

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-9158

March 22, 1935.

SUBJECT: Possible Violation of Section 22(g)
of Federal Reserve Act Through Fail-
ure to Retire Indebtedness Incurred
Prior to June 16, 1933.

Dear Sir:

There is inclosed herewith, for your information and guidance, in connection with matters arising under the provisions of section 22(g) of the Federal Reserve Act, a copy of a letter from the Attorney General of the United States, dated January 16, 1935, concerning the question of prosecutions of executive officers of member banks who, through inability, fail to discharge indebtedness to member banks prior to June 16, 1935.

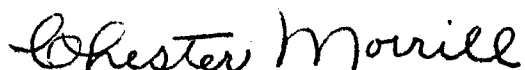
As you know, the Federal Reserve Board has recommended the enactment of legislation which would extend the period within which loans made to executive officers of member banks prior to June 16, 1933, may be renewed or extended for periods expiring not more than five years from such date, under certain conditions. Such proposed amendment is referred to in the Board's circular letter of February 13, 1935 (X-9124) and is also contained in section 325 of the bill, H. R. 5357, which has been introduced in Congress. Your attention is also called to the fact that the Attorney General has advised

-2-

K-9158

that he does not contemplate publication of the inclosed letter as an opinion of his office. In the circumstances, it is suggested that you advise member banks of the substance of the inclosed letter only in connection with specific inquiries regarding the matter.

Very truly yours,

A handwritten signature in cursive script that reads "Chester Morrill".

Chester Morrill,
Secretary.

Inclosure.

TO ALL FEDERAL RESERVE AGENTS.

COPY

X-9158-a

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D. C.

January 16, 1935.

The Federal Reserve Board,

Washington, D. C.

Dear Sirs:

I have your letter of December 24.

Paragraph (g), which was added to Section 22 of the Federal Reserve Act by Section 12 of the Banking Act of 1933, reads as follows:

"(g) No executive officer of any member bank shall borrow from or otherwise become indebted to any member bank of which he is an executive officer, and no member bank shall make any loan or extend credit in any other manner to any of its own executive officers: Provided, That loans heretofore made to any such officer may be renewed or extended not more than two years from the date this paragraph takes effect, if in accord with sound banking practice. If any executive officer of any member bank borrow from or if he be or become indebted to any bank other than a member bank of which he is an executive officer, he shall make a written report to the chairman of the board of directors of the member bank of which he is an executive officer, stating the date and amount of such loan or indebtedness, the security therefor, and the purpose for which the proceeds have been or are to be used. Any executive officer of any member bank violating the provisions of this paragraph shall be deemed guilty of a misdemeanor and shall be imprisoned not exceeding one year, or fined not more than \$5,000, or both; and any member bank violating the provisions of this paragraph shall be fined not more than \$10,000,

-2-

X-9158-a

and may be fined a further sum equal to the amount so loaned or credit so extended."

This appears clearly to limit renewals and extensions of existing loans to not more than two years from the date of the Act. Observing the letter of the statute, at least, the fact that the officer may be unable to discharge the loan within the permitted period does not supply authority for a renewal or extension beyond that time. If he cannot pay and if the loan is not renewed or extended he will, of course, be in default and remain indebted to the bank. However, the statute does not expressly forbid and penalize defaults, and it is a familiar rule that penal statutes are not to be extended by implication.

Therefore, assuming good faith on the part of both the bank and its officer, it would not be my purpose to direct prosecutions in such cases.

Respectfully,

(Signed) HOMER CUMMINGS

Attorney General.