

FEDERAL RESERVE BANK  
OF NEW YORK

[Circular No. 6703]  
March 24, 1971

Undivided Profits as Part of "Capital Stock and Surplus"

To the Member Banks of the Second Federal Reserve District:

Printed below is the text of an interpretation adopted by the Board of Governors of the Federal Reserve System on March 11. The interpretation revises a 1964 Board ruling on whether a member bank's undivided profits may be included as part of its "capital stock and surplus" for the purposes of various provisions of Federal law that limit the extent to which member banks may engage in certain activities.

The interpretation will be published shortly in the *Federal Register* and *Federal Reserve Bulletin* but is being sent to you now so that you might have prompt notice of its content.

ALFRED HAYES,  
*President.*

Undivided Profits

Effective March 11, 1971, section 250.162 of Title 12 of the Code of Federal Regulations is revised to read as follows:

§ 250.162 *Undivided profits as "capital stock and surplus".*

(a) The Board of Governors has reexamined the question whether a member bank's undivided profits may be considered as part of its "capital stock and surplus", as that or a similar term is used in provisions of the Federal Reserve Act that limit member banks with respect to the following: loans to affiliates (12 U.S.C. 371c), purchases of investment securities (12 U.S.C. 335), loans on stock or bond collateral (12 U.S.C. 248(m)), deposits with nonmember banks (12 U.S.C. 463), bank acceptances (12 U.S.C. 372, 373), investments in and by Edge and Agreement corporations (12 U.S.C. 601, 615, 618), and the amount of paper of one borrower that may be discounted or accepted as collateral for an advance by a Federal Reserve Bank (12 U.S.C. 330, 345, 347).

(b) Upon such reexamination the Board concludes that its negative view expressed in 1964 is unnecessarily restrictive in the light of the Congressional purpose in establishing limitations on bank activities in terms of a bank's capital structure. Accordingly, the Board has decided that, for the purposes of the limitations set forth above, undivided profits may be included as part of "capital stock and surplus".

(c) As used herein, the term "undivided profits" includes paid-in or earned profits (unearned income must be deducted); reserves for loan losses or bad debts, less the amount of tax which would become payable with respect to the tax-free portion of the reserve if such portion were transferred from the reserve; valuation reserves for securities; and reserves for contingencies. It does not include reserves for dividends declared or reserves for taxes, interest and expenses.

(Interprets and applies 12 U.S.C. 24, 84, 248(m), 330, 335, 345, 347, 371c, 372, 373, 463, 601, 615 and 618.)