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To: Board of Governors  
From: Robert L. Cardon

Subject: Request for Board's  
report on Fair Credit  
Reporting Act.

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Mrs. Sullivan's Subcommittee on Consumer Affairs, a subcommittee of the House Banking and Currency Committee, opens hearings today on H. R. 16340, the Fair Credit Reporting Act. We have been asked for a report by the end of this week. The general purpose of the bill is to make sure that credit reports (as well as reports relating to insurability or employment) are up to date and accurate, that the people about whom such reports are made have an opportunity to correct errors in them, that the reports are furnished only to those who have a legitimate need for them; and that the reports contain only material that is relevant to the purpose for which they will be used. Mrs. Sullivan's remarks on introducing the bill, including her summary of the bill, are attached.

This bill is a more comprehensive version of S. 823, which passed the Senate last November. The Board's report on S. 823 was adverse; during the Senate hearings, Governor Robertson, testifying for the Board, said that "the Board has no position . . . on the merits of the bill but we do have a recommendation as to its administrative provisions." S. 823, as introduced, directed the Board to prescribe implementing regulations. Governor Robertson testified that "the Board is not prepared to assume" that responsibility, and the bill as reported and passed by the Senate was modified accordingly. That is, the bill, itself, prescribes rules to be observed regarding credit reports; responsibility for enforcing those rules is divided the same way as for Truth in Lending--meaning that the Federal Trade Commission would get most of the business. There is no provision, such as in Truth in Lending, to require the Board to prescribe implementing regulations. Mrs. Sullivan's bill, however, includes such a provision.

The attached draft takes about the same position as Governor Robertson did in testifying on S. 823.

Attachments

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The Honorable Wright Patman,  
Chairman,  
Committee on Banking and Currency,  
House of Representatives,  
Washington, D. C. 20515

Dear Mr. Chairman:

I am writing in response to your request for the views of the Board of Governors of the Federal Reserve System on H. R. 16340, the Fair Credit Reporting Act. Broadly speaking, the bill seeks to protect individuals against dissemination of inaccurate or misleading information bearing on their creditworthiness, insurability, or employability. To this end, it establishes a number of statutory rules, to be observed by reporting agencies and those to whom they furnish reports, relating to access to files, purposes for which reports may be furnished, kinds of information that may be supplied, and methods of keeping the information up to date and accurate. In addition to civil liabilities and criminal penalties for specified violations, the bill provides for administrative enforcement procedures similar to those established for Truth in Lending, and directs the Board of Governors of the Federal Reserve System to prescribe implementing regulations.

The Board can offer only limited help to your Committee in considering this legislation. In carrying out our responsibilities, we have virtually no contact with the reporting agencies that would

be regulated under the bill, so we know little about their procedures or their problems.

Board members, like Members of Congress and their constituents, have experienced annoyance and frustration when confronted by red tape and computers, in and out of Government. We realize that impersonal procedures may produce personal tragedies. We believe all organizations should do their best to make sure that on those inevitable occasions when they treat someone unfairly, a procedure is available for righting the wrong. We understand that many of the business firms that would be covered by the proposed legislation have already established such procedures. Whether Federal regulation of such procedures can be expected to yield benefits that would justify the costs involved--to taxpayers, businesses, and consumers, themselves--is a judgment that the Board of Governors is not prepared to make.

We do wonder, however, whether section 54 of the bill--to take one example--would not be prohibitively expensive to administer. This section requires two difficult and subjective judgments: whether information in a report is "reasonably relevant to the purpose for which it is sought" and if so, whether it "constitutes an undue infringement of the individual's right to privacy." The Board would be required "upon request" to examine the forms, questionnaires, and "other devices" used by each consumer reporting agency, and to determine whether they meet these two tests. If the Board approves a form, questionnaire, or other device, the

approval may be revoked if the Board finds that any information actually being reported by the agency does not meet the two tests. This would seem to require individual attention to a virtually unlimited number of factual situations, to make the kinds of decisions normally made by courts of law.

We assume that in considering whether legislation is necessary, your Committee will not underestimate the importance of the collection and disclosure of credit information to the work of credit grantors. Such information strongly influences the quality of service creditors are able to render to their customers and, of course, has obvious bearing on credit risk. In weighing the desirability of legislation in this field, care should be taken to avoid creating inequities among various classes of creditors, impeding the flow and availability of necessary credit information, reducing ready access by consumers to credit sources, or increasing credit costs.

Section 35 of the bill would prohibit a consumer reporting agency from furnishing information in its files to governmental agencies, except under specified conditions. The question arises whether this provision might limit an examiner's access to information in the files of a bank under examination. We assume that you would not intend the section to apply in such a situation. If that assumption is correct, we recommend that the matter be clarified either in the provision, itself, or in the committee report if you act favorably on the bill.

This bill is only one of a number of proposals pending in Congress to require businesses to alter their trade practices in various ways aimed at benefiting their customers or employees, actual and prospective. The Federal Reserve System was not established for this purpose, and the System's performance of its functions in the field of monetary policy and bank supervision have not prepared it to assume the role of protecting consumers and employees in their dealings with business. Assignment of such duties would be inconsistent with the performance of the System's primary responsibilities.

As you know, S. 823, the Senate-passed counterpart of H. R. 16340, originally provided that the Board should prescribe implementing regulations, but this provision was stricken in accordance with the Board's recommendation. If you determine that this legislation is needed, we strongly urge that you design it, as the Senate has, to eliminate the need for implementing regulations, or assign that responsibility to an agency more familiar with consumer problems and more expert in coping with them.

Sincerely yours,

Arthur F. Burns