X-7689

INTERPRETATION OF BANKING ACT OF 1933.

(Copies to be sent to all Federal reserve banks)

November 17, 1933.

Mr. W. B. Geery, Governor,
Federal Reserve Bank of Minneapolis,
Minneapolis, Minnesota.

Dear Governor Geery:

Reference is made to Mr. _____'s letter of October 17, 1933, addressed to the Chief of the Board's Division of Bank Operations, raising the question whether deposits of receivers of insolvent national banks and deposits of conservators of national banks may be regarded by a member bank in which such funds are deposited as demand deposits "due to banks" within the meaning of Section III(b) of the Board's Regulation D.

The Board has taken the position that a Federal reserve bank has no authority to receive deposits from a receiver of a national bank, on the ground that Section 6 of the Federal Reserve Act requires a member bank, upon the appointment of a receiver, to surrender stock held by it in a Federal reserve bank and that, therefore, a national bank for which a receiver has been appointed can no longer be considered a member bank within the meaning of Section 13 of the Federal Reserve Act, which authorizes a Federal reserve bank to receive deposits from its member banks. If, upon its insolvency, a national bank can no longer be regarded as a member bank, it may be argued that it cannot be considered a bank for any other purpose.

Furthermore, the receiver of an insolvent national bank holds legal title to the assets of the bank as trustee for the benefit of the bank's creditors. Accordingly, upon his appointment, the bank may be said to cease to exist as a going banking organization, and to exist only for the purpose of winding up its affairs.

On the other hand, a national bank in the hands of a conservator may continue to perform characteristic banking functions. Under Section 206 of the Bank Conservation Act of March 9, 1933, as amended, the conservator may, under the direction of the Comptroller of the Currency, receive deposits and allow withdrawal of deposits on a limited basis. Moreover, that act authorizes the Comptroller of the Currency, in his discretion, to terminate the conservatorship and permit the bank to resume the transaction of its business under the management of its own officers. It is clear, therefore, that the appointment of a conservator contemplates not the cessation of banking activities, but the conservation and protection of the bank's assets, temporarily.

For the reasons above indicated, the Board is of the opinion that, while deposits made by a conservator of a national bank may properly be considered deposits "due to banks" within the meaning of Regulation D, deposits made by a receiver of an insolvent national bank may not be so regarded.

Very truly yours,

(Signed) Chester Morrill

Chester Morrill,
Secretary.