

capital of any association unless such distribution shall have been approved by the Comptroller of the Currency and by the affirmative vote of at least two-thirds of the shares of each class of stock outstanding, voting as classes" for "and by the Federal Reserve Board or by the organization committee pending the organization of the Federal Reserve Board".

#### § 60. National bank dividends

##### (a) In general

Subject to subsection (b), the directors of any national bank may declare a dividend of so much of the undivided profits of the bank as the directors judge to be expedient.

##### (b) Approval required under certain circumstances

A national bank may not declare and pay dividends in any year in excess of an amount equal to the sum of the total of the net income of the bank for that year and the retained net income of the bank for the preceding 2 years, minus the sum of any transfers required by the Comptroller of the Currency and any transfers required to be made to a fund for the retirement of any preferred stock, unless the Comptroller of the Currency approves the declaration and payment of dividends in excess of such amount.

(R.S. § 5199; Aug. 23, 1935, ch. 614, title III, § 315, 49 Stat. 712; Pub. L. 86-230, § 21(a), Sept. 8, 1959, 73 Stat. 465; Pub. L. 103-325, title VI, § 602(h)(2), Sept. 23, 1994, 108 Stat. 2294; Pub. L. 109-351, title III, § 302(a), Oct. 13, 2006, 120 Stat. 1970.)

#### CODIFICATION

R.S. § 5199 derived from act June 3, 1864, ch. 106, § 33, 13 Stat. 109, which was the National Bank Act. See section 38 of this title.

#### AMENDMENTS

2006—Pub. L. 109-351 amended section generally. Prior to amendment, section related to periodic declarations of dividends subject to certain surplus fund requirements and to the approval of the Comptroller of the Currency in certain situations.

1994—Subsec. (a). Pub. L. 103-325, § 602(h)(2)(A), (B), substituted "undivided profits of the association, subject to the limitations in subsection (b) of this section," for "net profits of the association" in first sentence and "net income" for "net profits" wherever subsequently appearing.

Subsec. (b). Pub. L. 103-325, § 602(h)(2)(B), substituted "net income" for "net profits" in two places.

Subsec. (c). Pub. L. 103-325, § 602(h)(2)(C), struck out subsec. (c) which read as follows: "For the purpose of this section the term 'net profits' shall 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."

1959—Pub. L. 86-230 designated existing provisions as subsec. (a), authorized the declaration of dividends, quarterly and annually, when at least one-tenth of the bank's net profits of the preceding half year or of the preceding two consecutive half-year periods has been carried to the surplus fund, respectively, and added subsecs. (b) and (c).

1935—Act Aug. 23, 1935, among other changes, inserted proviso.

#### § 61. Shareholders' voting rights; cumulative and distributive voting; preferred stock; trust shares; proxies, liability restrictions; percentage requirement exclusion of trust shares

In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or, if so provided by the articles of association of the national bank, to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares shall equal or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; except that (1) this shall not be construed as limiting the voting rights of holders of preferred stock under the terms and provisions of articles of association, or amendments thereto, adopted pursuant to the provisions of section 51b of this title; (2) in the election of directors, shares of its own stock held by a national bank as sole trustee, whether registered in its own name as such trustee or in the name of its nominee, shall not be voted by the registered owner unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how such shares shall be voted; and (3) shares of its own stock held by a national bank and one or more persons as trustees may be voted by such other person or persons, as trustees, in the same manner as if he or they were the sole trustee. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such bank shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote. Whenever shares of stock cannot be voted by reason of being held by the bank as sole trustee such shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

(R.S. § 5144; June 16, 1933, ch. 89, § 19, 48 Stat. 186; Aug. 23, 1935, ch. 614, title III, § 311, 49 Stat. 710; Sept. 3, 1954, ch. 1263, § 21, 68 Stat. 1234; Pub. L. 86-114, § 4, July 28, 1959, 73 Stat. 264; Pub. L. 89-485, § 13(c), July 1, 1966, 80 Stat. 242; Pub. L. 109-351, title III, § 301, Oct. 13, 2006, 120 Stat. 1969.)

#### CODIFICATION

R.S. § 5144 derived from act June 3, 1864, ch. 106, § 11, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

#### AMENDMENTS

2006—Pub. L. 109-351 substituted "or, if so provided by the articles of association of the national bank, to cumulate" for "or to cumulate" and struck out comma after "his shares shall equal".

1966—Pub. L. 89-485 struck out: clause (4) requirement of a voting permit from the Board for voting shares controlled by a holding company affiliate of a national bank except when voting in favor of voluntary liquidation of an association; second par. definition of control