



FEDERAL RESERVE BANK *of* KANSAS CITY

August 8, 2011

DIVIDEND DECLARATIONS BY SUBSIDIARY SAVINGS ASSOCIATIONS

- Attention:** Chief Executive Officer of each Tenth District Savings and Loan Holding Company (SLHC)
- Subject:** Dividend Declarations by Savings Association Subsidiaries of SLHCs
- In Brief:** Effective July 21, 2011, any savings association that is a subsidiary of a SLHC must provide notice to the Board of Governors of the Federal Reserve System (Board) at least 30 days before declaring a dividend. The duty to review and process these notices is one of the new responsibilities the Board assumed on July 21, 2011, as part of the supervisory and rulemaking authority previously held by the Office of Thrift Supervision with respect to SLHCs.
- On July 25, 2011, the Board issued Supervision and Regulation (SR) Letter 11-13, which details the prior notification required, along with procedures for submission of such notification. In addition, SR 11-13 references the review standards to be used by the Board in evaluation of the dividend notifications.
- Highlights:** The 30-day prior notice is required by 12 USC 1467a(f), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Section 369(8)(K). The statute provides that the 30-day period runs from the date the notice is received by the Board, and that a dividend declared during the review period or without filing the required notice is null and void.
- In particular, a prior notice with respect to a proposed dividend declaration is to be submitted to the Applications Department at the Federal Reserve Bank of Kansas City. The notice must be filed on Form 1583, which is the form the OTS used for all applications and notices involving capital distributions. Savings associations are to continue to use Form 1583 until such time as the form is updated. Form 1583 may be found in the Attachment to SR 11-13.
- The Board expects to issue regulations implementing review standards for dividend notices submitted by savings associations that are subsidiaries of SLHCs. In evaluating a notice, the Reserve Bank supervisory staff's assessment will include, but not be limited to, reviewing the comprehensiveness and effectiveness of management's capital planning and capital adequacy. Such evaluations may rely heavily on the findings and recommendations of the savings association's primary federal or state regulator.
- Contact:** If you have questions or comments regarding SR 11-13, please contact Assistant Vice President Dennis Denney at (800) 333-1010, extension 12633.
- Internet:** A copy of the SR Letter and its Attachment is available on the Board's web site at: <http://www.federalreserve.gov/boarddocs/srletters/2011/sr1113.htm>



**BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM**

WASHINGTON, D.C. 20551

**DIVISION OF BANKING
SUPERVISION AND REGULATION**

SR 11-13

July 25, 2011

**TO THE OFFICER IN CHARGE OF SUPERVISION
AT EACH FEDERAL RESERVE BANK**

SUBJECT: Guidance Regarding Prior Notices with Respect to Dividend Declarations by Savings Association Subsidiaries of Savings and Loan Holding Companies

Effective July 21, 2011, any savings association that is a subsidiary of a savings and loan holding company (SLHC) must provide notice to the Board at least 30 days before declaring a dividend.¹ The duty to review and process these notices is one of the new responsibilities the Board assumed on July 21, 2011, as part of the supervisory and rulemaking authority previously held by the Office of Thrift Supervision (OTS) with respect to SLHCs.

The 30-day prior notice is required by statute.² The statute also provides that the 30-day period runs from the date the notice is submitted to the agency, and that a dividend declared during the review period or without filing the notice is null and void.

Procedural Operations

A prior notice with respect to a proposed dividend declaration must be filed with the appropriate Reserve Bank on the designated form.³ Notices should be submitted to the Applications Units at each applicable Reserve Bank. In evaluating a savings association's notice, the Reserve Bank should work closely with the savings association's supervisor(s). Therefore, upon receiving a notice, the Reserve Bank should immediately transmit a copy of the

¹ 12 USC 1467a(f); Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, Section 369(8)(K), 124 Stat. 1376 (July 21, 2010).

² 12 USC 1467a(f). Under the statute, a savings association that is a subsidiary of a mutual holding company must file its notice with both the Board and the savings association's federal supervisor. 12 USC 1467a(o)(11).

³ Prior to July 21, 2011, the OTS used Form 1583 for all applications and notices involving capital distributions. It is expected that Form 1583 will be revised to reflect the Board's regulation governing dividends by savings association subsidiaries of SLHCs. Savings associations will continue to use OTS Form 1583 until such time as the form is updated. See Form 1583 – Capital Distribution.

http://www.federalreserve.gov/reportforms/slhc/OTS_Form1583_20110721.pdf

notice to the savings association's supervisor(s)⁴ at the district or field office level, accompanied by a transmittal letter requesting comment within 15 calendar days. In addition, Reserve Bank supervision staff with direct inspection responsibility for the SLHC should be consulted to solicit their view of the request. Savings associations should be provided with contact information and relevant procedural expectations pertaining to the notification process.

Review Standards

The Board expects to issue regulations implementing review standards for dividend notices submitted by savings associations that are subsidiaries of SLHCs. It is expected that the applicable regulation will provide that a dividend notice may be denied by the Board, or by a Reserve Bank after consultation with the Board, if:

- a. Following the dividend, the savings association will be less than adequately capitalized as set forth in applicable regulations under 12 USC 1831o;
- b. The proposed dividend raises safety or soundness concerns; or
- c. The proposed dividend violates:
 - a prohibition contained in any statute, regulation, enforcement action, or agreement between the savings association or SLHC of which it is a subsidiary and an appropriate Federal banking agency;
 - a condition imposed on the savings association or SLHC of which it is a subsidiary in an application or notice approved by an appropriate Federal banking agency; or
 - any formal or informal enforcement action involving the savings association or SLHC of which it is a subsidiary.

A Reserve Bank will have delegated authority to issue a non-objection to a dividend notice or to deny such a notice. However, a Reserve Bank must consult with Board staff prior to denying a dividend notice or requesting withdrawal of such a notice. In evaluating a savings association's notice, supervisory staff should evaluate the comprehensiveness and effectiveness of management's capital planning and capital adequacy. Such evaluations may rely heavily on the findings and recommendations of the savings association's primary federal or state regulator. In cases where the evaluations conducted by the Reserve Bank and the primary federal or state regulator result in an unresolved disagreement, Reserve Bank staff should consult with Board staff. In every case, the review of a savings association's notice must be completed before the end of the statutory 30-day review period.

⁴ If the notificant is a federal savings association, the Reserve Bank must send a copy of the notice along with a transmittal letter to the assistant deputy comptroller (ADC) of the appropriate Office of the Comptroller of the Currency (OCC) Supervisory Office. If the notificant is a federal savings association supervised by OCC Special Supervision, the Reserve Bank must send a copy of the notice to the ADC and Director of Special Supervision. If the notificant is a state savings association, the Reserve Bank must send a copy of the notice and a transmittal letter to both the appropriate Federal Deposit Insurance Corporation Regional/Area Director and the appropriate state supervisor.

Minimum Documentation Requirements

Supervisory staff should document their analyses of notices received and include such documentation in workpapers related to supervisory activities. Supervisory staff must document any denial or request for withdrawal of a notice. Documentation showing an appropriate evaluation of the savings association's dividend notice, the primary supervisor's evaluation and recommendation, and the Reserve Bank's final determination provides the basis for constructive dialogue with the primary regulator and will support current and future supervisory evaluations of dividend notices submitted by the savings association.

Questions regarding this letter should be directed to Kevin Bertsch, Associate Director, at (202) 452-5265; Vitus Ukwuoma, Manager, at (202) 452-3163; or William Tiernay, Senior Supervisory Financial Analyst, at (202) 872-7579, Community Banking Organizations, in the Division of Banking Supervision and Regulation; or Jeremy Kress, Attorney, at (202) 872-7589, in the Legal Division.

Maryann F. Hunter
Acting Director

Docket Number: _____

OFFICE OF THRIFT SUPERVISION

NOTICE OR APPLICATION FOR CAPITAL DISTRIBUTION

PAPERWORK REDUCTION ACT STATEMENT

The Office of Thrift Supervision (OTS) will use this form to acquire information concerning the amount of capital that an institution intends to distribute, pursuant to 12 C.F.R. § 563 Subpart E of the OTS regulations.

Public reporting burden for this collection of information is estimated to average 16.5 minutes per response, including the time for reviewing instructions and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to the Office of Thrift Supervision, Corporate & International Activities, 1700 G Street, N.W., Washington, D.C. 20552; and to the Office of Management and Budget, Paperwork Reduction Project (1550-0059), Washington, D.C. 20503.

Docket Number: _____

OFFICE OF THRIFT SUPERVISION

NOTICE OR APPLICATION FOR CAPITAL DISTRIBUTION

TO: Office of Thrift Supervision Date of Filing: _____

We, the undersigned executive officer and secretary, pursuant to the resolution of majority of the members of the board directors, of:

Savings Institution Name

Street Address of Savings Institution (include City, State and Zip Code)

(hereinafter the Institution), hereby provide _____ notice/_____ application (select one) to the Office of Thrift Supervision (OTS) that the Institution intends to issue a capital distribution in the amount to \$ _____, pursuant to 12 C.F.R. Section 563.140, and do hereby certify:

1. That to the best of our belief, the institution _____ qualifies/_____ does not qualify (select one) for expedited treatment, pursuant to 12 C.F.R. Sections 563.143 and 516.25(a);
2. That, if applicable, the Institution has attached any additional information required, pursuant to 12 C.F.R. Section 563.146; and
3. That we are aware that the OTS may request additional information or may impose conditions for the distribution of capital and may determine that such distribution does not comply with the requirements of 12 C.F.R. Section 563.143.

Executive Officer

Secretary

Date of Receipt by OTS