

**INTERPRETIVE LETTER 89-1 (JANUARY 19, 1989)**

**Voting trust created by family members that control a state bank is a bank holding "company."**

Thank you for your letter dated \*. It documented our phone conversation concerning the requirement of Section 3.02(b) of the Illinois Bank Holding Company Act of 1957 ("Act") that the Federal Reserve Board approve transactions specified in Section 3.02(a). Those transactions which are relevant here essentially pertain to a "company," as defined in the Act, becoming a bank holding company as well as a bank holding company obtaining voting power in a bank through subsidiary control or acquisition of a specified percentage of voting stock.

Under the Act, any organization or entity which meets the definition of "company," as defined in Section 2(g), and becomes a bank holding company with respect to an Illinois bank must receive prior approval by the Federal Reserve Board ("Fed") unless not required by the terms of the federal Bank Holding Company Act ("Federal Act"). To determine if Fed approval is necessary, Section 2(g) must be consulted to review what organizations or entities are included in "company" under the Act. The definitions of "company" in Section 2(b) of the Federal Act as well as in Section 2(g) of the Act are very similar. Note, though, that the Act's definition of "company" includes voting trusts:

(g) "Company" means any corporation, business trust, VOTING TRUST, association, partnership, joint venture, SIMILAR ORGANIZATION or any other trust.... (emphasis added). Ill. Rev. Stat. 1987, ch. 17, par. 2502(g).

Under the above definition, voting trusts and stockholder agreements are considered companies for purposes of evaluating the transactions under Section 3.02(a) of the Act.

According to the facts described in your January 6th letter, I conclude a voting trust or a stockholders' agreement involving the family members having a controlling interest, collectively, in \* would constitute a "company" for purposes of Section 3.02(a) of the Act. Therefore, it is this Agency's position that the aforementioned family members must obtain approval or a clear "no objection" from the Fed, in accordance with Section 3.02(b)(2) of the Act, prior to forming a voting trust or entering into a stockholders' agreement.