§ 575.3 Mutual holding company reorganizations.

A mutual savings association may reorganize to become a mutual holding company, or join in a mutual holding company reorganization as an acquiree association, only upon satisfaction of the following conditions:

(a) A Reorganization Plan is approved by a majority of the board of directors of the reorganizing association and any acquiree association;

(b) A Reorganization Notice is filed with the OTS and either:
   (1) The OTS has given written notice of its intent not to disapprove the proposed reorganization; or
   (2) Sixty days have passed since OTS received the Reorganization Notice and deemed it complete under §516.210 or §516.220 of this chapter, and OTS has not:
      (i) Given written notice that the proposed reorganization is disapproved; or
      (ii) Extended for an additional 30 days the period during which disapproval may be issued;

(c) The Reorganization Plan is submitted to the members of the reorganizing association and any acquiree association pursuant to a proxy statement cleared in advance by the OTS and such Reorganization Plan is approved by a majority of the total votes of the members of each association eligible to be cast at a meeting held at the call of each association’s directors.

§ 575.7 and containing the information required by §575.8, providing for the issuance of stock by:

(1) A savings association subsidiary of a mutual holding company; or

(2) A subsidiary holding company.

§ 575.3 Mutual holding company reorganizations.

(f) The term insider means any officer or director of a company or of any affiliate of such company, and any person acting in concert with any such officer or director.

(g) The term member means any depositor or borrower of a mutual savings association that is entitled, under the charter of the savings association, to vote on matters affecting the association, and any depositor or borrower of a savings association subsidiary of a mutual holding company that is entitled, under the charter of the mutual holding company, to vote on matters affecting the mutual holding company.

(h) The term mutual holding company means a mutual holding company organized under this part, and unless otherwise indicated, a subsidiary holding company controlled by a mutual holding company, organized under this part.

(i) The term parent has the same meaning as the term parent company specified at §583.15 of this chapter.

(j) The term Reorganization Notice means the notice of a proposed mutual holding company reorganization that is in the form and contains the information required by the OTS.

(k) The term Reorganization Plan means a plan to reorganize into a mutual holding company format containing the information required by §575.6 of this part.

(l) The term reorganizing association means a mutual savings association that proposes to reorganize to become a mutual holding company pursuant to this part.

(m) The term resulting association means a savings association in the stock form that is organized as a subsidiary of a reorganizing association to receive the substantial part of the assets and liabilities (including all deposit accounts) of the reorganizing association upon consummation of the reorganization.

(n) The term stock means common or preferred stock, or any other type of equity security, including (without limitation) warrants or options to acquire common or preferred stock, or other securities that are convertible into common or preferred stock.

(o) The term Stock Issuance Plan means a plan, submitted pursuant to
Office of Thrift Supervision, Treasury

§ 575.4 Grounds for disapproval of reorganizations.

(a) Basic standards. The OTS may disapprove a proposed mutual holding company reorganization pursuant to § 575.3(b) of this part if:

(1) Disapproval is necessary to prevent unsafe or unsound practices;

(2) The financial or managerial resources of the reorganizing association or any acquiree association warrant disapproval;

(3) The proposed capitalization of the mutual holding company fails to meet the requirements of paragraph (b) of this section;

(4) A stock issuance is proposed in connection with the reorganization pursuant to § 575.7 of this part that fails to meet the standards established by that section;

(5) The reorganizing association or any acquiree association fails to furnish the information required to be included in the Reorganization Notice or any other information requested by the OTS in connection with the proposed reorganization; or

(6) The proposed reorganization would violate any provision of law, including (without limitation) § 575.3(a) and (c) of this part (regarding board of directors and membership approval) or § 575.5(a) of this part (regarding continuity of membership rights).

(b) Capitalization. (1) The OTS shall disapprove a proposal by a reorganizing association or any acquiree association to capitalize a mutual holding company in an amount in excess of a nominal amount if immediately following the reorganization, the resulting association or the acquiree association would fail to be “adequately capitalized” as defined under 12 CFR part 565.

(2) Proposals by reorganizing associations and acquiree associations to capitalize mutual holding companies shall also comply with any applicable statutes, and with regulations or written policies of the OTS governing capital distributions by savings associations in effect at the time of the reorganization.

(c) Presumptive disqualifiers—(1) Managerial resources. The factors specified in § 574.7(g)(1)(i)–(g)(1)(vi) of this chapter shall give rise to a rebuttable presumption that the managerial resources test of paragraph (a)(2) of this section is not met. For this purpose, each place the term acquiror appears in § 574.7(g)(1)(i)–(g)(1)(vi) of this chapter, it shall be read to mean the reorganizing association or any acquiree association, and the reference in § 574.7(g)(1)(v) of this chapter to filings under this part shall be deemed to include filings under either part 574 of this chapter or this part.

(2) Safety and soundness and financial resources. Failure by a reorganizing association and any acquiree association to submit a business plan in connection with a Reorganization Notice, or submission of a business plan that projects activities that are inconsistent with the credit and lending needs of your proposed market area or that fails to demonstrate that the capital of the mutual holding company will be deployed in a safe and sound manner, shall give rise to a rebuttable presumption that the safety and soundness and financial resources tests of paragraphs (a)(1) and (a)(2) of this section are not met.