

(e) AGREEMENTS AGAINST INTERESTS OF CORPORATION.--

(1) IN GENERAL.--No agreement which tends to diminish or defeat the interest of the Corporation in any asset acquired by it under this section or section 11, either as security for a loan or by purchase or as receiver of any insured depository institution, shall be valid against the Corporation unless such agreement--

(A) is in writing,

(B) was executed by the depository institution and any person claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the depository institution,

(C) was approved by the board of directors of the depository institution or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

(D) has been, continuously, from the time of its execution, an official record of the depository institution.

(2) Exemptions From Contemporaneous Execution Requirement.--An agreement to provide for the lawful collateralization of--

(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

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(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D), shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.

*[Codified to 12 U.S.C. 1823(e)]*

*[Source: Section 2[13(e)] of the Act of September 21, 1950 (Pub. L. No. 797; 64 Stat. 889), effective September 21, 1950, as amended by section 113(m) of title I of the Act of October 15, 1982 (Pub. L. No. 97--320; 96 Stat. 1474), effective October 15, 1982; section 217(4) of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 256), effective August 9, 1989; section 317 of title III of the Act of September 23, 1994 (Pub. L. No. 103--325; 108 Stat. 2223), effective September 23, 1994; section 909 of title IX of the Act of April 20, 2005 (Pub. L. No. 109--8; 119 Stat. 183), effective April 20, 2005]*