

## Office of Thrift Supervision, Treasury

## § 544.2

Director of the Office of Thrift Supervision

Effective Date: \_\_\_\_\_

[54 FR 49486, Nov. 30, 1989, as amended at 61 FR 64015, Dec. 3, 1996]

### § 544.2 Charter amendments.

(a) *General.* In order to adopt a charter amendment, a Federal mutual savings association must comply with the following requirements:

(1) *Board of directors approval.* The board of directors of the association must adopt a resolution proposing the charter amendment that states the text of such amendment;

(2) *Form of filing*—(i) *Application requirement.* If the proposed charter amendment would: render more difficult or discourage a merger, proxy contest, the assumption of control by a mutual account holder of the association, or the removal of incumbent management; or involve a significant issue of law or policy; then, the association shall file the proposed amendment and obtain the prior approval of the OTS.

(ii) *Notice requirement.* If the proposed charter amendment does not involve a provision that would be covered by paragraph (a)(2)(i) of this section and is permissible under all applicable laws, rules and regulations, then the association shall submit the proposed amendment to the OTS, at least 30 days prior to the effective date of the proposed charter amendment.

(b) *Approval.* Any charter amendment filed pursuant to paragraph (a)(2)(ii) of this section shall automatically be approved 30 days from the date of filing of such amendment, provided that the association follows the requirements of its charter in adopting such amendment. This automatic approval does not apply if, prior to the expiration of such 30-day period, the OTS notifies the association that such amendment is rejected or that such amendment is deemed to be filed under the provisions of paragraph (a)(2)(i) of this section. In addition, notwithstanding anything in paragraph (a) of this section to the contrary, the following charter amendments, including the adoption of the Federal mutual charter as set forth in § 544.1 of this part, shall be effective and deemed approved at the time of adoption, if adopted without change

and filed with OTS, within 30 days after adoption, provided the association follows the requirements of its charter in adopting such amendments:

(1) *Purpose and powers.* Add a second paragraph to section 4, as follows:

*Section 4. Purpose and powers.* \* \* \* The association shall have the express power: (i) To act as fiscal agent of the United States when designated for that purpose by the Secretary of the Treasury, under such regulations as the Secretary may prescribe, to perform all such reasonable duties as fiscal agent of the United States as may be required, and to act as agent for any other instrumentality of the United States when designated for that purpose by any such instrumentality; (ii) To sue and be sued, complain and defend in any court of law or equity; (iii) To have a corporate seal, affixed by imprint, facsimile or otherwise; (iv) To appoint officers and agents as its business shall require and allow them suitable compensation; (v) To adopt bylaws not inconsistent with the Constitution or laws of the United States and rules and regulations adopted thereunder and under this Charter; (vi) To raise capital, which shall be unlimited, by accepting payments on savings, demand, or other accounts, as are authorized by rules and regulations made by the Office, and the holders of all such accounts or other accounts as shall, to such extent as may be provided by such rules and regulations, be members of the association and shall have such voting rights and such other rights as are thereby provided; (vii) To issue notes, bonds, debentures, or other obligations, or securities, provided by or under any provision of Federal statute as from time to time is in effect; (viii) To provide for redemption of insured accounts; (ix) To borrow money without limitation and pledge and otherwise encumber any of its assets to secure its debts; (x) To lend and otherwise invest its funds as authorized by statute and the rules and regulations of the Office; (xi) To wind up and dissolve, merge, consolidate, convert, or reorganize; (xii) To purchase, hold, and convey real estate and personalty consistent with its objects, purposes, and powers; (xiii) To mortgage or lease any real estate and personalty and take such property by gift, devise, or bequest; and (xiv) To exercise all powers conferred by law. In addition to the foregoing powers expressly enumerated, this association shall have power to do all things reasonably incident to the accomplishment of its express objects and the performance of its express powers.

(2) *Title change.* A Federal mutual savings association that has complied with § 543.1(b) of this chapter may amend its charter by substituting a new corporate title in section 1.

## § 544.4

(3) *Home office.* A Federal mutual savings association may amend its charter by substituting a new home office in section 2, if it has complied with applicable requirements of § 545.95 of this chapter.

(4) *Maximum number of votes.* A Federal mutual savings association may amend its charter by substituting \_\_\_\_\_ votes per member in section 6. [Fill in a number from 1 to 1000.]

(c) *Reissuance of charter.* A Federal mutual savings association that has amended its charter may apply to have its charter, including the amendments, reissued by the Office. Such request for reissuance should be filed with the Corporate Secretary at the Washington Headquarters Office at the address listed at § 516.40(b) of this chapter and contain signatures required under § 544.1 of this part, together with such supporting documents as may be needed to demonstrate that the amendments were properly adopted.

[54 FR 49486, Nov. 30, 1989, as amended at 55 FR 13510, Apr. 11, 1990; 57 FR 14339, Apr. 20, 1992; 61 FR 64016, Dec. 3, 1996; 63 FR 46160, Aug. 31, 1998; 66 FR 13005, Mar. 2, 2001; 69 FR 68248, Nov. 24, 2004]

### § 544.4 Issuance of charter.

Issuance by the Office of a charter to a Federal mutual savings association within the meaning of § 543.5 of this chapter constitutes the incorporation of that association by the Office.

## BYLAWS

### § 544.5 Federal mutual savings association bylaws.

(a) *General.* A Federal mutual savings association shall operate under bylaws that contain provisions that comply with all requirements specified by the OTS in this section and that are not otherwise inconsistent with the provisions of this section, the association's charter, and all other applicable laws, rules, and regulations *provided that*, a bylaw provision inconsistent with the provisions of this section may be adopted with the approval of the OTS. Bylaws may be adopted, amended or repealed by a majority of the votes cast by the members at a legal meeting or a majority of the association's board of directors. The bylaws for a Federal mu-

## 12 CFR Ch. V (1-1-12 Edition)

tual savings bank shall substitute the term "savings bank" for "association". The term "trustee" may be substituted for the term "director".

(b) The following requirements are applicable to Federal mutual savings associations:

(1) *Annual meetings of members.* An association shall provide for and conduct an annual meeting of its members for the election of directors and at which any other business of the association may be conducted. Such meeting shall be held, as designated by its board of directors, at a location within the state that constitutes the principal place of business of the association, or at any other convenient place the board of directors may designate, and at a date and time within 150 days after the end of the association's fiscal year. At each annual meeting, the officers shall make a full report of the financial condition of the association and of its progress for the preceding year and shall outline a program for the succeeding year.

(2) *Special meetings of members.* Procedures for calling any special meeting of the members and for conducting such a meeting shall be set forth in the bylaws. The subject matter of such special meeting must be established in the notice for such meeting. The board of directors of the association or the holders of 10 percent or more of the voting capital shall be entitled to call a special meeting. For purposes of this section, "voting capital" means FDIC-insured deposits as of the voting record date.

(3) *Notice of meeting of members.* Notice specifying the date, time, and place of the annual or any special meeting and adequately describing any business to be conducted shall be published for two successive weeks immediately prior to the week in which such meeting shall convene in a newspaper of general circulation in the city or county in which the principal place of business of the association is located, or mailed postage prepaid at least 15 days and not more than 45 days prior to the date on which such meeting shall convene to each of its members of record at the last address appearing on the books of the association. A similar notice shall be posted in a conspicuous place in