

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Banking

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BANKING REGULATION 1

MUTUAL HOLDING COMPANIES

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Section 1 **Authority**

This Regulation is promulgated pursuant to the authority granted in R. I. Gen. Laws §§ 19-2-14.1 and 42-14-17.

Section 2 **Purpose**

The purpose of this Regulation is to set forth procedures to carry out the provisions of R.I. Gen. Laws § 19-2-14.1 entitled “Mutual holding companies” and to protect and preserve the interests and rights of depositors of a reorganizing mutual financial institution or an intermediate subsidiary financial institution of a mutual holding company or a subsidiary holding company. This Regulation establishes procedures, requirements and options for the reorganization of mutual financial institutions into mutual holding companies and the issuance of securities by a resulting subsidiary financial institution or subsidiary holding company of a mutual holding company under the provisions of R. I. Gen. Laws § 19-2-14.1. The actions and information required by this Regulation are hereby declared to be necessary and appropriate and in the public interest. Nothing contained in this Regulation shall limit the ability of the Director to consider other information in determining whether or not to approve an application of a mutual financial institution to reorganize into a mutual holding company or to issue securities associated therewith.

Section 3 **Definitions**

Unless otherwise provided by this Regulation or unless the context clearly requires otherwise, terms used in this Regulation shall have the same meaning as the terms as defined in Title 19 of the Rhode Island General Laws. Board of Trustees shall mean the governing body of the mutual financial institution, whether it be called the board of trustees or the board of

directors. The terms board of trustees or board of directors, for purposes of this Regulation and R.I. Gen. Laws § 19-2-14.1 are interchangeable.

- A. “Acquiree subsidiary financial institution” shall mean any mutual financial institution, other than a resulting subsidiary financial institution, that:
 - 1. is acquired by an existing mutual holding company concurrently with or subsequent to, such mutual holding company’s reorganization; and
 - 2. is in the mutual form immediately prior to such acquisition.
- B. “Eligible depositor”, for purposes of this Regulation, shall mean a depositor holding qualifying deposits, as defined in the plan of mutual holding company reorganization, as of a date designated in said plan which is not less than one (1) year prior to the date of adoption of said plan by the board of trustees. The plan of mutual holding company reorganization may provide that any deposit accounts with total deposit balances of less than fifty dollars (\$50.00) shall not constitute a qualifying deposit.
- C. “Mutual financial institution” shall mean a Rhode Island financial institution operating in mutual form.
- D. “Mutual holding company” shall mean a mutual financial institution reorganized in accordance with R.I. Gen. Laws § 19-2-14.1 to hold all or part of the shares of capital stock of a subsidiary financial institution, and shall mean, unless otherwise indicated, a subsidiary holding company controlled by a mutual holding company, organized under R.I. Gen. Laws § 19-2-14.1.
- E. “Mutual holding company reorganization plan or plan of reorganization” shall mean a plan to reorganize into a mutual holding company pursuant to R.I. Gen. Laws § 19-2-14.1, and shall include a plan of reorganization of an acquiree subsidiary financial institution.
- F. “Resulting subsidiary financial institution” shall mean a financial institution in stock form that is organized as a subsidiary of a reorganizing mutual financial institution to receive the substantial part of the assets and liabilities (including all deposit accounts) of the reorganizing mutual financial institution upon consummation of the reorganization, or that is organized as a successor institution to the reorganizing mutual financial institution.
- G. “Securities” shall mean:
 - 1. stock of any kind of a resulting subsidiary financial institution or subsidiary holding company of a mutual holding company including, without limitation, preferred or common stock;

2. securities convertible into or exchangeable for stock of any kind of a resulting subsidiary financial institution or subsidiary holding company of a mutual holding company; and
 3. warrants, options or other rights for the issuance of stock of any kind of a resulting subsidiary financial institution or subsidiary holding company of a mutual holding company or of securities convertible into or exchangeable for stock of any kind of a resulting subsidiary financial institution or subsidiary holding company of a mutual holding company.
- H. “Stock issuance plan” shall mean a plan providing for the public issuance of securities by a subsidiary financial institution or a subsidiary holding company subject to the requirements of this Regulation.
- I. “Subsidiary financial institution” shall mean the financial institution resulting from the reorganization of a mutual financial institution in accordance with R.I. Gen. Laws § 19-2-14.1, all or part of the capital stock of which is held by a mutual holding company or a subsidiary holding company.
- J. “Subsidiary holding company” shall mean a stock holding company, organized as a business corporation under the laws of Rhode Island or another state, which is controlled by a mutual holding company, and which owns the stock of a subsidiary financial institution whose depositors have rights in the parent mutual holding company.

Section 4 Provisions

A. Mutual Holding Company Reorganizations

A mutual financial institution may reorganize into the mutual holding company structure, or join a mutual holding company as an acquiree subsidiary financial institution, upon satisfaction of the following conditions:

1. A Reorganization Plan is approved by a two-thirds (2/3) vote of the board of trustees of the reorganizing mutual financial institution and, if applicable, any acquiree subsidiary financial institution;
2. The Reorganization Plan and Application is filed with the Director and the Director has given written approval of the proposed reorganization;
3. The Reorganization Plan is approved by a majority vote of the eligible depositors present in person or by proxy at a meeting called by the board of trustees, in accordance with the bylaws;

4. The reorganizing mutual financial institution shall file an Application for approval of the Reorganization Plan in the form required by the Director and shall contain:
 - a. a copy of the minutes of the meeting of the board of trustees authorizing the Reorganization Plan and approving the Reorganization Plan with the secretary's attestation;
 - b. all other application information and materials required to be submitted pursuant to this Regulation; and
 - c. any other information which the Director may require.
5. All necessary regulatory approvals have been obtained and all conditions imposed by the Director in connection with the granting of the approvals have been satisfied; and.
6. The deposits of any deposit taking institutions remain federally insured.

B. Interests of Depositors

The Agreement to Form or Bylaws of a mutual holding company shall:

1. confer upon existing and future depositors of the resulting subsidiary financial institution the same rights in the mutual holding company, including any liquidation rights in the mutual holding company under R.I. Gen. Laws § 19-2-14.1, as were conferred upon depositors of the reorganizing mutual financial institution as in effect immediately prior to the reorganization; and
2. confer upon existing and future depositors of any acquiree subsidiary financial institution or any mutual financial institution that is in the mutual form when acquired by the mutual holding company the same rights, including any liquidation rights under R.I. Gen. Laws § 19-2-14.1, in the mutual holding company as were conferred upon depositors of the acquired subsidiary financial institution immediately prior to acquisition.

C. 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:

1. if necessary, provide for amendment of the Agreement to Form and bylaws of the reorganizing mutual financial institution to be consistent

with an Agreement to Form and bylaws of a mutual holding company, and attach and incorporate such Agreement to Form and bylaws;

2. if necessary, provide for the organization of the resulting subsidiary financial institution, which shall be in the form of a financial institution in stock form organized pursuant to R.I. Gen. Laws §§ 19-2-1 *et seq.*, and shall attach and incorporate the proposed Agreement to Form and bylaws of such subsidiary financial institution;
3. if necessary, in the case that the reorganizing mutual financial institution proposes to form a subsidiary holding company, provide for the organization of a subsidiary holding company and attach and incorporate the proposed Agreement to Form or Corporate Charter and bylaws of such subsidiary holding company;
4. if necessary, provide for amendment of the Agreement to Form and bylaws of any acquiree subsidiary financial institution to be consistent with an Agreement to Form and bylaws of a state-chartered financial institution or federal savings association in stock form, and attach and incorporate such Agreement to Form and bylaws;
5. provide that, upon consummation of the reorganization, substantially all of the assets and liabilities, including all of its deposit liabilities, of the reorganizing mutual financial institution shall be transferred to the resulting subsidiary financial institution, which shall thereupon become an operating subsidiary financial institution of the mutual holding company;
6. provide that all assets, rights, obligations, and liabilities of whatever nature of the reorganizing mutual financial institution that are not expressly retained by the mutual holding company shall be deemed transferred to the resulting subsidiary financial institution;
7. provide that each depositor in the reorganizing mutual financial institution or any acquiree subsidiary financial institution immediately prior to the reorganization shall upon consummation of the reorganization receive, without payment, an identical account in the resulting subsidiary financial institution or the acquiree subsidiary financial institution, as the case may be;
8. provide that the Reorganization Plan as adopted by the boards of trustees of the reorganizing mutual financial institutions and any acquiree subsidiary financial institution may be substantively amended by those boards of trustees, including as a result of comments from regulatory authorities, prior to the solicitation of depositor approval and at any time thereafter with the concurrence of the Director; and that the reorganization may be terminated by the board of trustees of the reorganizing mutual

financial institution or any acquiree subsidiary financial institution at any time prior to the meeting of depositors called to consider the plan and at any time thereafter with the concurrence of the Director;

9. provide that the Reorganization Plan shall be terminated if not completed within a specified period of time, which shall not be more than twenty four (24) months from the date upon which the trustees of the reorganizing mutual financial institution or the date upon which the trustees of any acquiree subsidiary mutual institution, whichever is earlier, approve the Reorganization Plan and may not be extended by the reorganizing mutual financial institution or acquiree subsidiary financial institution; and
10. provide that the expenses incurred in connection with the reorganization shall be reasonable.

D. Issuance of Stock by Subsidiaries of Mutual Holding Companies

No subsidiary financial institution or subsidiary holding company of a mutual holding company (including any resulting subsidiary financial institution or acquiree subsidiary financial institution) may issue stock to persons other than its mutual holding company parent in connection with a mutual holding company reorganization, or at any time subsequent to the subsidiary financial institution's acquisition by the mutual holding company, unless the subsidiary financial institution obtains approval of each such issuance from the Director.

E. Contents of Stock Issuance Plans

Each Stock Issuance Plan shall contain a complete description of all significant terms of the proposed stock issuance; shall attach and incorporate the proposed stock order form and any agreements or other documents defining the rights of the stockholders; and shall provide that the aggregate amount of outstanding common stock of the subsidiary financial institution, or subsidiary holding company, owned or controlled by persons other than the subsidiary financial institution's mutual holding company parent at the close of the proposed issuance shall be less than fifty percent (50%) of the subsidiary financial institution's total outstanding common stock.

F. Subsidiary Holding Companies

1. Formation. A mutual holding company may establish a subsidiary holding company as a direct subsidiary to hold one hundred percent (100%) of the stock of its subsidiary financial institution. A subsidiary holding company shall be subject to the Director's supervision, regulation, and examination to the same extent as a mutual holding company under R.I. Gen. Laws §§ 19-6-1 *et seq.* The subsidiary holding company may be established either at the time of the initial

mutual holding company reorganization or at a subsequent date, subject to the approval of the Director.

2. Stock issuances. For purposes of this Regulation, the subsidiary holding company shall be treated as a subsidiary financial institution issuing stock. In the case of a stock issuance by a subsidiary holding company, the aggregate amount of outstanding common stock of the subsidiary financial institution owned or controlled by persons other than the subsidiary holding company's mutual holding company parent at the close of the proposed issuance shall be less than fifty percent (50%) of the subsidiary holding company's total outstanding common stock.

G. Other factors

The Director shall consider, among other things, the fairness of the Reorganization Plan to the eligible depositors of the reorganizing mutual financial institution or acquiree subsidiary financial institution. Factors considered by the Director to determine fairness may include, but are not limited to:

1. the adequacy of the disclosure materials;
2. the form of the proxy statement required for the vote of the eligible depositors on the Reorganization Plan;
3. the extent to which the application materials submitted to the Director conform with laws, rules or regulations of the federal deposit insurance corporation and the various provisions of mutual holding company regulations of the Office of Thrift Supervision as in effect at the time of submission of the application to the Director; and
4. such other factors or information that the Director reasonably determines relevant to the reorganization.

Section 5 Severability

If any provision of this Regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable

Section 6 Effective Date

This Regulation shall be effective twenty (20) days from the date of filing with the Secretary of State.

EFFECTIVE DATE: May 27, 2003