

INSTRUCTIONS FOR PREPARATION OF

Application for Approval of a Stock Issuance by a Subsidiary Holding Company of a Mutual Holding Company (FR MM-10(o)-2)

Who May Use This Form

This form should be used for applications filed with the Federal Reserve System (the “Federal Reserve”) under section 10(o) of Home Owners’ Loan Act of 1933, as amended (“HOLA”), 12 U.S.C. § 1467a(o); and 12 CFR 239.24 and 239.25, that involve a stock issuance by a subsidiary holding company of a mutual holding company, including stock issuances associated with mutual holding company reorganizations.

Applicability of Regulation LL and MM

The Board’s Regulations LL and MM (12 CFR Parts 238 and 239) apply to savings and loan holding companies in mutual form (each, a “mutual holding company”). An applicant should consult these regulations, copies of which are available on the Board’s public website or from any one of the Reserve Banks of the Federal Reserve (“Reserve Bank”). Additional filing information is also available on the Board’s public website.¹ An applicant may submit a pre-filing before filing an application.²

Preparation of the Application

Inquiries regarding the preparation and filing of applications should be directed to the Reserve Bank of the Federal Reserve district in which the company’s banking operations are principally conducted, as measured by total domestic

deposits in its subsidiary savings association on the date it became, or will become, mutual holding company (the “appropriate Reserve Bank”). Applicants are encouraged to contact Federal Reserve staff as soon as possible for assistance in identifying the specific type of information that should be provided in the application.

The applicant must submit the information required by this form to the appropriate Reserve Bank. Applicants are strongly encouraged to submit their applications electronically through the Federal Reserve System’s web-based application E-Apps.³ Additional information on E-Apps may be found on the Board’s public website.⁴ Alternative formats to this form, if used, must provide all requested information. In order to be considered properly filed in accordance with the requirements of HOLA and Regulations LL and MM, the application must be substantially complete and responsive to each item of information requested (including an indication that the answer is “not applicable” or “none” if such is the case).

The appropriate Reserve Bank will review the submitted application to determine if it is substantially complete. If the application is considered complete, an acknowledgement letter will be sent indicating the date that the application has been formally accepted for processing. If the application is not considered complete, the application will be returned to the applicant. As necessary to complete the record, a request for additional information may be sent to the contact person named in the application. Under certain

¹ See <https://www.federalreserve.gov/apps/reportforms/>

² See SR letter 12-12 at <https://www.federalreserve.gov/supervisionreg/srletters/sr1212.htm>.

³ The application may alternatively be submitted in paper form.

⁴ See https://www.federalreserve.gov/supervisionreg/afi/eapps_contacts.htm

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circumstances, name check and financial information related to individuals involved in a proposed transaction may be required. Such information for individuals must be submitted on the Interagency Biographical and Financial Report (FR 2081c; OMB No. 7100-0134), and may be submitted in advance of the application. Contact the appropriate Reserve Bank for further information.

If any information initially furnished in the application changes significantly during processing of the application, these changes must be communicated promptly to the appropriate Reserve Bank.

Confidentiality

Under the provisions of the Freedom of Information Act (the “FOIA” – 5 U.S.C. § 552), the application is a public document and available to the public upon request. Once submitted, an application becomes a record of the Board and may be requested by any member of the public. Board records generally must be disclosed unless they are determined to fall, in whole or in part, within the scope of one or more of the FOIA exemptions from disclosure. See 5 U.S.C. § 552(b)(1)-(9).

The exempt categories include (but are not limited to) “trade secrets and commercial or financial information obtained from a person and privileged or confidential” (exemption 4), and information that, if disclosed, “would constitute a clearly unwarranted invasion of personal privacy” (exemption 6). An applicant may request confidential treatment for any information, submitted in or in connection with the application, that the applicant believes is exempt from disclosure under the FOIA. For example, if the applicant is of the opinion that disclosure of commercial or financial information would likely result in substantial harm to its competitive position or that of its subsidiaries, or that disclosure of information of a personal nature would result in a clearly unwarranted invasion of personal privacy, confidential treatment of such information may be requested.

Any request for confidential treatment must be submitted in writing concurrently with the filing of the application (or subsequent related

submissions), and must discuss in detail the justification for confidential treatment. Such justification must be provided for each portion of the application (or related submissions) for which confidential treatment is requested. Applicant’s reasons for requesting confidentiality must specifically describe the harm that would result from public release of the information. A statement simply indicating that the information would result in competitive harm or that it is personal in nature is not sufficient. (A claim that disclosure would violate the law or policy of a foreign country is not, in and of itself, sufficient to exempt information from disclosure. The applicant must demonstrate that disclosure would fall within the scope of one or more of the FOIA exemptions from disclosure.) The applicant must follow the steps outlined immediately below, and certify in the application (or related submissions) that these steps have been followed.

Information for which confidential treatment is requested should be: (1) specifically identified in the public portion of the application (by reference to the confidential section); (2) separately bound; and (3) labeled “CONFIDENTIAL.”

With respect to applications that include information regarding an individual or individuals associated with the proposed transaction, the Board expects the applicant to certify that it has obtained the consent of the individual(s) to public release of such information prior to its submission to the Board or, in the absence of such consent, to submit (or ensure that the individual(s) submit(s)) a timely request for confidential treatment of the information in accordance with these instructions. Information submitted directly by an individual or individuals will become part of the relevant application record, and, accordingly, will be a Board record subject to being requested by any member of the public under FOIA.

The Federal Reserve will determine whether information submitted as confidential will be so treated and will advise the applicant of any decision to make available to the public information labeled “CONFIDENTIAL.” However, it shall be understood that, without prior notice to the applicant, the Board may disclose or comment on any of the contents of the application in an Order or Statement issued by the Board in connection with its decision on the

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application. The Board's staff normally will notify the applicant in the course of the review process that such information may need to be disclosed in connection with the Board's action on the application.

For further information on the procedures for requesting confidential treatment and the Board's procedures for addressing such requests, consult the Board's Rules Regarding Availability of Information, 12 CFR Part 261, including 12 CFR 261.15, which governs requests for confidential treatment.

Supporting Information

The Federal Reserve specifically reserves the right to require the filing of additional statements and information. The questions in the application are not intended to limit an applicant's presentation.

An applicant bears the full burden for presenting and documenting a case that meets the statutory criteria for approval. Supporting information may accompany the application, even if this information is not required under the applicable law, rule, or reporting form.

Compliance

The applicant is expected to comply with all commitments made in connection with the application, and the Board may condition approval of the application on the applicant's compliance with any commitments. The applicant should immediately contact the appropriate Reserve Bank if there is any change in compliance with such commitments or any change with respect to the representations made in the application.

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Requested Information

Sequence, Timing, and Structure of the Proposed Stock Issuance

1. Provide the expected chronological order of events related to the proposed stock issuance beginning with the filing of this application through completion of the stock issuance.
2. Indicate whether the mutual holding company has held a meeting of its members to vote on the proposed stock issuance and, if so, the date of the vote and the results, including (i) the total votes eligible to be cast, (ii) the total votes represented in person or by proxy, (iii) the total votes cast in favor of and against each matter, and (iv) the percentage of votes necessary to approve each matter. If the meeting of members has not taken place, indicate the date on which the meeting is scheduled and, when available, provide the results of the vote. In addition, provide the opinions of counsel as required by 12 CFR 239.56(d).
3. Provide a list of all regulatory approvals and filings required for the proposed stock issuance, and the expected timing of required approvals by other regulatory authorities.
4. Discuss how the Applicant proposes to deploy the proceeds of the stock issuance.
5. Discuss whether a reasonable amount of shares or proceeds of the stock issuance will be contributed to a charitable organization that complies with 12 CFR 239.64(b) to 239.64(f).
6. Confirm that the stock issuance plan, pursuant to 12 CFR 239.2(w) (Stock Issuance Plan), complies with 12 CFR 239.24, 239.25, and 239.59. If applicable, describe in detail any proposed deviations from the regulations and why such deviation is appropriate under the circumstances.

Financial Information; Expenses

7. For an organization that would not be subject to consolidated capital standards following consummation of the proposed stock issuance,⁵ provide a parent company balance sheet as of the end of the most recent quarter, showing separately each principal group of assets, liabilities, and capital accounts; debit and credit adjustments (explained by detailed footnotes) reflecting the proposed stock issuance; and the resulting pro forma balance

sheet(s).

8. For an organization that would be subject to consolidated capital standards following consummation of the proposed stock issuance, provide parent company and consolidated balance sheets as of the end of the most recent quarter, showing separately each principal group of assets, liabilities, and capital accounts; debit and credit adjustments (explained by detailed footnotes) reflecting the proposed stock issuance; and the resulting pro forma balance sheets; and

The financial information provided in items 7 and 8 above must be prepared in accordance with generally accepted accounting principles ("GAAP") and be in sufficient detail to reflect any:⁶

- Common equity and preferred stock;
- Other qualifying capital;
- Long- and short-term debt;
- Goodwill and all other types of intangible assets; and
- Material changes between the date of the balance sheet and the date of the application (explained by footnotes).

9. For an organization that would be subject to consolidated capital requirements under the Board's Regulation Q (12 CFR Part 217) following consummation of the proposed stock issuance, provide a breakdown of the organization's pro forma risk-weighted assets as of the end of the most recent quarter, showing each principal group of on- and off-balance sheet assets and the relevant risk-weight. Also, identify the pro forma components of common equity tier 1, additional tier 1, and tier 2 (if any) capital pursuant to the capital adequacy regulations as of the end of the most recent quarter, and provide calculations of the mutual holding company's pro forma common equity tier 1 capital, tier 1 capital, total capital, and leverage ratios pursuant to the capital adequacy regulations. If applicable, also provide the organization's pro forma supplementary leverage ratio pursuant to the capital adequacy regulations.

10. Provide detailed listing of the expenses associated with the

⁵ This type of organization includes, for example, a company that on a pro forma basis would be subject to the Board's Small Bank Holding Company and Savings and Loan Holding Company Policy Statement. See 12 CFR 238.9; 12 CFR 225, Appendix C.

⁶ Pursuant to 12 USC § 5371(c)(3)(A), mutual insurance companies that are persons regulated by a state insurance regulator that engage in the business of insurance and that file financial statements with a State insurance regulator or the National Association of Insurance

Commissioners utilizing only Statutory Accounting Principles in accordance with State law, shall not be required by the Board to prepare such financial statements in accordance with Generally Accepted Accounting Principles.

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proposed stock issuance, including (but not limited to) legal fees, escrow fees, underwriting fees, valuation (appraisal) fees, transfer agent fees, auditing and accounting expenses.

Convenience and Needs

11. Discuss how the proposed stock issuance will affect the convenience and needs of the communities served by the Applicant. See 12 CFR 239.55(g)(3).

Exhibits

Provide the following exhibits as attachments to this form.

Exhibit 1: Stock Issuance Plan

Provide the Stock Issuance Plan adopted by the board of directors of the Applicant's subsidiary depository institution. The plan must contain all of the information specified in 12 CFR 239.25.

Exhibit 2: Business Plan(s)

Provide a copy or copies of the business plan(s) for the mutual holding company and Applicant (submitted as a separately bound, confidential exhibit) consistent with the requirements of 12 CFR 239.53(b), if any changes to the business plan(s) would result from the proposed stock issuance.

Exhibit 3: Resolution(s) of Board of Directors

Provide a certified copy or copies of your board of directors' resolution or resolutions relating to the proposed stock issuance, as set out in 12 CFR Part 239, including: (1) adopting the Stock Issuance Plan; and (2) authorizing this application.

Exhibit 4: Charters and Bylaws

Provide copies of the Applicant's charter and bylaws reflecting any proposed amendments regarding the authority to issue stock, as referenced in 12 CFR 239.24(b)(2).

Exhibit 5: Appraisal Materials

Provide a copy of the appraisal materials related to the proposed stock issuance, consistent with the requirements of

12 CFR 239.55(g)(2).

Exhibit 6: Proxy Soliciting Materials

Furnish copies of all proxy soliciting materials, including proxy statements and forms of proxy proposed to be circulated to members of the mutual holding company, and a legal opinion indicating that any marketing materials comply with all applicable securities laws. Proxy statements and forms of proxy must contain the information specified in 12 CFR 239.57.

Documents that are furnished in proposed form, pursuant to the foregoing, must be furnished in final form immediately after the meeting(s) of members to vote on the proposed stock issuance.

Exhibit 7: Offering Circular

Provide a copy of the Offering Circular for the proposed stock issuance pursuant to 12 CFR 239.58(a).

Exhibit 8: Opinion of Counsel

Furnish a legal opinion of counsel for the Applicant that addresses, at a minimum:

- (a) The legal sufficiency of the proposed forms of stock certificate and order forms for the stock to be issued by the Applicant;
- (b) The state law requirements applicable to the Stock Issuance Plan, including citations to applicable state law and a statement regarding whether such requirements will be fulfilled by the Stock Issuance Plan; and
- (c) Whether the Stock Issuance Plan is consistent with the terms of the Applicant's charter, including terms governing the type and amount of stock that may be issued.

Exhibit 9: Miscellaneous Documentation

Provide the following documents:

- (a) Proposed forms of stock certificates, and similar forms for any other securities to be issued, and proposed order forms.
- (b) Any trustee agreements or indentures, or other agreements or documents defining or affecting the rights of persons acquiring stock in the proposed issuance.
- (c) Any employee stock benefit plan and form of employee stock benefit plan agreement for any tax-qualified or non-tax-qualified employee stock benefit plan of the association that will purchase any of the stock to be issued.
- (d) Any actual or proposed valuation (appraisal) agreement, underwriting contracts, or agreements among underwriters.
- (e) Any required undertaking or affidavits by officers or directors purchasing shares in the issuance stating that they are acting independently.

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Documents that are furnished in proposed form, pursuant to the foregoing, must be furnished in final form immediately after the meeting(s) of members to vote on the proposed stock issuance.

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