

(c) *Plan for governance of association during first six years after issuance of Federal charter.* (1)(i) An applicant for a Federal mutual savings bank charter may submit a plan which provides that each member of its governing board, *i.e.*, board of trustees, managers, or directors, may continue to serve, provided that within two years of the issuance of a Federal charter at least one-fifth of the members of such board shall have been elected by vote, either in person or by proxy, of the bank's membership as provided in its Federal charter, that within three years of the issuance of its Federal charter at least two-fifths of the members of such board shall have been elected by such a membership vote, that within four years of the issuance of its Federal charter at least three-fifths of the members of such board shall have been elected by such a membership vote, that within five years of the issuance of its Federal charter at least four-fifths of the members of such board shall have been elected by such a membership vote, and that within six years of the issuance of its Federal charter all of the members of such board shall have been elected by such a membership vote.

(ii) The plan:

(A) Shall set forth the names of those persons who are being proposed for service on the applicant's governing board after conversion to a Federal charter,

(B) Shall show how trustees not elected by the converted bank's membership will be appointed or otherwise selected, and

(C) Shall provide that no trustees may be appointed or elected to terms of more than three years.

(iii) The plan may provide that

(A) After receipt of its Federal charter the bank will be organized by its existing governing board,

(B) Within the first two years following receipt of its Federal charter, the bank's charter may be amended without a membership vote, provided any such amendment is first approved by a two-thirds vote of its board of trustees and is thereafter approved by the Office, and

(C) The bank's first annual membership meeting need not take place until

two years after receipt of its Federal charter.

(2) Except to the extent that the Office approves a plan under this paragraph (c) which is inconsistent with other provisions of this section, a Federal mutual savings bank shall in all respects comply with those other provisions.

[54 FR 49482, Nov. 30, 1989, as amended at 60 FR 66717, Dec. 26, 1995]

#### § 543.11-1 Grandfathered authority.

(a) A Federal savings bank formerly chartered or designated as a mutual savings bank under state law may exercise any authority it was authorized to exercise as a mutual savings bank under state law at the time of its conversion from a state mutual savings bank to a Federal or other state charter. Except to the extent such authority may be exercised by Federal savings associations not enjoying grandfathered rights hereunder, such authority may be exercised only to the degree authorized under state law at the time of such conversion. Unless otherwise determined by the Director, an association, in the exercise of grandfathered authority, may continue to follow applicable state laws and regulations in effect at the time of such conversion.

(b) A Federal savings association that acquires, or has acquired, a Federal savings bank by merger or consolidation may itself exercise any grandfathered rights enjoyed by the disappearing institution, whether such rights were obtained directly through conversion or through merger or consolidation. The extent of the grandfathered rights of a Federal savings association that disappeared prior to the effective date of this section shall be determined exclusively pursuant to this section.

(c) This section shall not be construed to prevent the exercise by a Federal savings association enjoying grandfathered rights hereunder of authority that is available under the applicable state law only upon the occurrence of specific preconditions, such as the attainment of a particular future date or specified level of regulatory capital, which have not occurred at the time of conversion from a state mutual

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savings bank, provided they occur thereafter.

(d) This section shall not be construed to permit the exercise of any particular authority on a more liberal basis than is allowable under the most liberal construction of either state or Federal law or regulation.

**§ 543.14 Continuity of existence.**

The corporate existence of an association converting under this part shall continue in its successor. Each savings or demand accountholder shall receive a savings account or accounts in the converted association equal in amount to the value of accounts held in the former association.

[54 FR 49482, Nov. 30, 1989, as amended at 61 FR 64015, Dec. 3, 1996]

**PART 544—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—CHARTER AND BYLAWS**

**CHARTER**

Sec.

- 544.1 Federal mutual charter.
- 544.2 Charter amendments.
- 544.4 Issuance of charter.

**BYLAWS**

- 544.5 Federal mutual savings association bylaws.
- 544.6 Effect of subsequent charter or bylaw change.

**AVAILABILITY**

- 544.7 In association offices.
- 544.8 Communication between members of a Federal mutual savings association.

AUTHORITY: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

SOURCE: 54 FR 49486, Nov. 30, 1989, unless otherwise noted.

**CHARTER**

**§ 544.1 Federal mutual charter.**

A Federal mutual savings association shall have a charter in the following form, which may include any of the additional provisions set forth in § 544.2 of this Part, if such provisions are specifically requested. A charter for a Federal mutual savings bank shall substitute the term "savings bank" for "association." The term "trustee" may be substituted for the term "director." Asso-

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ciations adopting this charter with existing borrower members must grandfather those borrower members who were members as of the date of issuance of the new charter by the Office. Such borrowers shall have one vote for the period of time such borrowings are in existence.

**FEDERAL MUTUAL CHARTER**

*Section 1. Corporate title.* The full corporate title of the Federal savings association is \_\_\_\_\_.

*Section 2. Office.* The home office shall be located in \_\_\_\_\_ [city, state].

*Section 3. Duration.* The duration of the association is perpetual.

*Section 4. Purpose and powers.* The purpose of the association is to pursue any or all of the lawful objectives of a Federal mutual savings association chartered under section 5 of the Home Owners' Loan Act and to exercise all the express, implied, and incidental powers conferred thereby and by all acts amendatory thereof and supplemental thereto, subject to the Constitution and laws of the United States as they are now in effect, or as they may hereafter be amended, and subject to all lawful and applicable rules, regulations, and orders of the Office of Thrift Supervision ("Office").

*Section 5. Capital.* The association may raise capital by accepting payments on savings and demand accounts and by any other means authorized by the Office.

*Section 6. Members.* All holders of the association's savings, demand, or other authorized accounts are members of the association. In the consideration of all questions requiring action by the members of the association, each holder of an account shall be permitted to cast one vote for each \$100, or fraction thereof, of the withdrawal value of the member's account. No member, however, shall cast more than 1000 votes. All accounts shall be nonassessable.

*Section 7. Directors.* The association shall be under the direction of a board of directors. The authorized number of directors shall not be fewer than five nor more than fifteen persons, as fixed in the association's bylaws, except that the number of directors may be decreased to a number less than five or increased to a number greater than fifteen with the prior approval of the Director of the Office or his or her delegate.

*Section 8. Capital, surplus, and distribution of earnings.* The association shall maintain for the purpose of meeting losses the amount of capital required by section 5 of the Home Owners' Loan Act and by regulations of the Office. The association shall distribute net earnings on its accounts on such basis and in accordance with such terms and conditions as may from time to time be authorized by the Director of the Office: *Provided*, That the