

(INTERPRETATION OF BANKING ACT OF 1933)

Copies to be sent to all Federal Reserve Banks.

August 7, 1933.

Honorable _____,
United States Senate,
Washington, D. C.

Dear Senator _____:

Permit me to acknowledge receipt of your letter of June 28, 1933, addressed to Honorable Eugene R. Black, Governor of the Federal Reserve Board, in which you inclosed a letter to you from Mr. _____, Cashier of _____ Bank, _____, _____. In his letter, Mr. _____ submits the question whether cooperative banks in Massachusetts are "mutual savings banks" within the meaning of section 19 of the Federal Reserve Act, as amended by section 11(b) of the Banking Act of 1933, which excepts from the prohibition against payment of interest on deposits payable on demand deposits made by a "mutual savings bank".

The Federal Reserve Board has communicated with the Federal Reserve Bank of Boston with respect to this matter, and it appears that cooperative banks in Massachusetts are incorporated under Chapter 170 of the General Laws of Massachusetts as amended by Chapter 144 of the Acts of 1933. Under the provisions of the Massachusetts statutes, such an institution may be incorporated for the declared purpose of "accumulating the savings of its members and loaning such accumulations to them", and such institutions appear to be organized for the primary purpose of making loans to aid in home construction. Capital is

obtained by issuing in series either paid-up shares, or unmatured shares for which payment is made in fixed periodical installments. Under the law, the accumulated funds in any such institution may be loaned in limited amounts to applicant members on the security of real estate or unpledged shares, or may be invested in the manner prescribed by law. Net profits, less certain reserves, are distributed annually, semi-annually, or quarterly to the shares then existing before the close of business on each day when a new series of shares is issued. It does not appear that such institutions accept deposits of moneys, or that they are authorized to engage in any of the primary banking functions of deposit, discount, or circulation.

After careful consideration of the nature of a co-operative bank in Massachusetts, it is the opinion of the Federal Reserve Board that such institutions may not properly be considered "mutual savings banks" within the meaning of section 19 of the Federal Reserve Act, as amended. Cooperative banks in Massachusetts are engaged primarily in making loans on the security of real estate, and do not accept deposits of money, and it would seem clear that they are not "savings banks". On the other hand, they are substantially similar to organizations commonly known as "building and loan associations", and it would appear that they should be so classified. The fact that the corporate structure of such institutions may be similar to that of a "mutual savings bank" cannot affect this conclusion, since the question whether an organization is a "savings bank" ultimately depends upon

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the kind of business done, and not merely upon the form of corporate structure. Accordingly, since the character of the business actually engaged in by cooperative banks incorporated under the laws of Massachusetts is so distinct from that of a savings bank, it is the opinion of the Board that such institutions cannot be said to be "mutual savings banks" within the meaning of the Act, and that payment of interest by a member bank on any deposit made by such an institution, which is payable on demand, would be within the prohibition of section 19 of the Federal Reserve Act, as amended.

Mr. _____'s letter is returned herewith for your files.

Very truly yours,

Chester Morrill,
Secretary.