

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

WASHINGTON, D. C 20551

April 14, 1972

CONFIDENTIAL (FR)

To: Federal Open Market Committee

From: Mr. Altmann

Enclosed is a copy of a memorandum to the Committee from the General Counsel, dated April 14, 1972, and entitled "Whether FOMC members are required to state reasons for dissent from Committee actions."

Murray Altmann Assistant Secretary Federal Open Market Committee

Attachment

April 14, 1972.

To: Federal Open Market Committee Subject: Whether FOMC members are required to state reasons for

From: Mr. Hackley dissent from Committee actions.

Question has been raised whether a member of the Federal Open Market Committee who dissents from an action taken by the Committee is legally required to prepare a statement for the record setting forth the reasons for his dissent. The answer to the question is clearly negative.

Section 12A of the Federal Reserve Act, relating to the organization and functions of the FOMC, contains no provision relevant to the question. The tenth paragraph of section 10 of the Act, however, provides as follows:

"The Board of Governors of the Federal Reserve System shall keep a complete record of the action taken by the Board and by the Federal Open Market Committee upon all questions of policy relating to open-market operations and shall record therein the votes taken in connection with the determination of open-market policies and the reasons underlying the action of the Board and the Committee in each instance. The Board shall keep a similar record with respect to all questions of policy determined by the Board, and shall include in its annual report to the Congress a full account of the action so taken during the preceding year with respect to open-market policies and operations and with respect to the policies determined by it and shall include in such report a copy of the records required to be kept under the provisions of this paragraph."

Under this paragraph, it is clear that the votes of individual members of the Committee with respect to policy actions taken by the Committee must be recorded. In addition, it may be noted that 5 U.S.C. 552(a)(4) requires every agency having more than one member to maintain and make available for public inspection "a record of the final votes of each member in every agency proceeding". For purposes of that provision, the making of a policy decision by the FOMC is an "agency proceeding".

The provision of section 10 of the Federal Reserve Act above quoted expressly requires that "the reasons underlying the action of . . . the Committee" with respect to all questions of policy must be recorded. Obviously, however, the reasons for an "action" of the Committee are the reasons for which the majority of the Committee voted for the action; the paragraph cannot be regarded as in any sense requiring a statement of the reasons for which dissenting members voted against the action.

The conclusion that a member of the Committee is not legally required to submit a statement of his reasons for dissenting from an action of the Committee is borne out by historical practice.

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Federal Open Market Committee

The policy records of the Committee published in the Board's Annual Reports since 1936 indicate that on a number of occasions policy actions were taken by the Committee with dissenting votes but without statements of reasons by the dissenters. For example, at a meeting on

to the adoption of a resolution regarding replacement of maturing Treasury bills and without publication of reasons for their dissents. The same three members dissented from actions adopting similar resolutions, again without statements of reasons, on March 7 and March 20, 1939. At a meeting on September 28, 1942, the Committee took an action with respect to Reserve Bank purchases of Treasury bills at the posted discount rate. The policy record reflected the reasons for the majority action of the Committee but contained no statement of the reasons for which three members dissented from the action.

For long periods of time, there were no dissents to actions taken by the Committee as for example between March 1943 and June 1953.

December 30, 1938, three members of the Committee voted "no" with respect

For long periods of time, there were no dissents to actions taken by the Committee, as, for example, between March 1943 and June 1953. Since the early 1960's, there have been a greater number of dissents and a practice has developed under which the policy record has contained a paragraph, and in a few instances two paragraphs, reflecting the reasons for which the dissenting member or members voted against a particular action. Even in recent years, however, there have been occasions on which one or more members have dissented from the adoption of the Committee's current economic policy directive without any statement of their reasons for doing so. (See, e.g., policy records for meetings of May 7, 1963, May 28, 1963, and July 30, 1963.)