

BILLING CODE 6720-01 P

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

**12 CFR Part 543**

[No. 97-8~~P~~]

**RIN 1550-AB06**

**Incorporation, Organization, And Conversion of  
Federal Mutual Associations**

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of Thrift Supervision (OTS) is issuing a final rule amending its regulations governing conversions to federal mutual savings associations. The final rule permits the direct conversion of all types of mutual depository institutions into federal mutual savings associations. This final rule simplifies the conversion process.

**EFFECTIVE DATE:** [Insert date of publication in Federal Register.]

---

**FOR FURTHER INFORMATION CONTACT:** David A. Permut, Counsel (Banking and Finance) Business Transactions Division (202/906-7505); Scott Ciardi, Senior Analyst, Corporate Activities Division (202/906-6960); or Kevin A. Corcoran, Assistant Chief Counsel for Business Transactions (202/906-6962), Business Transactions Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The OTS is issuing a final regulation that permits all types of mutual depository institutions to convert directly to a federal mutual savings association charter.<sup>1</sup> The regulation is consistent with OTS's long-standing position that depository institutions should be free to operate under whatever charter best suits their business needs, consistent with safety and soundness. The OTS previously has granted federal savings associations explicit authority to convert directly to a bank charter,<sup>2</sup> and has promulgated regulations enabling stock depository institutions to convert directly to a

---

<sup>1</sup> Section 2(5) of the Home Owners' Loan Act defines "federal savings associations" to include federal savings associations and federal savings banks. Accordingly, references herein to federal savings associations include federal savings banks.

<sup>2</sup> 12 CFR 552.2-7.

federal stock savings association charter.<sup>3</sup>

The OTS published a notice of proposed rulemaking regarding direct conversions of mutual depository institutions to federal mutual charters in the Federal Register on April 2, 1997.<sup>4</sup> The public comment period closed on June 9, 1997. The OTS received two comments regarding the proposal, both from trade associations. Both commenters supported the proposal generally, without commenting on specific aspects of the proposed regulation. In light of the commenters' support and the OTS's continuing belief that this approach will promote efficiency and reduce regulatory burden, today's final regulation adopts the proposed regulation without changes.

## **II. Description of the Final Rule**

Pursuant to its authority under section 5(a) of the Home Owners' Loan Act ("HOLA"), the OTS is amending §§ 543.8 and 543.9 as proposed, to permit any type of mutual depository institution to convert directly to a federal mutual savings association.<sup>5</sup> Previously, mutual depository institutions could convert to a federal mutual charter indirectly, by chartering a federal mutual association, and combining the

---

<sup>3</sup> 12 CFR 552.2-6.

<sup>4</sup> 62 FR 17115 (April 9, 1997).

<sup>5</sup> As discussed in the proposal, section 5(a) of the HOLA gives the OTS plenary authority to provide for the organization and regulation of federal savings associations, consistent with the "best practices" of thrift institutions in the United States and for the purpose of encouraging such institutions to provide credit for housing safely and soundly.

er depository institution with the new federal association in a merger or purchase assumption transaction. The final regulation eliminates unnecessary regulatory requirements associated with indirect conversions. The rule applies all existing regulatory requirements currently applicable to direct conversions by state mutual associations and banks to this expanded class of applicants and revises §§ 543.8 and 543.9 as set forth below.

Section 543.8 permits conversions of mutual depository institutions to federal mutual associations, subject to three requirements. First, the institution must, upon completion of the conversion, have its deposits insured by the Federal Deposit Insurance Corporation ("FDIC"). See also § 543.9(c)(3).

The depository institution, in accomplishing the conversion, must comply with applicable state and federal statutes and regulations, and OTS policies, and obtain necessary regulatory and member approvals. This provision requires, among other things, that the converting depository institution have the authority to convert to a federal mutual association under the statutes and regulations applicable to the conversion and that the conversion be approved by a vote of its members applicable to the converting institution.

A depository institution converting to a federal mutual association is subject to the investment limitations of Section 5(c) of the HOLA<sup>6</sup> within a year of conversion as set forth by the OTS. Section 552.2-6 of the OTS regulations already

---

contains this requirement for federal stock associations.

The rule also revises Section 543.9(a) to set forth the filing requirements. Section 543.9(c) is revised to eliminate the statement that the OTS will not consider the application of a converting institution not insured by the FDIC until the FDIC completes an eligibility examination. The OTS does not believe it is necessary to delay consideration of an application until the eligibility examination has been completed. Moreover, the OTS has the ability to deem a conversion application incomplete, if processing of the application hinges on the final results of the eligibility examination, under the application processing procedures at Section 516.2.

In addition, Section 543.9(c) now explicitly provides that the OTS will consider applications to convert to a federal mutual charter under the standards set forth at section 5(e) of the HOLA, as well as Section 543.2(g). The revised regulation explicitly states that ~~converting institutions that have been in existence as depository~~ institutions for less than three years will be subject to all approval criteria and other requirements applicable to de novo federal associations.

The OTS notes that applicants utilizing the provisions of the new direct

---

See 12 CFR 543.3, added by 62 FR 27177, May 19, 1997.

**ATTACHMENT IS AVAILABLE UPON REQUEST**

**WRITE US AT:**

**DISSEMINATION BRANCH  
OFFICE OF THRIFT SUPERVISION  
1700 G STREET, NW  
WASHINGTON, DC 20552**

**FAX US AT:**

**202/906-7755**

**E-MAIL US AT:**

**PUBLIC.INFO@OTS.TREAS.GOV**