

compare management's calculations to the amount of any dividend declared to determine whether it exceeded the amount.

6. Dividends Declared by Banks.

a. *Information.* Obtain the computations by the management of each national and state member bank concerning the bank's compliance with 12 U.S.C. 56, "Capital Limitation Test", 12 U.S.C. 60, "The Earnings Limitation Test", and transfers from surplus to undivided profits after declaration of the dividends referenced in paragraph 4.a. of this section. In a state with substantially similar laws, obtain the corresponding computations by the management of each state nonmember bank.

b. *Procedures.* Recalculate management's computations (for mathematical accuracy) and compare management's calculations to the standards defined in the tests set forth in paragraph 6.a. of this section to ascertain whether the dividends declared fall within the permissible levels under these standards. If dividends are not permissible in the amounts declared under such standards, ascertain whether the dividends were declared with the approval of the appropriate federal banking agency or under any other exception to the standards. If not, report the findings.

7. Dividends Declared by Savings Associations.

a. *Information.* Obtain management's documentation of the OTS determination whether the institution is a Tier 1, Tier 2, or Tier 3 savings association and management's computations of its capital ratio after declarations of dividends under the Tier determined by the OTS. For dividends declared, obtain copies of the savings association's notifications to the OTS to ascertain whether notifications were made at least 30 days before payment of any dividends.

b. *Procedures:* Recalculate management's computations (for mathematical accuracy) and trace amounts used by management in its calculations to the institution's TFRs.

Section II—Procedures for the Independent Public Accountant

If the internal auditor has performed the procedures set forth in section I for either or both Designated Laws, the following procedures may be performed by the independent public accountant for the appropriate designated law(s) if neither the FDIC nor the appropriate federal banking agency has objected in writing. The report of procedures performed and list of exceptions found by the internal auditor, identifying the institution with respect to which any exception was found, should be submitted to the audit committee of the board of directors. Management should file a summary of the internal auditor's significant findings and management's response to those findings with the FDIC at the same time as the independent public accountant's attestation report is filed.²

²Since this summary supplements the independent public accountant's attestation on the Designated Laws, the FDIC has determined that the summary is exempt from public disclosure consistent with the guidance in Guideline 18 in Appendix A to this part 363.

A. *Review of Designated Laws.* Read either or both of the Designated Insider Laws and Designated Dividend Laws applicable to the institution, as appropriate to the engagement.

B. *Information and Procedures.* Perform the procedures indicated as follows:

1. *Designated Laws.* Read Section I of this schedule. Obtain management's assessment contained in its management report on the institution's or holding company's compliance with the Designated Laws for the fiscal year.

2. *Internal Auditor's Workpapers.*

a. *Information.* If an internal auditor performed the procedures in Section I, obtain the internal auditor's workpapers documenting the performance of those procedures on the institution and the chief internal auditor's written representation that:

(1) The internal auditor or audit staff, if applicable, performed the procedures listed in section I on the institution;

(2) The internal auditor tested a sufficient number of transactions governed by the Designated Laws so that the testing was representative of the institution's volume of transactions;

(3) The workpapers accurately reflect the work performed by the internal auditor and, if applicable, the internal audit staff;

(4) The workpapers obtained are complete; and

(5) The internal auditor's report, which describes the procedures performed for the fiscal year as well as the internal auditor's findings and exceptions noted, has been presented to the institution's audit committee.

b. *Procedures.*

(1) Compare the workpapers to the procedures that are required to be performed under section I. Report as an exception any procedures not documented and any procedures for which the sample size is not sufficient.

(2) Compare the exceptions and errors listed by the internal auditor in its report to the audit committee to those found in the workpapers, and report as an exception any exception or error found in the internal auditor's workpapers and not listed in the internal auditor's list of exceptions.

3. *Testing.* a. The independent public accountant should perform the procedures listed in Section I on representative samples of the insiders and/or transactions of the institution to which the Designated Law applies. If the institution's internal auditor is performing the procedures in Section I, the samples tested by the independent public accountant should be at least 30 percent of the size of the samples tested by the internal auditor although samples selected by the accountant should be from the population at large. However, if there are so few transactions in any area that the internal auditor cannot use sampling, but must test all transactions, the independent public accountant should also test all transactions.

b. If the testing is being performed on a holding company with more than one subsidiary institution that is subject to this part 363 (covered subsidiary), the samples tested should include a combination of insiders and transactions from each covered subsidiary with total assets (after deductions

of intercompany amounts that would be eliminated in consolidation) in excess of 25 percent of the holding company's total assets every fiscal year. Samples should be tested for each smaller covered subsidiary at least every other fiscal year unless the holding company has more than eight covered subsidiaries, in which case the samples to be tested for each Designated Law should be drawn from each smaller covered subsidiary at least every third fiscal year.

4. *Reports Concerning Holding Companies.* Only one report of any exceptions noted from application of the procedures in section II performed by the independent public accountant should be filed as required by guideline 3 in Appendix A to this part 363, but the report should identify, for each exception or error noted, the identity of the covered subsidiary to which it relates.

By order of the Board of Directors.

Dated at Washington, D.C. this 31st day of January, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-251-AD]

Airworthiness Directives; Boeing Model 747-400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the superseding of an existing airworthiness directive (AD), applicable to certain Boeing Model 747-400 series airplanes, that currently requires a revision to the input wiring for the flap control unit. This action would require a new systems test for the wiring of the trailing edge flap. The proposal would also expand the applicability of the existing AD to include additional airplanes. This proposal is prompted by a report indicating that a wiring error was not detected by the system test required by the existing AD. The actions specified by the proposed AD are intended to prevent the possibility of an all-flaps-up landing due to the loss of control of all flap operations.

DATES: Comments must be received by April 10, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103,