(b) Procedures

Notwithstanding any other provision of Federal or State law, upon the determination of both the Corporation (upon a vote of not fewer than ⅔ of the members of the Corporation then serving) and the Board of Governors (upon a vote of not fewer than ⅔ of the members of the Board of Governors then serving) under subsection (a) that a liquidity event exists that warrants use of the guarantee program authorized under section 5612 of this title, and with the written consent of the Secretary—

(1) the Corporation shall take action in accordance with section 5612(a) of this title; and

(2) the Secretary (in consultation with the President) shall take action in accordance with section 5612(c) of this title.

(c) Documentation and review

(1) Documentation

The Secretary shall—

(A) maintain the written documentation of each determination of the Corporation and the Board of Governors under this section; and

(B) provide the documentation for review under paragraph (2).

(2) GAO review

The Comptroller General of the United States shall review and report to Congress on any determination of the Corporation and the Board of Governors under subsection (a), including—

(A) the basis for the determination; and

(B) the likely effect of the actions taken.

(d) Report to Congress

On the earlier of the date of a submission made to Congress under section 5612(c) of this title, or within 30 days of the date of a determination under subsection (a), the Secretary shall provide written notice of the determination of the Corporation and the Board of Governors to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, including a description of the basis for the determination.

(Pub. L. 111–203, title XI, § 1104, July 21, 2010, 124 Stat. 2120.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Subchapter effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

§ 5612. Emergency financial stabilization

(a) In general

Upon the written determination of the Corporation and the Board of Governors under section 5611 of this title, the Corporation shall create a widely available program to guarantee obligations of solvent insured depository institutions or solvent depository institution holding companies (including any affiliates thereof) during times of severe economic distress, except that a guarantee of obligations under this section may not include the provision of equity in any form.

(b) Rulemaking and terms and conditions

(1) Policies and procedures

As soon as is practicable after July 21, 2010, the Corporation shall establish, by regulation, and in consultation with the Secretary, policies and procedures governing the issuance of guarantees authorized by this section. Such policies and procedures may include a requirement of collateral as a condition of any such guarantee.

(2) Terms and conditions

The terms and conditions of any guarantee program shall be established by the Corporation, with the concurrence of the Secretary.

(c) Determination of guaranteed amount

(1) In general

In connection with any program established pursuant to subsection (a) and subject to paragraph (2) of this subsection, the Secretary (in consultation with the President) shall determine the maximum amount of debt outstanding that the Corporation may guarantee under this section, and the President may transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to that maximum amount and a request for approval of such plan. The Corporation shall exercise the authority under this section to issue guarantees up to that specified maximum amount upon passage of the joint resolution of approval, as provided in subsection (d). Absent such approval, the Corporation shall issue no such guarantees.

(2) Additional debt guarantee authority

If the Secretary (in consultation with the President) determines, after a submission to Congress under paragraph (1), that the maximum guarantee amount should be raised, and the Council concurs with that determination, the President may transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to the increased maximum debt guarantee amount. The Corporation shall exercise the authority under this section to issue guarantees up to that specified maximum amount upon passage of the joint resolution of approval, as provided in subsection (d). Absent such approval, the Corporation shall issue no such guarantees.

(d) Resolution of approval

(1) Additional debt guarantee authority

A request by the President under this section shall be considered granted by Congress upon adoption of a joint resolution approving such request. Such joint resolution shall be considered in the Senate under expedited procedures.

(2) Fast track consideration in Senate

(A) Reconvening

Upon receipt of a request under subsection (c), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the

Members of the Senate that, pursuant to this section, the Senate shall convene not later than the second calendar day after receipt of such message.

(B) Placement on calendar

Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

(C) Floor consideration

(i) In general

Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a request under subsection (c), and ending on the 7th day after that date (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

(ii) Debate

Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(iii) Vote on passage

The vote on passage shall occur immediately following the conclusion of the debate on the joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

(iv) Rulings of the Chair on procedure

Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(3) Rules

(A) Coordination with action by House of Representatives

If, before the passage by the Senate of a joint resolution of the Senate, the Senate receives a joint resolution, from the House of Representatives, then the following procedures shall apply:

(i) The joint resolution of the House of Representatives shall not be referred to a committee.

(ii) With respect to a joint resolution of the Senate—

(I) the procedure in the Senate shall be the same as if no joint resolution had been received from the other House; but

(II) the vote on passage shall be on the joint resolution of the House of Representatives.

(B) Treatment of joint resolution of House of Representatives

If the Senate fails to introduce or consider a joint resolution under this section, the joint resolution of the House of Representatives shall be entitled to expedited floor procedures under this subsection.

(C) Treatment of companion measures

If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(D) Rules of the Senate

This subsection is enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a joint resolution, and it supersedes other rules, only to the extent that it is inconsistent with such rules; and

(ii) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

(4) Definition

As used in this subsection, the term ''joint resolution'' means only a joint resolution—

(A) that is introduced not later than 3 calendar days after the date on which the request referred to in subsection (c) is received by Congress;

(B) that does not have a preamble;

(C) the title of which is as follows: ''Joint resolution relating to the approval of a plan to guarantee obligations under section 1105 of the Dodd-Frank Wall Street Reform and Consumer Protection Act''; and

(D) the matter after the resolving clause of which is as follows: ''That Congress approves the obligation of any amount described in section 1105(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.''.

(e) Funding

(1) Fees and other charges

The Corporation shall charge fees and other assessments to all participants in the program established pursuant to this section, in such amounts as are necessary to offset projected losses and administrative expenses, including amounts borrowed pursuant to paragraph (3), and such amounts shall be available to the Corporation.

(2) Excess funds

If, at the conclusion of the program established under this section, there are any excess

funds collected from the fees associated with such program, the funds shall be deposited in the General Fund of the Treasury.

(3) Authority of Corporation

The Corporation—

(A) may borrow funds from the Secretary of the Treasury and issue obligations of the Corporation to the Secretary for amounts borrowed, and the amounts borrowed shall be available to the Corporation for purposes of carrying out a program established pursuant to this section, including the payment of reasonable costs of administering the program, and the obligations issued shall be repaid in full with interest through fees and charges paid by participants in accordance with paragraphs (1) and (4), as applicable; and

(B) may not borrow funds from the Deposit Insurance Fund established pursuant to section 1821(a)(4) of this title.

(4) Backup special assessments

To the extent that the funds collected pursuant to paragraph (1) are insufficient to cover any losses or expenses, including amounts borrowed pursuant to paragraph (3), arising from a program established pursuant to this section, the Corporation shall impose a special assessment solely on participants in the program, in amounts necessary to address such insufficiency, and which shall be available to the Corporation to cover such losses or expenses.

(5) Authority of the Secretary

The Secretary may purchase any obligations issued under paragraph (3)(A). For such purpose, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter 31 are extended to include such purchases, and the amount of any securities issued under that chapter 31 for such purpose shall be treated in the same manner as securities issued under section 208(n)(5)(E).[1]

(f) Rule of construction

For purposes of this section, a guarantee of deposits held by insured depository institutions in noninterest-bearing transaction accounts may be treated as a debt guarantee program.

(g) Definitions

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

(1) Company

The term ''company'' means any entity other than a natural person that is incorporated or organized under Federal law or the laws of any State.

(2) Depository institution holding company

The term ''depository institution holding company'' has the same meaning as in section 1813 of this title.

(3) Liquidity event

The term ''liquidity event'' means—

(A) an exceptional and broad reduction in the general ability of financial market participants—

(i) to sell financial assets without an unusual and significant discount; or

(ii) to borrow using financial assets as collateral without an unusual and significant increase in margin; or

(B) an unusual and significant reduction in the ability of financial market participants to obtain unsecured credit.

(4) Solvent

The term ''solvent'' means that the value of the assets of an entity exceed its obligations to creditors.

(h) Approval of guarantee program during the COVID–19 crisis

(1) In general

For purposes of the congressional joint resolution of approval provided for in subsections (c)(1) and (2) and (d), notwithstanding any other provision of this section, the Federal Deposit Insurance Corporation is approved upon enactment of this Act to establish a program provided for in subsection (a), provided that any such program and any such guarantee shall terminate not later than December 31, 2020.

(2) Maximum amount

Any debt guarantee program authorized by this subsection shall include a maximum amount of outstanding debt that is guaranteed.

(Pub. L. 111–203, title XI, § 1105, July 21, 2010, 124 Stat. 2121; Pub. L. 116–136, div. A, title IV, § 4008(a), Mar. 27, 2020, 134 Stat. 477.)

Editorial Notes

REFERENCES IN TEXT

Section 1105 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, referred to in subsec. (d)(4)(C), (D), is section 1105 of Pub. L. 111–203, which is classified to this section.

Section 208(n)(5)(E), referred to in subsec. (e)(5), probably means section 210(n)(5)(E) of Pub. L. 111–203, which is classified to section 5390(n)(5)(E) of this title, because section 208 does not contain a subsec. (n) and section 210(n)(5)(E) relates to treatment of certain purchases and sales of obligations by the Secretary as public debt.

Enactment of this Act, referred to in subsec. (h)(1), probably means the date of enactment of subtitle A of title IV of div. A of Pub. L. 116–136, known as the Coronavirus Economic Stabilization Act of 2020, which was approved Mar. 27, 2020. For complete classification of this Act to the Code, see section 4001 of div. A of title IV of Pub. L. 116–136, set out as a Short Title note under section 9001 of this title, and Tables.

AMENDMENTS

2020—Subsec. (f). Pub. L. 116–136, § 4008(a)(1), inserted ''in noninterest-bearing transaction accounts'' after ''institutions'' and substituted ''may'' for ''shall not''.

Subsec. (h). Pub. L. 116–136, § 4008(a)(2), added subsec. (h).

§ 5613. Additional related matters

(a) Suspension of parallel Federal Deposit Insurance Act authority

Effective upon July 21, 2010, the Corporation may not exercise its authority under section

[1] See References in Text note below.