

X-9337

INTERPRETATIONBANKING ACT OF 1935

(Copies to be sent to all Federal reserve banks)

October 2, 1935.

Mr. F. J. Zurlinden, Deputy Governor,
Federal Reserve Bank of Cleveland,
Cleveland, Ohio.

Dear Mr. Zurlinden:

This refers to your letter dated September 20, 1935, regarding advances under section 10(b) of the Federal Reserve Act, as amended by section 204 of the Banking Act of 1935.

In view of the provisions that such advances may be made "under rules and regulations prescribed by the Board of Governors of the Federal Reserve System", you present the question whether such advances can be made prior to the issuance of regulations upon the subject by the Board. As you know, the Board is now engaged in a revision of Regulation A which deals with this subject, and it is hoped that such regulation can be issued in the near future. However, pending the promulgation of such regulation, the Board will not object to the making by Federal Reserve banks of advances under section 10(b) which are in conformity with the provisions of such section.

You also ask to be advised as to the proper basis for establishment of the rate to be charged on advances under section 10(b). Prior to the enactment of the Banking Act of 1935, section 10(b) contained a provision regarding the rate on advances which was the same as that contained in the present section except that the rate was to be not less than 1 per cent higher, instead of not less than one-half

of 1 per cent higher, than the highest discount rate in effect at the Federal Reserve bank.

Section 10(b) was first enacted on February 27, 1932, and at that time the only discount rates in effect were those applicable to discounts for member banks under the provisions of sections 13 and 13a of the Federal Reserve Act. However, on July 21, 1932, Congress amended section 13 by adding the third paragraph thereof providing for discounts of eligible paper for individuals, partnerships, and corporations. On March 9, 1933, Congress again amended section 13 by adding the last paragraph thereof providing for loans to individuals, partnerships, and corporations on the security of direct obligations of the United States. Later, on June 19, 1934, section 13(b) was enacted providing for loans to industry. Although discounts under the provisions of these later acts have been made at a rate higher than that applicable to discounts for member banks under sections 13 and 13a, it was not believed that Congress intended in the enactment of these provisions to bring about an increase in the rate applicable to loans under section 10(b) and, accordingly, the words "the highest discount rate in effect" have uniformly been interpreted during all the period in which section 10(b) has been in effect as meaning the highest rate applicable to discounts for member banks under the provisions of sections 13 and 13a and not the highest discount rate applicable to loans under the provisions of the third or last paragraph of section 13 or the provisions of section 13(b).

When the substance of section 10(b) was reenacted in permanent form by section 204 of the Banking Act of 1935, it is believed that Congress intended to adopt the construction which had previously been placed upon such section. Accordingly, the Board is of the opinion that the rate at which advances may be made under the provisions of section 10(b) shall be not less than one-half of 1 per cent per annum higher than the highest rate applicable to discounts for member banks under the provisions of sections 13 and 13a of the Federal Reserve Act in effect at the Federal Reserve bank making the advance on the date of the note evidencing such advance.

I sincerely hope that the above is the information which you desire, and that you will feel free to call upon me at any time when you think I may be of assistance.

Very truly yours,

(Signed) M. S. Szymczak

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