

Notice of Mutual Holding Company Reorganization

FR MM-10(o)-1

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 239.3, that involve the reorganization of a mutual savings association (as defined in 12 CFR 239.2(s)) to a federally chartered mutual holding company (as defined in 12 CFR 239.2(k)) with a newly formed stock savings association.

If the proposed reorganization results in the issuance of stock to any person other than the mutual holding company, an applicant must submit FR MM-10(o)-2 in addition to this form.

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 responsible for supervising the applicant. For applicants not currently supervised by a Reserve Bank, inquiries

should be directed to the Reserve Bank of the Federal Reserve district in which the company’s banking operations would be principally conducted, as measured by total domestic deposits in its subsidiary savings association(s) on the date it will become a 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 FedEZFile.³ Additional information on FedEZFile 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 circum-

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

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/fedezfile-fluent.htm>.

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stances, 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.

Publication Requirement

The applicant must publish a notice in a newspaper of general circulation in the community(ies) in which the head offices of the largest subsidiary savings association, of an applicant and of each savings association, shares of which are to be directly or indirectly acquired, are located. The newspaper notice should provide opportunity for the public to submit written comments on the proposal for at least 30 calendar days after the date of publication, and must be published no more than 15 calendar days before and no later than 7 calendar days after the date that the application is filed with the appropriate Reserve Bank. The Board will publish notice of the proposal in the *Federal Register* upon receipt of the application. On written request by the applicant, the notice in the *Federal Register* may be published up to no more than 15 calendar days before the application is filed.

The applicant should contact the appropriate Reserve Bank or visit the Board's public website for the recommended publication format. A copy of the newspaper notice publication must be provided to the appropriate Reserve Bank, as required by Section 262.3(b) of the Board's Rules of Procedure (12 CFR 262.3(b)).

The following is a sample notice:

Notice of Application for
(*Reorganization of a Savings Association
to a Mutual Holding Company*)

(*Name and location of head office of savings association*) intends to apply to the Board of Governors of the Federal Reserve System (Board) for permission to reorganize a mutual savings association to a mutual holding company to be known as (*name and location of*

head office). As part of the reorganization, we intend to acquire control of (*savings association*), a newly formed stock savings association (*and name of subsidiary holding company, if applicable, and location of head office(s); include name and location of savings association, subsidiary holding company, or other nonbank insured depository institution, if any*). The Board considers a number of factors in deciding whether to approve the application, including the record of performance of savings associations we own in helping to meet local credit needs.

You are invited to submit comments in writing on this application to the Federal Reserve Bank of (*appropriate Reserve Bank and address or email address of Reserve Bank*). The comment period will not end before (*date must be no less than 30 days from the date of publication of the application*) and may be somewhat longer. The Board's procedures for processing applications may be found at 12 CFR Part 262. Procedures for processing protested applications may be found at 12 CFR 262.25. To obtain a copy of the Federal Reserve Board's procedures, or if you need more information about how to submit your comments on the application, contact (*name of Reserve Bank contact and telephone number*). The Board will consider your comments and any request for a public meeting or formal hearing on the application if they are received in writing by the Reserve Bank on or before the last day of the comment period.

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 personnel and medical and similar files that, if disclosed, "would constitute a clearly unwarranted invasion of personal privacy" (exemption 6). An applicant may request confidential treatment for

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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 information is nonpublic commercial or financial information, which is both customarily and actually treated as private, 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 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 261.17, 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 Proposed Reorganization

- (1) Provide the expected chronological order of events related to the proposed reorganization beginning with the filing of this application through completion of any proposed acquisition by the mutual holding company, as defined in 12 CFR 239.2(k).
- (2) Indicate whether the mutual holding company has held a meeting of its members to vote on the proposed reorganization 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 reorganization, and the expected timing of required approvals by other regulatory authorities.
- (4) Discuss whether the proposed reorganization involves the proposed formation of a federally chartered stock holding company controlled by a mutual holding company that owns the stock of a savings association whose depositors have membership rights in the parent mutual holding company (Subsidiary Holding Company) pursuant to 12 CFR 239.11.

Financial Information

- (5) Where the subsidiary or target savings associations have elected to utilize the Community Bank Leverage Ratio framework, applicants are not required to identify risk-weighted assets or provide risk-weighted capital ratios where requested. For a mutual holding company that would not be subject to consolidated capital standards following consummation of the proposed reorganiza-

tion⁵ provide a pro forma 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 reorganization.

- (6) For a mutual holding company that would be subject to consolidated capital standards following consummation of the proposed reorganization, 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 reorganization; and the resulting pro forma balance sheets.

The financial information provided in items 4 and 5 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).

- (7) For a mutual holding company that would be subject to consolidated capital requirements under the Board’s Regulation Q (12 CFR Part 217) following consummation of the proposed reorganization, provide a breakdown of 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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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 applicant'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 applicant's pro forma supplementary leverage ratio pursuant to the capital adequacy regulations.

Charters and bylaws

- (8) Identify whether the charter and bylaws of the mutual holding company and Subsidiary Holding Company (if applicable) as provided in Exhibit 4 below, differ in any respect from the model charters and bylaws contained in the Board's Regulation MM and, if so, describe the differences in detail and explain why the organization proposes a non-conforming charter or bylaws.

Expenses; Indemnification

- (9) Provide a detailed listing of expenses associated with the proposed reorganization, including (but not limited to) legal fees, escrow fees, underwriting fees, valuation (appraisal) fees, transfer agent fees, auditing and accounting expenses.
- (10) Describe the procedures that would be put in place to ensure that expenses properly allocable to the mutual holding company or Subsidiary Holding Company (e.g., employee compensation, accounting, holding company filings, and taxes) are in fact paid by the mutual holding company, rather than any of its savings association subsidiaries.
- (11) State the general effect of any charter provisions, bylaw provisions, contract, arrangement, statute, or regulation to be in effect during or after the proposed reorganization under which any underwriter, appraiser, lawyer, accountant, or expert, or director or officer of the mutual sav-

ings association that proposes to reorganize to become a mutual holding company (Reorganizing Association), the mutual holding company, the savings association in stock form that is organized as a subsidiary of a Reorganizing Association to receive the substantial part of the assets and liabilities of the Reorganizing Association upon consummation of the reorganization (Resulting Association), or any savings association, other than the Resulting Association, that is acquired by a mutual holding company as part of, and concurrently with, a mutual holding company reorganization, and is in the mutual form immediately prior to such acquisition (Acquiree Association) will be insured or indemnified in any manner against any liability that he or she may incur in his or her capacity as such.

Exhibits

Provide the following exhibits as attachments to this form:

Exhibit 1: *Reorganization Plan*. Provide the complete Reorganization Plan adopted by the boards of directors of the Reorganizing Association and any Acquiree Association. The Reorganization Plan must contain the information specified in 12 CFR 239.6.

Exhibit 2: *Business Plan(s)*. Provide a copy of the business plan(s) for the proposed mutual holding company and the Resulting Association. The business plan must include, without limitation, a complete description of operations, investments, and financial projections for each such entity for the first three (3) years after the proposed reorganization; and must describe how the proceeds of any stock issuance, if applicable, will be deployed; and must explain the extent to which the proposed reorganization will affect the convenience and needs of the communities to be served by the Reorganizing Association and the Resulting Association. The business plan must specify the assumptions upon which the projections are based.

Exhibit 3: *Resolution(s) of the Board(s) of Directors*

- (1) Provide a certified copy or copies of resolutions adopted by a majority of the board of directors of the Reorganizing Association: (i) adopting the Reorganization Plan filed with this applica-

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tion, and (ii) authorizing the filing of this application.

- (2) If the proposal involves any Acquiree Association, submit a certified copy of resolutions adopted by a majority of the board of directors of the Acquiree Association: (i) approving the Reorganization Plan, and (ii) authorizing the filing of this application.

Exhibit 4: *Charters and Bylaws*

Provide copies of the proposed charter and bylaws of the mutual holding company, that meet the requirements of 12 CFR 239.13 and 12 CFR 239.15.

Exhibit 5: *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 Reorganizing Association for approval of the Reorganization Plan. If the Reorganization Plan involves an Acquiree Association, also submit preliminary copies of the proxy soliciting materials to be circulated to members of the Acquiree Association. 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 of the Reorganizing Association and any Acquiree Association to consider the Reorganization Plan.

Exhibit 6: *Opinion of Counsel*

Furnish a legal opinion of counsel for the Reorganizing Association and for any Acquiree Association that addresses, at a minimum:

- (1) The legal sufficiency of the Reorganization Plan to achieve transfer of the assets and liabilities of the Reorganizing Association to the Resulting Association.
- (2) If either the Resulting Association or any Acquiree Association will be state chartered, the state law requirements applicable to the reorga-

nization, including citations to applicable state law and a statement regarding whether such requirements will be fulfilled by the reorganization.

Exhibit 7: *Federal and state tax opinions and rulings*

- (1) Furnish an opinion of the tax advisor to the Reorganizing Association and any Acquiree Association or, if applicable, a ruling from the Internal Revenue Service as to the federal income tax consequences of the Reorganization Plan to the mutual holding company, the Resulting Association, any Acquiree Association, and to the members of the Reorganizing Association and any Acquiree Association
- (2) Furnish an opinion of the tax advisor of the Reorganizing Association and any Acquiree Association, or, if applicable, a ruling from the appropriate state taxing authority, regarding any tax consequences of the Reorganization Plan to the mutual holding company, the Resulting Association and any Acquiree Association and to the members of the Reorganizing Association and any Acquiree Association under the laws of the state in which the Reorganizing Association and any Acquiree Association have their home offices.

Exhibit 8: *Miscellaneous Documentation*

Provide the following documents:

- (1) Any proposed management employment contracts or contracts with directors.
- (2) Any material loan agreements relating to borrowings by the Reorganizing Association and any Acquiree Association other than from a Federal Home Loan Bank and other than subordinated debt securities approved by the Board.

Documents that are furnished in proposed form, pursuant to the foregoing, must be furnished in final form immediately after the meeting(s) of members of the Reorganizing Association and any Acquiree Association to consider the Reorganization Plan.