



216 West Main Street • P.O. Box 535 • Frankfort, Kentucky 40602-0535

October 21, 2011

Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington DC 20551

Re: Comment on Proposed Ruling on Section 239.8(d) of Regulation MM

Sent via Email with copy to follow by Regular Mail

Dear Ms. Johnson:

We appreciate the opportunity to comment on the proposed rule regarding the waiver of dividends to Mutual Holding Companies (MHCs). I represent a small MHC with \$226 million in total assets. Our company has two bank subsidiaries which are more than well capitalized (at, respectively, 19% and 15% Tier 1 Capital). We have existed under the MHC form since 2005 and have utilized the dividend waiver with each quarterly dividend paid to our public shareholders.

In general, we believe that the Board's efforts to dictate the terms by which MHC boards determine that waived dividends are within their fiduciary duties to the members is a disservice to the loyal investors of public company subsidiaries and is contrary to the intent of Congress's provision for continued waived dividends in the Dodd-Frank Act.

We are particularly concerned with two methods that the proposed regulation either recommend or require to prove compliance with our fiduciary responsibilities—compliance that both we and the OTS have believed to be in place for the last six years.

The first is the requirement to obtain an annual, positive vote from the mutual members—primarily depositors of our subsidiary bank. The attempt to obtain this vote will be costly and time-consuming. The constituency will have difficulty in understanding the purpose and the outcome. Indeed, many sophisticated equity investors are not familiar with MHCs and the purpose of the dividend waiver. The solicitation of votes implies that these members may have some stake in the outcome, whereas in actuality that benefit is in a dormant form until such time as the MHC elects a second-step conversion and is not guaranteed thereafter. The only way to recognize the benefit of membership in an MHC is to eventually purchase stock in the public subsidiary. It should be noted that in the case of fairly young companies such as ours, the vast majority of members (depositors) who did not purchase stock in the public subsidiary were given the opportunity to do so. Likewise, those members have the opportunity to purchase this stock in the market, as it happens, at a discount to the original conversion price.

Our second objection is to the language regarding and, in some cases, specific treatment of, the directors of the MHC. The MHC is inextricably inter-twined with the other components of the organization. It is not possible to completely segregate the ownership levels and fiduciary duties that exist with the MHC board, the public company board, and the bank board. It was our original intention (and we believe common practice) that these boards overlap, if not exactly mirror each other. We have concerns that poor understanding of the overall mission of the company could cause these boards could act at cross purposes to each other and damage the safety and soundness of the organization as a whole. All the constituencies benefit from the boards and management of the entities identifying their common goals and working toward them.

The recognition of the fiduciary interests of the mutual members is appropriate, but in our opinion, it is not consistent to classify those interests as equal to those of the public shareholder. Under the rules of the MHC, the members do control the company and can vote on important issues that affect the company. However, some deference should be paid to the minority public shareholders because their interest represents a real investment in the company. These public shareholders committed to the purchase of stock and deserve a return on their investment. The MHC shares represent no such commitment or investment on the part of those shareholders. While it may be argued that the mutual banks “contributed” the pre-conversion capital of the mutual institution, we shareholders believe that our investment entitles us to proceeds from the investment of that capital plus the capital we invested. If that were not true, then it would be illogical that a second step-conversion would essentially sell a pro rata portion of the company’s capital to new shareholders in exchange for an additional investment.

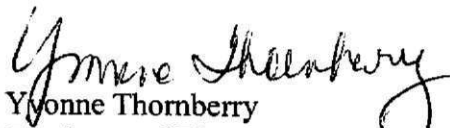
Within this argument is the discussion that MHC directors should be limited in their ability to vote on dividend waivers or to even receive dividends from their investment. Every public company offering, including those of MHCs, is contingent upon the directors’ committing to significant investments in the company—very few offerings would ever succeed without such a commitment. It is because of this investment that we are dedicated to and work tirelessly for the overall success of our company. Our investment as directors, which for many of us represents our most significant personal asset, should not be treated as less valuable and worthy of return than those of other shareholders—neither those who have made an actual investment in the company nor those nebulous shareholders of the MHC who do not yet exist.

The banking industry will need capital in the future in order to survive and to grow. Capital is raised from attracting and then satisfying investors. Given the recent economic environment, most banks have been unable to demonstrate the kinds of performance that will attract future investors. We believe that the Federal Reserve, and all of our regulators, should work toward making all banking entities more successful, within the obvious bounds of safety and soundness and of appropriate consumer protection, and thus worthy of future investment. We do intend to continue to pay our public shareholders a strong dividend and we believe that failure to do so would have detrimental effects on our stock price and thus

substantially reduce the propensity to attract future investors either in the market or via a second step. Likewise, we are confounded to determine any benefit that paying a dividend to the MHC would engender. It would generate income taxes, which is not in the interests of either shareholder or member. It would segregate funds that could be used for the benefits of the banks and their communities into an entity that has no purpose or ability to utilize those funds, much less leverage the funds into loans. Drawn to a final conclusion, the accumulation of such cash at the MHC level will require higher and higher levels of capital contributions from new investors in the event of a second step conversion. It is foreseeable that even in much better economic times, the required investment to effect the second step could exceed investor interest and, even if raised, could result in a glut of capital that our company could not safely and effectively deploy.

It is our sincere hope that the Board will reconsider its proposal and conform to the intent of Dodd-Frank, thus allowing for the waiver of MHC dividends upon the positive assertion that the MHC board is within its fiduciary duties to do so—and that neither depositor votes nor discrimination against insiders is necessary, or even germane, to this conclusion.

Sincerely,

  
Yvonne Thornberry  
Employee of First Federal Savings  
Bank of Frankfort and stockholder of  
Kentucky First Federal Bancorp