

INTERPRETATION OF LAW OR REGULATION

(Copies to be Sent to all Federal Reserve Banks)

February 12, 1940

Mr. _____, Chief Examiner,
Federal Reserve Bank of _____,
_____, _____.

Dear Mr. _____:

This refers to your letter of January 25, 1940, requesting a ruling as to whether loans secured by shares of Federal savings and loan associations are subject to the provisions of section 11(m) of the Federal Reserve Act. You state that a State member bank in your district has made a loan secured exclusively by such shares which would be excessive if the provisions of section 11(m) are applicable.

Among other things, section 11(m) authorizes the Board to fix for each Federal Reserve district the percentage of individual bank capital and surplus which may be represented by "loans secured by stock or bond collateral" made by member banks within such district, and provides that:

" . . . no such loan shall be made by any such bank to any person in an amount in excess of 10 per centum of the unimpaired capital and surplus of such bank."

Although shares of a Federal savings and loan association do not have all of the attributes of shares of stock of an ordinary corporation, it would seem that shares of such an association, particularly if such shares are paid up, so closely resemble the stock of an ordinary corporation that they should be regarded as stock for the purposes of section 11(m).

In this connection, the Comptroller of the Currency has taken the position, for the purposes of section 5136 of the Revised Statutes, that a national bank has no power to "deposit" funds with a Federal savings and loan association for the reason that such "deposit" must be made in the form of a purchase of matured stock, and a national bank has no power to purchase stock of any kind, except where such purchase is expressly authorized by statute. The Board also has taken the position, in its letter of June 6, 1938 (S-100), that the provisions of section 5136 of the Revised Statutes forbid

the purchase by member banks of shares of stock of Federal savings and loan associations, and the exemptions stated in such section do not cover shares of stock of Federal savings and loan associations. Accordingly, it is the view of the Board that loans made by a member bank secured by shares of Federal savings and loan associations are subject to the provisions of section 11(m) of the Federal Reserve Act.

In the circumstances, it is assumed that you will wish to take steps to have the member bank referred to in your letter bring its loan within the limitations of section 11(m) when it is practicable for it to do so.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,
Assistant Secretary.