

§ 563b.680

(1) You must satisfy any conditions and restrictions OTS imposes to prevent unsafe or unsound practices, to protect the Deposit Insurance Fund and the public interest, and to prevent potential injury or detriment to you before and after the conversion. OTS may impose these conditions and restrictions on you (before and after the conversion), your acquiror, controlling parties, or directors and officers of you or your acquiror; or

(2) You must infuse a larger amount of capital, if necessary, for safety and soundness reasons.

[67 FR 52020, Aug. 9, 2002, as amended at 71 FR 19812, Apr. 18, 2006]

OFFERS AND SALES OF STOCK

§ 563b.680 How do I sell my shares?

If you convert under this subpart, you must offer and sell your shares under part 563g of this chapter.

POST-CONVERSION

§ 563b.690 Who may not acquire additional shares after the voluntary supervisory conversion?

For three years after the completion of a voluntary supervisory conversion, neither you nor your controlling shareholder(s) may acquire shares from minority shareholders without OTS's prior approval.

PART 563c—ACCOUNTING REQUIREMENTS

Subpart A—Form and Content of Financial Statements

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Subpart B [Reserved]

Subpart C—Financial Statement Presentation

- 563c.101 Application of this subpart.
- 563c.102 Financial statement presentation.

AUTHORITY: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78m, 78n, 78w.

12 CFR Ch. V (1–1–10 Edition)

SOURCE: 54 FR 49627, Nov. 30, 1989, unless otherwise noted.

Subpart A—Form and Content of Financial Statements

§ 563c.1 Form and content of financial statements.

(a) This subpart A states the requirements as to form and content of financial statements included by a savings association in the following documents. However, the Office's regulations governing the applicable documents specify the actual financial statements that are to be included in that document.

(1) Any proxy statement or offering circular required to be used in connection with a conversion under part 563b of this chapter.

(2) Any offering circular or nonpublic offering materials required to be used in connection with an offer or sale of securities under part 563g of this chapter.

(3) Any filing under the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*, made pursuant to the requirements of part 563d of this chapter.

(b) Except as otherwise provided by the Office by rule, regulation, or order made specifically applicable to financial statements governed by this section, financial statements shall:

(1) Be prepared and presented in accordance with generally accepted accounting principles;

(2) Comply with subpart C of this part;

(3) Consistent with the provisions of this subpart, comply with articles 1, 2, 3, 4, 10, and 11 of Regulation S-X adopted by the Securities and Exchange Commission (17 CFR 210.1–210.4, 210.10, and 210.11).

(4) Be audited, when required, by an independent auditor in accordance with the standards imposed by the American Institute of Certified Public Accountants.

(c) The term “financial statements” includes all notes to the statements and related schedules.

§ 563c.2 Definitions.

(See also 17 CFR 210.1–02.)

Office of Thrift Supervision, Treasury

§ 563c.4

(a) *Registrant.* The term “registrant” means an applicant, a savings association, or any other person required to prepare financial statements in accordance with this subpart.

(b) *Significant subsidiary.* The term “significant subsidiary” means a subsidiary, including its subsidiaries, which meets any of the following conditions:

(1) The association’s and its other subsidiaries’ investments in and advances to the subsidiary exceed 10 percent of the total assets of the association and its subsidiaries consolidated as of the end of the most recently completed fiscal year (for purposes of determining whether financial statements of a business acquired or to be acquired in a business combination accounted for as a pooling of interests are required pursuant to 17 CFR 210.3-05, this condition is also met when the number of common shares exchanged by the association exceeds 10 percent of its total common shares outstanding at the date the combination is initiated); or

(2) The association’s and its other subsidiaries’ proportionate share of the total assets (after intercompany eliminations) of the subsidiary exceeds 10 percent of the total assets of the association and its subsidiaries consolidated as of the end of the most recently completed fiscal year; or

(3) The association’s and its other subsidiaries’ equity in the income from continuing operations before income taxes, extraordinary items, and cumulative effect of a change in accounting principle of the subsidiary exceeds 10 percent of such income of the association and its subsidiaries consolidated for the most recently completed fiscal year.

COMPUTATIONAL NOTE: For purposes of making the prescribed income test the following guidance should be applied:

1. When a loss has been incurred by either the parent or its consolidated subsidiaries or the tested subsidiary, but not both, the equity in the income or loss of the tested subsidiary should be excluded from the income of the association and its subsidiaries consolidated for purposes of the computation.

2. If income of the association and its subsidiaries consolidated for the most recent fiscal year is at least 10 percent lower than the average of the income for the last five

fiscal years, such average income should be substituted for purposes of the computation. Any loss years should be omitted for purposes of computing average income.

§ 563c.3 Qualification of public accountant.

(See also 17 CFR 210.2-01.)

The term “qualified public accountant” means a certified public accountant or licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States who is in good standing as such under the laws of the jurisdiction where the home office of the registrant to be audited is located. Any person or firm who is suspended from practice before the Securities and Exchange Commission or other governmental agency is not a “qualified public accountant” for purposes of this section.

[54 FR 49627, Nov. 30, 1989, as amended at 60 FR 66718, Dec. 26, 1995]

§ 563c.4 Condensed financial information [Parent only].

(a) The information prescribed by Schedule III required by section IV of § 563c.102 of this part shall be presented in a note to the financial statements when the restricted net assets (17 CFR 210.4-08(e)(3)) of consolidated subsidiaries exceed 25 percent of consolidated net assets as of the end of the most recently completed fiscal year. The investment in and indebtedness of and to association subsidiaries shall be stated separately in the condensed balance sheet from amounts for other subsidiaries; and the amount of cash dividends paid to the parent association for each of the last three years by association subsidiaries shall be stated separately in the condensed income statement from amounts for other subsidiaries.

(b) For purposes of the above test, restricted net assets of consolidated subsidiaries shall mean that amount of the association’s proportionate share of net assets of consolidated subsidiaries (after intercompany eliminations) which as of the end of the most recent year may not be transferred to the parent company by subsidiaries in the form of loans, advances, or cash dividends without the consent of a third