



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

S-189
Reg. L-8

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 27, 1939

Dear Sir:

There is attached, for your information,
a copy of a letter addressed by the Board under
date of October 19, 1939, to the Chairman of a
Morris Plan Company with respect to the question
whether the company is a "bank" within the mean-
ing of Section 8 of the Clayton Act.

Very truly yours,

Chester Morrill

Chester Morrill,
Secretary.

Enclosure

TO PRESIDENTS OF ALL FEDERAL RESERVE BANKS

S-189-a
Reg. L-8

October 19, 1939

_____,
_____,
_____.
Dear _____:

Following receipt of your letter of October 9, 1939, further consideration has been given to the question whether The Morris Plan Company of _____ is a "bank" within the meaning of section 8 of the Clayton Act. As you know, if the Company is not a "bank", the statute is not applicable to directors of the Company who are serving as officers or directors of member banks of the Federal Reserve System.

It is understood that the Company was organized under a statute (_____) which relates to "loan and investment companies" and which defines the powers of such companies. It is also understood that, since it was organized under that Chapter, section 4 of Chapter 144 of those Laws makes it unlawful for the Company to call itself a "bank", "savings bank" or "trust company", or receive "deposits", or "transact business in the way or manner of a bank, savings bank or trust company".

You have furnished us with a copy of the letter from the Chief of the Division of Banking and Insurance of the State of _____ in which he says, consistently with the above statutory provisions, that the Company "is in no sense a banking institution". You have also advised us that the Federal Deposit Insurance Corporation ruled that the Company was not eligible for membership in the Temporary Federal Deposit Insurance Fund because it did not accept "deposits", and that the Federal Bureau of Internal Revenue refused to grant the Company exemption from surtaxes under section 104(a) of the Revenue Act of 1936 on the ground that it was not a "bank".

It is understood that the Company sells fully paid investment certificates but only in denominations of fifty dollars or multiples thereof; that, although it may, and does in practice, redeem such certificates on demand, it requires the registered owner thereof to sign a receipt therefor on the back of such certificate with the practical result that there is no effective method of negotiating such certificate except by presenting it at the office of issue which holds the stub originally attached to

such certificate and which stub bears the owner's signature; that the Company issues what are termed installment investment certificates representing accounts opened for the purpose of purchasing fully paid investment certificates on an installment basis; that, although it permits withdrawals from such installment investment certificate accounts, the customer may not draw on such account by check but must (except in extreme cases such as illness, etc., where he may sign a receipt which is returned to the Company's office accompanied by the installment investment account book and receive the Company's check for the amount withdrawn) present his installment certificate account book at the Company's office and sign a receipt reading "Received of The Morris Plan Co. of _____ the sum of \$_____ as part payment of Instal. Invest. Cert. #_____" which is imprinted by rubber stamp on the Company's card record of the particular account at the time of withdrawal; that the Company makes no use whatever of counter checks or other checks to effect withdrawals; that, although the Company pays interest on both full paid and installment investment certificates, the interest on full paid investment certificates is paid by check mailed to the customer's registered address, and interest on installment investment certificate accounts (which does not begin to run until the balance thereon amounts to \$25) is not paid or credited at regular intervals, but is paid to the customer by cash, check, or credit to the customer's installment certificate account when called for by the customer; that the major portion of the Company's transactions, which are estimated at an average of approximately six hundred a day, involve the making of loans or receipt of payments on loans; that payments on or withdrawals from installment certificates average about ten a day; that the daily cash on hand carried in the Company's main office amounts to about \$10,000, of which amount about \$400 to \$500 is set aside for payments on both full paid and installment investment certificates and the remainder is set aside for lending transactions; that the receipt and payment of funds in connection with investment certificates probably does not require much more than a half hour a day of the one investment teller's time; that withdrawals on investment certificates probably average about three weekly; that the Company does not issue cashier's checks or drafts, such checks as it issues being drawn on the banks where it has deposit accounts in the city of _____; that the Company does not maintain any form of so-called checking account service (other than the limited withdrawal service on installment investment certificate accounts above described); that the Company is prohibited by law from transacting and does not transact a trust business; that it does not offer safety deposit facilities to the public; that it transacts no escrow or agency business for the public; that, except for the occasional sale of securities held as collateral to loans, it does not buy or sell

securities for customers; that it is not a member of the _____ Clearing House Association; that its hour of closing extends one hour beyond the closing hour of banks in _____; that, although it is subject to the supervision of and examination by the Chief of the Division of Banking and Insurance of _____, so also are building and loan associations, credit unions and small finance companies in the State; and that, although it is required to submit reports of condition to the Chief of the Division of Banking and Insurance twice a year, it is not required to publish such reports, which banks and trust companies in the State are required to do. It is understood also that the general public regards the Company as a lending corporation or finance company operating primarily in the installment lending field and not as a bank of deposit.

The question whether or not a particular institution is a "bank" within the meaning of section 8 of the Clayton Act is often a perplexing one, and in view of the great variety of financial institutions in this country there must necessarily be cases where even slight variations in the facts will produce different results. It is for this reason that the facts upon which the present ruling is based have been set forth in detail in this letter, and on the basis of these facts the Board is now of the opinion that the Company is not a "bank" within the meaning of section 8 of the Clayton Act.

Very truly yours,

(Signed) Chester Morrill

Chester Morrill,
Secretary.