

§ 239.58

(4) The Board may also bring an enforcement action against the violator for violations of this section.

(h) *Re-soliciting proxies.* If the mutual holding company amends its application for conversion, the Board may require it to re-solicit proxies for the members' meeting as a condition of approval of the amendment.

§ 239.58 Offering circular.

(a) *Filing requirements.* (1) The mutual holding company must prepare and file the offering circular with the appropriate Reserve Bank in compliance with this subpart and Form OC. The mutual holding company may obtain Form OC from the Reserve Bank and the Board's Web site (<http://www.federalreserve.gov>).

(2) The mutual holding company must condition the stock offering upon member approval of the plan of conversion.

(3) The Board will review the Form OC and may comment on the included disclosures and financial statements.

(4) The mutual holding company must file a revised offering circular, final offering circular, and any post-effective amendment to the final offering circular.

(5) The Board will not approve the adequacy or accuracy of the offering circular or the disclosures.

(b) *Distribution of the offering circular.* (1) The mutual holding company may distribute a preliminary offering circular at the same time as or after the mutual holding company mails the proxy statement to its members.

(2) The mutual holding company must distribute the offering circular in accordance with this subpart and with all applicable securities laws.

(3) The mutual holding company must distribute the offering circular to persons listed in the plan of conversion no later than ten days after the Board approves the conversion.

(c) *Post-effective amendments to the offering circular.* (1) The mutual holding company must file a post-effective amendment to the offering circular with the Board when a material event or change of circumstance occurs.

(2) After the Securities and Exchange Commission declares the post-effective amendment effective, the mutual hold-

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ing company must immediately deliver the amendment to each person who subscribed for or ordered shares in the offering.

(3) The post-effective amendment must indicate that each person may increase, decrease, or rescind their subscription or order.

(4) The post-effective offering period must remain open no less than 10 days nor more than 20 days, unless the Board approves a longer rescission period.

§ 239.59 Offers and sales of stock.

(a) *Purchase priorities.* The mutual holding company must offer to sell the conversion shares in the following order:

(1) Eligible account holders.

(2) Tax-qualified employee stock ownership plans.

(3) Supplemental eligible account holders.

(4) Other voting members who have subscription rights.

(5) The community, the community and the general public, or the general public.

(b) *Offering conversion shares.* (1) The mutual holding company may offer to sell the conversion shares if the Board approves the conversion, subject to compliance with requirements of the Securities and Exchange Commission.

(2) The offer may commence at the same time as the proxy solicitation of the members begins.

(c) *Pricing conversion shares.* (1) The conversion shares must be sold at a uniform price per share and at a total price that is equal to the estimated pro forma market value of the shares after conversion.

(2) The maximum price must be no more than 15 percent above the midpoint of the estimated price range in the offering circular.

(3) The minimum price must be no more than 15 percent below the midpoint of the estimated price range in the offering circular.

(4) If the Board permits, the maximum price of conversion shares sold may be increased. The maximum price, as adjusted, must be no more than 15 percent above the maximum price computed under paragraph (c)(2) of this section.