

INTERPRETATION

X-9321

BANKING ACT OF 1935

September 14, 1935

(Copies to be Sent to All Federal Reserve Banks)

Mr. R. L. Austin,
Federal Reserve Agent,
Federal Reserve Bank of Philadelphia,
Philadelphia, Pennsylvania.

Dear Mr. Austin:

Mr. Hill's telegram of September 3, 1935, asks whether State banking authorities are authorized to examine the books, records, and assets of the trust departments of national banks which possess fiduciary powers in view of the amendment to the third paragraph of section 11(k) of the Federal Reserve Act made by section 342 of the Banking Act of 1935.

Prior to the enactment of the Banking Act of 1935, the paragraph in question provided that the books and records of national banks relating to their fiduciary business should be open to inspection by the State authorities to the same extent as the books and records of corporations organized under State law which exercise fiduciary powers, but the provision of section 11(k) relating to this matter has been amended to provide as follows:

"The State banking authorities may have access to reports of examination made by the Comptroller of the Currency insofar as such reports relate to the trust department of such bank, but nothing in this Act shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such bank."

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In the circumstances, it is clear that State banking authorities are not authorized to examine the books, records, and assets of the trust departments of national banks which possess fiduciary powers; although the State banking authorities are given access to reports of examination made by the Comptroller of the Currency in so far as such reports relate to the trust departments of national banks. In this connection, there is inclosed a copy of a circular dated September 6, 1935, which has been sent by the office of the Comptroller to each national bank and to the Banking Department of each State.

Very truly yours,

(Signed) L. P. Bethea,

L. P. Bethea,
Assistant Secretary.

TREASURY DEPARTMENT
Office of Comptroller of the Currency

Washington

September 6, 1935

TO THE CASHIER OF EACH NATIONAL BANK:

Dear Sir:

The following copy of letter written to the Banking Department of each state is submitted for your information:

"In view of the fact that the Banking Act of 1935, which became effective on August 23, contains an amendment to the statute covering trust powers, I wish to call your attention to the part affecting the authority granted to the states thereunder. Section 11-k of the Federal Reserve Act, as amended September 26, 1918, contained the following proviso:

National banks exercising any or all of the powers enumerated in this subsection shall segregate all assets held in any fiduciary capacity from the general assets of the bank and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this subsection. Such books and records shall be open to inspection by the State authorities to the same extent as the books and records of corporations organized under State law which exercise fiduciary powers, but nothing in this act shall be construed as authorizing the State authorities to examine the books, records, and assets of the national bank which are not held in trust under authority of this subsection.

The Banking Act of 1935 amends this provision insofar as the last sentence is concerned, which now reads as follows:

* * * The State banking authorities may have access to reports of examination made by the Comptroller of the Currency insofar as such reports relate to the trust department of such bank, but nothing in this Act shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such bank.

Copies of reports of examination of trust departments will be found on file in the banks having trust departments, and an inspection thereof may also be had in the office of the Chief National Bank Examiner for each Federal Reserve District.

The law, of course, does not prohibit a bank from permitting an inspection of its records by anyone it desires, but does prohibit compulsory inspection.

All of the above is submitted in a spirit of helpfulness for your convenient reference."

Very truly yours,

J. F. T. O'CONNOR
Comptroller