X-7975

August 6, 1934.

Dear Sir:

There is inclosed, for your information, a copy of a letter addressed to the Federal Reserve Agent at the Federal Reserve Bank of Atlanta under date of July 27, 1934, concerning the scope of examinations to be made of private banks or bankers under the provisions of Section 21 of the Banking Act of 1933.

Very truly yours,

Chester Morrill,
Secretary.

Inclosure.

TO ALL F. R. AGENTS

Copy

July 27, 1934.

Mr. Oscar Newton,
Federal Reserve Agent,
Federal Reserve Bank of Atlanta,
Atlanta, Ga.

Dear Mr. Newton:

Reference is made to your letter of July 3, 1934, concerning the scope of examinations to be made of private banks or bankers under the provisions of Section 21 of the Banking Act of 1933. You state that in many instances private bankers who have expressed a preference to be examined by the Federal Reserve Bank are engaged in other agricultural, mercantile, or manufacturing activities, and that, while they probably attempt to segregate the assets pertaining to their banking operations, the laws of the State of Georgia are such that, in case of insolvency, all assets would be pooled for the benefit of all creditors, and the depositors, therefore, would have no lien on the so-called banking assets. In the circumstances, you request instructions as to whether the examinations should cover all assets and liabilities of the private banker, or only those pertaining to the banking operations.

The Board is advised that the laws of the State of New York require every private banker to invest in the business permanent capital in stipulated amounts, and provide for the segregation of such capital and of deposits received and the assets acquired through the investment of such funds, and, further, that the assets so acquired will be first available to satisfy the claims of depositors. Similar laws are said to be in force in Connecticut,

and, perhaps, other States. Where such laws exist, it would appear that the examinations required under the provisions of Section 21 of the Banking Act of 1933 should be confined to the banking operations of the private banker, whether or not he has other assets and liabilities. Where the banking assets of the private banker, however, are available to satisfy the claims of any and all creditors, and in the event of insolvency unsecured depositors would be on an equal footing with other general creditors, it would appear that, in addition to an examination of the assets and liabilities arising from the banking operations, the examination should include such investigation of other assets and liabilities as is necessary to determine the true condition of the bank.

In the Board's letter of June 26, 1934 (X-7936) it was stated that inasmuch as, under the terms of Section 21, all reports of condition are to be made and published at the same times and in the same manner and with like effect and penalties as are now provided by law in respect of national banking associations transacting business in the same locality, such reports of condition, in all cases, and without regard to the authority which may make the examinations referred to in Section 21, should be made to the Comptroller of the Currency and published in the same manner as reports of condition of national banks. In the circumstances, it is within the power of the Comptroller of the Currency to prescribe the form of such reports. Presumably, the purpose of examinations under the terms of the section is to determine the true condition of the bank,

Mr. Oscar Newton - 3.

verify the accuracy of such reports of condition as may be made, and disclose any irregularities that may be subject to penalty. Therefore, the matter has been discussed with the office of the Comptroller of the Currency to ascertain the Comptroller's requirements with respect to the form of the report of condition by private bankers, and with a view to the adoption of reasonably uniform procedure in the examinations conducted by the Comptroller of the Currency and the examiners for the Federal Reserve banks under the terms of Section 21.

In connection with the call for reports of condition as of June 30, 1934, the Comptroller forwarded to private bankers the same form (Form 2130 - Call No. 340) that was forwarded to national banks. This form includes the items "Other assets" and "Other liabilities" and provides for the itemization of such assets and liabilities under schedules "M" and "N" which are not a part of the statement to be published. It is probable that a letter of instructions will be forwarded to private bankers by the Comptroller at the time of the next call for reports of condition, advising them that they should list under the item "Other assets" all assets other than those pertaining directly to banking operations, and under the item "Other liabilities" all liabilities other than those pertaining directly to banking operations. Some provision may also be made to provide for a statement of the outside worth of partners in cases involving partnership. The form for reports of condition is revised from time to time, and, of course, the Comptroller may find it necessary or desirable to revise the

general form or to prepare a special form for reports of private bankers in connection with future calls.

The Comptroller of the Currency concurs in the Board's opinion that examinations under the terms of Section 21, where depositors are on the same footing as other general creditors, should include an examination of the assets and liabilities pertaining to the banking operations of the private banker in the same manner and to the same extent as if an examination were being made of a national bank or a State member bank, and that the examiner should conduct such further investigations or examination as may be necessary to satisfy himself as to the accuracy of any statements made with respect to other assets and the soundness of the values represented thereby, or the extent of other liabilities of the private banker.

As stated, the Comptroller of the Currency may find it necessary or desirable to prescribe special forms for reports of condition of private bankers, and, likewise, future experience may indicate the necessity for more detailed and exhaustive examinations. In any event, all examinations under Section 21 of the Banking Act of 1933 should be conducted with the fact in mind that the interests of depositors are inextricably intermingled with those of all other creditors wherever such interests are not specifically segregated by law.

Very truly yours,

(Signed) Chester Morrill,

Chester Morrill,
Secretary.