FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 5770
January 31, 1966]

INTERPRETATION OF REGULATION A

*To the Member Banks of the
Second Federal Reserve District:*

Printed below is an excerpt from the *Federal Register* of January 26, 1966, containing an interpretation, issued by the Board of Governors of the Federal Reserve System, on the eligibility of Export-Import Bank participation certificates as collateral security for advances to member banks under the eighth paragraph of section 13 of the Federal Reserve Act.

Additional copies of this circular will be furnished upon request.

ALFRED HAYES,
President.

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. A]

PART 201—ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

Export-Import Bank Participation Certificates as Collateral for Advances

§ 201.105 Export-Import Bank participation certificates as collateral for advances.

(a) The Board of Governors has been asked whether participation certificates representing interests in loans made by Export-Import Bank of Washington ("Bank") are eligible as collateral security for advances by Reserve Banks to member banks.

(b) The eighth paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 347) provides that any Reserve Bank "may make advances for periods not exceeding ninety days to its member banks on their promissory notes secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible * * * for purchase by Federal Reserve Banks under the provisions of this Act." Under section 14(b) of the Act (12 U.S.C. 355), the Reserve Banks may purchase, subject to limitations not relevant for this purpose, "any bonds, notes, or other obligations * * * which are fully guaranteed by the United States as to principal and interest."

(c) The Export-Import Bank Act (12 U.S.C. 635) does not expressly pledge or give the Bank the authority to pledge the "faith" or "credit" of the United States for the redemption of the Bank's participation certificates. The Bank is however, a wholly owned Government corporation, and it does unconditionally guarantee the payment of principal and interest, when due, on each certificate.

(d) In National Cored Forgings Co. v. United States, 132 F. Supp. 454 (1955), the Court of Claims held that a suit based on a guaranty obligation of the Reconstruction Finance Corporation, a wholly owned corporation of the United States, could be brought directly against the United States on the ground that, when the RFC acted within the scope of its statutory authority, it contracted both in its corporate capacity and as an agent of the United States, thereby obligating the latter also.

(e) Moreover, the Attorney General of the United States has expressed the opinion that obligations guaranteed by the Development Loan Fund, a wholly owned Government corporation, were obligations fully binding on the United States, even though the Congress had neither pledged nor authorized such Fund to pledge the "faith" or "credit" of the United States (42 Op. A.G. No. 1 of April 14, 1961). That opinion states:

> A series of opinions of the Attorney General issued between 1953 and 1959 has established that a guaranty by a Government agency contracted pursuant to a congressional grant of authority for constitutional purposes is an obligation fully binding on the United States despite the absence of statutory language expressly pledging its "faith" or "credit" to the redemption of the guaranty and despite the possibility that a future appropriation might be necessary to carry out such redemption.

(f) On the basis of these authorities, the Board has concluded that participation certificates with respect to which the Export-Import Bank unconditionally guarantees the payment of principal and interest, when due, are "fully guaranteed by the United States as to principal and interest" within the meaning of section 14(b) and are therefore eligible as collateral for advances under the eighth paragraph of section 13, provided that the participation certificates (and any sub-participations therein) are fully transferrable to the Reserve Banks in order that they may possess the same rights of ownership therein as the original purchaser.

(12 U.S.C. 248(i). Interprets 12 U.S.C. 347 and 355)

Dated at Washington, D.C., this 14th day of January 1966.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,

[SEAL] MERRITT SHERMAN,
Secretary.

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