

§ 563b.320

immediately deliver the amendment to each person who subscribed for or ordered shares in the offering.

(c) Your post-effective amendment must indicate that each person may increase, decrease, or rescind their subscription or order.

(d) The post-effective offering period must remain open no less than 10 days nor more than 20 days, unless OTS approves a longer rescission period.

OFFERS AND SALES OF STOCK

§ 563b.320 Who has priority to purchase my conversion shares?

You must offer to sell your shares in the following order:

- (a) Eligible account holders.
- (b) Tax-qualified employee stock ownership plans.
- (c) Supplemental eligible account holders.
- (d) Other voting members who have subscription rights.
- (e) Your community, your community and the general public, or the general public.

§ 563b.325 When may I offer to sell my conversion shares?

(a) You may offer to sell your conversion shares after OTS approves your conversion, authorizes your proxy statement, and declares your offering circular effective.

(b) The offer may commence at the same time you start the proxy solicitation of your members.

§ 563b.330 How do I price my conversion shares?

(a) You must sell your conversion shares at a uniform price per share and at a total price that is equal to the estimated pro forma market value of your shares after you convert.

(b) The maximum price must be no more than 15 percent above the midpoint of the estimated price range in your offering circular.

(c) The minimum price must be no more than 15 percent below the midpoint of the estimated price range in your offering circular.

(d) If OTS permits, you may increase the maximum price of conversion shares sold. The maximum price, as adjusted, must be no more than 15 percent above the maximum price com-

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puted under paragraph (b) of this section.

(e) The maximum price must be between \$5 and \$50 per share.

(f) You must include the estimated price in any preliminary offering circular.

§ 563b.335 How do I sell my conversion shares?

(a) You must distribute order forms to all eligible account holders, supplemental eligible account holders, and other voting members to enable them to subscribe for the conversion shares they are permitted under the plan of conversion. You may either send the order forms with your offering circular or after you distribute your offering circular.

(b) You may sell your conversion shares in a community offering, a public offering, or both. You may begin the community offering, the public offering, or both at any time during the subscription offering or upon conclusion of the subscription offering.

(c) You may pay underwriting commissions (including underwriting discounts). OTS may object to the payment of unreasonable commissions. You may reimburse an underwriter for accountable expenses in a subscription offering if the public offering is limited. If no public offering occurs, you may pay an underwriter a consulting fee. OTS may object to the payment of unreasonable consulting fees.

(d) If you conduct the community offering, the public offering, or both at the same time as the subscription offering, you must fill all subscription orders first.

(e) You must prepare your order form in compliance with this part and Form OF. You may obtain Form OF from OTS Washington and Regional Offices (see § 516.40 of this chapter) and OTS's website (<http://www.ots.treas.gov>).

§ 563b.340 What sales practices are prohibited?

(a) In connection with offers, sales, or purchases of conversion shares under this part, you and your directors, officers, agents, or employees may not:

- (1) Employ any device, scheme, or artifice to defraud;

(2) Obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary to make the statements, in light of the circumstances under which they were made, not misleading; or

(3) Engage in any act, transaction, practice, or course of business that operates or would operate as a fraud or deceit upon a purchaser or seller.

(b) During your conversion, no person may:

(1) Transfer, or enter into any agreement or understanding to transfer, the legal or beneficial ownership of subscription rights for your conversion shares or the underlying securities to the account of another;

(2) Make any offer, or any announcement of an offer, to purchase any of your conversion shares from anyone but you; or

(3) Knowingly acquire more than the maximum purchase allowable under your plan of conversion.

(c) The restrictions in paragraphs (b)(1) and (b)(2) of this section do not apply to offers for more than 10 percent of any class of conversion shares by:

(1) An underwriter or a selling group, acting on your behalf, that makes the offer with a view toward public resale; or

(2) One or more of your tax-qualified employee stock ownership plans so long as the plan or plans do not beneficially own more than 25 percent of any class of your equity securities in the aggregate.

(d) If any person is found to have violated the restrictions in paragraphs (b)(1) and (b)(2) of this section, they may face prosecution or other legal action.

§ 563b.345 How may a subscriber pay for my conversion shares?

(a) A subscriber may purchase conversion shares with cash, by a withdrawal from a savings account, or a withdrawal from a certificate of deposit. If a subscriber purchases shares by a withdrawal from a certificate of deposit, you may not assess a penalty for the withdrawal.

(b) You may not extend credit to any person to purchase your conversion shares.

§ 563b.350 Must I pay interest on payments for conversion shares?

(a) You must pay interest from the date you receive a payment for conversion shares until the date you complete or terminate the conversion. You must pay interest at no less than your passbook rate for amounts paid in cash, check, or money order.

(b) If a subscriber withdraws money from a savings account to purchase conversion shares, you must pay interest on the payment until you complete or terminate the conversion as if the withdrawn amount remained in the account.

(c) If a depositor fails to maintain the applicable minimum balance requirement because he or she withdraws money from a certificate of deposit to purchase conversion shares, you may cancel the certificate and pay interest at no less than your passbook rate on any remaining balance.

§ 563b.355 What subscription rights must I give to each eligible account holder and each supplemental eligible account holder?

(a) You must give each eligible account holder subscription rights to purchase conversion shares in an amount equal to the greater of:

(1) The maximum purchase limitation established for the community offering or the public offering under § 563b.395;

(2) One-tenth of one percent of the total stock offering; or

(3) Fifteen times the following number: The total number of conversion shares that you will issue, multiplied by the following fraction. The numerator is the total qualifying deposit of the eligible account holder. The denominator is the total qualifying deposits of all eligible account holders. You must round down the product of this multiplied fraction to the next whole number.

(b) You must give subscription rights to purchase shares to each supplemental eligible account holder in the same amount as described in paragraph (a) of this section, except that you must compute the fraction described in