

Board of Governors of the Federal Reserve System

Regulation A Extensions of Credit by Federal Reserve Banks

12 CFR 201; as amended effective August 2, 2023



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Section	
201.1	Authority, purpose, and scope
201.2	Definitions
201.3	Extensions of credit generally
201.4	Availability and terms of credit
201.5	Limitations on availability and assessments
201.51	Interest rates applicable to credit extended by a Federal Reserve Bank

AUTHORITY: 12 U.S.C. 248(i)-(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

2-001

SECTION 201.1—Authority, Purpose, and Scope

(a) *Authority.* This part* is issued under the authority of sections 10A, 10B, 11(i), 11(j), 13, 13A, 14(d), and 19 of the Federal Reserve Act (12 U.S.C. 248(i)-(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461).

(b) *Purpose and scope.* This part establishes rules under which a Federal Reserve Bank may extend credit to depository institutions and others. Except as otherwise provided, this part applies to United States branches and agencies of foreign banks that are subject to reserve requirements under Regulation D (12 CFR 204) in the same manner and to the same extent as this part applies to depository institutions. The Federal Reserve System extends credit with due regard to the basic objectives of monetary policy and the maintenance of a sound and orderly financial system.

2-002

SECTION 201.2—Definitions

For purposes of this part, the following definitions shall apply:

(a) *Appropriate federal banking agency* has the same meaning as in section 3 of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1813(q)).

* The words *this part*, as used herein, mean Regulation A (Code of Federal Regulations, title 12, chapter II, part 201).

(b) *Critically undercapitalized insured depository institution* means any insured depository institution as defined in section 3 of the FDI Act (12 U.S.C. 1813(c)(2)) that is deemed to be critically undercapitalized under section 38 of the FDI Act (12 U.S.C. 1831o(b)(1)(E)) and its implementing regulations.

(c) (1) *Depository institution* means an institution that maintains reservable transaction accounts or nonpersonal time deposits and is—

(i) an insured bank as defined in section 3 of the FDI Act (12 U.S.C. 1813(h)) or a bank which is eligible to make application to become an insured bank under section 5 of such act (12 U.S.C. 1815);

(ii) a mutual savings bank as defined in section 3 of the FDI Act (12 U.S.C. 1813(f)) or a bank which is eligible to make application to become an insured bank under section 5 of such act (12 U.S.C. 1815);

(iii) a savings bank as defined in section 3 of the FDI Act (12 U.S.C. 1813(g)) or a bank that is eligible to make application to become an insured bank under section 5 of such act (12 U.S.C. 1815);

(iv) an insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or a credit union that is eligible to make application to become an insured credit union pursuant to section 201 of such act (12 U.S.C. 1781);

(v) a member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); or

(vi) a savings association as defined in section 3 of the FDI Act (12 U.S.C. 1813(b)) that is an insured depository institution as defined in section 3 of the act (12 U.S.C. 1813(c)(2)) or is eligible to apply to become an insured depository institution under section 5 of the act (12 U.S.C. 1815(a)).

(2) The term *depository institution* does not include a financial institution that is not required to maintain reserves under section

204.1(c)(4) of Regulation D (12 CFR 204.1(c)(4)) because it is organized solely to do business with other financial institutions, is owned primarily by the financial institutions with which it does business, and does not do business with the general public.

2-005

(d) *Transaction account and nonpersonal time deposit* have the meanings specified in Regulation D (12 CFR 204).

(e) *Undercapitalized insured depository institution* means any insured depository institution as defined in section 3 of the FDI Act (12 U.S.C. 1813(c)(2)) that—

- (1) is not a critically undercapitalized insured depository institution; and
- (2) (i) is deemed to be undercapitalized under section 38 of the FDI Act (12 U.S.C. 1831o(b)(1)(C)) and its implementing regulations; or
- (ii) has received from its appropriate federal banking agency a composite CAM-ELS rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by its appropriate federal banking agency under a comparable rating system) as of the most recent examination of such institution.

(f) *Viable*, with respect to a depository institution, means that the Board of Governors or the appropriate federal banking agency has determined, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution is not critically undercapitalized, is not expected to become critically undercapitalized, and is not expected to be placed in conservatorship or receivership. Although there are a number of criteria that may be used to determine viability, the Board of Governors believes that ordinarily an undercapitalized insured depository institution is viable if the appropriate federal banking agency has accepted a capital-restoration plan for the depository institution under 12 U.S.C. 1831o(e)(2) and the depository institution is complying with that plan.

2-006

SECTION 201.3—Extensions of Credit Generally

(a) *Advances to and discounts for a depository institution.*

(1) A Federal Reserve Bank may lend to a depository institution either by making an advance secured by acceptable collateral under section 201.4 of this part or by discounting certain types of paper. A Federal Reserve Bank generally extends credit by making an advance.

(2) An advance to a depository institution must be secured to the satisfaction of the Federal Reserve Bank that makes the advance. Satisfactory collateral generally includes United States government and federal agency securities, and, if of acceptable quality, mortgage notes covering one- to four-family residences, state and local government securities, and business, consumer, and other customer notes.

(3) If a Federal Reserve Bank concludes that a discount would meet the needs of a depository institution or an institution described in section 13A of the Federal Reserve Act (12 U.S.C. 349) more effectively, the Reserve Bank may discount any paper indorsed by the institution, provided the paper meets the requirements specified in the Federal Reserve Act.

(b) *No obligation to make advances or discounts.* This section does not entitle any person or entity to obtain any credit or any increase, renewal or extension of maturity of any credit from a Federal Reserve Bank.

2-007

(c) *Information requirements.*

(1) Before extending credit to a depository institution, a Federal Reserve Bank should determine if the institution is an undercapitalized insured depository institution or a critically undercapitalized insured depository institution and, if so, follow the lending procedures specified in section 201.5.

(2) Each Federal Reserve Bank shall require any information it believes appropriate or desirable to ensure that assets tendered as collateral for advances or for discount are acceptable and that the bor-

rower uses the credit provided in a manner consistent with this part.

(3) Each Federal Reserve Bank shall—

(i) keep itself informed of the general character and amount of the loans and investments of a depository institution as provided in section 4(8) of the Federal Reserve Act (12 U.S.C. 301); and

(ii) consider such information in determining whether to extend credit.

(d) *Indirect credit for others.* Except for depository institutions that receive primary credit as described in section 201.4(a), no depository institution shall act as the medium or agent of another depository institution in receiving Federal Reserve credit except with the permission of the Federal Reserve Bank extending credit.

2-008

SECTION 201.4—Availability and Terms of Credit

(a) *Primary credit.* A Federal Reserve Bank may extend primary credit on a very short-term basis, usually overnight, as a backup source of funding to a depository institution that is in generally sound financial condition in the judgment of the Reserve Bank. Such primary credit ordinarily is extended with minimal administrative burden on the borrower. A Federal Reserve Bank also may extend primary credit with maturities up to a few weeks as a backup source of funding to a depository institution if, in the judgment of the Reserve Bank, the depository institution is in generally sound financial condition and cannot obtain such credit in the market on reasonable terms. Credit extended under the primary credit program is granted at the primary credit rate.

(b) *Secondary credit.* A Federal Reserve Bank may extend secondary credit on a very short-term basis, usually overnight, as a backup source of funding to a depository institution that is not eligible for primary credit if, in the judgment of the Reserve Bank, such a credit extension would be consistent with a timely return to a reliance on market funding sources. A Federal Reserve Bank also may extend longer-term secondary credit if the Reserve Bank determines that such credit would

facilitate the orderly resolution of serious financial difficulties of a depository institution. Credit extended under the secondary credit program is granted at a rate above the primary credit rate.

2-009

(c) *Seasonal credit.* A Federal Reserve Bank may extend seasonal credit for periods longer than those permitted under primary credit to assist a smaller depository institution in meeting regular needs for funds arising from expected patterns of movement in its deposits and loans. An interest rate that varies with the level of short-term market interest rates is applied to seasonal credit.

(1) A Federal Reserve Bank may extend seasonal credit only if—

(i) the depository institution's seasonal needs exceed a threshold that the institution is expected to meet from other sources of liquidity (this threshold is calculated as a certain percentage, established by the Board of Governors, of the institution's average total deposits in the preceding calendar year); and

(ii) the Federal Reserve Bank is satisfied that the institution's qualifying need for funds is seasonal and will persist for at least four weeks.

(2) The Board may establish special terms for seasonal credit when depository institutions are experiencing unusual seasonal demands for credit in a period of liquidity strain.

2-010

(d) *Emergency credit for others.*

(1) *Authorization to extend credit.* In unusual and exigent circumstances, the Board, by the affirmative vote of not less than five members,¹ may authorize any Federal Reserve Bank, subject to such conditions and during such periods as the Board may determine, to extend credit to any participant in a program or facility with broad-based eligibility established and operated in accordance with this paragraph (d).

¹ Unless fewer are authorized pursuant to section 11(r) of the Federal Reserve Act, 12 U.S.C. 248(r).

(2) *Approval of the Secretary of the Treasury.* A program or facility may not be established under this paragraph (d) without obtaining the prior approval of the Secretary of the Treasury.

(3) *Disclosure of justification and terms.* As soon as is reasonably practicable, and no later than 7 days after a program or facility is authorized under this paragraph (d), the Board and the authorized Federal Reserve Bank or Federal Reserve Banks, as appropriate, will make publicly available a description of the program or facility, a description of the market or sector of the financial system to which the program or facility is intended to provide liquidity, a description of the unusual and exigent circumstances that exist, the intended effect of the program or facility, and the terms and conditions for participation in the program or facility. In addition, within the same 7-day period, the Board will provide a copy of this information to the Committee on Banking, Housing and Urban Affairs of the U.S. Senate and the Committee on Financial Services of the U.S. House of Representatives.

(4) *Broad-based eligibility.*

(i) A program or facility established under this paragraph (d) must have broad-based eligibility in accordance with terms established by the Board.

(ii) For purposes of this paragraph (d), a program or facility has broad-based eligibility only if the program or facility is designed to provide liquidity to an identifiable market or sector of the financial system;

(iii) A program or facility will not be considered to have broad-based eligibility for purposes of this paragraph (d) if:

(A) The program or facility is designed for the purpose of assisting one or more specific companies avoid bankruptcy, resolution under Title II of Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 12 U.S.C. 5381 *et seq.*), or any other Federal or State insolvency proceeding, including by removing assets from the balance sheet of one or more such company;

(B) The program or facility is designed for the purpose of aiding one or more failing financial companies; or

(C) Fewer than five persons or entities would be eligible to participate in the program or facility.

(iv) A Federal Reserve Bank may extend credit through a program or facility with broad-based eligibility established under this paragraph (d) through such mechanism or vehicle as the Board determines would facilitate the extension of such credit.

(5) *Insolvency.*

(i) A Federal Reserve Bank may not extend credit through a program or facility established under this paragraph (d) to any person or entity that is insolvent or to any person or entity that is borrowing for the purpose of lending the proceeds of the loan to a person or entity that is insolvent.

(ii) Before extending credit through a program or facility established under this paragraph (d) to any person or entity, the Federal Reserve Bank must obtain evidence that the person or entity is not insolvent.

(iii) A person or entity is “insolvent” for purposes of this paragraph (d) if:

(A) The person or entity is in bankruptcy, resolution under Title II of Public Law 111-203 (12 U.S.C. 5381 *et seq.*) or any other Federal or State insolvency proceeding;

(B) The person or entity is generally not paying its undisputed debts as they become due during the 90 days preceding the date of borrowing under the program or facility; or

(C) The Board or Federal Reserve Bank otherwise determines that the person or entity is insolvent.

(iv) For purposes of meeting the requirements of this paragraph (d)(5), the Board or Federal Reserve Bank, as relevant, may rely on:

(A) A written certification from the person or from the chief executive officer or other authorized officer of the entity, at the time the person or entity initially borrows under the program or

facility, that the person or entity is not in bankruptcy, resolution under Title II of Public Law 111-203 (12 U.S.C. 381 *et seq.*) or any other Federal or State insolvency proceeding, and has not failed to generally pay its undisputed debts as they become due during the 90 days preceding the date of borrowing under the program or facility;

(B) Recent audited financial statements of the person or entity; or

(C) Other information that the Board or the Federal Reserve Bank may determine to be relevant.

(v) A person or officer (or successor of either) that submits a written certification under this subparagraph must immediately notify the lending Federal Reserve Bank if the information in the certification changes.

(vi) Upon a finding by the Board or a Federal Reserve Bank that a participant, including a participant that has provided a certification under this paragraph (d)(5), is or has become insolvent, that participant is not eligible for any new extension of credit from a program or facility established under this paragraph (d) until such time as the Board or a Federal Reserve Bank determines that such participant is no longer insolvent.

(vii) If a participant or person has provided a certification under this paragraph (d)(5) or paragraph (d)(8)(ii) of this section that includes a knowing material misrepresentation in the certification, all extensions of credit made pursuant to this paragraph (d) that are outstanding to the relevant participant shall become immediately due and payable, and all accrued interest, fees and penalties shall become immediately due and payable. The Board or the lending Federal Reserve Bank will also refer the matter to the relevant law enforcement authorities for investigation and action in accordance with applicable criminal and civil law.

(6) *Indorsement or other security.*

(i) All credit extended under a program or facility established under this paragraph (d) must be indorsed or otherwise

secured, in each case, to the satisfaction of the lending Federal Reserve Bank.

(ii) In determining whether an extension of credit under any program or facility established under this paragraph (d) is secured to its satisfaction, a Federal Reserve Bank must, prior to or at the time the credit is initially extended, assign a lendable value to all collateral for the program or facility, consistent with sound risk management practices and to ensure protection for the taxpayer.

(7) *Penalty rate and fees.*

(i) The Board will determine the interest rate to be charged on any credit extended through a program or facility established under this section in accordance with this paragraph (d) and the provisions of section 14, subdivision (d) of the Federal Reserve Act (12 U.S.C. 357). The Board may determine the interest rate by auction or such other method as the Board determines in accordance with section 14, subdivision (d) of the Federal Reserve Act (12 U.S.C. 357).

(ii) The interest rate established for credit extended through a program or facility established under this section will be set at a penalty level that:

(A) Is a premium to the market rate in normal circumstances;

(B) Affords liquidity in unusual and exigent circumstances; and

(C) Encourages repayment of the credit and discourages use of the program or facility as the unusual and exigent circumstances that motivated the program or facility recede and economic conditions normalize.

(iii) In determining the rate, the Board will consider the condition of affected markets and the financial system generally, the historical rate of interest for loans of comparable terms and maturity during normal times, the purpose of the program or facility, the risk of repayment, the collateral supporting the credit, the duration, terms and amount of the credit, and any other factor that the Board determines to be relevant to ensuring that the taxpayer is appropriately compensated for the risks associated with

the credit extended under the program or facility and the purposes of this paragraph (d) are fulfilled.

(iv) In addition to the rate established and charged under this paragraph (d)(7), the Board may require the payment of any fees, penalties, charges or other consideration the Board determines to be appropriate to protect and appropriately compensate the taxpayer for the risks associated with the credit extended under the program or facility.

(8) *Evidence regarding unavailability of adequate credit accommodation.*

(i) Each lending Federal Reserve Bank must obtain evidence that, under the prevailing circumstances, participants in a program or facility established under this paragraph (d) are unable to secure adequate credit accommodations from other banking institutions.

(ii) Evidence required under this paragraph (d)(8) may be based on economic conditions in the market or markets intended to be addressed by the program or facility, a written certification from the person or from the chief executive officer or other authorized officer of the entity at the time the person or entity initially borrows under the program or facility, or other evidence from participants or other sources.

(9) *Termination of program or facility.*

(i) A program or facility established under this paragraph (d) shall cease extending new credit no later than one year after the date of the first extension of credit under the program or facility or the date of any extension of the program or facility by the Board under paragraph (d)(9)(ii) of this section.

(ii) A program or facility may be renewed upon the vote of not less than five members of the Board² that unusual and exigent circumstances continue to exist and the program or facility continues to appropriately provide liquidity to the financial system, and the approval of the Secretary of the Treasury.

(iii) The Board shall make the disclosures required under paragraph (d)(3) of this section to the public and the relevant congressional committees no later than 7 days after renewing a program or facility under this paragraph (d)(9).

(iv) The Board may at any time terminate a program or facility established under this paragraph (d). To ensure that the program or facility under this paragraph (d) is terminated in a timely and orderly fashion, the Board will periodically review, no less frequently than once every 6 months, the existence of unusual and exigent circumstances, the extent of usage of the program or facility, the extent to which the continuing authorization of the program or facility facilitates restoring or sustaining confidence in the identified financial markets, the ongoing need for the liquidity support provided by such program or facility, and such other factors as the Board may deem to be appropriate. The Board will terminate lending under a program or facility promptly upon finding that conditions no longer warrant the continuation of the program or facility or that continuation of the program or facility is no longer appropriate.

(v) A program or facility that has been terminated will cease extending new credit and will collect existing loans pursuant to the applicable terms and conditions.

(10) *Reporting requirements.* The Board will comply with the reporting requirements of 12 U.S.C. 248(s) and 12 U.S.C. 343(3)(C) pursuant to their terms.

(11) *No obligation to extend credit.* This paragraph (d) does not entitle any person or entity to obtain any credit or any increase, renewal or extension of maturity of any credit from a Federal Reserve Bank.

(12) *Participation in programs and facilities and vendor selection.*

(i) Participation in any program or facility under this paragraph (d) shall not be limited or conditioned on the basis of any legally prohibited basis, such as the race, religion, color, gender, national origin, age or disability of the borrower.

(ii) The selection of any third-party ven-

² Unless fewer are authorized pursuant to section 11(r) of the Federal Reserve Act. 12 U.S.C. 248(r).

dor used in the design, marketing or implementation of any program or facility under this paragraph (d) shall be without regard to the race, religion, color, gender, national origin, age or disability of the vendor or any principal shareholder of the vendor, and, to the extent possible and consistent with law, shall involve a process designed to support equal opportunity and diversity.

(13) *Short-term emergency credit secured solely by United States or agency obligations.* In unusual and exigent circumstances and after consultation with the Board, a Federal Reserve Bank may extend credit under section 13(13) of the Federal Reserve Act if the collateral used to secure such credit consists solely of obligations of, or obligations fully guaranteed as to principal and interest by, the United States or an agency thereof. Prior to extending credit under this paragraph (d)(13), the Federal Reserve Bank must obtain evidence that credit is not available from other sources and failure to obtain such credit would adversely affect the economy. Credit extended under this paragraph (d)(13) may not be extended for a term exceeding 90 days, must be extended at a rate above the highest rate in effect for advances to depository institutions as determined in accordance with section 14(d) of the Federal Reserve Act, and is subject to such limitations and conditions as provided by the Board.

(e) *Term auction facility.*

(1) A Federal Reserve Bank may make an advance to a depository institution pursuant to an auction conducted under this paragraph and at the rate specified in section 201.51(e) if, in the judgment of the Reserve Bank, the depository institution is in generally sound financial condition and is expected to remain in that condition during the term of the advance. An auction under this paragraph shall be conducted subject to such conditions, including conditions regarding the participants, size and duration of the facility, minimum bid amount, maximum bid amount, term of advance, minimum bid rate, use of proceeds, and schedule of auction dates, as the Board may

establish from time to time in connection with the term auction facility. The Board may appoint one or more Reserve Banks or others to conduct the auction.

(2) Authorization for the term auction facility established by section 201.4(e)(1) shall expire on such date as set by the Board.

2-011

SECTION 201.5—Limitations on Availability and Assessments

(a) *Lending to undercapitalized insured depository institutions.* A Federal Reserve Bank may make or have outstanding advances to or discounts for a depository institution that it knows to be an undercapitalized insured depository institution, only—

(1) if, in any 120-day period, advances or discounts from any Federal Reserve Bank to that depository institution are not outstanding for more than 60 days during which the institution is an undercapitalized insured depository institution; or

(2) during the 60 calendar days after the receipt of a written certification from the chairman of the Board of Governors or the head of the appropriate federal banking agency that the borrowing depository institution is viable; or

(3) after consultation with the Board of Governors. In unusual circumstances, when prior consultation with the Board is not possible, a Federal Reserve Bank should consult with the Board as soon as possible after extending credit that requires consultation under this paragraph (a)(3).

2-012

(b) *Lending to critically undercapitalized insured depository institutions.* A Federal Reserve Bank may make or have outstanding advances to or discounts for a depository institution that it knows to be a critically undercapitalized insured depository institution only—

(1) during the 5-day period beginning on the date the institution became a critically undercapitalized insured depository institution; or

(2) after consultation with the Board of Governors. In unusual circumstances, when prior consultation with the Board is not possible, a Federal Reserve Bank should consult with the Board as soon as possible after extending credit that requires consultation under this paragraph (b)(2).

2-013

(c) *Assessments.* The Board of Governors will assess the Federal Reserve Banks for any amount that the Board pays to the FDIC due to any excess loss in accordance with section 10B(b) of the Federal Reserve Act. Each Federal Reserve Bank shall be assessed that portion of the amount that the Board of Governors pays to the FDIC that is attributable to an extension of credit by that Federal Reserve Bank, up to 1 percent of its capital as reported at the beginning of the calendar year in which the assessment is made. The Board of Governors will assess all of the Federal Reserve Banks for the remainder of the amount it pays to the FDIC in the ratio that the capital of each Federal Reserve Bank bears to the total capital of all Federal Reserve Banks at the beginning of the calendar year in which the assessment is made, provided, however, that if any assessment exceeds 50 percent of the total capital and surplus of all Federal Reserve Banks, whether to distribute the excess over such 50 percent shall be made at the discretion of the Board of Governors.

2-014

SECTION 201.51—Interest Rates Applicable to Credit Extended by a Federal Reserve Bank³

(a) *Primary credit.* The interest rate at each Federal Reserve Bank for primary credit provided to depository institutions under section 201.4(a) is 5.5 percent.

³ The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts
Continued

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for secondary credit provided to depository institutions under section 201.4(b) is 6.0 percent.

(c) *Seasonal credit.* The rate for seasonal credit extended to depository institutions under section 201.4(c) is a flexible rate that takes into account rates on market sources of funds.

(d) *Primary credit rate in a financial emergency.*

(1) The primary credit rate at a Federal Reserve Bank is the target federal funds rate of the Federal Open Market Committee or, if the Federal Open Market Committee has set a target range for the federal funds rate, the rate corresponding to the top of the target range, if:

(i) in a financial emergency the Reserve Bank has established the primary credit rate at that rate; and

(ii) the chairman of the Board of Governors (or, in the chairman's absence, his authorized designee) certifies that a quorum of the Board is not available to act on the Reserve Bank's rate establishment.

(2) For purposes of this paragraph (d), a financial emergency is a significant disruption to the U.S. money markets resulting from an act of war, military or terrorist attack, natural disaster, or other catastrophic event.

2-015

(e) *Term auction facility.* The interest rate on advances to depository institutions made pursuant to an auction under section 201.4(e) is the rate at which all bids at that auction may be fulfilled, up to the maximum auction amount and subject to any minimum bid rate and other conditions as set by the Board.

Continued
made under the primary, secondary, and seasonal credit programs, respectively.

Statutory Authority for Regulation A

2-025

FEDERAL RESERVE ACT

SECTION 10B* —Advances to Individual Member Banks

(a) *In general.* 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).]

2-026

(b) *Limitations on advances.*

(1) *Limitations on extended periods.* Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

(A) *In general.* If—

(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

(ii) the Board conducts an examination

of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable, the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

(B) *Extensions of period.* The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

(C) *Authority to issue a certificate of viability may not be delegated.* The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

(D) *Extended advances subject to paragraph (3).* Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

(i) such institution as critically undercapitalized under paragraph (3); and

(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

2-027

(3) *Advances to critically undercapitalized depository institutions.*

(A) *Liability for increased loss.* Notwithstanding any other provision of this section, if—

(i) in the case of any critically undercapitalized depository institution—

(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution

* Previously section 10(b), this section was redesignated by act of Dec. 19, 1991 (105 Stat. 2279).

becomes a critically undercapitalized depository institution; or

(II) any new advance is made to such institution under this section after the end of such period; and

(ii) after the end of that 5-day period, the Deposit Insurance Fund of the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period, the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

(B) *Limitation on excess loss.* The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

(C) *Federal Reserve to pay obligation.* The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

(D) *Report.* The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

2-028

(4) *No obligation to make advances.* A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

(5) *Definitions.*

(A) *Appropriate federal banking agency.* The term “appropriate Federal banking agency” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(B) *Critically undercapitalized.* The term “critically undercapitalized” has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(C) *Depository institution.* The term “depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(D) *Undercapitalized depository institution.* The term “undercapitalized depository institution” means any depository institution which—

(i) is undercapitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

(E) *Viable.* A depository institution is “viable” if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

(i) is not critically undercapitalized;

(ii) is not expected to become critically undercapitalized; and

(iii) is not expected to be placed in conservatorship or receivership.

[12 USC 347b(b). As added by act of Dec. 19, 1991 (105 Stat. 2279) and amended by act of Feb. 15, 2006 (119 Stat. 3616).]

2-029

SECTION 13—Powers of Federal Reserve Banks

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3. *Discounts for Individuals, Partnerships, and Corporations*

(3) (A) In unusual and exigent circum-

stances, 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 participant in any program or facility with broad-based eligibility, 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, the Federal reserve bank shall obtain evidence that such participant in any program or facility with broad-based eligibility is unable to secure adequate credit accommodations from other banking institutions. All such discounts for any participant in any program or facility with broad-based eligibility 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); Dec. 19, 1991 (105 Stat. 2386); and July 21, 2010 (124 Stat. 2113). As enacted by Public Law 111-203 (124 Stat. 2115), “any reference in any provision of Federal law to the third undesignated paragraph of section 13 of the Federal Reserve Act [FRA] (12 USC 343) shall be deemed to be a reference to section 13(3) of the FRA.”]

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2-030

13. Advances to Individuals, Partnerships, and Corporations on Direct Obligations of the 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).]

2-031

14. Transactions between Federal Reserve Banks and a Branch or Agency of a Foreign Bank

Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1978. In exercising any such powers with respect to any such branch or agency, each Federal Reserve bank shall give due regard to account balances being maintained by such branch or agency with such Reserve bank and the proportion of the assets of such branch or agency being held as reserves under section 7 of the International Banking Act of 1978. For the purposes of this paragraph, the terms “branch”, “agency”, and “foreign bank” shall have the same meanings assigned to them in section 1 of the International Banking Act of 1978.

[12 USC 347d. As added by act of Sept. 17, 1978 (92 Stat. 621).]

2-032

SECTION 19—Bank Reserves

(b) *Reserve requirements.*

* * * * *

(7) *Discount and borrowing.* Any depository institution in which transaction accounts or nonpersonal time deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the adminis-

tration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities consistent with their long-term asset portfolios and the sensitivity of such institutions to trends in the national money markets.

[12 USC 461(b). As amended by acts of June 21, 1917 (40

Stat. 239); Sept. 26, 1918 (40 Stat. 970); May 12, 1933 (48 Stat. 54); Aug. 23, 1935 (49 Stat. 706); July 7, 1942 (56 Stat. 648); July 28, 1959 (73 Stat. 264) effective July 28, 1962; Sept. 21, 1966 (80 Stat. 823) (as amended by acts of Sept. 21, 1967 (81 Stat. 226) and Sept. 21, 1968 (82 Stat. 856)); Dec. 23, 1969 (83 Stat. 375); March 31, 1980 (94 Stat. 133, 138); Aug. 13, 1981 (95 Stat. 433); Oct. 15, 1982 (96 Stat. 1520, 1521); Aug. 9, 1989 (103 Stat. 439); Oct. 13, 2006 (120 Stat. 1968, 1969); and July 21, 2010 (124 Stat. 1556). Amendments to subsection 19(b) act of Oct. 13, 2006, were to be effective on Oct. 1, 2011, but section 128 of the act of Oct. 3, 2008 (122 Stat. 3796) accelerated the effective date to Oct. 1, 2008.]