

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

S-402

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD



December 8, 1941

Dear Sir:

There are enclosed for your files copies of four letters from Chairman Fahey of the Federal Home Loan Bank Board, and of the four replies of Chairman Eccles regarding the applicability of Regulation W to:

- (1) Federal Home Loan Banks,
- (2) Federal Savings and Loan Insurance Corporation,
- (3) Home Owners' Loan Corporation, and
- (4) Federal Savings and Loan Associations.

Very truly yours,

A handwritten signature in dark ink, appearing to read "L. P. Bethea", written over a horizontal line.

L. P. Bethea,
Assistant Secretary.

Enclosures 8

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS

FEDERAL HOME LOAN BANK BOARD
Washington

October 14, 1941

Honorable Marriner S. Eccles
Chairman, Board of Governors of the
Federal Reserve System
Washington, D. C.

My dear Mr. Eccles:

The Federal Home Loan Bank Board has recently received numerous inquiries from its Federal home loan banks as to the extent to which they are subject to Regulation W. In order that they may be properly informed, we would appreciate your confirmation of our understanding that they are not subject to the terms of the Regulation and need not register thereunder.

These banks make advances secured by first liens on real estate or obligations of the United States. They also make secured advances for periods which are required by law not to exceed one year. In addition, they make unsecured advances for periods not to exceed one year.

Although some of the functions enumerated may fall within the terminology of Regulation W, the transactions involved are in all cases between the banks and other lending institutions and, in the ultimate use of the funds advanced to such lending institutions, there must be compliance with the terms of the Regulation. Therefore, it would not appear that the transactions of the Federal home loan banks are of types which the Regulation is designed to limit. If they are excluded, the purposes of the Regulation will not be defeated and the operations of the banks will not be subject to the detailed procedures required by the Regulation.

Your early clarification of this matter will be appreciated.

Very truly yours,

(Signed) John H. Fahey

John H. Fahey
Chairman

S-402-b

November 5, 1941

Mr. John H. Fahey, Chairman,
Federal Home Loan Bank Board,
Washington, D. C.

My dear Mr. Fahey:

I have your letter of October 14, 1941, regarding the application of Regulation W to Federal Home Loan Banks.

Regulation W applies to persons "engaged in the business" of making instalment sales of certain articles listed in the Supplement to the Regulation or in the business of making instalment loans which are secured by such articles or which although not so secured are in a principal amount of \$1,000 or less (after December 1, the figure will be \$1,500). It also applies to persons "engaged in the business of lending on the security of or discounting or purchasing obligations or claims arising out of such extensions of credit". However, section 9(e) provides that in the case of a loan secured by instalment obligations, the application of the Regulation is determined on the basis of the loan rather than the obligations which secure it.

It is my understanding that the only loans made by the Federal Home Loan Banks which would come within these classes are instalment loans not secured by listed articles, and that the Banks make such loans of \$1,500 or less only on rare and isolated occasions.

In the circumstances the Board of Governors is of the opinion that the Federal Home Loan Banks are not "engaged in the business" described in section 3 of Regulation W, and that therefore the Regulation does not apply to them.

Very truly yours,

(Signed) Marriner S. Eccles

M. S. Eccles,
Chairman.

FEDERAL HOME LOAN BANK BOARD
Washington

S-402-c

October 21, 1941

Honorable Marriner S. Eccles,
Chairman, Board of Governors of the
Federal Reserve System,
Washington, D. C.

My dear Mr. Eccles:

Issuance of Regulation W, governing consumer credit, by the Board of Governors of the Federal Reserve System has raised the question of the application of this Regulation to the Federal Savings and Loan Insurance Corporation. In order that the Corporation may know its status under the Regulation, your clarification of its position thereunder would be appreciated.

Section 1 of Regulation W states that it is to apply to any person who is engaged in the business of making extensions of instalment credit or of discounting or purchasing obligations arising out of extensions of instalment credit. The primary function of the Federal Savings and Loan Insurance Corporation is to insure individual accounts in institutions of the savings and loan type, which meet the requirements of Title IV of the National Housing Act, as amended, and the regulations issued pursuant thereto. In some instances, upon the default of an insured institution, the Insurance Corporation is appointed as conservator or receiver and is authorized as such (1) to take over the assets of and operate such association, (2) to take such action as may be necessary to put it in a sound and solvent condition, (3) to merge it with another insured institution, (4) to organize a new Federal savings and loan association to take over its assets, or (5) to proceed to liquidate its assets in an orderly manner, whichever shall appear to be to the best interests of the insured members of the association in default. In this capacity it is an agent of state or Federal authorities, and such principals are not persons within the definition of Regulation W.

In addition, it would seem that the Corporation as receiver is not engaged in the "business of extending instalment credit" within the meaning of the Regulation. It should be free to carry out its receivership operations provided for by Title IV of the National Housing Act, as amended, without its activities being limited although they might in some instances fall within the terminology of Regulation W. Extensions of credit by the Insurance Corporation as a receiver of a defaulting institution would only be made when necessary to conserve its assets or promote the orderly liquidation of such institution.

An early clarification of the status of the Federal Savings and Loan Insurance Corporation will be appreciated.

Very truly yours,
(Signed) John H. Fahey
John H. Fahey
Chairman

S-402-d

October 30, 1941

Mr. John H. Fahey, Chairman,
Federal Home Loan Bank Board,
Washington, D. C.

My dear Mr. Fahey:

I have your letter of October 21, 1941, regarding the application of Regulation W to the Federal Savings and Loan Insurance Corporation.

You state that the primary function of the Corporation is to insure certain individual accounts in institutions of the savings and loan type, but that, in some instances, upon default of an insured institution, the Corporation is appointed as conservator or receiver and is authorized as such (1) to take over the assets of and operate such associations, (2) to take such action as may be necessary to put it in a sound and solvent condition; (3) to merge it with another insured institution, (4) to organize a new federal savings and loan association to take over its assets, or (5) to proceed to liquidate its assets in an orderly manner, whichever shall appear to be in the best interest of the insured members of the association.

The powers enumerated above are those given by the statute (12 U.S. Code 1729), but I understand that the power referred to under (1) to take over the assets of and operate an association has not actually been exercised by the Corporation in any case to the extent of continuing the ordinary business operations of the association, but, on the contrary, that the Corporation has merely taken over the assets and held them pending reorganization, merger, liquidation or one of the other steps enumerated above. With respect to the power referred to under (5) above, the Board of Governors is of the opinion that Regulation W is not applicable to a receiver engaged in liquidating the assets of an organization, and since it appears that none of the other courses of action enumerated above would result in the Corporation's being engaged in the business described in section 3 of Regulation W, it appears that the Corporation is not subject to its provisions.

Very truly yours,

(Signed) Marriner S. Eccles

M. S. Eccles,
Chairman.

FEDERAL HOME LOAN BANK BOARD
Washington

October 14, 1941.

Honorable Marriner S. Eccles,
Chairman, Board of Governors of the
Federal Reserve System,
Washington, D. C.

My dear Mr. Eccles:

The question of the application of Regulation W to the operations of the Home Owners' Loan Corporation has been recently brought to our attention. To assure full cooperation, pending a clarification of its application, emergency steps have been taken by the Corporation to see that it complies fully with the Regulation. It is anticipated, however, that the restrictive steps taken, if made permanent, would be cumbersome, detailed, and expensive to the Government from the standpoint of both this Corporation and your Board. In order to avoid these difficulties, your consideration is invited to the possibility of the Home Owners' Loan Corporation being made free from the operation of Regulation W.

Regulation W, section 1, states that the Regulation applies to any person (meaning an individual, partnership, association, or corporation) who is engaged in the business of making extensions of instalment credit or of discounting or purchasing obligations arising out of extensions of instalment credit. Since June 12, 1936, Home Owners' Loan Corporation has not been engaged in the business of making extensions of instalment credit or of discounting or purchasing obligations arising out of extensions of instalment credit. However, in many instances it is necessary for the Corporation in order to protect its security, to facilitate the payment of obligations owing to it, or to promote the orderly liquidation of its assets, to advance its funds in payment of taxes, insurance premiums, repairs to or the reconditioning of, improvements situated upon the security real estate, and attorney fees, title examination, recording fees and other incidental expenses in connection with extending the terms of its existing obligations. Such advances, usually under \$1,000 in amount, are charged to the home owner's account and, unless payable on demand, are generally amortized over the unexpired term of the home owner's obligation and may, or may not, be secured by the existing duly recorded first lien on real estate, depending upon the provisions of the particular security instrument and the laws of the particular jurisdiction.

It is deemed desirable to point out that the Corporation is entirely owned by the Government and that its gains or losses in the liquidation of its assets will be the gains or losses of the Government and its taxpayers. If it should be determined that the Corporation, under Regulation W, is required to amortize within a period of 18 months such of the advances pointed out above as may not be on demand and may not be secured by existing duly recorded first liens on real estate, burdens will be imposed upon the home owners which in a large number of cases will exceed their carrying ability, thereby resulting in a larger number of foreclosures, the added costs and expense of liquidation, and the attendant increased risk of losses in the disposition of such acquired properties.

Your early consideration of this matter will be greatly appreciated.

Sincerely yours,

(Signed) John H. Fahey .

John H. Fahey,
Chairman.

S-402-f

October 25, 1941

Mr. John H. Fahey, Chairman,
Federal Home Loan Bank Board,
Washington, D. C.

Dear Mr. Fahey:

I acknowledge receipt of your letter of October 14, 1941, regarding the application of Regulation W to the operations of the Home Owners' Loan Corporation.

You state that since June 12, 1936 the Home Owners' Loan Corporation has not been engaged in the business of making extensions of instalment credit or of discounting or purchasing obligations arising out of such extensions, but that in many instances it is necessary for the Corporation, in order to protect its security, to facilitate the payment of obligations owing to it or to promote the orderly liquidation of its assets, to advance its funds in payment of taxes, insurance premiums, and repairs to or reconditioning of improvements situated upon the real estate held as security, as well as attorney's fees, title examination and recording fees and other incidental expenses in connection with extending the terms of its existing obligations. Such advances, usually under \$1,000 in amount, are generally amortized under the unexpired term of the home owner's obligation, and may or may not be secured by the existing first lien on the real estate.

I understand from your letter that Home Owners' Loan Corporation is not engaged in any business except such as is necessary to the orderly liquidation of the loans made by it prior to June 13, 1936. In these circumstances the Board of Governors is of the opinion that the Home Owners' Loan Corporation is not "engaged in the business of making extensions of instalment sale credit or instalment loan credit" (section 3(a) of Regulation W), and therefore that the Regulation is not applicable to the Corporation.

I take this opportunity of thanking you, on behalf of our Board, for the attitude of full cooperation which has been adopted by your Corporation in connection with this Regulation.

Sincerely yours,

(Signed) M. S. Eccles

M. S. Eccles,
Chairman.

S-402-g

FEDERAL HOME LOAN BANK BOARD
Washington

October 21, 1941

Honorable Marriner S. Eccles
Chairman, Board of Governors of the
Federal Reserve System
Washington, D. C.

My dear Mr. Eccles:

The Federal Home Loan Bank Board has received a number of inquiries from Federal savings and loan associations as to the application of Regulation W to their operations. In order that they will not be unduly burdened, we would appreciate your clarification of their position under the Regulation.

Federal savings and loan associations are chartered and regulated by our Board, in accordance with the provisions of the Home Owners' Loan Act of 1933, as amended. These institutions may only make loans secured by first liens on real estate or loans on the security of the shares of their members. They may in some cases make advances for the protection of the security property. These advances in all cases are secured either by the existing first lien, or, in a few states, where this is not permitted, they are secured by a bona fide second lien.

If loans on shares were refused to members requesting the same they would, of course, request the repurchase of their shares in such associations. Consequently, no new credit is created by such a loan. If share loans should be limited as to time and use of proceeds so that members would request the repurchase of their shares rather than borrow on them, the result might be (1) the release of more consumer's purchasing power than under the present practice and (2) the loss by associations of funds for possible loans on the security of first liens on real estate.

An early clarification of the application of Regulation W to the activities of these associations would be appreciated.

Very truly yours,

(Signed) John H. Fahey

John H. Fahey
Chairman

S-402-h

November 5, 1941

Mr. John H. Fahey, Chairman,
Federal Home Loan Bank Board,
Washington, D. C.

My dear Mr. Fahey:

I have your letter of October 21, 1941, regarding the application of Regulation W to Federal Savings and Loan Associations.

As you know, section 6(a) of Regulation W at present exempts from the down payment and maturity requirements of the Regulation all extensions of credit which are secured by recorded first liens on improved real estate, and after December 1 that section will also exempt all extensions of credit "for the purpose of financing or refinancing the construction or purchase of an entire residential building or other entire structure". Moreover, the Board of Governors has issued an interpretation (W-92) stating that, even prior to December 1, a second mortgage given by the purchaser to the seller as part of the purchase price is not covered by the Regulation. In addition, a lender may of course take such action as it shall deem necessary for its protection in connection with any obligation which is in default and which is the subject of collection effort.

However, the Regulation is applicable to any lender engaged in the business of making instalment loans of \$1,000 or less (after December 1 the figure will be \$1,500), and there is no exception in the Regulation which would exempt a loan by a Federal Savings and Loan Association to one of its members upon the security of his paid-up shares. For this reason the Board of Governors is of the opinion that an association engaged in the business of making such loans is subject to the requirements of the Regulation.

Very truly yours,

(Signed) Marriner S. Eccles

M. S. Eccles,
Chairman.