

or restrictions imposed by applicable laws and regulations.

(b) A majority of the directors of the converting association must adopt a plan of voluntary supervisory conversion that complies with the provisions of this subpart. The members of the association have no rights of approval or participation in the voluntary supervisory conversion, or to the continuance of any legal or beneficial ownership interests in the converted association, unless otherwise provided by the OTS. The members shall have interests in a liquidation account, if one is established, pursuant to § 563b.28 of this subpart.

[57 FR 49380, Nov. 2, 1992]

§ 563b.22 Purpose of subpart.

The purpose of this subpart is to give guidance to savings associations and potential acquirors of the stock of converting savings associations regarding the qualification of savings associations for a supervisory conversion under this subpart, and guidance as to the extent to which the Office will permit, by means of a supervisory conversion, deviations from the substantive and procedural requirements adopted by the Office for standard conversions under subpart A of this part.

§ 563b.23 Authorization of supervisory conversions.

(a) The OTS may authorize or order a voluntary supervisory conversion if a savings association files an application containing the information and documents specified in § 563b.27 of this subpart, in accordance with the procedures specified in § 563b.29 of this subpart, and meets the qualification standards specified in § 563b.24 of this subpart. If the OTS authorizes or orders a supervisory stock conversion, the conditions specified in § 563b.30 of this subpart must be fulfilled and the resulting institution and the purchaser(s) of its conversion stock must comply with the requirements of § 563b.31 of this subpart.

(b) In connection with approval of an association's conversion, the OTS may impose conditions and restrictions on the converting or resulting institution, the acquiror, and controlling parties, directors and officers of either, to pre-

vent unsafe or unsound practices, to protect the deposit insurance funds and the public interest, and to prevent potential injury or detriment to the converting or resulting association. The OTS generally will exercise this authority consistent with applicable supervisory policies.

(c) The OTS may deny an association's conversion if the Office determines that the converting or resulting association, the acquiror, or controlling parties or directors and officers of either, have engaged in unsafe or unsound practices in connection with the transaction, or that the transaction is detrimental to or would cause potential injury to the converting or resulting association, the Federal deposit insurance funds or is contrary to the public interest.

(d) For three years following the date of completion of a voluntary supervisory conversion, neither any controlling shareholder nor the resulting institution may acquire shares from minority shareholders without the prior approval of the OTS.

[57 FR 49381, Nov. 2, 1992]

§ 563b.24 Qualification for supervisory conversion of SAIF-insured associations.

(a) The OTS in its discretion may authorize the supervisory conversion of a SAIF-insured savings association upon finding that the association:

(1) Is significantly undercapitalized; and

(2) Would be a viable entity as determined under § 563b.26 of this subpart, following the conversion.

(b) The OTS in its discretion also may authorize the supervisory conversion of a SAIF-insured savings association upon finding that the association:

(1) Is undercapitalized;

(2) Demonstrates by clear evidence that a standard conversion that would raise sufficient capital to enable the association to be adequately capitalized is not feasible; and

(3) Would be a viable entity as determined under § 563b.26 of this subpart, following the conversion.

(c) Notwithstanding any other provision of law, the OTS also may authorize, (or in the case of a Federal savings association require), the conversion of

a savings association into a Federal savings association pursuant to section 5(p) of the Home Owners' Loan Act, 12 U.S.C. 1464(p).

[57 FR 49381, Nov. 2, 1992]

§ 563b.25 Qualification for supervisory conversion of BIF-insured savings associations.

(a) The Office may, in its discretion, concur with the determination of the FDIC that a BIF-insured mutual savings bank qualifies for a voluntary supervisory conversion if the FDIC certifies to the Office in accordance with section 5(o)(2)(C) of the Home Owners' Loan Act, 12 U.S.C. 1464(o)(2)(C), that severe financial conditions exist that threaten the stability of the savings bank and that the voluntary supervisory conversion is likely to improve the financial condition of the savings bank; or

(b) The Office may, in its discretion, authorize a BIF-insured savings association to undergo a voluntary supervisory conversion to Federal stock form if the following conditions have been met:

(1) The association's liabilities exceed its assets, as calculated under generally accepted accounting principles, assuming the association is a going concern; and

(2)(i) A sufficient amount of permanent capital stock is issued in connection with the voluntary supervisory conversion to allow the association to meet its capital requirement as established by the FDIC immediately upon completion of the conversion; or

(ii) The FDIC has indicated that, based upon the association's proposed post-conversion operating plan, the association would achieve a capital level acceptable to the FDIC within a period satisfactory to the FDIC.

§ 563b.26 Viability of converted savings association.

(a) An application of a SAIF-insured savings association to convert pursuant to this subpart may be approved by the Office in its discretion if it finds that the SAIF-insured savings association will be a "viable entity" following the conversion.

(b) A converting SAIF-insured association is a "viable entity" if:

(1) As part of the plan of conversion:

(i) The capital being infused into the association through its conversion is sufficient to cause the converted or resulting association to be adequately capitalized; provided that the OTS, in its discretion, may require higher capitalization as it deems appropriate for safety and soundness reasons; and

(ii) The converting association, its proposed conversion, and any acquiror(s) comply with applicable supervisory policies; and

(2) The transaction taken as a whole is in the best interest of, and does not present potential for injury or detriment to, the converting association, the federal deposit insurance funds, or the public interest.

[54 FR 49596, Nov. 30, 1989, as amended at 57 FR 49381, Nov. 2, 1992]

§ 563b.27 Application for voluntary supervisory stock conversion.

A savings association may apply for OTS approval of a voluntary supervisory conversion pursuant to this subpart by filing the following information and documents in accordance with the procedures specified in § 563b.29 of this subpart:

(a) A plan of conversion adopted by a majority of the directors of the association, which shall contain at a minimum the name and address of the savings association; the names, addresses, dates and places of birth, and social security numbers of the proposed purchasers of conversion stock and their relationship to the savings association; the title, per-unit par value, number, and per-unit and aggregate offering price of shares of conversion stock to be authorized and issued; the number and percentage of shares of conversion stock to be purchased by each investor, the aggregate number and percentage of shares of conversion stock to be purchased by directors, officers and their affiliates and associates (as defined in § 563b.2(a) of this part); a description of the liquidation account, if required under § 563b.28 of this subpart or if otherwise established; and certified copies of all resolutions of the board of directors relating to the Plan.

(b) A copy of any agreements between the savings association and the proposed conversion stock purchasers.