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Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G St., NW
Washington, DC 20552

RE: Docket No. 2002-11 (Mutual Savings Associations)

Pursuant to notice published in the *Federal Register* of April 9, 2002, the American Council of State Savings Supervisors (ACSSS) takes this opportunity to submit the following comments on the Re-proposed Notice of Rulemaking regarding Mutual savings Associations, Mutual Holding Company Reorganizations, and Conversions from Mutual to Stock Form (Re-proposal).

ACSSS is the national trade association for the state public officials charged with the responsibility for supervising state-chartered savings associations and savings banks. As such, we commend the Office of Thrift Supervision (OTS) for its ongoing effort, of which this rulemaking is a part, to improve and encourage the regulatory environment for savings institutions choosing to continue to do business in mutual form. In particular, we support the policy guidance adopted since the first proposed rulemaking clarifying that mutual associations are subject to and governed by the same prudential standards as stock associations. This policy properly reflects the position that mutual and stock companies differ in ownership form but are otherwise one and the same as to the importance of capital needs, risk management, internal controls, and full participation by Boards of Directors/Trustees.

As noted in Part 'E' of the Re-proposal, there has been considerable commentary on whether or not the OTS should indicate a preference or "bias" between or among the various forms of thrift ownership structure, namely mutual, stock or mutual holding company (MHC). The Preamble to the Re-proposal states that "OTS continues to encourage mutual associations seeking new capital to seriously consider the MHC form of reorganization with a limited stock issuance, rather than a full conversion." ACSSS is of the view that, absent any safety and soundness considerations, supervisory officials should be neutral as to form of ownership and that these decisions properly reside with the management and board of a given company.

For state-chartered savings institutions choosing to convert, in part or in full, we respectfully suggest that §563b.110 should explicitly state that the Business Plan requires the approval of the appropriate state regulator, as should the Plan of Conversion referred to in §563b.125.

With respect to the Dividend Waiver policy addressed in Part 'H' of the Re-proposal, ACSSS supports the more flexible approach set forth by OTS which leaves the decision as to adjustment of exchange ratios for waived dividends at the MHC level with the management of the individual company. This encourages the retention of additional capital at the depository institution level.

Part 'J,' dealing with post-conversion acquisition of more than 10 percent of outstanding stock has led to some confusion in the industry with respect to whether the three year period truly allows for OTS to grant waivers in non-supervisory situations. ACSSS offers no view on the desirability of a "waiting" period for federally-chartered institutions, but does strongly recommend that, in the case of state-chartered savings institutions, the policy should track the limitations, if any, contained in the applicable state law or regulation.

We appreciate the opportunity to present these comments and ask that you contact the undersigned with respect to any follow-up questions you may have.

Sincerely,



Jay R. Stevenson
ACSSS Chair
Assistant Commissioner
IL Office of Banks and Real Estate