

## CHAPTER 105

### MUTUAL HOLDING COMPANY

#### §1051. Purpose

This chapter authorizes mutual financial institutions to reorganize into mutual holding companies. [PL 1985, c. 558 (NEW).]

#### SECTION HISTORY

PL 1985, c. 558 (NEW).

#### §1052. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 558 (NEW).]

**1. Mutual financial institution.** "Mutual financial institution" means any institution as defined in section 131, subsection 27.

[PL 1985, c. 558 (NEW).]

**2. Mutual holding company.** "Mutual holding company" means any corporation organized pursuant to this chapter.

[PL 1985, c. 558 (NEW).]

**3. Subsidiary universal bank.** "Subsidiary universal bank" means any universal bank organized under the laws of this State, at least 51% of the voting stock of which is wholly owned by a mutual holding company.

[PL 2009, c. 228, §10 (AMD).]

#### SECTION HISTORY

PL 1985, c. 558 (NEW). PL 1993, c. 257, §4 (AMD). PL 2009, c. 228, §10 (AMD).

#### §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).]

[PL 2009, c. 228, §11 (AMD).]

**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).

### §1054. Corporate existence and powers

**1. Legal existence.** Upon the reorganization of a mutual financial institution pursuant to this chapter, the legal existence of the mutual financial institution shall not terminate, but shall continue, not as a deposit-taking institution, but as a mutual holding company. [PL 1985, c. 558 (NEW).]

**2. Governance.** A mutual holding company must be governed by a board of corporators in accordance with the charter and bylaws of the mutual holding company, as adopted or amended, in connection with a reorganization authorized under this chapter or as amended by the corporators thereafter. The corporators shall elect a board of directors provided that the superintendent has the authority to comment upon the composition of the board. The corporators and the board of directors

are governed by and authorized to undertake the activities as set forth in sections 325 and 326. With respect to a mutual holding company that has been formed through the reorganization of a savings bank, the board of corporators initially consists of the board of corporators of the savings bank as constituted pursuant to section 325. The corporators, after the formation of the mutual holding company, continue to serve as corporators for the balance of the terms to which they are elected under section 325.

[RR 2013, c. 2, §10 (COR).]

**3. Powers.** A mutual holding company may:

A. Invest in the stock of a financial institution, subject to section 1013; [PL 1985, c. 558 (NEW).]

B. Acquire a mutual financial institution or a mutual federal association through merger into a subsidiary universal bank or an interim subsidiary universal bank of the mutual holding company; [PL 2021, c. 5, §3 (AMD).]

C. Merge with or acquire a mutual holding company, one of whose subsidiaries is a savings bank or savings and loan association; [PL 1985, c. 558 (NEW).]

D. Exercise any power, right or privilege, with the exception of deposit taking, granted to mutual financial institutions under the laws of the State, and, unless specifically noted otherwise, any reference to "savings bank" or "savings and loan association" in any other law of this State also applies to a subsidiary universal bank chartered pursuant to this chapter; [PL 2009, c. 228, §15 (AMD).]

E. Invest in the capital stock of a company, which is a legal investment for a savings bank under the laws of the State; [PL 1985, c. 558 (NEW).]

F. Exercise any power or engage in any activity authorized for a bank holding company or savings and loan holding company under federal law or rule or chapter 101; and [PL 1985, c. 558 (NEW).]

G. Exercise any other power or engage in any other activity authorized by the superintendent. [PL 1985, c. 558 (NEW).]

[PL 2021, c. 5, §3 (AMD).]

#### SECTION HISTORY

PL 1985, c. 558 (NEW). PL 1993, c. 257, §§7,8 (AMD). PL 2009, c. 228, §15 (AMD). RR 2013, c. 2, §10 (COR). PL 2021, c. 5, §3 (AMD).

#### §1055. Rules

The superintendent shall adopt such rules as necessary to effectuate the purposes of this chapter and to ensure that the reorganization of a mutual financial institution is conducted in a fair and equitable manner to ensure the safety and soundness of the subsidiary universal bank and the protection of the subsidiary universal bank's net worth. [PL 2009, c. 228, §16 (AMD).]

#### SECTION HISTORY

PL 1985, c. 558 (NEW). PL 1993, c. 257, §9 (AMD). PL 2009, c. 228, §16 (AMD).

#### §1056. Reports and examinations

All mutual financial institution holding companies shall be subject to section 1016. [PL 1985, c. 558 (NEW).]

#### SECTION HISTORY

PL 1985, c. 558 (NEW).

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