its option, accept in payment for such noncash items from persons, firms or corporations on which they are drawn or by or through which they are payable or collectible, cash, bank drafts, bank officers' checks or checks certified by banks, acceptable to the collecting Federal Reserve bank. The Federal Reserve bank shall not be liable for any loss resulting from the acceptance of, nonpayment of, or failure to realize upon, any form of remittance the acceptance of which is authorized in this paragraph.