

X-7555

(INTERPRETATION OF BANKING ACT OF 1933) August 21, 1933.

Copies to be sent to all Federal Reserve Banks.

Mr. Walter S. Logan, Deputy Governor,
Federal Reserve Bank of New York,
New York, New York.

Dear Mr. Logan:

Reference is made to your letter of June 28, 1933, with inclosure, in which the question is raised whether, under the provisions of Section 19 of the Federal Reserve Act, as amended by the Banking Act of 1933, a trust company organized under the laws of the State of New York, and a member of the Federal Reserve System, may pay interest on deposits of funds belonging to an estate or trust of which it is acting as executor or trustee and deposited by the trust department in the commercial department of the trust company, subject to immediate withdrawal. In this connection, you refer to a provision of the Banking Law of New York which requires a trust company to pay interest on funds received by it in a fiduciary capacity; but the law does not appear to require that deposits of such funds in another department of the trust company shall necessarily be made payable on demand.

As you know, Section 19 of the Federal Reserve Act, as amended by Section 11(b) of the Banking Act of 1933, forbids a member bank, directly or indirectly, to pay interest on any deposit which is payable on demand, except in accordance with a contract entered into in good faith prior to June 16, 1933, and in force on that date; and a member bank is required to eliminate from any such contract any provision for the payment of interest on deposits payable on demand as soon as

possible consistently with its contractual obligations. Deposits of certain kinds are excepted from the provision of law in question; but deposits of the kind which are the subject of your inquiry would not appear to come within any of the exceptions mentioned in the statute (unless payable only at an office of a member bank located in a foreign country); and the Federal Reserve Board has no authority to make any additional exceptions to the prohibition of the law against the payment of interest on deposits payable on demand. It is the opinion of the Board, therefore, after a consideration of the question which you raise, that a member bank is forbidden by law to pay interest on deposits of funds payable on demand which belong to an estate or trust in which it is acting as executor or trustee and which are deposited by the trust department in the commercial department of the bank, except in accordance with a contract entered into in good faith before June 16, 1933, and existing on that date, and such a contract must be modified by the bank as soon as possible to eliminate any provision for the payment of interest on deposits payable on demand.

Very truly yours,

Chester Morrill,
Secretary.