

**§1053. Formation of mutual holding company**

**1. Reorganization.** Notwithstanding any other provision of law, a mutual financial institution may reorganize so as to become a mutual holding company by:

A. Chartering, pursuant to chapter 31, a subsidiary universal bank; and [PL 2009, c. 228, §11 (AMD).]

B. Transferring a substantial part of its assets and liabilities, including all of its insured liabilities to the subsidiary universal bank. The subsidiary universal bank must meet or exceed minimum capital requirements prescribed by federal law or regulations or state law or rules. Persons having liquidation rights with respect to the mutual financial institution pursuant to chapter 36, at the time of the formation of the subsidiary universal bank, have those rights with respect to the mutual holding company. [PL 2009, c. 228, §11 (AMD).]

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**2. Plan.** A plan of reorganization authorized under this chapter must be approved by a majority of the board of directors and members of the mutual financial institution.

[PL 2007, c. 79, §24 (AMD).]

**3. Approval.** Mutual financial institutions seeking to establish a mutual holding company pursuant to this chapter or a mutual holding company seeking to convert to a stock financial institution holding company shall do so pursuant to section 344, except that the conversion plan of a mutual holding company to a stock financial institution holding company is subject to the approval of a 2/3 vote of all the eligible account holders of all the financial institutions that are subsidiaries of the holding company. If there is more than one subsidiary financial institution, the eligible account holders are combined and 2/3 of the combined eligible account holders must approve the conversion. Only account holders of financial institutions that are subsidiaries of the holding company are eligible to vote on the conversion plan. Shareholders of nonbank stock subsidiaries are not eligible to vote on the conversion plan.

[PL 1993, c. 257, §5 (AMD).]

**4. Issuance of stock and securities.** A subsidiary universal bank has the power to issue to persons other than the mutual holding company of which it is a subsidiary an amount of common stock and securities convertible into common stock that in the aggregate does not exceed 49% of the issued and outstanding common stock of that subsidiary universal bank. For purposes of the 49% limitation, any issued and outstanding securities that are convertible into common stock, including warrants, options and rights to purchase common stock, are considered issued and outstanding common stock of the subsidiary. Each time common stock of the subsidiary universal bank is offered by the institution to the general public for a price payable in cash, each eligible account holder of the subsidiary universal bank of the mutual holding company must receive, without payment, nontransferable subscription rights to purchase that common stock at the same price and in accordance with guidelines or rules as may be adopted by the superintendent. For purposes of this chapter, "offer to the general public" means an offer by means of public advertising or general solicitation and does not include:

A. Issuances to the mutual holding company; or [PL 1993, c. 257, §6 (NEW).]

B. Offers or sales that are exempt from registration by virtue of Title 32, section 16202, subsection 16, 19 or 26. [PL 2009, c. 228, §12 (AMD).]

[PL 2009, c. 228, §12 (AMD).]

**5. Reporting.** A subsidiary universal bank that issues, or has issued and outstanding, any common stock or securities convertible into common stock to persons other than the mutual holding company of which it is a subsidiary shall file consolidated financial statements, reports or proxy materials as required under federal law. If the consolidated financial statements, reports or proxy materials are not required to be filed with any federal authority or agency, copies of the consolidated financial statements, reports or proxy materials must be filed with the superintendent and must be public records.

[PL 2009, c. 228, §13 (AMD).]

**6. Powers of subsidiary universal banks.** A subsidiary universal bank may continue to exercise its powers, rights and privileges and is subject to limitations not inconsistent with this chapter and applicable to a savings bank or savings and loan association organized under the laws of the State, including, but not limited to, the powers of a stock financial institution organized under chapter 31.

[PL 2009, c. 228, §14 (AMD).]

#### SECTION HISTORY

PL 1985, c. 558 (NEW). PL 1993, c. 257, §§5,6 (AMD). PL 2005, c. 65, §C5 (AMD). PL 2007, c. 79, §24 (AMD). PL 2009, c. 228, §§11-14 (AMD).

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