

**BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON**

S-496

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 28, 1942



Dear Sir:

Under date of October 10, 1941 (S-368), the Board wrote you with regard to obtaining corrections of apparent violations of Regulation W. It was assumed that most violations were the result of inadvertence or misunderstanding as to the meaning of the provisions of the regulation.

Since that time many Registrants have had an opportunity to familiarize themselves with the regulation and there may be instances where violations are willful rather than the result of inadvertence or ignorance. The Board feels that it has a responsibility to provide such a program of enforcement as will bring about general compliance with the requirements of the regulation and in some degree prevent willful violations. To this end, the Board has approved a program of enforcement, a copy of an outline of which is enclosed. Certain parts of the program call for action by the various Federal Reserve Banks, and it is requested that your Bank proceed in accordance with this program.

After consultation with representatives of the Department of Justice it has been decided that, for the present at least and in the absence of exceptional circumstances, violations will not be reported to the Department of Justice in the first instance. However, in cases where the circumstances warrant, proceedings will be instituted, as set forth in the outline, to determine whether or not the Registrant's license should be suspended. The Board may wish to bring some of the cases in the latter category to the attention of the Department of Justice for possible prosecution by that Department. At the present time, however, it is desirable that every effort be made to secure compliance on the part of persons having obligations under the regulation, and it is contemplated that criminal action will be taken only in cases involving willful and aggravated violations.

In connection with subdivision II(B) of the enclosed program relating to proceedings for suspension of license in the case of willful violations, it is contemplated, of course, that if any case should

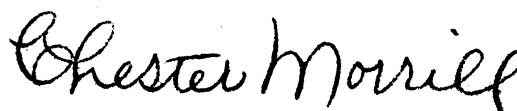


be discovered where the failure of a person subject to Regulation W to comply with the registration requirements of the regulation is apparently willful, you will make a full report of the facts in such case to the Board in order that it may bring the case to the attention of the Department of Justice.

With respect to subdivision I(A)(3) of the enclosed program relating to solicitation of the cooperation of local supervisory agencies, it is suggested that your Bank not take steps to work out a program with such agencies until the Board has reached agreement with the Federal Deposit Insurance Corporation, the Comptroller of the Currency, etc., with respect to their cooperation as mentioned under subdivision I(A)(2). In this connection, it may be mentioned that it is contemplated that in our contact with the National Association of Supervisors of State Banks we will solicit their cooperation at this time only as to banks. However, it is believed that in a number of States the bank supervisory agency also supervises and examines other classes of lenders subject to Regulation W. We will advise you as soon as practicable as to the agreements we have reached with the Federal Deposit Insurance Corporation, the Comptroller of the Currency, etc., and in the meantime you may wish to contact the bank supervisory agencies and any other similar agencies in your district to determine what lenders subject to Regulation W other than banks come under their jurisdiction.

The Board desires to emphasize that the enclosed program of enforcement is not intended to diminish in any way the educational activities of your Bank with regard to the requirements of Regulation W through trade associations, Better Business Bureaus, the press, by furnishing speakers to interested groups, or by any other appropriate means.

Very truly yours,



Chester Morrill,
Secretary.

Enclosure

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS

OUTLINE OF ENFORCEMENT PROGRAM UNDER REGULATION W

I. Detection of Violations

A. Lenders:

1. It shall be the primary responsibility of the Federal Reserve Banks to detect violations by State member banks through the usual process of examination of such banks and through spot checks to detect violations by other lenders not periodically examined by recognized State or Federal supervisory agencies. Such spot-checking shall be conducted as outlined under I-B below.
2. The Board will undertake to obtain the cooperation of supervisory agencies having authority of national scope in detecting violations by institutions under their examination and supervision, such agencies including--
 - a. Federal Deposit Insurance Corporation
 - b. Comptroller of the Currency
 - c. National Housing Agency
 - d. Farm Credit Administration

The Board will also undertake to obtain the cooperation of the National Association of Supervisors of State Banks.

Any such cooperation will be solicited along the lines of that which has been obtained with respect to violations of the Board's Regulation U, with such modifications of procedure as may be appropriate to conform to this program.

3. The Federal Reserve Banks will solicit the cooperation of supervisory agencies having authority of local scope in detecting violations by institutions under their examination and supervision. Each Federal Reserve Bank, with the assistance of its counsel, will ascertain the local supervisory agencies regularly examining and supervising those lenders subject to Regulation W.

B. Vendors:

1. The various Federal Reserve Banks will for the present spot check extensions of credit by vendors, each Federal

Reserve Bank exercising its own discretion as to the number of checkers or investigators it will engage, their qualifications and training, the size of sample of vendors to be investigated, and the methods and scope of investigation. The Board suggests, however, that each Federal Reserve Bank make a real effort to spot check a representative number of vendors that may be subject to Regulation W. Any such investigator should be furnished with appropriate credentials by the Federal Reserve Bank he represents. The investigator's report should follow such form as is suggested by the following outline:

- a. Name of the Federal Reserve Bank.
- b. Name, address, and character of the business investigated and whether registered.
- c. Date of investigation.
- d. Name of investigator.
- e. Scope of investigation (including procedure in spot-checking, number and types of transactions reviewed and for what calendar period, whether there was a review of Statements of Borrower, Statements of Transaction, and Statements of Necessity, etc.).
- f. List of violations disclosed and as to each whether in the investigator's opinion it was apparently willful or inadvertent.
- g. A complete detailed statement of facts of each violation.
- h. Corrections, if any, obtained as a result of the investigation.
- i. The attitude of the business executives toward the regulation in general and toward the alleged violation in particular.
- j. Other comments of the investigator.

II. Treatment of Violations after Detection

Consideration will be given in this section only to violations discovered by the Federal Reserve Banks. In negotiations with

other supervisory agencies, an attempt will be made to have their treatment of violations conform generally to the treatment of violations discovered by the Federal Reserve Banks.

A. Inadvertent violations:

1. If in the opinion of the Federal Reserve Bank the violation was inadvertent, the Reserve Bank will--
 - a. Take appropriate steps to bring about, if practicable under all the circumstances, a correction of the contract in accordance with the regulation;
 - b. If the circumstances warrant, make further investigations from time to time to determine whether other violations occur; and
 - c. Furnish the Board, when requested to do so, with reports showing inadvertent violations and the corrections obtained.

B. Willful violations:

1. If, in the opinion of the Federal Reserve Bank, a violation was apparently willful and proceedings should be instituted to determine whether the Registrant's license should be suspended, the Federal Reserve Bank will--
 - a. Prepare a full report of the facts disclosed by its investigation;
 - b. Forward one copy of such report to the Board with its recommendations; and
 - c. Take no further action against the apparent violator until directed to do so by the Board.
2. If the circumstances warrant, the Board of Governors will direct that a hearing be held at the Federal Reserve Bank to determine whether or not the Registrant's license should be suspended. In connection with any such direction, the Federal Reserve Bank will be furnished with full instructions as to the conduct of the hearing. In general, it is contemplated that the hearing will be conducted by a trial examiner selected for the purpose but independent of the Federal Reserve Bank and that the evidence of the violation will be presented by counsel and other representatives of the Federal Reserve Bank.