

## (INTERPRETATION OF BANKING ACT OF 1933)

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Copies to be sent to all Federal reserve banks.

August 29, 1933.

Mr. T. A. Walters,  
First Assistant Secretary,  
Department of the Interior,  
Washington, D. C.

Dear Sir:

Reference is made to your letters of July 8 and July 15, 1933, addressed to the Governor of the Federal Reserve Board, in which you submit the question whether, under the provisions of Section 19 of the Federal Reserve Act as amended by Section 11(b) of the Banking Act of 1933, a member bank may pay interest on deposits of Indian funds which are payable on demand. It appears from the information which you have submitted that the agreement for the receipt of such deposits and the payment of interest thereon is contained in letters exchanged between the member bank and the Department of the Interior and that the bank also agrees to comply with regulations of the Department on the subject. The member bank is required to give security for the deposits received and to pay interest at a stipulated rate computed on actual daily balances. There is apparently no provision as to the period for which the agreement governing the deposit shall be effective or as to the date upon which it shall terminate, but it appears that the Department of the Interior may effectually terminate the arrangement at any time through withdrawal of the balance with the member bank.

Section 19 of the Federal Reserve Act, as amended by the Banking Act of 1933, provides, in part, as follows:

"No member bank shall, directly or indirectly by any device whatsoever, pay any interest on any deposit which is

payable on demand: Provided, That nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract heretofore entered into in good faith which is in force on the date of the enactment of this paragraph; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform to this paragraph, and every member bank shall take such action as may be necessary to conform to this paragraph as soon as possible consistently with its contractual obligations: Provided, however, That this paragraph shall not apply to any deposit of such bank which is payable only at an office thereof located in a foreign country, and shall not apply to any deposit made by a mutual savings bank, nor to any deposit of public funds made by or on behalf of any State, county, school district, or other subdivision or municipality, with respect to which payment of interest is required under State law."

It will be noted that the law obviously contemplates that any contract with a member bank for the payment of interest on deposits payable on demand, which was entered into prior to the date of enactment of the Banking Act of 1933, June 16, 1933, and in force on that date, should be terminated by such bank as soon as possible after that date, if legally possible to do so under the contract.

After careful consideration of this matter, it is the view of the Federal Reserve Board that a member bank in which Indian funds have been deposited in accordance with the terms of an agreement such as that exemplified in the inclosures with your letter of July 15 on this subject, may lawfully terminate the contract at any time upon giving reasonable notice to the Department of the Interior of its intention to terminate such contract, and that accordingly it became the duty of such a member bank to terminate or to modify such contract as soon as possible after June 16, 1933, so as to eliminate any provision for the payment of interest on deposits payable on demand. After such modification of the

contract, no interest may be paid on deposits which have been received under its provisions and which are payable on demand.

The opinion of the Federal Reserve Board on a question of this kind, as you know, does not necessarily constitute a final determination of the rights of the parties to the transaction and does not prevent any party who may desire to do so from obtaining a determination of any such question which may be of a justiciable character in a court of competent jurisdiction.

Very truly yours,

Chester Morrill,  
Secretary.