

### § 239.13

written statement of the specific reasons for refusal, and shall simultaneously send to the appropriate Reserve Bank a copy of each of the requesting member's materials, the mutual holding company's written statement, and any other relevant material. The materials shall be sent within:

- (i) Fourteen days,
- (ii) Ten days if the communication is in connection with the annual meeting, or
- (iii) Three days, if the communication is in connection with a special meeting, after the mutual holding company receives the request for communication.

(c) *Improper communication.* A communication is an "improper communication" if it contains material which:

(1) At the time and in the light of the circumstances under which it is made:

(i) Is false or misleading with respect to any material fact; or

(ii) Omits a material fact necessary to make the statements therein not false or misleading, or necessary to correct a statement in an earlier communication on the same subject which has become false or misleading;

(2) Relates to a personal claim or a personal grievance, or is solicitous of personal gain or business advantage by or on behalf of any party;

(3) Relates to any matter, including a general economic, political, racial, religious, social, or similar cause, that is not significantly related to the business of the mutual holding company or is not within the control of the mutual holding company; or

(4) Directly or indirectly and without expressed factual foundation:

(i) Impugns character, integrity, or personal reputation,

(ii) Makes charges concerning improper, illegal, or immoral conduct, or

(iii) Makes statements impugning the stability and soundness of the mutual holding company.

### § 239.13 Charters.

(a) *Charters.* The charter of a mutual holding company shall be in the form set forth in Appendix A of this part and may be amended pursuant to this paragraph. The Board may amend the form of charter set forth in Appendix A to this part.

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(b) *Corporate title.* The corporate title of each mutual holding company shall include the term "mutual" or the abbreviation "M.H.C."

(c) *Availability of charter.* A mutual holding company shall make available to its members at all times in the offices of each subsidiary savings association from which the mutual holding company draws members a true copy of its charter, including any amendments, and shall deliver such a copy to any member upon request.

### § 239.14 Charter amendments.

(a) *General.* In order to adopt a charter amendment, a mutual holding company must comply with the following requirements:

(1) *Board of directors approval.* The board of directors of the mutual holding company must adopt a resolution proposing the charter amendment that states the text of such amendment;

(2) *Form of filing—*

(i) *Application requirement.* If the proposed charter amendment would render more difficult or discourage a merger, proxy contest, the assumption of control by a mutual account holder of the mutual holding company, or the removal of incumbent management; or involve a significant issue of law or policy; then, the mutual holding shall submit the charter amendment to the appropriate Reserve Bank for approval. Applications submitted under this paragraph are subject to the processing procedures at § 238.14 of this chapter.

(ii) *Notice requirement.* If the proposed charter amendment does not implicate paragraph (a)(2)(i) of this section and is permissible under all applicable laws, rules and regulations, the mutual holding company shall submit the proposed amendment to the appropriate Reserve Bank at least 30 days prior to the effective date of the proposed charter amendment.

(b) *Approval—*Any charter amendment filed pursuant to paragraph (a)(2)(ii) of this section shall automatically be approved 30 days from the date of filing of such amendment with the appropriate Reserve Bank, provided that the mutual holding company follows the requirements of its charter in adopting such amendment, unless the Reserve Bank or the Board notifies the

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mutual holding company prior to the expiration of such 30-day period that such amendment is rejected or is deemed to be filed under the provisions of paragraph (a)(2)(i) of this section. Notwithstanding anything in paragraph (a) of this section to the contrary, the following charter amendments, including the adoption of the Federal mutual holding company charter as set forth in Appendix A, shall be effective and deemed approved at the time of adoption, if adopted without change and filed with Board, within 30 days after adoption, provided the mutual holding company follows the requirements of its charter in adopting such amendments.

(1) *Title change.* (i) Subject to § 239.13 and this paragraph (b), a mutual holding company may amend its charter by substituting a new corporate title in section 1 of its charter.

(ii) Prior to changing its corporate title, a mutual holding company must file with the Board a written notice indicating the intended change. The Board shall provide to the mutual holding company a timely written acknowledgment stating when the notice was received. If, within 30 days of receipt of notice, the Board does not notify the mutual holding company of its objection to the corporate title change on the grounds that the title misrepresents the nature of the institution or the services it offers, the mutual holding company may change its title by amending its charter in accordance with § 239.14(b) or § 239.22 and the amendment provisions of its charter.

(2) *Maximum number of votes.* A mutual holding company may amend section 5 of its charter by substituting the maximum number of votes per member to any number from 1 to 1000.

(c) *Reissuance of charter.* A mutual holding company that has amended its charter may apply to have its charter, including the amendments, reissued by the Board. Such request for reissuance should be filed with the appropriate Reserve Bank.

### § 239.15 Bylaws.

(a) *General.* A mutual holding company shall operate under bylaws that contain provisions that comply with all requirements specified by the

Board, the provisions of this section, the mutual holding company's charter, and all other applicable laws, rules, and regulations *provided that*, a bylaw provision inconsistent with the provisions of this section may be adopted with the approval of the Board. Bylaws may be adopted, amended or repealed by a majority of the votes cast by the members at a legal meeting or a majority of the mutual holding company's board of directors. Throughout this section, the term "trustee" may be substituted for the term "director" as relevant.

(b) The following requirements are applicable to mutual holding companies:

(1) *Annual meetings of members.* A mutual holding company shall provide for and conduct an annual meeting of its members for the election of directors and at which any other business of the mutual holding company may be conducted. Such meeting shall be held, as designated by its board of directors, at a location within the state that constitutes the principal place of business of the subsidiary savings association, or at any other convenient place the board of directors may designate, and at a date and time within 150 days after the end of the mutual holding company's fiscal year. At each annual meeting, the officers shall make a full report of the financial condition of the mutual holding company and of its progress for the preceding year and shall outline a program for the succeeding year.

(2) *Special meetings of members.* Procedures for calling any special meeting of the members and for conducting such a meeting shall be set forth in the bylaws. The subject matter of such special meeting must be established in the notice for such meeting. The board of directors of the mutual holding company or the holders of 10 percent or more of the voting capital shall be entitled to call a special meeting. For purposes of this section, "voting capital" means FDIC-insured deposits as of the voting record date.

(3) *Notice of meeting of members.* Notice specifying the date, time, and place of the annual or any special meeting and adequately describing any business to be conducted shall be published for two