

company under the contract shall terminate as of the effective date of the order, but vested rights of the contracting parties shall not be affected.

(4) If the subsidiary savings association is in default (as defined in section 3(x)(1) of the Federal Deposit Insurance Act), all obligations under the contract shall terminate as of the date of default, but this paragraph (b) shall not affect any vested rights of the contracting parties: *Provided*, that this paragraph (b) need not be included in an employment contract if prior written approval is secured from the Board.

(5) If the mutual holding company is subject to bankruptcy proceedings under title 11 of the United States Code, all obligations of the mutual holding company under the contract shall terminate as of the date that the petition is filed, but vested rights of the contracting parties shall not be affected: *Provided*, that this paragraph (b) need not be included in an employment contract if prior written approval is secured from the Board.

(6) All obligations under the contract shall be terminated, except to the extent determined that continuation of the contract is necessary to the continued operation of the mutual holding company—

(i) By the Board, at the time the Federal Deposit Insurance Corporation enters into an agreement to provide assistance to or on behalf of the subsidiary savings association under the authority contained in 13(c) of the Federal Deposit Insurance Act; or

(ii) By the Board, at the time the Board approves a supervisory merger to resolve problems related to operation of the mutual holding company or when the mutual holding company is determined by the Board to be in an unsafe or unsound condition.

Subpart E—Conversions from Mutual to Stock Form

§ 239.50 Purpose and scope.

(a) *General*. This subpart governs how a mutual holding company may convert from the mutual to the stock form of ownership. This subpart supersedes all inconsistent charter and bylaw provisions of mutual holding companies converting to stock form.

(b) *Prescribed forms*. A mutual holding company must use the forms prescribed under this subpart and provide such information as the Board may require under the forms by regulation or otherwise. The forms required under this subpart include: Form AC (Application for Conversion); Form PS (Proxy Statement); Form OC (Offering Circular); and Form OF (Order Form).

(c) *Waivers*. The Board may waive any requirement of this subpart or a provision in any prescribed form. To obtain a waiver, a mutual holding company must file a written request with the Board that:

(1) Specifies the requirement(s) or provision(s) that the mutual holding company wants the Board to waive;

(2) Demonstrates that the waiver is equitable; is not detrimental to the mutual holding company, mutual members, or other mutual holding companies or savings associations; and is not contrary to the public interest; and

(3) Includes an opinion of counsel demonstrating that applicable law does not conflict with the waiver of the requirement or provision.

§ 239.51 Acquiring another insured stock depository institution as part of a conversion.

When a mutual holding company converts to stock form, the subsidiary savings association may acquire for cash or stock another insured depository institution that is already in the stock form of ownership.

§ 239.52 Definitions.

The following definitions apply to this subpart and the forms prescribed under this subpart:

(a) *Association members* or *members* are persons who, under applicable law, are eligible to vote at the meeting on conversion.

(b) *Eligibility record date* is the date for determining eligible account holders. The eligibility record date must be at least one year before the date that the board of directors adopts the plan of conversion.

(c) *Eligible account holders* are any persons holding qualifying deposits on the eligibility record date.