

Frequently Asked Questions: ABA Lawsuit Over Federal Reserve Dividend Cut

In response to the Fixing America's Surface Transportation Act ("FAST Act"), ABA and Washington Federal, headquartered in Seattle, filed suit in the U.S. Court of Federal Claims in Washington, D.C., against the United States for reducing the annual dividend paid to banks that are members of the Federal Reserve System. Below are answers to some key questions about this litigation, which was filed on Feb. 9, 2017.

What is the annual dividend?

Since 1913, the Federal Reserve has paid a 6 percent annual dividend to banks that purchase stock in the regional Federal Reserve Banks. The 6 percent dividend rate was codified in the Federal Reserve Act of 1913 and is memorialized in contracts between the Federal Reserve Banks and their member bank stockholders.

What is the FAST Act?

On December 1, 2015, Congress passed the FAST Act to appropriate funds for highways and other national transportation programs. To help pay for these programs, Congress reduced the dividend payment rate for banks with over \$10 billion in assets by pegging the rate to the yield of the 10-year Treasury note or 6 percent, whichever is less. Beginning January 2016, the Federal Reserve Banks paid dividends to banks with over \$10 billion in assets at a rate of approximately 2 percent instead of 6 percent.

Why did ABA file the lawsuit?

ABA vigorously opposed the FAST Act while it was being considered in Congress. ABA also submitted comments to the Board of Governors opposing the implementation of the FAST Act. Following its implementation, ABA decided it was necessary to pursue litigation to protect its members' economic and legal rights. ABA filed the suit on behalf of Fed member banks that received reduced dividend payments in 2016 and will continue to if this is not discontinued. Washington Federal filed suit on its own behalf and on behalf of banks that received the reduced dividend payments in 2016.

What are the legal claims?

ABA and Washington Federal are bringing claims against the United States for breach of contract, breach of the implied covenant of good faith and fair dealing, and taking of private property without just compensation in violation of the Fifth Amendment to the U.S. Constitution.

What relief is ABA seeking?

ABA is seeking money damages for Fed member banks resulting from the reduction of the dividend payment rate and other appropriate relief.

Why did ABA file in the Court of Federal Claims?

The Court of Federal Claims has jurisdiction over claims against the United States for damages and compensation for takings.

How will damages be awarded to Fed member banks?

The court will decide how to allocate damages once liability is established.

What's at stake?

In 2016, banks lost \$1.1 billion to this taking, an amount estimated to balloon to \$17 billion over 10 years.