

§ 347a. Advances to member bank groups; inadequate amounts of eligible and acceptable assets; liability of individual banks in group; distribution of loans among banks of group; rate of interest; notes accepted for advances as collateral security for Federal reserve notes; foreign obligations as security for 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 347b¹ of this title. 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 aggregate 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 412 of this title as collateral security for Federal reserve notes.

No obligations of any foreign government, individual, partnership, association, or corporation organized under the laws thereof shall be eligible as collateral security for advances under this section.

Member banks are authorized to obligate themselves in accordance with the provisions of this section.

(Dec. 23, 1913, ch. 6, § 10A, formerly § 10(a), as added Feb. 27, 1932, ch. 58, § 1, 47 Stat. 56; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; renumbered § 10A, Pub. L. 102-242, title I, § 142(a)(1), Dec. 19, 1991, 105 Stat. 2279.)

REFERENCES IN TEXT

Section 347b of this title, referred to in first par., was in the original a reference to section 10(b), meaning

section 10(b) of the Federal Reserve Act. Section 10(b) of that Act was renumbered section 10B by Pub. L. 102-242, title I, § 142(a)(2), Dec. 19, 1991, 105 Stat. 2279, without a corresponding amendment to this section.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 347b. Advances to individual member banks on time or demand notes; maturities; time notes secured by mortgage loans covering one-to-four family residences

(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.

(b) Limitations on advances

(1) Limitation 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.

(2) Viability exception

(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.

¹ See References in Text note below.

(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).

(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 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.

(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 chapter to any depository institution.

(5) Definitions**(A) Appropriate Federal banking agency**

The term “appropriate Federal banking agency” has the same meaning as in section 1813 of this title.

(B) Critically undercapitalized

The term “critically undercapitalized” has the same meaning as in section 1831o of this title.

(C) Depository institution

The term “depository institution” has the same meaning as in section 1813 of this title.

(D) Undercapitalized depository institution

The term “undercapitalized depository institution” means any depository institution which—

- (i) is undercapitalized, as defined in section 1831o of this title; 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.

(Dec. 23, 1913, ch. 6, §10B, formerly §10(b), as added Feb. 27, 1932, ch. 58, §2, 47 Stat. 56; amended Feb. 3, 1933, ch. 34, 47 Stat. 794; Mar. 9, 1933, ch. 1, title IV, §402, 48 Stat. 7; Aug. 23, 1935, ch. 614, title II, §204, 49 Stat. 705; Pub. L. 93-449, §5, Oct. 18, 1974, 88 Stat. 1368; Pub. L. 96-221, title I, §106, Mar. 31, 1980, 94 Stat. 140; renumbered §10B and amended Pub. L. 102-242, title I, §142(a)(2), (b), Dec. 19, 1991, 105 Stat. 2279; Pub. L. 104-208, div. A, title II, §2704(d)(9), Sept. 30, 1996, 110 Stat. 3009-489; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §9(c), Feb. 15, 2006, 119 Stat. 3616.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(4), was in the original “this Act”, meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

AMENDMENTS

2006—Subsec. (b)(3)(A)(ii). Pub. L. 109-173 substituted “the Deposit Insurance Fund of” for “any deposit insurance fund in”.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(9). See 1996 Amendment note below.

1996—Subsec. (b)(3)(A)(ii). Pub. L. 104—208, §2704(d)(9), which directed the amendment of cl. (ii) by substituting “the Deposit Insurance Fund of” for “any deposit insurance fund in”, was repealed by Pub. L. 109—171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1991—Pub. L. 102—242, §142(b), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1980—Pub. L. 96—221 struck out second sentence of first par. relating to interest on notes under this section.

1974—Pub. L. 93—449 inserted provisions relating to advances on time notes secured by mortgage loans covering one-to-four family residences.

1935—Act Aug. 23, 1935, struck out provision prescribing termination date of section.

1933—Act Mar. 9, 1933, struck out proviso which extended applicability to member banks regardless of their capital, and empowered President to extend termination date one year beyond March 3, 1934.

Act Feb. 3, 1933, extended termination date from “March 3, 1933” to “March 3, 1934”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109—173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109—173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109—171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109—171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104—208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104—208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102—242, title I, §142(d), Dec. 19, 1991, 105 Stat. 2281, provided that: “The amendment made by subsection (b) [amending this section] shall take effect at the end of the 2-year period beginning on the date of enactment of this Act [Dec. 19, 1991].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96—221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96—221, set out as a note under section 248 of this title.

EXPIRATION

Proclamation No. 2076, Feb. 16, 1934, 48 Stat. 1734, extended section to Mar. 3, 1935. See 1935 amendment note above.

§ 347c. Advances to individuals, partnerships, and corporations; security; interest rate

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.

(Dec. 23, 1913, ch. 6, §13 (par.), as added Mar. 9, 1933, ch. 1, title IV, §403, 48 Stat. 7; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 90—505, §3(b), Sept. 21, 1968, 82 Stat. 856.)

CODIFICATION

Section is comprised of the thirteenth par. of section 13 of act Dec. 23, 1913, as added by act Mar. 9, 1933. For additional details concerning the enactment and numbering of the first twelve and fourteenth pars. of section 13, see Codification notes set out under sections 92, 342 to 347, 347d, 361, 372, and 373 of this title.

AMENDMENTS

1968—Pub. L. 90—505 added promissory notes secured by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States to the list of types of promissory notes on which federal reserve banks may make advances to individuals, partnerships, and corporations.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 347d. Transactions between Federal Reserve banks and branch or agency of foreign bank; matters considered

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 3105 of this title. 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 3105 of this title. For the purposes of this paragraph, the terms “branch”, “agency”, and “foreign bank” shall have the same meanings assigned to them in section 3101 of this title.

(Dec. 23, 1913, ch. 6, §13 (par.), as added Pub. L. 95—369, §7(b), Sept. 17, 1978, 92 Stat. 621.)

CODIFICATION

Section is comprised of the fourteenth (last) par. of section 13 of act Dec. 23, 1913, as added by act Sept. 17, 1978. For additional details concerning the enactment and numbering of the first thirteen pars. of section 13, see Codification notes set out under sections 92, 342 to 347, 347c, 361, 372, and 373 of this title.

PRIOR PROVISIONS

A prior section 347d, act Mar. 9, 1933, ch. 1, §404, as added Mar. 24, 1933, ch. 8, §1, 48 Stat. 20, which related to direct loans to State banks and trust companies, was omitted from the Code as terminated since by its own terms, it was effective for only one year following date of its enactment, Mar. 24, 1933.