

INTERPRETATION OF LAW OR REGULATION

(Copies to be sent to all Federal Reserve banks)

December 19, 1939

Honorable Preston Delano,
Comptroller of the Currency,
Washington, D. C.

Dear Mr. Delano:

This refers to Mr. Upham's letter of February 13, 1939, relating to inquiries by national banks with respect to whether certain proposed transactions will violate provisions of section 11 of the Board's Regulation F. Our reply has been delayed pending the consideration of possible amendments to pertinent provisions of the regulation and a copy of the regulation as amended effective November 20, 1939, is enclosed herewith.

In one type of case described by Mr. Upham, a national bank holds a real estate mortgage loan in its commercial department and proposes to loan trust funds to the mortgagor upon the same security, the proceeds of such new loan to be used to satisfy the old loan. In the other, a national bank holds a real estate mortgage loan as a trust investment and proposes to make a commercial department loan to the mortgagor upon the same security, the proceeds of such new loan to be used to satisfy the old loan. In both instances, it is assumed that there is no objection to the quality of the loans either as trust investments or as commercial department investments.

Subsection (a) of section 11 of Regulation F provides that a national bank shall not invest trust funds in "property acquired from" the bank. With an exception not pertinent here, subsection (b) of such section provides that trust assets shall not be "sold or transferred" by a national bank to itself. The language of such provisions is broad enough to prohibit a bank from doing by indirection that which it cannot do directly and, therefore, in the Board's opinion, transactions of the kinds described above are prohibited by the regulation unless they come within the exception contained in footnote numbered 12 of the amended regulation under which transactions otherwise prohibited are permitted if they are required by the instrument creating the trust or are specifically authorized by court order.

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