Federal MHC Subsidiary Holding Company

Charter

§ 575.14 Subsidiary holding companies.

(a) Subsidiary holding companies. A mutual holding company may establish a subsidiary holding company as a direct subsidiary to hold 100% of the stock of its savings association subsidiary. The formation and operation of the subsidiary holding company may not be utilized as a means to evade or frustrate the purposes of this part 575 or part 563b of this chapter. 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 OTS.

(b) Stock issuances. For purposes of §§575.7 and 575.8, the subsidiary holding company shall be treated as a savings association issuing stock and shall be subject to the requirements of those sections. In the case of a stock issuance by a subsidiary holding company, the aggregate amount of outstanding common stock of the association 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 50% of the subsidiary holding company’s total outstanding common stock.

(c) Charters and bylaws for subsidiary holding companies—(1) Charters. The charter of a subsidiary holding company shall be in the form set forth in this paragraph (c)(1) and may include any of the additional provisions permitted pursuant to paragraph (c)(2) of this section. The form of the charter is as follows:

Office of Thrift Supervision, Treasury

or disapproves any application or notice pursuant to this part 575 may obtain review of such action only by complying with 12 U.S.C. 1467a(j).

(i) Federal preemption. This part 575 preempts state law with regard to the creation and regulation of mutual holding companies.


§ 575.14 Subsidiary holding companies.
§575.14

12 CFR Ch. V (1–1–10 Edition)

shares as a stock dividend shall be deemed to be the consideration for their issuance.

Except for shares issued in the initial organization of the MHC subsidiary holding company, no shares of capital stock (including shares issuable upon conversion, exchange, or exercise of other securities) shall be issued, directly or indirectly, to officers, directors, or controlling persons (except for shares issued to the parent mutual holding company) of the MHC subsidiary holding company other than as part of a general public offering or as qualifying shares to a director, unless the issuance or the plan under which they would be issued has been approved by a majority of the total votes eligible to be cast at a legal meeting.

The holders of the common stock shall exclusively possess all voting power. Each holder of shares of common stock shall be entitled to one vote for each share held by such holder, except as to the cumulation of votes for the election of directors, unless the charter provides that there shall be no such cumulative voting. Subject to any provision for a liquidation account, in the event of any liquidation, dissolution, or winding up of the MHC subsidiary holding company, the holders of the common stock shall be entitled, after payment or provision for payment of all debts and liabilities of the MHC subsidiary holding company, the holders of common stock shall have the same relative rights as and be identical in all respects with all the other shares of common stock.

Section 6. Preemptive rights. Holders of the capital stock of the MHC subsidiary holding company shall not be entitled to preemptive rights with respect to any shares of the MHC subsidiary holding company which may be issued.

Section 7. Directors. The MHC subsidiary holding company shall be under the direction of a board of directors. The authorized number of directors, as stated in the MHC subsidiary holding company’s bylaws, shall not be fewer than five nor more than fifteen except when a greater or lesser number is approved by the Director of the Office, or his or her delegate.

Section 8. Amendment of charter. Except as provided in Section 5, no amendment, addition, alteration, change or repeal of this charter shall be made, unless such is proposed by the board of directors of the MHC subsidiary holding company, approved by the shareholders by a majority of the votes eligible to be cast at a legal meeting, unless a higher vote is otherwise required, and approved or preapproved by the Office.

Attest:
Secretary of the Subsidiary Holding Company

By: President or Chief Executive Officer of the Subsidiary Holding Company

Attest:
Secretary of the Office of Thrift Supervision

By: Director of the Office of Thrift Supervision

Effective Date:

(2) Charter amendments. The rules and regulations set forth in §552.4 of this chapter regarding charter amendments and reissuances of charters (including delegations and filing instructions) shall be applicable to subsidiary holding companies to the same extent as if the subsidiary holding companies were Federal stock savings associations, except that, with respect to the pre-approved charter amendments set forth in §552.4 of this chapter, the reference to home office in §552.4(b)(2) of this chapter shall be deemed to refer to the domicile of the subsidiary holding company and the requirements of §545.95 of this chapter shall not apply to subsidiary holding companies.

(3) Optional charter provision limiting minority stock ownership. 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 at any time during the five years following a minority stock issuance, to 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 12 CFR part 563b, include in its charter the provision set forth below. For purposes of this charter provision, the definitions set forth at §552.4(b)(8) of this chapter 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 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 association might adopt such a charter provision.

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 association 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 §574.3(c)(1)(vii) of the Office’s regulations.

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.

(4) Bylaws. The rules and regulations set forth in §552.5 of this chapter regarding bylaws (including their content, any amendments thereto, delegations, and filing instructions) shall be applicable to subsidiary holding companies to the same extent as if subsidiary holding companies were federal stock savings associations. The model bylaws for Federal stock savings associations set forth in the OTS Applications Processing Handbook shall also serve as the model bylaws for subsidiary holding companies, except that the term “association” each time it appears therein shall be replaced with the term “Subsidiary Holding Company.”

(5) Annual reports and books and records. The rules and regulations set forth in §§552.10 and 552.11 of this chapter regarding annual reports to shareholders and maintaining books and records shall be applicable to subsidiary holding companies to the same extent as if subsidiary holding companies were Federal stock savings associations.

[63 FR 11366, Mar. 9, 1998, as amended at 73 FR 39219, July 9, 2008; 73 FR 76939, Dec. 18, 2008]

PART 583—DEFINITIONS FOR REGULATIONS AFFECTING SAVINGS AND LOAN HOLDING COMPANIES

§ 583.1 Acquire.

The term acquire means to acquire, directly or indirectly, ownership or control through an acquisition of shares, an acquisition of assets or assumption of liabilities, a merger or consolidation, or any similar transaction.

§ 583.2 Affiliate.

The term affiliate of a specified savings association means any person or company which controls, is controlled by, or is under common control with, such savings association.

§ 583.3 Bank.

The term bank means any national bank, state bank, state-chartered savings bank, cooperative bank, or industrial bank, the deposits of which are insured by the Deposit Insurance Fund.

[71 FR 19812, Apr. 18, 2006]

§ 583.4 Bank holding company.

The term bank holding company means any company which has control over any bank or over any company that is or becomes a bank holding company.

§ 583.6 Company.

§ 583.7 Control.

§ 583.8 Corporation.

§ 583.9 Director.

§ 583.11 Diversified savings and loan holding company.

§ 583.12 Multiple savings and loan holding company.

§ 583.13 Office.

§ 583.14 Officer.

§ 583.15 Parent company.

§ 583.16 Person.

§ 583.17 Qualified thrift lender.

§ 583.18 Registrant.

§ 583.19 [Reserved]

§ 583.20 Savings and loan holding company.

§ 583.21 Savings association.

§ 583.22 State.

§ 583.23 Subsidiary.

§ 583.24 Uninsured institution.

AUTHORITY: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

SOURCE: 54 FR 49707, Nov. 30, 1989, unless otherwise noted.