

## § 563b.250

(4) The total votes cast in favor of and against each matter.

(5) The percentage of votes necessary to approve each matter.

(6) An opinion of counsel that you conducted the members' meeting in compliance with all applicable state or federal laws and regulations.

(b) Promptly after completion of the conversion, you must submit an opinion of counsel that you complied with all laws applicable to the conversion.

### PROXY SOLICITATION

#### § 563b.250 Who must comply with these proxy solicitation provisions?

(a) You must comply with these proxy solicitation provisions when you provide proxy solicitation material to members for the meeting to vote on your plan of conversion.

(b) Your members must comply with these proxy solicitation provisions when they provide proxy solicitation materials to members for the meeting to vote on your conversion, pursuant to § 563b.280, except where:

(1) The member solicits 50 people or fewer and does not solicit proxies on your behalf; or

(2) The member solicits proxies through newspaper advertisements after your board of directors adopts the plan of conversion. Any newspaper advertisements may include only the following information:

(i) Your name;

(ii) The reason for the advertisement;

(iii) The proposal or proposals to be voted upon;

(iv) Where a member may obtain a copy of the proxy solicitation material; and

(v) A request for your members to vote at the meeting.

#### § 563b.255 What must the form of proxy include?

The form of proxy must include all of the following:

(a) A statement in bold face type stating that management is soliciting the proxy.

(b) Blank spaces where the member must date and sign the proxy.

(c) Clear and impartial identification of each matter or group of related matters that members will vote upon. You must include any proposed charitable

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contribution as an item to be voted on separately.

(d) The phrase "Revocable Proxy" in bold face type (at least 18 point).

(e) A description of any charter or state law requirement that restricts or conditions votes by proxy.

(f) An acknowledgment that the member received a proxy statement before he or she signed the form of proxy.

(g) The date, time, and the place of the meeting, when available.

(h) A way for the member to specify by ballot whether he or she approves or disapproves of each matter that members will vote upon.

(i) A statement that management will vote the proxy in accordance with the member's specifications.

(j) A statement in bold face type indicating how management will vote the proxy if the member does not specify a choice for a matter.

#### § 563b.260 May I use previously executed proxies?

You may not use previously executed proxies for the plan of conversion vote. If members consider your plan of conversion at an annual meeting, you may vote proxies obtained through other proxy solicitations only on matters not related to your plan of conversion.

#### § 563b.265 How may I use proxies executed under this part?

You may vote a proxy obtained under this part on matters that are incidental to the conduct of the meeting. You may not vote a proxy obtained under this subpart at any meeting other than the meeting (or any adjournment of the meeting) to vote on your plan of conversion.

#### § 563b.270 What must I include in my proxy statement?

(a) *Content requirements.* You must prepare your proxy statement in compliance with this part and Form PS. You may obtain Form PS from OTS Washington and Regional Offices (see § 516.40 of this chapter) and OTS's website (<http://www.ots.treas.gov>).

(b) *Other requirements.* (1) OTS will review your proxy solicitation material when it reviews the application for conversion and will authorize the use of proxy solicitation material.

(2) You must provide an authorized written proxy statement to your members before or at the same time you provide any other soliciting material. You must mail authorized proxy solicitation material to your members within ten days after OTS authorizes the solicitation.

**§ 563b.275 How do I file revised proxy materials?**

(a) You must file revised proxy materials as an amendment to your application for conversion. See § 563b.155 for where to file.

(b) To revise your proxy solicitation materials, you must file:

(1) Seven copies of your revised proxy materials as required by Form PS;

(2) Seven copies of your revised form of proxy, if applicable; and

(3) Seven copies of any additional proxy solicitation material subject to § 563b.270.

(c) You must mark four of the seven required copies to clearly indicate changes from the prior filing.

(d) You must file seven definitive copies of all proxy solicitation material, in the form in which you furnish the material to your members. You must file no later than the date that you send or give the proxy solicitation material to your members. You must indicate the date that you will release the materials.

(e) Unless OTS requests you to do so, you do not have to file copies of replies to inquiries from your members or copies of communications that merely request members to sign and return proxy forms.

**§ 563b.280 Must I mail a member's proxy solicitation material?**

(a) You must mail the member's authorized proxy solicitation material if:

(1) Your board of directors adopted a plan of conversion;

(2) A member requests in writing that you mail the proxy solicitation material;

(3) OTS has authorized the member's proxy solicitation; and

(4) The member agrees to defray your reasonable expenses.

(b) As soon as practicable after you receive a request under paragraph (a) of this section, you must mail or other-

wise furnish the following information to the member:

(1) The approximate number of members that you solicited or will solicit, or the approximate number of members of any group of account holders that the member designates; and

(2) The estimated cost of mailing the proxy solicitation material for the member.

(c) You must mail authorized proxy solicitation material to the designated members promptly after the member furnishes the materials, envelopes (or other containers), and postage (or payment for postage) to you.

(d) You are not responsible for the content of a member's proxy solicitation material.

(e) A member may furnish other members its own proxy solicitation material, authorized by OTS, subject to the rules in this section.

**§ 563b.285 What solicitations are prohibited?**

(a) *False or misleading statements.* (1) No one may use proxy solicitation material for the members' meeting if the material contains any statement which, considering the time and the circumstances of the statement:

(i) Is false or misleading with respect to any material fact;

(ii) Omits any material fact that is necessary to make the statements not false or misleading; or

(iii) Omits any material fact that is necessary to correct a statement in an earlier communication that has become false or misleading.

(2) No one may represent or imply that OTS determined that the proxy solicitation material is accurate, complete, not false or not misleading, or passed upon the merits of or approved any proposal.

(b) *Other prohibited solicitations.* No person may solicit:

(1) An undated or post-dated proxy;

(2) A proxy that states it will be dated after the date it is signed by a member;

(3) A proxy that is not revocable at will by the member; or

(4) A proxy that is part of another document or instrument.