

APPLICATION FOR CHANGE IN CONTROL

submitted to the

ARKANSAS STATE BANK DEPARTMENT

By

Corporate Title of Entity or Name(s) of Individual(s)

Street Address

City

County

State

Zip

(hereinafter referred to as "**Applicant**")

Hereby applies to the Department for written consent of the State Bank Commissioner to acquire twenty-five percent (25%) or more of the stock of:

Name of Bank or Bank Holding Company

Street Address

City

County

State

Zip

by the acquisition of _____ shares of **voting** stock representing _____ % of _____ shares of **voting** stock outstanding. _____ shares representing _____ % of _____ shares of nonvoting stock outstanding will also be required.

Name, title, address, and telephone number of person(s) to who inquiries concerning this application may be directed:

I hereby certify that the bank's Board of Directors has authorized the filing of this application and that to the best of my knowledge, it contains no misrepresentations or omissions of material facts.

Applicant must notify the Bank Commissioner promptly of any changes in financial or other conditions which may affect the Commissioner's decision.

Signature of Authorized Bank Official

Date of Application

Typed Name

Title if any

Telephone Number

AUTHORITY

A.C.A. § 23-48-317 requires a change in control application to be filed and approved by the Bank Commissioner prior to any transfer of stock which shall result in (a) the control by the transferee and any nominee of the transferee and any person holding in trust for the transferee of twenty-five percent (25%) or more of the capital stock of the state bank or Arkansas bank holding company, or (b) a transfer which would increase a then-existing ownership of the capital stock of a state bank or Arkansas bank holding company already controlled by the transferee to twenty-five percent (25%) or more of the capital stock of the state bank or Arkansas bank holding company. **Further, all shares held as a result of transfers as set out above may not be voted unless the ownership shall be approved by the Commissioner and his or her approval given to the transferee in writing.**

APPLICATION

A change in control application shall contain information as provided by A.D.A. § 23-48-317(d) and such other information as the Commissioner may require. A.C.A. § 23-48-317(d) states as follows:

- "(d) An applicant for approval to acquire control of a state bank or an Arkansas bank holding company; shall contain evidence that:
- (1) the proposed transaction will promote the safety and soundness of the institution to be controlled;
 - (2) if the applicant is a bank holding company, the transaction will not result in a violation of the provisions of A.C.A. § 23-48-405;
 - (3) the applicant bank or the bank subsidiaries of an applicant bank holding company adequately serve the convenience and needs of the communities served by them in accordance with the Community Reinvestment Act of 1977; and
 - (4) the applicant intends to adequately serve the convenience and needs of the communities served by the state bank or state bank subsidiaries proposed to be controlled in accordance with the Community Reinvestment Act of 1977. The application shall specifically address the proposed initial capital investments, proposed loan policies, proposed investment policies, proposed dividend policies, and general plan of proposed business of the institution proposed to be controlled, including the full range of consumer and business services which are proposed to be offered."

A.C.A. § 23-48-317(e) further provides as follows:

- "(e) The Commissioner shall approve an application to acquire control of a state bank or an Arkansas bank holding company if he or she is satisfied that:
- (1) the evidence and information contained in the application would result in the likelihood that the public interest would be served
 - (2) the safety and soundness of the institution to be controlled is adequately addressed; and
 - (3) approval of the application, if the applicant is a bank holding company, will not result in a violation of the provisions of § 23-48-405."

A.C.A. § 23-48-406(a) prohibits a bank holding company from acquiring ownership or control of the stock or assets of any bank that has its main office or any branch office in Arkansas, if, after giving effect to the acquisition of the stock or the assets of that bank, the acquiring bank holding company would own or control, directly or indirectly, banks having in aggregate more than twenty-five percent (25%) of the total deposits within the State of Arkansas held by banks.

PROCEDURES

Any person(s) or entity desiring to obtain "control" of a state chartered bank or bank holding company owning a state chartered bank subsidiary shall be required to file an application with the Bank Commissioner on a form prescribed by the Commissioner.

Escrow of Purchase Price: If additional capital has to be raised through a stock offering in order to consummate an acquisition, the funds must be raised prior to making application with the Arkansas State Bank Department. The Bank Commissioner will not accept for filing a Change in Control application unless previously provided evidence that the stock has been subscribed and the purchase price needed to acquire the bank or bank holding company has been raised in full and paid into some depository bank under written instructions approved by the Bank Commissioner. Please attach to this application a sample stock subscription offer and a complete **alphabetized** list of proposed shareholders, including name, address, and number of shares subscribed.

See Attachment - **Application for Depository Agreement**

Notice Published by Applicant: A proof of publication required by any federal regulation must accompany this application. If publication of notice has been waived or is not required, please explain.

Presentation of Facts: The Bank Commissioner, at his or her discretion, may afford Applicant or other properly interested individuals an opportunity to present opinions or facts regarding the application either at informal conference discussions or at informal presentations of evidence.

Authority to Investigate and Examine: The Commissioner may conduct an investigation of the application and examine the condition of any bank holding company to the extent deemed necessary. The cost of any examination shall be charged to Applicant. The Commissioner may request additional information during the investigation process.

Change in Name or Title: In the event the application requests a change in the name of the institution to be acquired, Applicant must file the appropriate charter amendment with the Bank Commissioner.

Preliminary Approval: Upon completion of the application process, the Bank Commissioner shall communicate to Applicant his or her intentions to approve the change in control pursuant to the facts as stated in the application. If it is the Commissioner's intent to not approve the application, reasons for such denial shall be so stated. Notification of the Commissioner's preliminary approval or intention to not approve the application shall be by mail.

Filing of Transfer Forms: Applicant shall file the applicable Certificate of Transfer of Stock within ten (10) business days of the date of the transfer of stock as described in the Application for Change In Control. The Bank Commissioner shall approve such transfer provided there have been no material changes to the information submitted in the application.

PROCEDURES

(continued)

Fees: Applicant shall submit a nonrefundable filing fee of \$5,000 in order to defray the cost of an investigation of the application.

CONFIDENTIALITY

Pursuant to the provisions of the Freedom of Information Act, the application is a public document and available to the public upon request, with the exception of personal financial statements submitted in support of the application.

If Applicant is of the opinion that disclosure of commercial or financial information would likely result in substantial harm to its competitive position or that of its subsidiaries, or that disclosure of information of a personal nature would result in a clearly unwarranted invasion of personal privacy, confidential treatment of such information may be requested. The request for confidential treatment must be submitted in writing concurrently with the submission of the application and must discuss in detail the justification for confidential treatment. Such justification must be provided for each response for which confidential treatment in the public portion of the application is requested. Applicant's reasons for requesting confidentiality should demonstrate specifically the harm that would result from public release of the information. A statement simply indicating that the information would result in competitive harm or that it is personal in nature is not sufficient. It must be demonstrated that disclosure would meet either the "substantial competitive harm" or "unwarranted invasion of personal privacy" test.

Information for which confidential treatment is requested should be:

- 1) specifically identified in the public portion of the application (by reference to the confidential section);
- 2) bound separately from the public portion of the application; and
- 3) labeled "Confidential". The same procedure should be followed with regard to filing any supplemental information to the application, or in filing personal financial statements.

The Department will determine if information submitted as confidential will be so regarded and will advise Applicant of any decision to make available to the public information labeled "Confidential". However, it shall be understood that, without prior notice to Applicant, the Department may disclose or comment on any of the contents of the application in the Order or Statement issued by the Department in connection with a decision on the application.

SUPPORTING INFORMATION / DOCUMENTATION

Applicant must submit the following information and/or documentation in support of the Change in Control application. Please number responses to correspond with the following:

- 1) Indicate the terms and conditions of the proposed acquisition and the manner in which the acquisition is to be completed. Identify the amount of stock to be acquired by each acquiring party and attach copies of all purchase and sale agreements, tender offers to stockholders, and related documents. Information submitted must include the number of shares to be acquired, type(s) of stock, voting status, par value, purchase price, and the total number of shares of each type of stock issued and outstanding.
- 2) If any part of the funds or other consideration must be borrowed or otherwise obtained to complete the acquisition, provide details of any commitments or loans. Include a copy of the loan agreement and commitment letter (Documents must identify name of borrower, name and address of lender, amount to be financed, collateral to be pledged, interest rate, amortization schedule, guarantors and endorsers, source of repayment, and any other agreements between the parties).
- 3) Submit to the fullest extent possible an itemization of the uses of any borrowed funds other than for stock purchase.
- 4)
 - a) if Applicant is a bank holding company, submit parent company only and consolidated balance sheets (parent company only if Applicant's pro forma consolidated assets would be less than \$3 billion per Federal Reserve small bank holding company policy) as of the most recent fiscal quarter. If Applicant will incur or assume any debt in the proposed transaction and parent company long-term debt will exceed 30 percent of its equity, submit parent company cash flow projections demonstrating its ability to reduce its debt to equity ratio to 30 percent or less. Be specific as to sources of funds, particularly those generated by the acquired institution or those obtained from outside entities.
 - b) if Applicant is not a holding company, submit financial statements for all acquiring individuals who will hold a controlling interest (ten percent or more of the outstanding voting stock) after consummation of the proposed transaction.
 - c) submit financial statements for any person individually liable for debt repayment or for any individual or company that acts as a guarantor.
- 5) Submit a summary of Applicant's due diligence review and findings related to the proposed acquisition. Include the scope/resources committed to the review, percentage of the acquired institution's loan portfolio reviewed, credit marks/purchase accounting adjustments, any significant adverse findings that would impact Applicant's operations, and Applicant's plans to address weaknesses noted.
- 6) Provide a list of Applicant's non-bank subsidiaries. Include a brief description of each subsidiary's purpose as well as Applicant's plans for the subsidiaries following consummation of the proposed transaction.
- 7) Provide a list of all individuals and/or entities that own or control five percent or more of the outstanding shares of any class of voting stock of the acquired institution. Include number of shares owned/controlled and percentage of total shares outstanding.

SUPPORTING INFORMATION / DOCUMENTATION

(continued)

- 8) Identify any person or entity employed, retained, or to be compensated by Applicant, or by any person on their behalf to make solicitations or recommendations to stockholders to assist in the acquisition. Briefly summarize the terms of such employment, retainer, or arrangement for compensation. Include a copy of the contract/agreement.
- 9) Indicate positions held by acquiring parties in any other bank or bank holding company other than the institution being acquired. Also identify ownership interests of acquiring parties in other banks or bank holding companies (include affiliate relationships).
- 10) Management / Directors
 - a) describe any changes to be made in the management and Board of Directors of the acquired institution and its subsidiaries. Include, to the extent known, Applicant's specific plans to retain directors and/or executives of the acquired institution.
 - b) submit resumes for all acquiring individuals who will serve as officers or directors, or who will hold controlling interest (ten percent or more of the outstanding voting stock) after consummation of the proposed transaction.
- 11) Indicate in detail any change in Applicant's strategic plans occurring subsequent to the acquisition. Also disclose strategic goals and resulting strategies of the institution to be acquired, including the full range of consumer and business services which are proposed to be offered.
- 12) Discuss any proposed changes to the loan, investment, and dividend policies of the acquired entity, or its subsidiaries, resulting from the proposed acquisition.
- 13) Discuss Applicant's subsidiary banks' Internet activities and any proposed Internet activity for the acquired entity, or its subsidiary banks, subsequent to consummation of the proposed transaction.
- 14) Discuss the effect of the proposed transaction on existing and potential competition.
- 15) Submit any proposed changes to the acquired institution's, and subsidiaries', bonuses and salary structure for officers. Identify benefits of any kind to be paid, directly or indirectly, to officers, employees, or acquiring parties resulting from the acquisition
- 16) Identify any changes to be made in services offered and the probable effect on the needs and convenience of the community to be served. Specifically address any changes to the Community Reinvestment policy.
- 17) For each bank subsidiary of Applicant and the acquired entity, provide the following:
 - a) The date of the most recent Compliance/CRA examination;
 - b) Identify the federal or state regulatory agency that performed the examination;

SUPPORTING INFORMATION / DOCUMENTATION

(continued)

- c) The CRA rating assigned; and
 - d) A copy of the response letters and correspondence addressing corrective measures implemented for institutions receiving a less than “Satisfactory” rating. No additional information is required for institutions receiving a “Satisfactory” or “Outstanding” CRA rating.
- 18) Summarize the reason(s) for the proposed change in control and future plans for the institution if the transaction is approved. Provide details of any plans to liquidate or merge any operations or assets of the acquired institution.
- 19) Indicate if any of the acquiring parties have ever been convicted of a felony.

DEPOSITORY AGREEMENT
of
SUBSCRIPTION PROCEEDS TO STOCK OF

(Insert Name of Proposed Bank Holding Company)

THIS DEPOSITORY AGREEMENT executed this _____ day of _____, 20____,
by and between _____ and
_____ (hereinafter called the Organizers),
representing all subscribers to the stock of _____
(Insert Name and Address of Company) (hereinafter
called the Bank Holding Company) and _____,
(Insert Name of Escrow Bank)
_____ Arkansas (hereinafter called the Escrow Bank).
(Insert city of Escrow Bank)

WITNESSETH:

WHEREAS, representatives of the Bank Holding Company and others propose investment of a bank holding company in _____, Arkansas, to be named _____ and have individually subscribed to varying total amounts of money at the rate of _____ dollars per share of stock subscribed; and,

WHEREAS, it is understood and related in the Subscription Agreement executed by subscribers to stock of the Bank Holding Company that the subscription proceeds will be deposited with Escrow Bank for that period of time which will ensue from collection of said subscription moneys until the same are either disbursed to the Bank Holding Company or refunded to the subscribers as related in their Subscription Agreements; and

WHEREAS, Escrow Bank has agreed to accept the subscription moneys and deposit them in a special account in Escrow Bank for use of the Bank Holding Company subject to the terms and conditions of this Depository Agreement.

NOW THEREFORE, in consideration of the premises, the parties covenant and agree as follows:

- 1) The Bank Holding Company hereby delivers to Escrow Bank for deposit in Escrow Bank the sum of \$ _____, the same to be evidenced by a Certificate of Deposit dated _____, _____ supplied to the Bank Holding Company upon delivery of the aforesaid moneys. It is anticipated that, from time to time, the Bank Holding Company will deposit additional moneys with Escrow Bank which likewise shall be evidenced by a Certificate of Deposit and/or a deposit to a checking account at the discretion of the Bank Holding Company and subject to the terms, conditions and covenants of this agreement.
- 2) The parties understand and expect that the Bank Holding Company and the subscribers to the Bank Holding Company will make application to the Arkansas State Bank Department to acquire _____ .

(Insert Name of Bank/BHC to be acquired)

It is understood, expected and agreed that Escrow Bank will retain the deposits left with it hereunder for such period of time as will be required to accomplish both of the aforesaid transactions, and, if successful, Escrow Bank agrees to deliver the deposited moneys only to the Bank Commissioner, Arkansas State Bank Department, 1 Commerce Way, Suite 303, Little Rock, Arkansas 72202, upon his or her written request.

- 3) If the Bank Holding Company is unsuccessful in obtaining approval from the Bank Commissioner or Federal Reserve Bank and the acquisition is abandoned, Escrow Bank will disburse the proceeds deposited with it hereunder to the organizers hereunder as the duly authorized representatives of the Bank Holding Company who in turn shall return the funds to each subscriber to stock as related in their Subscription Agreement. Provided, however, that Escrow Bank shall not disburse said funds until the investments, as provided in Paragraph 4 herein, are matured, and said disbursements shall further be subject to the conditions of Paragraph 5 herein.
- 4) The moneys held by Escrow Bank shall be continuously invested and reinvested in a ninety-day time deposit account subject to the rules and regulations of Escrow Bank and any regulatory agency of the state or federal government which may be applicable. Any profits realized from said investments shall be, upon written request, paid only to the Bank Commissioner, Arkansas State Bank Department, 1 Commerce Way, Suite 303, Little Rock, Arkansas 72202, or otherwise, in accordance with the provisions of Paragraph 3 contained herein. Escrow Bank is not responsible for the verification of any expense and will rely solely upon the representations of the Bank Holding Company.
- 5) Escrow Bank is authorized to act upon any document believed by it to be genuine and to be signed by the proper party or parties and will incur no liability in so acting. Escrow Bank accepts the initial deposit and all future deposits relying upon the complete authority of the Bank Holding Company to act on behalf of its subscribers to stock in said Bank Holding Company. Escrow Bank shall not be responsible in any manner for the validity or sufficiency of any subscription agreement or for any of the provisions thereof, nor shall Escrow Bank be responsible in any manner for the validity of any stock certificates or representations of the Bank Holding Company to its subscribers for stock. Escrow Bank shall not be responsible for any defaults of the Bank Holding Company under any agreements with subscribers to its stock. Escrow Bank shall be fully protected with respect to any action taken or suffered under this agreement in good faith by it. The Bank Holding Company warrants and covenants with Escrow Bank that if the venture is unsuccessful, the Bank Holding Company shall pay to each subscriber all sums of money theretofore deposited by or for the account of the Bank Holding Company and the Bank Holding Company agrees to indemnify and hold Escrow Bank harmless for any sums disbursed to the Bank Holding Company.

IN WITNESS WHEREOF, the parties have set their names the day and year first above written.

Name of Proposed Bank Holding Company

Name of Escrow Bank

_____, Arkansas,

_____, Arkansas

By _____

By _____

By _____