

X-7953

## INTERPRETATION OF BANKING ACT OF 1933

(Copies to be sent to all Federal reserve banks)

July 3, 1934.

Mr. Lewis B. Williams,  
Federal Reserve Agent,  
Federal Reserve Bank of Cleveland,  
Cleveland, Ohio.

Dear Mr. Williams:

This refers to Mr. Fletcher's letter of April 9, 1934, with inclosures, in regard to the question whether the method used by The \_\_\_\_\_ Bank and Trust Company, \_\_\_\_\_, in handling deposits of funds accumulated for bona fide thrift purposes is in accord with the provisions of section 19 of the Federal Reserve Act and of the Board's Regulation Q. It is understood that the bank retains the savings pass books issued upon the deposit of funds and that the funds evidenced thereby may be withdrawn in whole or in part by check or by non-negotiable receipt. It is also understood that it is the contention of the bank that its retention of a pass book constitutes the bank or any employee thereof the agent of the drawer for the purpose of presenting the pass book whenever a withdrawal is made, and that this procedure is permissible under the law and the Board's regulations.

Under the definition contained in Section V(a) of the Board's Regulation Q, a deposit may not be classified as a "savings deposit" if it does not consist of funds in respect to which the

pass book or other form of receipt evidencing such deposit must be presented to the bank whenever a withdrawal is made. A deposit in respect to which the pass book or other form of receipt is retained by the bank or by an officer, employee, or agent thereof, rather than by the depositor, does not comply with this requirement. Accordingly, it is the opinion of the Board that such a deposit does not constitute a "savings deposit", but must be considered a deposit payable on demand.

In a ruling published on page 609 of the Federal Reserve Bulletin for August, 1927, the Board considered the question whether accounts of a certain member bank which were subject to check without the presentation of the pass book, which in some cases was retained by the bank in order to make it unnecessary for the depositor to present the pass book with each withdrawal, might properly be classified as savings accounts for reserve purposes, and the Board ruled that such deposits could not be so classified. The Board stated that a pass book is the depositor's receipt, that the apparent purpose of its retention by the bank was to render the account subject to check without the necessity of presenting the pass book, and that an account subject to check in such manner could not properly be classified as a savings account within the meaning of section 19 of the Federal Reserve Act.

It is believed that the principles involved in that ruling are properly applicable to the instant situation and that the

retention of a savings pass book by a member bank for a continuing period of time in order to avoid the necessity of the depositor's presenting such pass book each time a withdrawal is made is not in accord with the purpose of section 19 of the Federal Reserve Act and does not comply with the requirements of Regulation Q. Accordingly, it is the opinion of the Board that deposits represented by savings pass books which are retained by the bank cannot be regarded as "savings deposits" for the purpose of determining whether interest may lawfully be paid thereon. For similar reasons, such deposits may not be considered "savings accounts" for the purpose of computing reserves thereon.

It is noted that Mr. \_\_\_\_\_, Cashier of the \_\_\_\_\_ Branch of the Federal Reserve Bank of \_\_\_\_\_, in his letter to Mr. Fletcher of April 6, 1934, stated that he has expressed the opinion to the President of The \_\_\_\_\_ Bank and Trust Company that an out-of-town customer may draw a check against his savings account, provided the pass book is attached to such check, thereby constituting the presenting bank the agent of the holder. In the Board's opinion, the drawing of negotiable checks against a savings deposit in the manner described and the payment of such checks accompanied by the pass book by the drawee bank is not prohibited by the law or the Board's Regulation Q, provided, of course, that the passbook is promptly returned to the depositor and is not thereafter retained by the bank as a basis for future withdrawals.

Very truly yours,

(Signed) Chester Morrill

Chester Morrill,  
Secretary.