

X-7621

(INTERPRETATION OF BANKING ACT OF 1933)

Copies to be sent to all Federal reserve banks.

September 27, 1933.

Mr. J. H. Dillard,
Deputy Governor,
Federal Reserve Bank,
Chicago, Illinois.

Dear Sir:

Reference is made to your telegram of September 21st, in which you raise certain questions with regard to the payment of interest on certificates of deposit by member banks under the provisions of the Board's Regulation Q.

The Board understands that your inquiry relates to certificates of deposit with respect to which the member bank reserves the right to require written notice of not less than thirty days before withdrawal of the deposit. You will observe that, under the provisions of footnote 4 of the Board's regulation, interest may not be paid on a certificate of deposit with respect to which the bank merely reserves the right to require notice before payment. However, under other provisions of the regulation, a member bank may pay interest in accordance with the terms of any certificate of deposit which was lawfully entered into in good faith prior to June 16, 1933, and in force on that date and which may not lawfully be terminated or modified by such bank at its option or without liability; but no such certificate of deposit may be renewed or extended unless it be modified to conform to the provisions of the

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regulation, and every member bank is required to take such action as may be necessary as soon as possible consistently with its contractual obligations to bring all such certificates of deposit into conformity with the provisions of the regulation.

The certificates of deposit which you describe appear to be of indefinite maturity but, in the absence of a provision in such a certificate to the contrary, it would seem to the Board that a member bank may lawfully terminate the contract contained in the certificate at any time upon paying the amount due to the depositor after giving reasonable notice to him of its intention to terminate the arrangement; and that, accordingly, it is the duty of such a member bank to terminate or to modify such a certificate of deposit as soon as possible so as to bring it into conformity with the provisions of the regulation. If a member bank terminates or modifies its certificates of deposit of the kind described above, as soon as possible, so as to bring them into conformity with the provisions of the regulation, interest may be paid, in accordance with the terms of the regulation, on such certificates which were issued prior to June 16, 1933, and outstanding on that date, until the date on which they are so terminated or modified, provided that the certificates themselves require that interest be paid on such deposits until withdrawn. No interest accruing after such modification or termination of the certificates may be paid on any deposit represented thereby unless the certificates then conform to the requirements of the regulation in this connection.

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You also inquire whether interest may be paid on certificates of the kind described above which have been issued since June 16, 1933. In this connection it may be noted that such certificates may be classified as time deposits for the purpose of computing reserves under the provisions of Regulation D; and also that the Board advised all Federal reserve banks in a telegram dated June 21, 1933, Trans. No. 1826, that member banks might continue to pay interest on time deposits in accordance with their usual practice or existing bona fide contracts until the Federal Reserve Board should issue regulations on the subject. In the circumstances, the Board will offer no objection to the payment of interest by member banks in accordance with the terms of the certificates and at a rate not in excess of that prescribed in Regulation Q, on certificates of deposit of the kind described which were issued after June 16, 1933, and not later than August 29, 1933, the effective date of the regulation, provided such member banks terminate or modify such certificates of deposit as soon as possible so as to bring them into conformity with the provisions of the regulation.

While a number of other questions were discussed in a recent telephone conversation between Counsel for your bank and the Board's Assistant Counsel, the Board feels that it should not attempt to pass upon such questions unless submitted in writing and all information necessary to a determination of the questions is given.

Very truly yours,
(Signed) L. P. Bethea
L. P. Bethea,
Assistant Secretary.