

STRICTLY CONFIDENTIAL

(July 29, 1941 DRAFT)

CONFIDENTIAL

EXECUTIVE ORDER

REGULATION OF CONSUMER CREDIT

(July 29, 1941 DRAFT)

DECLARATION OF NECESSITY AND PURPOSE

WHEREAS, a large volume of credit is being devoted to financing and refinancing purchases of consumers' goods and services through extensions of credit that usually are made to individuals and to a large extent are on an instalment payment basis; and

WHEREAS, the conditions under which such credit is available have an important influence upon the volume and timing of demand, not only for the particular goods and services purchased on credit but also for goods and services in general; and

WHEREAS, liberal terms for such credit tend to stimulate demand for consumers' durable goods the production of which requires materials, skills, and equipment needed for national defense; and

WHEREAS, the extension of such credit in excessive volume tends to generate inflationary developments of increasing consequence as the limits of productive capacity are approached in more and more fields and to hinder the accumulation of savings available for financing the defense program; and

WHEREAS, the public interest requires control of the use of instalment credit for financing and refinancing purchases of consumers' durable goods the production of which absorbs resources needed for national

defense, in order (a) to facilitate the transfer of productive resources to defense industries, (b) to assist in curbing unwarranted price advances and profiteering which tend to result when the supply of such goods is curtailed without corresponding curtailment of demand, (c) to assist in restraining general inflationary tendencies, to support or supplement taxation imposed to restrain such tendencies, and to promote the accumulation of savings available for financing the defense program, (d) to aid in creating a backlog of demand for consumers' durable goods, and (e) to restrain the development of a consumer debt structure that would repress effective demand for goods and services in the post-defense period; and

WHEREAS, in order to prevent evasion or avoidance of this Order and such regulations as may be prescribed to effectuate its purposes, means should also be available for regulating the use of other instalment credit and other forms of credit usually extended to consumers or on consumers' durable goods; and

WHEREAS, it is appropriate that such credit be controlled and regulated through an existing governmental agency which has primary responsibilities with respect to the determination and administration of national credit policies.

NOW, THEREFORE, by virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917, as amended, and by virtue of all other authority vested in me, and in order, in the national emergency declared by the President on May 27, 1941, to promote the national defense and protect the national economy, it is hereby ordered as follows:

ADMINISTRATION

Section 1(a). The Board of Governors of the Federal Reserve System (hereinafter called the Board) is hereby designated as the agency through which transfers of credit between and payments by or to banking institutions (as defined herein pursuant to section 5(b) of the aforesaid Act) which constitute, or arise directly or indirectly out of, any extension of credit of a type set out in section 2(a) of this Order shall be investigated, regulated, or prohibited.

(b) The Board shall, whenever it deems such action to be necessary or appropriate, take any lawful steps herein authorized and such other lawful steps as are within its power to carry out the purposes of this Order and may, in administering this Order, utilize the services of the Federal Reserve Banks and any other agencies, Federal or State, which are available and appropriate.

(c) In order to facilitate the coordination of the Board's functions under this Order with other phases of the program for national defense and for protecting the national economy, there shall be a Committee consisting of the Secretary of the Treasury, the Federal Loan Administrator, and the Administrator of the Office of Price Administration and Civilian Supply, or such alternate as each shall designate, and such other members as the President shall subsequently appoint. The Board shall maintain liaison with the Committee, and in formulating policies with respect to down-payments, maturities, terms of repayment and other such questions of general policy shall consult with the Committee and take into consideration any suggestions or recommendations it may make.

REGULATIONS

Section 2(a). Whenever the Board shall determine that such action is necessary or appropriate for carrying out the purposes of this Order, the Board shall prescribe regulations with respect to transfers and payments which constitute, or arise directly or indirectly out of, any extension of instalment credit for the purpose of purchasing or carrying any consumers' durable good except a residential building in its entirety; and the Board may in addition, to the extent deemed by it to be desirable and feasible in order to prevent evasion of such regulations as may be so prescribed or in order to control forms of credit the use of which might defeat the purposes of this Order and such regulations, prescribe regulations with respect to transfers and payments which constitute, or arise directly or indirectly out of, (1) any other extension of instalment credit, or (2) any other extension of credit for the purpose of purchasing or carrying any consumers' durable good, or (3) any other extension of credit in the form of a loan other than a loan made for business purposes to a business enterprise or for agricultural purposes to a person engaged in agriculture. Such regulations may be prescribed by the Board at such times and with such effective dates as the Board shall deem to be in accordance with the purposes of this Order.

(b) Such regulations may from time to time, originally or by amendment, regulate or prohibit such transfers and payments or exempt them from regulation or prohibition and may classify them according to the nature of the transactions or goods or persons involved or upon such other basis

as may reasonably differentiate such transfers and payments for the purposes of regulations under this Order, and may be made applicable to one or more of the classes so established; and, without limiting the generality of the foregoing, such regulations may require transactions or persons or classes thereof to be registered or licensed; may prescribe appropriate limitations, terms, and conditions for such registrations or licenses; may provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, or order prescribed hereunder, may prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens, or any relevant documents; may prohibit solicitations by banking institutions which would encourage evasion or avoidance of the requirements of any regulation, license, or registration under this Order; and may from time to time make appropriate provisions with respect to --

(1) The maximum amount of credit which may be extended on, or in connection with any purchase of, any consumers' durable good;

(2) The maximum maturity, minimum periodic payments, and maximum periods between payments, which may be stipulated in connection with extensions of credit;

(3) The methods of determining purchase prices or market values or other bases for computing permissible extensions of credit or required down-payments; and

(4) Special or different terms, conditions, or exemptions with respect to new or used goods, minimum original cash payments, temporary

credits which are merely incidental to cash purchases, payments or deposits usable to liquidate credits, and other adjustments or special situations.

(c) On and after the effective date of any regulation prescribed by the Board with respect to any extension of credit of a type set out in section 2(a), and notwithstanding the provisions of any other proclamation, order, regulation or license under the aforesaid Act, all transfers and payments which are in violation of such regulation shall be and hereby are prohibited to the extent specified in such regulation.

(d) Neither this Order nor any regulation issued thereunder shall affect the right of any person to enforce any contract, except that after the effective date of any such regulation every contract which is made in connection with any extension of credit and which violates, or the performance of which would violate, any provision of such regulation (other than a provision designated therein as being for administrative purposes), and every lien, pledge, seller's interest in a conditional sale, or other property interest, subject to the provisions of such contract or created in connection therewith, shall be unenforceable by the person who extends such credit or by any person who acquires any right of such person in such contract, provided that such disability shall not apply to any person who extends such credit, or acquires such right for value, in good faith and without knowing or having reason to know the facts by reason of which the making or performance of such contract was or would be such a violation.

REPORTS

Section 3. Reports concerning the kinds, amounts, and character-

istics of any extensions of credit subject to this Order, concerning transfers and payments which arise out of any such extensions of credit, or concerning circumstances related to such extensions of credit or such transfers or payments or to the regulation thereof, shall be filed on such forms, under oath or otherwise, at such times and from time to time, and by such persons, as the Board may prescribe by rule, regulation or order as necessary or appropriate for enabling the Board to perform its functions under this Order. The Board may require any person to furnish, under oath or otherwise, complete information relative to any transaction within the scope of this Order, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person.

DEFINITIONS

Section 4. For the purposes of this Order, unless the context otherwise requires, the following terms shall have the following meanings, provided that the Board may in its regulations give such terms more restricted meanings:

(a) "Person" has the meaning set forth in section 5(b) of the Act of October 6, 1917, as amended.

(b) "Transfers and payments" means "transfers of credit between and payments by or to banking institutions".

(c) "Banking institution" means any person engaged primarily or incidentally, as principal, agent, broker or otherwise, in the business of making or holding extensions of credit, and includes, without limitation,

any bank, any loan company, any finance company, and any retailer or other vendor of consumers' durable goods who is so engaged.

(d) "Consumers' durable good" includes any good, whether new or used, which is durable or semi-durable and is used or usable for personal, family or household purposes, and any service connected with the acquisition of any such good or of any interest therein.

(e) "Extension of credit" means any loan or mortgage; any instalment purchase contract, any conditional sales contract, or any sale or contract of sale under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase contract, or any contract for the bailment or leasing of property under which the bailee or lessee either has the option of becoming the owner thereof or obligates himself to pay as compensation a sum substantially equivalent to or in excess of the value thereof; any contract creating any lien or similar claim or property to be discharged by the payment of money; any purchase, discount, or other acquisition of, or any extension of credit upon the security of, any obligation or claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect.

(f) An extension of credit is an extension of "instalment credit" if the obligor undertakes to repay the credit in two or more scheduled payments or undertakes to make two or more scheduled payments or deposits usable to liquidate the credit, or if the extension of credit has a similar purpose or effect, or if it is for the purpose of financing a business enterprise which makes such extensions of credit.

(g) An extension of credit is "for the purpose of purchasing or carrying any consumers' durable good" if it is directly or indirectly for the purpose of financing or refinancing the purchase of any consumers' durable good or is directly or indirectly secured by any consumers' durable good, or if the extension of credit has a similar purpose or effect, or if it is for the purpose of financing a business enterprise which makes such extensions of credit.

PENALTIES

Section 5. Whoever willfully violates or knowingly participates in the violation of this Order or of any regulation prescribed hereunder, shall be subject to the penalties applicable with respect to violations of section 5(b) of the Act of October 6, 1917, as amended.

AMENDMENT

Section 6. This Order may be amended or revoked at any time.

THE WHITE HOUSE,

July ____, 1941

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THE WHITE HOUSE

WASHINGTON

August 1, 1941

Dear Marriner:

I have signed the Executive Order for the regulation of consumer credit in accordance with yesterday's discussion with you and Leon. This is done with the understanding we reached in our conversation that you would consult with Henry before taking any action under the Order which might affect the fiscal activities of the Treasury.

Very sincerely yours,

Franklin D. Roosevelt /sgd/

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