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Federal Reserve Act Section 10B

Federal Reserve System: Board of Governors

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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).]

(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.
 - 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 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).]

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

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