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Sent: Friday, September 15, 2006 8:41 PM
To: Comments, Regs
Subject: Comment - OTS Docket No. 2006-29

To: The Office of Thrift Supervision

Re: Notice of Proposed Rule Making:

Stock Benefit Plans in Mutual to Stock

Conversions and Mutual Holding Company Structures

OTS Docket No. 2006-29

The proposed rule would effectively take away from the stockholders the right to disapprove plans for stock based compensation for management. As I understand it, this proposed change would allow management to vote shares held for later sale by the bank or thrift. These shares are the functional equivalent of "Treasury Stock" or "shelf stock". This proposal reverses the trend of the law in recent years to give stockholders more, rather than less, control over stock based compensation for management.

As a lawyer who formerly did executive compensation work for a Fortune 20 corporation and who is currently a professor of law, I can tell you that conflict of interest situations, such as the one proposed, raise significant problems under the general corporation law, the SEC rules relating to approval of stock based compensation plans, and corporate governance guidelines. In this case, the proposed change also creates great and unnecessary temptations which could affect the overall way management structures a demutualization. The proposed rule also creates a high probability of embarrassment for the OTS and the thrift industry when bank managements reap tens of millions of dollars from stock plans which they have granted and approved for themselves. The use of this technique by management could create a legal cloud over the entire demutualization process and open the door to protracted litigation which would defeat the purpose of the change. I believe that it may also increase the potential individual liability of officers and directors of mutual companies. I doubt very much that this is what Congress intended.

Why create additional conflicts when avoiding conflicts of interest makes both good business and good legal sense?

For the reasons given above, I respectfully suggest that the Office of Thrift Supervision reject the proposed changes which would create such conflicts of interest.

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