

**FEDERAL RESERVE BANK
OF DALLAS**

Dallas, Texas, October 17, 1941

INTERPRETATIONS OF REGULATION W—CONSUMER CREDIT

**To All Banking Institutions, and Others Concerned,
in the Eleventh Federal Reserve District:**

In previous circulars we have printed certain interpretations of Regulation W issued by the Board of Governors of the Federal Reserve System. Additional interpretations are printed below:

86. The classification "mechanical refrigerators" includes certain refrigerating systems consisting of (1) one or more cabinets of which each has less than 12 cubic feet rated capacity, and (2) a separate mechanical refrigeration unit servicing these cabinets. This is true even though the aggregate capacity of the cabinets included in the system may be 12 cubic feet or more.
87. Butane, propane, or similar automatic gas systems or containers are included in Group E of the Supplement.
88. Part 3(a) of the Supplement to Regulation W provides that the maximum credit value of a new automobile shall be 66 $\frac{2}{3}$ per cent of the purchase price but that such maximum credit value shall in no event exceed 66 $\frac{2}{3}$ per cent of the sum of items numbered 1 through 4 as set forth under Part 3(a). In this connection, the Board has received several questions as to the amounts which may be included under that portion of item 4 which permits the inclusion of "Any bona fide charges for delivery . . . not included in the foregoing items."

In general this provision permits only the inclusion of bona fide charges for services which are actually rendered by the seller in connection with the delivery of a new automobile and which are not included in the manufacturer's retail quotation (item 1) or in transportation charges (item 2). For example, charges for such services as lubricating, cleaning, polishing, or otherwise conditioning the car may not be included under item 4 if these services are included in item 1 or 2; but in case any such services are not included in items 1 and 2, a charge which is reasonably related to the value of such services may be included in item 4. Likewise, where the contract of sale includes any additional services connected with the delivery of the car, such as greasing the car for a certain period or providing antifreeze, a reasonable charge for such services may be included in item 4. On the other hand there may not be included in item 4 a charge which the dealer may make for "advertising" or for "warehousing," nor any other charges which the dealer may make except bona fide charges for services which are actually rendered by the seller to the purchaser and are not included in items 1 and 2.

89. The classification "water heaters designed for household use" includes all water heaters with a storage tank capacity of 85 gallons or less.
90. The classification "cooking stoves and ranges with less than seven heating surfaces" does not include cooking and baking equipment that is clearly designed for commercial use and not suitable for use in households, even though having less than seven heating

surfaces. A cooking stove or range or oven, which is designed for commercial use in restaurants and hotels, and which has a single or continuous heating surface or heating unit, is not included. A deep-fat fryer designed for such use is not included.

91. A question has been received as to whether materials and services for building a new garage are included in Group E if the garage is on improved real estate upon which other buildings are located but is itself a separate new structure. For purposes of Regulation W, materials and services in such circumstances are not considered to be "in connection with existing structures" but are considered to be for new structures, and hence not included in Group E.
92. A 24-month note for \$650 secured by a second mortgage on a house is not subject to Regulation W if it is given by the purchaser to the seller as part of the purchase price of the house; and the note may be discounted by a bank under section 3(a)(2)(B). This would be true even if plumbing fixtures and other listed articles had been incorporated in the house, because for the purposes of Regulation W the sale would be regarded as the sale of a house and not as the sale of plumbing fixtures.

Similarly, the fact that a \$1,500 instalment loan is secured by a second mortgage on a house that was purchased within 45 days and which at the time of purchase contained plumbing fixtures or other listed articles previously installed, would not cause the loan to be subject to section 5(a) as a loan secured by a "listed article which has been purchased within 45 days." The recent purchase is considered to be the purchase of a house rather than the purchase of a listed article, and the case would not be altered by the fact that the seller of the house might have purchased and installed the listed article only shortly before he sold the house and within 45 days prior to the loan. On the other hand, section 5(a) would apply if the mortgagor had owned the house for some time and had purchased and installed the listed articles within 45 days prior to the loan, since in such a case the mortgagor's recent purchase would be a purchase of a listed article rather than the purchase of a house.

93. The classification "room-unit air conditioners" includes portable units of one horsepower or less.
94. In the case of a home improvement that is carried out as a single job totaling \$995, of which \$550 is for a furnace and other Group D items while \$445 is for Group E items, the question has been asked whether a Registrant financing the entire job may divide the financing into \$445 on an instalment basis subject to the requirements of Regulation W and \$550 on a single-payment basis not subject to the Regulation.

This is a single transaction and may not be divided by the Registrant in this manner.

95. Questions have been received as to whether a certain plan of repayment meets the requirements of Regulation W regarding 18 months maximum maturity and equal monthly payments for instalment loan credit. There is provision for 11 equal monthly payments, and a larger twelfth payment at the end of the twelfth month for the remainder. However, there is an express agreement between the parties that when the twelfth payment falls due, unless the borrower has defaulted on an earlier payment or unless there is a material impairment of his credit, only a portion of the twelfth payment will actually be paid and the remaining portion will be refinanced into six equal monthly payments in such manner that the net result will be eighteen substantially equal monthly payments.

Such an arrangement complies with the specified requirements of the Regulation.

96. The phrase "bona fide cash purchase price" in section 5(a)(1) and section 5(c)(1) means the bona fide cash purchase price of the article and accessories purchased, including any sales taxes thereon and any bona fide delivery and installation charges.
97. A Registrant makes an extension of instalment sale credit arising out of the sale of materials and services (including certain Group D articles) in connection with repairs, alterations or improvements upon urban, suburban or rural real property in connection with an existing structure. The bona fide cash purchase price of all the materials and services is \$1,500 and the bona fide cash purchase price of the Group D articles is \$700. The purchaser makes a cash payment of \$150 and remains indebted to the seller in the amount of \$1,350. Is the transaction exempt under section 6(b) of the Regulation?

The exemption in 6(b) does not apply since the \$700 purchase price of the Group D articles is more than 50 per cent of the over-all deferred balance of \$1,350.

98. Facts similar to W-97, but the bona fide cash purchase price of all the materials and services is \$3,000 and the bona fide cash purchase price of the Group D articles is \$1,400. The purchaser does not make any down-payment and remains indebted in the full amount of \$3,000. Inasmuch as \$2,500 is the maximum amount of a loan which may be insured by the Federal Housing Administration under Title I of the National Housing Act, the customer's obligation totaling \$3,000 is divided into two parts, one in the amount of \$2,500 which is insured by the Federal Housing Administration, and the other in the amount of \$500 which is not insured. The \$1,400 of Group D items exceeds 50 per cent of the \$2,500 but is less than 50 per cent of the \$3,000. Is the transaction exempt under section 6(b) ?

Since the \$3,000 represents a single transaction and is divided into two parts merely for convenient treatment under the National Housing Act, it is permissible to treat the \$3,000 as a unit, and hence as an exempt transaction under section 6(b).

From time to time, as additional interpretations are made by the Board, they will be printed in this form and mailed to you by this bank.

Yours very truly,

R. R. GILBERT

President