Minutes of actions taken by the Board of Governors of the Federal Reserve System on Tuesday, September 25, 1951. The Board met in the Board Room at 2:55 p.m.

PRESENT: Mr. Martin, Chairman
Mr. Szymczak
Mr. Norton
Mr. Powell

Mr. Carpenter, Secretary
Mr. Sherman, Assistant Secretary
Mr. Riefler, Assistant to the Chairman
Mr. Solomon, Assistant General Counsel
Mr. J. J. Smith, Special Counsel

Pursuant to the discussion at the meeting on September 20, 1951, there had been prepared and sent to each member of the Board before this meeting a draft of Statement and Order on Respondent's Motion to Dismiss, dated and filed September 13, 1951, in the matter of Transamerica Corporation.

Mr. Smith reviewed briefly the motion filed by attorneys for Transamerica Corporation to dismiss the Board's complaint, stating that it was substantially identical with a motion filed by Transamerica on December 7, 1948 and denied by the Board on January 7, 1949, in so far as it pertained to a request that the complaint be dismissed. He said that he felt the denial of the pending motion would be proper for the same reasons that prompted denial of the earlier motion. However, the present motion, he added, also contained in effect a request for oral argument thereon in advance of final argument, and he recommended that the Board grant the request for oral argument at the time of final hearing by the

Board, and that the request for argument in advance of the final hearing be denied. He also recommended that Respondent's request that the Board obtain legal advice through appropriate Government channels be denied for the reasons stated at the meeting of the Board on September 20, 1951.

Thereupon, unanimous approval was given to a statement and order reading as follows:

"UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
IN THE MATTER OF
TRANSAMERICA CORPORATION
STATEMENT AND ORDER ON RESPONDENT'S MOTION
TO DISMISS, DATED AND FILED SEPTEMBER 13, 1951

On September 13, 1951, respondent filed with the Board a 'Motion to Dismiss the Complaint,' being a renewal of an earlier motion to dismiss filed December 7, 1948, and denied by the Board on January 17, 1949. The motion also contains (1) a request for oral argument thereon, in which connection it is asserted that the motion 'should be considered in advance of, and without regard to, the Recommended Decision' of the Board's Hearing Officer, and (2) a further request that 'the Board obtain through appropriate governmental channels disinterested legal advice in passing upon this motion.'

Respondent's request for oral argument is granted as hereinafter ordered. However, if and insofar as respondent intended also to request that such argument be heard and considered, and its motion to dismiss be decided, in advance of oral argument to the Board on final hearing, the request is denied. Entirely apart from the fact that the questions raised by respondent's motion to dismiss have already been fully considered by the Board and decided adversely to respondent, respondent will be accorded an opportunity to argue its renewal of the motion on final hearing, and there is no reason or necessity for the Board to proceed as respondent suggests. To do so might result in requiring the Board to hear two oral arguments, in which event the disposition of this proceeding, as well as other public business of the Board, would be unduly delayed.

Respondent's second request above referred to is denied. It is the Board's duty not only to decide this case, but also to determine--

"consistent with due process and applicable statutes -- the decisional process to be employed in disposing of the matter. There is no basis in due process or statute for respondent's second request.

ORDER

In accordance with the foregoing statement, it is ORDERED that:

1. Respondent's aforesaid 'Motion to Dismiss the Complaint' be, and it hereby is, set down for oral argument to the Board on final hearing by the Board.

2. If, and insofar as, respondent intends its above-mentioned motion as a request that said motion be separately argued and decided in advance of final hearing by the Board, the said request be, and it hereby is, denied.

3. Respondent's aforesaid second request be, and it hereby is, denied.

This 25th day of September, 1951.

By the Board.

(Signed) S. R. Carpenter,
Secretary."

Mr. Smith then referred to the preliminary discussion at the meeting on September 20, 1951, of the motion filed by Mr. Townsend, Solicitor for the Board, under date of September 17, 1951 requesting that (1) the date for filing reply briefs, previously set for October 1, 1951, be extended to October 30, 1951 and (2) the Board set the date for oral argument, and in the event such date for oral argument was set subsequent to November 10, 1951, the time for filing reply briefs be further extended until a date ten days prior to the date for such oral argument. He also referred to a reply to this motion filed by Transamerica Corporation under date of September 24, 1951 stating that the Corporation did not object to an extension of the time for filing a reply brief until October 30, 1951 or any later reasonable date, but requesting that the date for oral argument

be set at least 45 days subsequent to whatever date was fixed for filing of reply briefs.

Mr. Smith expressed the opinion that the Solicitor's request for an extension of time was entirely reasonable and should be granted, that Transamerica's request for a period of at least 45 days between the time for filing reply briefs and the date for oral argument was excessive, and that he would recommend that not more than about four weeks be permitted between the date for filing reply briefs and the date when oral argument would commence.

Mr. Carpenter stated that he had inquired of Mr. Townsend, the Board's Solicitor, whether he had any comment to make on the Transamerica reply and that Mr. Townsend said that he thought the request for 45 days between the filing of reply briefs and the date for oral argument was entirely too long and that if the date for argument was to be set after October 30, he should be given as much of that additional time as would be reasonable to prepare his reply to the long brief and list of exceptions filed by Transamerica on September 13, 1951.

Mr. Smith stated that in the circumstances he would recommend that the Board grant the Solicitor's request and fix a date between November 5 and 9 for filing reply briefs and a date between December 5 and 10 for oral argument, it being understood that at the meeting on September 20 the members of the Board then present indicated that the date for final

argument should be set for December 10. In making the foregoing recommendations, Mr. Smith stated that in his opinion a period of not more than 10 days between the filing of reply briefs and the date of oral argument which had been requested by the Solicitor, was entirely too short in view of the extent of the briefs that might be filed, and that in addition he felt that the members of the Board might wish more time than 10 days to devote to the study of the briefs before the final arguments.

Mr. Smith went on to say that he had prepared a draft of order which might be issued by the Board without, however, having inserted any dates in it and that the order in addition to setting the dates would state that not more than four hours would be permitted to each side for argument.

Following a discussion, an order in the following form was approved unanimously:

"UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

In the Matter of :
TRANSAMERICA CORPORATION :

ORDER EXTENDING TIME FOR FILING REPLY BRIEFS
AND SETTING TIME FOR ORAL ARGUMENT

This matter coming on this day upon the motion of the Board's Solicitor, dated September 17, 1951, to extend the time for the filing of reply briefs and set a time for oral argument, and upon respondent's reply to said motion, dated September 24, 1951, and the Board having fully considered the matter, it is ORDERED that:

1. The time for filing reply briefs herein be, and it hereby is, extended to and including November 9, 1951.

"2. This matter be, and it hereby is, set down for oral argument to the Board on final hearing at the Board's office in Washington, D. C., at 10:00 a.m., Eastern Standard Time, December 10, 1951.

3. The Board's Solicitor and the respondent shall each be allowed four hours for oral argument, and argument shall be concluded not later than December 11, 1951.

This 25th day of September, 1951.

By the Board.

(Signed) S. R. Carpenter,
Secretary."

Mr. Smith withdrew from the meeting at this point.

There was presented a memorandum from Mr. Hackley, Assistant General Counsel, stating that a telegram dated September 24 from Mr. Sproul, President of the Federal Reserve Bank of New York, stated that a banker's committee on nominations proposed to recommend Frederick Palmer Armstrong, President, Keyport Banking Company, Keyport, New Jersey, for nomination as a Class A director of the New York Bank, and that Mr. Armstrong presently was serving as a Commissioner of the Port of New York Authority, which raised the question whether such service would be in conflict with the Board's resolution of December 23, 1915, concerning the holding of political office by a director of the Federal Reserve Bank. Mr. Sproul's telegram also stated that the Commission operated in the public interest without profit to private persons, that the office of Commissioner provided no compensation, that it was regarded as a high honor, that it was not considered that appointment to the office was dictated by political considerations, and that in his opinion

it would not be inconsistent for Mr. Armstrong to serve as a Class A director of the New York Bank while continuing as a member of the commission of the New York Port Authority.

Following discussion, upon motion by Mr. Norton, unanimous approval was given to a telegram to Mr. Sproul reading as follows:

"Reurtel September 24. Board feels that service of Mr. Armstrong as Class A Director of your Bank while serving at same time as Commissioner of Port of New York Authority would not be in contravention of spirit and intent of Board's 1915 resolution regarding holding of political or public office by officers and directors of Federal Reserve Banks. Board therefore interposes no objection."

Mr. Norton stated that the Personnel Committee had submitted recommendations for appointments of Class C directors at Federal Reserve Banks or for directors of Reserve bank branches in addition to those considered at the meeting of September 11, 1951, that the matter was ready for consideration by the Board but had been postponed because Mr. Vardaman was not present, and that while he would not press for action at the meeting today he felt the recommendations should be acted upon at a meeting later this week.

At this point all of the members of the staff with the exception of Messrs. Carpenter and Sherman withdrew, and the action stated with respect to each of the matters hereinafter referred to was taken by the Board:

Minutes of actions taken by the Board of Governors of the Federal Reserve System on September 21, 1951, were approved unanimously.

Minutes of actions taken by the Board of Governors of the Federal Reserve System on September 24, 1951, were approved and the actions recorded therein were ratified unanimously.

Memorandum dated September 21, 1951, from Mr. Boothe, Assistant Director, Division of Selective Credit Regulation, recommending an increase in the basic salary of Mrs. Margaret L. Wolfe, Secretary to Mr. Boothe in that Division, from $3,725 to $3,850 per annum, effective September 30, 1951.

Approved unanimously.

Letter to the board of directors of The Raleigh County Bank, Beckley, West Virginia, stating that, subject to conditions of membership numbered 1 and 2 contained in the Board's Regulation H, the Board approves the bank's application for membership in the Federal Reserve System and for the appropriate amount of stock in the Federal Reserve Bank of Richmond.

Approved unanimously, together with a letter to Mr. Leach, President of the Federal Reserve Bank of Richmond, reading as follows:

"Reference is made to your letter of August 31, 1951, submitting additional information regarding The Raleigh County Bank, Beckley, West Virginia. This information was developed by the Reserve Bank pursuant to the Board's letter dated August 17, 1951, advising that the bank's application for membership was being deferred until it could be determined more definitely that the policies recently adopted by the management will result in correcting the conditions which have been subject to criticism by supervisory authorities and that satisfactory policies will be maintained.

"It is noted from the information submitted that substantial progress had been made by the bank within approximately 30 days since it received a copy of the report of examination for membership, and that you are apparently satisfied that the policies recently adopted will result in correcting the matters criticized and in maintaining satisfactory credit methods in the future. Accordingly, the Board of Governors of the Federal Reserve System approves the application of The Raleigh County Bank, Beckley, West Virginia, subject to the conditions prescribed in the enclosed letter which you are requested to forward to the Board of Directors of the institution. Two copies of such letter are also enclosed, one of which is for your files and the other you are requested to forward to the Commissioner of Banking for the State of West Virginia, for his information.

"The Board's approval of the application is given with the understanding, of course, that the Reserve Bank will continue to follow the situation closely with a view of eliminating entirely all criticized matters."

Letter to the Presidents of all Federal Reserve Banks, reading as follows:

"The Board of Governors has had occasion recently to review the practice of granting leaves of

"absence with pay to Federal Reserve Bank employees for the purpose of making their services available to local Community Chest, Red Cross, Infantile Paralysis and similar charity drives.

"It is understood that the lending of services of employees to assist in clerical and other capacities in connection with such community activities is an established practice in a number of cities. It is understood, also, that the individuals whose services are loaned by the Reserve Banks for such purposes are full time employees and the work load occasioned by their absence is absorbed in the same manner as if they were on annual or sick leave; that such loans do not require the hiring of additional or substitute employees; that no employees are hired for the sole purpose of participating in such community activities, and that employees are selected for such purposes with a view to their availability because of seasonal slack or other conditions pertaining to the function to which they are regularly assigned.

"In the circumstances, it appears that the lending of employees services for such purposes does not involve a direct or additional cash outlay on the part of the Reserve Banks and, in view of the resulting community benefits which accrue to the Reserve Banks through their personnel, the Board will interpose no objection to the lending of the services of Reserve Bank personnel to participate in such activities provided such loans are authorized by the directors of the respective banks and are reasonable in relation to the participation of other banks and business enterprises in the community."

Approved unanimously.

Letter to Mr. Strothman, Jr., Vice President and Counsel of the Federal Reserve Bank of Minneapolis, reading as follows:

"This refers to the letter dated September 10, 1951, to your Bank from Mr. Roger E. Joseph, a lawyer in Minneapolis,

"which you referred to us on September 12 at the time of the System Conference on Regulation W. Mr. Joseph's letter concerns Regulation W and a proposed automobile lease program contemplated by his client, a Minneapolis dealer in new and used automobiles.

"With respect to this matter, Mr. Joseph made reference to the interpretation concerning 'Leasing Arrangements' which was published in the 1951 Federal Reserve Bulletin, page 270 (16 Federal Register, page 2439, Int. 33), and also to relevant provisions of Executive Order 8843 and of the regulation, as amended. Briefly, Mr. Joseph would attribute a more limited meaning to the definition of 'credit' than that indicated in the above interpretation. By the question contained in the next to the last paragraph of his letter, he suggests that so-called 'bona fide leases of automobiles, not designed to evade the restrictions imposed by Regulation W on instalment sales', should not be considered subject to restriction.

"The question raised by Mr. Joseph is one that has frequently been considered at length under the present regulation. However, our study and investigation of the matter thus far have led us to believe that a broad exclusion of leases such as that suggested would not be a realistic approach to the problem and, furthermore, would necessarily impair the effectiveness of the statutory authority for the regulation. The Board has felt that neither an adequate nor appropriate differentiation could be based upon whether in connection with a particular lease there may or may not be an ultimate passage of title.

"As Mr. Joseph points out, the definition of 'credit' in the Executive Order includes '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; * * *'. This, however, is only a part of the very broad definition. In addition, the definition specifically includes, among other things, a number of situations not involving any passage of title or the particular amount of consideration that may move between the parties. Among them, for example, are 'any loan or mortgage'. There can, of course, be a loan (i.e., a lease) of property as well as a loan of money. Moreover, there is the broad

"concluding specification of the definition which includes 'any transaction or series of transactions having a similar purpose or effect.' In those cases of leasing arrangements subject to the regulation, the substance of the transaction, though perhaps not the form, appears little if any different from ordinary conditional sale or chattel mortgage arrangements.

"We shall appreciate your conveying the foregoing views to Mr. Joseph, and your relating to him that we shall be happy to discuss the matter with him and his client here in Washington at any suitable time should they desire to do so. The Board always welcomes the opportunity for developing further information in connection with the regulation and its administration. In the event that such a discussion might not be practicable, we should be glad to consider any further information or any memorandum of points and authorities which Mr. Joseph might wish to present."

Approved unanimously.

Letter to Mr. Pondrom, Vice President and Cashier of the Federal Reserve Bank of Dallas, reading as follows:

"This refers to your letter of September 7, 1951, concerning the applicability of the section 5(f) exemption in Regulation X to a proposed conditional sale contract which a Registrant in your district desires to use. As we understand the facts, the Registrant plans to sell low cost housing under a plan whereby a small initial payment is made at the time the contract is entered into with title to be transferred on conforming terms within six months after the date of the contract, provided that within the six month's period certain plumbing installations sufficient in value to complete the down payment required by the regulation shall have been made by the buyer.

"Section 602(d)(2) of the Defense Production Act, as incorporated in Regulation X, defines 'credit' as including 'any conditional sale contract; any contract to sell or sale or contract of sale, ***.' Accordingly, ordinary contracts to sell would be subject to Regulation X in the absence of section 5(f). The exemption was provided because failure to do so would disrupt ordinary trade practices, and because the regulation in such cases is effective at the time title is passed.

"In this specific case, the Registrant proposes to use the value of plumbing installed by the buyer as part of the required down payment and proposes that it be installed between the date of the contract and the date of transfer of title to the property. This would not be in accordance with clause (1) of section 5(f), which provides that the regulation does not apply to a contract to sell real property 'which does not provide for the payment of any part of the purchase price, or of any amount to be subsequently applied to such price, except a deposit of earnest money, before the transfer of title to such property,***'. Accordingly, it is our view that the proposed conditional sale contract would not be exempt from Regulation X under the provisions of section 5(f).

"In arriving at the above decision the Board has carefully considered whether this application of clause (1) of section 5(f) creates an inequity as between purchasers of houses from operative builders or general contractors who desire to contribute a portion of their equity in the form of self labor and persons who are building their own home and who are permitted to include self labor as part of their equity under the principles of S-1176 (X-8). In view of the fact that there is nothing in the regulation which prohibits or in any way limits payments by contractors or operative builders to prospective purchasers for the fair value of work actually performed during the construction period by such persons, we see no reason why the above ruling should work any hardship on either purchasers or operative builders who desire to enter into arrangements for the performance of a part of the construction work by the purchasers. While it is true that the contract of sale itself could not provide that such work would be credited directly toward the down payment, the alternative of paying the person who performs the work in cash in the same way as any other workman or subcontractor would be paid and permitting him to apply these amounts on the down payment at the time of settlement would seem to provide a completely satisfactory remedy in all bona fide cases."

Approved unanimously.

Secretary.