

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

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50	1.25
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Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Open End Credit; Credit Cards; Issuance and Liability

Correction

In F.R. Doc. 72-19669 appearing at page 24337 of the issue for Tuesday, November 16, 1972, in footnote 5a to § 226.5(a)(3)(ii), in the third line under "1. Previous balance—none" add the word "charge" following the word "transaction".

PART 250—MISCELLANEOUS INTERPRETATIONS

Dividends of State Member Banks

Part 250 of Title 12 CFR is amended by adding the following new section:

§ 250.104 Dividends of State member banks—Meaning of "net profits."

(a) Section 5199(b) of the Revised Statutes of the United States (12 U.S.C. 60), as made applicable to State member banks by the 6th paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324), provides that:

The approval of (the Board of Governors) shall be required if the total of all dividends declared by (a State member bank) in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding 2 years, less any required transfers to surplus or a fund for the retirement of any preferred stock.

(b) The term "net profits" is defined in section 5199(c) to mean "the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all Federal and State taxes."

(c) For the purpose of employing a uniform means for the determination of net profits before dividends on common stock, as required by section 5199(b), it is the Board's view that net profits shall be the amount of "net income" determined in accordance with the Report of Income (F.R. Form 107a), adjusted as set forth hereinafter. The statutory adjustments prescribed by section 5199 require the recognition of actual losses and recoveries on loans and investments and other assets recorded in reserve accounts and the elimination of corresponding provisions for such items entered against income. Further, to ascertain net profits available for common stock cash dividends, net profits for the current year and proceeding 2 years shall be adjusted for preferred stock dividends paid or accrued and for required transfers to surplus or a fund for the retirement of preferred stock.

(d) In light of the prevalent use of accrual accounting by banks, it also may be appropriate to recognize "pro forma" income tax adjustments in the determination of net profits. The adjustment, if any, would be related to the amount of difference between provisions for losses (or reversal of provisions) included in the determination of "net income" and actual net losses or recoveries incorporated in the section 5199(b) calculations. If the "pro forma" income tax adjustment amounts to less than 5 percent of

net profits before such adjustment, it need not be recognized.

(e) The following guideline schedule sets forth the most common adjustments required in calculating net profits for section 5199(b) purposes.

COMPUTATIONS OF NET PROFITS FOR PURPOSES OF SECTION 5199 (b)

NET INCOME (SCHEDULE A)

Add: (a) Recoveries credited to reserve accounts (Schedule D).

(b) Provision for loan losses (Schedule A).

(c) Any other provisions charged against income (Schedule A), constituting additions to reserve accounts (Schedule D).

(d) Pro forma income tax adjustment (representing decrease of applicable income tax).

SUBTOTAL

Deduct: (a) Losses charged to reserve accounts (Schedule D).

(b) Preferred stock dividends paid or accrued for the period.

(c) Pro forma income tax adjustment (representing increase of applicable income tax).

SUBTOTAL

NET PROFITS AS DEFINED

Deduct: (a) Required transfers to surplus or a fund for the retirement of preferred stock.

(b) Common stock dividends paid or accrued for the period.

SUBTOTAL

Retained net profits available for common stock dividends.

NOTE 1. Schedule references are to supervisory Report of Income (F.R. Form 107a).

2. Contra elements to applicable captions should be shown in parentheses.

(f) The above schedule for the determination of net profits will also be employed by the Comptroller of the Currency and its use will be uniform for all member banks.

(g) Special factors affecting net profits, such as charge-offs of bank premises in excess of normal annual depreciation or unusual security losses, will be weighed by the Board in consideration of requests by State member banks to declare dividends which would be prohibited by section 5199(b) without Board approval. Accordingly, any unusual charge-offs should be presented for Board consideration.

(h) The objective of section 5199 is to restrict the payment of dividends where such payments would result in dissipating needed capital funds. The law is designed to prevent the declaration of dividends which are not justified by current and recent accumulated earnings and which would result in a weakened and under-capitalized bank and violate safe and sound banking practices. (Interprets and applies 12 U.S.C. 60)

By order of the Board of Governors, November 22, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[F.R. Doc. 72-20826 Filed 11-30-72; 8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-SO-123; Amdt. 39-1665]

PART 39—AIRWORTHINESS DIRECTIVES

Luscombe Model 8 Airplanes

Airworthiness Directive 55-24-1 published in 21 F.R. 9540 on December 4, 1956, and as amended in 22 F.R. 2416 on April 11, 1957, requires inspection of Luscombe 8 Series Airplanes for corrosion inside the fuselage spar carry through structures. After issuing this AD, the Administration determined that further clarification is necessary. Therefore, the AD is being further amended to provide for alternate methods of compliance.

Since this amendment provides an alternate means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations, AD 55-24-1 is further amended by revising the last paragraph to read as follows:

The above inspections may be discontinued if both spar carry through structures are replaced with new parts that are identical to the original and properly anodized and painted to prevent corrosion, or if an equivalent modification is approved by the Chief, Engineering and Manufacturing Branch, FAA Southern Region.

This amendment becomes effective December 2, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 17, 1972.

DUANE W. FREER,
Acting Director,
Southern Region.

[F.R. Doc. 72-20613 Filed 11-30-72; 8:47 am]

[Docket No. 12390; Amdts. 47-16; 40-7]

PART 47—AIRCRAFT REGISTRATION PART 49—RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Special Identification Numbers; Updating Certain Form Number References

The purpose of these amendments to Parts 47 and 49 of the Federal Aviation Regulations is to (1) clarify § 47.15(f) by specifically stating that an FAA Flight