

S-284
Reg. W-5

INTERPRETATION OF LAW OR REGULATION

(Copies to be sent to all Federal Reserve Banks)

August 28, 1941

TELEGRAM

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An inquiry which may be stated as follows has been received under Regulation W:

"Pursuant to an established bona fide business practice a finance company issues and sells notes which are secured by instalment sales obligations trustee under a collateral trust agreement. It is not feasible for a purchaser of the collateral trust notes to examine the underlying obligations held by the trustee. Suppose one of the underlying instalment obligations failed to comply with the requirements of Regulation W and such noncompliance, although unknown to the purchaser of the collateral trust notes, showed on the face of the underlying instalment obligation. Would the purchase of the collateral trust note in such a case, or the receipt of payments on the note, constitute a violation of Regulation W?"

The regulation does not apply to the purchaser unless he is a person required by section 3(a)(1) to be licensed. If he is such a person, the payments received, according to the question as stated, arise out of the collateral trust note rather than the underlying obligation and under section 9(e) the regulation does not apply to such payments.

Even if the transaction were such that the payments arose out of the underlying obligation rather than the collateral trust note the receipt of payments by the registrant purchasing the note secured by such underlying obligation would not be contrary to the regulation if when he made the purchase the underlying obligation

did not on its face show some noncompliance or if he did not at that time know some fact by reason of which the extension of credit on which the underlying obligation was based failed to comply with the regulation. In this connection it will be noted that while 4(f) requires that extension of instalment sale credit be evidenced in the prescribed manner, this does not require that the obligation or claim referred to in section 3(a)(2)(B) shall contain all the prescribed information, since under section 4(f) the evidence of the underlying transaction which must contain the necessary information, or have such information attached, may be a separate instrument or record and need not be the same as the obligation or claim referred to in section 3(a)(2)(B).

(Signed) Chester Morrill

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