

INTERPRETATIONBANKING ACT OF 1935

(Copies to be sent to all Federal reserve banks)

June 22, 1936.

Mr. L. E. Birdzell, General Counsel,
Federal Deposit Insurance Corporation,
Washington, D. C.

Dear Judge Birdzell:

This refers to your letter dated May 26, 1936, addressed to the Board of Governors and to your memorandum dated May 27, 1936, addressed to the Board's General Counsel, presenting certain questions regarding the interpretation of sections 1(e) of Regulation Q and Regulation IV.

The first question presented in your letter is whether a member bank may, on a telephone order from a depositor, transfer a specified sum from the depositor's savings account to his checking account, under the provisions of section 1(e) of Regulation Q. You state that in your opinion such a practice should not be permitted under the provisions of section 1(e) of Regulation IV, but that if the depositor wishes to transfer funds from a savings account to a checking account he should be required to make a withdrawal either by obtaining cash or a cashier's check, draft, or other order payable to himself and then make a deposit in a checking account in accordance with usual banking practice.

Careful thought has been given to this question and to the views which you express in your letter. In this connection it is to be observed that under Regulation Q a depositor desiring to effect a transfer

of a sum from his savings account to a checking account in the same bank might go to the bank and obtain a cashier's check or cash from the savings account and deposit it in his checking account. Likewise, under the regulation a depositor may mail a written order to the bank for a withdrawal of a sum from his savings account, obtain a cashier's check through the mails and immediately return the cashier's check to the bank for deposit to his credit in his checking account. Under an arrangement with the bank for the purpose it would also be possible for a depositor to shorten this procedure by mailing a written order to the bank requesting a withdrawal from his savings account, the issuance of a cashier's check to him for the amount withdrawn, and the deposit of such check to his credit in a checking account. This could be accomplished by one written order or letter and without the depositor ever actually coming into possession of the cashier's check. Accordingly, it does not appear that the regulation should be interpreted as preventing the transfer of a sum from a depositor's savings deposit to his checking account upon written order of the depositor, and it is felt that such an interpretation would be regarded by the banks as an irritating and unnecessary restriction on their business practices.

However, the Board is of the view that a member bank should not be permitted to transfer a sum from a depositor's savings account to his checking account or permit any other withdrawal from his savings account merely on a telephone or other oral order or request from the

depositor. While the regulation does not expressly so require, it does contemplate that a withdrawal from a savings deposit will be made only upon the written order or receipt of the depositor. In this connection, attention is called to the requirement that the depositor may at any time be required by the bank to give 30 days' notice in writing of an intended withdrawal and also to the requirement that every withdrawal made upon presentation of the pass book shall be entered therein at the time of withdrawal and every other withdrawal shall be entered therein as soon as practicable thereafter. The withdrawal of funds from a savings deposit in a case where the pass book is not presented, upon the oral request of the depositor, would facilitate evasion of the purpose of the regulation, would be inconsistent with sound banking practice and might give rise to numerous questions or even litigation between the bank and its depositors. The Board feels that such a practice should be discouraged and that a deposit with respect to which such withdrawals are permitted should not be classified as a savings deposit. While your inquiry presents the only case of this kind which has thus far come to the Board's attention, the Board will give consideration, upon the occasion of the next revision or alteration of its Regulation Q, to incorporating therein an express requirement that withdrawals from savings deposits be permitted only upon written order or receipt of the depositor.

You also present the question whether deposits of a corporation, association, or other organization engaged in the sale and maintenance of cemetery lots may be classified as savings deposits, provided such

organizations are not operated for profit. The Board agrees with your opinion that such organizations engaged in the sale and maintenance of cemetery lots may be considered as organizations operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes, within the meaning of section 1(e) of the regulations. Accordingly, if such organizations are in fact not operated for profit, their deposits in a member bank may be classified as savings deposits. As indicated in your proposed letter to The _____ & _____ Company of _____, _____, _____, the question of whether such organizations are or are not operated for profit will have to be scrutinized very closely and the determination of such question will depend upon the facts and circumstances of each particular case.

In your memorandum you also present the question whether deposits made by a city or town representing funds given to said city or town for the perpetual care of cemetery lots opened under a title similar to the following: "City of _____, Perpetual Care, Trust Fund, John Doe Lot" may be classified as savings deposits. If the municipal corporation is merely a trustee holding funds for the benefit of a particular individual or group of individuals, such as the members of a family, it appears that a deposit of such funds by the municipal corporation may be considered in the same category as any other deposit of funds held by a trustee for the benefit of certain individuals, and may be classified by a member bank as a savings deposit if it meets the other requirements of section 1(e) of Regulation Q.

However, it should be observed that the above expression of opinion applies only to those cases in which a municipal corporation holds funds as trustee for a particular individual or individuals, and does not apply to cases in which such funds are held for the benefit of the public.

In its letter to the Federal Reserve Agent at New York dated February 27, 1936 (X-9508), the Board took the position that a deposit in the name of a municipal corporation consisting of funds given to such corporation for a charitable purpose, such as the erection of a memorial gate, may not be classified as a savings deposit. The Board stated that it believed that a construction of the regulation which would permit funds of a municipal corporation held for a charitable purpose to be considered as funds held for one or more individuals on the theory that the public consists of a group of individuals, would open the door to evasions of the regulation. Accordingly, a deposit made by the city consisting of funds held by it for the purpose of maintaining a cemetery for the public or for indigent members of the public could not under the above ruling be classified as a savings deposit by a member bank but would be considered the same as any other deposit consisting of funds of the municipal corporation.

It is hoped that the above answers the questions submitted in your letter and memorandum. If you should have further questions regarding any similar matters which you desire to submit to the Board from time to time, the Board will be glad to give consideration to them in order that substantial uniformity may be achieved in the interpretation of the two regulations.

Very truly yours,
(Signed) Chester Morrill
Chester Morrill,
Secretary.