Date: June 17, 2026

To: Board of Governors

From: Staff[1]

Subject: Proposed Rule to Modernize the Regulatory Framework Applicable to Mutual Holding Companies

ACTION REQUESTED: Approval to publish for public comment in the *Federal Register* a proposal that would modernize the regulatory framework applicable to mutual holding companies (MHCs).[2] Staff also requests authority to make technical, non-substantive changes to the proposed notice prior to publication in the *Federal Register*.

EXECUTIVE SUMMARY:

- Savings and loan holding companies (SLHCs) in mutual form (thrift MHCs) are owned by their members (depositors and borrowers), rather than by shareholders.
- The proposal would facilitate MHCs' access to capital by amending the Board's capital rule to clarify that mutual capital instruments may qualify as regulatory capital.
- The proposed rule also would comprehensively update the Board's rule governing the operations of thrift MHCs for the first time since the Board introduced the rule in 2011.
    - The proposed rule generally would reduce burden by, among other things:
        - Making it easier for thrift MHCs to waive dividends, thereby also allowing mutual institutions to more effectively raise capital;
        - Removing unnecessary restrictions and requirements associated with conversions from mutual to stock form; and
        - Allowing charter flexibility for subsidiary holding companies of thrift MHCs.

[1] Mark Van Der Weide, Reena Sahni, Asad Kudiya, Jay Schwarz, Lucy Chang, Mark Buresh, Victoria Szybillo, Trevor Feigleson, Jonah Kind, Tara Hofbauer, Sean KimKwon, and Timothy Kelly (Legal Division); Anna Lee Hewko, Jonathan Rono, Missaka Nuwan Warusawitharana, Helen Xu, Juan Echeverri (Division of Supervision and Regulation).

[2] 12 CFR part 217.

<u>DISCUSSION</u>:

Background on Regulation MM. On July 21, 2011, pursuant to section 312 of the Dodd-Frank Act, the Board assumed responsibility for the supervision and regulation of SLHCs, including thrift MHCs, from the former Office of Thrift Supervision (OTS).[3] In August 2011, the Board adopted an interim final rule (IFR) that provided for the transfer of the OTS's regulations necessary for the Board to administer the statutes applicable to SLHCs,[4] including thrift MHCs. The IFR established Regulation MM, which applies to thrift MHCs and their subsidiary holding companies. Regulation MM sets out rules regarding these institutions' mutuality (i.e., their ownership by members, who are generally depositors and borrowers of the institution, rather than by stockholders). Regulation MM adopted, with minimal changes, the predecessor regulations of the OTS applicable to these institutions, which were first adopted in 1993.[5] Regulation MM has not been amended since its adoption in 2011.

Increasing flexibility for MHCs' capital raising efforts. Due to their mutuality, MHCs may be constrained in their ability to raise capital. MHCs cannot issue traditional stock instruments and often primarily rely on retained earnings to meet capital requirements. These constraints can affect the ability of MHCs to grow and increase the amount of products and services they provide to their communities. The proposal includes three changes that are intended to clarify and to support MHCs' ability to raise capital.

The first two changes involve amendments to the Board's capital rule to clarify the capital treatment of certain instruments issued by MHCs. First, the proposal would amend the capital rule to identify by name certain forms of instruments issued by MHCs as examples of instruments that can qualify as common equity tier 1,[6] additional tier 1 capital,[7] or tier 2 capital,[8] if the capital instruments satisfy the applicable qualifying criteria. This change would give

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[3] 12 U.S.C. § 5412.

[4] 76 FR 56508 (September 13, 2011).

[5] 58 FR 44104 (August 19, 1993).

[6] 12 CFR 217.20(b).

[7] 12 CFR 217.20(c).

[8] 12 CFR 217.20(d).

increased certainty to issuing organizations. The second proposed modification to the capital rule concerns mutual capital certificates, a type of capital instrument that may be issued by MHCs. In October 2025, staff published on the Board's public website a set of frequently asked questions and two model term sheets to help clarify how MHCs may issue mutual capital certificates.[9] The proposal would add these term sheets as appendices to the Board's capital rule, converting the existing staff guidance into Board guidance contained in the Board's regulations. Doing so would provide additional certainty for issuing organizations and ensure applicability to both BHCs in the mutual form (bank MHCs) and thrift MHCs.

The proposal also would make changes to Regulation MM that would reduce the procedural burdens associated with dividend waivers. A dividend waiver occurs when a thrift MHC waives its right to receive a dividend declared by its subsidiary holding company and the dividend that otherwise would be allocated to the thrift MHC is instead distributed to the other shareholders of the subsidiary holding company. Dividend waivers can be an important tool for thrift MHCs looking to raise capital while still retaining their mutual form of ownership because the reallocation of the dividend from the MHC to the other shareholders of its subsidiary holding company helps increase the value of the subsidiary holding company's stock, which in turn improves the company's ability to attract investors in future capital raises. Because thrift MHC directors may directly benefit from causing the MHC to waive its right to receive dividends, the Home Owners' Loan Act (HOLA) and the Board's Regulation MM require that a thrift MHC's board of directors must determine that a dividend waiver is consistent with its fiduciary duty to members prior to approving a dividend waiver. Regulation MM further imposes additional procedural requirements on dividend waivers, which can be burdensome and costly. Staff does not believe that these additional procedural requirements materially reduce the potential for conflicts of interest, particularly since the thrift MHC's board of directors must statutorily determine that approval of the dividend waiver is consistent with its fiduciary duty to members. Furthermore, HOLA allows the Board to object to dividend waivers if the waiver would be detrimental to the safe and sound operation of the thrift. Finally, any dividend from the thrift

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[10] *See* "Frequently Asked Questions about Regulation MM," available at www.federalreserve.gov/supervisionreg/legalinterpretations/reg-mm-frequently-asked-questions.htm.

would be subject to the general limitations on dividends for all thrift institutions.[10] Therefore, the proposal would streamline these requirements, simplifying the process for thrift MHCs to waive dividends.

Reducing operational burden and modernizing Regulation MM. Since the Board assumed regulatory and supervisory responsibility for thrift MHCs, staff has observed that the regulatory framework applicable to such institutions is overly complicated and burdensome. The supervised institutions have echoed this view in their comments submitted in response to the Board's recent Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA)[11] public input solicitation process.[12] The proposal offers comprehensive updates to Regulation MM to reduce unnecessary complexity, reasonably improve corporate flexibility, and provide additional clarity for thrift MHCs.

With respect to the operations of thrift MHCs, the proposal would clarify existing areas of uncertainty within the regulation, including membership rights in the context of acquisitions and the Board's standard of review for a thrift MHC's voluntary dissolution of its holding company. The proposal also would eliminate the requirement that thrift MHCs' charters and bylaws adhere to the Board's model charter and bylaws, allowing for more corporate flexibility.

With respect to the operations of subsidiary holding companies of thrift MHCs, the proposal would allow for additional flexibility by eliminating the requirement that subsidiary holding companies of thrift MHCs obtain federal charters and simplifying the provisions regarding stock issuances by subsidiary holding companies of thrift MHCs.

With respect to thrift MHCs' conversion from mutual to stock form, the proposal would remove unnecessary procedural requirements, eliminate unnecessary forms, remedy mathematical errors in the regulation, and provide additional capital flexibility by adjusting some post-conversion restrictions on stock repurchases.

Lastly, the proposal would modernize Regulation MM, including to remove outdated postal mail requirements, and make certain technical amendments to the regulation to fix typographical errors and provide helpful clarifications. The proposal also would include

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[10] 12 CFR 238, subpart K.

[11] 12 U.S.C. § 3311.

[12] Comments received in response to the Board's EGRPRA solicitation process are available here: www.federalreserve.gov/apps/proposals/FR-0000-0117-04/details.

questions to solicit feedback from the public on all aspects of Regulation MM, including provisions for which no changes are proposed.

Separate from the proposed changes to Regulation MM, the proposal would also seek to reduce regulatory burden for bank MHCs. Regulation MM does not apply directly to bank MHCs and their subsidiaries. However, bank MHCs have generally provided the Federal Reserve with commitments to comply with certain provisions of Regulation MM. The proposal would state expressly that the Board does not intend to seek these commitments from bank MHCs in the future and that the Board generally expects to be receptive to requests for relief from existing commitments of this type. Under the proposal, bank MHCs would be governed by state law with respect to their mutual structure.

ECONOMIC ANALYSIS: The proposal modernizes the regulatory framework for MHCs by amending Regulation MM and the capital rule to address key problems faced by these organizations: their limited ability to raise equity compared to other banking organizations, and burdensome, unclear rules that are costly for small institutions. More specifically, the proposal aims to clarify when mutual capital instruments qualify as regulatory capital, reduce requirements for dividend waivers, streamline the conversion process, and ease certain reporting requirements. These measures should reduce compliance costs and facilitate capital formation to assist these community-focused institutions in better serving their local markets.

While the proposal would provide the above benefits, it also has potential costs in the form of potential conflicts of interest and reduced accountability. Reducing the procedural requirements for dividend waivers could allow management to personally benefit from those waivers. Nonetheless, multiple safeguards exist to prevent such self-dealing: market forces, existing fiduciary duties and statutory requirements to determine that dividend waivers are consistent with directors' fiduciary duties, transparency requirements, and required disclosures to new members. Overall, the analysis concludes that the proposal's benefits justify the costs.

RECOMMENDATIONS: For the reasons discussed above, staff recommends the Board approve the proposal to amend Regulation MM and Regulation Q. Staff also recommends that the Board authorize staff to make technical, non-substantive changes to the proposed notice prior to publication in the *Federal Register*.

Attachments