

RESCINDED

Office of Thrift Supervision
Department of the Treasury

June 13, 2001

Transmittal TR-254

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Federal Register, Vol. 66, No. 89, pp. 23198-23199

Number TR-254

The Office of Thrift Supervision (OTS) issues the attached direct final rule and accompanying notice of proposed rulemaking (NPRM) to clarify how it treats the resulting institution when a stock depository institution converts to a federal stock savings association.

OTS treats the savings association that results from a stock conversion as the corporate successor to the former institution. This has been the agency's practice even though OTS conversion rules do not explicitly provide for this treatment. OTS wants to provide the same level of clarity in the conversion regulations that it provides in other rules governing similar transactions. The attached final rule and NPRM will clarify that when a stock depository institution converts to a federal stock savings association, the savings association simply replaces the former in relation to the following:


- Any and all assets and claims of the former institution
- Any and all obligations of the former institution.
- Any and all claims against the former institution.

The direct final rule and NPRM was published in the May 8, 2001, edition of the Federal Register, Vol. 66, No. 89, pp. 23198-23199. Written comments must be received on or before June 7, 2001 and should be addressed to Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, N.W., Washington, DC 20552. Comments may be mailed, hand-delivered, faxed to 202/906-6518 or e-mailed to: regs.comments@ots.treas.gov. All commenters should include their name and telephone number.

For further information contact:

Aaron B. Kahn (202) 906-6263
Special Counsel

Kevin A. Corcoran (202) 906-6962
Assistant Chief Counsel
Business Transactions Division


— Richard M. Riccobono
Deputy Director
Office of Thrift Supervision

Attachment

established for conducting business in the commercial marketplace to the extent that the systems comply with Generally Accepted Accounting Practices (GAAP) and certain minimum standards (i.e., effective control of funds, accurate records that document the source and application of the Federal funds and the recipient's required cost share, and a system to support charges to Federal awards for salaries and wages);

b. Establishing a preference for the reimbursement method of payment; and

c. Requiring recipients that expend \$300,000 or more in a year under Federal awards to have an audit for that year by an independent auditor. The audit generally would be made a part of the regularly scheduled, annual audit of the recipient's financial statements.

6. Clarify and simplify the property standards. The revised property standards would encourage recipients to use existing property management systems to the extent that the systems meet certain minimum requirements.

7. Significantly reduce requirements imposed on recipient procurement activities in favor of best commercial practices. DOE is considering establishing minimum procurement requirements, such as:

a. Requiring recipients' procurement procedures to use effective competition techniques or other means that ensure reasonable cost for procured goods and services;

b. Requiring pre-award review of procurements only when the contracting officer judges that there is a compelling need to do so and then only if a provision in the award states the requirement; and

c. Encourage the use of best commercial practices in the procurement of commercial items.

Issued in Washington, D.C. on April 30, 2001.

Richard H. Hopf,

Acting Director, Office of Management and Administration, U.S. Department of Energy.
[FR Doc. 01-11519 Filed 5-7-01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 552

[No. 2001-35]

RIN 1550-AB46

Conversion From Stock Form Depository Institution to Federal Stock Association

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) is proposing to amend its regulation on conversions from stock form depository institutions to federal stock savings associations. This proposed rule would clarify that the resulting federal stock savings association in such transactions succeeds to all the rights, property, and obligations of the converting institution. This amendment merely codifies OTS's interpretation of its existing regulation.

DATES: Comments must be received on or before June 7, 2001.

ADDRESSES: *Mail:* Send comments to Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 2001-35.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9:00 a.m. to 4:00 p.m. on business days, Attention Regulation Comments, Chief Counsel's Office, Docket No. 2001-35.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906-6518, Attention Docket No. 2001-35.

E-Mail: Send e-mails to regs.comments@ots.treas.gov, Attention Docket No. 2001-35, and include your name and telephone number.

Public Inspection: Comments and the related index will be posted on the OTS Internet Site at www.ots.treas.gov. In addition, you may inspect comments at the Public Reading Room, 1700 G St. N.W., by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to public.info@ots.treas.gov, or send a facsimile transmission to (202) 906-7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) Appointments will be scheduled on business days between 10:00 a.m. and 4:00 p.m. In most cases, appointments will be available the next business day following the date a request is received.

FOR FURTHER INFORMATION CONTACT:

Aaron B. Kahn, (202) 906-6263, Special Counsel, or Kevin A. Corcoran, (202) 906-6962, Assistant Chief Counsel, Business Transactions Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW, Washington DC 20552.

SUPPLEMENTARY INFORMATION:

Background

OTS regulations at 12 CFR 552.2-6 provides that, with OTS approval, any stock depository institution that is, or is eligible to become, a member of a Federal Home Loan Bank may convert to a federal stock savings association if the converting institution has deposits insured by the Federal Deposit Insurance Corporation (FDIC) at the time of conversion, and complies with all applicable statutes and regulations, including section 5(d) of the Federal Deposit Insurance Act.¹ This regulation does not explicitly address the succession of the federal association resulting from such a conversion to the rights, obligations and property of the converting institution. However, as a matter of practice OTS treats federal stock associations that have resulted from direct conversions pursuant to 12 CFR 552.2-6 as the corporate successors of the converting institutions.

OTS regulations addressing similar transactions explicitly provide that the resulting federal association succeeds to the rights, obligations, and property of a converted or disappearing entity. This is true, for example, for conversions of mutual depository institutions to federal mutual savings associations² and the merger or consolidation of stock institutions that result in a federal stock association.³

To clarify the legal consequences of direct conversions under 12 CFR 552.2-6, OTS is proposing to amend that regulation to provide explicitly that a converted federal stock association succeeds to all the rights, obligations and property of its corporate predecessor.

This action will not change the existing treatment accorded federal stock associations that have converted from a stock depository institution. Rather, the amendment merely codifies the agency's existing interpretation of its regulation. The text of the amendment has been derived from a comparable provision pertaining to the merger and consolidation of federal stock associations that appears at 12 CFR 552.13(l).

¹ 12 U.S.C. 1815(d).

² 12 CFR 543.14 (2000).

³ See 12 CFR 552.13(l) (2000).

Comments; Accompanying Direct Final Rule

If no significant adverse comments are timely received, no further activity is contemplated relative to this proposed rule. Rather, the related direct final rule published elsewhere in this issue of the **Federal Register** will automatically go into effect on the date specified in that rule. If significant adverse comments are timely received, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule. Because OTS will not institute a second comment period for this proposed rule, any parties interested in commenting should do so during this comment period.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act,⁴ the Director certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The rule would merely codify an existing OTS interpretation.

Executive Order 12866

OTS has determined that this proposed rule is not a "significant regulatory action" for purposes of Executive Order 12866.

Unfunded Mandates Reform Act of 1995

OTS has determined that the requirements of this proposed rule will not result in expenditures by State, local, and tribal governments or by the private sector of \$100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

Federalism

Executive Order 13132 imposes certain requirements on an agency when formulating and implementing policies that have federalism implications or taking actions that preempt state law. OTS has determined that this proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, and will not preempt State law.

List of Subjects in 12 CFR Part 552

Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision hereby proposes to amend title 12, chapter V of the Code of Federal Regulations as set forth below.

PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

1. The authority citation for Part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

2. Section 552.2–6 is amended by designating the text of the section as paragraph (a) and adding paragraph (b) to read as follows:

§ 552.2–6 Conversion from stock form depository institution to Federal stock association.

(a) * * *

(b) Any and all of the assets and other property (whether real, personal, mixed, tangible or intangible, including choses in action, rights, and credits) of the former stock form depository institution become assets and property of the Federal stock association when the conversion occurs. Similarly, all of the obligations and debts of or claims against the former stock form depository institution become obligations and debts of and claims against the Federal stock association when the conversion occurs. In effect, the Federal stock association is the same as the former stock form depository institution with respect to any and all assets, property, claims and debts of or claims against the former stock form depository institution.

Dated: May 2, 2001.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 01–11544 Filed 5–7–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE165; Notice No. 23–01–02–SC]

Special Conditions: Ayres Corporation; Model LM 200, "Loadmaster"; Flight

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Ayres Corporation,

Model LM 200 airplane. This airplane will have novel or unusual design features associated with centerline thrust. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before June 7, 2001.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket, Docket No. CE165, 901 Locust, Room 506, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: CE165. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Lowell Foster, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Room 301, Kansas City, Missouri, 816–329–4125, fax 816–329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this action may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this action must include with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to CE165." The postcard will be date stamped and returned to the commenter.

⁴Pub. L. No. 96–354, 5 U.S.C. 601.