

OFFICE OF THRIFT SUPERVISION

**Approval of Application for Permission to
Convert From Mutual to Stock Form of Organization**

Order No.: 2002-52

Date: November 12, 2002

Re: OTS No. 04960

First Pennsylvania Savings Association, Pittsburgh, Pennsylvania (Savings Association), filed on October 4, 2002, with the Office of Thrift Supervision (OTS), an application for approval to convert from a Pennsylvania state chartered mutual savings association to a Pennsylvania state chartered stock savings association (Application) pursuant to Section 5(i) of the Home Owners' Loan Act of 1933, and 12 C.F.R. Part 563b (Conversion Regulations).¹ In connection with its conversion to a stock association, the Savings Association will merge with Fidelity Savings Bank, Pittsburgh, Pennsylvania (Savings Bank), a wholly owned subsidiary of a bank holding company, Fidelity Bancorp, Inc., Pittsburgh, Pennsylvania (Holding Company), which will acquire all of the Savings Association's capital stock to be issued upon conversion. The Holding Company will issue its common stock in the conversion and liquidation accounts representing the Savings Association's members' interest in the Savings Association will be created and maintained by the Savings Bank.

OTS has considered the application under the requirements of the Conversion Regulations. In its review of the application, OTS has considered the materials filed by the Savings Association in support of the application, examination reports generated by federal regulators of the Savings Association and the Savings Bank and other supervisory information generated by OTS.

The Conversion Regulations provide that OTS shall approve an application for conversion only if: (i) the plan of conversion adopted by the savings association's board of directors is in accordance with 12 C.F.R. Part 563b; (ii) the Savings Association meets the regulatory capital requirements of 12 C.F.R. Part 567 after the conversion; and (iii) the conversion does not result in a taxable reorganization of the association under the Internal Revenue Code. In addition, the Conversion Regulations provide that OTS, in reviewing an application for conversion under 12 C.F.R. Part 563b, will examine the extent to which the conversion will affect the convenience and needs of the community, and may deny or condition the application on the basis of this review.

OTS has considered the Savings Association's plan of conversion, and has concluded that the plan complies with the applicable requirements, with the exception of

¹ OTS's revised Conversion Regulations became effective on October 1, 2002, and are found at 67 Fed. Reg. 52010, 52020, et seq. (August 9, 2002). Those regulations will be codified at 12 C.F.R. Part 563b and the citations in this Order are to the provisions where they will appear in the Code of Federal Regulations.

certain provisions for which the Savings Association has requested a waiver.

The Savings Association has requested waivers of: (i) section 563b.105(a), which requires a business plan reflecting how the Savings Association will deploy the proceeds of the conversion; (ii) section 563b.445, which requires that the Savings Association's depositors receive liquidation accounts in the Savings Association after the conversion; (iii) section 563b.505, which restricts the ability of the Savings Association's officers and directors to freely trade stock obtained in the converted institution; (iv) section 563b.200(a)(2), which requires OTS to approve conversion applications only where the savings association will meet OTS's regulatory capital requirements after consummation of the conversion; and (v) sections 563b.320 and 563b.390, governing the purchase priorities in mutual to stock conversions, to the extent that the Holding Company's employee plans are given a second priority, and shareholders of the Holding Company are provided a priority over members of the community and the general public.

OTS may waive any requirement of the Conversion Regulations. Generally, OTS will not grant such a waiver unless the waiver is equitable, is not detrimental to the converting association, its account holders or other savings associations, and is not contrary to the public interest.

OTS has concluded that the requested waivers satisfy the applicable standards. Section 563b.105(b), addressing business plans, assumes that the converted association will continue to operate. In this case, the Savings Association will merge into a bank, and accordingly, no purpose is served by requiring a business plan for the Savings Association. Section 563b.445, requiring a liquidation account at the Savings Association, again assumes the continued existence of the converted institution. In this case, the Savings Bank will maintain the liquidation account, in accordance with the provisions of the Conversion Regulations. As for section 563b.505, limiting post-conversion stock trading by certain parties, the Holding Company is already a public company, and the limitation is unnecessary. Section 563b.200(a)(2), regarding post-transaction compliance with OTS capital requirements, serves no purpose here, because the Savings Association will be merged into a non-OTS regulated institution.

Finally, as to the conversion priority provisions, the second priority for the Holding Company's employee plans is not objectionable, because it parallels the priority for the converting institution's tax-qualified employee stock ownership plans. With regard to the priority for existing shareholders of the Holding Company, no provision in the regulations explicitly provides for such a priority or such a preference. However, because there is no requirement that a community or public offering even be held, there is no reason to deny a preference to the existing stockholders of the Holding Company over persons in the community or general public. See, 12 C.F.R. § 563b.335(b). Moreover, where OTS has approved merger conversions in the past, stockholders of the acquiring entity have typically been allowed to purchase before the general public.

With respect to the remaining approval criteria, the conversion will not result in a taxable reorganization of the association under the Internal Revenue Code. Finally, it is

our opinion that the conversion meets the convenience and needs of the community because the Savings Bank will offer services that are similar to those offered by the Savings Association and do so from the office of the Savings Association as well as providing customers of the Savings Association with additional locations where they may transact business. Moreover, both the Savings Association and the Savings Bank were assigned Satisfactory CRA ratings at the conclusion of their most recent CRA/compliance examinations.

In addition, we have determined to permit a merger conversion here because the precarious financial condition of the Savings Association and its small asset size make it unable to undertake an independent conversion.

The Savings Association only has approximately \$26 million in assets and a single office in an area with limited growth. The Savings Association had only marginal profits during the preceding two years and has suffered substantial losses over the last nine months. Management anticipates that, if the Savings Association does not convert, it will continue to incur losses from its operations. In addition, the Savings Association has a high percentage of borrowings that has had a negative impact on earnings and interest rate risk. After conducting a Safety and Soundness examination of the Savings Association this year, OTS informed the Savings Association that it was in a troubled condition. Management of the Savings Association believes that a conversion as an independent entity is not feasible and we conclude that the Savings Association's financial condition supports that conclusion.

The proposed conversion will not provide management of the Savings Association with anything more than that they could receive if a standard conversion were to be effectuated. Based on the structure of the proposed transaction and the financial condition of the Savings Association, we conclude that the proposed distribution of assets here is fair to all parties.

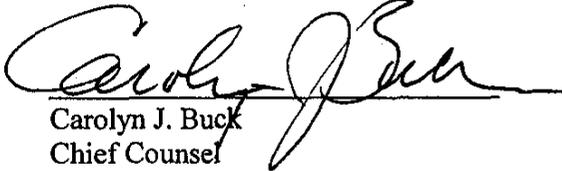
Based on the foregoing, OTS hereby approves the Application, subject to the following conditions:

1. Promptly after the completion of the sale of all the shares of capital stock to be sold in connection with the offering, the Savings Association and Holding Company must submit: (a) a certification by the Holding Company's chief executive officer stating that all the shares proposed to be sold have been sold, the price at which they were sold, and the date of completion of the offering; and (b) a statement by the Savings Association's independent appraiser that, to the best of his/her knowledge and judgment, nothing of a material nature has occurred (taking into account all of the relevant factors including those which would be involved in a change in the maximum subscription price) which would cause him/her to conclude that the sale price was not compatible with his/her estimate of the Savings Association's total pro forma market value at the time of sale; and
2. The Holding Company's capital stock to be sold in connection with the conversion

of the Savings Association shall be sold in compliance with the restrictions contained in 12 C.F.R. § 563.76;

The proxy soliciting material included under Items 3 and 4 of the Application, and the stock offering materials included under Item 3 and Exhibit 2(b) of the Application will be discussed in a separate letter.

By order of the Director of the Office of Thrift Supervision, or his designee, effective November 12, 2002.


Carolyn J. Buck
Chief Counsel