

INTERPRETIVE LETTER 90-8 (MAY 22, 1990)

Loan to individual is not aggregated with loan to limited partnership of which individual is a limited partner.

This is in response to your inquiry regarding whether a loan to a limited partnership would be aggregated with a limited partner's individual loans as set forth below.

The facts are as follows. * Bank (hereafter "Bank") has a current loan outstanding to Borrower A in the amount of \$3,000,000. Limited Partnership B has applied for a \$3,000,000 loan from the Bank for purposes unrelated to Borrower A. Person C, who is a general partner of Limited Partnership B, has proposed that Borrower A become a limited partner in Limited Partnership B. As a result, the Bank would require Borrower A to guarantee payment on the \$3,000,000 loan to Limited Partnership B to the extent of \$300,000.

Although the Illinois Banking Act (hereafter "Act") and Section 330, Chapter II, Title 38 of the Illinois Administrative Code, do not specifically distinguish between general and limited partnerships, the Commissioner uses the principles of Illinois partnership law (Ill. Rev. Stat. 1987, ch. 106 1/2, par. 1 et seq.) in determining whether to aggregate loans involving partnerships and their partners. Subsection (a) of Section 303 of the Illinois Revised Uniform Limited Partnership Act (Ill. Rev. Stat. 1987, ch. 106 1/2, par. 153-3(a)) clearly establishes the limited liability under statute for limited partners:

[A] limited partner is not liable for the obligations of a limited partnership unless he or she is also a general partner or, in addition to the exercise of his or her rights and powers as a limited partner, he or she participates in the control of the business.

In general, then, a limited partner will not be liable for the debts of his or her limited partnership. Consequently, this Agency will generally not aggregate the loans to a limited partnership with the loans to one of the limited partners.

Applying Illinois banking and partnership law to these facts, this Agency would not aggregate the proposed loan to Limited Partnership B with the loan to Borrower A in the event Borrower A became a limited partner in Limited Partnership B. The status of Borrower A as a limited partner would generally mean that Borrower A would not be personally liable for the debts of Limited Partnership B.