

§ 192.475

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 maintains 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.

§ 192.475 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.

§ 192.480 Does the liquidation account affect my net worth?

The liquidation account does not affect your net worth.

§ 192.485 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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."

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POST-CONVERSION

§ 192.500. What management stock benefit plans may I implement?

(a) During the 12 months after your conversion, you may implement a stock option plan (Option Plan), an employee stock ownership plan or other tax-qualified employee stock benefit plan (collectively, ESOP), and a management recognition plan (MRP), provided you meet all of the following requirements.

(1) You disclose the plans in your proxy statement and offering circular and indicate in your offering circular that there will be a separate shareholder vote on the Option Plan and the MRP at least six months after the conversion. No shareholder vote is required to implement the ESOP. Your ESOP must be tax-qualified.

(2) Your Option Plan does not encompass more than ten percent of the number of shares that you issued in the conversion.

(3)(i) Your ESOP and MRP do not encompass, in the aggregate, more than ten percent of the number of shares that you issued in the conversion. If you have tangible capital of ten percent or more following the conversion, the appropriate Federal banking agency may permit your ESOP and MRP to encompass, in the aggregate, up to 12 percent of the number of shares issued in the conversion; and

(ii) Your MRP does not encompass more than three percent of the number of shares that you issued in the conversion. If you have tangible capital of ten percent or more after the conversion, the appropriate Federal banking agency may permit your MRP to encompass up to four percent of the number of shares that you issued in the conversion.

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

(5) Your directors who are not your officers do not receive more than five percent of the shares of your MRP or Option Plan individually, or 30 percent of any such plan in the aggregate.

(6) Your shareholders approve each of the Option Plan and the MRP 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.

(7) When you distribute proxies or related material to shareholders in connection with the vote on a plan, you state that the plan complies with the appropriate Federal banking agency's regulations and that the appropriate Federal banking agency does not endorse or approve the plan in any way. You may not make any written or oral representations to the contrary.

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

(9) You do not fund the Option Plan or the MRP at the time of the conversion.

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

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

(12) 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 §165.4 of this chapter), is subject to appropriate Federal banking agency enforcement action, or receives a capital directive under §165.7 of this chapter.

(13) You file a copy of the proposed Option Plan or MRP with the appropriate Federal banking agency and certify to such agency 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.

(14) You file the plan and the certification with the appropriate Federal banking agency 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 your ESOP, MRP, and Option Plan.

(c) The restrictions in paragraph (a) of this section do not apply to plans implemented more than 12 months after the conversion, provided that materials pertaining to any shareholder

vote regarding such plans are not distributed within the 12 months after the conversion. If a plan adopted in conformity with paragraph (a) of this section is amended more than 12 months following your conversion, your shareholders must ratify any material deviations to the requirements in paragraph (a).

§ 192.505 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 successor in interest may sell the shares.

(b) You must include notice of the restriction described in paragraph (a) of this section on each certificate of stock that a director or officer purchases during the conversion or receives in connection with a stock dividend, stock split, or otherwise with respect to such restricted shares.

(c) You must instruct your stock transfer agent about the transfer restrictions in this section.

(d) For three years after you convert, your officers, directors, and their associates may purchase your stock only from a broker or dealer registered with the Securities and Exchange Commission. However, your officers, directors, and their associates may engage in a negotiated transaction involving more than one percent of your outstanding stock, and may purchase stock through any of your management or employee stock benefit plans.

§ 192.510 May I repurchase shares after conversion?

(a) You may not repurchase your shares in the first year after the conversion except:

(1) In extraordinary circumstances, you may make open market repurchases of up to five percent of your outstanding stock in the first year after the conversion if you file a notice under §192.515(a) and the appropriate Federal banking agency does not disapprove your repurchase. The appropriate Federal banking agency will not