



Fed Ordered to Release Documents, Fights back

A federal court ordered the secretive Federal Reserve (Fed) to hand over documents about its “emergency” lending programs Monday under a Freedom of Information Act (FOIA) suit filed by Bloomberg LP. But the Fed’s board of governors is resisting.



The private and powerful institution has so far refused to disclose details about which firms received money (and how much) adding up to trillions of dollars under its bailout program, or even what was used as collateral for those loans. Numerous law suits seeking the information have been struck down. But Manhattan Chief U.S. District Judge Loretta Preska didn’t buy the central bankers’ arguments and gave them five days to hand over the documents in question. The bankers were also ordered to search for more records at the Federal Reserve Bank of New York (FRBNY).

The Board of Governors argued during the case that it was not required to disclose the information and that it would harm participants in the program. Bloomberg argued that since U.S. taxpayers were “involuntary investors,” the public has a right to know.

A supplemental brief filed in court by the Board of Governors argued that the New York Fed is not subject to FOIA requests because it is not an agency of the government. “The FRBNY is not an establishment of the executive branch because it is a corporation whose stock is privately held,” explained the brief, also noting that it “is overseen by a board of directors the majority of whom are privately appointed” and that “none of the stock of the FRBNY is government-owned.” The Fed also tried to claim that disclosure could lead to a run on the banks and that the “trade secrets” were protected.

But Bloomberg disagreed and pursued the case. “When an unprecedented amount of taxpayer dollars were lent to financial institutions in unprecedented ways and the Federal Reserve refused to make public any of the details of its extraordinary lending, Bloomberg News asked the court why U.S. citizens don’t have the right to know,” said Mathew Winkler, editor-in-chief of Bloomberg News. “We’re gratified the court is defending the public’s right to know what is being done in the public interest.”

The Fed “essentially speculates on how a borrower might enter a downward spiral of financial instability if its participation in the Federal Reserve lending programs were to be disclosed,” the judge wrote. “Conjecture, without evidence of imminent harm, simply fails to meet the Board’s burden” of proof. Judge Preska also said that the bank had “improperly withheld” records by failing to conduct an adequate search, Bloomberg reported.

Several congressman hailed the decision. “The Federal Reserve has to be accountable for the decisions that it makes,” said Florida Representative Alan Grayson, a member of the House Financial Services Committee. “It’s one thing to say that the Federal Reserve is an independent institution. It’s another thing to say that it can keep us all in the dark.”

Scott Garrett, another member of the committee, said the judge’s ruling was “strikingly good news” and that “this is what the American people have been asking for.”



Written by [Alex Newman](#) on August 27, 2009

But the Fed is already fighting back. The Board of Governors has asked the judge to delay the release of the records until the U.S. Court of Appeals in New York can deal with an appeal the Fed plans to file. According to Bloomberg, an industry-owned group called The Clearing House Association filed an accompanying declaration that read in part: “There are numerous examples of financially sound institutions collapsing or suffering further financial deterioration from the loss of public confidence.”

No matter what happens with the request to stay the judge’s decision, this court case represents a small victory. If the case is lost on appeal, at least more citizens became aware of the ongoing battle between Americans and the Fed. But even if Bloomberg is successful, this case will only open up the specific documents and records dealing with only one aspect of the Fed’s many operations.

Representative Ron Paul’s legislation to have the Government Accountability Office thoroughly audit the Fed has gained broad bipartisan support, with 282 co-sponsors so far. It could come to a vote soon, which would bring much-needed transparency to an institution that has been shrouded in secrecy since its inception.

A recent Rasmussen survey found that 75 percent of Americans support an audit of the Fed while only nine percent are opposed. So this ruling is good news for the great majority of Americans. But a thorough audit is what is truly needed — to start with. The unconstitutional central bank should eventually be dismantled, and the authority to coin money and regulate the value thereof should be returned to Congress, as the Constitution prescribes.



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