

Board of Governors of the Federal Reserve System

Federal Reserve Act

Section 13. Powers of Federal Reserve Banks

2. Discount of Commercial, Agricultural, and Industrial Paper

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; that is, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used, or are to be used, for such purposes, the Board of Governors of the Federal Reserve System to have the right to determine or define the character of the paper thus eligible for discount, within the meaning of this Act. Nothing in this Act contained shall be construed to prohibit such notes, drafts, and bills of exchange, secured by staple agricultural products, or other goods, wares, or merchandise from being eligible for such discount, and the notes, drafts, and bills of exchange of factors issued as such making advances exclusively to producers of staple agricultural products in their raw state shall be eligible for such discount; but such definition shall not include notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the government of the United States. Notes, drafts, and bills admitted to discount under the terms of this paragraph must have a maturity at the time of discount of not more than 90 days, exclusive of grace.

[12 USC 343. As amended by act of Sept. 7, 1916 (39 Stat. 752), which completely revised this section; and by act of March 4, 1923 (42 Stat. 1478). As used in this paragraph the phrase "bonds and notes of Government of the United States" includes Treasury bills or certificates of indebtedness. (See act of June 17, 1929, amending section 5 of Second Liberty Bond Act of Sept. 24, 1917). As to eligibility for discount under this paragraph of notes representing loans to finance building construction, see this act, section 24).]

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Section 13. Powers of Federal Reserve Banks

3. Discounts for Individuals, Partnerships, and Corporations

In unusual and exigent circumstances, the Board of Governors of the Federal Reserve System, by the affirmative vote of not less than five members, may authorize any Federal reserve bank, during such periods as the said board may determine, at rates established in accordance with the provisions of section 14, subdivision (d), of this Act, to discount for any individual, partnership, or corporation, notes, drafts, and bills of exchange when such notes, drafts, and bills of exchange are indorsed or otherwise secured to the satisfaction of the Federal Reserve bank: *Provided*, That before discounting any such note, draft, or bill of exchange for an individual, partnership, or corporation the Federal reserve bank shall obtain evidence that such individual, partnership, or corporation is unable to secure adequate credit accommodations from other banking institutions. All such discounts for individuals, partnerships, or corporations shall be subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe.

[12 USC 343. As added by act of July 21, 1932 (47 Stat. 715); and amended by acts of Aug. 23, 1935 (49 Stat. 714) and Dec. 19, 1991 (105 Stat. 2386).]

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Section 13. Powers of Federal Reserve Banks

13. Advances to Individuals, Partnerships, and Corporations on Obligations of United States

Subject to such limitations, restrictions and regulations as the Board of Governors of the Federal Reserve System may prescribe, any Federal reserve bank may make advances to any individual, partnership or corporation on the promissory notes of such individual, partnership or corporation secured by direct obligations of the United States or by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States. Such advances shall be made for periods not exceeding 90 days and shall bear interest at rates fixed from time to time by the Federal reserve bank, subject to the review and determination of the Board of Governors of the Federal Reserve System.

[12 USC 347c. As added by act of March 9, 1933 (48 Stat. 7) and amended by act of Sept. 21, 1968 (82 Stat. 856).]

Board of Governors of the Federal Reserve System

Federal Reserve Act

Section 14. Open Market Operations

Purchase and Sale of Cable Transfers, Bank Acceptances and Bills of Exchange

Any Federal reserve bank may, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, purchase and sell in the open market, at home or abroad, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers and bankers' acceptances and bills of exchange of the kinds and maturities by this Act made eligible for rediscount, with or without the indorsement of a member bank.

[12 USC 353. Part of original Federal Reserve Act; not amended.]

Purchase and Sale of Obligations of United States, States, Counties, etc., and of Foreign Governments

(b)

1. To buy and sell, at home or abroad, bonds and notes of the United States, bonds issued under the provisions of subsection (c) of section 4 of the Home Owners' Loan Act of 1933, as amended, and having maturities from date of purchase of not exceeding six months, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, and obligations of, or fully guaranteed as to principal and interest by, a foreign government or agency thereof, such purchases to be made in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System. Notwithstanding any other provision of this chapter, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to the principal and interest may be bought and sold without regard to maturities but only in the open market.
2. To buy and sell in the open market, under the direction and regulations of the Federal Open Market Committee, any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States.

[12 USC 355. As amended by acts of Jan. 31, 1934 (48 Stat. 348); April 27, 1934 (48 Stat. 646); Aug. 23, 1935 (49 Stat. 706); March 27, 1942 (56 Stat. 180); April 28, 1947 (61 Stat. 56); June 30, 1950 (64 Stat.

307); June 23, 1952 (66 Stat. 154); June 29, 1954 (68 Stat. 329); June 25, 1956 (70 Stat. 339); June 30, 1958 (72 Stat. 261); July 1, 1960 (74 Stat. 295); Oct. 4, 1961 (75 Stat. 773); June 28, 1962 (76 Stat. 112); June 30, 1964 (78 Stat. 235); June 30, 1966 (80 Stat. 235); Sept. 21, 1966 (80 Stat. 825) (as amended by acts of Sept. 21, 1967 (81 Stat. 226) and Sept. 21, 1968 (82 Stat. 856); May 4, 1968 (82 Stat. 113); July 31, 1970 (84 Stat. 668); July 2, 1971 (85 Stat. 100); Aug. 14, 1973 (87 Stat. 314); Oct. 28, 1974 (88 Stat. 1505); Nov. 12, 1975 (89 Stat. 638); April 19, 1977 (91 Stat. 49); Oct. 12, 1977 (91 Stat. 1131); Nov. 7, 1977 (91 Stat. 1256); June 8, 1979 (93 Stat. 35); and March 31, 1980 (94 Stat. 140). See also 12 USC 2158 and 31 USC 5301. The "continental United States" is defined in paragraph 3 of section 1 of the Federal Reserve Act, so as to mean the "States of the United States and the District of Columbia."]

Board of Governors of the Federal Reserve System

Federal Reserve Act

Section 10A. Emergency Advances to Groups of Member Banks *

1. Authority of Reserve Banks to Make Advances

Upon receiving the consent of not less than five members of the Board of Governors of the Federal Reserve System, any Federal reserve bank may make advances, in such amount as the board of directors of such Federal reserve bank may determine, to groups of five or more member banks within its district, a majority of them independently owned and controlled, upon their time or demand promissory notes, provided the bank or banks which receive the proceeds of such advances as herein provided have no adequate amounts of eligible and acceptable assets available to enable such bank or banks to obtain sufficient credit accommodations from the Federal reserve bank through rediscounts or advances other than as provided in section 10(b). The liability of the individual banks in each group must be limited to such proportion of the total amount advanced to such group as the deposit liability of the respective banks bears to the aggregate deposit liability of all banks in such group, but such advances may be made to a lesser number of such member banks if the aggregate amount of their deposit liability constitutes at least 10 per centum of the entire deposit liability of the member banks within such district. Such banks shall be authorized to distribute the proceeds of such loans to such of their number and in such amount as they may agree upon, but before so doing they shall require such recipient banks to deposit with a suitable trustee, representing the entire group, their individual notes made in favor of the group protected by such collateral security as may be agreed upon. Any Federal reserve bank making such advance shall charge interest or discount thereon at a rate not less than 1 per centum above its discount rate in effect at the time of making such advance. No such note upon which advances are made by a Federal reserve bank under this section shall be eligible under section 16 of this Act as collateral security for Federal reserve notes.

[12 USC 347a. As added by act of Feb. 27, 1932 (47 Stat. 56).]

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Section 10B. Advances to Individual Member Banks *

(a) Any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time or demand notes having maturities of not more than four months and which are secured to the satisfaction of such Federal Reserve bank. Notwithstanding the foregoing, any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time notes having such maturities as the Board may prescribe and which are secured by mortgage loans covering a one-to-four family residence. Such advances shall bear interest at a rate equal to the lowest discount rate in effect at such Federal Reserve bank on the date of such note.

[12 USC 347b(a). As added by act of Feb. 27, 1932 (47 Stat. 56); and amended by acts of Feb. 3, 1933 (47 Stat. 794); March 9, 1933 (48 Stat. 7); Aug. 23, 1935 (49 Stat. 705); Oct. 18, 1974 (88 Stat. 1368); March 31, 1980 (94 Stat. 140); and Dec. 19, 1991 (105 Stat. 2279).]

12 U.S.C. Sec. 1823, Corporation monies

1823(c) Assistance to insured depository institutions

1823(c)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured depository institution --

1823(c)(1)(A) if such action is taken to prevent the closing of such insured depository institution;

1823(c)(1)(B) if, with respect to an insured bank in default, such action is taken to restore such insured bank in default to normal operation; or

1823(c)(1)(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured depository institutions or of insured depository institutions possessing significant financial resources, such action is taken in order to lessen the risk to the Corporation posed by such insured depository institution under such threat of instability.

1823(c)(2)(A) In order to facilitate a merger or consolidation of an insured depository institution described in paragraph (B) with another insured depository institution, or the sale of any or all the sale of such other depository institution's liabilities by another insured depository institution, or the acquisition of the stock of such other depository institution, the Corporation is authorized in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe --

1823(c)(2)(A)(i) to purchase any such assets or assume any such liabilities;

1823(c)(2)(A)(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such insured institution or the company which controls or will acquire control of such insured institution;

1823(c)(2)(A)(iii) to guarantee such insured institution or the company which controls or will acquire control of such insured institution against loss by reason of

such insured institution's merging or consolidating with or assuming the liabilities and purchasing the assets of such insured depository institution or by reason of such company acquiring control of such insured depository institution; or

1823(c)(2)(A)(iv) to take any combination of the actions referred to in subparagraphs (i) through (iii).

1823(c)(2)(B) For the purpose of subparagraph (A), the insured depository institution must be an insured depository institution --

1823(c)(2)(B)(i) which is in default;

1823(c)(2)(B)(ii) which, in the judgment of the Board of Directors, is in danger of defaulting; or

1823(c)(2)(B)(iii) which, when severe financial conditions exist which threaten the stability of a significant number of insured depository institutions or of insured depository institutions possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured depository institution under such threat of instability.

12 U.S.C. Sec. 1823, Corporation monies

1823(c)(4) LEAST-COST RESOLUTION REQUIRED. --

1823(c)(4)(A) IN GENERAL. --Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection (d), (f), (h), (i), or (k) of this section with respect to any insured depository institution unless --

1823(c)(4)(A)(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

1823(c)(4)(A)(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the Deposit Insurance Fund of all possible methods for meeting the Corporation's obligation under this section.

1823(c)(4)(B) DETERMINING LEAST COSTLY APPROACH. --In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the Deposit Insurance Fund, the Corporation shall comply with the following provisions:

1823(c)(4)(B)(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED. --
The Corporation shall --

1823(c)(4)(B)(i)(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

1823(c)(4)(B)(i)(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

1823(c)(4)(B)(i)(III) retain the documentation for not less than 5 years.

1823(c)(4)(B)(ii) FOREGONE TAX REVENUES. --Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the Deposit Insurance Fund.

1823(c)(4)(C) TIME OF DETERMINATION. --

1823(c)(4)(C)(i) GENERAL RULE. --For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

1823(c)(4)(C)(ii) RULE FOR LIQUIDATIONS. --For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of --

1823(c)(4)(C)(ii)(I) the date on which a conservator is appointed for such institution;

1823(c)(4)(C)(ii)(II) the date on which a receiver is appointed for such institution;
or

1823(c)(4)(C)(ii)(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

1823(c)(4)(D) LIQUIDATION COSTS. --In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

12 U.S.C. Sec. 1823, Corporation monies

1823(c)(4)(G) SYSTEMIC RISK. --

1823(c)(4)(G)(i) EMERGENCY DETERMINATION BY SECRETARY OF THE TREASURY. --Notwithstanding subparagraphs (A) and (E), if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that --

1823(c)(4)(G)(i)(I) the Corporation's compliance with subparagraphs (A) and (E) with respect to an insured depository institution would have serious adverse effects on economic conditions or financial stability; and

1823(c)(4)(G)(i)(II) any action or assistance under this subparagraph would avoid or mitigate such adverse effects,

the Corporation may take other action or provide assistance under this section as necessary to avoid or mitigate such effects.

12 U.S.C. Sec. 1823, Corporation monies

1823(c)(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER. --

1823(c)(8)(A) IN GENERAL. --Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assistance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

1823(c)(8)(A)(i) TROUBLED CONDITION CRITERIA. --The Corporation determines --

1823(c)(8)(A)(i)(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

1823(c)(8)(A)(i)(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

1823(c)(8)(A)(ii) OTHER CRITERIA. --The depository institution meets the following criteria:

1823(c)(8)(A)(ii)(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

1823(c)(8)(A)(ii)(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

12 U.S.C. Sec. 1823, Corporation monies

Early Resolution of Troubled Depository Institutions

Section 143 of Pub. L. 102-242 [Federal Deposit Insurance Corporation Improvement Act of 1991] provided that:

"(a) IN GENERAL. --It is the sense of the Congress that the Federal banking agencies should facilitate early resolution of troubled insured depository institutions whenever feasible if early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with the least-cost and prompt corrective action provisions of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

"(b) GENERAL PRINCIPLES. --In encouraging the Federal banking agencies to pursue early resolution strategies, the Congress contemplates that any resolution transaction under section 13(c) of that Act [12 U.S.C. 1823(c)] would observe the following general principles:

"(1) COMPETITIVE NEGOTIATION. --The transaction should be negotiated competitively, taking into account the value of expediting the process.

"(2) RESULTING INSTITUTION ADEQUATELY CAPITALIZED. --Any insured depository institution created or assisted in the transaction (hereafter the 'resulting institution') and any institution acquiring the troubled institution should meet all applicable minimum capital standards.

"(3) SUBSTANTIAL PRIVATE INVESTMENT. --The transaction should involve substantial private investment.

"(4) CONCESSIONS. --Preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions.

"(5) QUALIFIED MANAGEMENT. --Directors and senior management of the resulting institution should be qualified to perform their duties, and should not include individuals substantially responsible for the trouble institution's problems.

"(6) FDIC's PARTICIPATION. --The transaction should give the Federal Deposit Insurance Corporation an opportunity to participate in the success of the resulting institution.

"(7) STRUCTURE OF TRANSACTION. --The transaction should, insofar as practical, be structured so that --

"(A) the Federal Deposit Insurance Corporation --

"(i) does not acquire a significant proportion of the troubled institution's problem assets;

"(ii) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance the Corporation provides; and

"(iii) limits the Corporation's assistance in term and amount; and

"(B) new investors share risk with the Corporation.

"(c) REPORT. --Two years after the date of enactment of this Act [Dec. 19, 1991], the Federal Deposit Insurance Corporation shall submit a report to Congress analyzing the effect of early resolution on the deposit insurance funds."