

INTERPRETATION OF LAW OR REGULATION

(Copies to be sent to all Federal reserve banks)

October 19, 1936.

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_.

Dear Mr. \_\_\_\_\_:

This refers to Mr. \_\_\_\_\_ letter of October 5, 1936, inclosing a copy of a letter of September 17, 1936, from The \_\_\_\_\_ National Bank, \_\_\_\_\_, \_\_\_\_\_, involving an interpretation of subsection (a) of section 11 of Regulation F and the last sentence of footnote numbered 10 appended thereto.

As you know, subsection (a) of section 11 reads as follows:

"Obligations of trustee bank or its directors, officers, etc.--Funds received or held by a national bank as fiduciary shall not be invested in stock or obligations of, or property acquired from, the bank or its directors, officers, or employees, or their interests, or in stock or obligations of, or property acquired from, affiliates of the bank."

The last sentence of footnote numbered 10 reads as follows:

"This requirement shall not be deemed to prohibit investments which are expressly required by the instrument creating the trust or by court order."

It appears that The \_\_\_\_\_ National Bank is trustee under a trust instrument containing the following provisions:

"\* \* \* and it (the Trustee) shall not be restricted to a class of investments which a Trustee is or may hereafter be permitted by law to make, but it shall use its discretion

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and endeavor at all times to preserve the corpus of this trust estate and endeavor to realize as large an income as may be consistent with prudent and safe management."

The bank states that it contemplates making a loan of funds of such trust to another trust which is being administered by an individual who is a director of the bank. It also states that there is a (name of State) statute under which a fiduciary may, by petition, apply to the Circuit Court for instructions and advice as to the character of investments. The bank inquires whether the prohibition contained in Regulation F would apply to the loan in view of the above quoted language of the trust instrument and whether instructions by the Circuit Court under the statute referred to above would remove any question concerning the propriety of the loan.

The Board is of the opinion that the above quoted provisions of the trust instrument clearly do not require the bank to make the proposed loan and that the loan is prohibited by Regulation F unless it is required by court order. The Board does not have before it the provision of the (name of State) law mentioned above and is not informed as to the exact nature of the order which the Circuit Court may make pursuant thereto. However, if an order is obtained from a court of proper jurisdiction instructing the bank as trustee to make the specific loan under consideration, the Board is of the opinion that the loan will be an investment required by court order within the meaning of Regulation F and, therefore, will not be prohibited.

Very truly yours,

(Signed) Chester Morrill

Chester Morrill,  
Secretary.