

Introduction

The Federal Reserve Bank of New York accepts from qualifying institutions pledges of consumer loans to secure their borrowings from the discount window, subject to certain terms and conditions. This document outlines the requirements of this collateral program (also referred to as a “Borrower-in-Custody” or “BIC” program).

This BIC program provides qualifying institutions with the ability to increase the amount of collateral pledged for discount window purposes while avoiding the costs of physically delivering notes (if any), loan agreements and other documentation in respect of the pledged consumer loans to the Federal Reserve Bank of New York.

The integral foundation of the BIC program is the ability of the Federal Reserve Bank of New York to take possession of the notes (if any), loan agreements and other documentation in respect of the pledged consumer loans in the event that circumstances warrant such action. Therefore, the Federal Reserve Bank of New York needs to be fully informed of the location, security and completeness of all such documentation.

Institutional Eligibility

Eligibility for this BIC program is based on the Federal Reserve Bank of New York’s comfort level with an institution’s overall financial condition, loan administration controls, documentation practices, asset quality, and ability to meet all of the requirements of this program. To qualify for this BIC program an institution must be in sound financial condition in the judgment of both its primary regulator and the Federal Reserve Bank of New York. Generally, institutions rated CAMELS 4 or 5 will be excluded; other institutions will be accepted on a case-by-case basis. In addition, institutions must be adequately capitalized as defined in the Federal Deposit Insurance Corporation Improvement Act (FDICIA). Before accepting pledges of consumer loans from an institution, the Federal Reserve Bank of New York will require that the institution complete a BIC pre-qualification form. At its discretion the Federal Reserve Bank of New York may also require an inspection of the collateral site before accepting an institution into this program.

Legal Documentation Requirements

To be able to pledge collateral under this BIC program, an institution must have on file with the Federal Reserve Bank of New York a current Letter of Agreement (Exhibit 1 of Operating Circular 10), Authorizing Resolutions for Borrowers (Exhibit 2 to Operating Circular 10), Borrower-in-Custody of Collateral Agreement (Appendix B to Operating Circular 10), authorized borrower's letter, and signature card for pledging assets and all other documentation required by Operating Circular 10 (<http://www.frbdiscountwindow.org/oc10.pdf>). It is normal policy of the Federal Reserve Bank of New York to file UCC-1 financing statements with respect to pledged collateral.

Collateral

Eligible Collateral

A consumer loan is eligible to be pledged under this collateral program if it (i) is current in terms of principal and interest and (ii) is not subject to any adverse interest, claim, or legal action. The types of consumer loans that may be pledged include revolving loans, demand loans, installment loans, secured loans and unsecured loans and leases.

Ineligible Collateral

The following types of loans are not eligible collateral under this collateral program:

- Loans made to insiders, including loans to directors, officers or principal shareholders;
- Loans already pledged to another institution;
- Loans that are more than 60 days past due, on non-accrual status, or adversely classified by a bank regulator;

- Loans that have clauses with assignability or transferability restrictions; and
- Loans that have either been paid-off or matured.

Collateral Valuation

Prior to assigning value to the collateral pledged, a pre-qualification form must be completed by the institution and approved by Federal Reserve Bank of New York staff. Generally, the Federal Reserve Bank of New York will assign a collateral value to the pledged consumer loans consistent with the collateral margin specifications detailed in the Federal Reserve Bank Discount and Collateral Margins Table, which currently provides for the assignment of a collateral value of 80% of the principal balance of pledged consumer loans. The Federal Reserve Bank of New York's determination of collateral value will also be based on several other factors, including the timeliness of the collateral schedule submission and the outcome of on-site inspections.

Loan Documentation Requirements

Consumer loans will be eligible under this collateral program only if an institution demonstrates to the satisfaction of the Federal Reserve Bank of New York the existence of appropriate consumer loan documentation and of policies and procedures designed to ensure that such documentation is accessible and available for inspection by the Federal Reserve Bank of New York. Generally, appropriate consumer loan documentation will consist of original loan documents, including the original promissory note, if any. The Federal Reserve Bank of New York will evaluate a proposed consumer loan BIC in light of, among other things, the particular type of consumer loans to be pledged and industry practice with respect to such loans, to determine what constitutes appropriate loan documentation and satisfactory policies and procedures for that particular consumer loan BIC.

Power of Attorney

The Federal Reserve Bank of New York may require an institution to deliver a notarized Power of Attorney appointing the Federal Reserve Bank of New York attorney-in-fact to sell and assign any pledged collateral.

Collateral Custody & Controls

Storing Collateral Documents

The Federal Reserve Bank of New York will typically impose strict document storage, identification and moving requirements on every BIC program. For instance, the Federal Reserve Bank of New York will usually require that (i) collateral documents be stored in a fire-resistant environment, be segregated from an institution's other assets and be identified as pledged to the Federal Reserve Bank of New York, and (ii) that collateral documents not be moved without prior approval by the Federal Reserve Bank of New York. In some circumstances the usual requirements may not be appropriate. In such cases, Federal Reserve Bank of New York staff may develop customized collateral custody and control requirements for an institution which may include the above-mentioned requirements, but which will also depend upon, among other things, the particular type of consumer loans to be pledged and industry practice with respect to such loans.

Collateral Reporting Requirements

On a monthly basis, or less frequently as deemed necessary by the Federal Reserve Bank of New York, an institution must submit a collateral schedule (hard copy or electronic form) of all consumer loans pledged to the Federal Reserve Bank of New York. An institution should also submit, simultaneously with the collateral schedule, a signed deposit application for the new outstanding principal balance of pledged consumer loans along with a signed withdrawal application for the previous outstanding principal balance of pledged consumer loans. Each collateral schedule must be initialed by an individual listed on the institution's signature card for pledging assets.

Each collateral schedule should include the institution's name and its ABA number, a statement that the consumer loans identified on the collateral schedule are pledged to the Federal Reserve Bank of New York, and the following information for each pledged consumer loan:

- Name and internal loan number of the obligor,
- Location of the obligor (city, state, zip),
- Original par amount,
- Current outstanding principal balance,
- Loan type (e.g. demand, revolver, term, etc.),
- Maturity date, and
- Current interest rate (with a notation as to whether the interest rate is fixed or variable); and

For total deposit

- Total par amount
- Total current outstanding principal balance
- Weighted average interest rate
- Weighted average maturity date

Collateral Monitoring by the Participating Institution

An institution must promptly notify the Federal Reserve Bank of New York if, at any time, the outstanding principal balance of the pledged consumer loans declines by 10 percent or more from the most recently reported aggregate outstanding principal balance. Depending on the circumstances, at any time the Federal Reserve Bank of New York may request that an institution pledge additional collateral.

Borrower-in-Custody of Collateral Certification

The Borrower in Custody of Collateral Certification ("Certification") attests to the controls and other procedures in place to safeguard the pledged consumer loans and related documentation. An institution must perform an initial and, thereafter, periodic Certification. All Certifications should be submitted to the Federal Reserve Bank of New York on a yearly basis or within the internal auditor cycle of between 12 and 18 months.

The completed Certification should be signed by (i) an internal or external auditor, or in the case where the institution does not have an internal audit department, an independent director, or officer of the bank, and (ii) by an individual listed on the institution's signature card to pledge assets or by an individual designated in the Borrowing Resolution on file with the Federal Reserve Bank of New York.

On-Site Inspections

Federal Reserve Bank of New York staff will perform periodic on-site inspections of the institution's facility and the Collateral Documents to ensure that they are secure and in proper order. The length of an inspection will depend on, among other things, the number of pledged consumer loans. During the inspection, Federal Reserve Bank of New York staff will review a sampling of currently pledged consumer loans and will request a tour of the facility where the pledged consumer loans are housed to ensure that they are properly safeguarded and that the pledge to the Federal Reserve Bank of New York is identified appropriately.

Following the on-site inspection, Federal Reserve Bank of New York staff will discuss their findings with the official(s) responsible for the maintenance of the pledged consumer loans and any related custodial services. This discussion will cover the results of the inspection, including any exceptions found and recommendations for improvement. Federal Reserve Bank of New York staff will also document their findings in a letter to the officer(s) responsible for the pledge of the consumer loans and their ongoing maintenance. The institution must promptly correct each exception found

during the inspection, or remove the consumer loan(s) subject to the exception from the collateral pledge, by submitting a new collateral schedule excluding all such consumer loans to the Federal Reserve Bank of New York.

Should the review uncover severe breaches of the collateral arrangement resulting in violation of the BIC Agreement, participation may be suspended or terminated at the discretion of the Federal Reserve Bank of New York.