

INTERPRETATION

X-9513

BANKING ACT OF 1935

(Copies to be sent to all Federal Reserve banks)

March 3, 1936.

Honorable J. F. T. O'Connor,  
Comptroller of the Currency,  
Washington, D. C.

Dear Mr. O'Connor:

This refers to former Deputy Comptroller Awalt's letter of January 17, 1936, in which he inquires whether the indorsement of a note or other evidence of indebtedness by an executive officer of a member bank, which is purely for the accommodation of a third party and from which the executive officer derives neither directly nor indirectly any financial benefit, is included within the definition contained in section 1(c) of the Board's Regulation O.

Section 1(c) of the Board's Regulation O provides, in part, that the terms "loan", "loaning", "extension of credit" and "extend credit" include:

"(2) The acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange or other evidence of indebtedness upon which an executive officer may be liable as maker, drawer, indorser, guarantor, or surety;" and

"(5) Any other transaction as a result of which an executive officer becomes obligated to a bank, directly or indirectly by any means whatsoever, by reason of an indorsement on an obligation or otherwise, to pay money or its equivalent."

An accommodation indorsement by an executive officer of a member bank

upon a note or other evidence of indebtedness is included within the definition quoted above, if the executive officer may be liable as indorser or becomes obligated to a bank by reason of such an indorsement. In this connection, under the usual rules of law an accommodation indorser is one who has signed an instrument as an indorser, without receiving value therefor and for the purpose of lending his name to some other person, and such an indorser is liable on the instrument to a holder for value.

Moreover, a loan or extension of credit to a third person based in part upon the credit of an executive officer, as represented by his accommodation indorsement, is a transaction which it is believed should be subject to the same restrictions as a loan or extension of credit to the executive officer himself. The abuses which led to the enactment of section 22(g), including the undue influence exercised by executive officers in obtaining credit from the banks they serve, may also be present to a certain extent in the case where a loan to a third person is supported by the accommodation indorsement of an executive officer. Accordingly, the mere fact that an executive officer receives no financial benefit as the result of his accommodation indorsement would not be justification for excluding the liability arising as the result of an accommodation indorsement by an executive officer from the provisions of Regulation O.

In the circumstances, it is the Board's view that the liability of an executive officer of a member bank by reason of an

accommodation indorsement on a note or other evidence of indebtedness held by a bank is included within the definition contained in section 1(c) of the Board's Regulation O.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,  
Assistant Secretary.