

§ 575.2 Definitions.

As used in this part, the following definitions apply, unless specified elsewhere in this part:

(a) The terms *associate* and *tax-qualified employee stock benefit plan* have the meanings set forth in 12 CFR 563b.2.

(b) The terms *acting in concert*, *affiliate*, *company*, *person*, and *savings association* have the meanings set forth in § 574.2 of this chapter.

(c) The term *acquiree association* means any savings association, other than a resulting association, that:

(1) Is acquired by a mutual holding company as part of, and concurrently with, a mutual holding company reorganization; and

(2) Is in the mutual form immediately prior to such acquisition.

(d) The term *control* has the same meaning as specified in § 574.4 of this chapter.

(e) The term *default* means any adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for a mutual holding company or savings association subsidiary of a mutual holding company.

(f) The term *insider* means any officer or director of a company or of any affiliate of such company, and any person acting in concert with any such officer or director.

(g) The term *member* means any depositor or borrower of a mutual savings association that is entitled, under the charter of the savings association, to vote on matters affecting the association, and any depositor or borrower of a savings association subsidiary of a mutual holding company that is entitled, under the charter of the mutual holding company, to vote on matters affecting the mutual holding company.

(h) The term *mutual holding company* means a mutual holding company organized under this part.

(i) The term *parent* has the same meaning as the term *parent company* specified at § 583.15 of this chapter.

(j) The term *Reorganization Notice* means a notice of a proposed mutual holding company reorganization that is in the form and contains the information required by the OTS.

(k) The term *Reorganization Plan* means a plan to reorganize into the mutual holding company format containing the information required by § 575.6 of this part.

(l) The term *reorganizing association* means a mutual savings association that proposes to reorganize to become a mutual holding company pursuant to this part.

(m) The term *resulting association* means a savings association in the stock form that is organized as a subsidiary of a reorganizing association to receive the substantial part of the assets and liabilities (including all deposit accounts) of the reorganizing association upon consummation of the reorganization.

(n) The term *stock* means common or preferred stock, or any other type of equity security, including (without limitation) warrants or options to acquire common or preferred stock, or other securities that are convertible into common or preferred stock.

(o) The term *Stock Issuance Plan* means a plan providing for the issuance of stock by a savings association subsidiary of a mutual holding company submitted pursuant to § 575.7 of this part and containing the information required by § 575.8 of this part.

(p) The term *subsidiary* has the meaning specified at § 583.23 of this chapter.

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§ 575.3 Mutual holding company reorganizations.

A mutual savings association may reorganize to become a mutual holding company, or join in a mutual holding company reorganization as an acquiree association, only upon satisfaction of the following conditions:

(a) A Reorganization Plan is approved by a majority of the board of directors of the reorganizing association and any acquiree association;

(b) A Reorganization Notice is filed with the OTS and either:

(1) The OTS has given written notice of its intent not to disapprove the proposed reorganization; or

(2) Sixty days have passed since the OTS received the Reorganization Notice and deemed it sufficient under

§ 516.2(c) of this chapter, and the OTS has not:

(i) Given written notice that the proposed reorganization is disapproved; or

(ii) Extended for an additional 30 days the period during which disapproval may be issued;

(c) The Reorganization Plan is submitted to the members of the reorganizing association and any acquiree association pursuant to a proxy statement cleared in advance by the OTS and such Reorganization Plan is approved by a majority of the total votes of the members of each association eligible to be cast at a meeting held at the call of each association's directors in accordance with the procedures prescribed by each association's charter and bylaws; and

(d) All necessary regulatory approvals have been obtained and all conditions specified in § 575.9(c)(5) of this part or otherwise imposed by the OTS in connection with the issuance of a notice of intent not to disapprove under § 575.3(b)(1) of this part or by the OTS in connection with the granting of the approvals specified in this paragraph have been satisfied.

§ 575.4 Grounds for disapproval of reorganizations.

(a) *Basic standards.* The OTS may disapprove a proposed mutual holding company reorganization pursuant to § 575.3(b) of this part if:

(1) Disapproval is necessary to prevent unsafe or unsound practices;

(2) The financial or managerial resources of the reorganizing association or any acquiree association warrant disapproval;

(3) The proposed capitalization of the mutual holding company fails to meet the requirements of paragraph (b) of this section;

(4) A stock issuance is proposed in connection with the reorganization pursuant to § 575.7 of this part that fails to meet the standards established by that section;

(5) The reorganizing association or any acquiree association fails to furnish the information required to be included in the Reorganization Notice or any other information requested by the OTS in connection with the proposed reorganization; or

(6) The proposed reorganization would violate any provision of law, including (without limitation) § 575.3 (a) and (c) of this part (regarding board of directors and membership approval) or § 575.5(a) of this part (regarding continuity of membership rights).

(b) *Capitalization.* (1) The OTS shall disapprove a proposal by a reorganizing association or any acquiree association to capitalize a mutual holding company in an amount in excess of a nominal amount if immediately following the reorganization, the resulting association or the acquiree association would fail to be "adequately capitalized" as defined under 12 CFR part 565.

(2) Proposals by reorganizing associations and acquiree associations to capitalize mutual holding companies shall also comply with any applicable statutes, and with regulations or written policies of the OTS governing capital distributions by savings associations in effect at the time of the reorganization. (Issuance by the OTS of a notice of intent not to disapprove a mutual holding company reorganization pursuant to § 575.3(b) of this part, or failure by the OTS to disapprove such a reorganization within the time prescribed in § 575.3(b) of this part, shall also be deemed to constitute OTS approval under any regulation or written policy of the OTS governing capital distributions by savings associations, if such approval is required, of the capitalization proposal set forth in the Reorganization Notice, subject to any conditions imposed by § 575.4(d)(2) of this part.)

(c) *Presumptive disqualifiers*—(1) *Managerial resources.* The factors specified in § 574.7 (g)(1)(i)–(g)(1)(vi) of this chapter shall give rise to a rebuttable presumption that the managerial resources test of paragraph (a)(2) of this section is not met. For this purpose, each place the term *acquiror* appears in § 574.7 (g)(1)(i)–(g)(1)(vi) of this chapter, it shall be read to mean the reorganizing association or any acquiree association, and the reference in § 574.7(g)(1)(v) of this chapter to filings under this part shall be deemed to include filings under either part 574 of this chapter or this part.