

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**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): **December 13, 2022**

**Orchid Island Capital, Inc.**  
(Exact Name of Registrant as Specified in Charter)

<b>Maryland</b>	<b>001-35236</b>	<b>27-3269228</b>
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)

**3305 Flamingo Drive, Vero Beach, Florida 32963**  
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code **(772) 231-1400**

**N/A**  
(Former Name or Former Address, if Changed Since Last Report)

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))

Securities registered pursuant to Section 12(b) of the Act:

<b>Title of each class:</b>	<b>Trading symbol:</b>	<b>Name of each exchange on which registered:</b>
Common Stock, par value \$0.01 per share	ORC	NYSE

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

**Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

On December 13, 2022, the Board of Directors (the “Board”) of Orchid Island Capital, Inc. (the “Company”) approved and adopted the Company’s Amended and Restated Bylaws (the “Amended and Restated Bylaws”) to update provisions relating to stockholder meetings to ensure compliance with federal proxy rules, including Rule 14a-19 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The Amended and Restated Bylaws became effective upon adoption by the Board. The Amended and Restated Bylaws include the following amendments, among other updates:

Article II (Meetings of Stockholders) has been updated to:

- Clarify that the Board may determine that a meeting of stockholders may be held by means of remote communication;
- Amend language to ensure that any stockholder casting a vote by proxy complies with Maryland law and the Amended and Restated Bylaws;
- Reflect the requirement that any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, with the white proxy card being reserved for exclusive use by the Board;
- Update the provisions related to the information required to be included in a stockholder’s notice of nomination of individuals for election as a director and the information required to be included in any notice of other business the stockholder proposes to bring before a meeting;
- Require a stockholder submitting a director nomination to make a written undertaking that such stockholder intends to solicit holders of shares representing at least 67% of the voting power of shares entitled to vote on the election of directors in support of the director nomination;
- Update the accompanying certifications made by a stockholder submitting a notice of nomination of individuals for election as a director; and
- Reflect that the Company will disregard any proxy authority granted in favor of any proposed director nominee if the stockholder soliciting proxies in support of such proposed nominee abandons the solicitation or does not comply with Rule 14a-19 under the Exchange Act.

The above description of certain provisions of the Amended and Restated Bylaws is not intended to be complete and is qualified in its entirety by reference to the full text of the Amended and Restated Bylaws filed as Exhibit 3.1 to this Form 8-K, which is incorporated herein by reference.

**Item 8.01. Other Events.**

On December 13, 2022, the Company also announced that the Board declared a dividend for the month of December 2022 of \$0.16 per share of the Company’s common stock, to be paid on January 27, 2023 to holders of record on December 30, 2022, with an ex-dividend date of December 29, 2022. In addition, the Company announced certain details of its RMBS portfolio as of November 30, 2022 as well as certain other information regarding the Company.

A copy of the Company’s press release announcing the dividend and the other information regarding the Company is attached hereto as Exhibit 99.1 and incorporated herein by this reference.

**Caution About Forward-Looking Statements.**

This Current Report on Form 8-K contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and other federal securities laws, including, but not limited to, statements about the Company’s distributions and expected funding of purchased assets. These forward-looking statements are based upon the Company’s present expectations, but the Company cannot assure investors that actual results will not vary from the expectations contained in the forward-looking statements. Investors should not place undue reliance upon forward looking statements. For further discussion of the factors that could affect outcomes, please refer to the “Risk Factors” section of the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2021. All forward-looking statements speak only as of the date on which they are made. New risks and uncertainties arise over time, and it is not possible to predict those events or how they may affect the Company. Except as required by law, the Company is not obligated to, and does not intend to, update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
3.1	<a href="#">Amended and Restated Bylaws of the Company</a>
99.1	<a href="#">Press Release dated December 13, 2022</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

**Signatures**

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

Date: December 13, 2022

ORCHID ISLAND CAPITAL, INC.

By: /s/ Robert E. Cauley

Robert E. Cauley  
Chairman and Chief Executive Officer

**ORCHID ISLAND CAPITAL, INC.**  
**AMENDED & RESTATED BYLAWS**

(As adopted by the Board of Directors on December 13, 2022)

**ARTICLE I**

**OFFICES**

Section 1.1 **Principal Office.** The principal office of Orchid Island Capital, Inc., a Maryland corporation (the “**Corporation**”), in the State of Maryland shall be located at such place as the board of directors of the Corporation (the “**Board of Directors**”) may designate.

Section 1.2 **Additional Offices.** The Corporation may have additional offices, including a principal executive office, at such places as the Board of Directors may from time to time determine or the business of the Corporation may require.

**ARTICLE II**

**MEETINGS OF STOCKHOLDERS**

Section 2.1 **Place.** All meetings of stockholders shall be held at the principal executive office of the Corporation or at such other place as shall be set in accordance with these Bylaws and stated in the notice of the meeting. The Board of Directors is authorized to determine that a meeting not be held at any place, but instead may be held partially or solely by means of remote communication. In accordance with these Bylaws and subject to any guidelines and procedures adopted by the Board of Directors, stockholders and proxy holders may participate in any meeting of stockholders held by means of remote communication and may vote at such meeting as permitted by Maryland law. Participation in a meeting by these means constitutes presence in person at the meeting.

Section 2.2 **Annual Meeting.** An annual meeting of stockholders for the election of directors and the transaction of any business within the powers of the Corporation shall be held on the date and at the time and place set by the Board of Directors.

Section 2.3 **Special Meetings.**

(a) **General.** Each of the Chair of the Board of Directors, Chief Executive Officer, President and Board of Directors may call a special meeting of stockholders. Except as provided in Section 2.3(b)(4), a special meeting of stockholders shall be held on the date and at the time and place set by the Chair of the Board of Directors, Chief Executive Officer, President, Board of Directors or by whoever has called the meeting. Subject to Section 2.3(b), a special meeting of stockholders shall also be called by the Secretary of the Corporation to act on any matter that may properly be considered at a special meeting of stockholders upon the written request of stockholders entitled to cast not less than a majority of all the votes entitled to be cast on such matter at such meeting.

(b) **Stockholder-Requested Special Meetings.**

(1) Any stockholder of record seeking to have stockholders request a special meeting shall, by sending written notice to the Secretary of the Corporation (the “**Record Date Request Notice**”) at the principal executive office of the Corporation by registered mail, return receipt requested, request the Board of Directors to fix a record date to determine the stockholders entitled to request a special meeting (the “**Request Record Date**”). The Record Date Request Notice shall set forth the purpose of the meeting and the matters proposed to be acted on at it, shall be signed by one or more stockholders of record as of the date of signature (or their agents duly authorized in a writing accompanying the Record Date Request Notice), shall bear the date of signature of each such stockholder (or such agent) and shall set forth all information relating to each such stockholder and each matter proposed to be acted on at the meeting that would be required to be disclosed in connection with the solicitation of proxies for the election of directors in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such a solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder (the

“Exchange Act”). Upon receiving the Record Date Request Notice, the Board of Directors may fix a Request Record Date. The Request Record Date shall not precede and shall not be more than ten (10) days after the close of business on the date on which the resolution fixing the Request Record Date is adopted by the Board of Directors. If the Board of Directors, within ten (10) days after the date on which a valid Record Date Request Notice is received, fails to adopt a resolution fixing the Request Record Date, the Request Record Date shall be the close of business on the tenth (10th) day after the first date on which such Record Date Request Notice is received by the Secretary.

(2) In order for any stockholder to request a special meeting to act on any matter that may properly be considered at a special meeting of stockholders, one or more written requests for a special meeting (collectively, the “**Special Meeting Request**”) signed by stockholders of record (or their agents duly authorized in a writing accompanying the request) as of the Request Record Date entitled to cast not less than a majority of all of the votes entitled to be cast on such matter at such meeting (the “**Special Meeting Percentage**”) shall be delivered to the Secretary. In addition, the Special Meeting Request shall (i) set forth the purpose of the meeting and the matters proposed to be acted on at it (which shall be limited to those lawful matters set forth in the Record Date Request Notice received by the Secretary), (ii) bear the date of signature of each such stockholder (or such agent) signing the Special Meeting Request, (iii) set forth (A) the name and address, as they appear in the Corporation’s books, of each stockholder signing such request (or on whose behalf the Special Meeting Request is signed), (B) the class, series and number of all shares of stock of the Corporation which are owned (beneficially or of record) by each such stockholder and (C) the nominee holder for, and number of, shares of stock of the Corporation owned beneficially but not of record by such stockholder, (iv) be sent to the Secretary by registered mail, return receipt requested, and (v) be received by the Secretary within sixty (60) days after the Request Record Date. Any requesting stockholder (or agent duly authorized in a writing accompanying the revocation of the Special Meeting Request) may revoke such stockholder’s request for a special meeting at any time by written revocation delivered to the Secretary.

(3) The Secretary shall inform the requesting stockholders of the reasonably estimated cost of preparing and mailing or delivering the notice of the meeting (including the Corporation’s proxy materials). The Secretary shall not be required to call a special meeting upon stockholder request and such meeting shall not be held unless, in addition to the documents required by Section 2.3(b)(2), the Secretary receives payment of such reasonably estimated cost prior to the preparation and mailing or delivery of such notice of the meeting.

(4) In the case of any special meeting called by the Secretary upon the request of stockholders (a “**Stockholder-Requested Meeting**”), such meeting shall be held at such place, date and time as may be designated by the Board of Directors; provided, however, that the date of any Stockholder-Requested Meeting shall be not more than ninety (90) days after the record date for such meeting (the “**Meeting Record Date**”); and provided further that if the Board of Directors fails to designate, within ten (10) days after the date that a valid Special Meeting Request is actually received by the Secretary (the “**Delivery Date**”), a date and time for a Stockholder-Requested Meeting, then such meeting shall be held at 2:00 p.m., local time, on the ninetieth (90th) day after the Meeting Record Date or, if such ninetieth (90th) day is not a Business Day (as defined below), on the first preceding Business Day; and provided further that in the event that the Board of Directors fails to designate a place for a Stockholder-Requested Meeting within ten (10) days after the Delivery Date, then such meeting shall be held at the principal executive office of the Corporation. In fixing a date for a Stockholder-Requested Meeting, the Board of Directors may consider such factors as it deems relevant, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for the meeting and any plan of the Board of Directors to call an annual meeting or a special meeting. In the case of any Stockholder-Requested Meeting, if the Board of Directors fails to fix a Meeting Record Date that is a date within thirty (30) days after the Delivery Date, then the close of business on the thirtieth (30th) day after the Delivery Date shall be the Meeting Record Date. The Board of Directors may revoke the notice for any Stockholder-Requested Meeting in the event that the requesting stockholders fail to comply with the provisions of Section 2.3(b)(3).

(5) If written revocations of the Special Meeting Request have been delivered to the Secretary and the result is that stockholders of record (or their agents duly authorized in writing), as of the Request Record Date, entitled to cast less than the Special Meeting Percentage have delivered, and not revoked, requests for a special meeting on the matter to the Secretary: (i) if the notice of meeting has not already been delivered, the Secretary shall refrain from delivering the notice of the meeting and send to all requesting stockholders who have not revoked such requests written notice of any revocation of a request for a special meeting on the matter, or (ii) if the notice of meeting has been delivered and if the Secretary first sends to all requesting stockholders who have not revoked requests for a special meeting on the matter written notice of any revocation of a request for the special meeting and written notice of the Corporation’s intention to revoke the notice of the meeting or for the chair of the meeting to adjourn the meeting without action on the matter, (A) the Secretary may revoke the notice of the meeting at any time before ten (10) days

before the commencement of the meeting or (B) the chair of the meeting may call the meeting to order and adjourn the meeting without acting on the matter. Any request for a special meeting received after a revocation by the Secretary of a notice of a meeting shall be considered a request for a new special meeting.

(6) The Chair of the Board of Directors, Chief Executive Officer, President or Board of Directors may appoint regionally or nationally recognized independent inspectors of elections to act as the agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of any purported Special Meeting Request received by the Secretary. For the purpose of permitting the inspectors to perform such review, no such purported Special Meeting Request shall be deemed to have been delivered to the Secretary until the earlier of (i) five (5) Business Days after receipt by the Secretary of such purported request and (ii) such date as the independent inspectors certify to the Corporation that the valid requests received by the Secretary represent, as of the Request Record Date, stockholders of record entitled to cast not less than the Special Meeting Percentage. Nothing contained in this paragraph (6) shall in any way be construed to suggest or imply that the Corporation or any stockholder shall not be entitled to contest the validity of any request, whether during or after such five (5) Business Day period, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

(7) For purposes of these Bylaws, "**Business Day**" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

Section 2.4 **Notice.** Not less than ten (10) nor more than ninety (90) days before each meeting of stockholders, the Secretary shall give to each stockholder entitled to vote at such meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting notice in writing or by electronic transmission stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, by mail, by presenting it to such stockholder personally, by leaving it at the stockholder's residence or usual place of business or by any other means permitted by Maryland law. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at the stockholder's address as it appears on the records of the Corporation, with postage thereon prepaid. If transmitted electronically, such notice shall be deemed to be given when transmitted to the stockholder by an electronic transmission to any address or number of the stockholder at which the stockholder receives electronic transmissions. The Corporation may give a single notice to all stockholders who share an address, which single notice shall be effective as to any stockholder at such address, unless such stockholder objects to receiving such single notice or revokes a prior consent to receiving such single notice. Failure to give notice of any meeting to one or more stockholders, or any irregularity in such notice, shall not affect the validity of any meeting fixed in accordance with this Article II or the validity of any proceedings at any such meeting.

Subject to Section 2.11(a) of this Article II, any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice. The Corporation may postpone or cancel a meeting of stockholders by making a public announcement (as defined in Section 2.11(c)(4) of this Article II) of such postponement or cancellation prior to the meeting. Notice of the date, time and place to which the meeting is postponed shall be given not less than ten (10) days prior to such date and otherwise in the manner set forth in this section.

Section 2.5 **Organization and Conduct.** Every meeting of stockholders shall be conducted by an individual appointed by the Board of Directors to be chair of the meeting or, in the absence of such appointment or appointed individual, by the Chair of the Board of Directors or, in the case of a vacancy in the office or absence of the Chair of the Board of Directors, by one of the following officers present at the meeting in the following order: the Vice Chair of the Board of Directors, if there is one, the Chief Executive Officer, the President, the Vice Presidents in their order of rank and seniority, the Secretary, or, in the absence of such officers, a chair chosen by the stockholders by the vote of a majority of the votes cast by stockholders present in person or by proxy. The Secretary, or, in the Secretary's absence, an Assistant Secretary, or, in the absence of both the Secretary and Assistant Secretaries, an individual appointed by the Board of Directors or, in the absence of such appointment, an individual appointed by the chair of the meeting shall act as secretary of the meeting. In the event that the Secretary presides at a meeting of stockholders, an Assistant Secretary, or, in the absence of all Assistant Secretaries, an individual appointed by the Board of Directors or the chair of the meeting, shall record the minutes of the meeting.

The order of business and all other matters of procedure at any meeting of stockholders shall be determined by the chair of the meeting. Except as otherwise prescribed by the Board of Directors, the chair of the meeting shall have the exclusive power to prescribe such rules, regulations and procedures and take such action as, in the discretion of the chair and without any

action by the stockholders, are appropriate for the proper conduct of the meeting, including, without limitation, (a) establishing an agenda or order of business for the meeting; (b) restricting admission to the time set for the commencement of the meeting; (c) limiting attendance at the meeting to stockholders of record of the Corporation, their duly authorized proxies and such other individuals as the chair of the meeting may determine; (d) limiting participation at the meeting on any matter to stockholders of record of the Corporation entitled to vote on such matter, their duly authorized proxies and other such individuals as the chair of the meeting may determine; (e) limiting the time allotted to questions or comments by participants; (f) determining when and for how long the polls should be opened and when the polls should be closed; (g) maintaining order and security at the meeting; (h) removing any stockholder or any other individual who refuses to comply with meeting procedures, rules or guidelines as set forth by the chair of the meeting; (i) concluding a meeting, or recessing, postponing, delaying or adjourning the meeting, for any reason, in the presence or absence of a quorum, to a later date and time and at a place announced at the meeting; (j) complying with any state and local laws and regulations concerning safety and security; and (k) restricting the use of audio or video recording devices at the meeting. The chair of the meeting, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter of business was not properly brought before the meeting and if such chair should so determine, such chair shall so declare to the meeting and any such matter of business not properly brought before the meeting shall not be transacted or considered. Unless otherwise determined by the chair of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

**Section 2.6 Quorum.** At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting on any matter shall constitute a quorum; but this section shall not affect any requirement under any statute or the charter of the Corporation (the “**Charter**”) for the vote necessary for the approval of any matter. If, however, such quorum is not established at any meeting of the stockholders, the chair of the meeting may adjourn the meeting sine die or from time to time to a date not more than one hundred twenty (120) days after the original record date without notice other than announcement at the meeting. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified. The stockholders present either in person or by proxy, at a meeting which has been duly called and at which a quorum has been established, may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough stockholders to leave fewer than would be required to establish a quorum.

**Section 2.7 Voting.** A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any matter which may properly come before the meeting other than the election of directors, unless more than a majority of the votes cast is required by statute or by the Charter or by Article XV of these Bylaws. A majority of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a director; provided, however, that if as of a date that is fourteen (14) days in advance of the date the Corporation files its definitive proxy statement (regardless of whether or not thereafter revised or supplemented) with the Securities and Exchange Commission the number of nominees (including those proposed nominees identified in any notices delivered pursuant to Section 2.11 and not withdrawn by such date, determined ineligible or determined by the Board of Directors (or a committee thereof) to not create a bona fide election contest) exceeds the number of directors to be elected, the directors shall be elected by a plurality of all the votes cast at any such meeting of stockholders duly called and at which a quorum is present. For the purposes of this section, a majority of all the votes cast means that the number of shares voted “For” a director must exceed the number of shares cast “Against” that director. Unless otherwise provided by statute or by the Charter, each outstanding share of the Corporation’s common stock, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of stockholders. Voting on any question or in any election may be viva voces unless the chair of the meeting shall order that voting be by ballot or otherwise.

**Section 2.8 Proxies.** A holder of record of shares of stock of the Corporation may cast votes in person or by a proxy that is (a) executed or authorized by the stockholder or by the stockholder’s duly authorized agent in any manner permitted by law, (b) compliant with Maryland law and these Bylaws and (c) filed in accordance with the procedures established by the Corporation. Such proxy or evidence of authorization of such proxy shall be filed with the Secretary of the Corporation before or at the meeting. No proxy shall be valid more than eleven (11) months after its date, unless otherwise provided in the proxy.

Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

**Section 2.9 Voting of Stock By Certain Holders.** Stock of the Corporation registered in the name of a corporation, partnership, trust, limited liability company or other entity, if entitled to be voted, may be voted by the president or a vice president, general partner, trustee or managing member thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such stock pursuant to a bylaw or a



resolution of the governing body of such corporation or other entity or agreement of the partners of a partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such stock. Any director or fiduciary may vote stock registered in the name of such person in the capacity of such director or fiduciary, either in person or by proxy.

Shares of stock of the Corporation directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Board of Directors may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date, the time after the record date within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the Board of Directors considers necessary or desirable. On receipt by the Corporation of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the holder of record of the specified stock in place of the stockholder who makes the certification.

Section 2.10 **Inspectors.** The Board of Directors or the chair of the meeting may appoint, before or at the meeting, one or more inspectors for the meeting and any successor to the inspector. Except as otherwise provided by the Board of Directors or the Chair of the meeting, the inspectors, if any, shall (a) determine the number of shares of stock represented at the meeting, in person or by proxy, and the validity and effect of proxies, (b) receive and tabulate all votes, ballots or consents, (c) report such tabulation to the chair of the meeting, (d) hear and determine all challenges and questions arising in connection with the right to vote, and (e) do such acts as are proper to fairly conduct the election or vote. Each such report shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be prima facie evidence thereof.

Section 2.11 **Advance Notice of Nominees for Director and Other Stockholder Proposals.**

(a) **Annual Meetings of Stockholders.**

(1) Nominations of individuals for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice by the stockholder as provided for in this Section 2.11(a), at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the annual meeting, and at the time of the annual meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with this Section 2.11(a).

(2) For any nomination or other business to be properly brought before an annual meeting by a stockholder pursuant Section 2.11(a)(1)(iii), the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and any such other business must otherwise be a proper matter for action by the stockholders. To be timely, a stockholder's notice shall set forth all information and certifications required under this Section 2.11 and shall be delivered to the Secretary at the principal executive office of the Corporation not earlier than the one hundred fiftieth (150th) day nor later than 5:00 p.m., Eastern Time, on the one hundred twentieth (120th) day prior to the first (1st) anniversary of the date of the proxy statement (as defined in Section 2.11(c)(4) of this Article II) for the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced or delayed by more than thirty (30) days from the first (1st) anniversary of the date of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the one hundred fiftieth (150th) day prior to the date of such annual meeting and not later than 5:00 p.m., Eastern Time, on the later of the one hundred twentieth (120th) day prior to the date of such annual meeting, as originally convened, or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made. The public announcement of a postponement or adjournment of an annual meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(3) A stockholder's notice described in Section 2.11(a)(2) shall set forth:

(i) As to each individual whom the stockholder proposes to nominate for election or reelection as a director (each, a **“Proposed Nominee”**), all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act.

(ii) As to any other business that the stockholder proposes to bring before the meeting, (A) a description of such business (including the text of any proposal), the stockholder’s reasons for proposing such business at the meeting and any material interest in such business of such stockholder or any Stockholder Associated Person (as defined below), individually or in the aggregate, including any anticipated benefit to the stockholder or the Stockholder Associated Person therefrom and (B) any other information relating to such item of business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies in support of the business proposed to be brought before the meeting pursuant to Regulation 14A (or any successor provision) of the Exchange Act.

(iii) As to the stockholder giving the notice, any Proposed Nominee and any Stockholder Associated Person: (A) the class, series and number of all shares of stock or other securities of the Corporation or any affiliate thereof (collectively, the **“Company Securities”**), if any, which are owned (beneficially or of record) by such stockholder, Proposed Nominee or Stockholder Associated Person, the date on which each such Company Security was acquired and the investment intent of such acquisition, and any short interest (including any opportunity to profit or share in any benefit from any decrease in the price of such stock or other security) in any Company Securities of any such person; (B) any derivative, swap or other transaction or series of transactions engaged in, directly or indirectly, by such stockholder, Proposed Nominee or Stockholder Associated Person, the purpose or effect of which is to give such stockholder, Proposed Nominee or Stockholder Associated Person economic risk similar to ownership of shares of any class or series of the Corporation, including due to the fact that the value of such derivative, swap or other transactions is determined by reference to the price, value or volatility of any shares of any class or series of the Corporation, or which derivative, swap or other transactions provides, directly or indirectly, the opportunity to profit from any increase in the price or value of shares of any class or series of the Corporation (**“Synthetic Equity Interests”**), which Synthetic Equity Interests shall be disclosed without regard to whether (x) the derivative, swap or other transactions convey any voting rights in such shares to such stockholder, Proposed Nominee or Stockholder Associated Person, (y) the derivative, swap or other transactions are required to be, or are capable of being, settled through delivery of such shares or (z) such stockholder, Proposed Nominee or Stockholder Associated Person may have entered into other transactions that hedge or mitigate the economic effect of such derivative, swap or other transactions, (C) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder, Proposed Nominee or Stockholder Associated Person has a right to vote or direct the voting power of any security of the Corporation, (D) any short interest in any security of the Corporation (for purposes of these Bylaws a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationships or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (E) any rights to dividends on the shares of stock of the Corporation owned beneficially by such stockholder, Proposed Nominee or Stockholder Associated Person that are separated from the underlying shares of stock of the Corporation, (F) any proportionate interest in shares of stock of the Corporation or Synthetic Equity Interests held, directly or indirectly, by a general or limited partnership in which such stockholder, Proposed Nominee or Stockholder Associated Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner, (G) any performance-related fees (other than an asset-based fee) that such stockholder, Proposed Nominee or Stockholder Associated Person is entitled to based on any increase or decrease in the value of shares of the Corporation, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder’s, Proposed Nominee’s or Stockholder Associated Person’s immediate family sharing the same household (which information required by this subsection (iii) shall be supplemented by such stockholder, Proposed Nominee or Stockholder Associated Person and beneficial owner, if any, not later than ten (10) days after the record date for the meeting to disclose such ownership as of the record date), (H) any substantial interest, direct or indirect (including, without limitation, any existing or prospective commercial, business or contractual relationship with the Corporation), by security holdings or otherwise, of such stockholder, Proposed Nominee or Stockholder Associated Person, in the Corporation or any affiliate thereof, other than an interest arising from the ownership of Company Securities where such stockholder, Proposed Nominee or Stockholder Associated Person receives no extra or special benefit not shared on a pro rata basis by all other

holders of the same class or series of Company Securities, (I) the nominee holder for, and number of Company Securities owned beneficially but not of record by such stockholder, Proposed Nominee or Stockholder Associated Person and (J) any other information relating to such stockholder, Proposed Nominee or Stockholder Associated Person and beneficial owner, if any, that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Regulation 14A (or any successor provision) of the Exchange Act.

(iv) As to the stockholder giving the notice, any Stockholder Associated Person with an interest or ownership referred to in clauses (ii) or (iii) of Section 2.11(a)(3) and any Proposed Nominee: (A) the name and address of such stockholder, as they appear on the Corporation's stock ledger, and the current name and business address, if different, of each such Stockholder Associated Person and any Proposed Nominee; and (B) the investment strategy or objective, if any, of such stockholder and each such Stockholder Associated Person who is not an individual and a copy of the prospectus, offering memorandum or similar document, if any, provided to investors or potential investors in such stockholder and each such Stockholder Associated Person.

(v) The name and address of any person who contacted or was contacted by the stockholder giving the notice or any Stockholder Associated Person about the Proposed Nominee or other business proposal prior to the date of such stockholder's notice.

(vi) To the extent known by the stockholder giving the notice, the name and address of any other person supporting the nominee for election or reelection as a director or the proposal of other business on the date of such stockholder's notice.

(vii) If the stockholder is proposing one or more Proposed Nominees, a representation that such stockholder, Proposed Nominee or Stockholder Associated Person intends or is part of a group which intends to solicit the holders of shares representing at least 67% of the voting power of shares entitled to vote on the election of directors in support of Proposed Nominees in accordance with Rule 14a-19 (or any successor provision) of the Exchange Act.

(viii) All other information regarding the stockholder giving the notice and each Stockholder Associated Person that would be required to be disclosed by the stockholder in connection with the solicitation of proxies for the election of directors in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such a solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act.

(4) Such stockholder's notice shall, with respect to any Proposed Nominee, be accompanied by:

(i) a written representation and agreement (in a form provided by the Secretary on written request) executed by the Proposed Nominee:

(A) certifying that such Proposed Nominee (I) is not and will not become a party to (x) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how the Proposed Nominee, if elected as a director of the Corporation, will act or vote on any issue or question (a "**Voting Commitment**") that has not been disclosed to the Corporation or (y) any Voting Commitment that could limit or interfere with the Proposed Nominee's ability to comply, if elected as a director of the Corporation, with the Proposed Nominee's duties under applicable law, (II) is not, and will not become a party to, any agreement, arrangement or understanding with any person or entity other than the Corporation in connection with service or action as a director that has not been disclosed to the Corporation, (III) will serve as a director of the Corporation if elected and will notify the Corporation simultaneously with the notification to the stockholder of the Proposed Nominee's actual or potential unwillingness or inability to serve as a director and (IV) does not need any permission or consent from any third party to serve as a director of the Corporation, if elected, that has not been obtained, including any employer or any other board or governing body on which such Proposed Nominee serves;

(B) attaching copies of any and all requisite permissions or consents; and

(C) attaching a completed Proposed Nominee questionnaire (which questionnaire shall be provided by the Corporation, upon request, to the stockholder providing the notice and shall include all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act, or would be required pursuant to the rules of any national securities exchange on which any securities of the Corporation are listed or over-the-counter market on which any securities of the Corporation are traded);

(ii) a certificate executed by the stockholder certifying that such stockholder will:

(A) comply with Rule 14a-19 (or any successor provision) promulgated under the Exchange Act in connection with such stockholder's solicitation of proxies in support of any Proposed Nominee;

(B) notify the Corporation as promptly as practicable of any determination by the stockholder to no longer solicit proxies for the election of any Proposed Nominee as a director at the annual meeting;

(C) furnish such other or additional information as the Corporation may request for the purpose of determining whether the requirements of this Section 2.11 have been complied with and evaluating any nomination or other business described in the stockholder's notice; and

(D) appear in person or by proxy at the meeting to nominate any Proposed Nominees to bring such business before the meeting, as applicable, and acknowledging that if the stockholder does not so appear in person or by proxy at the meeting to nominate such Proposed Nominees or bring such business before the meeting, as applicable, the Corporation need not bring such Proposed Nominee or such business for a vote at such meeting and any proxies or votes cast in favor of the election of any such Proposed Nominee or of any proposal related to such other business need not be counted or considered.

(5) Notwithstanding anything in this Section 2.11(a) to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased, and there is no public announcement of such action at least one hundred thirty (130) days prior to the first (1st) anniversary of the date of the proxy statement (as defined in Section 2.11(c)(4) of this Article II) for the preceding year's annual meeting, a stockholder's notice required by clause (iii) of paragraph (a)(1) of this Section 2.11 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive office of the Corporation not later than 5:00 p.m., Eastern Time, on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

(6) For purposes of this Section 2.11, "**Stockholder Associated Person**" of any stockholder shall mean (i) any person acting in concert with such stockholder or another Stockholder Associated Person or who is otherwise a "participant" (as defined in Instruction 3 to Item 4 of Schedule 14A (or any successor provision) under the Exchange Act) in the solicitation, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depository) and (iii) any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such stockholder or such Stockholder Associated Person.

(b) **Special Meetings of Stockholders.** Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected only (1) by or at the direction of the Board of Directors or (2) provided that the special meeting has been called in accordance with Section 2.3(a) of this Article II for the purpose of electing directors, by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Section 2.11, at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the special meeting, and at the time of the special meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the notice procedures set forth in this Section 2.11. Section 2.11(a)(1)(iii) above shall be the exclusive means for a stockholder to propose business to be brought before a special meeting of the

stockholders. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more individuals to the Board of Directors, any stockholder may nominate an individual or individuals (as the case may be) for election as a director as specified in the Corporation's notice of meeting, if the stockholder's notice, containing all of the information and certifications required by Section 2.11(a)(4), is delivered to the Secretary at the principal executive office of the Corporation not earlier than the one hundred twentieth (120th) day prior to such special meeting and not later than 5:00 p.m., Eastern Time on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting. The public announcement of a postponement or adjournment of a special meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(c) **General.**

(1) If any information or certification submitted pursuant to this Section 2.11 by any stockholder proposing a nominee for election as a director or any proposal for other business at a meeting of stockholders, including any certification from a Proposed Nominee, shall be inaccurate in any material respect, such information or certification may be deemed not to have been provided in accordance with this Section 2.11. Any such stockholder shall notify the Corporation of any inaccuracy or change (within two (2) Business Days of becoming aware of such inaccuracy or change) in any such information or certification. Upon written request by the Secretary or the Board of Directors, any such stockholder or Proposed Nominee shall provide, within five (5) Business Days of delivery of such request (or such other period as may be specified in such request), (i) written verification, satisfactory, in the discretion of the Board of Directors or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 2.11, (ii) a written update of any information (including, if requested by the Corporation, written confirmation by such stockholder that it continues to intend to bring such nomination or other business proposal before the meeting and, if applicable, satisfy the requirements of Rule 14a-19 (or any successor provision) of the Exchange Act) submitted by the stockholder pursuant to this Section 2.11 as of an earlier date and (iii) an updated certification by each Proposed Nominee that such individual will serve as a director of the Corporation if elected. If a stockholder or Proposed Nominee fails to provide such written verification, update or certification within such period, the information as to which such written verification, update or certification was requested may be deemed not to have been provided in accordance with this Section 2.11.

(2) Only such individuals who are nominated in accordance with this Section 2.11 shall be eligible for election by stockholders as directors, and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with this Section 2.11. A stockholder proposing a Proposed Nominee shall have no right to (i) nominate a number of Proposed Nominees that exceeds the number of directors to be elected at the meeting or (ii) substitute or replace any Proposed Nominee unless such substitute or replacement is nominated in accordance with this Section 2.11 (including the timely provision of all information and certifications with respect to such substitute or replacement Proposed Nominee in accordance with the deadlines set forth in this Section 2.11). If the Corporation provides notice to a stockholder that the number of Proposed Nominees proposed by such stockholder exceeds the number of directors to be elected at a meeting, the stockholder must provide written notice to the Corporation within five (5) Business Days stating the names of the Proposed Nominees that have been withdrawn so that the number of Proposed Nominees proposed by such stockholder no longer exceeds the number of directors to be elected at a meeting. If any individual who is nominated in accordance with this Section 2.11 becomes unwilling or unable to serve on the Board of Directors, then the nomination with respect to such individual shall no longer be valid and no votes may validly be cast for such individual. The chair of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with this Section 2.11.

(3) Notwithstanding the foregoing provisions of this Section 2.11, the Corporation shall disregard any proxy authority granted in favor of, or votes for, director nominees other than the Corporation's nominees if the stockholder or Stockholder Associated Person (each, a "**Soliciting Stockholder**") soliciting proxies in support of such director nominees abandons the solicitation or does not (i) comply with Rule 14a-19 (or any successor provision) promulgated under the Exchange Act, including any failure by the Soliciting Stockholder to (A) provide the Corporation with any notices required thereunder in a timely manner or (B) comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) (or any successor provisions) promulgated under the Exchange Act or (ii) timely provide sufficient evidence, in the determination of the Board of Directors, sufficient to satisfy the Corporation that such Soliciting Stockholder has met the requirements of Rule 14a-19 (or any successor provision) promulgated under the Exchange Act in accordance with the following sentence. Any Soliciting Stockholder providing notice of nomination pursuant to this Section 2.11 shall, no later than five (5) Business Days prior to the applicable meeting, deliver to the Corporation (i) a certificate executed by such Soliciting Stockholder certifying that such Soliciting

Stockholder has met the requirements of Rule 14a-19(a) (or any successor provision) and (ii) sufficient evidence, in the judgment of the Board of Directors, that such Soliciting Stockholder has met the requirements of Rule 14a-19(a)(3) (or any successor provision) promulgated under the Exchange Act.

(4) For purposes of this Section 2.11, "the date of the proxy statement" shall have the same meaning as "the date of the company's proxy statement released to shareholders" as used in Rule 14a-8(e) promulgated under the Exchange Act, as interpreted by the Securities and Exchange Commission from time to time. "Public announcement" shall mean disclosure (i) in a press release reported by the Dow Jones News Service, Associated Press, Business Wire, PR Newswire or other widely circulated news or wire service or (ii) in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to the Exchange Act.

(5) Notwithstanding the foregoing provisions of this Section 2.11, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.11. Nothing in this Section 2.11 shall be deemed to affect any right of a stockholder to request inclusion of a proposal in, or the right of the Corporation to omit a proposal from, the Corporation's proxy statement pursuant to Rule 14a-8 (or any successor provision) under the Exchange Act. Nothing in this Section 2.11 shall require disclosure of revocable proxies received by the stockholder or Stockholder Associated Person pursuant to a solicitation of proxies after the filing of an effective Schedule 14A by such stockholder or Stockholder Associated Person under Section 14(a) of the Exchange Act.

Section 2.12 **Voting by Ballot.** Voting on any question or in any election may be viva voce unless the chair of the meeting shall order that voting be by ballot.

Section 2.13 **Control Share Acquisition Act.** Notwithstanding any other provision of the Charter or these Bylaws, Title 3, Subtitle 7 of the Maryland General Corporation Law (or any successor statute) (the "MGCL") shall not apply to any acquisition by any person of shares of stock of the Corporation. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

### ARTICLE III

#### DIRECTORS

Section 3.1 **General Powers.** The business and affairs of the Corporation shall be managed under the direction of its Board of Directors.

Section 3.2 **Number, Tenure and Resignation.** At any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for that purpose, a majority of the entire Board of Directors may establish, increase or decrease the number of directors, provided that the number thereof shall never be less than the minimum number required by the MGCL nor more than fifteen (15), and further provided that the tenure of office of a director shall not be affected by any decrease in the number of directors. Directors shall hold their offices for terms expiring at the next annual meeting of stockholders of the Corporation and when their successors are duly elected and qualify. Any director of the Corporation may resign at any time by delivering a resignation to the Board of Directors, the Chair of the Board of Directors or the Secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation.

Section 3.3 **Annual and Regular Meetings.** An annual meeting of the Board of Directors shall be held immediately after and at the same place as the annual meeting of stockholders, with no notice other than this Bylaw being necessary. In the event such meeting is not so held, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors. The Board of Directors may provide, by resolution, the time and place for the holding of regular meetings of the Board of Directors without other notice than such resolution.

Section 3.4 **Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the Chair of the Board of Directors, the Chief Executive Officer, the President or a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix any place as the place for holding any special meeting of the Board of Directors called by them. The Board of Directors may provide, by resolution, the time and place for the holding of special meetings of the Board of Directors without other notice than such resolution.

Section 3.5 **Notice.** Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, electronic mail, facsimile transmission, courier or United States mail to each director at such director's business or residence address. Notice by personal delivery, telephone, electronic mail or facsimile transmission shall be given at least twenty-four (24) hours prior to the meeting. Notice by United States mail shall be given at least three (3) days prior to the meeting. Notice by courier shall be given at least two (2) days prior to the meeting. Telephone notice shall be deemed to be given when the director or such director's agent is personally given such notice in a telephone call to which the director or such director's agent is a party. Electronic mail notice shall be deemed to be given upon transmission of the message to the electronic mail address given to the Corporation by the director. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the director and receipt of a completed answer-back indicating receipt. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board of Directors need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 3.6 **Quorum.** A majority of the directors shall constitute a quorum for transaction of business at any meeting of the Board of Directors, provided that, if less than a majority of such directors is present at such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to applicable law, the Charter or these Bylaws, the vote of a majority or other percentage of a particular group of directors is required for action, a quorum must also include a majority or such other percentage of such group.

The directors present at a meeting which has been duly called and at which a quorum has been established may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough directors to leave fewer than required to establish a quorum.

Section 3.7 **Voting.** The action of a majority of the directors present at a meeting at which a quorum is present shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws, provided that if, pursuant to applicable law, the Charter or these Bylaws, the vote of a majority or other percentage of a particular group of directors is required for action, a quorum must also include a majority or such other percentage of such group. If enough directors have withdrawn from a meeting to leave fewer than required to establish a quorum, but the meeting is not adjourned, the action of the majority of that number of directors necessary to constitute a quorum at such meeting shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws.

Section 3.8 **Organization.** At each meeting of the Board of Directors, the Chair of the Board of Directors or, in the absence of the Chair, the Vice Chair of the Board of Directors, if any, shall act as chair of the meeting. In the absence of both the Chair and Vice Chair of the Board of Directors, the Chief Executive Officer or, in the absence of the Chief Executive Officer, the President or, in the absence of the President, a director chosen by a majority of the directors present, shall act as chair of the meeting. The Secretary or, in the Secretary's absence, an Assistant Secretary of the Corporation, or, in the absence of the Secretary and all Assistant Secretaries, an individual appointed by the Chair, shall act as secretary of the meeting.

Section 3.9 **Meetings by Remote Communication.** Directors may participate in a meeting by means of a conference telephone or other means of remote communication if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 3.10 **Consent by Directors Without a Meeting.** Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each director and is filed with the minutes of proceedings of the Board of Directors.

Section 3.11 **Vacancies.** If for any reason any or all the directors cease to be directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining directors hereunder. Except as may be provided by the Board of Directors in setting the terms of any class or series of preferred stock, any vacancy on the Board of Directors may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum. Any director elected to fill a vacancy shall serve for the remainder of the full term of the directorship in which the vacancy occurred and until a successor is elected and qualifies.

Section 3.12 **Chair of the Board of Directors.** The Board of Directors shall designate a Chair of the Board of Directors. The Board of Directors may designate the Chair of the Board of Directors as an executive or non-executive chair. The Chair of the Board of Directors shall preside over the meetings of the Board of Directors. The Chair of the Board of

Directors shall perform such other duties as may be assigned to the Chair of the Board of Directors by these Bylaws or the Board of Directors.

Section 3.13 **Compensation.** Directors shall not receive any stated salary for their services as directors but, by resolution of the Board of Directors, may receive compensation per year and/or per meeting and/or per visit to real property or other facilities owned or leased by the Corporation and for any service or activity they performed or engaged in as directors. Directors may be reimbursed for expenses of attendance, if any, at each annual, regular or special meeting of the Board of Directors or of any committee thereof and for their expenses, if any, in connection with each property visit and any other service or activity they perform or engage in as directors; but nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 3.14 **Reliance.** Each director and officer of the Corporation shall, in the performance of such director's or officer's duties with respect to the Corporation, be entitled to rely on any information, opinion, report or statement, including any financial statement or other financial data, prepared or presented by an officer or employee of the Corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented, by a lawyer, certified public accountant or other person, as to a matter which the director or officer reasonably believes to be within the person's professional or expert competence, or, with respect to a director, by a committee of the Board of Directors on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

Section 3.15 **Certain Rights of Directors and Officers.** Any director or officer, in such director's or officer's personal capacity or in a capacity as an affiliate, employee, or agent of any other person, or otherwise, may have business interests and engage in business activities similar to, in addition to or in competition with those of or relating to the Corporation.

Section 3.16 **Ratification.** The Board of Directors or the stockholders may ratify and make binding on the Corporation any action or inaction by the Corporation or its officers to the extent that the Board of Directors or the stockholders could have originally authorized the matter. Moreover, any action or inaction questioned in any stockholders' derivative proceeding or any other proceeding on the ground of lack of authority, defective or irregular execution, adverse interest of a director, officer or stockholder, non-disclosure, miscomputation, the application of improper principles or practices of accounting or otherwise, may be ratified, before or after judgment, by the Board of Directors or by the stockholders, and if so ratified, shall have the same force and effect as if the questioned action or inaction had been originally duly authorized, and such ratification shall be binding upon the Corporation and its stockholders and shall constitute a bar to any claim or execution of any judgment in respect of such questioned action or inaction.

Section 3.17 **Emergency Provisions.** Notwithstanding any other provision in the Charter or these Bylaws, this Section 3.17 shall apply during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the Board of Directors under Article III of these Bylaws cannot readily be obtained (an "**Emergency**"). During any Emergency, unless otherwise provided by the Board of Directors, (a) a meeting of the Board of Directors or a committee thereof may be called by any director or officer by any means feasible under the circumstances; (b) notice of any meeting of the Board of Directors during such an Emergency may be given less than twenty-four (24) hours prior to the meeting to as many directors and by such means as may be feasible at the time, including publication, television or radio, and (c) the number of directors necessary to constitute a quorum shall be one-third (1/3) of the entire Board of Directors.

#### ARTICLE IV

#### COMMITTEES

Section 4.1 **Number, Tenure and Qualifications.** The Board of Directors may appoint from among its members an Audit Committee, a Compensation Committee, a Nominating and Corporate Governance Committee and other committees, composed of one or more directors, to serve at the pleasure of the Board of Directors. The exact composition of each committee, including the total number of directors and the number of independent directors on each such committee, shall at all times comply with any applicable listing requirements and rules and regulations of the New York Stock Exchange or any other national securities exchange on which the Corporation's common stock is then listed, as such rules and regulations may be modified or amended from time to time, and the rules and regulations of the Securities and Exchange Commission, as such rules and regulations may be modified or amended from time to time.

Section 4.2 **Powers.** The Board of Directors may delegate to committees appointed under Section 4.1 of this Article IV any of the powers of the Board of Directors, except as prohibited by law.



Section 4.3 **Meetings.** Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board of Directors. A majority of the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The act of a majority of the committee members present at a meeting shall be the act of such committee. The Board of Directors may designate a chair of any committee, and such chair or, in the absence of a chair, any two (2) members of any committee (if there are at least two (2) members of the committee) may fix the time and place of its meeting unless the Board of Directors shall otherwise provide. In the absence of any member of any such committee, the members thereof present at any meeting, whether or not they constitute a quorum, may appoint another director to act in the place of such absent member.

Section 4.4 **Meetings by Remote Communication.** Members of a committee of the Board of Directors may participate in a meeting by means of a conference telephone or other means of remote communication if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 4.5 **Consent by Committees Without a Meeting.** Any action required or permitted to be taken at any meeting of a committee of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each member of the committee and is filed with the minutes of proceedings of such committee.

Section 4.6 **Removal and Vacancies.** Subject to the provisions hereof, the Board of Directors shall have the power at any time to change the membership or size of any committee (including the removal of any member of such committee), to fill any vacancy, to designate an alternate member to replace any absent or disqualified member or to dissolve any such committee.

## ARTICLE V

### OFFICERS

Section 5.1 **General Provisions.** The officers of the Corporation shall include a President, a Secretary and a Treasurer and may include a Chief Executive Officer, one (1) or more Vice Presidents, a Chief Operating Officer, a Chief Financial Officer, a Chief Investment Officer, a Chief Portfolio Officer, one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers. In addition, the Board of Directors may from time to time elect such other officers with such powers and duties as it shall deem necessary or desirable. The officers of the Corporation shall be elected annually by the Board of Directors, except that the Chief Executive Officer or President may from time to time appoint one or more Vice Presidents, Assistant Secretaries and Assistant Treasurers or other officers. Each officer shall serve until such officer's successor is elected and qualifies or until such officer's death, or such officer's resignation or removal in the manner hereinafter provided. Any two (2) or more offices except President and Vice President may be held by the same person. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 5.2 **Removal and Resignation.** Any officer or agent of the Corporation may be removed, with or without cause, by the Board of Directors if in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by delivering a resignation to the Board of Directors, the Chair of the Board of Directors, the Chief Executive Officer, the President or the Secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 5.3 **Vacancies.** A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 5.4 **Chief Executive Officer.** The Board of Directors may designate a Chief Executive Officer. In the absence of such designation, the Chair of the Board of Directors shall be the Chief Executive Officer of the Corporation. The Chief Executive Officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the management of the business and affairs of the Corporation. The Chief Executive Officer may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of Chief Executive Officer and such other duties as may be prescribed by the Board of Directors from time to time.

Section 5.5 **Chief Operating Officer.** The Board of Directors may designate a Chief Operating Officer. The Chief Operating Officer shall have the responsibilities and duties as set forth by the Board of Directors or Chief Executive Officer.

Section 5.6 **Chief Investment Officer.** The Board of Directors may designate a Chief Investment Officer. The Chief Investment Officer shall have the responsibilities and duties as set forth by the Board of Directors or Chief Executive Officer.

Section 5.7 **Chief Financial Officer.** The Board of Directors may designate a Chief Financial Officer. The Chief Financial Officer shall have the responsibilities and duties as set forth by the Board of Directors or Chief Executive Officer.

Section 5.8 **Chief Portfolio Officer.** The Board of Directors may designate a Chief Portfolio Officer. The Chief Portfolio Officer shall have the responsibilities and duties as set forth by the Board of Directors or Chief Executive Officer.

Section 5.9 **President.** In the absence of a Chief Executive Officer, the President shall in general supervise and control all of the business and affairs of the Corporation. In the absence of a designation of a Chief Operating Officer by the Board of Directors, the President shall be the Chief Operating Officer. The President may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 5.10 **Vice Presidents.** In the absence of the President or in the event of a vacancy in such office, the Vice President (or in the event there be more than one Vice President, Vice Presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the President and when so acting shall have all the powers of and be subject to all the restrictions upon the President; and shall perform such other duties as from time to time may be assigned to such Vice President by the Chief Executive Officer, the President or the Board of Directors. The Board of Directors may designate one or more Vice Presidents as Executive Vice President, Senior Vice President or as Vice President for particular areas of responsibility.

Section 5.11 **Secretary.** The Secretary shall (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation; (d) keep a register of the post office address of each stockholder which shall be furnished to the Secretary by such stockholder; (e) have general charge of the stock transfer books of the Corporation; and (f) in general perform such other duties as from time to time may be assigned to the Secretary by the Chief Executive Officer, the President or the Board of Directors.

Section 5.12 **Treasurer.** The Treasurer shall (a) have the custody of the funds and securities of the Corporation, (b) keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation, (c) deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors and (d) in general perform such other duties as from time to time may be assigned to the Treasurer by the Chief Executive Officer, the President or the Board of Directors. In the absence of a designation of a Chief Financial Officer by the Board of Directors, the Treasurer shall be the Chief Financial Officer of the Corporation.

The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and Board of Directors, at the regular meetings of the Board of Directors or whenever it may so require, an account of all the transactions as Treasurer and of the financial condition of the Corporation.

Section 5.13 **Assistant Secretaries; Assistant Treasurers.** The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or Treasurer, respectively, or by the Chief Executive Officer, the President or the Board of Directors.

Section 5.14 **Compensation.** The compensation of the officers shall be fixed from time to time by or under the authority of the Board of Directors. No officer shall be prevented from receiving such compensation by reason of the fact that such officer is also a director.

## ARTICLE VI

### CONTRACTS, CHECKS AND DEPOSITS

Section 6.1 **Contracts.** The Board of Directors or another committee of the Board of Directors within the scope of its delegated authority may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document shall be valid and binding upon the Corporation when duly authorized or ratified by action of the Board of Directors or such other committee and executed by an authorized person.

Section 6.2 **Checks and Drafts.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or agent of the Corporation in such manner as shall from time to time be determined by the Board of Directors.

Section 6.3 **Deposits.** All funds of the Corporation not otherwise employed shall be deposited or invested from time to time to the credit of the Corporation as the Board of Directors, the Chief Executive Officer, the President, the Chief Financial Officer, or any other officer designated by the Board of Directors may determine.

## ARTICLE VII

### STOCK

Section 7.1 **Certificates.** Except as may be otherwise provided by the Board of Directors, stockholders of the Corporation are not entitled to certificates representing the shares of stock held by them. In the event that the Corporation issues shares of stock represented by certificates, such certificates shall be in such form as prescribed by the Board of Directors or a duly authorized officer, shall contain the statements and information required by the MGCL and shall be signed by the officers of the Corporation in the manner permitted by the MGCL. In the event that the Corporation issues shares of stock without certificates, to the extent then required by the MGCL, the Corporation shall provide to the record holders of such shares a written statement of the information required by the MGCL to be included on stock certificates. There shall be no differences in the rights and obligations of stockholders based on whether or not their shares are represented by certificates.

Section 7.2 **Transfers.** All transfers of shares of stock shall be made on the books of the Corporation and the books of the transfer agent of the Corporation, if applicable, by the holder of the shares, in person or by such holder's attorney, in such manner as the Board of Directors or any officer of the Corporation may prescribe and, if such shares are certificated, upon surrender to the Corporation or, if authorized by the Corporation, the transfer agent of the Corporation of certificates duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, the Corporation, or, if authorized by the Corporation, the transfer agent of the Corporation, shall issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction on its books. The issuance of a new certificate upon the transfer of certificated shares is subject to the determination of the Board of Directors that such shares shall no longer be represented by certificates. Upon the transfer of any uncertificated shares, to the extent then required by the MGCL, the Corporation shall provide to the record holders of such shares a written statement of the information required by the MGCL to be included on stock certificates.

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by the laws of the State of Maryland. Notwithstanding the foregoing, transfers of shares of any class or series of stock will be subject in all respects to the Charter and all of the terms and conditions contained therein.

Section 7.3 **Replacement Certificate.** Any officer of the Corporation may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, destroyed, stolen or mutilated upon the making of an affidavit of that fact by the person claiming the certificate to be lost, destroyed, stolen or mutilated; provided, however, if such shares have ceased to be certificated, no new certificate shall be issued unless requested in writing by such stockholder and the Board of Directors has determined that such certificates may be issued. Unless otherwise determined by an officer of the Corporation, the owner of such lost, destroyed, stolen or mutilated certificate or certificates, or such owner's legal representative, shall be required, as a condition precedent to the issuance of a new certificate or certificates, to give the Corporation a bond in such sums as it may direct as indemnity against any claim that may be made against the Corporation.

Section 7.4 **Fixing of Record Date.** Subject to the provisions of Article II, Section 2.3, the Board of Directors may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other proper purpose. Such date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than ninety (90) days and, in the case of a meeting of stockholders, not less than ten (10) days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.

When a record date for the determination of stockholders entitled to notice of and to vote at any meeting of stockholders has been set as provided in this section, such record date shall continue to apply to the meeting if adjourned or postponed, except if the meeting is adjourned or postponed to a date more than one hundred twenty (120) days after the record date originally fixed for the meeting, in which case a new record date for such meeting may be determined as set forth herein.

Section 7.5 **Stock Ledger.** The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate stock ledger containing the name and address of each stockholder and the number of shares of each class held by such stockholder.

Section 7.6 **Fractional Stock; Issuance Of Units.** The Board of Directors may authorize the Corporation to issue fractional stock or authorize the issuance of scrip, all on such terms and under such conditions as it may determine. Notwithstanding any other provision of the Charter or these Bylaws, the Board of Directors may issue units consisting of different securities of the Corporation. Any security issued in a unit shall have the same characteristics as any identical securities issued by the Corporation, except that the Board of Directors may provide that for a specified period securities of the Corporation issued in such unit may be transferred on the books of the Corporation only in such unit.

## ARTICLE VIII

### ACCOUNTING YEAR

The Board of Directors shall have the power, from time to time, to fix the fiscal year of the Corporation by a duly adopted resolution.

## ARTICLE IX

### DISTRIBUTIONS

Section 9.1 **Authorization.** Dividends and other distributions upon the stock of the Corporation may be authorized by the Board of Directors, subject to the provisions of law and the Charter. Dividends and other distributions may be paid in cash, property or stock of the Corporation, subject to the provisions of law and the Charter.

Section 9.2 **Contingencies.** Before payment of any dividends or other distributions, there may be set aside out of any assets of the Corporation available for dividends or other distributions such sum or sums as the Board of Directors may from time to time, in its absolute discretion, think proper as a reserve fund for contingencies, for equalizing dividends, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors shall determine, and the Board of Directors may modify or abolish any such reserve.

## ARTICLE X

### INVESTMENT POLICIES

Subject to the provisions of the Charter, the Board of Directors may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Corporation as it shall deem appropriate in its sole discretion.

## ARTICLE XI

### SEAL

Section 11.1 **Seal.** The Board of Directors may authorize the adoption of a seal by the Corporation. The seal shall contain the name of the Corporation and the year of its incorporation, and the words "Incorporated Maryland." The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 11.2 **Affixing Seal.** Whenever the Corporation is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

## ARTICLE XII

### INDEMNIFICATION AND ADVANCE OF EXPENSES

To the maximum extent permitted by Maryland law in effect from time to time, the Corporation shall indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, shall pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (a) any individual who is a present or former director or officer of the Corporation and who is made or threatened to be made a party to the proceeding by reason of such person's service in that capacity or (b) any individual who, while a director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner, trustee, member or manager of another corporation, real estate investment trust, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to the proceeding by reason of such person's service in that capacity. The rights to indemnification and advance of expenses provided by the Charter and these Bylaws shall vest immediately upon election of a director or officer. The Corporation may, with the approval of its Board of Directors, provide such indemnification and advance for expenses to an individual who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation. The indemnification and payment or reimbursement of expenses provided in these Bylaws shall not be deemed exclusive of or limit in any way other rights to which any person seeking indemnification or payment or reimbursement of expenses may be or may become entitled under any bylaw, resolution, insurance, agreement or otherwise.

Neither the amendment nor repeal of this Article XII, nor the adoption or amendment of any other provision of the Charter or these Bylaws inconsistent with this Article XII, shall apply to or affect in any respect the applicability of the preceding paragraph with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

## ARTICLE XIII

### WAIVER OF NOTICE

Whenever any notice of a meeting is required to be given pursuant to the Charter or these Bylaws or pursuant to applicable law, a waiver thereof in writing or by electronic transmission, given by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice of such meeting, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

## ARTICLE XIV

### EXCLUSIVE FORUM FOR CERTAIN LITIGATION

Unless the Corporation consents in writing to the selection of an alternative forum, the Circuit Court for Baltimore City, Maryland, or, if that Court does not have jurisdiction, the United States District Court for the District of Maryland, Baltimore Division, shall be the sole and exclusive forum for (a) any Internal Corporate Claim, as such term is defined in Section 1-101(p) of the MGCL, or any successor provision thereof, (b) any derivative action or proceeding brought on behalf of the Corporation, (c) any action asserting a claim of breach of any duty owed by any director or officer or other employee of the Corporation to the Corporation or to the stockholders of the Corporation, (d) any action asserting a claim against the

Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the MGCL, the Charter or these Bylaws, or (e) any other action asserting a claim against the Corporation or any director or officer or other employee of the Corporation that is governed by the internal affairs doctrine. Unless the Corporation consents in writing, none of the foregoing actions, claims or proceedings shall be brought in any court sitting outside the State of Maryland.

#### **ARTICLE XV**

##### **AMENDMENT OF BYLAWS**

The Board of Directors shall have the power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws. In addition, these Bylaws may also be adopted, altered or repealed, and new Bylaws may be made, pursuant to a binding proposal that is (a) submitted to the stockholders for approval at a duly called annual meeting or special meeting of stockholders by (i) the Board of Directors or (ii) a stockholder who provides to the Corporation timely notice of such proposal that satisfies the notice procedures and all other relevant provisions of Article II of these Bylaws and who is, at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote on such matter, at the time such notice is delivered to the Corporation and as of such meeting, a stockholder that satisfies the ownership and other eligibility requirements of Rule 14a-8 under the Exchange Act and Article II of these Bylaws, and (b) approved by the stockholders by the affirmative vote of a majority of the votes entitled to be cast on the matter, except that the stockholders shall not have the power to alter or repeal Article XII (Indemnification and Advance of Expenses) or this Article XV or adopt any provision of these Bylaws inconsistent with Article XII or this Article XV, in either case, without the approval of the Board of Directors.

**ORCHID ISLAND CAPITAL ANNOUNCES  
DECEMBER 2022 MONTHLY DIVIDEND AND NOVEMBER 30, 2022 RMBS  
PORTFOLIO CHARACTERISTICS**

- December 2022 Monthly Dividend of \$0.16 Per Share of Common Stock
- RMBS Portfolio Characteristics as of November 30, 2022
- Estimated Book Value per common share of \$11.95 to \$12.05 as of December 9, 2022
- Next Dividend Announcement Expected January 11, 2023

Vero Beach, Fla., December 13, 2022 - Orchid Island Capital, Inc. (the "Company") (NYSE: ORC) announced today that the Board of Directors of the Company declared a monthly cash dividend for the month of December 2022. The dividend of \$0.16 per share will be paid January 27, 2023 to holders of record of the Company's common stock on December 30, 2022, with an ex-dividend date of December 29, 2022. The Company plans on announcing its next common stock dividend on January 11, 2023.

The Company intends to make regular monthly cash distributions to its holders of common stock. In order to qualify as a real estate investment trust ("REIT"), the Company must distribute annually to its stockholders an amount at least equal to 90% of its REIT taxable income, determined without regard to the deduction for dividends paid and excluding any net capital gain. The Company will be subject to income tax on taxable income that is not distributed and to an excise tax to the extent that a certain percentage of its taxable income is not distributed by specified dates. The Company has not established a minimum distribution payment level and is not assured of its ability to make distributions to stockholders in the future.

As of December 13, 2022 and November 30, 2022, the Company had 37,307,255 shares of common stock outstanding. As of September 30, 2022, the Company had 35,066,251 shares of common stock outstanding.

**RMBS Portfolio Characteristics**

Details of the RMBS portfolio as of November 30, 2022 are presented below. These figures are preliminary and subject to change. The information contained herein is an intra-quarter update created by the Company based upon information that the Company believes is accurate:

- RMBS Valuation Characteristics
- RMBS Assets by Agency
- Investment Company Act of 1940 (Whole Pool) Test Results
- Repurchase Agreement Exposure by Counterparty
- RMBS Risk Measures

**Estimated December 9, 2022 Book Value Per Share**

The Company estimates book value per share as of December 9, 2022 to be approximately \$11.95 to \$12.05 per share, an increase of approximately 5% to 10% from the book value at September 30, 2022 of \$11.42 per share. The estimated book value per share includes a deduction for the Company's November 2022 dividend that will be paid on December 28, 2022, which was declared on November 9, 2022 with a November 30, 2022 record date. The estimated book value per share is unaudited and has not been verified or reviewed by any third party. The Company undertakes no obligation to update or revise its estimated book value per share.

**About Orchid Island Capital, Inc.**

Orchid Island Capital, Inc. is a specialty finance company that invests on a leveraged basis in Agency RMBS. Our investment strategy focuses on, and our portfolio consists of, two categories of Agency RMBS: (i) traditional pass-through Agency RMBS, such as mortgage pass-through certificates and collateralized mortgage obligations issued by Fannie Mae, Freddie Mac or Ginnie Mae, and (ii) structured Agency RMBS. The Company is managed by Bimini Advisors, LLC, a registered investment adviser with the Securities and Exchange Commission.

**Forward-Looking Statements**

This press release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and other federal securities laws. These forward-looking statements include, but are not limited to, statements about the Company's distributions and expected funding of purchased assets. These forward-looking statements are based upon Orchid Island Capital, Inc.'s present expectations, but these statements are not guaranteed to occur. Investors should not place undue reliance upon forward-looking statements. For further discussion of the factors that could affect outcomes, please refer to the "Risk Factors" section of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2021.



RMBS Valuation Characteristics

(\$ in thousands)

Type	Current Face	Fair Value <sup>(1)</sup>	% of Portfolio	Current Price	Net Weighted Average Coupon	GWAC	Age	Weighted Average Maturity (Months)	Realized Nov 2022 CPR (1-Month) (Reported in Dec)	Realized Sep - Nov 2022 CPR (3-Month) (Reported in Dec)	Modeled Interest Rate Sensitivity (-50 BPS) <sup>(1)</sup>	Modeled Interest Rate Sensitivity (+50 BPS) <sup>(2)</sup>	
<b>Pass Through RMBS</b>													
15yr 4.0	\$ 402	\$ 396	0.01%	\$ 98.47	4.00%	4.54%	55	124	0.8%	0.8%	\$ 7	\$ (7)	
15yr Total	402	396	0.01%	98.47	4.00%	4.54%	55	124	0.8%	0.8%	7	(7)	
30yr 3.0	2,569,029	2,282,232	64.08%	88.84	3.00%	3.44%	19	337	5.1%	5.1%	70,791	(72,990)	
30yr 3.5	216,501	201,628	5.66%	93.13	3.50%	4.03%	33	318	6.7%	6.3%	5,383	(5,509)	
30yr 4.0	272,939	259,238	7.28%	94.98	4.00%	4.72%	17	341	5.3%	7.0%	6,013	(6,527)	
30yr 4.5	369,651	359,870	10.10%	97.35	4.50%	5.45%	5	355	1.7%	n/a	6,218	(7,188)	
30yr 5.0	440,411	438,310	12.31%	99.52	5.00%	5.90%	4	356	2.8%	0.8%	6,916	(8,128)	
30yr Total	3,868,531	3,541,278	99.43%	91.54	3.47%	4.03%	17	340	4.7%	5.0%	95,321	(100,342)	
<b>Total Pass Through RMBS</b>	<b>3,868,933</b>	<b>3,541,674</b>	<b>99.44%</b>	<b>91.54</b>	<b>3.47%</b>	<b>4.03%</b>	<b>17</b>	<b>340</b>	<b>4.7%</b>	<b>5.0%</b>	<b>95,328</b>	<b>(100,349)</b>	
<b>Structured RMBS</b>													
IO 20yr 4.0	10,964	1,149	0.03%	10.48	4.00%	4.57%	131	102	10.5%	10.0%	3	(5)	
IO 30yr 3.0	3,232	399	0.01%	12.34	3.00%	3.64%	94	256	3.9%	1.8%	(3)	-	
IO 30yr 4.0	92,311	16,767	0.47%	18.16	4.00%	4.60%	100	252	5.9%	6.5%	(586)	458	
IO 30yr 4.5	3,966	733	0.02%	18.47	4.50%	4.99%	149	197	6.6%	8.0%	(13)	9	
IO 30yr 5.0	2,216	443	0.01%	20.01	5.00%	5.36%	149	199	9.5%	5.3%	(12)	9	
IO Total	112,689	19,491	0.55%	17.30	4.01%	4.60%	105	234	6.4%	6.8%	(611)	471	
HIO 30yr 4.0	32,127	482	0.01%	1.50	0.58%	4.40%	62	287	9.2%	4.0%	104	(82)	
<b>Total Structured RMBS</b>	<b>144,816</b>	<b>19,973</b>	<b>0.56%</b>	<b>13.79</b>	<b>3.25%</b>	<b>4.55%</b>	<b>96</b>	<b>246</b>	<b>7.0%</b>	<b>6.1%</b>	<b>(507)</b>	<b>389</b>	
<b>Total Mortgage Assets</b>	<b>\$ 4,013,749</b>	<b>\$ 3,561,647</b>	<b>100.00%</b>		<b>3.46%</b>	<b>4.05%</b>	<b>19</b>	<b>337</b>	<b>4.8%</b>	<b>5.0%</b>	<b>\$ 94,821</b>	<b>\$ (99,960)</b>	
											<b>Interest Rate Sensitivity (-50 BPS)<sup>(2)</sup></b>	<b>Interest Rate Sensitivity (+50 BPS)<sup>(2)</sup></b>	
<b>Hedge</b>	<b>Average Notional Balance</b>	<b>Hedge Period End</b>											
5-Year Treasury Future <sup>(3)</sup>	\$ (750,500)	Mar-2023										\$ (15,942)	\$ 15,591
10-Year Treasury Ultra <sup>(4)</sup>	(174,500)	Mar-2023										(8,520)	8,060
Swaps	(1,400,000)	Jul-2028										(33,311)	32,236
TBA	(675,000)	Jan-2023										(18,218)	19,226
Swaptions	(613,000)	Jan-2024										(7,969)	9,714
<b>Hedge Total</b>	<b>\$ (3,613,000)</b>											<b>\$ (83,960)</b>	<b>\$ 84,827</b>

<b>Rate Shock Grand Total</b>	\$ 10,861	\$ (15,133)
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- (1) Amounts in the tables above include assets with a fair value of approximately \$285.3 million purchased in November 2022, which settle in December 2022.
- (2) Modeled results from Citigroup Global Markets Inc. Yield Book. Interest rate shocks assume instantaneous parallel shifts and horizon prices are calculated assuming constant LIBOR option-adjusted spreads. These results are for illustrative purposes only and actual results may differ materially.
- (3) Five-year Treasury futures contracts were valued at prices of \$108.57 at November 30, 2022. The market value of the short position was \$814.8 million.
- (4) Ten-year Treasury Ultra futures contracts were valued at prices of \$119.66 at November 30, 2022. The market value of the short position was \$208.8 million.

**RMBS Assets by Agency**  
(*\$ in thousands*)

<u>Asset Category</u>	<u>Fair Value<sup>(1)</sup></u>	<u>Percentage of Portfolio</u>
<b>As of November 30, 2022</b>		
Fannie Mae	\$ 2,335,494	65.6%
Freddie Mac	1,226,153	34.4%
<b>Total Mortgage Assets</b>	<b>\$ 3,561,647</b>	<b>100.0%</b>

**Investment Company Act of 1940 Whole Pool Test**  
(*\$ in thousands*)

<u>Asset Category</u>	<u>Fair Value<sup>(1)</sup></u>	<u>Percentage of Portfolio</u>
<b>As of November 30, 2022</b>		
Non-Whole Pool Assets	\$ 158,160	4.4%
<b>Whole Pool Assets</b>	<b>3,403,487</b>	<b>95.6%</b>
<b>Total Mortgage Assets</b>	<b>\$ 3,561,647</b>	<b>100.0%</b>

- (1) Amounts in the tables above include assets with a fair value of approximately \$285.3 million purchased in November 2022, which settle in December 2022.

**Borrowings By Counterparty**

(\$ in thousands)

<b>As of November 30, 2022</b>	<b>Total Borrowings<sup>(1)</sup></b>	<b>% of Total Debt</b>	<b>Weighted Average Repo Rate</b>	<b>Weighted Average Maturity in Days</b>	<b>Longest Maturity</b>
Mirae Asset Securities (USA) Inc.	\$ 312,687	10.3%	3.95%	64	5/18/2023
Merrill Lynch, Pierce, Fenner & Smith	271,064	8.9%	3.96%	7	12/28/2022
Daiwa Capital Markets America Inc.	250,859	8.2%	3.92%	15	12/15/2022
ING Financial Markets LLC	228,279	7.5%	3.90%	15	12/15/2022
Cantor Fitzgerald & Co	224,314	7.4%	3.93%	13	12/15/2022
ABN AMRO Bank N.V.	218,522	7.2%	3.92%	13	12/13/2022
J.P. Morgan Securities LLC	214,827	7.0%	3.95%	13	12/23/2022
RBC Capital Markets, LLC	213,759	7.0%	3.93%	14	12/15/2022
ED&F Man Capital Markets Inc	187,959	6.2%	3.85%	15	12/19/2022
Mitsubishi UFJ Securities (USA), Inc	178,009	5.8%	4.20%	37	1/30/2023
Goldman, Sachs & Co.	125,376	4.1%	3.99%	17	12/23/2022
Santander Bank, N.A.	116,178	3.8%	4.40%	55	1/27/2023
StoneX Financial Inc.	111,734	3.7%	3.92%	6	12/15/2022
Citigroup Global Markets Inc	103,509	3.4%	4.28%	45	1/23/2023
Wells Fargo Bank, N.A.	91,621	3.0%	3.92%	12	12/13/2022
BMO Capital Markets Corp.	77,708	2.5%	4.37%	54	1/23/2023
ASL Capital Markets Inc.	63,131	2.1%	4.03%	21	12/21/2022
South Street Securities, LLC	36,656	1.2%	3.97%	15	12/15/2022
Lucid Cash Fund USG, LLC	18,787	0.6%	3.92%	8	12/8/2022
Lucid Prime Fund, LLC	2,662	0.1%	3.92%	8	12/8/2022
<b>Total Borrowings</b>	<b>\$ 3,047,641</b>	<b>100.0%</b>	<b>3.99%</b>	<b>23</b>	<b>5/18/2023</b>

(1) In November 2022, the Company purchased assets with a fair value of approximately \$285.3 million, which settle in December 2022 that are expected to be funded substantially by repurchase agreements not included in the table above.

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