MUTUAL BANK MERGERS AND OTHER STRATEGIC ALTERNATIVES

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OUR ATTORNEYS HAVE SPECIALIZED IN TRANSACTIONAL, SECURITIES AND REGULATORY MATTERS FOR FINANCIAL INSTITUTIONS FOR OVER 25 YEARS

STOCK CONVERSIONS/ MHC REORGANIZATIONS

- Mutual-to-Stock Conversions
- Mutual Holding Company Formations
- Remutualizations

MERGERS AND ACQUISITIONS

- Whole Bank Acquisitions--Buy and Sell Side
- Branch Purchases and Sales
- Insurance Agency Acquisitions
- Mutual-Mutual Mergers

SECURITIES MATTERS

- Public and Private Offerings
- SEC Reporting and Compliance
- Proxy Contests/Tender Offers
- Going Private Transactions
- Dodd-Frank Compliance

REGULATORY

- Enforcement & Supervisory Issues
- Bank Charter Conversions
- Regulatory/Compliance Advice

EXECUTIVE COMPENSATION AND EMPLOYEE BENEFITS

- Qualified and Non-Qualified Plans
- Employment Agreements
- Stock Benefit Plans
- Executive & Incentive Compensation

CORPORATE GOVERNANCE

- Review and Update Corporate Governance Documents
- Anti-Takeover Planning
- Holding Company Formations
- Counsel on Director Fiduciary Duties

JONES WALKER ATTORNEYS HAVE ACTED AS COUNSEL FOR OVER 400 MUTUAL-TO-STOCK REORGANIZATIONS

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RECENT DEVELOPMENTS REGARDING MUTUAL BANK MERGERS AND OTHER STRATEGIC OPPORTUNITIES

- Key discussion points:

  I. **Growth Strategies of Mutual Institutions.**

  II. **Recent Developments in Mutual Bank Mergers:**

  - Mutual Roll-ups;
  - Mutual mergers with MHCs with public stockholders;
  - Bank Acquisitions by Mutuals.
  - Credit Union Acquisition of Mutual Banks- a new controversy

  III. **Recent mutual bank mergers and related issues benefiting both parties.**

  IV. **Opportunities available to Mutuals to raise capital by issuing stock under an MHC structure or as a fully converting company.**

  V. **Increasing Bank capital and liquidity with issuance of Sub Debt.**

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RECENT DEVELOPMENTS REGARDING MUTUAL BANK MERGERS AND OTHER STRATEGIC OPPORTUNITIES

Growth Strategies for Mutual Institutions:

- define who you are
- increase profitable products and service
- expand market area
- technology enhancements
- increase fee income, etc.
- maintain staff training and succession plans

TIME TO CONSIDER STRATEGIC ALTERNATIVES

- The Boards of Directors of mutual institutions should carefully weigh the pros and cons of each of the alternatives available to them.

  1. **Remain Independent-** and increase products and services, technology, regulatory compliance, fee income, market, etc.
  2. **Merge with another Mutual (larger, smaller, similar size)**
  3. **Raise Capital through a Standard Conversion**
  4. **Form a Mutual Holding Company (MHC)**
  5. **Other transaction forms** (Conversion Merger or CU merger)
  6. **Increase Liquidity and Bank capital by issuing Sub Debt**

REMAIN AN INDEPENDENT MUTUAL

PROS:

- Preserves Mutuality- Market differentiation
- May grow by acquiring other mutual institutions
- Continue to serve current customers and communities

CONS:

- May not address increasing competition or technology and regulatory compliance costs facing the institution- **Need to build scale**
- Can only increase capital through retention of earnings which may not keep pace with expense growth
- Very difficult to achieve necessary scale to absorb additional costs of compliance and technology
- Cannot offer stock-based incentive programs to attract and motivate employees. May offer other non-stock incentive-based pay programs

MERGE/AFILIATE WITH ANOTHER MUTUAL INSTITUTION

A mutual institution can merge directly with another mutual institution or mutual holding company (MHC). ***Larger partner, smaller partner, equal partner****:*

PROS:

- Preserves mutuality
- Build scale: the combined institution may be able to achieve greater economies of scale and become more profitable
- Merger can be structured so that disappearing mutual institution operates under its own name as a division of the combined institution
- Under an MHC structure, each institution may retain its own charter, if desired

CONS:

- May be difficult to find a mutual partner wishing to merge with you- **cultural issues**
- Since many mutuals are relatively small, the combined institution may continue to face many of the same challenges
- Integration of Boards and staff requires flexibility
- Depositors/Members do not receive any direct value for their interest in the institution
- Loss of a local banking institution/possible loss of jobs in the community

ADDITIONAL INFORMATION: See **Appendix-1** for additional information on planning a mutual-mutual merger and the process of a merger transaction.

Recent Developments in Mutual Bank Mergers:

- Mutual Roll-ups
- Mutual mergers with MHCs with public stockholders
- Bank Acquisitions by Mutuals
- Mutual Bank- Conversion Merger
- Mutual Bank consolidation with a Credit Union

RECENT DEVELOPMENTS REGARDING MUTUAL BANK MERGERS AND OTHER STRATEGIC OPPORTUNITIES

Recent Developments in Mutual Bank Mergers:

Mutual Roll-ups;

- William Penn Bancorp (MHC) (Total assets ~ $731 mill)
  - Audubon Savings Bank (NJ) (mutual) – 2017 (~ $157 mill)
  - Fidelity SLA (Phila) (mutual) – 2019 (~ $87 mill)
  - Washington Savings Bank (Phila) (mutual) – 2019 (~ $160 mill)

- Ambler Savings (mutual) and Bally Savings (mutual) – 2017 (~$47 mill)
- Brentwood Bank (MHC) and Union Building (mutual) – 2018 ($33 mill)

- Dollar Bank/ Dollar Mutual Bancorp (MHC) (~ $9 bill)
  - Progressive Home FSLA (Pittsburgh) (mutual) – 2016 (~ $51 mill)
  - Bank @tlantec (VA) (mutual) – 2016 (~$110 mill)
  - Standard AVB Financial Corp - 2020- Bank acquisition. (~$1 bill)

RECENT DEVELOPMENTS REGARDING MUTUAL BANK MERGERS AND OTHER STRATEGIC OPPORTUNITIES

Recent Developments in Mutual Bank Mergers:

Mutual Roll-ups;

- First Federal of Lakewood (OH)/ First Mutual Holding Co. (MHC) (~$2.3 bill)
  - BelPre Savings (OH) – 2016 (~$51 mill)- affiliation
  - Doolin Savings (WV) -2017 (~$43 mill)- affiliation
  - Warsaw Federal (OH) -2020 (~$55 mill)- affiliation
  - Blue Grass Federal (KY) -2020 (~$35 mill)- affiliation
  - Martinsville Savings (VA) – 2021 (~$40 mill)- affiliation

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RECENT DEVELOPMENTS REGARDING MUTUAL BANK MERGERS AND OTHER STRATEGIC OPPORTUNITIES

Recent mutual bank mergers and related issues benefiting both parties

- William Penn Bancorp Roll-up and Step 2 Conversion
  - William Penn Bank increased its capital as a mutual and increased its stock conversion proceeds
  - Market expansion and customer growth
  - CEO of Fidelity added to Board of William Penn.
    - Will be eligible for post-conversion stock benefits
- Columbia Financial (MHC) (NJ) (~ $8.1 bill) merger with Roselle Bank (mutual) (~$442 mill)
  - One Roselle director added to Board of a public company

RECENT DEVELOPMENTS REGARDING MUTUAL BANK MERGERS AND OTHER STRATEGIC OPPORTUNITIES

Recent mutual bank mergers and related issues benefiting both parties

- Bogota Financial (MHC) (NJ) (~ 740 mill) merger with Gibraltar SB (mutual) (NJ) (~$107 mill)
  - Gibraltar CEO to continue as EVP & CLO of Bogota SB
  - One Board seat for a Gibraltar director
  - Other Gibraltar directors added to Advisory Board, to receive advisory board fees comparable to prior Gibraltar board fees and per the Merger Agreement will receive Bogota stock benefits on par with Bogota directors

RECENT DEVELOPMENTS REGARDING MUTUAL BANK MERGERS AND OTHER STRATEGIC OPPORTUNITIES

Recent mutual bank mergers and related issues benefiting both parties

- Mutual Bank "conversion merger" with another stock institution (typically, mutual bank with assets below $35 mill)
- Mutual Bank consolidation with a Credit Union
  - A liquidation of the Mutual Bank
  - Is this consistent with the mutual charter?

Opportunities available to Mutuals to raise additional capital:

- Standard Conversion
- MHC Formation and Minority Stock Issuance
- Issuance of Sub Debt securities

STANDARD CONVERSION

A standard conversion to stock form remains an option for many mutual institutions.

PROS:

- No change in management or job losses
- Depositors and management have opportunity to become stockholders and potentially reap direct benefits of future growth and stock price appreciation
- Increase in bank capital allows future growth for greater profitability
- Management and Board can implement stock-based benefit programs
- Stock institution can combine with other types of institution without unreasonable regulatory burden

CONS:

- Time and expense and management effort to prepare applications
- Loss of mutuality
- Future accountability and reporting to stockholders/owners
- Additional burden and expense of operating as a public company

MUTUAL HOLDING COMPANY FORMATION

A mutual holding company (MHC) reorganization remains an option for all mutual institutions and can take several forms: two-tiered MHC or three-tiered MHC, in either case with or without stock issuance.

PROS:

- Preserves Mutuality
- Board of Directors and depositors maintain complete control over the institution
- More flexibility in acquisitions of other financial institutions in the MHC structure. May hold other institutions under a separate charter.
- A no-stock MHC reorganization does not require any sale of stock to the public
- May raise capital incrementally as needed or not at all
- Limited or no interference from minority stockholders
- Management and Board can implement stock benefit plans
- May issue Sub Debt to aid in liquidity and increase Bank Tier 1 capital

CONS:

- Generally, less trading liquidity in any MHC public stock sold than a full conversion
- Dividend limitations without dividend waiver approval with member vote
- Limitations on future stock benefit plans due to reduced size of stock offering

Increasing Bank capital and liquidity with issuance of Sub Debt

INCREASING BANK CAPITAL AND LIQUIDITY WITH ISSUANCE OF SUB DEBT

Recent Sub Debt Transactions by MHCs

- First Mutual Holding Co. (OH) - Multiple sub debt offerings
  - $15 mill in 2020; $10 mill in 2018
- Manasquan Bank/ MB Financial (NJ) - $30 million in 2021

Recent Sub Debt Transactions by MHCs

- Typical buyers of sub debt are other banks and insurance companies
- Debt is "interest only" for 10 years; Callable after 5 years
- Interest rate is fixed for 5 years, then floating to maturity
- Issued by MHC mid-tier or MHC; Tier 1 capital at Bank (if proceeds down streamed)
- Provides Bank liquidity
- See **Appendix-2** for additional information on Sub Debt transactions

APPENDIX-1: Merger with Another Mutual Institution

A mutual institution can merge directly with another mutual institution or mutual holding company.

Larger partner, smaller partner, equal partner:

APPENDIX-1:

ISSUES IN A MUTUAL – MUTUAL MERGER

1. Regulatory Profile: Does your regulator have confidence that the combined organization will be stronger than the two separate mutuals?
2. Board composition: Size, engagement, community representation
3. Advisory Board
4. Management Structure and Succession Planning
5. Staff Retention and Efficiencies
6. Evaluate Branch Network Footprint and Efficiencies
7. Potential Vendor Cost Savings
8. Potential Expanded Products and Services through Expanded Network
9. Staff Retention Bonuses and Severance Pay Plans

APPENDIX-1:

ISSUES IN A MUTUAL – MUTUAL MERGER

10. Honor Existing Management Contracts and SERPs
11. Honor Director Retirement Plan
12. Integration of Employee Benefit Plans: Potential Cost Savings
13. Treatment of Depositors (parity)
14. Maintain Identity of Both Institutions (either as a division or a separate charter)
15. Indemnification and Insurance (maintain D&O indemnification and "tail insurance.")
16. Commitment to Communities Served (continuity of community charitable contribution funding)

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APPENDIX-1:

MUTUAL MERGERS: THE PROCESS

1. Consider a Short-List of Potential Mutual Partners
2. Identify Key Priorities
3. Determine Channels of Communication: Who will speak for you?
4. Execute Non-Disclosure/Confidentiality Agreement
5. Preliminary Discussions
6. Establish Transaction Term Sheet/Letter of Interest
7. Substantive Due Diligence
8. Draft Definitive Merger Agreement
9. Board Approvals
10. Public Announcements
11. Regulatory Applications and Approvals
12. Transition Planning and customer communications
13. Implementation/Merger Closing

APPENDIX-2:

Alternative Source of Capital – Subordinated Debt

Typical Terms for Subordinated Debt Offering:

- Unsecured
- Interest rate can be fixed or floating; Typically, 5 years fixed, then floating.
- Minimum maturity of five years; Typically, term of 10 years
- Principal cannot be accelerated upon event of default, with limited exceptions
- Holder does not have the right to require redemption prior to maturity
- Issuer cannot redeem within first five years with certain limited exceptions
- No financial covenants

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APPENDIX-2:

Alternative Source of Capital – Subordinated Debt

Subordinated Debt vs. Holding Company Loan

- Sub Debt is unsecured whereas holding company loan typically secured by stock of subsidiary bank
- Sub Debt has no financial covenants whereas holding company loan generally has a number of financial covenants (e.g., minimum capital ratios, maximum problem asset ratios, etc.)
- Sub Debt does not allow for acceleration of principal upon default (with certain limited exceptions), whereas holding company loan permits acceleration of principal upon event of default
- Sub Debt is eligible as Tier 2 capital at holding company, whereas holding company loan is not eligible as Tier 2 capital – both can be down-streamed to bank as Tier 1 capital

APPENDIX-2:
Alternative Source of Capital – Subordinated Debt

Subordinated Debt vs. Holding Company Loan

- Interest rate on holding company loan is typically lower than interest rate on Sub Debt
- Holding company loan has no restrictions as to prepayment, whereas Sub Debt cannot be repaid during first five years
- Holding company loan can typically be arranged and closed faster than Sub Debt
- Sub Debt usually purchased by multiple banks, insurance companies and private equity funds whereas holding company loan is with one lender
- Sub Debt usually placed by investment banker and subject to placement agent fee and legal fees

QUESTIONS?

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