§ 239.12 Communication between members of a mutual holding company.

(a) Right of communication with other members. A member of a mutual holding company has the right to communicate, as prescribed in paragraph (b) of this section, with other members of the mutual holding company regarding any matter related to the mutual holding company’s affairs, except for “improper” communications, as defined in paragraph (c) of this section. The mutual holding company may not defeat that right by redeeming a savings member’s savings account in the subsidiary savings association.

(b) Member communication procedures. If a member of a mutual holding company desires to communicate with other members, the following procedures shall be followed:

(1) The member shall give the mutual holding company a written request to communicate;

(2) If the proposed communication is in connection with a meeting of the mutual holding company’s members, the request shall be given at least thirty days before the annual meeting or 10 days before a special meeting;

(3) The request shall contain—

(i) The member’s full name and address;

(ii) The nature and extent of the member’s interest in the mutual holding company at the time the information is given;

(iii) A copy of the proposed communication; and

(iv) If the communication is in connection with a meeting of the members, the date of the meeting;

(4) The mutual holding company shall reply to the request within either—

(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;

(5) The reply shall provide either—

(i) The number of the mutual holding company’s members and the estimated reasonable cost to the mutual holding company of mailing to them the proposed communication; or

(ii) Notification that the mutual holding company has determined not to mail the communication because it is “improper”, as defined in paragraph (c) of this section;

(6) After receiving the amount of the estimated costs of mailing and sufficient copies of the communication, the mutual holding company shall mail the communication to all members, by a class of mail specified by the requesting member, either—

(i) Within fourteen days;

(ii) Within seven days, if the communication is in connection with the annual meeting;

(iii) As soon as practicable before the meeting, if the communication is in connection with a special meeting; or

(iv) On a later date specified by the member;

(7) If the mutual holding company refuses to mail the proposed communication, it shall return the requesting member’s materials together with a
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.

(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