

X-9639

INTERPRETATIONBANKING ACT OF 1935

(Copies to be sent to all Federal reserve banks)

July 3, 1936.

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

Dear Mr. O'Connor:

This refers to Deputy Comptroller Lyons' letter of June 17, 1936, inquiring whether the \$2500 exemption contained in section 22(g) of the Federal Reserve Act and section 3 of the Board's Regulation O applies to a partnership in which an executive officer of a member bank has a majority interest.

Section 22(g) provides that "borrowing by, or loaning to, a partnership in which one or more executive officers of a member bank are partners having either individually or together a majority interest in said partnership, shall be considered within the prohibition of this subsection". The only prohibition contained in section 22(g) is that "no executive officer of any member bank shall borrow from or otherwise become indebted to any member bank of which he is an executive officer, and no member bank shall make any loan or extend credit in any other manner to any of its own executive officers". There are certain exceptions to this prohibition, one of which is "that with the prior approval of a majority of the entire board of directors, any member bank may extend credit to any executive officer thereof,

and such officer may become indebted thereto, in an amount not exceeding \$2500".

It will be noted that this exception, by its terms, is not applicable to partnerships of the kind described. However, since it was not the purpose of the law to prevent an executive officer to become indebted to his member bank to the extent of \$2500, under the conditions prescribed, there would seem to be no purpose of the law to prevent such a partnership from doing likewise. Moreover, in some circumstances, the executive officers of a member bank may find it desirable for an obligation not in excess of \$2500 to be in the nature of a partnership obligation rather than of the individual executive officer's. As you know, under the usual principles of law applicable to partnerships each partner is individually liable for the debts of the partnership, and under the Board's authority to prescribe such regulations "as it may deem necessary to effectuate the provisions of this subsection in accordance with its purposes", section 3 of the regulation has been drafted so as to permit a partnership of the kind described to borrow from a member bank, provided that, as a result of such borrowing, an executive officer of the member bank does not become indebted to such bank in an amount in excess of \$2500.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,
Assistant Secretary.