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Executive Office of the President
Office for Emergency Management
OFFICE OF ECONOMIC STABILIZATION
Washington, D. C.

May 18, 1943.

James F. Byrnes
Director

Dear Mr. Dreibelbis:

The F.D.I.C. would like the following two sentences to be inserted in the order after the second sentence of Section 3:

"The Board shall utilize the services of the other Federal Agencies having supervision of banks and credit unions in all matters affecting institutions under their jurisdiction and, in respect to such institutions, these agencies shall carry out the directives, orders, and regulations of the Board issued under this Order. Nothing contained in this Order shall confer upon the Board power to limit or restrict the right of the Federal Deposit Insurance Corporation to loan money to or purchase assets from any insured bank or receiver thereof in accordance with the provisions of subsection (n) of Section 264, Title 12 of the U. S. Code."

While there may be some question as to the need of spelling these matters out in such detail, I should like very much to accept the suggestions of the F.D.I.C. if there is no real serious objection to them.

Yours sincerely,

(signed) Benjamin V. Cohen

Benjamin V. Cohen

J. P. Dreibelbis, Esquire,
Federal Reserve Board,
Washington, D. C.

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May 19, 1943.

Mr. Benjamin V. Cohen,
Office of Economic Stabilization,
The White House,
Washington, D. C.

Dear Mr. Cohen:

I have gone over the Federal Deposit Insurance Corporation's suggested addition to section 3 of the order and there are one or two thoughts I would like to call to your attention before we try to spell out their idea in such detail.

The procedure which their first sentence would spell out is an established one. It was suggested and followed by the Board in the exercise of its statutory functions under the Securities Exchange Act. It is also the procedure which the Board suggested and follows in connection with the order on consumer credit. Since it is the most practicable way the Board has found, I would expect and am confident the Board would continue it under this order.

On the other hand, if we try to spell out the procedure for the Board to follow in connection with the bank supervisory agencies, it might be argued that the functions of all other agencies involved should be spelled out in equal detail. This, I believe, would be wholly impracticable.

I have a similar reservation with respect to the suggested second sentence. You will recall that a similar question was raised in connection with the operations of the Commodity Credit Corporation under its statutory mandates. There must be others, and my fear is that if we spell out in one instance we prejudice the position of other agencies not specifically dealt with.

I mentioned the suggestion to the Chairman, and he feels very strongly that it should not be incorporated in the order, particularly, since your office, in any event, can always control any situation which may arise.

Very truly yours,

(signed) J. P. Dreibelbis

J. P. Dreibelbis,
General Attorney.

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May 31, 1943.

Mr. Benjamin V. Cohen,
Office of Economic Stabilization,
The White House,
Washington, D. C.

Dear Ben:

Mr. Dreibelbis has discussed with me the changes to the order suggested by the Federal Deposit Insurance Corporation as set out in your letter of May 18, 1943.

The functions and powers of the several Federal bank supervisory agencies overlap in a good many instances. In their activities, however, overlapping has been delimited to a great extent by procedure established by mutual agreement. The first suggested sentence attempts to describe and make the established procedure mandatory. It is the only procedure which would be natural and practicable under almost every condition which might arise. It has been followed by the Board under the Securities Exchange Act, the Consumer Credit Order, and in other cases. I am confident that the Board would follow it under this order, whether or not it is expressly required to do so.

There are, however, serious objections to attempting to spell out this procedure. If that is done in the case of one agency out of many similarly situated, the same issue would be raised as to all. The omission of a similar procedural requirement as to other agencies might imply a different rule as to them. To enumerate them all would be wholly impractical. If any such compulsory procedure should be inserted, its exact scope and meaning would have to be precisely stated. The difference between the meaning of "banks" as suggested by the Federal Deposit Insurance Corporation and "banking institutions" as defined in the order illustrates the difficulties involved. This would require a great deal of language and would raise more questions than it would settle, especially with reference to agencies whose functions and activities overlap but have been delimited by practice.

The second sentence also seems unnecessary to me. Here again to enumerate is impractical and to single out this particular authority might imply a different rule as to any omitted. I believe also that the sentence has unfortunate implications. It is scarcely to be assumed that

Mr. Benjamin V. Cohen

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the Board would try to restrict the power of the Federal Deposit Insurance Corporation to come to the aid of distressed banks in discharging the responsibilities imposed on it by Congress, yet the suggested addition proceeds on that assumption.

In conclusion, I believe that the order already covers the ground with due generality. The responsibilities which it would impose on the Board are such that it should not be otherwise. In any event, under both Executive Order 9250 and the proposed order, the Board, as well as other agencies, is subject to the directives of the Economic Stabilization Director. This insures to all agencies that the Board's actions will be realistic, appropriate to whatever situations may arise, and in harmony with the national stabilization program. You have my assurances that the language is unnecessary to achieve the ends for which its insertion has been requested.

Very truly yours,

M. S. Eccles,
Chairman.

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EXECUTIVE ORDER

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REGULATION OF CREDIT UNDER NATIONAL STABILIZATION PROGRAM

WHEREAS the effective conduct of the present war and the maintenance of the national stabilization program authorized and directed by the Congress in the act of October 2, 1942 (56 Stat. 765), require that means be available readily to control the use of credit for buying, carrying, or trading in commodities, real estate, or securities in order to assist (a) in preventing hoarding and harmful speculation, (b) in curbing profiteering and unwarranted, speculative, and abnormal price advances, (c) in protecting and promoting the sound and constructive interests of commerce, agriculture, and industry, and of consumers, home owners, and investors, and (d) in supplementing and supporting other governmental measures to restrain inflationary tendencies.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the statutes, and particularly by section 5(b) of the act of October 6, 1917 as amended from time to time including the amendment made in the First War Powers Act, 1941, and in order, during the time of the war and the period of the national emergency declared by me on May 27, 1941, to promote the effective conduct of the war and protect the national economy, it is hereby ordered as follows:

1. Treasury amendment on page 3
2. F.P.C.E. amendment on page 4 -
Correspondence attached

Section 1. To carry out the purposes of this order the Board of Governors of the Federal Reserve System (hereinafter called the Board) is hereby designated as the agency through which there shall be investigated, regulated, or prohibited transfers of credit or payments between, by, through, or to any banking institution, which constitute or arise directly or indirectly out of any extension or use of credit for or incidental to buying, acquiring an interest in or control of, carrying, processing, holding, distributing, or trading in commodities, real estate, or securities, or evidences of ownership thereof or interest therein, for immediate or future delivery. The Board, in carrying out the provisions of this order, shall have the powers set forth in paragraph (1) of subdivision (b) of section 5 of the said act of October 6, 1917. In effectuating the purposes of this order the Board may also utilize all other powers vested in it. The Board is authorized to prescribe definitions not inconsistent with this order for any terms which it may use in its directives, orders, or regulations issued pursuant to this order: Provided, that, for the purposes of this order and unless the Board gives more restricted meanings: (1) "extension or use of credit" includes but is not limited to options, demands, liens, pledges, and similar claims against, or for the delivery

of, property or money; (2) "banking institution" means any person as defined in the said act of October 6, 1917, or any agency of the Government engaged, either primarily or incidentally, as principal, agent, broker, or otherwise, in the business of transferring credits or receiving deposits, or of making, receiving, holding, or clearing extensions of credit or payments which constitute or arise out of extensions of credit. Nothing herein shall be construed to amend, supersede, or repeal any powers heretofore delegated to the Board or to any other agency under the aforesaid paragraph (1) of section 5(b) of said act of October 6, 1917. None of the powers conferred by this order shall be exercised by the Board in a way that will interfere with the Treasury Department in the exercise of its functions with respect to the public revenues, borrowings, credits, taxation and finance.

Treasury

Section 8. In carrying out the provisions of this order the Board shall consider and make due provision for the legitimate and bona fide credit needs of commerce, agriculture, and industry and of consumers, home owners, and investors to the extent that the extension or use of such credit is consistent with the national stabilization program; and any action of the Board shall not apply to credit outstanding on the effective date of this order except to the extent that the Board may deem it necessary in effectuating the purposes of this order.

Section 3. In administering this order, the Board may utilize the services of the Federal Reserve Banks, Federal Deposit Insurance Corporation, Comptroller of the Currency, and any other agencies, Federal or State, which are available and appropriate. It shall delegate to such banks or agencies all or such part of the administration of its directives, orders, or regulations as it or the Economic Stabilization Director determines will promote simple and effective administration; and any such bank or agency, to which such administration has been delegated, may, in order to carry out any functions so delegated, utilize all other powers vested in it.

F.R.B.

Section 4. The Board shall, so far as practicable, utilize the information of, and consult with, other Federal departments and agencies which have activities or functions related to the national stabilization program, and in exercising the powers conferred by this order, shall be governed by the general policy directives of the Economic Stabilization Director.

THE WHITE HOUSE,

, 1943.