

INTERPRETATION OF LAW OR REGULATION

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(Copies to be sent to all Federal Reserve banks)

January 12, 1938.

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

Dear Mr. Comptroller:

This refers to Mr. Gough's letter of December 16, 1937, requesting a ruling on the question whether the provisions of section 22(g) of the Federal Reserve Act are applicable to executive officers of member banks who execute Commodity Credit Corporation notes on cotton.

It appears from the inclosures transmitted with Mr. Gough's letter that a producer of cotton desiring to obtain a loan on cotton on the forms prescribed by the Commodity Credit Corporation may deal directly with any bank or lending agency. The borrower executes a loan agreement which provides that he shall remain liable to the holder of the note for any deficiency only in the event that he does not reduce cotton acreage or production in accordance with the provisions of an agricultural conservation program offered by the Secretary of Agriculture pursuant to certain provisions of law, or has made any misrepresentation in connection with the loan, or in the event of a breach of warranty contained in the loan agreement. It is also provided that any holder of a note may declare it immediately due and payable if the price of cotton goes above a certain stated amount, upon discovery that the maker has made any misrepresentation in connection with the loan, upon any breach of warranty in the loan agreement, upon any failure on the part of the maker to comply with agreements in connection with a conservation program, or upon the filing by the maker of a petition in bankruptcy or for the composition or extension of debts under the Bankruptcy Act. In these circumstances, it appears that there is a contingent liability on the part of the maker of such a note.

The definition of the term "loan" contained in section 1(c) of the Board's Regulation O includes a contingent liability, and, accordingly, it is the view of the Board that the liability of an executive officer of a member bank as maker of a note on the form prescribed by the Commodity Credit Corporation representing a loan on cotton falls within the provisions of the Board's Regulation O.

In this connection, it is appropriate to state that the Board was furnished with a copy of a letter written by the Assistant Attorney General to the United States Attorney at _____, _____, under date of February 14, 1935, in which the view was stated that there is a contingent liability on the part of the borrower on loans made on Commodity Credit Corporation forms (which, it is understood, were at that time similar to the present forms) and that such liability was sufficient to bring the case within the scope of section 22(g) of the Federal Reserve Act as it then existed.

Very truly yours,
(Signed) L. P. Bethea
L. P. Bethea,
Assistant Secretary.