

INTERPRETATION

X-9478

BANKING ACT OF 1935

(Copies to be sent to all Federal Reserve banks)

January 31, 1936.

Mr. _____, President,
The _____ National Bank,
_____, _____.

Dear Sir:

This refers to your letter of December 28, 1935, in which you state that the chairman of the board of directors of your bank merely presides over meetings of the board and that during the six months of each year spent in (name of city in which bank is located) his activities in connection with the bank are only those of a director. You suggest that the board of directors of your bank pass a resolution expressly providing that the duties of the chairman are not of an executive nature, or amending the by-laws to this effect, and upon this basis you inquire whether it would be possible for the Board of Governors of the Federal Reserve System to except the chairman of the board of directors of your bank from the classification of an executive officer.

The chairman of the board of directors of a bank in many instances exercises executive functions in addition to merely presiding at meetings of the board of directors, and it is generally understood by the public that the chairman of the board of directors of a bank performs such functions. At the time of its consideration of Regulation O, the Board was aware of the fact that some banks had

honorary or inactive officers who did not actively participate in the management of the bank, but it was the view of the Board that bank officials whose titles may cause the public to consider them executive officers should comply with the rules governing executive officers. Also, Congress did not make a distinction in section 22(g) of the Federal Reserve Act between active and inactive officers, and the Board, in prescribing a general rule applicable to all member banks alike, did not feel that it should make such a distinction when defining the term "executive officer" pursuant to the authority vested in the Board by the law. Accordingly, the chairman of the board of directors has been included within the definition as contained in subsection (b) of section 1 of the Board's Regulation O, whether or not he is active.

The Board also considered the suggestion that a provision be included in the regulation to the effect that a person, even though he holds one or more positions specified in the Board's Regulation O, such as president or chairman of the board of directors, would not be considered an executive officer of the bank if his duties were restricted by a resolution of the board of directors or by a provision in the by-laws of the bank. The Board, however, for the reasons indicated above, did not feel that it should make such an exception in the regulation and, accordingly, it would not be fair to the other banks to which the regulation is applicable to except the chairman of the board of your bank from the provisions of the regulation on such a basis.

Very truly yours,
(Signed) L. P. Bethea

L. P. Bethea,
Assistant Secretary.