

May 10, 1946

To: National Advisory Council Staff Committee

From: Securities and Exchange Commission (Walter C. Louchheim, Jr.)

Subject: Question of Bankers as to Civil Liabilities in Distributing International Bank Bonds under the Securities Act.

The Sub-Committee on Marketing Bonds of the International Bank held a meeting with representatives of commercial banks in New York on January 29, 1946. At this meeting some of the commercial bank representatives expressed an interest in engaging in the distributing of the Bank's bonds and in acting as dealers in them. They pointed out that in order for them to do so there would have to be an amendment of the Federal banking laws. They expressed the further opinion that even should these laws be amended, commercial banks would not actively engage in dealing and distributing of the Bank's bonds unless relieved of the liabilities of the Securities Act of 1933. Some question as to the extent of this liability was raised in this discussion.

A similar view and similar questions were voiced at a subsequent meeting with commercial bankers held at the New York Federal Reserve Bank on March 27, 1946. Some of the bankers present at this meeting expressed the opinion that the assistance of commercial banks as distributors would be essential for the successful sale of the Bank's bonds. However, they disclaimed any intention of initiating amendments to the Federal laws.

In view of the questions raised as to the liabilities of commercial banks under the Securities Act, I asked our Solicitor for a memorandum on the subject. In reply to this request I have received the following letter from the Solicitor:

"I have discussed with the Commission your request for a memorandum outlining the duties and responsibilities of commercial banks in the event that they should undertake to act as underwriters, dealers, or brokers in the distribution of International Bank securities, which would, of course, require an amendment to the Banking Act of 1933 and related legislation. It was the Commission's view that any such memorandum would be premature, in advance of legislation authorizing such action.

"With respect to the desirability of such legislation, we understand that no one is seriously advocating a reversal of the basic policy underlying Sections 20 and 21 of the Banking Act of

1933. Moreover, an amendment excepting securities of the International Bank from the prohibition, and thereby placing them on the same basis as United States Government and State and municipal securities, would seem to raise substantially the same questions concerning the status of the securities of the International Bank as were previously considered in connection with the question of whether it would be desirable to afford exemption for such issues from the Securities Act of 1933. The Commission understands that it was the policy of Congress to have the obligations of the Bank considered on their merits by American investors. As in the case of the Securities Act safeguards, this policy also makes relevant retention of the prohibition of the Banking Act of 1933 with respect to the combination of the functions of commercial banking and marketing securities. This seems to the Commission to preclude the making of exceptions which would permit the distribution of International Bank securities by commercial banks.

“These views are, of course, tentative and subject to re-examination in the event that it should appear that it is impractical to handle the distribution of the International Bank securities through the normal investment channels.”