

Subpart C—Subsidiary Holding Companies

§ 239.20 Scope.

This subpart applies only to a subsidiary holding company of a mutual holding company.

§ 239.21 Charters.

(a) *Charters.* The charter of a subsidiary holding company of a mutual holding company shall be in the form set forth in Appendix B of this part and may be amended pursuant to § 239.22. The Board may amend the form of charter provided in Appendix B.

(b) *Optional charter provision limiting minority stock ownership.*

(1) A subsidiary holding company that engages in its initial minority stock issuance after October 1, 2008 may, before it conducts its initial minority stock issuance, at the time it conducts its initial minority stock issuance, or, subject to the condition below, at any time during the five years following a minority stock issuance that such subsidiary holding company conducts in accordance with the purchase priorities set forth in subpart E of this part, include in its charter the provision set forth in paragraph (b)(2) of this section. For purposes of the charter provision set forth in paragraph (b)(2), the definitions set forth at § 239.22(b)(8) apply. This charter provision expires a maximum of five years from the date of the minority stock issuance. The subsidiary holding company may adopt the charter provision set forth in paragraph (b)(2) of this section after a minority stock issuance only if it provided, in the offering materials related to its previous minority stock issuance or issuances, full disclosure of the possibility that the subsidiary holding company might adopt such a charter provision.

(2) *Beneficial ownership limitation.* No person may directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of the outstanding stock of any class of voting stock of the subsidiary holding company held by persons other than the subsidiary holding company's mutual holding company parent. This limitation expires on [insert date within five years of minority stock issuance]

and does not apply to a transaction in which an underwriter purchases stock in connection with a public offering, or the purchase of stock by an employee stock ownership plan or other tax-qualified employee stock benefit plan which is exempt from the approval requirements under § 238.12(a)(7) of this chapter.

(c) In the event a person acquires stock in violation of this section, all stock beneficially owned in excess of 10 percent shall be considered "excess stock" and shall not be counted as stock entitled to vote and shall not be voted by any person or counted as voting stock in connection with any matters submitted to the stockholders for a vote.

§ 239.22 Charter amendments.

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

(1) *Board of directors approval.* The board of directors of the subsidiary 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, tender offer, or proxy contest, the assumption of control by a holder of a block of the subsidiary holding company's stock, the removal of incumbent management, or involve a significant issue of law or policy, the subsidiary holding company shall file the proposed amendment with and shall obtain the prior approval of the Board pursuant to § 238.14 of this chapter; and

(ii) *Notice requirement.* If the proposed charter amendment does not implicate paragraph (a)(2)(i) of this section and such amendment is permissible under all applicable laws, rules or regulations, the subsidiary holding company shall submit the proposed amendments to the appropriate Reserve Bank, at least 30 days prior to the date the proposed charter amendment is to be mailed for consideration by the subsidiary holding company's shareholders.