

## INTERPRETATION OF BANKING ACT OF 1933

(Copies to be sent to all Federal Reserve Banks)

April 30, 1934

Honorable J. F. T. O'Connor,  
Comptroller of the Currency,  
Washington, D. C.

Dear Mr. Comptroller:

This refers to Mr. Lyons' letter of March 21, 1934, inclosing a copy of a letter received by you from National Bank Examiner \_\_\_\_\_, dated March 10, 1934, requesting rulings with respect to the proper classification of certain savings accounts for reserve purposes and for the purpose of determining whether interest may lawfully be paid thereon. Mr. Lyons requests that your office be advised with respect to the questions presented in the examiner's letter in order that a suitable reply may be made thereto.

The examiner states in his letter that certain banks in the northern section of the State of \_\_\_\_\_ have established a rule that no notice is to be required for the withdrawal of any part or all of the funds placed in their savings departments and that interest shall be paid thereon at the rate of 3 per cent. The examiner desires to be advised whether such accounts should be treated as demand deposits against which full reserves should be carried and whether the banks may lawfully pay interest on such deposits.

Hon. J. F. T. O'Connor - 2

It is the opinion of the Board that the practice of a member bank of paying its savings deposits in whole or in part without requiring notice of intended withdrawal does not necessarily affect the classification of such deposits, and that any such deposit may properly be classified as a savings deposit for the purpose of computing reserves or of determining whether interest may lawfully be paid thereon, as the case may be, so long as such deposit conforms to the requirements of a savings deposit as defined in section II of the Board's Regulation D or in section V of the Board's Regulation Q, respectively. However, it does not appear from the letter of the examiner whether the member banks in question have reserved individually the right to require notice of an intended withdrawal not less than 30 days before a withdrawal is made, as required by the Board's regulations, and, if in any case the contract between the depositor and the member bank does not reserve to such bank the legal right to require requisite notice of withdrawal, or, if such member bank may not change its practice without the consent of the other banks concerned so as to require requisite notice of withdrawal, the deposit must be treated as a demand deposit for the purpose of computing reserves and as a deposit payable on demand for the purpose of determining whether interest may lawfully be paid thereon. On the other hand, if the depositors are required, or

Hon. J. F. T. O'Connor - 3

may at any time be required, to give the requisite notice of intended withdrawal and the deposits otherwise meet the applicable requirements of the Board's regulations in regard to savings deposits, they may be treated as savings deposits for the purpose of computing reserves or of determining whether interest may be paid thereon, notwithstanding that it is the practice of the member banks to waive notice with respect to withdrawals of such deposits.

The examiner also desires information with respect to the proper classification of thrift deposits where the bank's regulations reserve to the bank the right to require notice of not less than thirty days, but make an express exception permitting the withdrawal of a specified amount of the deposit of each depositor without notice and without any limitation or restriction as to the number of withdrawals which may be made within any given period. As indicated in section V, subsection (e) of the Board's Regulation Q, interest at a rate not exceeding that prescribed in subsection (c) of that section may be paid upon deposits with respect to which notice of intended withdrawal has not actually been required or given, provided that such deposits conform to the requirements of savings deposits as defined in subsection (a) of that section. As you know, one of the essential attributes of a savings deposit is that the depositor must be required, or may at any time be required, by the bank to give notice in writing of an intended withdrawal not less than 30 days before a withdrawal is made. However, it does not

Hon. J. F. T. O'Connor - 4

appear that the deposits in question conform to the said requirement with respect to notice of withdrawal. Since the provisions of the bank's regulations reserving to the bank the right to require notice are made inapplicable to any withdrawal up to a certain amount and permit a depositor to withdraw all or a part of such specified amount of his deposit without notice and without restriction as to the number or frequency of such withdrawals, it appears that the attempted reservation by the bank of the right to require notice is ineffective to prevent a depositor from exhausting his account by repeated withdrawals, and, in the circumstances, it is the opinion of the Board that such a deposit is in fact a deposit payable on demand and that no interest may lawfully be paid thereon. For similar reasons, it is believed that such a deposit should be classified as a demand deposit for the purpose of computing reserves thereon.

The examiner further requests to be advised as to the effect of a member bank's allowing the withdrawal either of a certain portion or of a specified percentage of a thrift deposit each 30 days without requiring notice of such withdrawal. Although payment by a member bank of a portion or percentage of a savings deposit without requiring notice of withdrawal does not affect the classification of the deposit, provided that the bank at any time prior to withdrawal may require the depositor to give written notice of such intended withdrawal not less than 30 days prior thereto, a

Hon. J. F. T. O'Connor - 5

like result does not follow in the case where the bank does not have the legal right under its contract with the depositor to require such notice. Accordingly, if a bank permits the withdrawal without notice of a specified portion or percentage of a savings deposit and does not have the legal right to require written notice of not less than 30 days with respect to such withdrawal, it is the view of the Board that the specified portion or percentage which may be so withdrawn without notice may not be classified as a savings deposit for the purpose of computing reserves or of determining whether interest may be paid thereon. However, the balance in the account over and above the specified portion or percentage which may be withdrawn without notice may be classified as a savings deposits for such purposes if the depositor is required or may be required to give the requisite notice prior to withdrawal of such balance and if the deposit otherwise meets the requirements of the Board's regulations applicable to savings deposits.

Finally, the examiner desires to be advised as to the proper classification of thrift deposits in a case where the bank permits each depositor to withdraw his deposit in full without notice, but reserves the right to require at least 30 days notice prior to the withdrawal of any such deposit. Under the provisions of section VI of the Federal Reserve Board's Regulation Q, a member bank may pay any portion or percentage of the savings deposits of

Hon. J. F. T. O'Connor - 6

any depositor without requiring notice of withdrawal, if, upon request and without requiring such notice, it shall pay the same portion or percentage of the savings deposits of every other depositor which are subject to the same requirement. Under this section of the regulation it is permissible for a member bank to pay any savings deposit in whole or in part, provided such deposit is a savings deposit within the meaning of the Board's Regulation Q and the bank complies with the applicable conditions of Section VI of that regulation.

In addition, if the bank reserves the legal right to require the requisite notice with respect to the withdrawal of such a deposit, an account of the kind under discussion which is a savings account within the meaning of the Board's Regulation D would remain a savings account notwithstanding the fact that the bank might permit the withdrawal without notice of funds from such account in part or in full; and reserves against such an account may properly be computed on that basis. If, however, notice of withdrawal is actually required and given, the amount which may be withdrawn pursuant to such notice must be classified as a demand deposit for reserve purposes beginning thirty days prior to the date when such deposit, under the terms of the notice, shall be payable. Of course, under subsection (e) of Section V of the

Hon. J. F. T. O'Connor - 7

Board's Regulation Q, interest at a rate not exceeding that prescribed in subsection (c) of that section may be paid upon deposits which are savings deposits within the meaning of that regulation and with respect to which notice of intended withdrawal may have been given to the bank, until the expiration of the period of such notice.

Apparently, the examiner is doubtful whether a member bank may pay the entire amount of any savings deposit without requiring notice of withdrawal. Under the provisions of section VI of Regulation Q, a member bank may pay any portion or percentage of the savings deposit of any depositor without requiring such notice if, upon request and without requiring such notice, it shall pay the same portion or percentage of the savings deposits of each other depositor which are subject to the same requirement. Under this section of the regulation, it is permissible for a member bank to pay the entire amount of any savings deposit provided the bank complies with the condition mentioned and also with the other applicable conditions of section VI of that regulation.

Very truly yours,

(Signed) Chester Morrill  
Chester Morrill,  
Secretary.