

## § 563b.465

(3) If an account holder holds a savings account on the eligibility record date and a separate savings account on the supplemental eligibility record date, you must compute separate sub-accounts for the qualifying deposits in the savings account on each record date.

(b) You may not increase the initial sub-account balances. You must decrease the initial balance under § 563b.470 as depositors reduce or close their accounts.

### **§ 563b.465 Do account holders retain any voting rights based on their liquidation sub-accounts?**

Eligible account holders or supplemental eligible account holders do not retain any voting rights based on their liquidation sub-accounts.

### **§ 563b.470 Must I adjust liquidation sub-accounts?**

(a)(1) You must reduce the balance of an eligible account holder's or supplemental eligible account holder's sub-account if the deposit balance in the account holder's savings account at the close of business on any annual closing date, which for purposes of this section is your fiscal year end, after the relevant eligibility record dates is less than:

(i) The deposit balance in the account holder's savings account at the close of business on any other annual closing date after the relevant eligibility record date; or

(ii) The qualifying deposits in the account holder's savings account on the relevant eligibility record date.

(2) The reduction must be proportionate to the reduction in the deposit balance.

(b) If you reduce the balance of a liquidation sub-account, you may not subsequently increase it if the deposit balance increases.

(c) You are not required to adjust the liquidation account and sub-account balances at each annual closing date if you maintain sufficient records to make the computations if a liquidation subsequently occurs.

(d) You must maintain the liquidation sub-account for each account holder as long as the account holder main-

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tains an account with the same social security number.

(e) If there is a complete liquidation, you must provide each account holder with a liquidation distribution in the amount of the sub-account balance.

### **§ 563b.475 What is a liquidation?**

(a) A liquidation is a sale of your assets and settlement of your liabilities with the intent to cease operations and close. Upon liquidation, you must return your charter to the governmental agency that issued it. The government agency must cancel your charter.

(b) A merger, consolidation, or similar combination or transaction with another depository institution, is not a liquidation. If you are involved in such a transaction, the surviving institution must assume the liquidation account.

### **§ 563b.480 Does the liquidation account affect my net worth?**

The liquidation account does not affect your net worth.

### **§ 563b.485 What provision must I include in my new federal charter?**

If you convert to federal stock form, you must include the following provision in your new charter: "Liquidation Account. Under OTS regulations, the association must establish and maintain a liquidation account for the benefit of its savings account holders as of \_\_\_\_\_. If the association undergoes a complete liquidation, it must comply with OTS regulations with respect to the amount and priorities on liquidation of each of the savings account holder's interests in the liquidation account. A savings account holder's interest in the liquidation account does not entitle the savings account holder to any voting rights."

## POST-CONVERSION

### **§ 563b.500 May I implement a stock option plan or management or employee stock benefit plan?**

(a) You may implement a stock option plan or management or employee stock benefit plan within 12 months after your conversion, if you meet all of the following requirements.

(1) You disclose the plans in your proxy statement and offering circular

and indicate in the offering circular that there will be a separate vote on the plans at least six months after the conversion.

(2) You do not grant stock options under your stock option plan in excess of 10 percent of shares that you issued in the conversion.

(3) You do not permit your management stock benefit plans, in the aggregate, to hold more than three percent of the shares that you issued in the conversion. However, if you have tangible capital of 10 percent or more following the conversion, OTS may permit you to establish a management stock benefit plan that holds up to four percent of the shares that you issued in the conversion.

(4) You do not permit your tax-qualified employee stock benefit plan(s) and your management stock benefit plans, in the aggregate, to hold more than 10 percent of the shares that you issued in the conversion. However, if you have tangible capital of 10 percent or more following the conversion, OTS may permit your tax-qualified employee stock benefit plan(s) and your management stock benefit plans, in the aggregate, to hold up to 12 percent of the shares that you issued in the conversion.

(5) No individual receives more than 25 percent of the shares under any plan.

(6) Your directors who are not your employees do not receive more than five percent of the shares of any plan individually, or 30 percent of the shares of any plan in the aggregate.

(7) Your shareholders approve each plan by a majority of the total votes eligible to be cast at a duly called meeting before you establish or implement the plan. You may not hold this meeting until six months after your conversion. If you are a subsidiary of a mutual holding company, a majority of the total votes eligible to be cast (other than your parent mutual holding company) must approve each plan before you may establish or implement the plan.

(8) When you distribute proxies or related material to shareholders in connection with the vote on a plan, you state that the plan complies with OTS regulations and that OTS does not endorse or approve the plan in any way.

You may not make any written or oral representation to the contrary.

(9) You do not grant stock options at less than the market price at the time of grant.

(10) You do not use stock issued at the time of conversion to fund management or employee stock benefit plans.

(11) Your plan does not begin to vest earlier than one year after your shareholders approve the plan, and does not vest at a rate exceeding 20 percent a year.

(12) Your plan permits accelerated vesting only for disability or death, or if you undergo a change of control.

(13) Your plan provides that your executive officers or directors must exercise or forfeit their options in the event the institution becomes critically undercapitalized (as defined in §565.4 of this chapter), is subject to OTS enforcement action, or receives a capital directive under §565.7 of this chapter.

(14) You file a copy of the approved stock option plan or management or employee stock benefit plan with OTS and certify to OTS in writing that the plan approved by the shareholders is the same plan that you filed with, and disclosed in, the proxy materials distributed to shareholders in connection with the vote on the plan.

(15) You file the plan and the certification with OTS within five calendar days after your shareholders approve the plan.

(b) You may provide dividend equivalent rights or dividend adjustment rights to allow for stock splits or other adjustments to your stock in stock option plans or management or employee stock benefit plans under this section.

(c) If the plan is amended more than one year following your conversion, any material deviations to the requirements in paragraph (a) of this section must be ratified by your shareholders.

**§ 563b.505 May my directors, officers, and their associates freely trade shares?**

(a) Directors and officers who purchase conversion shares may not sell the shares for one year after the date of purchase, except that in the event of the death of the officer or director, the