

tion 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

§ 343. Discount of obligations arising out of actual commercial transactions

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 chapter. Nothing in this chapter 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 ninety days, exclusive of grace.

(3)(A)¹ 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 357 of this title, 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.

(B)(i) As soon as is practicable after July 21, 2010, the Board shall establish, by regulation, in consultation with the Secretary of the Treasury, the policies and procedures governing emergency lending under this paragraph. Such policies and procedures shall be designed to ensure that any emergency lending program or facility

is for the purpose of providing liquidity to the financial system, and not to aid a failing financial company, and that the security for emergency loans is sufficient to protect taxpayers from losses and that any such program is terminated in a timely and orderly fashion. The policies and procedures established by the Board shall require that a Federal reserve bank assign, consistent with sound risk management practices and to ensure protection for the taxpayer, a lendable value to all collateral for a loan executed by a Federal reserve bank under this paragraph in determining whether the loan is secured satisfactorily for purposes of this paragraph.

(ii) The Board shall establish procedures to prohibit borrowing from programs and facilities by borrowers that are insolvent. Such procedures may include a certification from the chief executive officer (or other authorized officer) of the borrower, at the time the borrower initially borrows under the program or facility (with a duty by the borrower to update the certification if the information in the certification materially changes), that the borrower is not insolvent. A borrower shall be considered insolvent for purposes of this subparagraph, if the borrower is in bankruptcy, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act [12 U.S.C. 5381 et seq.], or any other Federal or State insolvency proceeding.

(iii) A program or facility that is structured to remove assets from the balance sheet of a single and specific company, or that is established for the purpose of assisting a single and specific company avoid bankruptcy, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding, shall not be considered a program or facility with broad-based eligibility.

(iv) The Board may not establish any program or facility under this paragraph without the prior approval of the Secretary of the Treasury.

(C) The Board shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(i) not later than 7 days after the Board authorizes any loan or other financial assistance under this paragraph, a report that includes—

(I) the justification for the exercise of authority to provide such assistance;

(II) the identity of the recipients of such assistance;

(III) the date and amount of the assistance, and form in which the assistance was provided; and

(IV) the material terms of the assistance, including—

(aa) duration;

(bb) collateral pledged and the value thereof;

(cc) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;

(dd) any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance; and

¹ So in original.

(ee) the expected costs to the taxpayers of such assistance; and

(ii) once every 30 days, with respect to any outstanding loan or other financial assistance under this paragraph, written updates on—

(I) the value of collateral;

(II) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and

(III) the expected or final cost to the taxpayers of such assistance.

(D) The information required to be submitted to Congress under subparagraph (C) related to—

(i) the identity of the participants in an emergency lending program or facility commenced under this paragraph;

(ii) the amounts borrowed by each participant in any such program or facility;

(iii) identifying details concerning the assets or collateral held by, under, or in connection with such a program or facility,

shall be kept confidential, upon the written request of the Chairman of the Board, in which case such information shall be made available only to the Chairpersons or Ranking Members of the Committees described in subparagraph (C).

(E) If an entity to which a Federal reserve bank has provided a loan under this paragraph becomes a covered financial company, as defined in section 201 of the Dodd-Frank Wall Street Reform and Consumer Protection Act [12 U.S.C. 5381], at any time while such loan is outstanding, and the Federal reserve bank incurs a realized net loss on the loan, then the Federal reserve bank shall have a claim equal to the amount of the net realized loss against the covered entity, with the same priority as an obligation to the Secretary of the Treasury under section 210(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [12 U.S.C. 5390(b)].

(Dec. 23, 1913, ch. 6, § 13 (pars.), 38 Stat. 263; Sept. 7, 1916, ch. 461, 39 Stat. 752; Mar. 4, 1923, ch. 252, title IV, § 402, 42 Stat. 1478; July 21, 1932, ch. 520, § 210, 47 Stat. 715; Aug. 23, 1935, ch. 614, title II, § 203(a), title III, § 322, 49 Stat. 704, 714; Pub. L. 102-242, title IV, § 473, Dec. 19, 1991, 105 Stat. 2386; Pub. L. 111-203, title XI, § 1101(a), July 21, 2010, 124 Stat. 2113.)

REFERENCES IN TEXT

This chapter, referred to in the first par., 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.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, referred to in par. (3)(B)(ii), (iii), is Pub. L. 111-203, July 21, 2010, 124 Stat. 1376. Title II of the Act is classified principally to subchapter II (§ 5381 et seq.) of chapter 53 of this title. For complete classification of the Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Section is comprised of the second par. and par. (3) of section 13 of act Dec. 23, 1913. Act Mar. 4, 1923, split the second par. of section 13, as amended in 1916 (39 Stat. 752), into two pars., the first of which constitutes the first par. of this section and the second of which con-

stitutes section 344 of this title. Act July 21, 1932, added the second par. of this section which was designated to follow the second par. of section 13. Pub. L. 111-203, § 1101(a)(1), designated the second par. as par. (3). For classification to this title of other pars. of section 13, see Codification note set out under section 342 of this title.

AMENDMENTS

2010—Pub. L. 111-203, § 1101(a)(1)–(4), designated second par. as par. (3)(A), substituted “any participant in any program or facility with broad-based eligibility” for “any individual, partnership, or corporation”, “bill of exchange,” for “bill of exchange for an individual or a partnership or corporation”, and “such participant in any program or facility with broad-based eligibility” for “such individual, partnership, or corporation”.

Par. (3)(A). Pub. L. 111-203, § 1101(a)(5), which directed substitution of “for any participant in any program or facility with broad-based eligibility” for “for individuals, partnerships, corporations”, was executed by making the substitution for “for individuals, partnerships, or corporations”, to reflect the probable intent of Congress.

Par. (3)(B) to (E). Pub. L. 111-203, § 1101(a)(6), added subpars. (B) to (E).

1991—Pub. L. 102-242 struck out “of the kinds and maturities made eligible for discount for member banks under other provisions of this chapter” after first reference to “bills of exchange” in second par.

1935—Act Aug. 23, 1935, § 322, substituted words immediately preceding proviso for “indorsed and otherwise secured to the satisfaction of the Federal reserve bank.”

1932—Act July 21, 1932, added second par.

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.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of this title.

REFERENCES TO THIRD UNDESIGNATED PARAGRAPH DEEMED TO BE REFERENCES TO PARAGRAPH (3)

Pub. L. 111-203, title XI, § 1101(c), July 21, 2010, 124 Stat. 2115, provided that: “On and after the date of enactment of this Act [July 21, 2010], any reference in any provision of Federal law to the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) shall be deemed to be a reference to section 13(3) of the Federal Reserve Act [12 U.S.C. 343(3)], as so designated by this section.”

§ 344. Discount or purchase of bills to finance agricultural shipments

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, and subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, any Federal reserve bank may discount or purchase bills of exchange payable at sight or on demand which grow out of the domestic shipment or the exportation of nonperishable, readily marketable agricultural and other staples and are secured by bills of lading or other shipping documents conveying or securing title to such staples: *Provided*, That all such bills of exchange shall be forwarded promptly for collection, and demand for payment shall be made