

February 25, 1947.

To: Board of Governors

Subject: Draft of Consumer
Credit Bill.

From: Mr. Solomon

The attached draft of a consumer credit bill, prepared in consultation with other members of the staff, is submitted for the consideration of the Board.

The bill is limited to instalment credit. In other words, it does not apply to charge accounts or single payment loans.

Within the field of instalment credit the Board is given general authority to regulate maturities, down payments and loan values. This is intended to include, without specific reference, the authority not only to vary terms from time to time, but also to select, and change from time to time, the types of instalment credit covered in the regulation. This would include the authority to specify and vary the "list" of consumers' durable goods covered.

The bill applies generally to instalment credit--including both instalment sales and instalment loans--and it is not limited to credit for the purpose of financing consumers' durable goods. So-called "non-purpose" loans are treated the same as other instalment credit.

The standard to be followed by the Board in issuing regulations is stated in terms of factors to be considered by the Board. It does not contain any figures (months or percentages).

The bill exempts (1) credit to finance the construction or purchase of an entire building, (2) credit to a business to finance the purchase of goods for resale (i.e., inventories), and (3) other business credit that is not to finance consumers' durable goods. It may be noted that 3 exempts instalment credit to a business for financing a machine tool (because it is not a consumer's durable good), but does not exempt credit for financing an automobile or refrigerator even if used in a business.

State and Federal agencies are included in the persons subject to the bill.

The bill does not provide for licensing persons who are in the instalment credit business. Hence, there is no provision for revoking licenses.

Criminal penalties are provided for violations. The Board may require persons subject to the bill to keep records and make reports. The Board has authority to investigate possible violations (including the subpoena power), and may obtain injunctions against violators.

A B I L L

To regulate consumer credit, to protect interstate and foreign commerce, to protect the monetary, banking and credit structure of the nation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective _____, the Federal Reserve Act is amended by adding the following new section 20A between sections 20 and 21 thereof:

"SECTION 20A. CONSUMER CREDIT

"(a) Purposes of Section. - For the reasons hereinafter enumerated and in the light of which this section shall be interpreted and applied, the use of instalment credit is affected with a national public interest which makes it necessary to provide for appropriate regulation of such credit:

"Instalment credit is an important factor in financing the purchase of large volumes of goods, particularly consumers' durable goods, that move through the channels of interstate commerce. The terms and conditions on which instalment credit is available have a direct and important effect on changes in the amount of such credit and consequently on the volume and timing of demand for, and flow in interstate commerce of, not only consumers' durable goods and related components and manufacturing equipment but also goods in general.

"Because of the inherent nature of instalment credit and the purposes for which it is largely used, (1) such credit has a dangerous tendency, if unregulated, to expand unduly in certain periods and, in consequence, to contract unduly at other periods, and (2) such over-expansion and overcontraction are of material importance in initiating and intensifying excessive fluctuations and dislocations in national levels of purchasing power, prices, credit and interstate commerce.

"Both directly and through their impact on interstate commerce and the national economy, such excessive or untimely fluctuations in instalment credit interfere with the maintenance of high and stable levels of production and employment, burden interstate and foreign commerce, interfere with the power of Congress to regulate the value of money, threaten the stability of the nation's monetary, banking and credit structure, hamper the Federal Reserve System in maintaining sound credit conditions, and are important contributing causes to emergencies which put the Federal Government to great expense and burden the national credit.

"The purposes of this section are to provide appropriate regulation of instalment credit and thereby to prevent, so far as practicable by this means, excessive or untimely fluctuations of such credit and the resulting national dangers and burdens mentioned above.

"(b) Definitions, - For the purposes of this section, unless the context otherwise requires, the following terms shall have the following meanings, but the Board of Governors of the Federal Reserve

System (hereinafter called the Board) may in its regulations give such terms more restricted meanings, and may definite technical trade and accounting terms in so far as such definitions are not inconsistent with the provisions of this section:

"(1) 'Instalment credit' means credit which the obligor undertakes to repay in two or more payments, or as to which he undertakes to make two or more payments or deposits usable to liquidate the credit, or which has a similar purpose or effect: Provided, however, That it shall not include (i) any credit to finance or refinance the construction or purchase of an entire residential building or other entire structure, (ii) any credit extended to a business enterprise to finance the purchase of goods for resale or (iii) any other credit extended to a business or agricultural enterprise for any business or agricultural purpose unless the credit is secured by or is for the purpose of purchasing or carrying consumers' durable goods.

"(2) 'Credit' means any loan, advance, or discount; any instalment purchase or conditional sale contract; any sale of property or services or contract of such sale, either for present or future delivery, 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 option, demand, lien, pledge or similar claim against, or for the delivery of, property or money; any purchase, discount, or other acquisition of, or any 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.

"(3) 'Person' means any individual, partnership, association, business trust, corporation, or unincorporated organization; and, except that the criminal penalties shall not be applicable thereto, it includes the United States, any State or subdivision thereof, and any agency of one or more such authorities.

"(c) Regulations.-The Board of Governors of the Federal Reserve System is authorized from time to time by regulation to prescribe maximum maturities, minimum down payments, maximum loan values and amounts and intervals of payments, for such kind or kinds of instalment credit as may in the judgment of the Board be necessary in order to prevent or reduce excessive or untimely fluctuations in such credit. Such regulations may classify transactions and may apply different maximum maturities, minimum down payments, maximum loan values or amounts and intervals of payments thereto. Such regulations may contain such administrative provisions as in the judgment of the Board are reasonably necessary in order to effectuate the purposes of this section or to prevent evasions thereof.

"In prescribing such regulations the Board shall consider, among other factors, (1) the level and trend of instalment credit and the various kinds thereof, (2) the effect of fluctuations in such credit upon (i) the purchasing power of consumers and (ii) the demand for and the production of consumers' durable and other goods which move in interstate commerce, and (3) the need in the national economy for the maintenance of sound credit conditions.

"(d) Compliance. - No person engaged in the business of extending or maintaining instalment credit, or of refinancing, purchasing, selling, discounting, or lending on, any obligation arising out of any such credit, shall extend or maintain any credit, or renew, revise, consolidate, refinance, purchase, sell, discount, or lend on, any obligation, in contravention of any regulation prescribed by the Board pursuant to this section. Every person engaged in such business shall keep such records or documents in such form, and make such reports, as the Board may by regulation require.

"(e) Penalties. - Any person who wilfully violates any provision of this section or any regulation thereunder the observance of which is required under the terms of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$5,000, or imprisoned not more than one year, or both; but no person shall be subject to imprisonment under this section for the violation of any regulation if he proves that he had no actual knowledge of such regulation.

"(f) Investigations, Court Orders. - (1) The Board is authorized to make such investigations as it deems necessary in order to aid in the prescribing of regulations under this section or in order to determine whether any person has violated or is about to violate any provisions of this section or any regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Board shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(2) For the purpose of any investigation or other proceeding under this section, any member of the Board, or any representative thereof designated by it, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, records, or other papers which are relevant or material to the inquiry. Such attendance of witnesses and the production of any such papers may be required from any place in any State or in any Territory or other place subject to the jurisdiction of the United States at any designated place where such a hearing is being held or investigation is being made.

"(3) In case of refusal to obey a subpoena issued to, or contumacy by, any person, the Board may invoke the aid of any court of the United States within the jurisdiction of which such investigation is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of

books, records, or other papers. And such court may issue an order requiring such person to appear before the Board or member or officer designated by the Board, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. No person shall be excused from attending and testifying or from producing books, records, or other papers in obedience to a subpoena issued under the authority of this section on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Any person who without just cause shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, records, or other papers in obedience to the subpoena of the Board, if in his or its power so to do, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine

of not more than \$1,000 or to imprisonment for a term of not more than one year, or both.

"(4) Whenever in the judgment of the Board any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this section or of any regulation thereunder, the Board may make application to the proper district court of the United States, or the United States Courts of any Territory or other place subject to the jurisdiction of the United States, for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the Board that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order shall be granted without bond.

"(5) The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of offenses and violations under this section or the regulations thereunder, and of all actions to enjoin any violation of this section or the regulations thereunder or to enforce any duty created under this section. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any action to enjoin any violation of this section or regulations thereunder or to enforce any duty created under this section may be brought in any district wherein the defendant is

found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or transacts business or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347).

"(g) Administration. - In administering this section, the Board may act through its duly designated representatives and may utilize the services of the Federal Reserve Banks and any other agencies, Federal or State, which are available and appropriate. The Board shall include in its annual report to the Congress such information, data, and recommendations as it may deem advisable with regard to matters within its jurisdiction under this section."