

INTERPRETATION OF LAW OR REGULATION

(Copies to be sent to all Federal Reserve banks)

January 8, 1940.

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

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

Reference is made to your letter of December 22, 1939, with respect to the service of Mr. \_\_\_\_\_ as director of the First National Bank of \_\_\_\_\_ and as officer and director of the \_\_\_\_\_ Loan and Savings Corporation, both of \_\_\_\_\_.

The question presented is whether or not the Corporation is a "bank" within the meaning of section 8 of the Clayton Act. Apparently it was organized for the purpose of engaging in the Morris Plan of banking, and your Counsel, in his opinion, a copy of which you enclosed, discusses the question in the light of the Board's letter of October 19, 1939 (S-189-a). He states that the Corporation was organized under a (State) statute providing for the organization of industrial loan corporations, and that although he is not sure that the State Corporation Commission of \_\_\_\_\_ had the power to grant it such a charter, its charter authorizes it to sell "certificates of investment and other evidences of indebtedness; to receive deposits from persons, firms or corporations, to issue certificates or evidences of deposit for the same, and to pay interest upon such deposits". He adds that it is exercising these powers without objection from the State authorities.

Among the exhibits which were attached to your Counsel's opinion were recent statements of condition of the Corporation which show "savings deposits" of \$1,290,000 and "assigned deposits" of \$424,000, out of total liabilities of \$2,227,000. Your Counsel states that he understands that although the savings deposits consist of two classes, namely, certificates of investment and savings accounts, there are very few of the former now outstanding. The savings accounts consist of deposits received under the rules and regulations stated in the passbook, a specimen of which he attached. The rules are substantially the same as those used by commercial banks receiving savings deposits. The cover of the book is headed

"Savings Department", and before the place where "Withdrawals" and "Deposits" are entered is the statement that "This book is accepted and all deposits are made subject to the Rules and Regulations of the Corporation as herein printed and made a part of this deposit Contract." The "Rules and Regulations" begin with: "Deposits will be received and accounts opened in the sum of one dollar and upwards." Your Counsel has been advised that the institution receives no deposits subject to check, but that withdrawals are permitted from savings accounts in the manner prescribed by the rules, which is in effect on demand.

Your Counsel reviews some of the other factors which were discussed in the Board's letter of October 19, 1939 (S-189-a), but in view of what has been said above it appears that these factors are not important. As your Counsel points out, one of the most significant elements in determining whether a financing institution should be classified as a bank within the meaning of the Clayton Act is the receipt of deposits, and since it seems that the great bulk of the business of this institution is the receipt of deposits under a plan identical with that employed by banks receiving savings deposits, he concludes that it is a "bank" within the meaning of the Clayton Act.

The Board sees no reason to differ with this conclusion, which, moreover, is the same as that which your Counsel reached in 1934 and on the basis of which the Board issued a Clayton Act permit to Mr. \_\_\_\_\_ covering the relationships now involved, which the Board of course could not have done if the Corporation had not been a bank within the meaning of the statute.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,  
Assistant Secretary.