



September 15, 2006

Via U.S. Mail and E-Mail to [REGS.COMMENTS@OTS.TREAS.GOV](mailto:REGS.COMMENTS@OTS.TREAS.GOV)

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G. Street NW  
Washington, DC 20552  
Attn. No. 2006-29

Re: **Comments on Notice of Proposed Rule-making: Stock Benefit Plans in Mutual-to-Stock Conversions and Mutual Holding Company Structures (OTS Docket No. 2006-29 and RIN 1550-AC07)**

Dear Sir or Madam:

I am writing on behalf of Magyar Bank, a New Jersey state-chartered mutual savings bank and a wholly-owned subsidiary of Magyar Bancorp, in support of the Office of Thrift Supervision's ('OTS') proposed rulemaking regarding stock benefit plans established in mutual-to-stock conversions and mutual holding company reorganizations.

Although Magyar Bank is not presently regulated directly by the OTS, we believe the OTS proposal will affect all state- and federally-chartered institutions since the Federal Reserve Board, the regulator of state-chartered mutual holding companies, generally follows OTS rules with respect to mutual holding companies.

The mutual holding company structure has been a much-needed alternative for mutual savings institutions that are interested in raising capital on an incremental basis. Mutual holding companies are also ideal for institutions that want to preserve their independence as community banks. Certainly, both of these stated benefits are what led Magyar Bank to convert to the MHC structure in January 2006 and to acquire additional capital via a minority stock offering.

In our opinion, the current OTS regulations regarding the implementation of stock-benefit plans are unnecessarily complex and confusing. The proposed rules would provide much needed clarification to the current regulations, and further, would significantly reduce the expenses associated with the implementation of stock benefit plans.

We also believe the extensive OTS restrictions on mutual holding company stock benefit plans under the current rules, including the need for a separate vote of minority stockholders, should not apply more than one year after a stock offering. Our opinion is based on a number of reasons.

First, while we accept the need for some regulatory oversight of the implementation of stock benefit plans for a one-year period to protect the integrity of the stock offering process, an ongoing requirement for a separate vote of minority stockholders effectively disenfranchises the largest stockholder, namely, the mutual holding company. The requirement for such a vote is not only contrary to basic principles of corporate governance, but also contrary to the central principle of the mutual holding company structure, namely, mutual control. Requiring a separate minority vote opens the process to potential abuse and influence by shareholders whose only interest is the ultimate sale of a given community bank franchise. Secondly, we believe the elimination of the requirement for a separate vote of minority stockholders after one year would remove a regulatory bias in favor of full stock conversions.

Our rationale is further supported by our belief that minority stockholders are effectively protected against MHC stock benefit plans abuse by market forces and accounting requirements. As you are aware, recent accounting rules have greatly strengthened the expensing of stock options, and the disclosure of same in financial statements. Accordingly, market forces will undoubtedly continue to limit stock plans to reasonable levels because of the expense of such plans.

We are gratified that OTS recognizes the problems associated with activist stockholders. Although the attacks of such activists have generally been unsuccessful to date, these diversions are expensive and time-consuming. Not only do we believe strongly in the concept of mutual control, we also believe mutual financial institutions should not be bullied into relinquishing their independence and community orientation by activist stockholders. By eliminating the separate minority vote requirement after one year, OTS would eliminate an important point of activist leverage against mutual holding companies.

Accordingly, we respectfully urge the OTS to adopt the proposed Stock Benefit Plans rules in final form.

Sincerely,

Elizabeth E. Hance  
President and Chief Executive Officer  
MAGYAR BANK, a wholly-owned subsidiary of  
Magyar Bancorp