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CIRCULAR No. 15

OF THE

RECONSTRUCTION
FINANCE CORPORATION

INFORMATION REGARDING LOANS TO INDUSTRY
IN CONJUNCTION WITH BANKS AND OTHER
LENDING INSTITUTIONS



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INFORMATION REGARDING LOANS TO INDUSTRY IN CONJUNCTION WITH BANKS AND OTHER LENDING INSTITUTIONS

Reconstruction Finance Corporation Circular No. 13 contains information regarding loans to industry to be made by this Corporation. The general provisions and requirements with respect to such loans are set forth in such Circular. Attention is called to paragraph 10 of such Circular, which outlines briefly the subject matter of this Circular.

In addition to its power to make loans directly and independently to industrial borrowers, this Corporation is authorized to purchase, or to execute agreements to purchase, participations in such loans to be made by banks or other lending institutions, and to make such loans directly to industrial borrowers in cooperation with banks or other lending institutions (hereinafter collectively referred to as "banks"). The sale of any participation to this Corporation will be without liability on the part of the bank, as endorser or guarantor.

It is believed that this Corporation can be helpful to industrial borrowers and to banks by purchasing, or agreeing to purchase, participations in loans to be made by banks. This plan permits banks to continue their normal relations with their customers and gives assurance that their customers will secure adequate credit. Furthermore, it permits the banks to extend credit to industrial borrowers without unduly impairing their liquid position.

I. Purchase of, and Agreements to Purchase, Participations in Loans to Industry

Such purchases, and agreements to purchase, will be made by the Corporation in conjunction with one or more banks. The amount of the Corporation's participation in any loan shall be such percentage of the principal amount thereof as shall be acceptable to the Corporation, but not over \$500,000 in any case.

The Corporation will not purchase, or agree to purchase, participations in loans already made by banks. Furthermore it must appear, in the case of every loan in which this Corporation participates, that the industrial borrower is an eligible borrower (as defined in Section 5d of the Reconstruction Finance Corporation Act, as amended, and as such section is interpreted from time to time by the Corporation), that such borrower is unable to obtain through banks the entire loan at prevailing bank rates for the character of the loan, and that the character, purposes and terms of the loan comply with said Section 5d and with the Corporation's policies regarding such loans.

A. Applications.—Application forms, including notes, to be used by industrial borrowers in applying for such loans from banks will be supplied by this Corporation through its Loan Agencies and must be used in order to

qualify a loan for purchase of a participation therein by this Corporation. The Corporation will also supply through such Agencies application forms to be used by the banks, requesting this Corporation to purchase, or to make agreements to purchase, participations in such loans. The same forms will be used whether the applicant bank requests the Corporation immediately to purchase, or to make an agreement to purchase, such a participation.

B. Purchases of Participations.—If the applicant bank so requests in its application, the Corporation, if it approves such application, will pay for its participation simultaneously with the closing of the loan to the industrial borrower or immediately thereafter.

C. Agreements to Purchase.—In lieu of paying for its participation at the time of the closing of the loan to the borrower, the Corporation, if it approves such application, will, at the request of the applicant bank, make an agreement, subject to conditions to be agreed upon, to pay for such participation at the request of such bank at any time (not later than the maturity date of the borrower's note) during a specified period, generally not in excess of 2 years from the date of the borrower's note, which shall be dated not later than 60 days after the approval of such application by the Corporation. Where a need for credit for terms longer than 2 years is shown, the Corporation will consider applications for agreements to purchase participations up to 5 years from the date of the borrower's note. The bank shall have a right to call upon the Corporation to take up its participation in the loan at any time within the period fixed in the agreement with the Corporation, upon giving 10 days' written notice to the Corporation, provided the bank has carried out its obligations under such agreement. The Corporation shall have the right to purchase its participation from the bank without the request of the bank whenever, during the period fixed in such agreement, it deems such action desirable in its own interests, and will have the right to purchase the entire note (or the bank's portion thereof if the Corporation shall previously have paid for its participation therein) if it deems such action necessary to protect its interests. If the principal amount of the note has been reduced by payments or otherwise during the period of the commitment, the Corporation's participation shall be the percentage, fixed in the agreement, of the unpaid balance of the note at the time of purchase by the Corporation.

D. Rates of Interest.—Interest rates to be paid by the borrower on loans in which the Corporation will purchase, or agree to purchase, a participation, shall be the prevailing bank rates, but in no case in excess of 6 percent per annum. If the Corporation acquires a participation in a note at the time the loan is made, or later in pursuance of an agreement to purchase, it will be entitled to all the interest payable by the borrower with respect to its share of such note from the date of such purchase.

E. Charges for Participation Agreements.—Until further notice, the Corporation will make a charge, for agreements to purchase participations for a period up to 1 year, of one-half of 1 percent of the Corporation's agreed participation for each 3 months' period or fraction thereof covered by the Corporation's

agreement. Such charge shall be payable in installments, the portion payable with respect to each 3 months' period to be payable at the commencement of each such period, but if the Corporation purchases its participation prior to the payment of the entire charge, the unpaid installments payable for the entire period of the agreement shall become payable at such time and shall be deducted by the Corporation from the purchase price for such participation. If such purchase is made without the request of the bank, in accordance with the provisions of paragraph C hereof, such charge, instead of being at a fixed rate as aforesaid, shall be an amount equal to 2 percent per annum of the face amount of said participation, computed from the date of the borrower's note to the date of such purchase, but in no event less than 1 percent of such face amount of said participation, and the Corporation upon such purchase shall refund to the bank any payments in excess of such charge which it may have received from the bank prior to such purchase. If the agreement to purchase a participation shall be for a period in excess of 1 year and up to 2 years, the charge for the entire period in excess of 1 year shall, until further notice, be 1 percent of the Corporation's agreed participation, such charge of 1 percent to be payable at the end of the first year; but the bank shall have the right, at any time prior to the end of such first year, to cancel the agreement for the period beyond 1 year, and in such event there shall be no charge for such period beyond 1 year. A reduction of 50 percent shall be made with respect to all such charges in cases where the bank or banks retain for its or their own account as much as 50 percent of the principal amount of the note. Charges for agreements to purchase participations for periods longer than 2 years will be determined upon negotiation of the particular loan and prior to the time authorized by the Corporation.

Upon the purchase of its participation in a note, whether at the request of the bank or through the exercise of its right to purchase referred to in paragraph C hereof, the Corporation will pay to the bank a sum equal to the amount of its participation plus accrued interest on such participation, at the rate fixed in the note, computed from the date of the loan or of the last preceding interest payment, whichever date is later, until the date of such purchase. If the Corporation purchases the entire note, in accordance with the provisions of paragraph C hereof, it will pay to the bank a sum equal to the unpaid principal amount of the note plus accrued interest thereon, as above provided.

F. Disposition of Collateral—In cases where the Corporation has agreed to purchase a participation but has not actually purchased such participation, the bank will be permitted, subject to the provisions hereof, to hold the note and collateral of the borrower and to deal with them in the customary manner, except that it may not, without the prior written consent of the Corporation, change any terms of the loan, or change or release any collateral except upon full payment of the loan, or incur any substantial items of expense with respect to the loan.

Upon the closing of the sale of a participation to the Corporation, either at the time of the making of the loan or at any time thereafter, the note of the

borrower and the collateral therefor must be deposited, against such payment, with the Federal Reserve Bank for the bank's district, to be held by the Federal Reserve Bank as custodian for this Corporation. This Corporation will be authorized to receive payments upon the note and collateral and to discharge the borrower to the extent of such payments. Promptly upon the receipt of such proceeds, this Corporation will remit to the bank its pro rata share thereof, after making any necessary adjustments for amounts due between this Corporation and the bank. While the note is held by the Federal Reserve Bank as such custodian, this Corporation reserves the right, in its own name, to bring suit upon the note or to bring foreclosure proceedings with respect to all or any part of the collateral, but shall not, without the prior written consent of the bank, change any terms of the note, or change or release any collateral except upon full payment of the loan. However, at the option of the Corporation, the bank may, subsequently to the purchase by the Corporation of its participation in the note, hold such note and the collateral therefor as trustee for the Corporation and itself, under terms to be agreed upon.

If the Corporation deems it necessary properly to protect its interests, it may, prior to or after the purchase of its participation, require the bank to deliver the note and the collateral therefor to said Federal Reserve Bank, to be held by it as custodian for this Corporation, under the same terms and conditions as aforesaid, this Corporation agreeing promptly to remit to the bank its share of the proceeds of all payments, less any amounts that may be due the Corporation.

G. *Expenses.*—The bank may not charge any bonus, fee, or commission in connection with making the loan, and, except with the prior consent of this Corporation, may not charge the borrower for any expenses incurred in the making of the loan. The bank may not make any charge for servicing the borrower's note or the collateral therefor. Expenses in connection with the collection of the note will be shared pro rata by this Corporation and the bank, to the extent that such expenses are not recoverable from the borrower under the terms of its note. Special items of collection expense, such as fees for attorneys, shall not be incurred by the bank without the prior consent of this Corporation.

II. DIRECT LOANS TO INDUSTRY IN COOPERATION WITH BANKS

The Corporation will also enter into agreements with one or more banks whereby the Corporation will make a loan, of the character described in Circular No. 13, directly to an eligible industrial borrower in consideration of the making of a loan or loans to the same borrower at the same time by a bank or banks. Both the Corporation and the bank will use their own application forms and notes, respectively, the borrower executing a note payable to each lender for the amount advanced by such lender. The application forms to be used in applying for such loans from this Corporation will be its forms for applying for direct loans, which are available at the local Loan Agencies of the Corporation.

III. ACTS OF CONGRESS APPLICABLE TO LOANS OF THE CHARACTER HEREIN DESCRIBED

The following sections of the Reconstruction Finance Corporation Act, as amended, applicable to such loans, are quoted for the information of prospective applicant banks and borrowers from such banks:

SEC. 5d. For the purpose of maintaining and increasing the employment of labor, when credit at prevailing bank rates for the character of loans applied for is not otherwise available at banks, the Corporation is authorized and empowered to make loans to any industrial or commercial business which shall include the fishing industry, established prior to January 1, 1934. Such loans shall in the opinion of the board of directors of the Corporation be adequately secured, may be made directly, or in cooperation with banks or other lending institutions, or by the purchase of participations, shall have maturities not to exceed 5 years, shall be made only when deemed to offer reasonable assurance of continued or increased employment of labor, shall be made only when, in the opinion of the board of directors of the Corporation, the borrower is solvent, shall not exceed \$300,000,000 in aggregate amount at any one time outstanding, and shall be subject to such terms, conditions, and restrictions as the board of directors of the Corporation may determine. The aggregate amount of loans to any one borrower under this section shall not exceed \$500,000.

The power to make loans given herein shall terminate on January 31, 1935, or on such earlier date as the President shall by proclamation fix; but no provision of law terminating any of the functions of the Corporation shall be construed to prohibit disbursement of funds on loans and commitments, or agreements to make loans, made under this section prior to January 31, 1935, or such earlier date.

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SEC. 16. (a) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the corporation, or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

(b) Whoever (1) falsely makes, forges, or counterfeits any note, debenture, bond, or other obligation, or coupon, in imitation of or purporting to be a note, debenture, bond, or other obligation, or coupon issued by the corporation, or (2) passes, utters or publishes, or attempts to pass, utter or publish, any false, forged or counterfeited note, debenture, bond, or other obligation, or coupon, purporting to have been issued by the corporation, knowing the same to be false, forged or counterfeited, or (3) falsely alters any note, debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the corporation, or (4) passes, utters or publishes, or attempts to pass, utter or publish, as true any falsely altered or spurious note, debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the corporation, knowing the same to be falsely altered or spurious, or any person who willfully violates any other provision of this Act, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

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(e) The provisions of sections 112, 113, 114, 115, 116, and 117 of the Criminal Code of the United States (U.S.C., title 18, ch. 5, secs. 202 to 207, inclusive) insofar as applicable, are extended to apply to contracts or agreements with the corporation under this Act which for the purposes hereof shall be held to include loans, advances, discounts, and rediscounts; extensions and renewals thereof; and acceptances, releases, and substitutions of security therefor.