

FEDERAL DEPOSIT INSURANCE CORPORATION
Washington, D.C. 20429

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): May 10, 2016

FIRST REPUBLIC BANK

(Exact name of registrant as specified in its charter)

California
(State or other jurisdiction
of incorporation)

80-0513856
(I.R.S. Employer
Identification No.)

111 Pine Street, 2nd Floor
San Francisco, CA 94111
(Address, including zip code, of principal executive office)

Registrant's telephone number, including area code: (415) 392-1400

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

At the Annual Shareholders' Meeting of the Bank held on May 10, 2016 (the "Annual Meeting"), the shareholders of First Republic Bank (the "Bank") approved, effective immediately, an amendment to the Bank's Amended and Restated Bylaws (the "Bylaws") to expand the permitted range in the number of directors from no fewer than nine members to a maximum of fifteen members. Prior to this amendment, the permitted range in the number of directors was no fewer than nine members to a maximum of thirteen members.

A copy of the Bylaws giving effect to the amendment described in this Item 5.03 is filed as Exhibit 3.1 hereto.

Item 5.07 Submission of Matters to a Vote of Security Holders

At the Annual Meeting, over 92% of outstanding shares of the Bank as of March 14, 2016, the record date, were voted. The shareholders of the Bank voted on the following matters:

(1) To approve an amendment to the Bank's Bylaws to expand the permitted range in the number of directors from no fewer than nine members to a maximum of fifteen members. This amendment was approved, and the final voting results were as follows:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>
135,235,895	436,436	111,623

(2) To elect twelve nominees to serve as directors of the Bank until the 2017 Annual Shareholders' Meeting and until their respective successors have been duly elected and qualified. Each director was elected, and the final voting results were as follows:

<u>Name of Nominee</u>	<u>Votes For</u>	<u>Votes Withheld</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
James H. Herbert, II	128,128,775	1,599,875	833,327	5,221,977
Katherine August-deWilde	127,155,707	3,369,477	36,793	5,221,977
Thomas J. Barrack, Jr.	74,776,675	55,457,745	327,557	5,221,977
Frank J. Fahrenkopf, Jr.	128,823,640	1,699,521	38,816	5,221,977
L. Martin Gibbs	129,373,099	1,140,420	48,458	5,221,977
Boris Groysberg	129,836,837	676,772	48,368	5,221,977
Sandra R. Hernández	130,484,213	40,729	37,035	5,221,977
Pamela J. Joyner	128,211,487	2,312,314	38,176	5,221,977
Reynold Levy	130,097,366	426,629	37,982	5,221,977
Jody S. Lindell	129,628,301	897,153	36,523	5,221,977
Duncan L. Niederauer	130,481,517	41,124	39,336	5,221,977
George G.C. Parker	129,379,906	1,143,261	38,810	5,221,977

(3) To ratify the appointment of KPMG LLP as independent auditors of the Bank for the 2016 fiscal year. This proposal was approved, and the final voting results were as follows:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>
135,255,460	505,522	22,972

(4) To adopt the following advisory (non-binding) resolution approving executive compensation as presented in the Proxy Statement for the Annual Meeting:

“RESOLVED, that the Bank’s shareholders approve, on an advisory basis, the compensation paid to the Bank’s Named Executive Officers, as disclosed in the Bank’s Proxy Statement for the 2016 Annual Meeting of Shareholders pursuant to Item 402 of Regulation S-K, including the Compensation Discussion and Analysis, compensation tables and narrative discussion.”

This proposal was approved, and the final voting results were as follows:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
103,243,296	26,743,655	575,026	5,221,977

Item 8.01 Other Events.

Designation of New Lead Outside Director

On May 11, 2016, Mr. Reynold Levy was designated by the Board of Directors of the Bank (the “Board”) as the lead outside director of the Bank. As lead outside director, Mr. Levy will coordinate the activities of the other outside independent directors and will perform such other duties and responsibilities as the Board determines by resolution or Board-approved policy, including presiding over any executive session of independent directors at which the lead outside director is present.

Committee Memberships

At that same meeting, the Board confirmed the memberships of the directors on the standing committees of the Board, as set forth below, to serve until they shall resign, or shall be removed or otherwise disqualified to serve, or until their successor shall be elected and shall qualify.

Audit Committee
Jody S. Lindell, Chair Frank J. Fahrenkopf, Jr. Sandra Hernández George G.C. Parker

Corporate Governance & Nominating Committee
Frank J. Fahrenkopf, Jr., Chair Boris Groysberg Pamela J. Joyner Reynold Levy

Compensation Committee

Boris Groysberg, Chair Pamela J. Joyner L. Martin Gibbs Frank J. Fahrenkopf, Jr.

Enterprise Risk Management Committee

Reynold Levy, Chair James H. Herbert, II L. Martin Gibbs

Information Security & Technology Committee

Duncan Niederauer, Chair Katherine August-de Wilde Sandra Hernández

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

3.1 Amended and Restated Bylaws of First Republic Bank.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: May 16, 2016

First Republic Bank

By: /s/ Michael J. Roffler
Name: Michael J. Roffler
Title: Executive Vice President and
Chief Financial Officer

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
Exhibit 3.1	Amended and Restated Bylaws of First Republic Bank.

AMENDED AND RESTATED

BYLAWS

OF

FIRST REPUBLIC BANK

ARTICLE I
Shareholders

Section 1.1 Annual Meetings. An annual meeting of shareholders shall be held for the election of directors on a date and at a time and place either within or without the State of California fixed by resolution of the Board of Directors. Any other proper business may be transacted at the annual meeting, except as limited by the notice requirements of subdivisions (a) and (d) of Section 601 of the California General Corporation Law.

Section 1.2 Special Meetings. Special meetings of the shareholders may be called at any time by the Board of Directors, the Chairman of the Board, if any, the President or the holders of shares entitled to cast not less than ten percent of the votes at the meeting, such meeting to be held on a date and at a time and place either within or without the State of California as may be stated in the notice of the meeting.

Section 1.3 Electronic Meetings. A meeting of the shareholders may be conducted, in whole or in part, by electronic transmission by and to the corporation or by electronic video screen communication, provided that such meeting is conducted in accordance with subdivision (e) of Section 600 of the California General Corporation Law.

Section 1.4 Notice of Meetings. Whenever shareholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than ten nor more than sixty days before the date of the meeting to each shareholder entitled to vote thereat. Such notice shall state the place, date and hour of the meeting, the means of electronic transmission by and to the corporation or electronic video screen communication, if any, by which shareholders may participate in that meeting, and (i) in the case of a special meeting, the general nature of the business to be transacted (it being understood that no other business may be transacted), or (ii) in the case of the annual meeting, those matters which the Board of Directors, at the time of the mailing of the notice, intends to present for action by the shareholders. The notice of any meeting at which directors are to be elected shall include a list of the names of the nominees intended at the time of the mailing of the notice to be presented by the Board of Directors for election.

Notice of a shareholders' meeting or any report shall be given either personally, by electronic transmission by the corporation, or by first-class mail or other means of written communication, addressed to the shareholder at the address of such shareholder appearing on the books of the corporation or given by the shareholder to the corporation for the purpose of notice; or if no such address appears or is given, at the place where the principal executive office of the

corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal executive office is located. The notice or report shall be deemed to have been given at the time when delivered personally, sent by electronic transmission by the corporation, deposited in the mail or sent by other means of written communication. An affidavit of mailing or electronic transmission by the corporation of any notice or report in accordance with the provisions of this bylaw, executed by the Secretary, Assistant Secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the shareholder at the address of such shareholder appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the shareholder at such address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the shareholder upon written demand of the shareholder at the principal executive office of the corporation for a period of one year from the date of the giving of the notice or report to all other shareholders.

Notice given by electronic transmission by the corporation under this bylaw shall be valid only if it complies with Section 20 of the California General Corporation Law. Notwithstanding the foregoing, notice shall not be given by electronic transmission by the corporation under this bylaw after either (i) the corporation is unable to deliver two consecutive notices to the shareholder by that means, or (ii) the inability to so deliver the notices to the shareholder becomes known to the Secretary, any Assistant Secretary, the transfer agent, or other person responsible for the giving of the notice.

Except as otherwise prescribed by the Board of Directors in particular instances and except as otherwise provided by subdivision (c) of Section 601 of the California General Corporation Law, the Secretary shall prepare and give, or cause to be prepared and given, the notice of meetings of shareholders.

Section 1.5 Notice of Shareholder Business for Annual Meetings of Shareholders. Nominations of persons for election as directors and the proposal of business to be considered at an annual meeting of shareholders may be made (i) pursuant to the notice of meeting delivered by the corporation, (ii) by or at the direction of the Board of Directors or (iii) by any shareholder who was a shareholder of record at the time of giving notice as required by this Section 1.5, who is entitled to vote at such annual meeting of shareholders and who has complied with the notice procedures set forth in this Section 1.5.

Any shareholder desiring to bring any nomination for the election of a person as a director or any other business before an annual meeting of shareholders must give timely notice thereof in writing to the Secretary, and any such other business must be a proper matter for shareholder action. To be timely, a shareholder's notice must be delivered to the Secretary at the corporation's principal executive offices not later than the close of business on the 120th day prior to the first anniversary of the date of the preceding year's annual meeting of shareholders; provided, however, that in the event that no annual meeting of shareholders was held during the previous year or that the date of the current-year's annual meeting is more than 30 days before or after the first anniversary of the preceding year's annual meeting, notice must be delivered by the shareholder not later than the close of business on the later of the 120th day prior to the current-

year's annual meeting or the 10th day following the day on which public announcement of the date of the current-year's annual meeting is first made. In no event shall the public announcement of an adjournment of an annual meeting commence a new time period for the delivery of notice by shareholders as described above.

The notice delivered by any shareholder pursuant to this Section 1.5 shall set forth (w) as to each person whom the stockholder proposes to nominate for election as a director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (x) as to any other business that the shareholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such shareholder and the beneficial owner, if any, on whose behalf the proposal is made; (y) as to the shareholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (1) the name and address of such shareholder, as they appear on the corporation's books, and of such beneficial owner, (2) the class and number of shares of the corporation which are owned beneficially and of record by such shareholder and such beneficial owner, and (3) with respect to nominations, a description of all arrangements or understandings between such shareholder and such beneficial owner and each proposed nominee and any other person or persons (including their names) pursuant to which the nominations are to be made by such shareholder; and (z) the names and addresses of any other shareholders or beneficial owners known to be supporting such nomination or business by the proposing shareholder or beneficial owner, if any, on whose behalf the nomination or proposal is made.

Section 1.6 Notice of Shareholder Business for Special Meetings of Shareholders.
Only such business shall be conducted at a special meeting of shareholders as shall have been brought before the meeting pursuant to the notice of meeting delivered by the corporation. Nominations of persons for election as directors may be made at a special meeting of shareholders at which directors are to be elected (i) by or at the direction of the Board of Directors or (ii) by any shareholder who is a shareholder of record at the time of giving notice as required by this Section 1.6, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.6.

In the event the corporation calls a special meeting of shareholders for the purpose of electing one or more directors to the Board of Directors, any shareholder may nominate a person or persons (as the case may be), for election to such position or positions as specified in the notice of meeting delivered by the corporation, if the shareholder delivers notice containing the items specified in Section 1.5 to the Secretary at the corporation's principal executive offices not later than the last to occur of (x) the close of business on the 120th day prior to such special meeting and not later than the close of business on the 90th day prior to such special meeting or (y) the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of an adjournment of a special meeting commence a new time period for the delivery of notice by shareholders as described above.

Section 1.7 General Rules Regarding Shareholder Business Conducted at Annual and Special Meetings. Only such persons who are nominated in accordance with the procedures set forth in Sections 1.5 and 1.6, as applicable, shall be eligible to serve as directors and only such business shall be conducted at a meeting of shareholders as shall have been brought before the meeting in accordance with the procedures set forth in Sections 1.5 and 1.6, as applicable. Except as otherwise provided by California law, the Chairman of the Board shall have the power and duty to determine whether any nomination or business proposed to be brought before a meeting of shareholders was made, or proposed, as the case may be, in accordance with the procedures set forth in Sections 1.5 and 1.6, as applicable, and, if any proposed nomination or business is not in compliance, to declare that such defective proposal or nomination shall be disregarded.

For purposes of Sections 1.5 and 1.6, “public announcement” means disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Federal Deposit Insurance Corporation pursuant to the Exchange Act.

Notwithstanding anything contained in Sections 1.5 and 1.6, shareholders shall also comply with all applicable requirements of the Exchange Act and the rules and regulations with regard to the nomination of persons for election as directors and the proposal of any other business before any meeting of shareholders. Nothing in Sections 1.5 and 1.6 and this Section 1.7 shall be deemed to affect any rights of (i) shareholders to request inclusion of proposals in the corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act or (ii) the holders of any series of preferred stock to elect directors under specified circumstances.

Section 1.8 Adjournments. When a shareholders’ meeting is adjourned to another time or place, except as otherwise provided in this Section 1.8, notice need not be given of any such adjourned meeting if the time and place thereof (or the means of electronic transmission by and to the corporation or electronic video screen communication, if any, by which the shareholders may participate) are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting.

Section 1.9 Validating Meeting of Shareholders; Waiver of Notice. The transactions of any meeting of shareholders, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, provides a waiver of notice or consent to the holding of the meeting or an approval of the minutes thereof in writing. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by law to be included in the notice but not so included, if such objection is expressly made at the

meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of shareholders need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, except as required by subdivision (f) of Section 601 of the California General Corporation Law.

Section 1.10 Quorum. A majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of the shareholders. If a quorum is present, the affirmative vote of a majority of the shares represented and voting at the meeting (which shares voting affirmatively also constitute at least a majority of the required quorum) shall be the act of the shareholders, unless the vote of a majority or higher percentage of all outstanding shares is required by law or by the articles of incorporation, and except as otherwise provided in this Section 1.10. The shareholders present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough shareholders to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the shares required to constitute a quorum or, if required by law or by the articles of incorporation, the vote of a greater number or voting by classes. In the absence of a quorum, any meeting of shareholders may be adjourned from time to time by the vote of a majority of the shares represented either in person or by proxy, but no other business may be transacted, except as provided in this Section 1.10.

Section 1.11 Organization. Meetings of shareholders shall be presided over by the Chairman of the Board of Directors, if any, or in the absence of the Chairman of the Board by the Vice Chairman of the Board, if any, or in the absence of the Vice Chairman of the Board by the Chief Executive Officer, or in the absence of the Chief Executive Officer by the President, if any, or in the absence of the President by a Vice President, or in the absence of the foregoing persons by a chairman designated by the Board of Directors, or in the absence of such designation by a chairman chosen at the meeting. The Secretary, or in the absence of the Secretary, an Assistant Secretary, shall act as secretary of the meeting, or in their absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

Section 1.12 Voting. Unless otherwise provided in the articles of incorporation, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote of shareholders. Any holder of shares entitled to vote on any matter may vote part of the shares in favor of the proposal and refrain from voting the remaining shares or vote them against the proposal, other than elections to office, but, if the shareholder fails to specify the number of shares such shareholder is voting affirmatively, it will be conclusively presumed that the shareholder's approving vote is with respect to all shares such shareholder is entitled to vote. Elections for directors need not be by ballot unless a shareholder demands election by ballot at the meeting and before the voting begins. No shareholder shall be entitled to cumulate votes in any election of directors.

Section 1.13 Shareholders' Proxies. Every person entitled to vote shares may authorize another person or persons to act by proxy with respect to such shares. Any proxy purporting to be executed in accordance with the provisions of Section 705 of the California General Corporation Law shall be presumptively valid. No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy. Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto,

except as otherwise provided in this Section 1.13. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy. The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed. A proxy is not revoked by the death or incapacity of the maker unless, before the vote is counted, written notice of such death or incapacity is received by the corporation. A proxy may be made irrevocable under the circumstances set forth in subdivision (e) of Section 705 of the California General Corporation Law. Any form of proxy distributed to ten or more shareholders shall conform to the requirements of Section 604 of the California General Corporation Law.

Section 1.14 Inspectors. In advance of any meeting of shareholders the Board of Directors may appoint inspectors of election to act at the meeting and any adjournment thereof. If inspectors of election are not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairman of any meeting of shareholders may, and on the request of any shareholder or a shareholder's proxy shall, appoint inspectors of election (or persons to replace those who so fail or refuse) at the meeting. The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more shareholders or proxies, the majority of shares represented in person or by proxy shall determine whether one or three inspectors are to be appointed.

The inspectors of election shall determine the number of shares outstanding and the voting power of each, the shares represented at the meeting, the existence of a quorum and the authenticity, validity and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do such acts as may be proper to conduct the election or vote with fairness to all shareholders.

The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein.

Section 1.15 Fixing Date for Determination of Shareholders of Record. In order that the corporation may determine the shareholders entitled to notice of any meeting or to vote or to express consent to corporate action in writing without a meeting or entitled to receive payment of any dividend or other distribution or allotment of any rights or entitled to exercise any rights in respect of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than 60 nor less than ten days prior to the date of such meeting nor more than 60 days prior to any other action.

If no record date is fixed: (1) the record date for determining shareholders entitled to notice of or to vote at a meeting of shareholders shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held; (2) the record

date for determining shareholders entitled to give consent to corporate action in writing without a meeting, when no prior action by the Board of Directors has been taken, shall be the day on which the first written consent is given; and (3) the record date for determining shareholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto or the 60th day prior to the date of such other action, whichever is later. A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting unless the Board of Directors fixes a new record date for the adjourned meeting, but the Board of Directors shall fix a new record date if the meeting is adjourned for more than 45 days from the date set for the original meeting.

Shareholders at the close of business on the record date are entitled to notice and to vote or to receive the dividend, distribution or allotment of rights or to exercise the rights, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date, except as otherwise provided in the articles of incorporation or by agreement or by law.

Section 1.16 Consent of Shareholders in Lieu of Meeting. Except as otherwise provided in the articles of incorporation, no action required to be taken or which may be taken at any annual or special meeting of the shareholders may be taken without a meeting, and the power of shareholders to consent in writing, without a meeting, to the taking of any action is specifically denied.

ARTICLE II Board of Directors

Section 2.1 Powers; Number; Qualifications. The business and affairs of the corporation shall be managed by, and all corporate powers shall be exercised by or under, the direction of the Board of Directors, except as otherwise provided in these bylaws or in the articles of incorporation. The Board of Directors shall consist of not less than nine directors or more than fifteen directors, with the exact number to be fixed, within the foregoing limitations, by approval of the Board of Directors. No person shall serve or continue to serve as a director who is not qualified to serve under applicable banking laws and regulations, or whose service as a director is opposed to in writing by any bank regulatory official having jurisdiction over the corporation. Directors need not be shareholders.

Section 2.2 Election; Term of Office; Resignation; Removal; Vacancies. At each annual meeting of shareholders, directors shall be elected to hold office until the next annual meeting. Except as may be otherwise required by the articles of incorporation, in an “uncontested election” (meaning an election of directors to the Board of Directors in which, at the expiration of the time fixed under these bylaws requiring advance notification of nominees, the number of nominees for election does not exceed the number of directors to be elected by the shareholders at that election), the affirmative vote of the majority of the shares represented and voting at a duly held meeting for the election of directors at which a quorum is present shall be required to elect a director to the Board of Directors; provided that, in any other election of directors to the Board of Directors, the nominees receiving the highest number of affirmative votes of the shares entitled to be voted for them up to the number of directors to be elected to the

Board of Directors by those shares shall be elected. Each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified. Any director may resign effective upon giving written notice to the Chairman of the Board, the President, the Secretary or the Board of Directors of the corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

Any or all of the directors may be removed without cause if such removal is approved by a majority of the outstanding voting shares, except that no director may be removed (unless the entire Board of Directors is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written consent, all shares entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected. Whenever the holders of any class or series of stock, voting as a class or series, are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of the preceding sentence shall apply, in respect to the removal without cause of a director or directors so elected, to the vote of the holders of the outstanding shares of that class or series and not to the vote of the outstanding shares as a whole.

Any reduction in the authorized number of directors does not remove any director prior to the expiration of such director's term in office.

A vacancy in the Board of Directors shall be deemed to exist (a) if a director dies, resigns, or is removed by the shareholders or an appropriate court, as provided in Sections 303 or 304 of the California General Corporation Law; (b) if the Board of Directors declares vacant the office of a director who has been convicted of a felony or declared of unsound mind by an order of court; (c) if the number of directors is increased (whether by an increase in the number of directors to a number within the maximum authorized in Section 2.1 or an increase in the authorized number of directors); or (d) if at any shareholders' meeting at which one or more directors are elected the shareholders fail to elect the full authorized number of directors to be voted for at that meeting. Unless otherwise provided in the articles of incorporation or these bylaws and except for a vacancy caused by the removal of a director, vacancies on the Board of Directors may be filled by approval of the Board of Directors. A vacancy on the Board of Directors caused by the removal of a director may be filled only by the shareholders, except that a vacancy created by the Board of Directors declaring an office of a director vacant because a director has been convicted of a felony or declared of unsound mind by an order of court may be filled by the Board of Directors.

The shareholders may elect a director at any time to fill a vacancy not filled by the Board of Directors.

If the number of directors then in office is less than a quorum, vacancies on the Board of Directors may be filled by the unanimous written consent of the directors then in office, the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with Section 2.4 hereof or a sole remaining director.

Section 2.3 Regular Meetings. The Board of Directors shall hold a meeting not less than once each calendar quarter. Regular meetings of the Board of Directors shall be held within or, as provided in Section 683 of the California Financial Code, without the State of California and at such times as the Board of Directors may from time to time determine, and if so determined notice thereof need not be given.

Section 2.4 Special Meetings; Notice of Meetings; Waiver of Notice. Special meetings of the Board of Directors may be held at any time or place within or without the State of California whenever called by the Chairman of the Board, the Chief Executive Officer, the President, any Vice President, the Secretary or any two directors. Special meetings shall be held on four days' notice by mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or by electronic transmission by the corporation. Notice delivered personally or by telephone may be transmitted to a person at the director's office who can reasonably be expected to deliver such notice promptly to the director.

Notice of a meeting need not be given to any director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the Board of Directors.

Section 2.5 Participation in Meetings by Conference Telephone or Electronic Communication Permitted. Members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors or of such committee, as the case may be, through the use of conference telephone, electronic video screen communication or electronic transmission by and to the corporation. Participation in a meeting through the use of conference telephone or electronic video screen communication pursuant to this Section 2.5 constitutes presence in person at such meeting as long as all members participating in such meeting are able to hear one another. Participation in a meeting through electronic transmission by and to the corporation (other than conference telephone and electronic video screen communication) pursuant to this Section 2.5 constitutes presence in person at such meeting if (a) each member participating in the meeting can communicate with all of the other members concurrently and (b) each member is provided the means of participating in all matters before the Board of Directors, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

Section 2.6 Quorum; Adjournment; Vote Required for Action. At all meetings of the Board of Directors, the presence of a majority of directors then in office (physically or as contemplated by Section 2.5 hereof) shall be required to constitute a quorum for the transaction of business at any meeting of the Board. Subject to the provisions of Sections 310 and subdivision (e) of Section 317 of the California General Corporation Law, every act or decision done or made by a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors unless the articles of incorporation or these bylaws shall require a vote of a greater number. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

Section 2.7 Organization. Meetings of the Board of Directors shall be presided over by the Chairman of the Board, if any, or in the absence of the Chairman of the Board by the Vice Chairman of the Board, if any, or in the absence of the Vice Chairman of the Board by the Chief Executive Officer, or in the absence of the Chief Executive Officer by the President, or in their absence by a chairman chosen at the meeting. The Secretary, or in the absence of the Secretary an Assistant Secretary, shall act as secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary the chairman of the meeting may appoint any person to act as secretary of the meeting.

Section 2.8 Action by Directors Without a Meeting. Any action required or permitted to be taken by the Board of Directors, or any committee thereof, may be taken without a meeting if all members of the Board of Directors or of such committee, as the case may be, shall individually or collectively consent in writing to such action and if the number of members of the Board of Directors or such committee serving at the time constitutes a quorum. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors. Such action by written consent shall have the same force and effect as a unanimous vote of such directors.

Section 2.9 Lead Outside Director. The Board of Directors may elect a “lead outside director” to serve in a lead capacity to coordinate the activities of the other outside independent directors and to perform such other duties and responsibilities as the Board of Directors determines by resolution or Board-approved policy, including by presiding over any executive session of independent directors at which such lead outside director is present.

Section 2.10 Compensation of Directors. The Board of Directors shall have the authority to fix the compensation of directors for services in any capacity.

ARTICLE III Executive and Other Committees

Section 3.1 Executive and Other Committees of Directors. The Board of Directors, by resolution adopted by a majority of the entire Board of Directors, may designate an executive committee and other committees (including in the case the corporation is to engage in commercial banking business, a loan committee, an investment committee, and an audit committee and, in the case the corporation is to engage in trust business, a trust investment committee and a trust audit committee), each consisting of two or more directors, to serve at the pleasure of the Board of Directors, and each of which, to the extent provided in the resolution, shall have all the authority of the Board of Directors, except that no such committee shall have power or authority with respect to the following matters:

(a) The approval of any action for which the California General Corporation Law also requires the approval of the shareholders or of the outstanding shares;

- (b) The filling of vacancies in the Board of Directors or in any committee thereof;
- (c) The fixing of compensation of the directors for serving on the Board of Directors or on any committee thereof;
- (d) The amendment or repeal of the bylaws, or the adoption of new bylaws;
- (e) The amendment or repeal of any resolution of the Board of Directors which by its express terms is not so amendable or repealable;
- (f) The making of distributions to shareholders, except at a rate or in a periodic amount or within a price range set forth in the articles or determined by the Board of Directors;
- (g) The appointment of other committees of the Board of Directors or the members thereof; or
- (h) The removal or indemnification of any director.

The Board of Directors may designate one or more directors as alternate members of any such committee, who may replace any absent member or members at any meeting of such committee.

Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may adopt, amend and repeal rules for the conduct of its business. In the absence of a provision by the Board of Directors or a provision in the rules of such committee to the contrary, each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article II of these bylaws.

ARTICLE IV Officers

Section 4.1 Officers; Election. The Board of Directors at its first meeting after each annual meeting of shareholders, and from time to time, shall elect a Chief Executive Officer, a Secretary, a Treasurer and a Chief Financial Officer, and it may, if it so determines, elect from among its members a Chairman of the Board and a Vice Chairman of the Board. The Board of Directors may also elect (i) a President, (ii) one or more Vice Presidents, (iii) one or more Assistant Vice Presidents, (iv) one or more Assistant Secretaries, (v) one or more Assistant Treasurers and (vi) such other officers, in each case, as the Board of Directors may deem desirable or appropriate and may give any of them such further designations or alternate titles as it considers desirable. In addition, the Board of Directors at any time and from time to time may authorize, as permitted under applicable law, any officer to appoint one or more officers of the kind described in clauses (ii), (iii), (iv), (v) and (vi) of the previous sentence. Any number of offices may be held by the same person.

Section 4.2 Term of Office; Resignation; Removal; Vacancies. Except as otherwise provided in the resolution of the Board of Directors electing any officer, each officer shall hold office until the first meeting of the Board of Directors after the annual meeting of shareholders next succeeding his or her election, and until his or her successor is elected and qualified or until

his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the Board of Directors or to the President or the Secretary of the corporation. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective. The Board of Directors may remove any officer with or without cause at any time. Any such removal shall be without prejudice to the contractual rights of such officer, if any, with the corporation, but the election of an officer shall not of itself create contractual rights. Any vacancy occurring in any office of the corporation by death, resignation, removal or otherwise may be filled for the unexpired portion of the term by the Board of Directors at any regular or special meeting.

Section 4.3 Powers and Duties. The officers of the corporation shall have such powers and duties in the management of the corporation as shall be stated in these bylaws or in a resolution of the Board of Directors which is not inconsistent with these bylaws and, to the extent not so stated, as generally pertain to their respective offices, subject to the control of the Board of Directors. The Board of Directors may require any officer, agent or employee to give security for the faithful performance of his or her duties.

Section 4.4 Chairman of the Board and Chief Executive Officer. If the Board of Directors elects a Chairman of the Board, the Chairman of the Board shall also be the Chief Executive Officer, unless the Board of Directors shall otherwise determine. The Chief Executive Officer shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and affairs of the corporation. He shall have the general powers and duties of management usually vested in the chief executive officer of a corporation, and shall have such other powers and duties with respect to the administration of the business and affairs of the corporation as may from time to time be assigned to him by the Board of Directors or as is prescribed by these bylaws.

Section 4.5 President. If the Board of Directors elects a President, the President shall exercise and perform such powers and duties with respect to the administration of the business and affairs of the corporation as may from time to time be assigned to the President by the Board of Directors or the Chief Executive Officer (unless the President is also the Chief Executive Officer) or as is prescribed by these bylaws. In the absence or disability of the Chief Executive Officer, the President, if one has been elected, shall perform all of the duties of the Chief Executive Officer and when so acting shall have all of the powers and be subject to all the restrictions upon the Chief Executive Officer.

Section 4.6 Secretary. The Secretary shall keep, or cause to be kept, a book of minutes at the principal office for the transaction of business of the corporation, or such other place as the Board of Directors may order, of all meetings of shareholders and directors, with the time and place of holding, whether regular or special, and, if special, how authorized and the notice thereof given, the names of those present at directors' meetings, the number of shares present or represented at shareholders' meetings and the proceedings thereof.

The Secretary shall keep, or cause to be kept, at the principal office for the transaction of business of the corporation or at the office of the corporation's transfer agent or registrar, as determined by resolution of the Board of Directors, a share register, or a duplicate share register, showing the names of the shareholders and their addresses; the number and classes of shares held

by each; the number and date of certificates issued for the same, as applicable; and the number and date of cancellation of every certificate surrendered for cancellation. The Secretary shall give, or cause to be given, notice of all the meetings of the shareholders and the Board of Directors required by these bylaws or by law to be given, and he shall keep the seal of the corporation, if one be adopted, in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these bylaws.

Section 4.7 Chief Financial Officer. The Chief Financial Officer of the corporation shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, surplus and shares. Any surplus, including earned surplus, paid-in surplus and surplus arising from a reduction of capital, shall be classified according to source and shown in a separate account. The books of account shall at all reasonable times be open to inspection by any director.

The Chief Financial Officer shall deposit or cause to be deposited all moneys and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board of Directors. He shall disburse the funds of the corporation as may be ordered by the Board of Directors, shall render to the Chief Executive Officer, the President and to the directors, whenever they request it, an account of all of his transactions as Chief Financial Officer and the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these bylaws.

ARTICLE V Forms of Shares; Loss and Transfer of Shares

Section 5.1 Forms of Shares.

(a) Certificated and Uncertificated Shares. The shares of the corporation shall be represented by physical share certificates; provided, however, that the Board of Directors may provide by resolution that some or all of any class or series of the capital stock of the corporation shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation.

(b) Certificated Shares. Every holder of shares of capital stock of the corporation represented by certificates shall be entitled to have a certificate signed in the name of the corporation by the Chairman or Vice Chairman of the Board of Directors, if any, or the President or a Vice President and by the Chief Financial Officer or an Assistant Treasurer or the Secretary or an Assistant Secretary, of the corporation, certifying the number of shares owned by such shareholder. Any and all of the signatures on the certificate may be facsimile. If such certificate is manually signed by one officer or manually countersigned by a transfer agent or by a registrar, any other signature on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

(c) Uncertificated Shares. Every holder of uncertificated shares of capital stock of the corporation shall be entitled to receive a statement of holdings as evidence of share ownership.

Section 5.2 Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates. The corporation may issue a new share certificate or a new certificate for any other security in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the corporation a bond sufficient to indemnify it against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

ARTICLE VI Records and Reports

Section 6.1 Shareholder Records. The corporation shall keep at its principal executive office or at the office of its transfer agent or registrar a record of the names and addresses of all shareholders and the number and class of shares held by each shareholder.

A shareholder or shareholders holding at least five percent in the aggregate of the outstanding voting shares of the corporation, or a shareholder who otherwise is authorized by subdivision (a) of Section 1600 of the California General Corporation Law, may inspect and copy the record of shareholders' names and addresses and shareholdings during usual business hours, on five days' prior written demand on the corporation, or obtain from the corporation's transfer agent, on written demand and tender of the transfer agent's usual charges for this service, a list of the names and addresses of shareholders who are entitled to vote for the election of directors, and their shareholdings, as of the most recent record date for which a list has been compiled or as of a specified date later than the date of demand. This list shall be made available within five days after the demand is received or the date specified therein as the date as of which the list is to be compiled. The record of shareholders shall also be open to inspection on the written demand of any shareholder or holder of a voting trust certificate, at any time during usual business hours, for a purpose reasonably related to the holder's interests as a shareholder or holder of a voting trust certificate. Any inspection and copying under this section may be made in person or by an agent or attorney of the shareholder or holder of a voting trust certificate making the demand.

Section 6.2 Bylaws. The corporation shall keep at its principal executive office, the original or a copy of the bylaws as amended to date, which shall be open to inspection by the shareholders at all reasonable times during office hours.

Section 6.3 Minutes and Accounting Records. The minutes of proceedings of the shareholders, the Board of Directors, and committees of the Board of Directors, and the accounting books and records shall be kept at the principal executive office of the corporation, or at such other place or places as designated by the Board of Directors. The minutes shall be kept in written form, and the accounting books and records shall be kept either in written form or in a form capable of being converted into written form. The minutes and accounting books and records shall be open to inspection upon the written demand of any shareholder or holder of a

voting trust certificate at any reasonable time during usual business hours, for a purpose reasonably related to the holder's interests as a shareholder or holder of a voting trust certificate. The inspection may be made in person or by an agent or attorney, and shall include the right to copy and make extracts. These rights of inspection shall extend to the records of each subsidiary of the corporation.

Section 6.4 Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind and the physical properties of the corporation and each of its subsidiaries. This inspection by a director may be made in person or by an agent or attorney and the right of inspection includes the right to copy and make extracts of documents.

Section 6.5 Annual Report to Shareholders. Inasmuch as, and for as long as, there are fewer than 100 shareholders, the requirement of an annual report to shareholders referred to in Section 1501 of the California General Corporation Law is expressly waived. However, nothing in this provision shall be interpreted as prohibiting the Board of Directors from issuing annual or other periodic reports to the shareholders, as the Board of Directors considers appropriate.

If at any time and for as long as, the number of shareholders shall exceed 100, the Board of Directors shall cause an annual report to be sent to the shareholders not later than 120 days after the close of the fiscal year adopted by the corporation. This report shall be sent at least 15 days (if third-class mail is used, 35 days) before the annual meeting of shareholders to be held during the next fiscal year and in the manner specified for giving notice to shareholders in these bylaws. The annual report shall contain a balance sheet as of the end of the fiscal year and an income statement and a statement of changes in financial position for the fiscal year prepared in accordance with generally accepted accounting principles applied on a consistent basis and accompanied by any report of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that the statements were prepared without audit from the corporation's books and records. The annual report shall also contain such other items as required by applicable law or regulation.

Section 6.6 Financial Statements. The corporation shall keep a copy of each annual financial statement, quarterly or other periodic income statement, and accompanying balance sheets prepared by the corporation on file in the corporation's principal office for 12 months; these documents shall be exhibited at all reasonable times, or copies provided, to any shareholder on demand.

If no annual report for the last fiscal year has been sent to shareholders, on written request of any shareholder made more than 120 days after the close of the fiscal year, the corporation shall deliver or mail to the shareholder, within 30 days after receipt of the request, a balance sheet as of the end of that fiscal year and an income statement and statement of changes in financial condition for that fiscal year.

A shareholder or shareholders holding five percent or more of the outstanding shares of any class of the corporation may request in writing an income statement for the most recent three-month, six-month, or nine-month period (ending more than 30 days before the date of the request) of the current fiscal year, and a balance sheet of the corporation as of the end of that

period. If such documents are not already prepared, the Chief Financial Officer shall cause them to be prepared and shall deliver the documents personally or mail them to the requesting shareholders within 30 days after receipt of the request. A balance sheet, income statement, and statement of changes in financial position for the last fiscal year shall also be included, unless the corporation has sent the shareholders an annual report for the last fiscal year.

Quarterly income statements and balance sheets referred to in this Section 6.6 shall be accompanied by the report thereon, if any, of any independent accountant engaged by the corporation or the certificate of an authorized corporate officer stating that the financial statements were prepared without audit from the corporation's books and records.

Section 6.7 Form of Records. Any records maintained by the corporation in the regular course of its business, including its stock ledger and books of account, may be kept on, or be in the form of: punch cards, magnetic tape, photographs, microphotographs or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

ARTICLE VII Indemnification

Section 7.1 Definitions. For the purposes of this Article VII, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Section 7.4 or Section 7.5(d).

Section 7.2 Actions, Etc. Other Than by or in the Right of the Corporation. The corporation shall indemnify and hold harmless, to the fullest extent permitted by law as in effect on the date of adoption of these bylaws or as it may be amended, any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor) by reason of the fact that the person is or was an agent of the corporation, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the proceeding if that person acted in good faith and in a manner the person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of the person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 7.3 Actions, Etc. by or in the Right of the Corporation. The corporation shall indemnify and hold harmless, to the fullest extent permitted by law as in effect on the date of adoption of these bylaws or as it may be amended, any person who was or is a party or is

threatened to be made a party to any threatened, pending, or completed action by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was an agent of the corporation, against expenses actually and reasonably incurred by that person in connection with the defense or settlement of the action if the person acted in good faith, in a manner the person believed to be in the best interests of the corporation and its shareholders.

Notwithstanding the foregoing, no indemnification shall be made under this Section 7.3 for any of the following:

(a) In respect of any claim, issue or matter as to which the person shall have been adjudged to be liable to the corporation in the performance of that person's duty to the corporation and its shareholders, unless and only to the extent that the court in which the proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for expenses and then only to the extent that the court shall determine.

(b) Of amounts paid in settling or otherwise disposing of a pending action without court approval.

(c) Of expenses incurred in defending a pending action which is settled or otherwise disposed of without court approval.

Section 7.4 Indemnification of Expenses Upon Successful Defense. To the extent that an agent of the corporation has been successful on the merits in defense of any proceeding referred to in Section 7.2 or Section 7.3 or in defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 7.5 Authorization. Except as provided in Section 7.4, any indemnification under this Article VII shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 7.2 or Section 7.3, by any of the following:

(a) A majority vote of a quorum consisting of directors who are not parties to such proceeding.

(b) If such a quorum of directors is not obtainable, by independent legal counsel in a written opinion.

(c) Approval of the shareholders as set forth in Section 153 of the California General Corporation Law, with the shares owned by the person to be indemnified not being entitled to vote thereon.

(d) The court in which the proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not the application by the agent, attorney or other person is opposed by the corporation.

Section 7.6 Advancement of Expenses. Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of the proceeding upon receipt of an undertaking by or on behalf of the agent to repay that amount if it shall be determined ultimately that the agent is not entitled to be indemnified as authorized in this Article VII. The provisions of subdivision (a) of Section 315 of the California General Corporation Law do not apply to advances made pursuant to this Section 7.6.

Section 7.7 Nonexclusive; Continuance. The indemnification authorized by this Article VII shall not be deemed exclusive of any additional rights to indemnification for breach of duty to the corporation and its shareholders while acting in the capacity of a director or officer of the corporation to the extent the additional rights to indemnification are authorized in an article provision adopted pursuant to paragraph (11) of subdivision (a) of Section 204 of the California General Corporation Law. The indemnification provided by this Article VII for acts, omissions, or transactions while acting in the capacity of, or while serving as, a director or officer of the corporation but not involving breach of duty to the corporation and its shareholders shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, to the extent the additional rights to indemnification are authorized in the articles of the corporation. The rights to indemnity under this Article VII shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person. Nothing contained in this Article VII shall affect any right to indemnification to which persons other than the directors and officers may be entitled by contract or otherwise.

Section 7.8 No Indemnification or Advance. No indemnification or advance shall be made under this Article VII, except as provided in Section 7.4 or Section 7.5(d), in any circumstance where it appears:

(a) That it would be inconsistent with a provision of the articles, bylaws, a resolution of the shareholders, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification.

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 7.9 Insurance. The corporation shall have the power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in that capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against that liability under this Article VII.

Section 7.10 Fund Directors. The corporation acknowledges that certain directors (the "Fund Directors" and each, a "Fund Director") have certain rights to indemnification, advancement of expenses and/or insurance provided by their employers and certain of their affiliates (collectively, the "Fund Indemnitors"). The corporation shall (i) act as the indemnitor of first resort (i.e., its obligations to the Fund Directors are primary and any obligation of the

Fund Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such Fund Directors are secondary), (ii) be required to advance expenses incurred by the Fund Directors in accordance with Section 7.6 and shall be liable for the full amount of all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding to the extent not prohibited by (and not merely to the extent affirmatively permitted by) applicable law and as required by the terms of articles of incorporation or these bylaws (or any other agreement between the corporation and a Fund Director), without regard to any rights a Fund Director may have against the Fund Indemnitors, and, (iii) irrevocably waive, relinquish and release the Fund Indemnitors from any and all claims against the Fund Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. No advancement or payment by the Fund Indemnitors on behalf of a Fund Director with respect to any claim for which such director has sought indemnification from the corporation shall affect the foregoing, and the Fund Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such director against the corporation.

Section 7.11 Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article VII shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

ARTICLE VIII Miscellaneous

Section 8.1 Principal Executive or Business Offices. The Board of Directors shall fix the location of the principal executive office of the corporation at any place within the State of California. The Board of Directors may at any time establish and maintain one or more offices of the corporation. The Board of Directors may relocate and re-designate offices of the corporation.

Section 8.2 Fiscal Year. The fiscal year of the corporation shall be determined by the Board of Directors.

Section 8.3 Seal. The corporation may have a corporate seal which shall have the name of the corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board of Directors. The corporate seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 8.4 Interested Directors; Quorum. No contract or transaction between the corporation and one or more of its directors or between the corporation and any other corporation, firm or association in which one or more of its directors are directors, or have a financial interest, shall be void or voidable solely for this reason, or solely because such director or directors are present at the meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies the contract or transaction, or solely because his or her or their votes are counted for such purpose, if: (1) the material facts as to his or her relationship or interest and as to the contract or transaction are fully disclosed or are known to the shareholders and such contract or transaction is approved by the shareholders in good faith with the shares

owned by the interested director or directors not being entitled to vote thereon; (2) the material facts as to his or her relationship or interest and as to the contract or transaction are fully disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the interested director or directors and the contract or transaction is just and reasonable as to the corporation at the time it was authorized, approved or ratified; or (3) the contract or transaction is fair as to the corporation as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof or the shareholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

Section 8.5 Amendment of Bylaws. To the extent permitted by law these bylaws may be amended or repealed, and new bylaws adopted, by the Board of Directors. The shareholders entitled to vote, however, retain the right to adopt additional bylaws and may amend or repeal any bylaw whether or not adopted by them.