

INTERPRETATION OF LAW OR REGULATION

(Copies to be sent to all Federal Reserve banks)

November 10, 1939.

Mr. \_\_\_\_\_,  
Assistant Vice President,  
Federal Reserve Bank of \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_.

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

Reference is made to your letter of October 13, 1939, regarding section 4(f)(5) of Regulation T which provides that:

"In a special miscellaneous account, a creditor may --

"(5) Effect transactions for and finance any joint adventure or group in which the creditor participates and in which all participants are dealers (whether such participants be acting jointly or severally), or any member thereof or participant therein, for the purpose of facilitating the underwriting or distributing of all or part of an issue of securities (A) not through the medium of a national securities exchange, or (B) the distribution of which has been approved by the appropriate committee of a national securities exchange;"

The question whether a particular transaction may properly be effected under section 4(f)(5) is necessarily a question of fact that depends upon all the relevant facts involved in the particular case. As indicated in the letter which you forwarded from the \_\_\_\_\_ Stock Exchange, however, the qualification of a transaction under the section requires more than merely the existence of a joint-venture or compliance with the conditions specified in clause (A) or (B). The transaction must in any event be "for the purpose of facilitating the underwriting or distributing of all or part of an issue of securities..."

Since it appears that the transactions referred to in your letter do not relate to "underwriting", the question arises whether they are for the purpose of facilitating the "distributing" of securities. It is necessary, therefore, to consider the meaning of the word "distributing" as used in this provision.

The use of this word in addition to the word "underwriting" naturally makes it reasonable to assume that the two words were not

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intended to have identical meanings. On the other hand, however, the word "distributing" necessarily must be read in its context. Its meaning cannot be understood without considering the general meaning and purpose of the provision in which it is used.

It seems clear, therefore, that the distributing here referred to is something similar to underwriting. In other words, it must involve the distribution of a relatively large block of securities from one owner, or a comparatively few owners, to a much larger number of holders.

No exact requirements can be stated with respect to the minimum size of the block of securities, the maximum number of the original owners, or the minimum number of ultimate holders. In general, there must be what is usually considered in the trade to be a distribution as distinguished from position trading.

The typical case would, of course, be the distribution of a new issue of securities. Securities might in some instances be the subject of a distribution even though they had been issued a long time before, and the widespread sale of a large block of securities which had been left as a part of the estate of a deceased person might be an example of such a distribution. On the other hand, however, if a quantity of old securities was accumulated from a large number of individuals long after the securities had been issued, and the securities were then resold to a large number of persons, this would not constitute "distributing" within the meaning of section 4(f)(5). It will be recalled that the ruling at page 549 of the July 1936 Federal Reserve Bulletin indicated similar limitations on the meaning of the term "distribution" as used in a similar provision of Regulation U.

It is hoped that this general discussion will be of assistance to your Bank and to the \_\_\_\_\_ Stock Exchange, and if there should be any further questions of interpretation regarding the provision, the Board will, of course, be glad to give them consideration.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,  
Assistant Secretary.