

S-203  
Reg. 0-38

INTERPRETATION OF LAW OR REGULATION

(Copies to be sent to all Federal Reserve banks)

January 22, 1940

Mr. C. B. Upham,  
Deputy Comptroller of the Currency,  
Washington, D. C.

Dear Mr. Upham:

This refers to your letter of January 6, 1939, inquiring as to the applicability of section 22(g) of the Federal Reserve Act and the Board's Regulation 0 to the indebtedness of Mr. \_\_\_\_\_, President of the \_\_\_\_\_ National Bank in \_\_\_\_\_.

It appears from your letter that President \_\_\_\_\_ is directly indebted to his bank in the amount of \$2,650, which is the balance due on an obligation which he owed to the old \_\_\_\_\_ National Bank of \_\_\_\_\_, and which was acquired by the present institution when it took over the acceptable assets of the old bank on August 27, 1934. It also appears that the indirect indebtedness of President \_\_\_\_\_ in the amount of \$490 was incurred in August 1936. Your letter states that the direct indebtedness is apparently not considered a loan or extension of credit within the meaning of section 1(c)(iii) of Regulation 0, and you inquire whether the additional indebtedness is held in violation of the law and the regulation or whether President \_\_\_\_\_ is entitled to incur an obligation up to and not exceeding \$2,500 in addition to the indebtedness amounting to \$2,650.

Section 1(c)(iii) of Regulation 0 provides that the terms "loan" and "extension of credit" do not include "the acquisition of any note, draft, bill of exchange, or other evidence of indebtedness, through a merger or consolidation of banks or a similar transaction by which a bank acquires assets and assumes liabilities of another bank or other organization, . . .".

Under section 22(g) of the Federal Reserve Act an executive officer, with the prior approval of a majority of the entire board of directors, may become indebted to his bank "in an amount not exceeding \$2,500." Section 3 of the Board's Regulation 0 provides, among other things, that the provisions of section 2 of the regulation shall not apply:

"(1) To any loan or extension of credit by a member bank, provided that, as a result of such loan or extension of credit, an executive officer of the member bank does not become indebted to it in an amount in excess of \$2,500 . . . .".

In the circumstances, it is the view of the Board of Governors that the indebtedness of President \_\_\_\_\_ in the amount of \$2,650, which was acquired by the \_\_\_\_\_ National Bank in \_\_\_\_\_ from the old \_\_\_\_\_ National Bank of \_\_\_\_\_, is excepted from the prohibition of the law, but that any subsequently incurred addition to such indebtedness is not permissible under the law if such additional indebtedness increases the aggregate to an amount in excess of \$2,500. Accordingly, it is the view of the Board that the indirect indebtedness of President \_\_\_\_\_ in the amount of \$490 incurred in August 1936 is prohibited by the law.

The above conclusion is predicated upon the assumption that President \_\_\_\_\_ is an executive officer of the bank within the meaning of the definition of that term as contained in the Board's Regulation O. There is some indication in your letter that President \_\_\_\_\_ may be inactive. If it is provided by resolution of the board of directors or the bank's by-laws that President \_\_\_\_\_ is not authorized to participate in the operating management of the bank and he does not actually participate therein, then, of course, the provisions of the law and the Board's Regulation O would not be applicable to him.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,  
Assistant Secretary.