

§ 563b.185 How may a person comment on my application for conversion?

Anyone may submit a written comment supporting or opposing your application for conversion with OTS. To do so, commenters must file within 20 days after you notify the public under § 563b.180. A commenter must file the original and one copy of any comments with the Applications Filing Room in Washington, and two copies with the appropriate Regional Office at the addresses in § 516.40 of this chapter.

OTS REVIEW OF THE APPLICATION FOR CONVERSION

§ 563b.200 What actions may OTS take on my application?

(a) OTS may approve your application for conversion only if:

- (1) Your conversion complies with this part;
- (2) You will meet your regulatory capital requirements under part 567 of this chapter after the conversion; and
- (3) Your conversion will not result in a taxable reorganization under the Internal Revenue Code of 1986, as amended.

(b) OTS will review the appraisal required by § 563b.150(a)(2) in determining whether to approve your application. OTS will review the appraisal under the following requirements.

(1) Independent persons experienced and expert in corporate appraisal, and acceptable to OTS, must prepare the appraisal report.

(2) An affiliate of the appraiser may serve as an underwriter or selling agent, if you ensure that the appraiser is separate from the underwriter or selling agent affiliate and the underwriter or selling agent affiliate does not make recommendations or affect the appraisal.

(3) The appraiser may not receive any fee in connection with the conversion other than for appraisal services.

(4) The appraisal report must include a complete and detailed description of the elements of the appraisal, a justification for the appraisal methodology, and sufficient support for the conclusions.

(5) If the appraisal is based on a capitalization of your pro forma income, it must indicate the basis for determining

the income to be derived from the sale of shares, and demonstrate that the earnings multiple used is appropriate, including future earnings growth assumptions.

(6) If the appraisal is based on a comparison of your shares with outstanding shares of existing stock associations, the existing stock associations must be reasonably comparable in size, market area, competitive conditions, risk profile, profit history, and expected future earnings.

(7) OTS may decline to process the application for conversion and deem it materially deficient or substantially incomplete if the initial appraisal report is materially deficient or substantially incomplete.

(8) You may not represent or imply that OTS approved the appraisal.

(c) OTS will review your compliance record under part 563e of this chapter and your business plan to determine how you will serve the convenience and needs of your communities after the conversion.

(1) Based on this review, OTS may approve your application, deny your application, or approve your application on the condition that you will improve your CRA performance or that you will address the particular credit or lending needs of the communities that you will serve.

(2) OTS may deny your application if your business plan does not demonstrate that your proposed use of conversion proceeds will help you to meet the credit and lending needs of the communities that you will serve.

(d) OTS may request that you amend your application if further explanation is necessary, material is missing, or material must be corrected.

(e) OTS will deny your application if the application does not meet the requirements of this subpart, unless OTS waives the requirement under § 563b.5(c).

§ 563b.205 May a court review OTS's final action on my conversion?

(a) Any person aggrieved by OTS's final action on your application for conversion may ask the court of appeals of the United States for the circuit in which the principal office or residence of such person is located, or