

Application for Conversion of a Mutual Holding Company to Stock Form

FR MM-AC

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 Subpart E, that involve mutual holding companies converting to stock 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 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.

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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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
(*Mutual Holding Company to Convert
from Mutual to Stock Form*)

(*Name of mutual holding company and location of head office*), the parent company of (*name of savings association and location of head office*) [intends to apply/ has applied] to the Board of Governors of the Federal Reserve System (Board) to (*convert from mutual to stock form*). Pursuant to the Plan of Conversion, which has been adopted by a vote of at least two-thirds of the directors of (*name of mutual holding company*), [provide brief description of the steps that would be taken in the conversion. For example: (*name of mid-tier holding company*), which is currently in the mutual holding company form, will reorganize to a fully public stock holding company.] Simultaneously, (*mutual*

holding company) will sell its majority ownership in (*name of mid-tier holding company*) in a "second-step" stock offering. 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 the convenience and needs of the their communities.

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 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 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 nonpub-

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lic 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 for 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.

Requested Information

Sequence, Timing, and Structure of the Proposed Conversion

- (1) Provide the expected chronological order of events related to the proposed conversion begin-

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ning with the filing of this application through consummation of the proposed conversion. Indicate the proposed timing of all aspects of the subscription offering, as defined in 12 CFR 239.52(n). If a selling agent will assist in the community offering, or if an underwriter will offer shares in the public offering, indicate the proposed timing of all aspects of the community offering and public offering.

- (2) Indicate whether the mutual holding company has held a meeting of its members to vote on the plan of conversion 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) If the date for determining eligible account holders, as defined in 12 CFR 239.52(c), in the plan of conversion is more than one year before the board of directors of the Applicant adopted the plan of conversion, state why the earlier date was selected
- (4) Provide a list of all regulatory approvals and filings required for the proposed conversion, and the expected timing of required approvals by other regulatory authorities.
- (5) Confirm that the proposed conversion complies with the Board's Regulation MM, 12 CFR Part 239 or, if not, identify and describe in detail any proposed deviations from the regulation (including citations). Provide in response to this item or separately (in writing) any request for a waiver of any provision of Regulation MM that complies with 12 CFR 239.50(c). The Board's approval of an application that does not include a request in writing for a waiver of an applicable requirement of Regulation MM shall not constitute a waiver of any provision for which the Applicant does not comply.

Financial and Managerial Information

(6) Pro Forma Balance Sheet

- a. 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 an Applicant that would not be subject to consolidated capital standards following consummation of the proposed conversion,⁵ 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; and debit and credit adjustments (explained by detailed footnotes) reflecting the proposed conversion. The pro forma balance sheet must reflect the adjustments required under business combination and fair value accounting standards.
- b. For an Applicant that would be subject to consolidated capital standards following consummation of the proposed conversion, provide: parent company-only 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 conversion; and the resulting pro forma balance sheets.

The financial information provided in response to 6(a) or 6(b) 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;

5. This type of applicant 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; Appendix C to Part 225.

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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- 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) Capital

For an Applicant that would be subject to consolidated capital requirements under Regulation Q (12 CFR Part 217) following consummation of the proposed conversion, 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 capital, pursuant to the capital adequacy requirements of Regulation Q as of the end of the most recent quarter, and provide calculations of 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.

(8) Management

List any changes in management or other principal relationships related to the proposed conversion. For each proposed new management official or principal provide:

- a. Name, address, and title or position with Applicant;
- b. Number and percentage of shares of the Applicant to be purchased by each individual;
- c. Principal occupation if other than with the Applicant; and
- d. Percentage of direct or indirect ownership held in the other depository institution or depository institution holding company if such ownership represents 10 percent or more of any class of shares.

Interagency Biographical and Financial Reports ("IBFRs") are required for certain

individuals. Consult with the appropriate Reserve Bank for guidance on who must provide an IBFR. See SR 15-8, Name Check Process for Domestic and International Applications, for more details.

Expenses; Indemnification

- (9) Provide a detailed listing of expenses associated with the proposed conversion, including (but not limited to) legal fees, escrow fees, underwriting fees, valuation (appraisal) fees, transfer agent fees, auditing and accounting expenses.
- (10) If the Applicant will insure or indemnify any underwriter, appraiser, lawyer, accountant, other expert, or director or officer against any liability which he or she may incur in his or her capacity under any charter provisions, bylaw provisions, contract, arrangement, statute, or regulation, state the general effect of the charter provision, bylaw provisions, contract, arrangement, or regulation.

Exhibits

Provide the following exhibits as attachments to this form.

Exhibit 1. *Notice to Members*

Provide evidence that you have notified your members as required by 12 CFR 239.54(c)(1). Such notification may contain the information specified in 12 CFR 239.54(c)(2).

Exhibit 2. *Plan of Conversion*

Provide the complete written plan that your board of directors adopted for the conversion to stock form that meets the requirements of 12 CFR 239.54.

Exhibit 3. *Business Plan*

Provide a copy of the Applicant's proposed business plan, submitted as a separately bound, confidential exhibit, that contains the information specified in 12 CFR 239.53(b). Provide the related certifications as required 12 CFR 239.53(c)(2).

Exhibit 4. *Resolution(s) of Board of Directors*

Provide a certified copy or copies of your board of directors' resolution or resolutions relating to the pro-

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posed conversion, as set out in 12 CFR Part 239, including: (1) adopting the plan of conversion; and (2) authorizing this application.

Exhibit 5. *Charter and Bylaws*

Provide copies of the proposed charter (including a liquidation account provision) and bylaws.

Exhibit 6. *Appraisal Materials*

Provide a copy of the appraisal materials as required by 12 CFR 239.55(b)(1)(ii).

Exhibit 7. *Proxy Soliciting Materials*

Furnish copies of all proxy soliciting materials, including a preliminary proxy statement with signed financial statements; a form of proxy; and any additional proxy soliciting materials, including press releases, personal solicitation instructions, radio or television scripts that the mutual holding company plans to use or furnish to the members, and a legal opinion indicating that any marketing materials comply with all applicable securities laws.

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 conversion.

Exhibit 8. *Offering Circular*

Provide a copy of the Offering Circular as required by 12 CFR 239.55(b)(1)(iv).

Exhibit 9. *Charitable Organization*

If the proposed conversion includes a contribution to a charitable organization, provide the documentation required by 12 CFR 239.64, including current and proposed charter and bylaws (or trust agreement) for the charitable organization. Describe how the charitable organization complies with the requirements of 12 CFR 239.64.

Exhibit 10. *Opinion of Counsel*

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

- (1) The legal sufficiency of the proposed forms of stock certificates, order forms, and marketing materials to be issued by the Applicant.

- (2) The state law requirements applicable to the plan of conversion, including citations to applicable state law and a statement regarding whether such requirements will be fulfilled by the plan.
- (3) The type and extent of each class of voting rights after conversion. The opinion must discuss any state law that requires you to provide savings account holders or borrowers with voting rights.

Exhibit 11. *Federal and State Tax Opinions or Ruling*

- (1) Furnish an opinion of the Applicant's tax advisor or, if applicable, a ruling from the Internal Revenue Service as to the federal income tax consequences of the plan of conversion. The opinion or ruling must address the tax consequences for the Applicant and to the various account holders who receive nontransferable subscription rights to purchase shares.
- (2) Furnish an opinion of the Applicant's tax advisor or, if applicable, a ruling from the appropriate state taxing authority on any tax consequences of the plan of conversion under the laws of the state where applicant will be located. The opinion must address the tax consequences to the Applicant and to its eligible account holders.

Exhibit 12. *Miscellaneous Documentation*

Provide the following documents:

- (1) Proposed forms of stock certificates.
- (2) Proposed order forms with respect to the subscription rights.
- (3) Any proposed stock benefit plan(s), form of stock option agreement(s), and management or employee stock benefit plan(s).
- (4) Any proposed management employment contracts.
- (5) Any material loan agreements relating to your borrowing other than from a Federal Home Loan Bank and other than subordinated debt securities approved by the Board.
- (6) Any actual or proposed valuation (appraisal) agreements, underwriting contracts, agreements

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among underwriters, or selling agent agreements.

- (7) Any required undertaking or affidavits by officers or directors purchasing shares in the conversion stating that they are acting independently.
- (8) Any documents referred to in the answer to item Indemnification above.
- (9) Any trustee agreements or indentures.

(10) Any agreements for the making of markets or the listing on exchanges of your conversion stock.

(11) Proposed marketing materials.

If you provide any document, contract, or agreement in draft form under this exhibit, the Applicant must provide the final form immediately after the meeting of your members to consider the plan of conversion. The Applicant may provide documents required by subsection (f) above, that by their nature cannot be practically expected until a later time, in substantially final form.