

November 20, 1947.

Chairman Eccles:

In accordance with your request, I attach hereto two brief statements which you could use, in whole or in part, in discussing consumer credit controls with Congress:

- (1) Why a full consumer credit bill is preferable to a joint resolution or shorter bill which would merely revive the Executive Order;
- (2) Why the restoration of consumer credit controls by Presidential action through the declaration of a national emergency would not be desirable.

You will remember that you sent to the Chairman of the Banking and Currency Committee of both the House and the Senate on June 5 of this year a draft of a consumer credit bill which the Board had prepared, but this bill was not introduced in either House.

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FULL CONSUMER CREDIT BILL PREFERABLE TO
JOINT RESOLUTION OR SHORTER BILL MERELY
REVIVING EXECUTIVE ORDER

A comprehensive bill fully and explicitly authorizing consumer credit controls, somewhat along the lines of a draft prepared by the Board of Governors several months ago, is much preferable to a joint resolution or a brief form of bill which would merely authorize the Board to reinstitute consumer credit controls pursuant to the terms of Executive Order 8843 which was issued in August 1941. A comprehensive bill would not require more than a few pages.

The Executive Order, and the statute under which it was issued, are sorely lacking in appropriate enforcement provisions. They contain only criminal penalties and authority to suspend licenses. Both penalties are so drastic that it is difficult to apply them in actual practice. Accordingly, they tend to make enforcement either too lax or unduly severe. To provide enforcement that is both equitable and effective, it is essential that there be specific provision for courts of equity to aid enforcement through their power to enforce subpoenas and enjoin violations. That is a sound type of enforcement machinery that Congress has adopted in connection with other Government agencies.

A general provision giving the Board of Governors authority to obtain such aid from the courts in connection with all of its functions would be desirable. Such a provision, however, is especially needed in connection with the exercise of consumer credit controls.

Six years of experience with consumer credit controls under the Executive Order have also shown the need for other changes in the underlying authority. For one thing, the statute should now prescribe clearer and more appropriate standards or guides to be followed by the Board in prescribing its regulations on this subject. In addition, it should place clearer and more precise limits on the Board's authority. The Executive Order covers all consumer credit, whether or not it is instalment credit. Experience has shown that present purposes can be served by a somewhat narrower statute applying only to the instalment portion of consumer credit, and it is desirable that the Board's authority be so limited.

In addition, it is most desirable to have explicit and precise authority from Congress contained in one legislative enactment. If Congress should merely revive the Executive Order, it would be necessary, in considering the scope of the authority granted, to look at at least three basic documents -- the Trading with the Enemy Act on which the Executive Order was based, the Executive Order itself, and the action of Congress in reviving the Executive Order. This is not merely a matter of inconvenience for the persons affected by consumer credit controls but makes for uncertainty as to the exact scope of the authority granted and just what provisions are applicable.

For the reasons stated, a comprehensive bill is preferable. Even if Congress should decide not to enact permanent legislation but to make it effective only for a limited period, such a bill could be utilized with a limitation as to time included. If, however, Congress should determine to reject the idea of a comprehensive bill on this subject and to enact merely a joint resolution or very brief bill, it is most important that any such brief enactment include authority for subpoenas and injunctions with the aid of the courts. If necessary, this authority could be given in a one sentence provision through the incorporation by reference of provisions on this subject already applicable to other agencies.

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RESTORATION OF CONSUMER CREDIT CONTROLS
BY PRESIDENTIAL ACTION

The Joint Resolution of August 8, 1947, states that consumer credit controls shall not be exercised after November 1 "except during the time of war beginning after the date of enactment of this joint resolution or any national emergency declared by the President after the date of enactment of this joint resolution."

This makes it clear that such controls could be restored by Presidential action during "any national emergency declared by the President" after the enactment of the resolution, but it is equally clear that a declaration of a new emergency would be required.

In considering whether such a national emergency should be declared solely for the purpose of restoring consumer credit controls -- and that is what the declaration would amount to -- it is necessary to examine the relative importance of the declaration of such an emergency to the consumer credit controls which it would restore. Consumer credit regulation is a desirable weapon to have in the fight against inflation but its importance should not be overemphasized. In relation to the overall inflationary picture, it is a limited measure which could not stop inflation but merely assist in moderating it. The declaration of a national emergency would be a grave step and it is questionable whether such a step should be taken for the sole purpose of applying a desirable but nevertheless limited brake upon the inflationary trend.

Congress, however, could act on this matter and provide the necessary authority without the necessity for the declaration of a national emergency, and this would seem the logical and appropriate way that the control should be restored at this time.

Moreover, Congressional action is needed in order that the controls can be restored in a form that will be properly effective. If the President restored consumer credit controls only two methods of enforcement would be available. One is through criminal penalties and the other is through suspension of the licenses of violators. Both are too drastic to be utilized effectively in actual practice. What is needed is authority for the agency administering the controls to enlist the assistance of the courts to aid enforcement through their powers to enforce subpoenas and enjoin violations. This is a sound type of enforcement machinery that Congress has adopted in similar situations and it is highly desirable that it be included as a method of enforcement of consumer credit controls. It could not be obtained, however, through Presidential action but only through legislation by Congress.

Consumer credit controls are needed, since they would help to restrain the present inflationary pressures, but a brief delay in obtaining necessary legislation would not be a matter of vital importance. The situation is not likely to be materially worse by the time when Congress, now already in special session, could consider and act upon the matter.

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