

1301:12-4-04

Conversion from mutual to stock.

(A) As used in this rule:

- (1) "Account holders" mean depositors of the savings bank.
- (2) "Acting in concert" means a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangement, whether written or otherwise, except that any of the savings bank's benefit plans will not be deemed to be acting in concert with its trustee or a person who serves in a similar capacity solely for the purpose of determining whether stock held by the trustee and stock held by the plan will be aggregated.
- (3) "All other account holders" mean any person, other than an eligible account holder, having a qualifying deposit on the record date established for purposes of determining persons eligible to vote at the meeting at which the plan of conversion will be submitted to the savings bank's members for approval.
- (4) "Eligibility record date" means the record date established in accordance with paragraph (F)(1)(j) of this rule in the plan of conversion for determining eligible account holders of an savings bank.
- (5) "Eligible account holder" means any person holding a deposit on the eligibility record date.
- (6) "Offering" means the provision for purchase of shares of stock in accordance with the approved plan of conversion.
- (7) "Officer" refers to a person who participates or has authority to participate, other than as a director, in major policymaking functions of the savings bank, whether or not the officer has an official title or is serving without salary or other compensation.
- (8) "Plan of conversion" means a formal plan adopted by the board of directors outlining the steps to be taken to effect the conversion to a stock company.
- (9) "Qualifying deposit" means the total deposit balances in an eligible account holder's savings accounts in the savings bank at the close of business on the eligibility record date.
- (10) "Sale" or "sell" includes every contract to sell or otherwise dispose of a security or interest in a security for value.
- (11) "Savings account" includes any withdrawable deposit account.
- (12) "Subscription offering" refers to the offering of shares of capital stock through

subscription rights issued pursuant to the plan of conversion.

(13) "Subscription rights" is the non-transferable right to purchase shares of stock under the terms of the plan of conversion in accordance with paragraph (F)(1)(a) of this rule.

(B) A mutual savings bank shall not convert to a stock savings bank unless the following conditions are satisfied:

(1) Two-thirds of the authorized members of the board of directors shall approve a plan of conversion.

(2) The board of directors shall notify its members of the adoption of the plan of conversion in accordance with paragraph (C) of this rule.

(3) An application containing the items specified in paragraph (D) of this rule shall be submitted to the superintendent.

(4) Public notice of the application shall be published upon acceptance of the application by the superintendent in accordance with paragraph (E)(2) of this rule.

(5) The application shall be approved in writing by the superintendent.

(6) Upon approval by the superintendent, the members shall be provided all information as hereafter specified in this rule to vote on the transaction.

(7) The members shall adopt the plan of conversion by the affirmative vote of three-fifths of the total outstanding votes eligible to be cast at the meeting at which the plan of conversion is presented to the members for adoption.

(8) All approvals, consents and authorizations required to be obtained from other regulatory or supervisory authorities shall be obtained.

(C) Promptly after the adoption of a plan of conversion by its board of directors, the savings bank shall notify its members of such action by publishing a statement in a newspaper printed in the English language and having general circulation in each community in which an office of the savings bank is located or by mailing a letter to each of its members. A savings bank may also issue a press release. The division of financial institutions may require broader publication, if necessary, to ensure adequate notice to all members.

(D) The application to be filed with the superintendent shall consist of the following:

(1) A certified board resolution approving the plan of conversion.

(2) The plan of conversion.

- (3) The proposed amendments to the articles of incorporation, constitution and bylaws for the savings bank to be converted.
- (4) A preliminary copy of the proxy statement, proxy form and offering materials to be used in connection with the conversion.
- (5) An independent appraisal prepared in accordance with paragraph (F)(2) of this rule of the estimated pro forma market value of the savings bank to be converted.
- (6) An opinion by either legal counsel or the savings bank's accountant as to the tax consequences of the conversion.
- (7) A copy of the proposed notice of the meeting of members to consider the plan of conversion.
- (8) A copy of the proposed business plan for the converted savings bank.

(E) Procedures for filing application.

(1) The savings bank shall file one copy of an application that is materially complete with the division of financial institutions and one copy with the appropriate federal supervisory agency(s). Any application that is materially incomplete may be returned to the savings bank by the division of financial institutions. Where any information filed pursuant to paragraph (D) of this rule is amended or revised in any material respect, amended documents shall be promptly filed with the division of financial institutions and any amendments or revisions shall be marked to clearly identify such changes made therein.

(2)

(a) Upon determination that the application is properly executed and contains all of the items specified in paragraph (D) of this rule, the division of financial institutions will advise the savings bank, in writing, to publish a notice of the filing of the application. Promptly after receipt of the advice, the savings bank shall prominently post the notice in each of its offices and publish a notice in a newspaper printed in the English language and having general circulation in each community in which an office of the savings bank is located, as follows:

NOTICE OF FILING OF AN APPLICATION TO CONVERT TO A STOCK SAVINGS BANK

Notice is hereby given that, pursuant to section 1161.111 of the Revised Code, _____ (name of savings bank) has filed

an application with the division of financial institutions requesting approval to convert to an Ohio-chartered permanent stock savings bank. The proposed plan of conversion will be available for inspection by any member of the _____ (name of savings bank) at each office of the _____ (name of savings bank). Comments or objections to the proposed conversion from any member of the _____ (name of savings bank) or interested party should be filed with the division of financial institutions at address 77 South High Street, 21st Floor, Columbus, Ohio, 43215-6120, within ten business days after the date of this notice.

(b) The notice required in paragraph (E) of this rule is to be substantially in the form set forth in paragraph (E)(2)(a) of this rule. However, the notice may be combined with any required federal notice(s).

(c) Promptly after publication of the notice or notices prescribed in paragraph (E)(2)(a) of this rule, the savings bank shall file a copy of each notice with the superintendent accompanied by a certificate certifying that the notice or notices have been published in accordance with the requirements of this rule.

(d) Anyone may file comments or objections in favor of or in protest of an application with the division of financial institutions within ten business days after the date of publication as required in paragraph (E)(2)(a) of this rule. A copy of all comments or objections filed with the division of financial institutions shall be furnished to the savings bank by the division of financial institutions.

(3) Subsequent to the approval of the application by the division of financial institutions, a final copy of all proxy materials shall be mailed to the division of financial institutions not later than the day after such material is first provided to the savings bank's members.

(4) The savings bank shall promptly file with the division of financial institutions after the meeting of the savings bank's members called to consider the plan of conversion the following documents:

(a) A certified copy of each resolution adopted at such meeting relating to the plan of conversion;

(b) A certificate certifying the total number of votes eligible to be cast at the meeting; the total number of votes represented in person or by proxy at the meeting; the total number of votes cast in favor of and against each resolution; and the number of votes necessary to approve each resolution.

(F) General principles for conversions.

(1) The Plan of conversion. The board of directors shall adopt a plan for the conversion from a mutual form of ownership to a stock form of ownership.

(a) The plan of conversion shall establish nontransferable subscription rights, the classes for these rights, and the priority of each class. The savings bank must utilize the eligible account holder subscription classes as described in paragraphs (F)(1)(a)(i) and (F)(1)(a)(iv) of this rule but may elect not to utilize any or all of the remaining classes. The eligible account holder subscription class described in paragraph (F)(1)(a)(i) of this rule shall have priority over all other subscription classes. The eligible account holder subscription class described in paragraph (F)(1)(a)(iv) of this rule shall have priority over the subscription classes described in paragraphs (F)(1)(a)(v) and (F)(1)(a)(vi) of this rule and may have priority over the subscription classes described in paragraphs (F)(1)(a)(ii) and (F)(1)(a)(iii) of this rule. The subscription classes are as follows:

(i) Each eligible account holder shall receive, without payment, nontransferable subscription rights to purchase stock in an amount determined on a pro rata basis based upon total eligible deposits up to a maximum of five per cent of the total offering of shares.

(ii) Tax-qualified employee benefit plans of the savings bank may receive, without payment, nontransferable subscription rights to purchase stock in an amount not to exceed ten per cent of the total offering of shares.

(iii) Non-tax qualified stock benefit plans for the directors, officers and employees of the savings bank may receive, without payment, nontransferable subscription rights to purchase stock in an amount not to exceed six per cent of the total offering of shares. Stock purchased by such non-tax qualified stock benefit plans may be awarded at no cost to the directors, officers and employees of the savings bank in recognition of their service to the savings bank.

(iv) Each eligible account holder purchasing the full amount which such person is entitled to purchase as an eligible account holder may receive, without payment, nontransferable subscription rights to purchase any remaining stock, subject to the aggregate purchase limitation provided in paragraph (F)(1)(c) of this rule. In the event of an oversubscription to stock pursuant to this class, shares shall

be allocated among the subscribing eligible account holders based on the proportion of each eligible account holder's qualifying deposit to the qualifying deposits of all eligible account holders who subscribe for shares.

(v) All other account holders may receive, without payment, nontransferable subscription rights to purchase stock. In the event of an oversubscription of stock pursuant to this class, shares shall be allocated among the subscribing other account holders based on the proportion of each other account holder's eligible deposit to the eligible deposits of all other account holders who subscribe for shares.

(vi) Any remaining shares of the savings bank may be sold either in a public offering through an underwriter or directly by the savings bank in a direct community offering, subject to such conditions as may be provided in the plan of conversion. The savings bank may commence the direct community offering or the public offering, or both, concurrently with or at any time during or after the subscription offering. However, should less than eighty-five per cent of the appraised value of the total offering of shares be sold to persons with subscription rights, either a public offering or a direct community offering must be conducted.

(a) The plan of conversion may limit purchases in either the public offering or the direct community offering by any person or any group of persons acting in concert to a specified amount, which amount shall not exceed five per cent of the total offering of shares.

(b) In the event of an oversubscription to shares in this class, orders in the public offering or the direct community offering shall be filled by allocating to each person a proportion of the available shares equal to the proportion of the shares ordered by such person to the shares ordered by all persons in the public offering or direct community offering.

(c) The savings bank may reject any order received in the public offering or direct community offering from any person other than natural persons residing in the counties in which the savings bank has an office.

(d) Any insignificant residue of shares of the savings bank not sold in the subscription offering or in a direct community offering or public offering may be sold in such other

manner as the board of directors shall determine and as approved by the division of financial institutions.

- (b) In connection with the conversion, the savings bank may establish one or more stock option plans for the benefit of the directors, officers and employees of the savings bank, subject to the following conditions:
- (i) A number of shares not to exceed, in the aggregate, ten per cent of the total offering of shares, may be reserved for the issuance of options pursuant to such plans.
 - (ii) The exercise price for stock options granted on the effective date of the conversion will not be less than the price per share at which shares are sold to subscribing eligible account holders.
 - (iii) No additional cash compensation shall be provided as part of the stock option plan.
 - (iv) The stock option plan shall provide that any option granted under the plan must be exercised within ten years of the date of grant.
- (c) The total number of shares which any person or any group of persons acting in concert may subscribe for or purchase in the conversion shall not exceed five per cent of the total offering of shares. Shares issued pursuant to benefit plans shall not be included for purposes of this limitation.
- (d) Capital stock purchased by directors and officers of the savings bank in the conversion shall not be sold for a period of one year after the date of purchase except in the event of death of the director or officer. This restriction must be noted on the individual stock certificates.
- (e) The sale price of the shares of stock to be sold in the conversion shall be a uniform price per share, except as provided in paragraph (H)(5) of this rule.
- (f) The plan of conversion may provide that any savings accounts with total deposit balances of less than fifty dollars shall not constitute a qualifying deposit.
- (g) Any person exercising subscription rights to purchase stock shall be required to purchase a specified minimum number of shares, which number shall not exceed twenty-five shares to the extent such shares are available, provided that the aggregate price for any minimum share purchase shall not exceed five hundred dollars.
- (h) Each savings account holder shall receive, without payment, a

withdrawable savings account or accounts in the converted savings bank equal in withdrawable amount to the withdrawal value of such account holder's savings account or accounts in the savings bank and under the same terms and conditions as their accounts before the conversion.

(i) The savings bank's plan of conversion shall be adopted by a two-thirds vote of the board of directors.

(j) An eligibility record date shall be established which is not less than ninety days and not more than one hundred eighty days prior to the date of adoption of the plan of conversion by the savings bank's board of directors.

(k) The plan of conversion may be amended by the board of directors at any time before it is approved by the superintendent and may be amended after receipt of the superintendent's approval but prior to the solicitation of proxies from members to vote on the plan with the prior approval of the superintendent. The conversion may be terminated by the board of directors at any time prior to the meeting of members called to consider the plan of conversion.

(l) The savings bank shall not lend funds collateralized by the stock of the converted savings bank to any person to purchase the stock of the converted savings bank.

(m) The conversion must be completed within twenty-four months of the date the superintendent approves the plan of conversion unless extended by the savings bank with the approval of the superintendent.

(2) Appraisal required.

(a) An estimated pro forma market value of the savings bank shall be established and set forth in a report by a person independent of the savings bank, experienced in the area of corporate appraisal and acceptable to the superintendent. The fee paid for the appraisal shall not be contingent upon completion of the conversion.

(b) The report of the appraiser shall contain data sufficient to support the conclusions reached therein.

(c) The estimated pro forma market value of the savings bank shall be established as of a date not more than thirty days before the application for conversion is filed with the superintendent.

(3) Within the first year after any conversion, the total cash compensation paid to any director or officer of the savings bank, not including any amounts

received under stock benefit plans, may not be increased by more than fifteen per cent from such director's or officer's compensation immediately before the conversion without the prior written approval of the superintendent.

(4) Liquidation account.

(a) Each converted savings bank shall, at the time of conversion, establish a liquidation account in an amount equal to its net worth as of the latest practical date prior to conversion. For the purposes of this paragraph, the savings bank shall use the net worth figure no later than that set forth in its latest statement of financial condition contained in the offering circular. Except as provided in paragraph (F)(5) of this rule, the existence of the liquidation account shall not operate to restrict the use or application of any of the other net worth accounts of the converted savings bank.

(b) The liquidation account shall be maintained by the converted savings bank for the benefit of eligible account holders who maintain their savings accounts in such savings bank after the conversion. Each such eligible account holder shall, with respect to each savings account held, have a related inchoate interest in a portion of the liquidation account balance.

(c) In the event of a dissolution of the converted savings bank pursuant to section 1161.66 of the Revised Code and only in such event, each eligible account holder shall be entitled to receive a distribution from the liquidation account in the amount of the then current adjusted subaccount balances before any distribution may be made with respect to capital. A merger, consolidation, charter conversion, or similar combination or transaction with another institution is not considered a dissolution for these purposes, and in such a transaction the liquidation account shall be assumed and preserved by the surviving institution.

(d) The initial subaccount balance for a savings account held by an eligible account holder shall be determined by multiplying the opening balance in the liquidation account by a fraction of which the numerator is the amount of qualifying deposits in such savings account on the eligibility record date, and the denominator is the total amount of qualifying deposits of all eligible account holders in the applicant on such dates. Such initial subaccount balances shall not be increased, and they shall be subject to downward adjustment as provided in this section.

(e) If the deposit balance in any savings account of an eligible account holder at the close of business on any fiscal year-end subsequent to the respective record dates is less than the lesser of:

- (i) The deposit balance in such savings account at the close of business on any other fiscal year-end subsequent to the eligibility record date; or
 - (ii) The amount of the qualifying deposit as of the eligibility record date, the subaccount balance for such savings account shall be adjusted by reducing such subaccount balance in an amount proportionate to the reduction in such deposit balance. In the event of such downward adjustment, the subaccount balance shall not be subsequently increased, notwithstanding any increase in the deposit balance of the related savings account. The converted savings bank shall not be required to recompute the liquidation account and subaccount balances provided the converted savings bank maintains records sufficient to make necessary computations in the event of a complete liquidation or such other events as may require a computation of the balance of the liquidation account. The liquidation subaccount of an account holder shall be maintained for as long as the account holder maintains an account with the same social security number.
- (5) No converted savings bank shall declare or pay a dividend on or repurchase any of its capital stock if such action would cause its regulatory capital to be reduced below the amount required for its liquidation account.
- (6)
- (a) Prior to the completion of a conversion, no person shall transfer, or enter into any agreement or understanding to transfer, the legal or beneficial ownership of conversion subscription rights, or the underlying securities, to the account of another person.
 - (b) Prior to the completion of a conversion, no person shall make any offer, or any announcement of an offer, for any security of the savings bank issued in connection with the conversion nor shall any person acquire securities of the converted savings bank issued in connection with the conversion in excess of the maximum purchase limitations established in the savings bank's approved plan or conversion pursuant to this rule.
- (7) No proxy soliciting material required to be filed with the superintendent prior to use shall be furnished to the savings bank members or otherwise released for distribution until the use of such material has been authorized in writing by the superintendent. Proxy material authorized for use by the superintendent shall be mailed to the savings bank's members within ten days of such authorization unless extended by the superintendent in writing.
- (8) No solicitation subject to this rule shall be made unless each person solicited is

concurrently furnished or has previously been furnished a written proxy statement, the use of which has been authorized by the superintendent.

(9) Requirements for proxy.

(a) Proxies held with respect to voting rights in the savings bank may not be voted regarding the conversion. New proxies must be solicited for voting on the proposed plan of conversion.

(b) The form of proxy subject to this section shall be prepared in accordance with the requirements of the Securities Exchange Act of 1934 and the regulations adopted and orders issued by the securities and exchange commission pursuant to such act.

(c) The proxy statement or form of proxy shall provide that, where the person solicited specifies a choice with respect to any matter to be acted upon, the votes will be voted in accordance with the specification so made; and that if no choice is so specified, the votes will be cast as indicated in bold face type on the form of proxy.

(d) Proxies solicited for the purpose of voting for the plan of conversion shall be revocable in accordance with section 1701.48 of the Revised Code.

(e) The disclosure in the proxy statement should:

(i) Specify under what basis and why, in considering the proposed transaction, the board of directors determined to undertake the proposed transaction. This discussion should include a statement that management believes that the plan of conversion is equitable to the account holders and to the savings bank and the basis for that belief.

(ii) Discuss the compensation and other benefits that will be received by the directors and officers following the proposed transaction as compared with current compensation and benefits structure.

(10) The savings bank shall perform the following acts as may be duly requested in writing by a member of the savings bank with respect to a matter to be considered at the meeting to vote on the plan of conversion by any member of the savings bank who will defray in advance the reasonable expense to be incurred by the savings bank in the performance of the act or acts requested.

(a) The savings bank shall mail or otherwise furnish to a member upon request the following information as promptly as practicable after the receipt of a request:

(i) A statement of the approximate number of savings bank members

who have been or are to be solicited on behalf of the management, or any group of savings bank members which a requesting savings bank member shall designate; and

(ii) An estimate of the cost of mailing a specified proxy statement, form of proxy or other communication to such savings bank members.

(b) Copies of any proxy statement, form of proxy or other communication furnished by the savings bank member and approved by the superintendent shall be mailed by the savings bank to such of the savings bank members as the savings bank member shall designate.

(c) Any such material which is furnished by the savings bank member shall be mailed with reasonable promptness by the savings bank after receipt of the material to be mailed, together with envelopes or other containers therefor and postage or payment for postage.

(d) Neither the management nor the savings bank shall be responsible for such proxy statement, form of proxy or other communication.

(11) No person soliciting a proxy from a savings bank member for the meeting to vote on the conversion shall solicit:

(a) Any undated or post-dated proxy;

(b) Any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the savings bank member; and

(c) Any proxy which is not revocable in accordance with section 1701.48 of the Revised Code.

(12)

(a) Following approval by the superintendent of an application for conversion, the plan of conversion shall be submitted at a meeting of members.

(b) A notice of the meeting to consider a plan of conversion shall be given not more than sixty nor fewer than twenty days prior to the date of the meeting to each savings bank member entitled to receive notice of the meeting.

(13) The plan shall be approved by three-fifths vote of the total votes eligible to be cast at the meeting. A vote for the approval of the plan of conversion shall be deemed a vote for the approval of the amended articles of incorporation, constitution and bylaws, unless the articles of incorporation, constitution or

bylaws of the converting savings bank require a greater proportion. Voting may be in person or by proxy.

(14)

(a)

(i) No offer to sell securities of a savings bank pursuant to a plan of conversion may be made prior to approval by the superintendent of the application for conversion, proxy statement and offering materials, and until the proxy statement has been authorized for use by the superintendent.

(ii) No sale of securities pursuant to this rule may be made except by means of offering materials which have been authorized for use by the superintendent. Such offering materials shall be prepared in accordance with the federal and state law.

(b) The proxy statement and offering materials authorized for use by the superintendent shall set forth the estimated pro forma market value of the savings bank and either:

(i) The price of each share, the minimum number of shares that must be sold in order to effect the conversion and the maximum number of shares that will be sold; or

(ii) The number of shares to be sold, the minimum aggregate subscription price which must be received in order to effect the conversion and the maximum aggregate subscription price which will be accepted. The minimum aggregate subscription price which must be received in order to effect the conversion must be not less than eighty-five per cent of the estimated pro forma market value of the savings bank, unless otherwise approved by the superintendent. The maximum aggregate subscription price which may be accepted shall be no more than one hundred fifteen per cent of the estimated pro forma market value of the converted savings bank. The price per share shall be no less than five dollars and no more than fifty dollars, unless otherwise approved by the superintendent.

(c) The division of financial institutions will review the price information required under this section in determining whether to give approval to an application for conversion. No representations may be made in any manner that such price information has been approved by the division of financial institutions or that the shares of stock sold pursuant to the plan of conversion have been approved or disapproved by the division of financial institutions or that the division of financial institutions has

passed upon the accuracy or adequacy of any offering material covering such shares. A bold print legend stating same will be placed upon the front cover of the offering materials.

(d)

(i) Promptly after the superintendent has authorized the use of the offering materials, the savings bank shall make available order forms for the purchase of shares of capital stock in the offering to all persons who have subscription rights under the plan of conversion.

(ii) Each order form shall be accompanied or preceded by the offering materials for the subscription offering, direct community offering or public offering, as applicable, and a set of detailed instructions explaining how to properly complete such order forms.

(iii) The subscription price stated on each order form shall be the amount to be paid when the order form is returned.

(iv) Each order form shall be prepared so as to indicate to the person receiving it, in as simple, clear and intelligible a manner as possible, the actions which are required or available to him or her with respect to the form and the stock offered for purchase thereby.

(v) The order form may provide that it may not be modified without the savings bank's consent after its receipt as set forth in the order form.

(e) Notwithstanding any regulatory provision regarding penalties for early withdrawal from certificate accounts, the savings bank may allow payment for capital stock pursuant to the exercise of subscription rights by withdrawal from a certificate account without the assessment of such penalties. In the case of early withdrawal of only a portion of such account, the certificate evidencing such account shall be cancelled if the applicable minimum balance requirement ceases to be met, and the remaining balance will earn interest at the rate paid on regular savings accounts of such size.

(f) The sale of all shares of stock of the savings bank to be made under the plan of conversion, including any sale in a direct community or public offering, shall be completed as promptly as possible and within forty-five calendar days after the last day of the subscription offering period.

(i) The superintendent may grant one or more extensions of the time

required to complete the sale of all shares of capital stock, provided that no single extension of time shall exceed ninety days.

(ii) Immediately upon the granting of an extension of time, the savings bank shall provide written notification of the extension to each subscriber in the subscription offering and, if applicable, each person who has ordered capital stock in the direct community offering or the public offering, which shall notify each subscriber and each ordering person of the right of each subscriber and each ordering person to increase, decrease, or rescind their subscription at any time prior to twenty days before the end of the extension period.

(iii) After the expiration of subscription rights and before consummation of the conversion, the savings bank shall file with and have declared effective by the superintendent a post-effective amendment to the offering materials delivered to subscribers upon the occurrence of any event, circumstance, or change of circumstance which would be material to the investment decision of a subscriber or, if applicable, a person who has ordered capital stock in the direct community offering or public offering. Each subscriber and each ordering person shall have at least twenty days from the date of the effective date of the post-effective amendment to increase, decrease, or rescind their subscriptions or orders.

(g) The savings bank shall pay interest at not less than the lowest passbook rate paid on its regular savings accounts on all amounts paid in cash or by check or money order to the savings bank to purchase shares of stock in the subscription offering or direct community offering or public offering from the date payment is received by the savings bank until the conversion is completed or terminated.

(G) Conversion in connection with the formation of a holding company. A savings bank may convert to a permanent stock form pursuant to this rule as part of a transaction in which a holding company is organized to acquire upon issuance all of the capital stock of the converted savings bank. In such a transaction, all persons with subscription rights as detailed in paragraph (F)(1)(a) of this rule shall receive, without payment, nontransferable rights to purchase capital stock of the holding company, rather than stock of the savings bank. Unless clearly inapplicable, all of the requirements of this rule shall apply to a conversion pursuant to this paragraph.

(H) Conversion in connection with an acquisition or merger.

(1) A savings bank may convert to a permanent stock form pursuant to this rule as

part of a transaction in which an existing holding company acquires upon issuance all of the stock of the converted savings bank. In such a transaction, all persons having subscription rights pursuant to the plan of conversion of the savings bank shall receive, without payment, nontransferable subscription rights from the holding company to purchase its capital stock in lieu of capital stock of the converting association. Unless clearly inapplicable, all of the requirements of this rule shall apply to a conversion pursuant to this paragraph.

- (2) A savings bank may convert to a permanent stock form pursuant to this rule as part of a transaction in which the converting savings bank merges into an existing stock savings bank, savings association or bank which is a wholly-owned subsidiary of a holding company. In such a transaction, the persons with rights pursuant to paragraph (F)(1)(a) of this rule shall receive, without payment, non-transferable rights from the holding company to purchase its capital stock in lieu of capital stock of the converting savings bank. Unless clearly inapplicable, all of the requirements of this rule shall apply to a conversion pursuant to this paragraph.
- (3) A savings bank may convert to a permanent stock form pursuant to this rule as part of a transaction in which the savings bank is merged into an existing savings bank, savings association or bank which is not a wholly-owned subsidiary of a holding company. In such a transaction, persons with rights pursuant to paragraph (F)(1)(a) of this rule shall receive, without payment, non-transferable rights from the existing financial institution to purchase its stock in lieu of stock of the converting savings bank. Unless clearly inapplicable, all of the requirements of this rule shall apply to a conversion pursuant to this paragraph.
- (4) In a conversion pursuant to paragraph (H)(1), (H)(2) or (H)(3) of this rule, the plan of conversion may provide that, to the extent the shares offered in the conversion are not purchased by the persons having subscription rights under the plan of conversion of the savings bank pursuant to paragraph (F)(1)(a) of this rule, the employee stock benefit plans and directors, officers and employees of the issuer may receive, without payment, non-transferable rights to purchase the stock being issued. In the event of an oversubscription pursuant to such provision, the shares shall be allocated on an equitable basis to be set forth in the plan of conversion or determined by the issuer's board of directors.
- (5) The plan of conversion may provide for the sale of shares at purchase prices which are not uniform, subject to the approval of the superintendent.
- (6) Except as the superintendent may otherwise authorize, the value of the total offering of shares sold pursuant to any conversion under paragraph (H)(1), (H)(2) or (H)(3) of this rule must be not less than one hundred per cent nor

more than one hundred fifteen per cent of the estimated pro forma market value of the converted savings bank.

(7) Additional required disclosure.

(a) The savings bank must provide detailed reasons for the savings bank entering into the proposed transaction. The company must discuss the costs, benefits, drawbacks, and other alternatives to the proposed transaction in the context of explaining why the proposed transaction is preferable.

(b) The disclosure must discuss whether management believes the proposed transaction is in the best interests of account holders and the savings bank and, if so, detailed reasons why.

(c) The disclosure must:

(i) Include a discussion of the specific fiduciary duties owed to account holders by the directors and officers; and

(ii) Specify under what basis and why, in considering the proposed transaction and in the exercise of this fiduciary duties, the directors determined to undertake the proposed transaction. This discussion should include a statement that management believes that the plan of conversion is equitable to the account holders and to the institution and the basis for that belief.

(d) Discuss the compensation and other benefits that will be received by the directors and officers following the proposed transaction as compared with current compensation and benefits structure.

(I) This rule shall apply to any conversion for which the application filed pursuant to paragraph (D) of this rule is approved by the superintendent on or after the effective date of this rule. This rule shall not apply to any conversion with respect to which the application is approved in writing by the superintendent prior to the effective date of this rule, notwithstanding the fact that such conversion is completed after the effective date of this rule.

(J) Waiver.

(1) The provisions of this rule shall govern the conversion of mutual savings banks organized under Chapter 1151. of the Revised Code to stock savings banks organized under Chapter 1151. of the Revised Code. However, in the event of an emergency or in supervisory situations which do not rise to the level of an emergency, the superintendent may waive any or all requirements of this rule.

(2) The superintendent may a grant a waiver in accordance with paragraph (J)(1) of

this rule, upon receipt of a written request from the savings bank. The written request must state:

- (a) The specific requirements(s) or provision(s) the savings bank wants the superintendent to waive; and
- (b) Demonstrate that the waiver is equitable and is not detrimental to the savings bank and the account holders, and is not contrary to the public interest.

Replaces: 1301:12-4-04
Effective: 08/09/2010
R.C. 119.032 review dates: 04/14/2015

CERTIFIED ELECTRONICALLY

Certification

07/29/2010

Date

Promulgated Under: 119.03
Statutory Authority: 1163.24
Rule Amplifies: 1161.111
Prior Effective Dates: 11-17-91, 6-3-04