



The following FAQs were developed in consultation with U.S. Citizenship and Immigration Services (USCIS) in the U.S. Department of Homeland Security.

Q: What is the EAWA?

A: The Employ American Workers Act (EAWA) was enacted on February 17, 2009. The EAWA applies certain requirements described below to recipients of funding under the Troubled Asset Relief Program (TARP) or section 13 of the Federal Reserve Act related to hiring new employees who are in H-1B nonimmigrant status.

Q: What is the purpose of these FAQs?

A: These FAQs provide guidance on how the EAWA applies to recipients of funding under section 13 of the Federal Reserve Act. These FAQs do not address recipients of TARP funding. This guidance should be read in conjunction with guidance issued by USCIS.

Q: Who is a “recipient” of funding under section 13?

A: The recipient is the entity or person that enters into the borrowing arrangement with a Federal Reserve Bank. In situations where the relationship involves a tri-party agreement, the recipient is the entity or person that receives the funds and against whom the Federal Reserve Bank has recourse. If the recipient is a Special Purpose Vehicle (SPV), the EAWA applies to the SPV and to any entity that owns or controls 25% or more of the total equity of the SPV.

Q: Are indirect beneficiaries covered?

A: No, only direct recipients are covered. For example, if a bank holding company receives funds under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility (AMLF) and uses those funds to purchase asset-backed commercial paper from a money market mutual fund, neither the issuers nor sellers of the commercial paper are recipients.

Q: Is a company considered a recipient after it repays the section 13 funding it received?

A: No, a company that has repaid its obligation under section 13 is no longer subject to the EAWA by virtue of that loan.

Q: What programs of the Federal Reserve constitute funding under section 13 of the Federal Reserve Act and thus are subject to the EAWA?

A: EAWA applies to recipients of funding from the Federal Reserve under section 13 of the Federal Reserve Act. Lending and credit facilities are not covered to the extent they are authorized under other sections of the Federal Reserve Act. In general, Federal Reserve lending to depository institutions, such as discount window lending or lending under the Term Auction Facility (TAF), does not give rise to EAWA restrictions because those activities are authorized by other sections of the Federal Reserve Act. Similarly, because loans to depository institutions under the AMLF are authorized under section 10B of the Federal Reserve Act, depository institutions that receive funding under the AMLF are not subject to the EAWA restrictions. The loans to other recipients under the AMLF, however, are authorized under section 13(3) and therefore are subject to the EAWA.

Q: **How does the EAWA apply to direct credit facilities established under section 13 of the Federal Reserve Act?**

A: Direct facilities are generally established to fund an identified entity or entities. The EAWA applies only to the entity (or entities) that is (are) receiving funds under the facility.

Q: **How does the EAWA apply in practice to the Federal Reserve’s other credit facilities?**

A: The EAWA applies to the various credit facilities operated by the Federal Reserve as follows:

Facility	Who is the recipient under the EAWA?
AMLF	The borrower, other than a depository institution, is a recipient. The borrower purchases asset-backed commercial paper from a money market mutual fund. Neither the issuer of the asset-backed commercial paper nor the money market mutual fund is a recipient.
CPFF ¹	The SPV is the recipient. The SPV purchases commercial paper from issuers through a primary dealer. Neither the issuer of the commercial paper nor the primary dealer is a recipient.
MMIFF ²	The SPV is the recipient. The SPV purchases money market instruments from an eligible investor. An eligible investor is not a recipient.
PDCF ³	The primary dealer is the recipient. The clearing bank is not a recipient because it only facilitates the transaction as agent to the parties.

¹ Commercial Paper Funding Facility.

² Money Market Investor Funding Facility. This facility is not currently funded.

³ Primary Dealer Credit Facility.

TALF ⁴	The borrower is the recipient. The primary dealer is not a recipient because it only facilitates the transaction as agent to the parties.
TSLF ⁵	The primary dealer is the recipient. (Schedule 2 transactions only).

⁴ Term Asset-Backed Securities Loan Facility.

⁵ Term Securities Lending Facility. Transactions for which only schedule 1 collateral is eligible are authorized pursuant to section 14 of the Federal Reserve Act and, therefore, the EAWA does not apply to these transactions.