

X-7504

(INTERPRETATION OF BANKING ACT OF 1933)

Copies to be sent to all Federal Reserve Banks.

July 17, 1933.

Mr. W. W. Hoxton,
Federal Reserve Agent,
Federal Reserve Bank of Richmond,
Richmond, Virginia.

Dear Mr. Hoxton:

Receipt is acknowledged of your letter of July 12, 1933, inclosing a copy of a letter addressed to you on the same date by Mr. _____, Executive Manager of (a member bank), inquiring whether the provisions of Section 23A of the Federal Reserve Act, as amended by Section 13 of the Banking Act of 1933, are retroactive.

It appears from Mr. _____' letter that the (member bank) has two affiliates and that the investments which it had made in the capital stock of such affiliates, prior to June, 1933, exceed the limits proscribed by Section 23A. To conform to other provisions of the Banking Act of 1933, these affiliates are now being liquidated; but, during the period of liquidation, they desire to borrow reasonable sums for expenses and other purposes, and the bank apparently desires to know whether it may make loans to these affiliates.

The first paragraph of Section 23A, which is the only part of that section pertinent to this inquiry, reads as follows:

"Sec. 23A. No member bank shall (1) make any loan or any extension of credit to, or purchase securities under repurchase agreement from, any of its affiliates, or (2) invest any of its funds in the capital stock, bonds, debentures, or other such obligations of any such affiliate, or (3) accept the capital stock, bonds, debentures, or other such obligations of any such affiliate as collateral security for advances made to any person, partnership, association, or corporation, if, in the case of any

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such affiliate, the aggregate amount of such loans, extensions of credit, repurchase agreements, investments, and advances against such collateral security will exceed 10 per centum of the capital stock and surplus of such member bank, or if, in the case of all such affiliates, the aggregate amount of such loans, extensions of credits, repurchase agreements, investments, and advances against such collateral security will exceed 20 per centum of the capital stock and surplus of such member bank."

In view of the words underlined, it is clear that these provisions do not require a member bank to dispose of any such loans or investments acquired prior to June 16, 1933; but they forbid a member bank to make additional loans or investments of this character, if the addition of the amount of such new loans or investments to the amount of those previously existing will increase the aggregate to an amount exceeding 10% of the capital and surplus of such member bank, in the case of any one affiliate, or 20% of the capital and surplus of such member bank, in the case of all affiliates of such bank.

Since the investments made by the (member bank) in the capital stock of its affiliates, prior to June 16, 1933, exceed the limits prescribed by the law, the (member bank) may not lawfully make loans to such affiliates while it holds such investments.

Very truly yours,

Chester Morrill,
Secretary.