

Federal Reserve System

§ 239.6

of the reorganizing association as in effect immediately prior to the reorganization;

(2) Confer upon existing and future depositors of any acquiree association or any association that is in the mutual form when acquired by the mutual holding company the same membership rights in the mutual holding company as were conferred upon depositors by the charter of the acquired association immediately prior to acquisition, *provided that* if the acquired association is merged into another association from which the mutual holding company draws members, the depositors of the acquired association shall receive the same membership rights as the depositors of the association into which the acquired association is merged;

(3) Confer upon the borrowers of the resulting association who are borrowers at the time of reorganization the same membership rights in the mutual holding company as were conferred upon them by the charter of the reorganizing association immediately prior to reorganization, but shall not confer any membership rights in connection with any borrowings made after the reorganization; and

(4) Confer upon the borrowers of any acquiree association or any association that is in the mutual form when acquired by the mutual holding company who are borrowers at the time of the acquisition the same membership rights in the mutual holding company as were conferred upon them by the charter of the acquired association immediately prior to acquisition, but shall not confer any membership rights in connection with any borrowings made after the acquisition, *provided that* if the acquired association is merged into another association from which the mutual holding company draws members, the borrowers of the acquired association shall instead receive the same grandfathered membership rights as the borrowers of the association into which the acquired association is merged received at the time that association became a subsidiary of the mutual holding company.

(b) *Depositors and borrowers of associations in the stock form when acquired.* A mutual holding company that acquires a savings association in the stock

form, other than a resulting association or an acquiree association, shall not confer any membership rights upon the depositors and borrowers of such association, unless such association is merged into an association from which the mutual holding company draws members, in which case the depositors of the stock association shall receive the same membership rights as other depositors of the association into which the stock association is merged.

§ 239.6 Contents of Reorganization Plans.

Each Reorganization Plan shall contain a complete description of all significant terms of the proposed reorganization, shall attach and incorporate any Stock Issuance Plan proposed in connection with the Reorganization Plan, and shall:

(a) Provide for amendment of the charter and bylaws of the reorganizing association to read in the form of the charter and bylaws of a mutual holding company, and attach and incorporate such charter and bylaws;

(b) Provide for the organization of the resulting association, which shall be an interim federal or state subsidiary savings association of the reorganizing association, and attach and incorporate the proposed charter and bylaws of such association;

(c) If the reorganizing association proposes to form a subsidiary holding company, provide for the organization of a subsidiary holding company and attach and incorporate the proposed charter and bylaws of such subsidiary holding company.

(d) Provide for amendment of the charter and bylaws of any acquiree association to read in the form of the charter and bylaws of a state or federal savings association in the stock form, and attach and incorporate such charter and bylaws;

(e) Provide that, upon consummation of the reorganization, substantially all of the assets and liabilities (including all savings accounts, demand accounts, tax and loan accounts, United States Treasury General Accounts, or United States Treasury Time Deposit Open Accounts, as those terms are defined in

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this part) of the reorganizing association shall be transferred to the resulting association, which shall thereupon become an operating subsidiary savings association of the mutual holding company;

(f) Provide that all assets, rights, obligations, and liabilities of whatever nature of the reorganizing association that are not expressly retained by the mutual holding company shall be deemed transferred to the resulting association;

(g) Provide that each depositor in the reorganizing association or any acquiree association immediately prior to the reorganization shall upon consummation of the reorganization receive, without payment, an identical account in the resulting association or the acquiree association, as the case may be (Appropriate modifications should be made to this provision if savings associations are being merged as a part of the reorganization);

(h) Provide that the Reorganization Plan as adopted by the boards of directors of the reorganizing association and any acquiree association may be substantively amended by those boards of directors as a result of comments from regulatory authorities or otherwise prior to the solicitation of proxies from the members of the reorganizing association and any acquiree association to vote on the Reorganization Plan and at any time thereafter with the concurrence of the Board; and that the reorganization may be terminated by the board of directors of the reorganizing association or any acquiree association at any time prior to the meeting of the members of the association called to consider the Reorganization Plan and at any time thereafter with the concurrence of the Board;

(i) Provide that the Reorganization Plan shall be terminated if not completed within a specified period of time (The time period shall not be more than 24 months from the date upon which the members of the reorganizing association or the date upon which the members of any acquiree association, whichever is earlier, approve the Reorganization Plan and may not be extended by the reorganizing or acquiree association); and

(j) Provide that the expenses incurred in connection with the reorganization shall be reasonable.

§ 239.7 Acquisition and disposition of savings associations, savings and loan holding companies, and other corporations by mutual holding companies.

(a) *Acquisitions*—(1) *Stock savings associations*. A mutual holding company may not acquire control of a savings association that is in the stock form unless the necessary approvals are obtained from the Board, including approval pursuant to § 238.11 of this chapter.

(2) *Mutual savings associations*. A mutual holding company may not acquire a savings association in the mutual form by merger of such association into any subsidiary savings association of such holding company from which the parent mutual holding company draws members or into an interim subsidiary savings association of the mutual holding company, unless:

(i) The proposed acquisition is approved by a majority of the board of directors of the mutual association;

(ii) The proposed acquisition is submitted to the mutual association's members and is approved by a majority of the total votes of the association's members eligible to be cast at a meeting held at the call of the association's directors in accordance with the procedures prescribed by the association's charter and bylaws;

(iii) The necessary approvals are obtained from the Board, including approval pursuant to § 238.11 of this chapter, and any other approvals required to form an interim association, to amend the charter and bylaws of the association being acquired, and/or to amend the charter and bylaws of the mutual holding company consistent with § 239.6(a); and

(iv) The approval of the members of the mutual holding company is obtained, if the Board advises the mutual holding company in writing that such approval will be required.

(3) *Mutual holding companies*. A mutual holding company that is not a subsidiary holding company may not acquire control of another mutual holding company, including a subsidiary holding company, by merging with or