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VIA HAND DELIVERY

Manager  
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1700 G Street, N.W.  
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2000 NOV -9 P 3:43  
DISSEMINATION DIVISION  
OFFICE OF THRIFT SUPERVISION

Re: Repurchases of Stock by Recently Converted Savings Associations, Mutual Holding Company Dividend Waivers, Gramm-Leach-Bliley Act Changes, Interim Rule with Request for Comment, 65 Federal Register 43088 (July 12, 2000) ("Interim Rule")

Mutual Savings Association, Mutual Holding Company Reorganizations, and Conversions from Mutual to Stock Form, Proposed Rule, 65 Federal Register 43092 (July 12, 2000) ("Proposed Rule")

Dear Sir or Madam:

This letter represents the comments of Elias, Matz, Tiernan & Herrick L.L.P. on the above cited Interim Rule and Proposed Rule. The views expressed are those of the law firm and not necessarily those of any client for which we serve as counsel.

Elias, Matz, Tiernan & Herrick L.L.P. is a general corporate and securities law firm specializing in the representation of financial institutions, primarily savings associations, savings banks, commercial banks and thrift and bank holding companies. The firm's practice is national in scope and, in large part, involves representation before federal and state regulatory agencies including the Office of Thrift Supervision ("OTS"), the Federal Deposit Insurance Corporation ("FDIC"), Securities and Exchange Commission ("SEC"), Federal Reserve Board ("FRB"), Office of the Comptroller of the Currency ("OCC") and the Internal Revenue Service ("IRS"). The firm, in addition to general corporate and regulatory counseling, has been extensively involved in mergers and acquisitions, mutual and stock holding company formations, branch acquisitions, conversions, public stock and debt offerings, representing both issuers and underwriters and supervisory issues.

Initially, we are encouraged by the steps taken by the OTS in the Interim Rule. Specifically, eliminating restrictions on stock repurchases by converted savings associations one year after their mutual-to-stock conversion significantly liberalizes these regulations and is a welcome change. In addition, the changes reflected in the Interim Rule regarding dividends by mutual holding companies ("MHC") and permissible activities of MHCs are positive developments for this form of organization.

Similarly, we believe that the amendments in the Proposed Rule enhancing the attractiveness and viability of the MHC structure and permitting, among other things, accelerated vesting in management benefit plans upon a change in control are significant improvements to those regulations. Further, we understand the OTS' concern that a number of shareholder groups have put undue pressure on certain recently converted institutions. This type of pressure may preclude the prudent deployment of newly raised capital and often negatively impacts long-term shareholder value. As a result, we agree that the OTS should more closely scrutinize the acquisitions of institutions within the first three years following conversion.

However, while we recognize the merits and benefits of the mutual form of organization, we also believe that the onerous additional requirements contemplated by the Proposed Rule would unnecessarily impede the ability of the board of directors and, ultimately, the members of a savings association to choose to convert to the stock form of organization. The business plan requirements of the Proposed Rule impose a capital needs test and a return on equity test which would effectively eliminate the ability of most institutions to choose to convert to stock form. The requirement that a savings association demonstrate a need for capital and provide for a certain return on equity in order to convert stands in stark contrast to the freedom of choice currently available under the conversion regulations. The capital needs test and return on equity test establish unduly burdensome standards and reflect a fundamental and, we believe, unjustified shift in the conversion policy. In fact, on a historical basis, as set forth in an analysis by RP Financial, LC. (which we understand has been provided to the staff under separate cover), very few institutions would have been able to meet these tests.

We agree that a strongly formulated business plan setting forth, among other things, the deployment of conversion proceeds, is essential in the conversion process. However, it is management, not the OTS, which has intimate knowledge of the institution and is therefore better suited to determine the institution's capital needs and the proper deployment of newly raised capital. Further, as a result of the imposition of the capital needs and return on equity tests, management may be required to pursue a more aggressive and risky strategy rather than a measured and conservative approach. Finally, the inability to include stock repurchases as a capital management tool in the business plan for a period of three years without OTS approval is inconsistent with the Interim Rule and would penalize newly converted institutions relative to already converted institutions.

In addition to the foregoing, the Proposed Rule may cause the flight of OTS regulated institutions to state-chartered savings banks and, conversely, discourage credit unions from converting to federal savings associations. Secondly, although a significant portion of the Proposed Rule is devoted to making the MHC structure a more attractive form of organization, the potential

inability to conduct a second step conversion will likely discourage institutions to consider the MHC format altogether. Finally, the Proposed Rule may have a chilling affect on the market value of existing MHCs, again due to the restrictive nature of the capital needs and return on equity tests.

In conclusion, we believe that the requirements set forth in the amendments to the business plan requirements of the Proposed Rule would severely restrict the ability of a savings association to convert to stock form. Quite possibly, based on historical evidence presented by RP Financial, LC. and the healthy state of the thrift industry, the Proposed Rule could effectively impose a moratorium on full conversions and second step conversions. The ability for management and association members to choose to convert to the stock form is grounded in legislative and regulatory history. We believe that the provisions in the Proposed Rule which would restrict the role of management and effectively strip an institution of its choice to convert to stock form are inappropriate and should not be adopted in any form.

As always, we appreciate your consideration of our comments.

Sincerely,

*Elias, Matz, Tierney & Herrick L.L.P.*  
Elias, Matz, Tierney & Herrick L.L.P.