

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): January 30, 2017

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.

On January 30, 2017, First Republic Bank (the “Bank”) completed the previously announced redemption of all of its outstanding depositary shares (the “Series A Depositary Shares”) of its 6.70% Noncumulative Perpetual Series A Preferred Stock (the “Series A Preferred Stock”).

In connection with the redemption of the Series A Preferred Stock, the Bank amended its Restated Articles of Incorporation, as amended (the “Articles”), eliminating all references to the Series A Preferred Stock, including Annex A to the Articles. Simultaneous with the amendment, the Bank also restated the entire text of the Articles, which includes the amendment and consolidates all previous amendments (the “Restated Articles”).

The foregoing description is qualified in its entirety by reference to the full text of the Restated Articles, which were filed with the Secretary of State of the State of California on February 8, 2017, a copy of which is attached hereto as Exhibit 3.1 and is incorporated herein by reference.

Item 8.01 Other Events

On January 30, 2017, the Bank completed the redemption all of its outstanding Series A Depositary Shares, each representing a 1/40th interest in a share of Series A Preferred Stock (NYSE: FRC-PRA, CUSIP No. 33616C209). All 7,981,000 Series A Depositary Shares were redeemed at a redemption price of \$25.00 per Series A Depositary Share, representing an aggregate amount of \$199,525,000, plus all accrued and unpaid dividends to the date of redemption.

As a result of the redemption, no Series A Depositary Shares are outstanding, no further dividends will accrue or be declared on the Series A Depositary Shares and the Series A Depositary Shares were delisted from the New York Stock Exchange.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit 3.1 Restated Articles of Incorporation 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: February 8, 2017

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 | Restated Articles of Incorporation of First Republic Bank |

RESTATED ARTICLES OF INCORPORATION
OF
FIRST REPUBLIC BANK

James H. Herbert, II and Michael J. Roffler certify that:

1. They are the Chairman of the Board of Directors and Chief Financial Officer, respectively, of First Republic Bank (the “Corporation”), a California corporation.
2. No shares of the Corporation’s 6.70% Noncumulative Perpetual Series A Preferred Stock (the “Series A Preferred Stock”) are issued or outstanding.
3. The Restated Articles of Incorporation of the Corporation, as amended, are amended to eliminate the designation of, and the rights, preferences, privileges, and restrictions of, the Series A Preferred Stock and are restated to read in full as set forth in Exhibit A, which is incorporated by reference as if fully set forth herein.
4. The foregoing amendment and restatement has been duly approved by the Board of Directors of the Corporation.
5. The foregoing amendment and restatement was one which may be adopted by the Board of Directors of the Corporation alone under Section 510(f) and Section 910(b) of the California Corporations Code because the amendment relates solely to the reacquiring by the Corporation of all the authorized shares of a series of shares pursuant to Section 510(c) of the California Corporations Code and the related elimination from the articles of the designation and the rights, preferences, privileges, and restrictions of such shares and the restatement, other than such amendment, does not otherwise alter or amend the Restated Articles of Incorporation of the Corporation, as amended.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Singed on this 1st day of February, 2017.

/s/ James H. Herbert, II
James H. Herbert, II
Chairman of the Board

/s/ Michael J. Roffler
Michael J. Roffler
Chief Financial Officer

Exhibit A

RESTATED ARTICLES OF INCORPORATION

OF

FIRST REPUBLIC BANK

FIRST, the name of this corporation is First Republic Bank.

SECOND, the purpose of this corporation is to engage in commercial banking business and trust business and any other lawful activities which are not, by applicable laws or regulations, prohibited to a commercial bank authorized to engage in trust business.

THIRD, the Series A Voting Common Stock, par value \$0.01 per share (“Voting Common Stock”), of this corporation shall be re-designated as common stock, par value \$0.01 per share, of this corporation and all issued and outstanding shares of Voting Common Stock immediately prior to the adoption and effectiveness of these Amended and Restated Articles of Incorporation shall be so re-designated without any action required on the part of any holder of Voting Common Stock. Any certificate evidencing shares of Voting Common Stock shall evidence the same number of shares of common stock following the adoption and effectiveness of these Amended and Restated Articles of Incorporation. The Series B Non-Voting Common Stock, par value \$0.01 per share, of this corporation shall be cancelled. The total number of shares of stock of all classes which this corporation has authority to issue is 425,000,000 shares of which 400,000,000 shares shall be common stock, par value \$0.01 per share, and 25,000,000 shares shall be preferred stock, par value \$0.01 per share.

Preferred Stock. The preferred stock may be issued from time to time by this corporation as shares of one or more series. The board of directors is authorized to fix the number of shares of any series of preferred stock and to determine the designation of any such series. The board of directors is also authorized to determine or alter the rights, preferences, privileges, and restrictions granted to or imposed upon any wholly unissued series of preferred stock and, within the limits and restrictions stated in any resolution or resolutions of the board of directors originally fixing the number of shares constituting any series, to increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series subsequent to the issue of shares of that series.

FOURTH, no action required to be taken or which may be taken at any annual or special meeting of the shareholders of this corporation 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.

FIFTH, the affirmative vote of the holders of at least 66 2/3% of the outstanding shares entitled to vote in the election of directors shall be required to effect or validate (1) any merger or consolidation with or into any other corporation or (2) any sale or lease of all or a substantial part of the assets of this corporation to any other corporation, person or

other entity; provided that this Article FIFTH shall not apply to (a) any transaction if the board of directors of this corporation has approved a memorandum of understanding or other written agreement providing for such transaction or (b) any merger or consolidation of this corporation with, or any sale or lease by this corporation or any subsidiary thereof of any assets of, or any sale or lease by this corporation or any subsidiary thereof of any of its assets to, any corporation of which the majority of the outstanding shares of all classes of stock entitled to vote in election of directors is owned of record or beneficially by this corporation and its subsidiaries.

SIXTH, the liability of the directors of this corporation for monetary damages shall be eliminated to the fullest extent permissible under California law and applicable provisions of federal law.

SEVENTH, this corporation is authorized to provide indemnification of agents (as defined in Section 317(a) of the California Corporations Code) through bylaw provisions, agreements with agents, vote of shareholders or directors or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to (i) the applicable limits set forth in Section 204(a)(10) of the California Corporations Code, (ii) 12 U.S.C. § 1828(k) and the rules and regulations of the Federal Deposit Insurance Corporation thereunder and (iii) any other requirements or limitations imposed by state or federal laws or regulations.

EIGHTH, upon the effectiveness of this Article EIGHTH, shareholders shall not be permitted to elect directors by cumulative voting.

This Article EIGHTH shall become effective only when this corporation becomes a listed corporation within the meaning of Section 301.5 of the California Corporations Code, which section provides that a listed corporation means a corporation with outstanding shares listed on the New York Stock Exchange or a corporation with outstanding securities listed on the National Market System of the Nasdaq Stock Market (or any successor to that entity).

NINTH, the board of directors is authorized to adopt, amend and repeal bylaws of this corporation to the fullest extent permitted under applicable law. The shareholders may make, alter or repeal any bylaws whether or not adopted by them.

TENTH, any amendment, repeal or modification of Articles SIXTH or SEVENTH shall not adversely affect any right of protection of any director or agent of this corporation existing at the time of such amendment, repeal or modification.

ELEVENTH, the amendment or repeal of Article FOURTH, SIXTH, SEVENTH, EIGHTH or NINTH or this Article ELEVENTH of these Amended and Restated Articles of Incorporation, in any respect, or the adoption of any article or articles that are inconsistent with such Articles, in any respect, shall require prior approval by the affirmative vote of the holders of at least 66 2/3% of the outstanding shares entitled to vote.

TWELFTH, the Certificate of Determination for the 6.20% Noncumulative Perpetual Series B Preferred Stock, as filed on May 30, 2012, is attached hereto as Annex A and incorporated herein by reference.

THIRTEENTH, the Certificate of Determination for the 5.625% Noncumulative Perpetual Series C Preferred Stock, as filed on November 20, 2012, is attached hereto as Annex B and incorporated herein by reference.

FOURTEENTH, the Certificate of Determination for the 5.50% Noncumulative Perpetual Series D Preferred Stock, as filed on April 18, 2013, is attached hereto as Annex C and incorporated herein by reference.

FIFTEENTH, the Certificate of Determination for the 7.00% Noncumulative Perpetual Series E Preferred Stock, as filed on October 24, 2013, is attached hereto as Annex D and incorporated herein by reference.

SIXTEENTH, the Certificate of Determination for the 5.70% Noncumulative Perpetual Series F Preferred Stock, as filed on May 21, 2015, is attached hereto as Annex E and incorporated herein by reference.

SEVENTEENTH, the Certificate of Determination for the 5.50% Noncumulative Perpetual Series G Preferred Stock, as filed on February 5, 2016, is attached hereto as Annex F and incorporated herein by reference.

Annex A

RESOLVED, that the Board, pursuant to Article Third of the Bank's Restated Articles of Incorporation, hereby authorizes the creation of a series of Preferred Stock of the Bank out of the authorized but unissued shares of the Preferred Stock of the Bank, such series to be designated 6.20% Noncumulative Perpetual Series B Preferred Stock, to consist of 150,000 shares, par value \$0.01 per share, none of which are currently outstanding, the rights, privileges, preferences and restrictions of which shall be (in addition to those set forth in the Bank's Restated Articles of Incorporation, as amended) as follows:

Section 1. *Dividends.*

(a) Payment of Dividends. Holders of Series B Preferred Stock shall be entitled to receive, when, as and if authorized and declared by the Board (which shall include any authorized committee thereof), out of assets of the Bank legally available therefor, cash dividends at an annual rate of 6.20% of the \$1,000.00 liquidation preference per share (equivalent to \$62.00 per share per annum) (the "*Dividend Rate*"), and no more. Such cash dividends shall be noncumulative and payable, if authorized and declared, quarterly in arrears on each March 30, June 30, September 30 and December 30, commencing on June 29, 2012 (each such date, a "*Dividend Payment Date*"), or, if such day is not a day other than a Saturday, Sunday or day on which banking institutions in New York, New York are authorized or obligated pursuant to legal requirements or executive order to be closed (each such day, a "*Business Day*"), on the immediately preceding Business Day, without adjustment. The amount of the dividend per share of Series B Preferred Stock on each Dividend Payment Date will be equal to the Dividend Rate multiplied by 0.25, then multiplied by \$1,000 (with the result rounded upward, if necessary, to the nearest 0.00001 of 1%), except for the initial Dividend Payment Date, as described in the next paragraph. Each authorized and declared dividend shall be payable to holders of record of the Series B Preferred Stock as they appear on the stock books of the Bank at the close of business on such record date, not more than 60 calendar days nor less than 10 calendar days preceding the Dividend Payment Date therefor, as may be determined by the Board (each such date, a "*Record Date*"); *provided, however*, that if the date fixed for redemption of any of the Series B Preferred Stock occurs after a dividend is authorized and declared but before it is paid, such dividend shall be paid as part of the redemption price to the person to whom the redemption price is paid. Quarterly dividend periods (each, a "*Dividend Period*") shall commence on and include each Dividend Payment Date, and shall end on and exclude the following Dividend Payment Date (except that the first Dividend Period (i) for shares of Series B Preferred Stock issued in the initial issuance of Series B Preferred Stock shall commence on and include the initial date of issuance of shares of Series B Preferred Stock (the "*Issue Date*") and (ii) for shares of Series B Preferred Stock issued after the Issue Date shall commence on and include the later of the Issue

Date and the first day of the quarterly period in which such later date of issue occurs.

The amount of dividends payable for the Dividend Period commencing on the Issue Date shall be computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year composed of twelve 30-day months.

Holders of the Series B Preferred Stock shall not be entitled to any interest, or any sum of money in lieu of interest, in respect of any dividend payment or payments on the Series B Preferred Stock authorized and declared by the Board that may be unpaid. Any dividend payment made on the Series B Preferred Stock shall first be credited against the earliest authorized and declared but unpaid cash dividend with respect to the Series B Preferred Stock.

(b) Dividends Noncumulative. The right of holders of Series B Preferred Stock to receive dividends is noncumulative. Accordingly, except as hereinafter expressly provided, if the Board does not authorize or declare a dividend payable in respect of any Dividend Period, holders of Series B Preferred Stock shall have no right to receive a dividend in respect of such Dividend Period and the Bank shall have no obligation to pay a dividend in respect of such Dividend Period, whether or not dividends have been or are authorized and declared payable in respect of any prior or subsequent Dividend Period.

(c) Priority as to Dividends; Limitations on Dividends on Junior Stock. If full dividends on the Series B Preferred Stock for any completed Dividend Period shall not have been declared and paid, or declared and a sum sufficient for the payment thereof shall not have been set apart for such payments, no dividends or distributions shall be authorized, declared or paid or set aside for payment (other than as provided in the second paragraph of this Section 1(c)) with respect to the common stock or any other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series B Preferred Stock as to dividends or amounts distributed upon liquidation, dissolution or winding up of the affairs of the Bank (together with the common stock, "*Junior Stock*"), other than (x) dividends payable on Junior Stock in Junior Stock and (y) cash in lieu of fractional shares in connection with any such dividend, nor shall any Junior Stock or any stock ranking on parity with the Series B Preferred Stock as to dividends or amounts upon liquidation, dissolution or winding up of the affairs of the Bank ("*Parity Stock*") be redeemed, purchased or otherwise acquired for any consideration (or any monies to be paid to or made available for a sinking fund for the redemption of any such stock) by the Bank (except (x) by conversion into or exchange for other Junior Stock or (y) by the tendering of Junior Stock in payment for the exercise of stock options under our equity incentive plans then in effect), until such time as dividends on all outstanding Series B Preferred Stock have been authorized, declared and paid, or a sum sufficient for the payment thereof has been set apart for payment, as of the Dividend Payment Date for the current Dividend Period.

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) for any Dividend Period on the Series B Preferred Stock, all dividends declared on the Series B Preferred Stock and any other series ranking on a parity as to dividends with the Series B Preferred Stock shall be declared *pro rata* so that the amount of dividends declared per share on the Series B Preferred Stock and each such other series of capital stock shall in all cases bear to each other the same ratio that full dividends, for the then current Dividend Period, per share of Series B Preferred Stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods) and full dividends, including required or permitted accumulations, if any, on the stock of each such other series ranking on a parity as to dividends with the Series B Preferred Stock bear to each other.

(d) Dividend Reference. Any reference to “*dividends*” or “*distributions*” in this Section 1 shall not be deemed to include any distribution made in connection with any voluntary or involuntary dissolution, liquidation or winding up of the Bank.

Section 2. *Redemption.*

(a) Optional Redemption. Subject to the further terms and conditions provided herein, the Bank, at its option, subject to the approval of the “appropriate Federal banking agency” with respect to the Bank (as defined in Section 3(q) of the Federal Deposit Insurance Act or any successor provision) (the “*Appropriate Federal Banking Agency*”), may, upon notice given as provided in Section 2(d), redeem shares of the Series B Preferred Stock at the time outstanding in whole or in part, from time to time, on or after June 1, 2017, at a cash redemption price equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the redemption occurs, plus (iii) the amount of the accrued and unpaid dividends thereon (whether or not declared) from the beginning of the Dividend Period in which the redemption occurs to the date of redemption, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months (the “*Redemption Price*”).

(b) Regulatory Event Redemption. Notwithstanding Section 2(a), the Bank, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem all (but not less than all) of the shares of Series B Preferred Stock at the time outstanding, upon notice given as provided in section 2(d), at the Redemption Price at any time within 90 days following the Bank’s good faith determination that, as a result of (i) any amendment to, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the Issue Date; (ii) any proposed change in such laws or regulations that is announced after the Issue Date; or (iii) any official administrative decision or judicial decision or administrative

action or other official pronouncement interpreting or applying those laws or regulations that is announced after the Issue Date, there is more than an insubstantial risk that the Bank will not be entitled to treat the full liquidation value of the shares of Series B Preferred Stock then outstanding as “Tier 1 Capital” (or its equivalent), as defined at 12 C.F.R. § 325.2(v) of the regulations of the Federal Deposit Insurance Corporation, or any successor regulation of the Federal Deposit Insurance Corporation (or, as and if applicable, the corresponding regulations of any successor Appropriate Federal Banking Agency), as then in effect and applicable, for as long as any share of Series B Preferred Stock is outstanding.

(c) Partial Redemption. In the event that fewer than all the outstanding shares of Series B Preferred Stock are to be redeemed, the number of shares of Series B Preferred Stock to be redeemed shall be determined by the Board, and the shares to be redeemed shall be determined by lot or *pro rata* as may be determined by the Board or by any other method as may be determined by the Board, in its sole discretion, to be fair and equitable, provided that such method satisfies any applicable requirements of any securities exchange (if any) on which the shares of Series B Preferred Stock are then listed.

Unless full dividends on the Series B Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for payment for the then current Dividend Period, no Series B Preferred Stock shall be redeemed unless all outstanding Series B Preferred Stock are redeemed, and the Bank shall not purchase or otherwise acquire any Series B Preferred Stock; *provided, however*, that the Bank may purchase or acquire Series B Preferred Stock pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series B Preferred Stock.

(d) Notice of Redemption. A notice by the Bank pursuant to this Section 2 shall be sufficiently given if in writing and mailed, first class postage prepaid, to each record holder of Series B Preferred Stock at the holder’s address as it appears in the records of the Bank’s transfer agent. In any case where notice is given by mail, neither the failure to mail such notice nor any defect in the notice to any particular holder shall affect the sufficiency of such notice to any other holder. Any notice mailed to a holder in the manner described above shall be deemed given on the date mailed, whether or not the holder actually receives the notice. A notice of redemption shall be given not less than 30 days and not more than 60 days prior to the date of redemption specified in the notice, and shall specify (i) the redemption date, (ii) the number of shares of Series B Preferred Stock to be redeemed, (iii) the Redemption Price and (iv) the manner in which holders of Series B Preferred Stock called for redemption may obtain payment of the Redemption Price in respect of those shares. Notwithstanding anything to the contrary in this paragraph, if the Series B Preferred Stock or any depositary shares representing interests in the Series B Preferred Stock are issued in book-entry

form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the holders of Series B Preferred Stock at such time and in any manner permitted by such facility.

(e) Effect of Redemption. Any shares of Series B Preferred Stock that are duly called for redemption pursuant to this Section 2 shall be deemed no longer to be outstanding for any purpose from and after that time that the Bank shall have irrevocably deposited with the paying agent identified in the notice of redemption funds in an amount equal to the aggregate redemption price. From and after that time, the holders of the Series B Preferred Stock so called for redemption shall have no further rights as shareholders of the Bank and in lieu thereof shall have only the right to receive the Redemption Price, without interest.

Series B Preferred Stock redeemed pursuant to this Section 2 or purchased or otherwise acquired for value by the Bank shall, after such acquisition, have the status of authorized and unissued shares of Preferred Stock and may be reissued by the Bank at any time as shares of any series of Preferred Stock other than as Series B Preferred Stock.

Section 3. *Liquidation Rights.*

(a) Liquidation Value. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Bank, the holders of the Series B Preferred Stock at the time outstanding will be entitled to receive out of assets of the Bank available for distribution to shareholders, before any distribution of assets is made to holders of Junior Stock, liquidating distributions in an amount equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the liquidation occurs, plus (iii) the amount of the declared and unpaid dividends thereon from the beginning of the Dividend Period in which the liquidation occurs to the date of liquidation, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months.

After payment of the full amount of the liquidating distributions to which they are entitled, pursuant to the preceding paragraph, the holders of Series B Preferred Stock will have no right or claim to any of the remaining assets of the Bank.

(b) Partial Payment. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, the available assets of the Bank are insufficient to pay the amount of the liquidating distributions on all outstanding shares of Series B Preferred Stock and the corresponding amounts payable on all shares of other classes or series of capital stock of the Bank ranking on a parity with the Series B Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Bank, then the holders

of the Series B Preferred Stock and such other classes or series of capital stock ranking on parity with the Series B Preferred Stock shall share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they otherwise respectively would be entitled.

(c) Consolidation, Merger or Sale of Assets not Liquidation. For the purposes of this Section 3, the merger or consolidation of the Bank with or into any other entity or by another entity with or into the Bank, or the sale, lease, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or business of the Bank, shall not be deemed to constitute the liquidation, dissolution or winding up of the Bank. If the Bank enters into any merger or consolidation transaction with or into any other entity and the Bank is not the surviving entity in such transaction, the Series B Preferred Stock may be converted into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series B Preferred Stock set forth herein.

Section 4. *Voting Rights.*

(a) General. Except as expressly provided in this Section 4 and as required by law, holders of Series B Preferred Stock shall have no voting rights. When the holders of Series B Preferred Stock are entitled to vote, each share of Series B Preferred Stock will be entitled to one vote.

(b) Right to Elect Directors.

(1) If at any time the Bank has failed to pay or set aside for payment scheduled dividends (whether or not declared) in an aggregate amount equal to at least six full quarterly dividend payments (whether or not consecutive) on the Series B Preferred Stock, the holders of the Series B Preferred Stock, voting as a single class together with the holders of each other series of Preferred Stock of the Bank then outstanding ranking on a parity with Series B Preferred Stock as to payment of dividends and having voting rights equivalent to those provided in this Section 4(b) for the Series B Preferred Stock (“*Voting Parity Stock*”), will be entitled to elect two directors (the “*Preferred Directors*”) to serve on the Board, and the holders of all then outstanding shares of capital stock of the Bank otherwise entitled under the Bank’s Restated Articles of Incorporation, as the same may be amended or restated from time to time, or by law to elect directors (“*Voting Stock*”), shall be entitled to elect the remaining number of authorized directors, but only if the election of any Preferred Directors would not cause the Bank to violate the corporate governance requirement of the New York Stock Exchange (or any other exchange on which its securities may be listed) that listed companies must have a majority of

independent directors. The Board shall at no time have more than two Preferred Directors.

(2) If, at any time after the right to elect directors is vested in the Series B Preferred Stock, the holders of the Series B Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the election of the Preferred Directors to the Board would cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the holders of the Series B Preferred Stock and any Voting Parity Stock, voting as a single class, and the holders of the Voting Stock shall each elect directors at the special meeting as provided in Section 4(b)(1), the terms of office of all persons who were directors immediately prior to the special meeting shall terminate, and the directors elected by the holders of the Series B Preferred Stock and any Voting Parity Stock, as a single class, and the directors elected by the holders of the Voting Stock shall constitute the directors of the Bank until the next annual meeting.

If, at any time after the right to elect directors is vested in the Series B Preferred Stock, the holders of the Series B Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the election of the Preferred Directors to the Board would not cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the terms of office of all persons who were directors immediately prior thereto shall continue until the next annual meeting.

(3) Whenever all dividends on the Series B Preferred Stock and any other Voting Parity Stock have been paid in full for four consecutive dividend periods (or otherwise for at least one year), then the right of the holders of Series B Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of these voting rights in the case of any similar non-payment of dividends in respect of future dividend periods), and if no other Voting Parity Stock is then entitled to elect directors, the terms of office of all Preferred Directors will immediately terminate.

(c) Removal and Replacement of Preferred Directors. Except as otherwise provided for by applicable law, any Preferred Director may be removed only by the vote of the holders of record of the outstanding Series B Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the shares of Series B Preferred Stock and all other Voting Parity

Stock, called for that purpose. As long as the right to elect Preferred Directors is continuing, (i) any vacancy in the office of any Preferred Director may be filled by the vote of the holders of record of the outstanding Series B Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the Series B Preferred Stock and all other Voting Parity Stock, called for that purpose, and (ii) in the case of the removal of any Preferred Director, the vacancy may be filled by the vote of the holders of the outstanding Series B Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at the same meeting at which such removal shall be voted. Until the time that any such vacancy is filled at a shareholder meeting as provided above, a successor shall be elected by the Board to serve until the next such shareholder meeting upon the nomination of the then remaining Preferred Director.

(d) Certain Voting Rights. The affirmative vote or consent of the holders of at least two-thirds of the outstanding shares of each series of Preferred Stock of the Bank, including the Series B Preferred Stock, will be required (i) to create any class or series of stock which shall, as to dividends or distribution of assets, rank prior to any outstanding series of Preferred Stock of the Bank (other than a series which shall not have any right to object to such creation) or (ii) to alter or change the provisions of the Bank's Restated Articles of Incorporation (including the terms of the Series B Preferred Stock) or Bylaws, including by consolidation or merger, so as to adversely affect the voting powers, preferences or special rights of the holders of a series of Preferred Stock of the Bank; *provided, however,* that if such amendment shall not adversely affect all series of Preferred Stock of the Bank, such amendment need only be approved by at least two-thirds of the holders of shares of each series of Preferred Stock adversely affected thereby. Notwithstanding the foregoing, an alteration or change to the provisions of the Bank's Restated Articles of Incorporation or Bylaws shall not be deemed to affect the voting powers, preferences or special rights of the holders of the Series B Preferred Stock, provided that: (x) the Series B Preferred Stock remain outstanding with the terms thereof unchanged; or (y) the Series B Preferred Stock are converted in a merger or consolidation transaction into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series B Preferred Stock set forth herein. Additionally, (i) any increase in the amount of the authorized Common Stock or Preferred Stock or the creation or issuance of any other Junior Stock or Parity Stock and (ii) any change to the number of directors or number or classes of directors shall not be deemed to adversely affect the voting powers, preferences or special rights of the holders of the Series B Preferred Stock.

Section 5. *Ranking.*

(a) Ranking with Respect to Distributions upon Liquidation. With respect to rights upon liquidation, dissolution or winding up of the Bank, the Series B Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series B Preferred Stock as to distributions upon liquidation, dissolution or winding up, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 7.25% Noncumulative Perpetual Series N Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series B Preferred Stock as to distributions upon liquidation, dissolution or winding up, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series B Preferred Stock as to distributions upon liquidation, dissolution or winding up.

(b) Ranking with Respect to Dividends. With respect to dividends, the Series B Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series B Preferred Stock with respect to dividends, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 7.25% Noncumulative Perpetual Series N Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series B Preferred Stock with respect to dividends, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series B Preferred Stock with respect to dividends.

Section 6. *No Conversion Rights.* The holders of Series B Preferred Stock shall not have any rights to convert such shares into shares of any other class or series of stock or into any other securities of, or any interest or property in, the Bank.

Section 7. *No Sinking Fund.* No sinking fund shall be established for the retirement or redemption of Series B Preferred Stock.

Section 8. *Preemptive or Subscription Rights.* No holder of Series B Preferred Stock of the Bank shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Bank or any other security of the Bank that it may issue or sell.

Section 9. *No Other Rights.* The Series B Preferred Stock shall not have any designations, preferences or relative, participating, optional or other

special rights except as set forth in the Bank's Restated Articles of Incorporation or as otherwise required by law.

Section 10. *Compliance with Applicable Law.* Declaration by the Board and payment by the Bank of dividends to holders of the Series B Preferred Stock and repurchase, redemption or other acquisition by the Bank (or another entity as provided in subsection (a) of Section 3 hereof) of Series B Preferred Stock shall be subject in all respects to any and all restrictions and limitations placed on dividends, redemptions or other distributions by the Bank (or any such other entity) under (i) laws, regulations and regulatory conditions or limitations applicable to or regarding the Bank (or any such other entity) from time to time and (ii) agreements with federal or state banking authorities with respect to the Bank (or any such other entity) from time to time in effect.

Annex B

RESOLVED, that the Board, pursuant to Article Third of the Bank's Restated Articles of Incorporation, hereby authorizes the creation of a series of Preferred Stock of the Bank out of the authorized but unissued shares of the Preferred Stock of the Bank, such series to be designated 5.625% Noncumulative Perpetual Series C Preferred Stock, to consist of 172,500 shares, par value \$0.01 per share, none of which are currently outstanding, the rights, privileges, preferences and restrictions of which shall be (in addition to those set forth in the Bank's Restated Articles of Incorporation, as amended) as follows:

Section 1. *Dividends.*

(a) Payment of Dividends. Holders of Series C Preferred Stock shall be entitled to receive, when, as and if authorized and declared by the Board (which shall include any authorized committee thereof), out of assets of the Bank legally available therefor, cash dividends at an annual rate of 5.625% of the \$1,000.00 liquidation preference per share (equivalent to \$56.25 per share per annum) (the "*Dividend Rate*"), and no more. Such cash dividends shall be noncumulative and payable, if authorized and declared, quarterly in arrears on each March 30, June 30, September 30 and December 30, commencing on December 30, 2012 (each such date, a "*Dividend Payment Date*"), or, if such day is not a day other than a Saturday, Sunday or day on which banking institutions in New York, New York are authorized or obligated pursuant to legal requirements or executive order to be closed (each such day, a "*Business Day*"), on the immediately preceding Business Day, without adjustment. The amount of the dividend per share of Series C Preferred Stock on each Dividend Payment Date will be equal to the Dividend Rate multiplied by 0.25, then multiplied by \$1,000 (with the result rounded upward, if necessary, to the nearest 0.00001 of 1%), except for the initial Dividend Payment Date, as described in the next paragraph. Each authorized and declared dividend shall be payable to holders of record of the Series C Preferred Stock as they appear on the stock books of the Bank at the close of business on such record date, not more than 60 calendar days nor less than 10 calendar days preceding the Dividend Payment Date therefor, as may be determined by the Board (each such date, a "*Record Date*"); *provided, however*, that if the date fixed for redemption of any of the Series C Preferred Stock occurs after a dividend is authorized and declared but before it is paid, such dividend shall be paid as part of the redemption price to the person to whom the redemption price is paid. Quarterly dividend periods (each, a "*Dividend Period*") shall commence on and include each Dividend Payment Date, and shall end on and exclude the following Dividend Payment Date (except that the first Dividend Period (i) for shares of Series C Preferred Stock issued in the initial issuance of Series C Preferred Stock shall commence on and include the initial date of issuance of shares of Series C Preferred Stock (the "*Issue Date*") and (ii) for shares of Series C Preferred Stock issued after the Issue Date shall commence on

and include the later of the Issue Date and the first day of the quarterly period in which such later date of issue occurs.

The amount of dividends payable for the Dividend Period commencing on the Issue Date shall be computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year composed of twelve 30-day months.

Holders of the Series C Preferred Stock shall not be entitled to any interest, or any sum of money in lieu of interest, in respect of any dividend payment or payments on the Series C Preferred Stock authorized and declared by the Board that may be unpaid. Any dividend payment made on the Series C Preferred Stock shall first be credited against the earliest authorized and declared but unpaid cash dividend with respect to the Series C Preferred Stock.

(b) Dividends Noncumulative. The right of holders of Series C Preferred Stock to receive dividends is noncumulative. Accordingly, except as hereinafter expressly provided, if the Board does not authorize or declare a dividend payable in respect of any Dividend Period, holders of Series C Preferred Stock shall have no right to receive a dividend in respect of such Dividend Period and the Bank shall have no obligation to pay a dividend in respect of such Dividend Period, whether or not dividends have been or are authorized and declared payable in respect of any prior or subsequent Dividend Period.

(c) Priority as to Dividends; Limitations on Dividends on Junior Stock. If full dividends on the Series C Preferred Stock for any completed Dividend Period shall not have been declared and paid, or declared and a sum sufficient for the payment thereof shall not have been set apart for such payments, no dividends or distributions shall be authorized, declared or paid or set aside for payment (other than as provided in the second paragraph of this Section 1(c)) with respect to the common stock or any other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series C Preferred Stock as to dividends or amounts distributed upon liquidation, dissolution or winding up of the affairs of the Bank (together with the common stock, "*Junior Stock*"), other than (x) dividends payable on Junior Stock in Junior Stock and (y) cash in lieu of fractional shares in connection with any such dividend, nor shall any Junior Stock or any stock ranking on parity with the Series C Preferred Stock as to dividends or amounts upon liquidation, dissolution or winding up of the affairs of the Bank ("*Parity Stock*") be redeemed, purchased or otherwise acquired for any consideration (or any monies to be paid to or made available for a sinking fund for the redemption of any such stock) by the Bank (except (x) by conversion into or exchange for other Junior Stock or (y) by the tendering of Junior Stock in payment for the exercise of stock options under our equity incentive plans then in effect), until such time as dividends on all outstanding Series C Preferred Stock have been authorized, declared and paid, or a sum sufficient for the payment thereof has been set apart for payment, as of the Dividend Payment Date for the current Dividend Period.

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) for any Dividend Period on the Series C Preferred Stock, all dividends declared on the Series C Preferred Stock and any other series ranking on a parity as to dividends with the Series C Preferred Stock shall be declared *pro rata* so that the amount of dividends declared per share on the Series C Preferred Stock and each such other series of capital stock shall in all cases bear to each other the same ratio that full dividends, for the then current Dividend Period, per share of Series C Preferred Stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods) and full dividends, including required or permitted accumulations, if any, on the stock of each such other series ranking on a parity as to dividends with the Series C Preferred Stock bear to each other.

(d) Dividend Reference. Any reference to “*dividends*” or “*distributions*” in this Section 1 shall not be deemed to include any distribution made in connection with any voluntary or involuntary dissolution, liquidation or winding up of the Bank.

Section 2. *Redemption.*

(a) Optional Redemption. Subject to the further terms and conditions provided herein, the Bank, at its option, subject to the approval of the “appropriate Federal banking agency” with respect to the Bank (as defined in Section 3(q) of the Federal Deposit Insurance Act or any successor provision) (the “*Appropriate Federal Banking Agency*”), may, upon notice given as provided in Section 2(d), redeem shares of the Series C Preferred Stock at the time outstanding in whole or in part, from time to time, on or after December 29, 2017, at a cash redemption price equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the redemption occurs, plus (iii) the amount of the accrued and unpaid dividends thereon (whether or not declared) from the beginning of the Dividend Period in which the redemption occurs to the date of redemption, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months (the “*Redemption Price*”).

(b) Regulatory Event Redemption. Notwithstanding Section 2(a), the Bank, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem all (but not less than all) of the shares of Series C Preferred Stock at the time outstanding, upon notice given as provided in section 2(d), at the Redemption Price at any time within 90 days following the Bank’s good faith determination that, as a result of (i) any amendment to, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the Issue Date; (ii) any proposed change in such laws or regulations that is announced after the Issue Date; or (iii) any official administrative decision or judicial decision or administrative

action or other official pronouncement interpreting or applying those laws or regulations that is announced after the Issue Date, there is more than an insubstantial risk that the Bank will not be entitled to treat the full liquidation value of the shares of Series C Preferred Stock then outstanding as “Tier 1 Capital” (or its equivalent), as defined at 12 C.F.R. § 325.2(v) of the regulations of the Federal Deposit Insurance Corporation, or any successor regulation of the Federal Deposit Insurance Corporation (or, as and if applicable, the corresponding regulations of any successor Appropriate Federal Banking Agency), as then in effect and applicable, for as long as any share of Series C Preferred Stock is outstanding.

(c) Partial Redemption. In the event that fewer than all the outstanding shares of Series C Preferred Stock are to be redeemed, the number of shares of Series C Preferred Stock to be redeemed shall be determined by the Board, and the shares to be redeemed shall be determined by lot or *pro rata* as may be determined by the Board or by any other method as may be determined by the Board, in its sole discretion, to be fair and equitable, provided that such method satisfies any applicable requirements of any securities exchange (if any) on which the shares of Series C Preferred Stock are then listed.

Unless full dividends on the Series C Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for payment for the then current Dividend Period, no Series C Preferred Stock shall be redeemed unless all outstanding Series C Preferred Stock are redeemed, and the Bank shall not purchase or otherwise acquire any Series C Preferred Stock; *provided, however*, that the Bank may purchase or acquire Series C Preferred Stock pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series C Preferred Stock.

(d) Notice of Redemption. A notice by the Bank pursuant to this Section 2 shall be sufficiently given if in writing and mailed, first class postage prepaid, to each record holder of Series C Preferred Stock at the holder’s address as it appears in the records of the Bank’s transfer agent. In any case where notice is given by mail, neither the failure to mail such notice nor any defect in the notice to any particular holder shall affect the sufficiency of such notice to any other holder. Any notice mailed to a holder in the manner described above shall be deemed given on the date mailed, whether or not the holder actually receives the notice. A notice of redemption shall be given not less than 30 days and not more than 60 days prior to the date of redemption specified in the notice, and shall specify (i) the redemption date, (ii) the number of shares of Series C Preferred Stock to be redeemed, (iii) the Redemption Price and (iv) the manner in which holders of Series C Preferred Stock called for redemption may obtain payment of the Redemption Price in respect of those shares. Notwithstanding anything to the contrary in this paragraph, if the Series C Preferred Stock or any depositary shares representing interests in the Series C Preferred Stock are issued in book-entry

form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the holders of Series C Preferred Stock at such time and in any manner permitted by such facility.

(e) Effect of Redemption. Any shares of Series C Preferred Stock that are duly called for redemption pursuant to this Section 2 shall be deemed no longer to be outstanding for any purpose from and after that time that the Bank shall have irrevocably deposited with the paying agent identified in the notice of redemption funds in an amount equal to the aggregate redemption price. From and after that time, the holders of the Series C Preferred Stock so called for redemption shall have no further rights as shareholders of the Bank and in lieu thereof shall have only the right to receive the Redemption Price, without interest.

Series C Preferred Stock redeemed pursuant to this Section 2 or purchased or otherwise acquired for value by the Bank shall, after such acquisition, have the status of authorized and unissued shares of Preferred Stock and may be reissued by the Bank at any time as shares of any series of Preferred Stock other than as Series C Preferred Stock.

Section 3. *Liquidation Rights.*

(a) Liquidation Value. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Bank, the holders of the Series C Preferred Stock at the time outstanding will be entitled to receive out of assets of the Bank available for distribution to shareholders, before any distribution of assets is made to holders of Junior Stock, liquidating distributions in an amount equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the liquidation occurs, plus (iii) the amount of the declared and unpaid dividends thereon from the beginning of the Dividend Period in which the liquidation occurs to the date of liquidation, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months.

After payment of the full amount of the liquidating distributions to which they are entitled, pursuant to the preceding paragraph, the holders of Series C Preferred Stock will have no right or claim to any of the remaining assets of the Bank.

(b) Partial Payment. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, the available assets of the Bank are insufficient to pay the amount of the liquidating distributions on all outstanding shares of Series C Preferred Stock and the corresponding amounts payable on all shares of other classes or series of capital stock of the Bank ranking on a parity with the Series C Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Bank, then the holders

of the Series C Preferred Stock and such other classes or series of capital stock ranking on parity with the Series C Preferred Stock shall share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they otherwise respectively would be entitled.

(c) Consolidation, Merger or Sale of Assets not Liquidation. For the purposes of this Section 3, the merger or consolidation of the Bank with or into any other entity or by another entity with or into the Bank, or the sale, lease, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or business of the Bank, shall not be deemed to constitute the liquidation, dissolution or winding up of the Bank. If the Bank enters into any merger or consolidation transaction with or into any other entity and the Bank is not the surviving entity in such transaction, the Series C Preferred Stock may be converted into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series C Preferred Stock set forth herein.

Section 4. *Voting Rights.*

(a) General. Except as expressly provided in this Section 4 and as required by law, holders of Series C Preferred Stock shall have no voting rights. When the holders of Series C Preferred Stock are entitled to vote, each share of Series C Preferred Stock will be entitled to one vote.

(b) Right to Elect Directors.

(1) If at any time the Bank has failed to pay or set aside for payment scheduled dividends (whether or not declared) in an aggregate amount equal to at least six full quarterly dividend payments (whether or not consecutive) on the Series C Preferred Stock, the holders of the Series C Preferred Stock, voting as a single class together with the holders of each other series of Preferred Stock of the Bank then outstanding ranking on a parity with Series C Preferred Stock as to payment of dividends and having voting rights equivalent to those provided in this Section 4(b) for the Series C Preferred Stock (“*Voting Parity Stock*”), will be entitled to elect two directors (the “*Preferred Directors*”) to serve on the Board, and the holders of all then outstanding shares of capital stock of the Bank otherwise entitled under the Bank’s Restated Articles of Incorporation, as the same may be amended or restated from time to time, or by law to elect directors (“*Voting Stock*”), shall be entitled to elect the remaining number of authorized directors. The Board shall at no time have more than two Preferred Directors.

(2) If, at any time after the right to elect directors is vested in the Series C Preferred Stock, the holders of the Series C Preferred Stock

and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the election of the Preferred Directors to the Board would cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the holders of the Series C Preferred Stock and any Voting Parity Stock, voting as a single class, and the holders of the Voting Stock shall each elect directors at the special meeting as provided in Section 4(b)(1), the terms of office of all persons who were directors immediately prior to the special meeting shall terminate, and the directors elected by the holders of the Series C Preferred Stock and any Voting Parity Stock, as a single class, and the directors elected by the holders of the Voting Stock shall constitute the directors of the Bank until the next annual meeting.

If, at any time after the right to elect directors is vested in the Series C Preferred Stock, the holders of the Series C Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the election of the Preferred Directors to the Board would not cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the terms of office of all persons who were directors immediately prior thereto shall continue until the next annual meeting.

(3) Whenever all dividends on the Series C Preferred Stock and any other Voting Parity Stock have been paid in full for four consecutive dividend periods (or otherwise for at least one year), then the right of the holders of Series C Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of these voting rights in the case of any similar non-payment of dividends in respect of future dividend periods), and if no other Voting Parity Stock is then entitled to elect directors, the terms of office of all Preferred Directors will immediately terminate.

(c) Removal and Replacement of Preferred Directors. Except as otherwise provided for by applicable law, any Preferred Director may be removed only by the vote of the holders of record of the outstanding Series C Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the shares of Series C Preferred Stock and all other Voting Parity Stock, called for that purpose. As long as the right to elect Preferred Directors is continuing, (i) any vacancy in the office of any Preferred Director may be filled by the vote of the holders of record of the outstanding Series C Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of

the Series C Preferred Stock and all other Voting Parity Stock, called for that purpose, and (ii) in the case of the removal of any Preferred Director, the vacancy may be filled by the vote of the holders of the outstanding Series C Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at the same meeting at which such removal shall be voted. Until the time that any such vacancy is filled at a shareholder meeting as provided above, a successor shall be elected by the Board to serve until the next such shareholder meeting upon the nomination of the then remaining Preferred Director.

(d) Certain Voting Rights. The affirmative vote or consent of the holders of at least two-thirds of the outstanding shares of each series of Preferred Stock of the Bank, including the Series C Preferred Stock, will be required (i) to create any class or series of stock which shall, as to dividends or distribution of assets, rank prior to any outstanding series of Preferred Stock of the Bank (other than a series which shall not have any right to object to such creation) or (ii) to alter or change the provisions of the Bank's Restated Articles of Incorporation (including the terms of the Series C Preferred Stock) or Bylaws, including by consolidation or merger, so as to adversely affect the voting powers, preferences or special rights of the holders of a series of Preferred Stock of the Bank; *provided, however*, that if such amendment shall not adversely affect all series of Preferred Stock of the Bank, such amendment need only be approved by at least two-thirds of the holders of shares of each series of Preferred Stock adversely affected thereby. Notwithstanding the foregoing, an alteration or change to the provisions of the Bank's Restated Articles of Incorporation or Bylaws shall not be deemed to affect the voting powers, preferences or special rights of the holders of the Series C Preferred Stock, provided that: (x) the Series C Preferred Stock remain outstanding with the terms thereof unchanged; or (y) the Series C Preferred Stock are converted in a merger or consolidation transaction into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series C Preferred Stock set forth herein. Additionally, (i) any increase in the amount of the authorized Common Stock or Preferred Stock or the creation or issuance of any other Junior Stock or Parity Stock and (ii) any change to the number of directors or number or classes of directors shall not be deemed to adversely affect the voting powers, preferences or special rights of the holders of the Series C Preferred Stock.

Section 5. *Ranking.*

(a) Ranking with Respect to Distributions upon Liquidation. With respect to rights upon liquidation, dissolution or winding up of the Bank, the Series C Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series C Preferred Stock as to distributions upon liquidation, dissolution or winding up, (ii) on a

parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series C Preferred Stock as to distributions upon liquidation, dissolution or winding up, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series C Preferred Stock as to distributions upon liquidation, dissolution or winding up.

(b) Ranking with Respect to Dividends. With respect to dividends, the Series C Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series C Preferred Stock with respect to dividends, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series C Preferred Stock with respect to dividends, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series C Preferred Stock with respect to dividends.

Section 6. *No Conversion Rights.* The holders of Series C Preferred Stock shall not have any rights to convert such shares into shares of any other class or series of stock or into any other securities of, or any interest or property in, the Bank.

Section 7. *No Sinking Fund.* No sinking fund shall be established for the retirement or redemption of Series C Preferred Stock.

Section 8. *Preemptive or Subscription Rights.* No holder of Series C Preferred Stock of the Bank shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Bank or any other security of the Bank that it may issue or sell.

Section 9. *No Other Rights.* The Series C Preferred Stock shall not have any designations, preferences or relative, participating, optional or other special rights except as set forth in the Bank's Restated Articles of Incorporation or as otherwise required by law.

Section 10. *Compliance with Applicable Law.* Declaration by the Board and payment by the Bank of dividends to holders of the Series C Preferred Stock and repurchase, redemption or other acquisition by the Bank (or another entity as provided in subsection (a) of Section 3 hereof) of Series C Preferred Stock shall be subject in all respects to any and all restrictions and limitations

placed on dividends, redemptions or other distributions by the Bank (or any such other entity) under (i) laws, regulations and regulatory conditions or limitations applicable to or regarding the Bank (or any such other entity) from time to time and (ii) agreements with federal or state banking authorities with respect to the Bank (or any such other entity) from time to time in effect.

Annex C

RESOLVED, that the Board, pursuant to Article Third of the Bank's Restated Articles of Incorporation, hereby authorizes the creation of a series of Preferred Stock of the Bank out of the authorized but unissued shares of the Preferred Stock of the Bank, such series to be designated 5.50% Noncumulative Perpetual Series D Preferred Stock, to consist of 200,000 shares, par value \$0.01 per share, none of which are currently outstanding, the rights, privileges, preferences and restrictions of which shall be (in addition to those set forth in the Bank's Restated Articles of Incorporation, as amended) as follows:

Section 1. *Dividends.*

(a) Payment of Dividends. Holders of Series D Preferred Stock shall be entitled to receive, when, as and if authorized and declared by the Board (which shall include any authorized committee thereof), out of assets of the Bank legally available therefor, cash dividends at an annual rate of 5.50% of the \$1,000.00 liquidation preference per share (equivalent to \$55.00 per share per annum) (the "*Dividend Rate*"), and no more. Such cash dividends shall be noncumulative and payable, if authorized and declared, quarterly in arrears on each March 30, June 30, September 30 and December 30, commencing on June 30, 2013 (each such date, a "*Dividend Payment Date*"), or, if such day is not a day other than a Saturday, Sunday or day on which banking institutions in New York, New York are authorized or obligated pursuant to legal requirements or executive order to be closed (each such day, a "*Business Day*"), on the immediately preceding Business Day, without adjustment. The amount of the dividend per share of Series D Preferred Stock on each Dividend Payment Date will be equal to the Dividend Rate multiplied by 0.25, then multiplied by \$1,000 (with the result rounded upward, if necessary, to the nearest 0.00001 of 1%), except for the initial Dividend Payment Date, as described in the next paragraph. Each authorized and declared dividend shall be payable to holders of record of the Series D Preferred Stock as they appear on the stock books of the Bank at the close of business on such record date, not more than 60 calendar days nor less than 10 calendar days preceding the Dividend Payment Date therefor, as may be determined by the Board (each such date, a "*Record Date*"); *provided, however*, that if the date fixed for redemption of any of the Series D Preferred Stock occurs after a dividend is authorized and declared but before it is paid, such dividend shall be paid as part of the redemption price to the person to whom the redemption price is paid. Quarterly dividend periods (each, a "*Dividend Period*") shall commence on and include each Dividend Payment Date, and shall end on and exclude the following Dividend Payment Date (except that the first Dividend Period (i) for shares of Series D Preferred Stock issued in the initial issuance of Series D Preferred Stock shall commence on and include the initial date of issuance of shares of Series D Preferred Stock (the "*Issue Date*") and (ii) for shares of Series D Preferred Stock issued after the Issue Date shall commence on and include the later of the Issue

Date and the first day of the quarterly period in which such later date of issue occurs.

The amount of dividends payable for the Dividend Period commencing on the Issue Date shall be computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year composed of twelve 30-day months.

Holders of the Series D Preferred Stock shall not be entitled to any interest, or any sum of money in lieu of interest, in respect of any dividend payment or payments on the Series D Preferred Stock authorized and declared by the Board that may be unpaid. Any dividend payment made on the Series D Preferred Stock shall first be credited against the earliest authorized and declared but unpaid cash dividend with respect to the Series D Preferred Stock.

(b) Dividends Noncumulative. The right of holders of Series D Preferred Stock to receive dividends is noncumulative. Accordingly, except as hereinafter expressly provided, if the Board does not authorize or declare a dividend payable in respect of any Dividend Period, holders of Series D Preferred Stock shall have no right to receive a dividend in respect of such Dividend Period and the Bank shall have no obligation to pay a dividend in respect of such Dividend Period, whether or not dividends have been or are authorized and declared payable in respect of any prior or subsequent Dividend Period.

(c) Priority as to Dividends; Limitations on Dividends on Junior Stock. If full dividends on the Series D Preferred Stock for any completed Dividend Period shall not have been declared and paid, or declared and a sum sufficient for the payment thereof shall not have been set apart for such payments, no dividends or distributions shall be authorized, declared or paid or set aside for payment (other than as provided in the second paragraph of this Section 1(c)) with respect to the common stock or any other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series D Preferred Stock as to dividends or amounts distributed upon liquidation, dissolution or winding up of the affairs of the Bank (together with the common stock, "*Junior Stock*"), other than (x) dividends payable on Junior Stock in Junior Stock and (y) cash in lieu of fractional shares in connection with any such dividend, nor shall any Junior Stock or any stock ranking on parity with the Series D Preferred Stock as to dividends or amounts upon liquidation, dissolution or winding up of the affairs of the Bank ("*Parity Stock*") be redeemed, purchased or otherwise acquired for any consideration (or any monies to be paid to or made available for a sinking fund for the redemption of any such stock) by the Bank (except (x) by conversion into or exchange for other Junior Stock or (y) by the tendering of Junior Stock in payment for the exercise of stock options under our equity incentive plans then in effect), until such time as dividends on all outstanding Series D Preferred Stock have been authorized, declared and paid, or a sum sufficient for the payment thereof has been set apart for payment, as of the Dividend Payment Date for the current Dividend Period.

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) for any Dividend Period on the Series D Preferred Stock, all dividends declared on the Series D Preferred Stock and any other series ranking on a parity as to dividends with the Series D Preferred Stock shall be declared *pro rata* so that the amount of dividends declared per share on the Series D Preferred Stock and each such other series of capital stock shall in all cases bear to each other the same ratio that full dividends, for the then current Dividend Period, per share of Series D Preferred Stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods) and full dividends, including required or permitted accumulations, if any, on the stock of each such other series ranking on a parity as to dividends with the Series D Preferred Stock bear to each other.

(d) Dividend Reference. Any reference to “*dividends*” or “*distributions*” in this Section 1 shall not be deemed to include any distribution made in connection with any voluntary or involuntary dissolution, liquidation or winding up of the Bank.

Section 2. *Redemption.*

(a) Optional Redemption. Subject to the further terms and conditions provided herein, the Bank, at its option, subject to the approval of the “appropriate Federal banking agency” with respect to the Bank (as defined in Section 3(q) of the Federal Deposit Insurance Act or any successor provision) (the “*Appropriate Federal Banking Agency*”), may, upon notice given as provided in Section 2(d), redeem shares of the Series D Preferred Stock at the time outstanding in whole or in part, from time to time, on or after June 29, 2018, at a cash redemption price equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the redemption occurs, plus (iii) the amount of the accrued and unpaid dividends thereon (whether or not declared) from the beginning of the Dividend Period in which the redemption occurs to the date of redemption, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months (the “*Redemption Price*”).

(b) Regulatory Event Redemption. Notwithstanding Section 2(a), the Bank, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem all (but not less than all) of the shares of Series D Preferred Stock at the time outstanding, upon notice given as provided in section 2(d), at the Redemption Price at any time within 90 days following the Bank’s good faith determination that, as a result of (i) any amendment to, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the Issue Date; (ii) any proposed change in such laws or regulations that is announced after the Issue Date; or (iii) any official administrative decision or judicial decision or administrative

action or other official pronouncement interpreting or applying those laws or regulations that is announced after the Issue Date, there is more than an insubstantial risk that the Bank will not be entitled to treat the full liquidation value of the shares of Series D Preferred Stock then outstanding as “Tier 1 Capital” (or its equivalent), as defined at 12 C.F.R. § 325.2(v) of the regulations of the Federal Deposit Insurance Corporation, or any successor regulation of the Federal Deposit Insurance Corporation (or, as and if applicable, the corresponding regulations of any successor Appropriate Federal Banking Agency), as then in effect and applicable, for as long as any share of Series D Preferred Stock is outstanding.

(c) Partial Redemption. In the event that fewer than all the outstanding shares of Series D Preferred Stock are to be redeemed, the number of shares of Series D Preferred Stock to be redeemed shall be determined by the Board, and the shares to be redeemed shall be determined by lot or *pro rata* as may be determined by the Board or by any other method as may be determined by the Board, in its sole discretion, to be fair and equitable, provided that such method satisfies any applicable requirements of any securities exchange (if any) on which the shares of Series D Preferred Stock are then listed.

Unless full dividends on the Series D Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for payment for the then current Dividend Period, no Series D Preferred Stock shall be redeemed unless all outstanding Series D Preferred Stock are redeemed, and the Bank shall not purchase or otherwise acquire any Series D Preferred Stock; *provided, however*, that the Bank may purchase or acquire Series D Preferred Stock pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series D Preferred Stock.

(d) Notice of Redemption. A notice by the Bank pursuant to this Section 2 shall be sufficiently given if in writing and mailed, first class postage prepaid, to each record holder of Series D Preferred Stock at the holder’s address as it appears in the records of the Bank’s transfer agent. In any case where notice is given by mail, neither the failure to mail such notice nor any defect in the notice to any particular holder shall affect the sufficiency of such notice to any other holder. Any notice mailed to a holder in the manner described above shall be deemed given on the date mailed, whether or not the holder actually receives the notice. A notice of redemption shall be given not less than 30 days and not more than 60 days prior to the date of redemption specified in the notice, and shall specify (i) the redemption date, (ii) the number of shares of Series D Preferred Stock to be redeemed, (iii) the Redemption Price and (iv) the manner in which holders of Series D Preferred Stock called for redemption may obtain payment of the Redemption Price in respect of those shares. Notwithstanding anything to the contrary in this paragraph, if the Series D Preferred Stock or any depositary shares representing interests in the Series D Preferred Stock are issued in book-entry

form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the holders of Series D Preferred Stock at such time and in any manner permitted by such facility.

(e) Effect of Redemption. Any shares of Series D Preferred Stock that are duly called for redemption pursuant to this Section 2 shall be deemed no longer to be outstanding for any purpose from and after that time that the Bank shall have irrevocably deposited with the paying agent identified in the notice of redemption funds in an amount equal to the aggregate redemption price. From and after that time, the holders of the Series D Preferred Stock so called for redemption shall have no further rights as shareholders of the Bank and in lieu thereof shall have only the right to receive the Redemption Price, without interest.

Series D Preferred Stock redeemed pursuant to this Section 2 or purchased or otherwise acquired for value by the Bank shall, after such acquisition, have the status of authorized and unissued shares of Preferred Stock and may be reissued by the Bank at any time as shares of any series of Preferred Stock other than as Series D Preferred Stock.

Section 3. *Liquidation Rights.*

(a) Liquidation Value. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Bank, the holders of the Series D Preferred Stock at the time outstanding will be entitled to receive out of assets of the Bank available for distribution to shareholders, before any distribution of assets is made to holders of Junior Stock, liquidating distributions in an amount equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the liquidation occurs, plus (iii) the amount of the declared and unpaid dividends thereon from the beginning of the Dividend Period in which the liquidation occurs to the date of liquidation, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months.

After payment of the full amount of the liquidating distributions to which they are entitled, pursuant to the preceding paragraph, the holders of Series D Preferred Stock will have no right or claim to any of the remaining assets of the Bank.

(b) Partial Payment. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, the available assets of the Bank are insufficient to pay the amount of the liquidating distributions on all outstanding shares of Series D Preferred Stock and the corresponding amounts payable on all shares of other classes or series of capital stock of the Bank ranking on a parity with the Series D Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Bank, then the holders

of the Series D Preferred Stock and such other classes or series of capital stock ranking on parity with the Series D Preferred Stock shall share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they otherwise respectively would be entitled.

(c) Consolidation, Merger or Sale of Assets not Liquidation. For the purposes of this Section 3, the merger or consolidation of the Bank with or into any other entity or by another entity with or into the Bank, or the sale, lease, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or business of the Bank, shall not be deemed to constitute the liquidation, dissolution or winding up of the Bank. If the Bank enters into any merger or consolidation transaction with or into any other entity and the Bank is not the surviving entity in such transaction, the Series D Preferred Stock may be converted into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series D Preferred Stock set forth herein.

Section 4. *Voting Rights.*

(a) General. Except as expressly provided in this Section 4 and as required by law, holders of Series D Preferred Stock shall have no voting rights. When the holders of Series D Preferred Stock are entitled to vote, each share of Series D Preferred Stock will be entitled to one vote.

(b) Right to Elect Directors.

(1) If at any time the Bank has failed to pay or set aside for payment scheduled dividends (whether or not declared) in an aggregate amount equal to at least six full quarterly dividend payments (whether or not consecutive) on the Series D Preferred Stock, the holders of the Series D Preferred Stock, voting as a single class together with the holders of each other series of Preferred Stock of the Bank then outstanding ranking on a parity with Series D Preferred Stock as to payment of dividends and having voting rights equivalent to those provided in this Section 4(b) for the Series D Preferred Stock (“*Voting Parity Stock*”), will be entitled to elect two directors (the “*Preferred Directors*”) to serve on the Board, and the holders of all then outstanding shares of capital stock of the Bank otherwise entitled under the Bank’s Restated Articles of Incorporation, as the same may be amended or restated from time to time, or by law to elect directors (“*Voting Stock*”), shall be entitled to elect the remaining number of authorized directors. The Board shall at no time have more than two Preferred Directors.

(2) If, at any time after the right to elect directors is vested in the Series D Preferred Stock, the holders of the Series D Preferred Stock

and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the election of the Preferred Directors to the Board would cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the holders of the Series D Preferred Stock and any Voting Parity Stock, voting as a single class, and the holders of the Voting Stock shall each elect directors at the special meeting as provided in Section 4(b)(1), the terms of office of all persons who were directors immediately prior to the special meeting shall terminate, and the directors elected by the holders of the Series D Preferred Stock and any Voting Parity Stock, as a single class, and the directors elected by the holders of the Voting Stock shall constitute the directors of the Bank until the next annual meeting.

If, at any time after the right to elect directors is vested in the Series D Preferred Stock, the holders of the Series D Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the election of the Preferred Directors to the Board would not cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the terms of office of all persons who were directors immediately prior thereto shall continue until the next annual meeting.

(3) Whenever all dividends on the Series D Preferred Stock and any other Voting Parity Stock have been paid in full for four consecutive dividend periods (or otherwise for at least one year), then the right of the holders of Series D Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of these voting rights in the case of any similar non-payment of dividends in respect of future dividend periods), and if no other Voting Parity Stock is then entitled to elect directors, the terms of office of all Preferred Directors will immediately terminate.

(c) Removal and Replacement of Preferred Directors. Except as otherwise provided for by applicable law, any Preferred Director may be removed only by the vote of the holders of record of the outstanding Series D Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the shares of Series D Preferred Stock and all other Voting Parity Stock, called for that purpose. As long as the right to elect Preferred Directors is continuing, (i) any vacancy in the office of any Preferred Director may be filled by the vote of the holders of record of the outstanding Series D Preferred Stock entitled to vote, voting together as a single class with the holders of all other

Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the Series D Preferred Stock and all other Voting Parity Stock, called for that purpose, and (ii) in the case of the removal of any Preferred Director, the vacancy may be filled by the vote of the holders of the outstanding Series D Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at the same meeting at which such removal shall be voted. Until the time that any such vacancy is filled at a shareholder meeting as provided above, a successor shall be elected by the Board to serve until the next such shareholder meeting upon the nomination of the then remaining Preferred Director.

(d) Certain Voting Rights. The affirmative vote or consent of the holders of at least two-thirds of the outstanding shares of each series of Preferred Stock of the Bank, including the Series D Preferred Stock, will be required (i) to create any class or series of stock which shall, as to dividends or distribution of assets, rank prior to any outstanding series of Preferred Stock of the Bank (other than a series which shall not have any right to object to such creation) or (ii) to alter or change the provisions of the Bank's Restated Articles of Incorporation (including the terms of the Series D Preferred Stock) or Bylaws, including by consolidation or merger, so as to adversely affect the voting powers, preferences or special rights of the holders of a series of Preferred Stock of the Bank; *provided, however,* that if such amendment shall not adversely affect all series of Preferred Stock of the Bank, such amendment need only be approved by at least two-thirds of the holders of shares of each series of Preferred Stock adversely affected thereby. Notwithstanding the foregoing, an alteration or change to the provisions of the Bank's Restated Articles of Incorporation or Bylaws shall not be deemed to affect the voting powers, preferences or special rights of the holders of the Series D Preferred Stock, provided that: (x) the Series D Preferred Stock remain outstanding with the terms thereof unchanged; or (y) the Series D Preferred Stock are converted in a merger or consolidation transaction into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series D Preferred Stock set forth herein. Additionally, (i) any increase in the amount of the authorized Common Stock or Preferred Stock or the creation or issuance of any other Junior Stock or Parity Stock and (ii) any change to the number of directors or number or classes of directors shall not be deemed to adversely affect the voting powers, preferences or special rights of the holders of the Series D Preferred Stock.

Section 5. *Ranking.*

(a) Ranking with Respect to Distributions upon Liquidation. With respect to rights upon liquidation, dissolution or winding up of the Bank, the Series D Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series D Preferred

Stock as to distributions upon liquidation, dissolution or winding up, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock, 5.625% Noncumulative Perpetual Series C Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series D Preferred Stock as to distributions upon liquidation, dissolution or winding up, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series D Preferred Stock as to distributions upon liquidation, dissolution or winding up.

(b) Ranking with Respect to Dividends. With respect to dividends, the Series D Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series D Preferred Stock with respect to dividends, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock, 5.625% Noncumulative Perpetual Series C Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series D Preferred Stock with respect to dividends, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series D Preferred Stock with respect to dividends.

Section 6. *No Conversion Rights.* The holders of Series D Preferred Stock shall not have any rights to convert such shares into shares of any other class or series of stock or into any other securities of, or any interest or property in, the Bank.

Section 7. *No Sinking Fund.* No sinking fund shall be established for the retirement or redemption of Series D Preferred Stock.

Section 8. *Preemptive or Subscription Rights.* No holder of Series D Preferred Stock of the Bank shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Bank or any other security of the Bank that it may issue or sell.

Section 9. *No Other Rights.* The Series D Preferred Stock shall not have any designations, preferences or relative, participating, optional or other special rights except as set forth in the Bank's Restated Articles of Incorporation or as otherwise required by law.

Section 10. *Compliance with Applicable Law.* Declaration by the Board and payment by the Bank of dividends to holders of the Series D Preferred

Stock and repurchase, redemption or other acquisition by the Bank (or another entity as provided in subsection (a) of Section 3 hereof) of Series D Preferred Stock shall be subject in all respects to any and all restrictions and limitations placed on dividends, redemptions or other distributions by the Bank (or any such other entity) under (i) laws, regulations and regulatory conditions or limitations applicable to or regarding the Bank (or any such other entity) from time to time and (ii) agreements with federal or state banking authorities with respect to the Bank (or any such other entity) from time to time in effect.

Annex D

RESOLVED, that the Board, pursuant to Article Third of the Bank's Restated Articles of Incorporation, hereby authorizes the creation of a series of Preferred Stock of the Bank out of the authorized but unissued shares of the Preferred Stock of the Bank, such series to be designated 7.00% Noncumulative Perpetual Series E Preferred Stock, to consist of 200,000 shares, par value \$0.01 per share, none of which are currently outstanding, the rights, privileges, preferences and restrictions of which shall be (in addition to those set forth in the Bank's Restated Articles of Incorporation, as amended) as follows:

Section 1. *Dividends.*

(a) Payment of Dividends. Holders of Series E Preferred Stock shall be entitled to receive, when, as and if authorized and declared by the Board (which shall include any authorized committee thereof), out of funds of the Bank legally available therefor, cash dividends at an annual rate of 7.00% of the \$1,000.00 liquidation preference per share (equivalent to \$70.00 per share per annum) (the "*Dividend Rate*"), and no more. Such cash dividends shall be noncumulative and payable, if authorized and declared, quarterly in arrears on each March 30, June 30, September 30 and December 30, commencing on December 30, 2013 (each such date, a "*Dividend Payment Date*"), or, if such day is not a day other than a Saturday, Sunday or day on which banking institutions in New York, New York are authorized or obligated pursuant to legal requirements or executive order to be closed (each such day, a "*Business Day*"), on the immediately preceding Business Day, without adjustment. The amount of the dividend per share of Series E Preferred Stock on each Dividend Payment Date will be equal to the Dividend Rate multiplied by 0.25, then multiplied by \$1,000 (with the result rounded upward, if necessary, to the nearest 0.00001 of 1%), except for the initial Dividend Payment Date, as described in the next paragraph. Each authorized and declared dividend shall be payable to holders of record of the Series E Preferred Stock as they appear on the stock books of the Bank at the close of business on such record date, not more than 60 calendar days nor less than 10 calendar days preceding the Dividend Payment Date therefor, as may be determined by the Board (each such date, a "*Record Date*"); *provided, however*, that if the date fixed for redemption of any of the Series E Preferred Stock occurs after a dividend is authorized and declared but before it is paid, such dividend shall be paid as part of the redemption price to the person to whom the redemption price is paid. Quarterly dividend periods (each, a "*Dividend Period*") shall commence on and include each Dividend Payment Date, and shall end on and exclude the following Dividend Payment Date (except that the first Dividend Period (i) for shares of Series E Preferred Stock issued in the initial issuance of Series E Preferred Stock shall commence on and include the initial date of issuance of shares of Series E Preferred Stock (the "*Issue Date*") and (ii) for shares of Series E Preferred Stock issued after the Issue Date shall commence on

and include the later of the Issue Date and the first day of the quarterly period in which such later date of issue occurs.

The amount of dividends payable for the Dividend Period commencing on the Issue Date shall be computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year composed of twelve 30-day months.

Holders of the Series E Preferred Stock shall not be entitled to any interest, or any sum of money in lieu of interest, in respect of any dividend payment or payments on the Series E Preferred Stock authorized and declared by the Board that may be unpaid. Any dividend payment made on the Series E Preferred Stock shall first be credited against the earliest authorized and declared but unpaid cash dividend with respect to the Series E Preferred Stock.

(b) Dividends Noncumulative. The right of holders of Series E Preferred Stock to receive dividends is noncumulative. Accordingly, except as hereinafter expressly provided, if the Board does not authorize or declare a dividend payable in respect of any Dividend Period, holders of Series E Preferred Stock shall have no right to receive a dividend in respect of such Dividend Period and the Bank shall have no obligation to pay a dividend in respect of such Dividend Period, whether or not dividends have been or are authorized and declared payable in respect of any prior or subsequent Dividend Period.

(c) Priority as to Dividends; Limitations on Dividends on Junior Stock. If full dividends on the Series E Preferred Stock for any completed Dividend Period shall not have been declared and paid, or declared and a sum sufficient for the payment thereof shall not have been set apart for such payments, no dividends or distributions shall be authorized, declared or paid or set aside for payment (other than as provided in the second paragraph of this Section 1(c)) with respect to the common stock or any other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series E Preferred Stock as to dividends or amounts distributed upon liquidation, dissolution or winding up of the affairs of the Bank (together with the common stock, "*Junior Stock*"), other than (x) dividends payable on Junior Stock in Junior Stock and (y) cash in lieu of fractional shares in connection with any such dividend, nor shall any Junior Stock or any stock ranking on parity with the Series E Preferred Stock as to dividends or amounts upon liquidation, dissolution or winding up of the affairs of the Bank ("*Parity Stock*") be redeemed, purchased or otherwise acquired for any consideration (or any monies to be paid to or made available for a sinking fund for the redemption of any such stock) by the Bank (except (x) by conversion into or exchange for other Junior Stock or (y) by the tendering of Junior Stock in payment for the exercise of stock options under our equity incentive plans then in effect), until such time as dividends on all outstanding Series E Preferred Stock have been authorized, declared and paid, or a sum sufficient for the payment thereof has been set apart for payment, as of the Dividend Payment Date for the current Dividend Period.

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) for any Dividend Period on the Series E Preferred Stock, all dividends declared on the Series E Preferred Stock and any other series ranking on a parity as to dividends with the Series E Preferred Stock shall be declared *pro rata* so that the amount of dividends declared per share on the Series E Preferred Stock and each such other series of capital stock shall in all cases bear to each other the same ratio that full dividends, for the then current Dividend Period, per share of Series E Preferred Stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods) and full dividends, including required or permitted accumulations, if any, on the stock of each such other series ranking on a parity as to dividends with the Series E Preferred Stock bear to each other.

(d) Dividend Reference. Any reference to “*dividends*” or “*distributions*” in this Section 1 shall not be deemed to include any distribution made in connection with any voluntary or involuntary dissolution, liquidation or winding up of the Bank.

Section 2. *Redemption.*

(a) Optional Redemption. Subject to the further terms and conditions provided herein, the Bank, at its option, subject to the approval of the “appropriate Federal banking agency” with respect to the Bank (as defined in Section 3(q) of the Federal Deposit Insurance Act or any successor provision) (the “*Appropriate Federal Banking Agency*”), may, upon notice given as provided in Section 2(d), redeem shares of the Series E Preferred Stock at the time outstanding in whole or in part, from time to time, on or after December 28, 2018, at a cash redemption price equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the redemption occurs, plus (iii) the amount of the accrued and unpaid dividends thereon (whether or not declared) from the beginning of the Dividend Period in which the redemption occurs to the date of redemption, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months (the “*Redemption Price*”).

(b) Regulatory Event Redemption. Notwithstanding Section 2(a), the Bank, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem all (but not less than all) of the shares of Series E Preferred Stock at the time outstanding, upon notice given as provided in section 2(d), at the Redemption Price at any time within 90 days following the Bank’s good faith determination that, as a result of (i) any amendment to, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the Issue Date; (ii) any proposed change in such laws or regulations that is announced after the Issue Date; or (iii) any official administrative decision or judicial decision or administrative

action or other official pronouncement interpreting or applying those laws or regulations that is announced after the Issue Date, there is more than an insubstantial risk that the Bank will not be entitled to treat the full liquidation value of the shares of Series E Preferred Stock then outstanding as “Tier 1 Capital” (or its equivalent), as defined at 12 C.F.R. § 325.2(v) of the regulations of the Federal Deposit Insurance Corporation, or any successor regulation of the Federal Deposit Insurance Corporation (or, as and if applicable, the corresponding regulations of any successor Appropriate Federal Banking Agency), as then in effect and applicable, for as long as any share of Series E Preferred Stock is outstanding.

(c) Partial Redemption. In the event that fewer than all the outstanding shares of Series E Preferred Stock are to be redeemed, the number of shares of Series E Preferred Stock to be redeemed shall be determined by the Board, and the shares to be redeemed shall be determined by lot or *pro rata* as may be determined by the Board.

Unless full dividends on the Series E Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for payment for the then current Dividend Period, no Series E Preferred Stock shall be redeemed unless all outstanding Series E Preferred Stock are redeemed, and the Bank shall not purchase or otherwise acquire any Series E Preferred Stock; *provided, however*, that the Bank may purchase or acquire Series E Preferred Stock pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series E Preferred Stock.

(d) Notice of Redemption. A notice by the Bank pursuant to this Section 2 shall be sufficiently given if in writing and mailed, first class postage prepaid, to each record holder of Series E Preferred Stock at the holder’s address as it appears in the records of the Bank’s transfer agent. In any case where notice is given by mail, neither the failure to mail such notice nor any defect in the notice to any particular holder shall affect the sufficiency of such notice to any other holder. Any notice mailed to a holder in the manner described above shall be deemed given on the date mailed, whether or not the holder actually receives the notice. A notice of redemption shall be given not less than 30 days and not more than 60 days prior to the date of redemption specified in the notice, and shall specify (i) the redemption date, (ii) the number of shares of Series E Preferred Stock to be redeemed, (iii) the Redemption Price and (iv) the manner in which holders of Series E Preferred Stock called for redemption may obtain payment of the Redemption Price in respect of those shares. Notwithstanding anything to the contrary in this paragraph, if the Series E Preferred Stock or any depositary shares representing interests in the Series E Preferred Stock are issued in book-entry form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the holders of Series E Preferred Stock at such time and in any manner permitted by such facility.

(e) Effect of Redemption. Any shares of Series E Preferred Stock that are duly called for redemption pursuant to this Section 2 shall be deemed no longer to be outstanding for any purpose from and after that time that the Bank shall have irrevocably deposited with the paying agent identified in the notice of redemption funds in an amount equal to the aggregate redemption price. From and after that time, the holders of the Series E Preferred Stock so called for redemption shall have no further rights as shareholders of the Bank and in lieu thereof shall have only the right to receive the Redemption Price, without interest.

Series E Preferred Stock redeemed pursuant to this Section 2 or purchased or otherwise acquired for value by the Bank shall, after such acquisition, have the status of authorized and unissued shares of Preferred Stock and may be reissued by the Bank at any time as shares of any series of Preferred Stock other than as Series E Preferred Stock.

Section 3. *Liquidation Rights.*

(a) Liquidation Value. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Bank, the holders of the Series E Preferred Stock at the time outstanding will be entitled to be paid out of assets of the Bank available for distribution to shareholders, before any distribution of assets is made to holders of Junior Stock, liquidating distributions in an amount equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the liquidation occurs, plus (iii) the amount of the declared and unpaid dividends thereon from the beginning of the Dividend Period in which the liquidation occurs to the date of liquidation, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months.

After payment of the full amount of the liquidating distributions to which they are entitled, pursuant to the preceding paragraph, the holders of Series E Preferred Stock will have no right or claim to any of the remaining assets of the Bank.

(b) Partial Payment. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, the available assets of the Bank are insufficient to pay the amount of the liquidating distributions on all outstanding shares of Series E Preferred Stock and the corresponding amounts payable on all shares of other classes or series of capital stock of the Bank ranking on a parity with the Series E Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Bank, then the holders of the Series E Preferred Stock and such other classes or series of capital stock ranking on parity with the Series E Preferred Stock shall share ratably in any such

distribution of assets in proportion to the full liquidating distributions to which they otherwise respectively would be entitled.

(c) Consolidation, Merger or Sale of Assets not Liquidation. For the purposes of this Section 3, the merger or consolidation of the Bank with or into any other entity or by another entity with or into the Bank, or the sale, lease, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or business of the Bank, shall not be deemed to constitute the liquidation, dissolution or winding up of the Bank. If the Bank enters into any merger or consolidation transaction with or into any other entity and the Bank is not the surviving entity in such transaction, the Series E Preferred Stock may be converted into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series E Preferred Stock set forth herein.

Section 4. *Voting Rights.*

(a) General. Except as expressly provided in this Section 4 and as required by law, holders of Series E Preferred Stock shall have no voting rights. When the holders of Series E Preferred Stock are entitled to vote, each share of Series E Preferred Stock will be entitled to one vote.

(b) Right to Elect Directors.

(1) If at any time the Bank has failed to pay or set aside for payment scheduled dividends (whether or not declared) in an aggregate amount equal to at least six full quarterly dividend payments (whether or not consecutive) on the Series E Preferred Stock, the holders of the Series E Preferred Stock, voting as a single class together with the holders of each other series of Preferred Stock of the Bank then outstanding ranking on a parity with Series E Preferred Stock as to payment of dividends and having voting rights equivalent to those provided in this Section 4(b) for the Series E Preferred Stock (“*Voting Parity Stock*”), will be entitled to elect two directors (the “*Preferred Directors*”) to serve on the Board, and the holders of all then outstanding shares of capital stock of the Bank otherwise entitled under the Bank’s Restated Articles of Incorporation, as the same may be amended or restated from time to time, or by law to elect directors (“*Voting Stock*”), shall be entitled to elect the remaining number of authorized directors. The Board shall at no time have more than two Preferred Directors.

(2) If, at any time after the right to elect directors is vested in the Series E Preferred Stock, the holders of the Series E Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the

election of the Preferred Directors to the Board would cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the holders of the Series E Preferred Stock and any Voting Parity Stock, voting as a single class, and the holders of the Voting Stock shall each elect directors at the special meeting as provided in Section 4(b)(1), the terms of office of all persons who were directors immediately prior to the special meeting shall terminate, and the directors elected by the holders of the Series E Preferred Stock and any Voting Parity Stock, as a single class, and the directors elected by the holders of the Voting Stock shall constitute the directors of the Bank until the next annual meeting.

If, at any time after the right to elect directors is vested in the Series E Preferred Stock, the holders of the Series E Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the election of the Preferred Directors to the Board would not cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the terms of office of all persons who were directors immediately prior thereto shall continue until the next annual meeting.

(3) Whenever all dividends on the Series E Preferred Stock and any other Voting Parity Stock have been paid in full for four consecutive dividend periods (or otherwise for at least one year), then the right of the holders of Series E Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of these voting rights in the case of any similar non-payment of dividends in respect of future dividend periods), and if no other Voting Parity Stock is then entitled to elect directors, the terms of office of all Preferred Directors will immediately terminate.

(c) Removal and Replacement of Preferred Directors. Except as otherwise provided for by applicable law, any Preferred Director may be removed only by the vote of the holders of record of the outstanding Series E Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the shares of Series E Preferred Stock and all other Voting Parity Stock, called for that purpose. As long as the right to elect Preferred Directors is continuing, (i) any vacancy in the office of any Preferred Director may be filled by the vote of the holders of record of the outstanding Series E Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the Series E Preferred Stock and all other Voting Parity Stock, called for that purpose, and (ii) in the case of the removal of any Preferred Director, the vacancy

may be filled by the vote of the holders of the outstanding Series E Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at the same meeting at which such removal shall be voted. Until the time that any such vacancy is filled at a shareholder meeting as provided above, a successor shall be elected by the Board to serve until the next such shareholder meeting upon the nomination of the then remaining Preferred Director.

(d) Certain Voting Rights. The affirmative vote or consent of the holders of at least two-thirds of the outstanding shares of each series of Preferred Stock of the Bank, including the Series E Preferred Stock, will be required (i) to create any class or series of stock which shall, as to dividends or distribution of assets, rank prior to any outstanding series of Preferred Stock of the Bank (other than a series which shall not have any right to object to such creation) or (ii) to alter or change the provisions of the Bank's Restated Articles of Incorporation (including the terms of the Series E Preferred Stock) or Bylaws, including by consolidation or merger, so as to adversely affect the voting powers, preferences or special rights of the holders of a series of Preferred Stock of the Bank; *provided, however,* that if such amendment shall not adversely affect all series of Preferred Stock of the Bank, such amendment need only be approved by at least two-thirds of the holders of shares of each series of Preferred Stock adversely affected thereby. Notwithstanding the foregoing, an alteration or change to the provisions of the Bank's Restated Articles of Incorporation or Bylaws shall not be deemed to affect the voting powers, preferences or special rights of the holders of the Series E Preferred Stock, provided that: (x) the Series E Preferred Stock remain outstanding with the terms thereof unchanged; or (y) the Series E Preferred Stock are converted in a merger or consolidation transaction into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series E Preferred Stock set forth herein. Additionally, (i) any increase in the amount of the authorized Common Stock or Preferred Stock or the creation or issuance of any other Junior Stock or Parity Stock and (ii) any change to the number of directors or number or classes of directors shall not be deemed to adversely affect the voting powers, preferences or special rights of the holders of the Series E Preferred Stock.

Section 5. *Ranking.*

(a) Ranking with Respect to Distributions upon Liquidation. With respect to rights upon liquidation, dissolution or winding up of the Bank, the Series E Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series E Preferred Stock as to distributions upon liquidation, dissolution or winding up, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock, 5.625% Noncumulative

Perpetual Series C Preferred Stock, 5.50% Noncumulative Perpetual Series D Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series E Preferred Stock as to distributions upon liquidation, dissolution or winding up, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series E Preferred Stock as to distributions upon liquidation, dissolution or winding up.

(b) Ranking with Respect to Dividends. With respect to dividends, the Series E Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series E Preferred Stock with respect to dividends, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock, 5.625% Noncumulative Perpetual Series C Preferred Stock, 5.50% Noncumulative Perpetual Series D Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series E Preferred Stock with respect to dividends, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series E Preferred Stock with respect to dividends.

Section 6. *No Conversion Rights.* The holders of Series E Preferred Stock shall not have any rights to convert such shares into shares of any other class or series of stock or into any other securities of, or any interest or property in, the Bank.

Section 7. *No Sinking Fund.* No sinking fund shall be established for the retirement or redemption of Series E Preferred Stock.

Section 8. *Preemptive or Subscription Rights.* No holder of Series E Preferred Stock of the Bank shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Bank or any other security of the Bank that it may issue or sell.

Section 9. *No Other Rights.* The Series E Preferred Stock shall not have any designations, preferences or relative, participating, optional or other special rights except as set forth in the Bank's Restated Articles of Incorporation or as otherwise required by law.

Section 10. *Compliance with Applicable Law.* Declaration by the Board and payment by the Bank of dividends to holders of the Series E Preferred Stock and repurchase, redemption or other acquisition by the Bank (or another entity as provided in subsection (a) of Section 3 hereof) of Series E Preferred

Stock shall be subject in all respects to any and all restrictions and limitations placed on dividends, redemptions or other distributions by the Bank (or any such other entity) under (i) laws, regulations and regulatory conditions or limitations applicable to or regarding the Bank (or any such other entity) from time to time and (ii) agreements with federal or state banking authorities with respect to the Bank (or any such other entity) from time to time in effect.

Annex E

RESOLVED, that the Board, pursuant to Article Third of the Bank's Restated Articles of Incorporation, hereby authorizes the creation of a series of Preferred Stock of the Bank out of the authorized but unissued shares of the Preferred Stock of the Bank, such series to be designated 5.70% Noncumulative Perpetual Series F Preferred Stock, to consist of 115,000 shares, par value \$0.01 per share, none of which are currently outstanding, the rights, privileges, preferences and restrictions of which shall be (in addition to those set forth in the Bank's Restated Articles of Incorporation, as amended) as follows:

Section 1. *Dividends.*

(a) Payment of Dividends. Holders of Series F Preferred Stock shall be entitled to receive, when, as and if authorized and declared by the Board (which shall include any authorized committee thereof), out of funds of the Bank legally available therefor, cash dividends at an annual rate of 5.70% of the \$1,000.00 liquidation preference per share (equivalent to \$57.00 per share per annum) (the "*Dividend Rate*"), and no more. Such cash dividends shall be noncumulative and payable, if authorized and declared, quarterly in arrears on each March 30, June 30, September 30 and December 30, commencing on June 30, 2015 (each such date, a "*Dividend Payment Date*"), or, if such day is not a day other than a Saturday, Sunday or day on which banking institutions in New York, New York are authorized or obligated pursuant to legal requirements or executive order to be closed (each such day, a "*Business Day*"), on the immediately preceding Business Day, without adjustment. The amount of the dividend per share of Series F Preferred Stock on each Dividend Payment Date will be equal to the Dividend Rate multiplied by 0.25, then multiplied by \$1,000 (with the result rounded upward, if necessary, to the nearest 0.00001 of 1%), except for the initial Dividend Payment Date, as described in the next paragraph. Each authorized and declared dividend shall be payable to holders of record of the Series F Preferred Stock as they appear on the stock books of the Bank at the close of business on such record date, not more than 60 calendar days nor less than 10 calendar days preceding the Dividend Payment Date therefor, as may be determined by the Board (each such date, a "*Record Date*"); *provided, however*, that if the date fixed for redemption of any of the Series F Preferred Stock occurs after a dividend is authorized and declared but before it is paid, such dividend shall be paid as part of the redemption price to the person to whom the redemption price is paid. Quarterly dividend periods (each, a "*Dividend Period*") shall commence on and include each Dividend Payment Date, and shall end on and exclude the following Dividend Payment Date (except that the first Dividend Period (i) for shares of Series F Preferred Stock issued in the initial issuance of Series F Preferred Stock shall commence on and include the initial date of issuance of shares of Series F Preferred Stock (the "*Issue Date*") and (ii) for shares of Series F Preferred Stock issued after the Issue Date shall commence on

and include the later of the Issue Date and the first day of the quarterly period in which such later date of issue occurs).

The amount of dividends payable for the Dividend Period commencing on the Issue Date shall be computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year composed of twelve 30-day months.

Holders of the Series F Preferred Stock shall not be entitled to any interest, or any sum of money in lieu of interest, in respect of any dividend payment or payments on the Series F Preferred Stock authorized and declared by the Board that may be unpaid. Any dividend payment made on the Series F Preferred Stock shall first be credited against the earliest authorized and declared but unpaid cash dividend with respect to the Series F Preferred Stock.

(b) Dividends Noncumulative. The right of holders of Series F Preferred Stock to receive dividends is noncumulative. Accordingly, except as hereinafter expressly provided, if the Board does not authorize or declare a dividend payable in respect of any Dividend Period, holders of Series F Preferred Stock shall have no right to receive a dividend in respect of such Dividend Period and the Bank shall have no obligation to pay a dividend in respect of such Dividend Period, whether or not dividends have been or are authorized and declared payable in respect of any prior or subsequent Dividend Period.

(c) Priority as to Dividends; Limitations on Dividends on Junior Stock. If full dividends on the Series F Preferred Stock for any completed Dividend Period shall not have been declared and paid, or declared and a sum sufficient for the payment thereof shall not have been set apart for such payments, no dividends or distributions shall be authorized, declared or paid or set aside for payment (other than as provided in the second paragraph of this Section 1(c)) with respect to the common stock or any other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series F Preferred Stock as to dividends or amounts distributed upon liquidation, dissolution or winding up of the affairs of the Bank (together with the common stock, "*Junior Stock*"), other than (x) dividends payable on Junior Stock in Junior Stock and (y) cash in lieu of fractional shares in connection with any such dividend, nor shall any Junior Stock or any stock ranking on parity with the Series F Preferred Stock as to dividends or amounts upon liquidation, dissolution or winding up of the affairs of the Bank ("*Parity Stock*") be redeemed, purchased or otherwise acquired for any consideration (or any monies to be paid to or made available for a sinking fund for the redemption of any such stock) by the Bank (except (x) by conversion into or exchange for other Junior Stock or (y) by the tendering of Junior Stock in payment for the exercise of stock options under our equity incentive plans then in effect), until such time as dividends on all outstanding Series F Preferred Stock have been authorized, declared and paid, or a sum sufficient for the payment thereof has been set apart for payment, as of the Dividend Payment Date for the current Dividend Period.

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) for any Dividend Period on the Series F Preferred Stock, all dividends declared on the Series F Preferred Stock and any other series ranking on a parity as to dividends with the Series F Preferred Stock shall be declared *pro rata* so that the amount of dividends declared per share on the Series F Preferred Stock and each such other series of capital stock shall in all cases bear to each other the same ratio that full dividends, for the then current Dividend Period, per share of Series F Preferred Stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods) and full dividends, including required or permitted accumulations, if any, on the stock of each such other series ranking on a parity as to dividends with the Series F Preferred Stock bear to each other.

(d) Dividend Reference. Any reference to “*dividends*” or “*distributions*” in this Section 1 shall not be deemed to include any distribution made in connection with any voluntary or involuntary dissolution, liquidation or winding up of the Bank.

Section 2. *Redemption.*

(a) Optional Redemption. Subject to the further terms and conditions provided herein, the Bank, at its option, subject to the approval of the “appropriate Federal banking agency” with respect to the Bank (as defined in Section 3(q) of the Federal Deposit Insurance Act or any successor provision) (the “*Appropriate Federal Banking Agency*”), may, upon notice given as provided in Section 2(d), redeem shares of the Series F Preferred Stock at the time outstanding in whole or in part, from time to time, on or after June 30, 2020, at a cash redemption price equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the redemption occurs, plus (iii) the amount of the accrued and unpaid dividends thereon (whether or not declared) from the beginning of the Dividend Period in which the redemption occurs to the date of redemption, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months (the “*Redemption Price*”).

(b) Regulatory Event Redemption. Notwithstanding Section 2(a), the Bank, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem all (but not less than all) of the shares of Series F Preferred Stock at the time outstanding, upon notice given as provided in section 2(d), at the Redemption Price at any time within 90 days following the Bank’s good faith determination that, as a result of (i) any amendment to, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the Issue Date; (ii) any proposed change in such laws or regulations that is announced after the Issue Date; or (iii) any official administrative decision or judicial decision or administrative

action or other official pronouncement interpreting or applying those laws or regulations that is announced after the Issue Date, there is more than an insubstantial risk that the Bank will not be entitled to treat the full liquidation value of the shares of Series F Preferred Stock then outstanding as “Tier 1 Capital” (or its equivalent), as defined at 12 C.F.R. § 325.2(v) of the regulations of the Federal Deposit Insurance Corporation, or any successor regulation of the Federal Deposit Insurance Corporation (or, as and if applicable, the corresponding regulations of any successor Appropriate Federal Banking Agency), as then in effect and applicable, for as long as any share of Series F Preferred Stock is outstanding.

(c) Partial Redemption. In the event that fewer than all the outstanding shares of Series F Preferred Stock are to be redeemed, the number of shares of Series F Preferred Stock to be redeemed shall be determined by the Board, and the shares to be redeemed shall be determined by lot or *pro rata* as may be determined by the Board.

Unless full dividends on the Series F Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for payment for the then current Dividend Period, no Series F Preferred Stock shall be redeemed unless all outstanding Series F Preferred Stock are redeemed, and the Bank shall not purchase or otherwise acquire any Series F Preferred Stock; *provided, however*, that the Bank may purchase or acquire Series F Preferred Stock pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series F Preferred Stock.

(d) Notice of Redemption. A notice by the Bank pursuant to this Section 2 shall be sufficiently given if in writing and mailed, first class postage prepaid, to each record holder of Series F Preferred Stock at the holder’s address as it appears in the records of the Bank’s transfer agent. In any case where notice is given by mail, neither the failure to mail such notice nor any defect in the notice to any particular holder shall affect the sufficiency of such notice to any other holder. Any notice mailed to a holder in the manner described above shall be deemed given on the date mailed, whether or not the holder actually receives the notice. A notice of redemption shall be given not less than 30 days and not more than 60 days prior to the date of redemption specified in the notice, and shall specify (i) the redemption date, (ii) the number of shares of Series F Preferred Stock to be redeemed, (iii) the Redemption Price and (iv) the manner in which holders of Series F Preferred Stock called for redemption may obtain payment of the Redemption Price in respect of those shares. Notwithstanding anything to the contrary in this paragraph, if the Series F Preferred Stock or any depositary shares representing interests in the Series F Preferred Stock are issued in book-entry form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the holders of Series F Preferred Stock at such time and in any manner permitted by such facility.

(e) Effect of Redemption. Any shares of Series F Preferred Stock that are duly called for redemption pursuant to this Section 2 shall be deemed no longer to be outstanding for any purpose from and after that time that the Bank shall have irrevocably deposited with the paying agent identified in the notice of redemption funds in an amount equal to the aggregate redemption price. From and after that time, the holders of the Series F Preferred Stock so called for redemption shall have no further rights as shareholders of the Bank and in lieu thereof shall have only the right to receive the Redemption Price, without interest.

Series F Preferred Stock redeemed pursuant to this Section 2 or purchased or otherwise acquired for value by the Bank shall, after such acquisition, have the status of authorized and unissued shares of Preferred Stock and may be reissued by the Bank at any time as shares of any series of Preferred Stock other than as Series F Preferred Stock.

Section 3. *Liquidation Rights.*

(a) Liquidation Value. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Bank, the holders of the Series F Preferred Stock at the time outstanding will be entitled to be paid out of assets of the Bank available for distribution to shareholders, before any distribution of assets is made to holders of Junior Stock, liquidating distributions in an amount equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the liquidation occurs, plus (iii) the amount of the declared and unpaid dividends thereon from the beginning of the Dividend Period in which the liquidation occurs to the date of liquidation, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months.

After payment of the full amount of the liquidating distributions to which they are entitled, pursuant to the preceding paragraph, the holders of Series F Preferred Stock will have no right or claim to any of the remaining assets of the Bank.

(b) Partial Payment. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, the available assets of the Bank are insufficient to pay the amount of the liquidating distributions on all outstanding shares of Series F Preferred Stock and the corresponding amounts payable on all shares of other classes or series of capital stock of the Bank ranking on a parity with the Series F Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Bank, then the holders of the Series F Preferred Stock and such other classes or series of capital stock ranking on parity with the Series F Preferred Stock shall share ratably in any such

distribution of assets in proportion to the full liquidating distributions to which they otherwise respectively would be entitled.

(c) Consolidation, Merger or Sale of Assets not Liquidation. For the purposes of this Section 3, the merger or consolidation of the Bank with or into any other entity or by another entity with or into the Bank, or the sale, lease, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or business of the Bank, shall not be deemed to constitute the liquidation, dissolution or winding up of the Bank. If the Bank enters into any merger or consolidation transaction with or into any other entity and the Bank is not the surviving entity in such transaction, the Series F Preferred Stock may be converted into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series F Preferred Stock set forth herein.

Section 4. *Voting Rights.*

(a) General. Except as expressly provided in this Section 4 and as required by law, holders of Series F Preferred Stock shall have no voting rights. When the holders of Series F Preferred Stock are entitled to vote, each share of Series F Preferred Stock will be entitled to one vote.

(b) Right to Elect Directors.

(1) If at any time the Bank has failed to pay or set aside for payment scheduled dividends (whether or not declared) in an aggregate amount equal to at least six full quarterly dividend payments (whether or not consecutive) on the Series F Preferred Stock, the holders of the Series F Preferred Stock, voting as a single class together with the holders of each other series of Preferred Stock of the Bank then outstanding ranking on a parity with Series F Preferred Stock as to payment of dividends and having voting rights equivalent to those provided in this Section 4(b) for the Series F Preferred Stock (“*Voting Parity Stock*”), will be entitled to elect two directors (the “*Preferred Directors*”) to serve on the Board, and the holders of all then outstanding shares of capital stock of the Bank otherwise entitled under the Bank’s Restated Articles of Incorporation, as the same may be amended or restated from time to time, or by law to elect directors (“*Voting Stock*”), shall be entitled to elect the remaining number of authorized directors. The Board shall at no time have more than two Preferred Directors.

(2) If, at any time after the right to elect directors is vested in the Series F Preferred Stock, the holders of the Series F Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the

election of the Preferred Directors to the Board would cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the holders of the Series F Preferred Stock and any Voting Parity Stock, voting as a single class, and the holders of the Voting Stock shall each elect directors at the special meeting as provided in Section 4(b)(1), the terms of office of all persons who were directors immediately prior to the special meeting shall terminate, and the directors elected by the holders of the Series F Preferred Stock and any Voting Parity Stock, as a single class, and the directors elected by the holders of the Voting Stock shall constitute the directors of the Bank until the next annual meeting.

If, at any time after the right to elect directors is vested in the Series F Preferred Stock, the holders of the Series F Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the election of the Preferred Directors to the Board would not cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the terms of office of all persons who were directors immediately prior thereto shall continue until the next annual meeting.

(3) Whenever all dividends on the Series F Preferred Stock and any other Voting Parity Stock have been paid in full for four consecutive dividend periods (or otherwise for at least one year), then the right of the holders of Series F Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of these voting rights in the case of any similar non-payment of dividends in respect of future dividend periods), and if no other Voting Parity Stock is then entitled to elect directors, the terms of office of all Preferred Directors will immediately terminate.

(c) Removal and Replacement of Preferred Directors. Except as otherwise provided for by applicable law, any Preferred Director may be removed only by the vote of the holders of record of the outstanding Series F Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the shares of Series F Preferred Stock and all other Voting Parity Stock, called for that purpose. As long as the right to elect Preferred Directors is continuing, (i) any vacancy in the office of any Preferred Director may be filled by the vote of the holders of record of the outstanding Series F Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the Series F Preferred Stock and all other Voting Parity Stock, called for that purpose, and (ii) in the case of the removal of any Preferred Director, the vacancy

may be filled by the vote of the holders of the outstanding Series F Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at the same meeting at which such removal shall be voted. Until the time that any such vacancy is filled at a shareholder meeting as provided above, a successor shall be elected by the Board to serve until the next such shareholder meeting upon the nomination of the then remaining Preferred Director.

(d) Certain Voting Rights. The affirmative vote or consent of the holders of at least two-thirds of the outstanding shares of each series of Preferred Stock of the Bank, including the Series F Preferred Stock, will be required (i) to create any class or series of stock which shall, as to dividends or distribution of assets, rank prior to any outstanding series of Preferred Stock of the Bank (other than a series which shall not have any right to object to such creation) or (ii) to alter or change the provisions of the Bank's Restated Articles of Incorporation (including the terms of the Series F Preferred Stock) or Bylaws, including by consolidation or merger, so as to adversely affect the voting powers, preferences or special rights of the holders of a series of Preferred Stock of the Bank; *provided, however,* that if such amendment shall not adversely affect all series of Preferred Stock of the Bank, such amendment need only be approved by at least two-thirds of the holders of shares of each series of Preferred Stock adversely affected thereby. Notwithstanding the foregoing, an alteration or change to the provisions of the Bank's Restated Articles of Incorporation or Bylaws shall not be deemed to affect the voting powers, preferences or special rights of the holders of the Series F Preferred Stock, provided that: (x) the Series F Preferred Stock remain outstanding with the terms thereof unchanged; or (y) the Series F Preferred Stock are converted in a merger or consolidation transaction into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series F Preferred Stock set forth herein. Additionally, (i) any increase in the amount of the authorized Common Stock or Preferred Stock or the creation or issuance of any other Junior Stock or Parity Stock and (ii) any change to the number of directors or number or classes of directors shall not be deemed to adversely affect the voting powers, preferences or special rights of the holders of the Series F Preferred Stock.

Section 5. *Ranking.*

(a) Ranking with Respect to Distributions upon Liquidation. With respect to rights upon liquidation, dissolution or winding up of the Bank, the Series F Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series F Preferred Stock as to distributions upon liquidation, dissolution or winding up, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock, 5.625% Noncumulative Perpetual Series C Preferred Stock, 5.50% Noncumulative Perpetual Series D

Preferred Stock, 7.00% Noncumulative Perpetual Series E Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series F Preferred Stock as to distributions upon liquidation, dissolution or winding up, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series F Preferred Stock as to distributions upon liquidation, dissolution or winding up.

(b) Ranking with Respect to Dividends. With respect to dividends, the Series F Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series F Preferred Stock with respect to dividends, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock, 5.625% Noncumulative Perpetual Series C Preferred Stock, 5.50% Noncumulative Perpetual Series D Preferred Stock, 7.00% Noncumulative Perpetual Series E Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series F Preferred Stock with respect to dividends, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series F Preferred Stock with respect to dividends.

Section 6. *No Conversion Rights.* The holders of Series F Preferred Stock shall not have any rights to convert such shares into shares of any other class or series of stock or into any other securities of, or any interest or property in, the Bank.

Section 7. *No Sinking Fund.* No sinking fund shall be established for the retirement or redemption of Series F Preferred Stock.

Section 8. *Preemptive or Subscription Rights.* No holder of Series F Preferred Stock of the Bank shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Bank or any other security of the Bank that it may issue or sell.

Section 9. *No Other Rights.* The Series F Preferred Stock shall not have any designations, preferences or relative, participating, optional or other special rights except as set forth in the Bank's Restated Articles of Incorporation or as otherwise required by law.

Section 10. *Compliance with Applicable Law.* Declaration by the Board and payment by the Bank of dividends to holders of the Series F Preferred Stock and repurchase, redemption or other acquisition by the Bank (or another

entity as provided in subsection (a) of Section 3 hereof) of Series F Preferred Stock shall be subject in all respects to any and all restrictions and limitations placed on dividends, redemptions or other distributions by the Bank (or any such other entity) under (i) laws, regulations and regulatory conditions or limitations applicable to or regarding the Bank (or any such other entity) from time to time and (ii) agreements with federal or state banking authorities with respect to the Bank (or any such other entity) from time to time in effect.

Annex F

RESOLVED, that the Board, pursuant to Article Third of the Bank's Restated Articles of Incorporation, hereby authorizes the creation of a series of Preferred Stock of the Bank out of the authorized but unissued shares of the Preferred Stock of the Bank, such series to be designated 5.50% Noncumulative Perpetual Series G Preferred Stock, to consist of 172,500 shares, par value \$0.01 per share, none of which are currently outstanding, the rights, privileges, preferences and restrictions of which shall be (in addition to those set forth in the Bank's Restated Articles of Incorporation, as amended) as follows:

Section 1. *Dividends.*

(a) Payment of Dividends. Holders of Series G Preferred Stock shall be entitled to receive, when, as and if authorized and declared by the Board (which shall include any authorized committee thereof), out of funds of the Bank legally available therefor, cash dividends at an annual rate of 5.50% of the \$1,000.00 liquidation preference per share (equivalent to \$55.00 per share per annum) (the "*Dividend Rate*"), and no more. Such cash dividends shall be noncumulative and payable, if authorized and declared, quarterly in arrears on each March 30, June 30, September 30 and December 30, commencing on March 30, 2016 (each such date, a "*Dividend Payment Date*"), or, if such day is not a day other than a Saturday, Sunday or day on which banking institutions in New York, New York are authorized or obligated pursuant to legal requirements or executive order to be closed (each such day, a "*Business Day*"), on the immediately preceding Business Day, without adjustment. The amount of the dividend per share of Series G Preferred Stock on each Dividend Payment Date will be equal to the Dividend Rate multiplied by 0.25, then multiplied by \$1,000 (with the result rounded upward, if necessary, to the nearest 0.00001 of 1%), except for the initial Dividend Payment Date, as described in the next paragraph. Each authorized and declared dividend shall be payable to holders of record of the Series G Preferred Stock as they appear on the stock books of the Bank at the close of business on such record date, not more than 60 calendar days nor less than 10 calendar days preceding the Dividend Payment Date therefor, as may be determined by the Board (each such date, a "*Record Date*"); *provided, however*, that if the date fixed for redemption of any of the Series G Preferred Stock occurs after a dividend is authorized and declared but before it is paid, such dividend shall be paid as part of the redemption price to the person to whom the redemption price is paid. Quarterly dividend periods (each, a "*Dividend Period*") shall commence on and include each Dividend Payment Date, and shall end on and exclude the following Dividend Payment Date (except that the first Dividend Period (i) for shares of Series G Preferred Stock issued in the initial issuance of Series G Preferred Stock shall commence on and include the initial date of issuance of shares of Series G Preferred Stock (the "*Issue Date*") and (ii) for shares of Series G Preferred Stock issued after the Issue Date shall commence on

and include the later of the Issue Date and the first day of the quarterly period in which such later date of issue occurs).

The amount of dividends payable for the Dividend Period commencing on the Issue Date shall be computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year composed of twelve 30-day months.

Holders of the Series G Preferred Stock shall not be entitled to any interest, or any sum of money in lieu of interest, in respect of any dividend payment or payments on the Series G Preferred Stock authorized and declared by the Board that may be unpaid. Any dividend payment made on the Series G Preferred Stock shall first be credited against the earliest authorized and declared but unpaid cash dividend with respect to the Series G Preferred Stock.

(b) Dividends Noncumulative. The right of holders of Series G Preferred Stock to receive dividends is noncumulative. Accordingly, except as hereinafter expressly provided, if the Board does not authorize or declare a dividend payable in respect of any Dividend Period, holders of Series G Preferred Stock shall have no right to receive a dividend in respect of such Dividend Period and the Bank shall have no obligation to pay a dividend in respect of such Dividend Period, whether or not dividends have been or are authorized and declared payable in respect of any prior or subsequent Dividend Period.

(c) Priority as to Dividends; Limitations on Dividends on Junior Stock. If full dividends on the Series G Preferred Stock for any completed Dividend Period shall not have been declared and paid, or declared and a sum sufficient for the payment thereof shall not have been set apart for such payments, no dividends or distributions shall be authorized, declared or paid or set aside for payment (other than as provided in the second paragraph of this Section 1(c)) with respect to the common stock or any other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series G Preferred Stock as to dividends or amounts distributed upon liquidation, dissolution or winding up of the affairs of the Bank (together with the common stock, "*Junior Stock*"), other than (x) dividends payable on Junior Stock in Junior Stock and (y) cash in lieu of fractional shares in connection with any such dividend, nor shall any Junior Stock or any stock ranking on parity with the Series G Preferred Stock as to dividends or amounts upon liquidation, dissolution or winding up of the affairs of the Bank ("*Parity Stock*") be redeemed, purchased or otherwise acquired for any consideration (or any monies to be paid to or made available for a sinking fund for the redemption of any such stock) by the Bank (except (x) by conversion into or exchange for other Junior Stock or (y) by the tendering of Junior Stock in payment for the exercise of stock options under our equity incentive plans then in effect), until such time as dividends on all outstanding Series G Preferred Stock have been authorized, declared and paid, or a sum sufficient for the payment thereof has been set apart for payment, as of the Dividend Payment Date for the current Dividend Period.

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) for any Dividend Period on the Series G Preferred Stock, all dividends declared on the Series G Preferred Stock and any other series ranking on a parity as to dividends with the Series G Preferred Stock shall be declared *pro rata* so that the amount of dividends declared per share on the Series G Preferred Stock and each such other series of capital stock shall in all cases bear to each other the same ratio that full dividends, for the then current Dividend Period, per share of Series G Preferred Stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods) and full dividends, including required or permitted accumulations, if any, on the stock of each such other series ranking on a parity as to dividends with the Series G Preferred Stock bear to each other.

(d) Dividend Reference. Any reference to “*dividends*” or “*distributions*” in this Section 1 shall not be deemed to include any distribution made in connection with any voluntary or involuntary dissolution, liquidation or winding up of the Bank.

Section 2. *Redemption.*

(a) Optional Redemption. Subject to the further terms and conditions provided herein, the Bank, at its option, subject to the approval of the “appropriate Federal banking agency” with respect to the Bank (as defined in Section 3(q) of the Federal Deposit Insurance Act or any successor provision) (the “*Appropriate Federal Banking Agency*”), may, upon notice given as provided in Section 2(d), redeem shares of the Series G Preferred Stock at the time outstanding in whole or in part, from time to time, on or after March 30, 2021, at a cash redemption price equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the redemption occurs, plus (iii) the amount of the accrued and unpaid dividends thereon (whether or not declared) from the beginning of the Dividend Period in which the redemption occurs to the date of redemption, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months (the “*Redemption Price*”).

(b) Regulatory Event Redemption. Notwithstanding Section 2(a), the Bank, at its option, subject to the approval of the Appropriate Federal Banking Agency, may redeem all (but not less than all) of the shares of Series G Preferred Stock at the time outstanding, upon notice given as provided in section 2(d), at the Redemption Price at any time within 90 days following the Bank’s good faith determination that, as a result of (i) any amendment to, or change in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the Issue Date; (ii) any proposed change in such laws or regulations that is announced after the Issue Date; or (iii) any official administrative decision or judicial decision or administrative

action or other official pronouncement interpreting or applying those laws or regulations that is announced after the Issue Date, there is more than an insubstantial risk that the Bank will not be entitled to treat the full liquidation value of the shares of Series G Preferred Stock then outstanding as “Tier 1 Capital” (or its equivalent), as defined at 12 C.F.R. § 325.2(v) of the regulations of the Federal Deposit Insurance Corporation, or any successor regulation of the Federal Deposit Insurance Corporation (or, as and if applicable, the corresponding regulations of any successor Appropriate Federal Banking Agency), as then in effect and applicable, for as long as any share of Series G Preferred Stock is outstanding.

(c) Partial Redemption. In the event that fewer than all the outstanding shares of Series G Preferred Stock are to be redeemed, the number of shares of Series G Preferred Stock to be redeemed shall be determined by the Board, and the shares to be redeemed shall be determined by lot or *pro rata* as may be determined by the Board.

Unless full dividends on the Series G Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for payment for the then current Dividend Period, no Series G Preferred Stock shall be redeemed unless all outstanding Series G Preferred Stock are redeemed, and the Bank shall not purchase or otherwise acquire any Series G Preferred Stock; *provided, however*, that the Bank may purchase or acquire Series G Preferred Stock pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series G Preferred Stock.

(d) Notice of Redemption. A notice by the Bank pursuant to this Section 2 shall be sufficiently given if in writing and mailed, first class postage prepaid, to each record holder of Series G Preferred Stock at the holder’s address as it appears in the records of the Bank’s transfer agent. In any case where notice is given by mail, neither the failure to mail such notice nor any defect in the notice to any particular holder shall affect the sufficiency of such notice to any other holder. Any notice mailed to a holder in the manner described above shall be deemed given on the date mailed, whether or not the holder actually receives the notice. A notice of redemption shall be given not less than 30 days and not more than 60 days prior to the date of redemption specified in the notice, and shall specify (i) the redemption date, (ii) the number of shares of Series G Preferred Stock to be redeemed, (iii) the Redemption Price and (iv) the manner in which holders of Series G Preferred Stock called for redemption may obtain payment of the Redemption Price in respect of those shares. Notwithstanding anything to the contrary in this paragraph, if the Series G Preferred Stock or any depositary shares representing interests in the Series G Preferred Stock are issued in book-entry form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the holders of Series G Preferred Stock at such time and in any manner permitted by such facility.

(e) Effect of Redemption. Any shares of Series G Preferred Stock that are duly called for redemption pursuant to this Section 2 shall be deemed no longer to be outstanding for any purpose from and after that time that the Bank shall have irrevocably deposited with the paying agent identified in the notice of redemption funds in an amount equal to the aggregate redemption price. From and after that time, the holders of the Series G Preferred Stock so called for redemption shall have no further rights as shareholders of the Bank and in lieu thereof shall have only the right to receive the Redemption Price, without interest.

Series G Preferred Stock redeemed pursuant to this Section 2 or purchased or otherwise acquired for value by the Bank shall, after such acquisition, have the status of authorized and unissued shares of Preferred Stock and may be reissued by the Bank at any time as shares of any series of Preferred Stock other than as Series G Preferred Stock.

Section 3. *Liquidation Rights.*

(a) Liquidation Value. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Bank, the holders of the Series G Preferred Stock at the time outstanding will be entitled to be paid out of assets of the Bank available for distribution to shareholders, before any distribution of assets is made to holders of Junior Stock, liquidating distributions in an amount equal to the sum of (i) \$1,000.00 per share plus (ii) the amount of any declared and unpaid dividends for any Dividend Period before the Dividend Period in which the liquidation occurs, plus (iii) the amount of the declared and unpaid dividends thereon from the beginning of the Dividend Period in which the liquidation occurs to the date of liquidation, computed on the basis of the number of days elapsed in the Dividend Period using a 360-day year comprised of twelve 30-day months.

After payment of the full amount of the liquidating distributions to which they are entitled, pursuant to the preceding paragraph, the holders of Series G Preferred Stock will have no right or claim to any of the remaining assets of the Bank.

(b) Partial Payment. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, the available assets of the Bank are insufficient to pay the amount of the liquidating distributions on all outstanding shares of Series G Preferred Stock and the corresponding amounts payable on all shares of other classes or series of capital stock of the Bank ranking on a parity with the Series G Preferred Stock in the distribution of assets upon any liquidation, dissolution or winding up of the affairs of the Bank, then the holders of the Series G Preferred Stock and such other classes or series of capital stock ranking on parity with the Series G Preferred Stock shall share ratably in any such

distribution of assets in proportion to the full liquidating distributions to which they otherwise respectively would be entitled.

(c) Consolidation, Merger or Sale of Assets not Liquidation. For the purposes of this Section 3, the merger or consolidation of the Bank with or into any other entity or by another entity with or into the Bank, or the sale, lease, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or business of the Bank, shall not be deemed to constitute the liquidation, dissolution or winding up of the Bank. If the Bank enters into any merger or consolidation transaction with or into any other entity and the Bank is not the surviving entity in such transaction, the Series G Preferred Stock may be converted into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series G Preferred Stock set forth herein.

Section 4. *Voting Rights.*

(a) General. Except as expressly provided in this Section 4 and as required by law, holders of Series G Preferred Stock shall have no voting rights. When the holders of Series G Preferred Stock are entitled to vote, each share of Series G Preferred Stock will be entitled to one vote.

(b) Right to Elect Directors.

(1) If at any time the Bank has failed to pay or set aside for payment scheduled dividends (whether or not declared) in an aggregate amount equal to at least six full quarterly dividend payments (whether or not consecutive) on the Series G Preferred Stock, the holders of the Series G Preferred Stock, voting as a single class together with the holders of each other series of Preferred Stock of the Bank then outstanding ranking on a parity with Series G Preferred Stock as to payment of dividends and having voting rights equivalent to those provided in this Section 4(b) for the Series G Preferred Stock (“*Voting Parity Stock*”), will be entitled to elect two directors (the “*Preferred Directors*”) to serve on the Board, and the holders of all then outstanding shares of capital stock of the Bank otherwise entitled under the Bank’s Restated Articles of Incorporation, as the same may be amended or restated from time to time, or by law to elect directors (“*Voting Stock*”), shall be entitled to elect the remaining number of authorized directors. The Board shall at no time have more than two Preferred Directors.

(2) If, at any time after the right to elect directors is vested in the Series G Preferred Stock, the holders of the Series G Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the

election of the Preferred Directors to the Board would cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the holders of the Series G Preferred Stock and any Voting Parity Stock, voting as a single class, and the holders of the Voting Stock shall each elect directors at the special meeting as provided in Section 4(b)(1), the terms of office of all persons who were directors immediately prior to the special meeting shall terminate, and the directors elected by the holders of the Series G Preferred Stock and any Voting Parity Stock, as a single class, and the directors elected by the holders of the Voting Stock shall constitute the directors of the Bank until the next annual meeting.

If, at any time after the right to elect directors is vested in the Series G Preferred Stock, the holders of the Series G Preferred Stock and any Voting Parity Stock call a special meeting of shareholders for the election of directors, and at the time the special meeting is called, the election of the Preferred Directors to the Board would not cause the number of directors to exceed the maximum number authorized under the Bank's Restated Articles of Incorporation or Bylaws, each as amended from time to time, then the terms of office of all persons who were directors immediately prior thereto shall continue until the next annual meeting.

(3) Whenever all dividends on the Series G Preferred Stock and any other Voting Parity Stock have been paid in full for four consecutive dividend periods (or otherwise for at least one year), then the right of the holders of Series G Preferred Stock to elect the Preferred Directors will cease (but subject always to the same provisions for the vesting of these voting rights in the case of any similar non-payment of dividends in respect of future dividend periods), and if no other Voting Parity Stock is then entitled to elect directors, the terms of office of all Preferred Directors will immediately terminate.

(c) Removal and Replacement of Preferred Directors. Except as otherwise provided for by applicable law, any Preferred Director may be removed only by the vote of the holders of record of the outstanding Series G Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the shares of Series G Preferred Stock and all other Voting Parity Stock, called for that purpose. As long as the right to elect Preferred Directors is continuing, (i) any vacancy in the office of any Preferred Director may be filled by the vote of the holders of record of the outstanding Series G Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at a meeting of the Bank's shareholders, or of the holders of the Series G Preferred Stock and all other Voting Parity Stock, called for that

purpose, and (ii) in the case of the removal of any Preferred Director, the vacancy may be filled by the vote of the holders of the outstanding Series G Preferred Stock entitled to vote, voting together as a single class with the holders of all other Voting Parity Stock, at the same meeting at which such removal shall be voted. Until the time that any such vacancy is filled at a shareholder meeting as provided above, a successor shall be elected by the Board to serve until the next such shareholder meeting upon the nomination of the then remaining Preferred Director.

(d) Certain Voting Rights. The affirmative vote or consent of the holders of at least two-thirds of the outstanding shares of each series of Preferred Stock of the Bank, including the Series G Preferred Stock, will be required (i) to create any class or series of stock which shall, as to dividends or distribution of assets, rank prior to any outstanding series of Preferred Stock of the Bank (other than a series which shall not have any right to object to such creation) or (ii) to alter or change the provisions of the Bank's Restated Articles of Incorporation (including the terms of the Series G Preferred Stock) or Bylaws, including by consolidation or merger, so as to adversely affect the voting powers, preferences or special rights of the holders of a series of Preferred Stock of the Bank; *provided, however,* that if such amendment shall not adversely affect all series of Preferred Stock of the Bank, such amendment need only be approved by at least two-thirds of the holders of shares of each series of Preferred Stock adversely affected thereby. Notwithstanding the foregoing, an alteration or change to the provisions of the Bank's Restated Articles of Incorporation or Bylaws shall not be deemed to affect the voting powers, preferences or special rights of the holders of the Series G Preferred Stock, provided that: (x) the Series G Preferred Stock remain outstanding with the terms thereof unchanged; or (y) the Series G Preferred Stock are converted in a merger or consolidation transaction into shares of the surviving or successor corporation or the direct or indirect parent of the surviving or successor corporation having terms identical to the terms of the Series G Preferred Stock set forth herein. Additionally, (i) any increase in the amount of the authorized Common Stock or Preferred Stock or the creation or issuance of any other Junior Stock or Parity Stock and (ii) any change to the number of directors or number or classes of directors shall not be deemed to adversely affect the voting powers, preferences or special rights of the holders of the Series G Preferred Stock.

Section 5. *Ranking.*

(a) Ranking with Respect to Distributions upon Liquidation. With respect to rights upon liquidation, dissolution or winding up of the Bank, the Series G Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series G Preferred Stock as to distributions upon liquidation, dissolution or winding up, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock, 5.625% Noncumulative

Perpetual Series C Preferred Stock, 5.50% Noncumulative Perpetual Series D Preferred Stock, 7.00% Noncumulative Perpetual Series E Preferred Stock, 5.70% Noncumulative Perpetual Series F Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series G Preferred Stock as to distributions upon liquidation, dissolution or winding up, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series G Preferred Stock as to distributions upon liquidation, dissolution or winding up.

(b) Ranking with Respect to Dividends. With respect to dividends, the Series G Preferred Stock shall rank: (i) senior to the Common Stock and to all other classes or series of stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they are junior to the Series G Preferred Stock with respect to dividends, (ii) on a parity with 6.70% Noncumulative Perpetual Series A Preferred Stock, 6.20% Noncumulative Perpetual Series B Preferred Stock, 5.625% Noncumulative Perpetual Series C Preferred Stock, 5.50% Noncumulative Perpetual Series D Preferred Stock, 7.00% Noncumulative Perpetual Series E Preferred Stock, 5.70% Noncumulative Perpetual Series F Preferred Stock and all other classes or series of Preferred Stock of the Bank now or hereafter authorized, issued or outstanding that expressly provide that they will rank on parity with the Series G Preferred Stock with respect to dividends, and (iii) junior to all other classes or series of Preferred Stock of the Corporation now or hereafter authorized, issued or outstanding that expressly provide that they are senior to the Series G Preferred Stock with respect to dividends.

Section 6. *No Conversion Rights.* The holders of Series G Preferred Stock shall not have any rights to convert such shares into shares of any other class or series of stock or into any other securities of, or any interest or property in, the Bank.

Section 7. *No Sinking Fund.* No sinking fund shall be established for the retirement or redemption of Series G Preferred Stock.

Section 8. *Preemptive or Subscription Rights.* No holder of Series G Preferred Stock of the Bank shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Bank or any other security of the Bank that it may issue or sell.

Section 9. *No Other Rights.* The Series G Preferred Stock shall not have any designations, preferences or relative, participating, optional or other special rights except as set forth in the Bank's Restated Articles of Incorporation or as otherwise required by law.

Section 10. *Compliance with Applicable Law.* Declaration by the Board and payment by the Bank of dividends to holders of the Series G Preferred Stock and repurchase, redemption or other acquisition by the Bank (or another entity as provided in subsection (a) of Section 3 hereof) of Series G Preferred Stock shall be subject in all respects to any and all restrictions and limitations placed on dividends, redemptions or other distributions by the Bank (or any such other entity) under (i) laws, regulations and regulatory conditions or limitations applicable to or regarding the Bank (or any such other entity) from time to time and (ii) agreements with federal or state banking authorities with respect to the Bank (or any such other entity) from time to time in effect.