

(INTERPRETATION OF BANKING ACT OF 1933)

Copies to be sent to all Federal reserve banks.

November 28, 1933.

Mr. _____, Chairman,
The Banking Code Committee,
_____, _____.

Dear Mr. _____:

The Federal Reserve Board has given consideration to your letter of November 24, 1933, in which you inquire whether or not the practice therein outlined would be considered contrary to that portion of Section 19 of the Federal Reserve Act, as amended, which provides that, "No member bank shall, directly or indirectly by any device whatsoever, pay any interest on any deposit which is payable on demand".

It appears that Article VIII, Paragraph (3), of the Bankers Code of Fair Competition, as approved by the President on October 3, 1933, requires every clearing house, county association, county group, or State bank association to adopt rules fixing uniform service charges to be charged by banks whereby services rendered by banks shall be compensated for either by adequate balances carried or by a scale of charges.

It also appears from your letter that, in order to determine whether the balance carried in an account is sufficient to compensate the bank fairly for services rendered, it is necessary to analyze the account; that this requires the establishment of uniform rules which

must give consideration to the value of the account and proper service charges against the account; and that these charges are of two classes: first, general overhead expenses of the bank, and second, out of pocket expenses, such as exchange, collection and other charges arising out of specific transactions for specific customers and actually paid or credited by the bank on behalf of such customers.

It further appears that, under the Code, it is the duty of the Banking Code Committee to consider the rules which are being submitted for approval by clearing houses and other banking groups provided for in the Code and that, before passing upon these rules, your Committee desires to know whether it would be contrary to that provision of the Federal Reserve Act referred to above for member banks to take into consideration "the reasonable value of their customers' deposit balances in analyzing accounts in accordance with a uniform plan to be approved by the Banking Code Committee for the purpose of determining whether service charges should be assessed against their customers, and, if so, the amount to be assessed: Provided, That (1) the value of each account to the bank is computed in accordance with a uniform plan approved by the Banking Code Committee and (2) the banks require actual reimbursement (without deduction of interest or of the estimated value of the customers' balance to the banks) for exchange charges, collection charges, and other charges arising out of specific transactions for specific customers and actually paid or credited by the bank on behalf of such customers."

After careful consideration, the Federal Reserve Board is of the opinion that a practice such as that outlined in your letter would not be contrary to that provision of Section 19 of the Federal Reserve Act which is quoted above.

In reaching this conclusion the Board has taken particularly into account the fact that it is proposed, in proviso No. 2, among other things, that the banks will require actual reimbursement for exchange and collection charges, without the deduction of interest or of the estimated value of the customers' balances to the banks. Such a practice would eliminate any question of illegality which might be occasioned by the absorption by a bank of exchange or collection charges in an amount bearing a substantially direct relationship to the amount of the balance.

Very truly yours,

(Signed) Chester Morrill

Chester Morrill,
Secretary.