

X-9557

INTERPRETATION
BANKING ACT OF 1935

(Copies to be sent to all Federal reserve banks)

April 21, 1936.

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

Dear Mr. O'Connor:

This refers to Deputy Comptroller Gough's letter of March 9, 1936, requesting advice as to whether a loan made to an executive officer of a member bank prior to June 16, 1933, which has been extended by resolution of the board of directors of such bank even though secured by marketable collateral sufficient to liquidate the loan, can be considered to have been properly extended in view of the requirement of section 22(g) of the Federal Reserve Act that the board of directors must be satisfied that the officer has "made reasonable effort to reduce his obligation". Advice is also requested on the same question, with the additional facts included that a part of the loan has been charged off and the marketable collateral to the loan is sufficient to liquidate the remainder. The applicable provisions of section 22(g) are as follows:

"Provided, That loans made to any such officer prior to June 16, 1933, may be renewed or extended for periods expiring not more than five years from such date where the board of directors of the member bank shall have satisfied themselves that such extension or renewal is in the best interest of the bank and

that the officer indebted has made reasonable effort to reduce his obligation, these findings to be evidenced by resolution of the board of directors spread upon the minute book of the bank: * * *".

You will observe that the law requires that the board of directors of the member bank shall be satisfied as to the matters prescribed by the law before extending or renewing a loan of the kind under discussion, and that, in addition to determining whether the officer "has made reasonable effort to reduce his obligation", the board of directors must also be satisfied that the extension or renewal "is in the best interest of the bank". It seems clear, therefore, that the primary responsibility for the extension or renewal of such a loan is placed by law upon the board of directors of the member bank involved and that it is contemplated that in reaching a determination in the matter the board of directors will consider all of the facts and circumstances in the particular case. It is the view of the Board, therefore, that the fact that a loan of the kind under discussion is secured by marketable collateral in an amount sufficient to liquidate the loan would not of itself show that an extension of the loan was not in conformity with the requirements of section 22(g) but that all of the facts in the particular case would have to be given consideration in determining this question. The fact that a part of the loan had been charged off and the marketable collateral would liquidate the remainder would not change such conclusion. Of course, in any case where it appears that a loan may have been extended without a proper regard

for the provision of law quoted above, it would be desirable for the bank examiner, in connection with his examination of the bank, to give particular consideration to all the facts involved in the case in order to determine whether or not the directors have acted arbitrarily in extending the loan.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,
Assistant Secretary.