

## Federal Reserve System

## § 239.58

(5) A member may furnish other members its own proxy solicitation material, subject to the rules in this section.

(g) *Prohibited solicitations.* (1) False or misleading statements. (i) No one may use proxy solicitation material for the members' meeting if the material contains any statement which, considering the time and the circumstances of the statement:

(A) Is false or misleading with respect to any material fact;

(B) Omits any material fact that is necessary to make the statements not false or misleading; or

(C) Omits any material fact that is necessary to correct a statement in an earlier communication that has become false or misleading.

(ii) No one may represent or imply that the Board determined that the proxy solicitation material is accurate, complete, not false or not misleading, or passed upon the merits of or approved any proposal.

(2) Other prohibited solicitations. No person may solicit:

(i) An undated or post-dated proxy;

(ii) A proxy that states it will be dated after the date it is signed by a member;

(iii) A proxy that is not revocable at will by the member; or

(iv) A proxy that is part of another document or instrument.

(3) If a solicitation violates this section, the Board may require remedial measures, including:

(i) Correction of the violation by a retraction and a new solicitation;

(ii) Rescheduling the members' meeting; or

(iii) Any other actions necessary to ensure a fair vote.

(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 appro-

priate 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 holding 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.