

## FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO  
THE FEDERAL RESERVE BOARD

X-7493

July 11, 1933.

Dear Sir:

There is attached hereto, for your information, a copy of a letter addressed by the Board to Acting Governor Johns of the Federal Reserve Bank of Atlanta in response to his request for advice as to who is to be considered an executive officer of a member bank within the meaning of Section 22(g) of the Federal Reserve Act as amended by the Banking Act of 1933, which prohibits borrowings from a member bank by an executive officer of such bank and requires reports of borrowings by such executive officer from any other bank.

Very truly yours,

Chester Morrill,  
Secretary.

Inclosure.

TO ALL F. R. AGENTS.

C O P Y

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X-7493-a

July 11, 1933.

Mr. W. S. Johns, Acting Governor,  
Federal Reserve Bank of Atlanta,  
Atlanta, Georgia.

Dear Mr. Johns:

This refers to your letter of June 22, 1933, in which you request advice as to the Board's views on the question who is to be considered an "executive officer" of a member bank within the meaning of section 22(g) of the Federal Reserve Act, as amended by the Banking Act of 1933, which prohibits borrowings from a member bank by an executive officer of such bank and requires reports of borrowings by such an executive officer from any other bank.

The question whether a person is to be considered an executive officer of a member bank within the meaning of this provision would seem to depend primarily upon the character of his duties and the functions which he actually performs rather than upon his official title or the name of the position which he occupies. A person having a certain title or holding a certain position in one bank may have duties and may perform functions which would bring him within the meaning of the term "executive officer", while the duties and functions of a person holding a title or position of the same name in another bank might be of such a different character that he would not be regarded as an

Mr. W. S. Johns.

-2-

executive officer of such bank. It is believed, therefore, that no classification of persons according to their titles or the names of their positions would be an accurate guide in determining whether they are executive officers within the meaning of the provision of law in question. Each case must depend upon the facts involved, and no general rule can be promulgated with safety.

The law provides a penalty of fine or imprisonment for violations and the determination of the question whether persons should be prosecuted for such violations is a matter entirely within the jurisdiction of the Department of Justice. The Federal Reserve Board is not specifically authorized to prescribe regulations on this subject; and, in the circumstances, an expression of opinion by the Federal Reserve Board on the question who is to be considered an executive officer would not afford protection from criminal prosecution, if the Department of Justice upon consideration of the matter should take the position that such a person was within the statute and should feel it necessary to prosecute for violation of this provision. Accordingly, the Federal Reserve Board does not feel that it would be appropriate for it to undertake to express opinions upon questions of this kind.

Very truly yours,

Chester Morrill,  
Secretary.