

# **Federal Deposit Insurance Act, Section 11**

## **(a) DEPOSIT INSURANCE**

### **(1) INSURED AMOUNTS PAYABLE**

#### **(A) IN GENERAL**

The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

#### **(B) NET AMOUNT OF INSURED DEPOSIT**

##### **(i) IN GENERAL**

Subject to clause (ii), the net amount due to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount as determined in accordance with subparagraphs (C), (D), (E) and (F) and paragraph (3).

##### **(ii) INSURANCE FOR NONINTEREST-BEARING TRANSACTION ACCOUNTS**

Notwithstanding clause (i), the Corporation shall fully insure the net amount that any depositor at an insured depository institution maintains in a noninterest-bearing transaction account. Such amount shall not be taken into account when computing the net amount due to such depositor under clause (i).

##### **(iii) NONINTEREST-BEARING TRANSACTION ACCOUNT DEFINED**

For purposes of this subparagraph, the term "noninterest-bearing transaction account" means a deposit or account maintained at an insured depository institution

**(I)** with respect to which interest is neither accrued nor paid;

**(II)** on which the depositor or account is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone or other electronic media transfers, or other similar items for the purpose of making payments or transfers to third parties or others; and

**(III)** on which the insured depository institution does not reserve the right to require advance notice of an intended withdrawal.

#### **(C) AGGREGATION OF DEPOSITS**

For the purpose of determining the net amount due to any depositor under subparagraph (B)(i), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in paragraph (1) or (2) of section 7(i) or any funds described in section 7(i)(3).

#### **(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS**

**(i) PASS-THROUGH INSURANCE**

The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

**(ii) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS**

An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

**(iii) DEFINITIONS**

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

**(I) CAPITAL STANDARDS**

The terms "well capitalized" and "adequately capitalized" have the same meanings as in section 38.

**(II) EMPLOYEE BENEFIT PLAN**

The term "employee benefit plan" has the same meaning as in paragraph (5)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

**(III) PASS-THROUGH DEPOSIT INSURANCE**

The term "pass-through deposit insurance" means, with respect to an employee benefit plan, deposit insurance coverage based on the interest of each participant, in accordance with regulations issued by the Corporation.

**(E) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED**

For purposes of this Act, the term "standard maximum deposit insurance amount" means \$250,000, adjusted as provided under subparagraph (F) after March 31, 2010. Notwithstanding any other provision of law, the increase in the standard maximum deposit insurance amount to \$250,000 shall apply to depositors in any institution for which the Corporation was appointed as receiver or conservator on or after January 1, 2008, and before October 3, 2008. The Corporation shall take such actions as are necessary to carry out the requirements of this section with respect to such depositors, without regard to any time limitations under this Act. In implementing this and the preceding 2 sentences, any payment on a deposit claim made by the Corporation as receiver or conservator to a depositor above the standard maximum deposit insurance amount in effect at the time of the appointment of the Corporation as receiver or conservator shall be deemed to be part of the net amount due to the depositor under subparagraph (B).

**(F) INFLATION ADJUSTMENT**

**(i) IN GENERAL**

By April 1 of 2010, and the 1st day of each subsequent 5-year period, the Board of Directors and the National Credit Union Administration Board shall jointly consider the factors set forth under clause (v), and, upon determining that an inflation adjustment is appropriate, shall jointly prescribe the amount by which the standard maximum deposit insurance amount and the standard maximum share insurance amount (as defined in section 207(k) of the Federal Credit Union Act) applicable to

any depositor at an insured depository institution shall be increased by calculating the product of--

**(I)** \$100,000; and

**(II)** the ratio of the published annual value of the Personal Consumption Expenditures Chain--Type Price Index (or any successor index thereto) published by the Department of Commerce, for the calendar year preceding the year in which the adjustment is calculated under this clause, to the published annual value of such index for the calendar year preceding the date this subparagraph takes effect under the Federal Deposit Insurance Reform Act of 2005.

The values used in the calculation under subclause (II) shall be, as of the date of the calculation, the values most recently published by the Department of Commerce.

**(ii) ROUNDING**

If the amount determined under clause (ii) for any period is not a multiple of \$10,000, the amount so determined shall be rounded down to the nearest \$10,000.

**(iii) PUBLICATION AND REPORT TO THE CONGRESS**

Not later than April 5 of any calendar year in which an adjustment is required to be calculated under clause (i) to the standard maximum deposit insurance amount and the standard maximum share insurance amount under such clause, the Board of Directors and the National Credit Union Administration Board shall--

**(I)** publish in the Federal Register the standard maximum deposit insurance amount, the standard maximum share insurance amount, and the amount of coverage under paragraph (3)(A) and section 207(k)(3) of the Federal Credit Union Act, as so calculated; and

**(II)** jointly submit a report to the Congress containing the amounts described in subclause (I).

**(iv) 6-MONTH IMPLEMENTATION PERIOD**

Unless an Act of Congress enacted before July 1 of the calendar year in which an adjustment is required to be calculated under clause (i) provides otherwise, the increase in the standard maximum deposit insurance amount and the standard maximum share insurance amount shall take effect on January 1 of the year immediately succeeding such calendar year.

**(v) INFLATION ADJUSTMENT CONSIDERATION**

In making any determination under clause (i) to increase the standard maximum deposit insurance amount and the standard maximum share insurance amount, the Board of Directors and the National Credit Union Administration Board shall jointly consider--

**(I)** the overall state of the Deposit Insurance Fund and the economic conditions affecting insured depository institutions;

(II) potential problems affecting insured depository institutions; or

(III) whether the increase will cause the reserve ratio of the fund to fall below 1.15 percent of estimated insured deposits.

## **(2) GOVERNMENT DEPOSITORS**

### **(A) IN GENERAL**

Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available to any 1 depositor--

(i) a government depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed to be a depositor separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in subparagraph (B); and

(ii) except as provided in subparagraph (C), the deposits of a government depositor shall be insured in an amount equal to the standard maximum deposit insurance amount (as determined under paragraph (1)).

### **(B) GOVERNMENT DEPOSITOR**

In this paragraph, the term "government depositor" means a depositor that is--

(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution;

(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution in such State;

(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution in the District of Columbia;

(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, of the Trust Territory of the Pacific Islands, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam, respectively; or

(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution.

### **(C) AUTHORITY TO LIMIT DEPOSITS**

The Corporation may limit the aggregate amount of funds that may be invested or deposited in deposits in any insured depository institution by any government depositor on the basis of the size of any such bank in terms of its assets: *Provided, however,* such limitation may be exceeded by the pledging of acceptable securities to the government depositor when and where required.

## **(3) CERTAIN RETIREMENT ACCOUNTS**

### **(A) IN GENERAL**

Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with--

- (i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

- (ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred compensation plan described in section 457 of such Code; and

- (iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan, shall be aggregated and insured in an amount not to exceed \$250,000 (which amount shall be subject to inflation adjustments as provided in paragraph (1)(F), except that \$250,000 shall be substituted for \$100,000 wherever such term appears in such paragraph) per participant per insured depository institution.

## **(4) DEPOSIT INSURANCE FUND**

### **(A) ESTABLISHMENT**

There is established the Deposit Insurance Fund, which the Corporation shall--

- (i) maintain and administer;

- (ii) use to carry out its insurance purposes, in the manner provided by this subsection; and

- (iii) invest in accordance with section 13(a).

### **(B) USES**

The Deposit Insurance Fund shall be available to the Corporation for use with respect to insured depository institutions the deposits of which are insured by the Deposit Insurance Fund.

### **(C) LIMITATION ON USE**

Notwithstanding any provision of law other than section 13(c)(4)(G), the Deposit

Insurance Fund shall not be used in any manner to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of--

(i) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.

#### **(D) DEPOSITS**

All amounts assessed against insured depository institutions by the Corporation shall be deposited into the Deposit Insurance Fund.

### **(5) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS**

#### **(A) IN GENERAL**

A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

#### **(B) DEFINITIONS**

For purposes of subparagraph (A)--

##### **(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS**

The term "benefit-responsive withdrawals or transfers" means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

##### **(ii) EMPLOYEE BENEFIT PLAN**

The term "employee benefit plan"--

(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.

*[Source: Section 2[11(a)] of the Act of September 21, 1950 (Pub. L. No. 797; 64 Stat. 884), effective September 21, 1950, as amended by section 301(c) of title III of the Act of October 16, 1966 (Pub. L. No. 89--695; 80 Stat. 1055), effective October 16, 1966; section 7(a)(3) of title I of the Act of December 23, 1969 (Pub. L. No. 91--151; 83 Stat. 375), effective December 23, 1969; sections 101(a)(3) and 102(a)(3) of title I of the Act of October 28, 1974 (Pub. L. No. 93--495; 88 Stat. 1500 and 1502), effective November 27, 1974; section 1401(a) of title XIV of the Act of November 10, 1978 (Pub. L. No. 95--630; 92 Stat. 3712), effective March 10, 1979; section 323 of title III of the Act of December 21, 1979 (Pub. L. No. 96--153; 93 Stat. 1120); section 308 of title III of the Act of March 31, 1980 (Pub. L. No. 96--221; 94 Stat. 147), effective March 31, 1980; section 103 of title I of the Act of December 26, 1981 (Pub. L. No. 97--110; 95 Stat. 1514), effective December 26, 1981; sections 201(a)(1) and 211 of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 187 and 218), effective August 9, 1989; sections 202(a) and (b) of title II of the Act of December 12, 1991 (Pub. L. No. 102--233; 105 Stat. 1766), effective December 12, 1991; sections 311(a)(1), (b)(1), (b)(2), and (b)(5) of title III of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2363, 2364 and 2366, respectively), effective December 19, 1993; sections 8(a)--(g) and (i) of the Act of December 17, 1993 (Pub. L. No. 103--204; 107 Stat. 2384--2388), effective December 17, 1993; section 602(a)(21) of title VI of the Act of September 23, 1994 (Pub. L. No. 103--325; 108 Stat. 2289), effective September 23, 1994; Section 2705 of title II of the Act of September 30, 1996 (Pub. L. No. 104--208; 110 Stat. 3009--495), effective September 30, 1996; section 117 of the Act of November 12, 1999 (Pub. L. No. 106--102; 113 Stat. 1372), effective March 12, 2000; section 736(a)(6) of title VII of the Act of November 12, 1999 (Pub. L. 106--102; 113 Stat. 1481), effective November 12, 1999; section 2103(a)--(c) of title II of the Act of February 8, 2006 (Pub. L. No. 109--171; 120 Stat. 10 and 11), effective date shall take effect on the date the final regulations required under section 9(a)(2) take effect; section 2(a) of the Act of February 15, 2006 (Pub. L. No. 109--173; 119 Stat. 3601 and 3602), effective date shall take effect on the date on which the final regulations required under section 2109(a)(2) of the Federal Deposit Insurance Reform Act of 2005 take effect; section 8(a)(11)--(14) of the Act of February 15, 2006 (Pub. L. No. 109--173; 119 Stat. 3611, and 3612), effective date shall take effect on the day of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to the Federal Deposit Insurance Reform Act of 2005; section 335(a) of title III of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 1554), effective July 21, 2010; section 343(a)(1) of title III of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 1544 and 1545), effective December 31, 2010]*

**(b)** For the purposes of this Act an insured depository institution shall be deemed to have been closed on account of inability to meet the demands of its depositors in any case in which it has been closed for the purpose of liquidation without adequate provision being made for payment of its depositors.

*[Codified to 12 U.S.C. 1821(b)]*

*[Source: Section 2[11(b)] of the Act of September 21, 1950 (Pub. L. No. 797; 64 Stat. 884), effective September 21, 1950, as amended by section 201(a)(1) of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 187), effective August 9, 1989; amended by Pub. L. No. 111--203, July 21, 2010, effective December 31, 2010]*

[PROSPECTIVE REPEAL.--Effective January 1, 2013, section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)), as amended by paragraph (1), is amended--(A) in subparagraph (B)--(i) by striking "DEPOSIT.--" and all that follows through "clause (ii), the net

amount" and insert "DEPOSIT.--The net amount"; and (ii) by striking clauses (ii) and (iii); and (B) in subparagraph (C), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".]

## **(c) APPOINTMENT OF CORPORATION AS CONSERVATOR OR RECEIVER**

### **(1) IN GENERAL**

Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation may accept appointment and act as conservator or receiver for any insured depository institution upon appointment in the manner provided in paragraph (2) or (3).

## **(2) FEDERAL DEPOSITORY INSTITUTIONS**

### **(A) APPOINTMENT**

#### **(i) CONSERVATOR**

The Corporation may, at the discretion of the supervisory authority, be appointed conservator of any insured Federal depository institution and the Corporation may accept such appointment.

#### **(ii) RECEIVER**

The Corporation shall be appointed receiver, and shall accept such appointment, whenever a receiver is appointed for the purpose of liquidation or winding up the affairs of an insured Federal depository institution by the appropriate Federal banking agency, notwithstanding any other provision of Federal law.

### **(B) ADDITIONAL POWERS**

In addition to and not in derogation of the powers conferred and the duties imposed by this section on the Corporation as conservator or receiver, the Corporation, to the extent not inconsistent with such powers and duties, shall have any other power conferred on or any duty (which is related to the exercise of such power) imposed on a conservator or receiver for any Federal depository institution under any other provision of law.

### **(C) CORPORATION NOT SUBJECT TO ANY OTHER AGENCY**

When acting as conservator or receiver pursuant to an appointment described in subparagraph (A), the Corporation shall not be subject to the direction or supervision of any other agency or department of the United States or any State in the exercise of the Corporation's rights, powers, and privileges.

### **(D) DEPOSITORY INSTITUTION IN CONSERVATORSHIP SUBJECT TO BANKING AGENCY SUPERVISION**

Notwithstanding subparagraph (C), any Federal depository institution for which the Corporation has been appointed conservator shall remain subject to the supervision of the appropriate Federal banking agency.

## **(3) INSURED STATE DEPOSITORY INSTITUTIONS**

### **(A) APPOINTMENT BY APPROPRIATE STATE SUPERVISOR**

Whenever the authority having supervision of any insured State depository institution



appoints a conservator or receiver for such institution and tenders appointment to the Corporation, the Corporation may accept such appointment.

**(B) ADDITIONAL POWERS**

In addition to the powers conferred and the duties related to the exercise of such powers imposed by State law on any conservator or receiver appointed under the law of such State for an insured State depository institution, the Corporation, as conservator or receiver pursuant to an appointment described in subparagraph Corporation, as conservator or (A), shall have the powers conferred and the duties imposed by this section on the Corporation as conservator or receiver.

**(C) CORPORATION NOT SUBJECT TO ANY OTHER AGENCY**

When acting as conservator or receiver pursuant to an appointment described in subparagraph (A), the Corporation shall not be subject to the direction or supervision of any other agency or department of the United States or any State in the exercise of its rights, powers, and privileges.

**(D) DEPOSITORY INSTITUTION IN CONSERVATORSHIP SUBJECT TO BANKING AGENCY SUPERVISION**

Notwithstanding subparagraph (C), any insured State depository institution for which the Corporation has been appointed conservator shall remain subject to the supervision of the appropriate State bank or savings association supervisor.

**(4) APPOINTMENT OF CORPORATION BY THE CORPORATION**

Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation may appoint itself as sole conservator or receiver of any insured State depository institution if--

**(A)** the Corporation determines--

**(i)** that--

**(I)** a conservator, receiver, or other legal custodian has been appointed for such institution;

**(II)** such institution has been subject to the appointment of any such conservator, receiver, or custodian for a period of at least 15 consecutive days; and

**(III)** 1 or more of the depositors in such institution is unable to withdraw any amount of any insured deposit; or

**(ii)** that such institution has been closed by or under the laws of any State; and

**(B)** the Corporation determines that 1 or more of the grounds specified in paragraph (5)--

**(i)** existed with respect to such institution at the time--

**(I)** the conservator, receiver, or other legal custodian was appointed; or

(II) such institution was closed; or

(ii) exist at any time--

(I) during the appointment of the conservator, receiver, or other legal custodian;  
or

(II) while such institution is closed.

#### **(5) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER**

The grounds for appointing a conservator or receiver (which may be the Corporation) for any insured depository institution are as follows:

##### **(A) ASSETS INSUFFICIENT FOR OBLIGATIONS**

The institution's assets are less than the institution's obligations to its creditors and others, including members of the institution.

##### **(B) SUBSTANTIAL DISSIPATION**

Substantial dissipation of assets or earnings due to--

(i) any violation of any statute or regulation; or

(ii) any unsafe or unsound practice.

##### **(C) UNSAFE OR UNSOUND CONDITION**

An unsafe or unsound condition to transact business.

##### **(D) CEASE AND DESIST ORDERS**

Any willful violation of a cease-and-desist order which has become final.

##### **(E) CONCEALMENT**

Any concealment of the institution's books, papers, records, or assets, or any refusal to submit the institution's books, papers, records, or affairs for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

##### **(F) INABILITY TO MEET OBLIGATIONS**

The institution is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business.

##### **(G) LOSSES**

The institution has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the institution to become adequately capitalized (as defined in section 38(b)) without Federal assistance.

##### **(H) VIOLATIONS OF LAW**

Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to--

- (i) cause insolvency or substantial dissipation of assets or earnings;
- (ii) weaken the institution's condition; or
- (iii) otherwise seriously prejudice the interests of the institution's depositors or the deposit insurance fund.

**(I) CONSENT**

The institution, by resolution of its board of directors or its shareholders or members, consents to the appointment.

**(J) CESSATION OF INSURED STATUS**

The institution ceases to be an insured institution.

**(K) UNDERCAPITALIZATION**

The institution is undercapitalized (as defined in section 38(b)), and--

- (i) has no reasonable prospect of becoming adequately capitalized (as defined in that section);
- (ii) fails to become adequately capitalized when required to do so under section 38(f)(2)(A);
- (iii) fails to submit a capital restoration plan acceptable to that agency within the time prescribed under section 38(e)(2)(D); or
- (iv) materially fails to implement a capital restoration plan submitted and accepted under section 38(e)(2).

**(L) THE INSTITUTION**

- (i) is critically undercapitalized, as defined in section 38(b); or
- (ii) otherwise has substantially insufficient capital.

**(M) MONEY LAUNDERING OFFENSE**

The Attorney General notifies the appropriate Federal banking agency or the Corporation in writing that the insured depository institution has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 or 5324 of title 31, United States Code.

**(6) APPOINTMENT BY THE COMPTROLLER OF THE CURRENCY**

**(A) CONSERVATOR**

The Corporation may, at the discretion of the Comptroller of the Currency, be appointed conservator and the Corporation may accept any such appointment.

**(B) RECEIVER**

The Corporation may, at the discretion of the Comptroller of the Currency, be appointed receiver and the Corporation may accept any such appointment.

**(7) JUDICIAL REVIEW**

If the Corporation is appointed (including the appointment of the Corporation as receiver by the Board of Directors) as conservator or receiver of a depository institution under paragraph (4), (9), or (10), the depository institution may, not later than 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such depository institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to be removed as the conservator or receiver (regardless of how such appointment was made), and the court shall, upon the merits, dismiss such action or direct the Corporation to be removed as the conservator or receiver.

**(8) REPLACEMENT OF CONSERVATOR OF STATE DEPOSITORY INSTITUTION****(A) IN GENERAL**

In the case of any insured State depository institution for which the Corporation appointed itself as conservator pursuant to paragraph (4), the Corporation may, without any requirement of notice, hearing, or other action, replace itself as conservator with itself as receiver of such institution.

**(B) REPLACEMENT TREATED AS REMOVAL OF INCUMBENT**

The replacement of a conservator with a receiver under subparagraph (A) shall be treated as the removal of the Corporation as conservator.

**(C) RIGHT OF REVIEW OF ORIGINAL APPOINTMENT NOT AFFECTED**

The replacement of a conservator with a receiver under subparagraph (A) shall not affect any right of the insured State depository institution to obtain review, pursuant to paragraph (7), of the original appointment of the conservator.

**(9) APPROPRIATE FEDERAL BANKING AGENCY MAY APPOINT CORPORATION AS CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTION TO CARRY OUT SECTION 38****(A) IN GENERAL**

The appropriate Federal banking agency may appoint the Corporation as sole receiver (or, subject to paragraph (11), sole conservator) of any insured State depository institution, after consultation with the appropriate State supervisor, if the appropriate Federal banking agency determines that--

(i) 1 or more of the grounds specified in subparagraphs (K) and (L) of paragraph (5) exist with respect to that institution; and

(ii) the appointment is necessary to carry out the purpose of section 38.

**(B) NONDELEGATION**

The appropriate Federal banking agency shall not delegate any action under subparagraph (A).

**(10) CORPORATION MAY APPOINT ITSELF AS CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTION TO PREVENT LOSS TO DEPOSIT INSURANCE FUND**

The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State supervisor (if any), if the Board of Directors determines that--

(A) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

(B) the appointment is necessary to reduce--

(i) the risk that the deposit insurance fund would incur a loss with respect to the insured depository institution, or

(ii) any loss that the deposit insurance fund is expected to incur with respect to that institution.

**(11) APPROPRIATE FEDERAL BANKING AGENCY SHALL NOT APPOINT CONSERVATOR UNDER CERTAIN PROVISIONS WITHOUT GIVING CORPORATION OPPORTUNITY TO APPOINT RECEIVER**

The appropriate Federal banking agency shall not appoint a conservator for an insured depository institution under subparagraph (K) or (L) of paragraph (5) without the Corporation's consent unless the agency has given the Corporation 48 hours notice of the agency's intention to appoint the conservator and the grounds for the appointment.

**(12) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER**

The members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to--

(A) the appointment of the Corporation as conservator or receiver for that institution; or

(B) an acquisition or combination under section 38(f)(2)(A)(iii).

**(13) ADDITIONAL POWERS**

In any case in which the Corporation is appointed conservator or receiver under paragraph (4), (6), (9), or (10) for any insured State depository institution--

(A) this section shall apply to the Corporation as conservator or receiver in the same manner and to the same extent as if that institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver; and

(B) the Corporation as receiver of the institution may--

(i) liquidate the institution in an orderly manner; and

(ii) make any other disposition of any matter concerning the institution, as the Corporation determines is in the best interests of the institution, the depositors of the institution, and the Corporation.

*[Codified to 12 U.S.C. 1821(c)]*

*[Source: Section 2[11(c)] of the Act of September 21, 1950 (Pub. L. No. 797; 64 Stat. 884), effective September 21, 1950, as amended by section 6(c)(17) of the Act of September 17, 1978 (Pub. L. No. 95--369; 92 Stat. 619), effective September 17, 1978; section 113(j) of title I of the Act of October 15, 1982 (Pub. L. No. 97--320; 96 Stat. 1474), effective October 15, 1982; sections 201(b) and 212(a) of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 188 and 222), effective August 9, 1989; section 102 of title I of the Act of December 12, 1991 (Pub. L. No. 102--233; 105 Stat. 1761), effective December 12, 1991; sections 133(a) and (e) of title I of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2270 and 2272, respectively), effective December 19, 1992; sections 1501(a) and 1611(b) of title XV and XVI, respectively, of the Act of October 28, 1992 (Pub. L. No. 102--550; 106 Stat. 4044, 4090), effective December 20, 1992; section 3001(b) of title III of the Act of August 10, 1993 (Pub. L. No. 103--66; 107 Stat. 336), effective August 10, 1993; sections 27(b)(1)--(3) of the Act of December 17, 1993 (Pub. L. No. 103--204; 107 Stat. 2410), effective December 17, 1993; section 411(c)(2)(A) of title IV of the Act of September 23, 1994 (Pub. L. No. 103--325; 108 Stat. 2253), effective September 23, 1994; sections 8(a)(4)(A)--(C) of the Act of October 30, 2004 (Pub. L. No. 108-386; 118 Stat. 2231), effective October 30, 2004; section 701(b) of title VII of the Act of October 13, 2006 (Pub. L. No. 109--351; 120 Stat. 1985), effective October 13, 2006, and shall apply with respect to conservators or receivers appointed on or after the day of enactment; section 363(5)(A) of title III of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 1552), effective July 21, 2010]*

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