

§ 563b.25

(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

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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,