

INTERPRETATION OF BANKING ACT OF 1933

(Copies to be sent to all Federal reserve banks)

January 12, 1934.

Mr. _____,
The _____ National Bank of _____,
_____.

Dear Sir:

Due to the urgency of other matters arising in connection with the Banking Act of 1933, it has not been possible to make an earlier reply to your letters of September 7 and September 20, 1933, which were addressed to the Comptroller of the Currency and referred to the Federal Reserve Board for reply.

You state that the national bank examiners are reporting a deficiency in your reserve on July 1, 1933, the date of payment of your last preceding dividend, apparently as a result of a comparison of the actual reserve in the Federal Reserve Bank of Atlanta on that date with the required reserve according to your records at the close of business on that date. In view of this action by the examiners, you inquire whether you may continue your practice of maintaining reserves against deposits at the opening of business on each day.

Section 19 of the Federal Reserve Act provides in part as follows:

"The required balance carried by a member bank with a Federal reserve bank may, under the regulations and subject to such penalties as may be prescribed by the Federal Reserve Board, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities: Provided, however, That no bank shall at any time make new loans or shall pay any dividends unless and until the total balance required by law is fully restored."

Pursuant to the authority of this provision of law, the Federal Reserve Board has prescribed certain rules governing penalties for deficiencies in reserves in Section IV of its Regulation D, a copy of which is inclosed herewith for your information, and has provided therein that "in computing such deficiencies the required reserve balance of each member bank at the close of business each day shall be based upon its net deposit balances at the opening of business on the same day * * *". Thus, member banks have until the close of business each day in which to adjust their reserve balances so as to meet the requirements of their deposit balances at the close of business of the preceding day. This provision of the regulation is still effective and deficiencies in reserves should be computed on this basis in determining the amount of penalties, if any, to which a member bank is subject.

Since, however, the law provides that "no bank shall at any time make any new loans or shall pay any dividends unless and until the total balance required by law is fully restored", a member bank may not lawfully pay any dividends when its reserves are actually deficient at the time of such payment; and the fact that its reserve balances at the close of business on the date of payment of dividends may be adequate in relation to its deposit balances at the opening of business on such date is not in itself a compliance with this provision of the law. For this purpose, the required reserve balance at the time of payment of dividends must be based upon net deposit balances existing at that time and, accordingly, if the reserve

balance at the opening of business on the date of payment of the dividend is adequate in relation to the net deposit balances existing at the opening of business on such date, the dividend, if otherwise proper, may lawfully be paid.

Very truly yours,

(Signed) Chester Morrill

Chester Morrill,
Secretary.