

§ 5.66

§ 5.66 Dividends payable in property other than cash.

In addition to cash dividends, directors of a national bank may declare dividends payable in property, with the approval of the OCC. Even though the property distributed has been previously charged down or written off entirely, the dividend is equivalent to a cash dividend in an amount equal to the actual current value of the property. Before the dividend is declared, the bank should show the excess of the actual value over book value on the books of the national bank as a recovery, and the dividend should then be declared in the amount of the full book value (equivalent to the actual current value) of the property being distributed.

§ 5.67 Fractional shares.

To avoid complicated recordkeeping in connection with fractional shares, a national bank issuing additional stock by stock dividend, upon consolidation or merger, or otherwise, may adopt arrangements such as the following to preclude the issuance of fractional shares. The bank may:

- (a) Issue scripts or warrants for trading;
- (b) Make reasonable arrangements to provide those to whom fractional shares would otherwise be issued an opportunity to realize at a fair price upon the fraction not being issued through its sale, or the purchase of the additional fraction required for a full share, if there is an established and active market in the national bank's stock;
- (c) Remit the cash equivalent of the fraction not being issued to those to whom fractional shares would otherwise be issued. The cash equivalent is based on the market value of the stock, if there is an established and active market in the national bank's stock. In the absence of such a market, the cash equivalent is based on a reliable and disinterested determination as to the fair market value of the stock if such stock is available; or
- (d) Sell full shares representing all the fractions at public auction, or to the highest bidder after having solicited and received sealed bids from at least three licensed stock brokers. The national bank shall distribute the pro-

12 CFR Ch. I (1-1-08 Edition)

ceeds of the sale *pro rata* to shareholders who otherwise would be entitled to the fractional shares.

Subpart F—Federal Branches and Agencies

§ 5.70 Federal branches and agencies.

(a) *Authority.* 12 U.S.C. 93a and 3101 *et seq.*

(b) *Scope.* This subpart describes the filing requirements for corporate activities and transactions involving Federal branches and agencies of foreign banks. Substantive rules and policies for specific applications are contained in 12 CFR part 28.

(c) *Definitions.* For purposes of this subpart:

(1) To *establish* a Federal branch or agency means to:

- (i) Open and conduct business through an initial or additional Federal branch or agency;
- (ii) Acquire directly, through merger, consolidation, or similar transaction with another foreign bank, the operations of a Federal branch or agency that is open and conducting business;
- (iii) Acquire a Federal branch or agency through the acquisition of a foreign bank subsidiary that will cease to operate in the same corporate form following the acquisition;
- (iv) Convert a state branch or state agency operated by a foreign bank, or a commercial lending company controlled by a foreign bank, into a Federal branch or agency;
- (v) Relocate a Federal branch or agency within a state or from one state to another; or
- (vi) Convert a Federal agency or a limited Federal branch into a Federal branch.

(2) *Federal branch* includes a limited Federal branch unless otherwise provided.

(d) *Filing requirements*—(1) *General.* Unless otherwise provided in 12 CFR part 28, a Federal branch or agency shall comply with the applicable requirements of this part.

(2) *Applications.* A foreign bank shall submit an application and obtain prior approval from the OCC before it:

- (i) Establishes a Federal branch or agency; or