

Chapter 208-512 WAC

BANKS

(Formerly chapter 50-12 WAC)

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

208-512-020	Characterization of "federal fund transactions." [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-020, filed 8/22/00, effective 9/22/00; Order 3, § 50-12-020, filed 12/23/68.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.
208-512-030	Definitions and characterization of time deposits. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-030, filed 8/22/00, effective 9/22/00; Order 2, § 50-12-030, filed 12/23/68.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.
208-512-045	Schedule of fees for banks, trust companies, stock savings banks, mutual savings banks, and alien banks. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 01-06-024, § 208-512-045, filed 2/27/01, effective 3/30/01; WSR 00-17-141, amended and recodified as § 208-512-045, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.08.095. WSR 91-18-055, § 50-12-045, filed 8/30/91, effective 9/30/91; WSR 90-12-008, § 50-12-045, filed 5/25/90, effective 6/25/90.] Repealed by WSR 13-23-032, filed 11/13/13, effective 12/14/13. Statutory Authority: RCW 43.320.040, 30.04.030, and 30.04.070.
208-512-050	Limiting loans to officers. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-050, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.12.060. WSR 85-19-052 (Order 62), § 50-12-050, filed 9/13/85; WSR 84-03-036 (Order 58), § 50-12-050, filed 1/13/84; WSR 79-04-042 (Order 40), § 50-12-050, filed 3/23/79; Order 31, § 50-12-050, filed 10/2/75; Order 4, § 50-12-050, filed 5/15/69, effective 6/16/69.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.
208-512-060	Accounts in excess of one hundred thousand dollars. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-060, filed 8/22/00, effective 9/22/00; Order 29, § 50-12-060, filed 10/2/75; Order 7 and Emergency Order 6, § 50-12-060, filed 1/7/70.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, and 30A.04.125 and section 939A of the Dodd-Frank Act.
208-512-120	Promulgation. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-120, filed 8/22/00, effective 9/22/00. Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. WSR 87-02-010 (Order 66), § 50-12-120, filed 12/30/86.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210,

30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.

- 208-512-140 Definitions. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-140, filed 8/22/00, effective 9/22/00. Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. WSR 87-02-010 (Order 66), § 50-12-140, filed 12/30/86.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.
- 208-512-150 Assessing the record of performance. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-150, filed 8/22/00, effective 9/22/00. Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. WSR 87-02-010 (Order 66), § 50-12-150, filed 12/30/86.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.
- 208-512-160 Rating assignment. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-160, filed 8/22/00, effective 9/22/00. Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. WSR 87-02-010 (Order 66), § 50-12-160, filed 12/30/86.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.
- 208-512-170 Rating for period January 1, 1986 through December 31, 1986. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-170, filed 8/22/00, effective 9/22/00. Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. WSR 87-02-010 (Order 66), § 50-12-170, filed 12/30/86.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.
- 208-512-210 Promulgation. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-210, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.111. WSR 87-20-022 (Order 69), § 50-12-210, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-220 Purpose. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-220, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.111. WSR 87-20-022 (Order 69), § 50-12-220, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-230 Definitions. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-230, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.111. WSR 88-16-066 (Order 74), § 50-12-230, filed 8/1/88; WSR 87-20-022 (Order 69), § 50-12-230, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-240 General limitations. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 01-06-024, § 208-512-240, filed 2/27/01, effective 3/30/01; WSR 00-17-141, recodified as § 208-512-240, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.111. WSR 87-20-022 (Order 69), § 50-12-240, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-250 General limitation—Loans fully secured by readily marketable collateral. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-250, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.08.140. WSR 87-24-042 (Order 71), § 50-12-250, filed 11/25/87. Statutory Authority: RCW 30.04.111. WSR 87-20-022 (Order 69), § 50-12-250, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-260 Combining loans to separate borrowers. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-260, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.111. WSR 87-20-022 (Order 69), § 50-12-260, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-270 Loans to corporations. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-270, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.111. WSR 87-20-022 (Order 69), § 50-12-270, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-

- Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-280 Loans to partnerships, joint ventures, and associations. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 01-06-024, § 208-512-280, filed 2/27/01, effective 3/30/01; WSR 00-17-141, recodified as § 208-512-280, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.111. WSR 87-20-022 (Order 69), § 50-12-280, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-290 Exceptions to the lending limits. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-290, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.111. WSR 87-20-022 (Order 69), § 50-12-290, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-300 Transitional rules. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 01-06-024, § 208-512-300, filed 2/27/01, effective 3/30/01; WSR 00-17-141, recodified as § 208-512-300, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.111. WSR 87-20-022 (Order 69), § 50-12-300, filed 9/30/87.] Repealed by WSR 13-03-037, filed 1/8/13, effective 2/8/13. Statutory Authority: RCW 30.04.030, 30.04.111, 30.04.215, 30.08.140, 32.08.157, 43.320.040, and 43.320.050 and Section 611 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified as section 18(y) of the Federal Deposit Insurance Act, 12 U.S.C. §1828(y)), which takes effect January 21, 2013.
- 208-512-310 Insurance agency activities—Promulgation. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-310, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.030. WSR 90-10-074, § 50-12-310, filed 5/2/90, effective 6/2/90.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.
- 208-512-330 Insurance agency activities—Definitions. [Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-330, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.030. WSR 90-10-074, § 50-12-330, filed 5/2/90, effective 6/2/90.] Repealed by WSR 17-24-053, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act.

WAC 208-512-010 Definitions. (1) **"Bank"** means a commercial bank chartered and regulated under Title 30A RCW, a mutual or stock savings bank chartered and regulated under Title 32 RCW, or a savings association chartered under the provisions of Title 33 RCW.

(2) **"Community Reinvestment Act"** as defined in this chapter shall be identical to the corresponding definitions set forth in the Community Reinvestment Act of 1977, 12 U.S.C. 2901, et seq. and regulations promulgated under the Federal Reserve Board's Regulation BB, 12 C.F.R. Part 228; provided, these definitions are not inconsistent with the context used, or otherwise defined, in this regulation or in chapter 30A.60 RCW.

(3) **"Director"** means the director of the division of banks of the department of financial institutions.

(4) **"Division"** means the division of banks of the department of financial institutions.

(5) **"Financial subsidiary,"** in relation to a bank, has the same meaning that it does in relation to a national bank pursuant to the Gramm-Leach-Bliley Act of 1999, 12 U.S.C. 93a, et seq. and regulations promulgated under the Office of the Comptroller of the Currency, 12 C.F.R., Section 5.39 (d) (6).

(6) **"Investment grade"** means the issuer of a security has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected.

(7) "**Investment security**" or "**investment securities**" means a marketable debt obligation that is investment grade and not predominantly speculative in nature. Such obligations may be represented by an indebtedness of any person, copartnership, association, or corporation; an indebtedness of the government of the United States or any agency thereof; an indebtedness of any state, or political subdivision thereof; or an indebtedness of any publicly owned entity that is an instrumentality of a state or municipal corporation in the form of bonds, notes, and/or debentures.

(8) "**Marketable**" means that the security:

(a) Is registered under the Securities Act of 1933, 15 U.S.C. 77a et seq.;

(b) Is a municipal revenue bond exempt from registration under the Securities Act of 1933, 15 U.S.C. 77c (a) (2);

(c) Is offered and sold pursuant to Securities and Exchange Commission Rule 144A, 17 C.F.R., Sec. 230.144A, and investment grade; or

(d) Can be sold with reasonable promptness at a price that corresponds reasonably to its fair value.

(9) "**Qualifying community investment**" means any direct or indirect investment or extension of credit made by a bank in projects or programs designed to develop or redevelop areas in which persons with low-incomes or moderate-incomes reside, designed to meet the credit needs of such low-income or moderate-income areas, or that primarily benefits low-income and moderate-income residents of such areas.

(a) This term includes, but is not limited to, any of the following investments within the state of Washington:

(i) Investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or businesses that address the needs of the low-income and moderate-income areas.

(ii) Investments in residential mortgage loans, home improvement loans, housing rehabilitation loans, and small business or small farm loans originated in low-income and moderate-income areas, or the purchase of such loans originated in low-income and moderate-income areas.

(iii) Investments for the preservation or revitalization of urban or rural communities in low-income and moderate-income areas.

(b) The term does not include personal installment loans, or loans made for the purchase of, or secured by, an automobile.

(10) "**Type I security**" means:

(a) Obligations of the United States;

(b) Obligations issued, insured, or guaranteed by a department or agency of the United States, including obligations of such departments or agencies representing an interest in a loan or pool of loans;

(c) General obligations of a state or political subdivision including, but not limited to, obligations of a county, city, town, municipal corporation, or any publicly owned entity that is an instrumentality of a state or municipal corporation;

(d) Obligations of any state or political subdivision of a state if a state or political subdivision of a state having general powers of taxation has unconditionally promised to make sufficient funds available for full repayment of the obligation; and

(e) Revenue bonds issued by public improvement agencies.

(11) "**Type II security**" means:

(a) Obligations issued by any state or political subdivision, or any agency of a state or political subdivision for housing, university or dormitory purposes.

(b) Obligations issued by any state or a political subdivision for the purpose of financing the construction or improvement of facilities at or used by a university or a degree-granting college-level institution, or financing loans for studies at such institutions; and

(c) Obligations which finance the construction or improvement of facilities used by a hospital, provided that the hospital is a department or a division of a university, or otherwise provides a sufficient nexus with university purposes.

(12) **"Type III security"** means an investment security that does not qualify as a Type I, II, IV, or V security. Examples of Type III securities include corporate bonds and municipal bonds that do not satisfy the definition of a Type I security or a Type II security.

(13) **"Type IV security"** means:

(a) A small business-related security as defined in section 3 (a)(53)(A) of the Securities Exchange Act of 1934, 15 U.S.C. 78c (a)(53)(A), that is fully secured by interests in a pool of loans to numerous obligors.

(b) A commercial mortgage-related security that is offered or sold pursuant to Section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), that is investment grade, or a commercial mortgage-related security as described in Section 3 (a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c (a)(41), that represents ownership of a promissory note or certificate of interest or participation that is directly secured by a first lien on one or more parcels of real estate upon which one or more commercial structures are located and that is fully secured by interests in a pool of loans to numerous obligors.

(c) A residential mortgage-related security that is offered and sold pursuant to Section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), that is investment grade, or a residential mortgage-related security as described in Section 3 (a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c (a)(41) that does not otherwise qualify as a Type I security.

(14) **"Type V security"** means a security that is:

(a) Investment grade;

(b) Marketable;

(c) Not a Type IV security; and

(d) Fully secured by interests in a pool of loans to numerous obligors and in which a bank could invest directly.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-010, filed 12/1/17, effective 1/1/18.]

WAC 208-512-070 Nonbankable assets. (1) In determining whether an asset of a bank is bankable, all of the circumstances of the asset shall be weighed including, but not limited to, the following:

(a) Character of the borrower;

(b) Capacity of the borrower;

(c) Capital of the borrower;

(d) Sufficiency of the collateral;

(e) Economic conditions pertaining to the type of business in which the borrower is engaged; and

(f) Conformance to general banking standards as then currently practiced in the banking industry.

(2) If an examiner determines that an asset is nonbankable based on the circumstances weighed in subsection (1)(a) through (f) of this section, the bank must charge-off the asset within thirty days of receipt of the written report of examination, or by the next call report submission date, whichever is longer.

(3) Such charge-off is deemed conclusive, unless it is contested before the expiration of the time period stated in subsection (2) of this section.

(4) A contested charge-off must be in the form of a written statement filed with the director explaining why the asset should not be charged off.

(5) After consideration of such written statement and within forty-five days, the director will notify the bank in writing of his or her decision as to the treatment of the asset. The director's written notification shall be deemed conclusive as to the disposition of the asset.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-070, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-070, filed 8/22/00, effective 9/22/00; Order 9, § 50-12-070, filed 5/9/72.]

WAC 208-512-080 Purchase or sale of investment securities—Resale or repurchase agreement. The purchase or sale of investment securities under an agreement to resell or repurchase the interest transferred, or a portion thereof, at the end of a stated period, does not constitute an obligation subject to the lending limits under RCW 30A.04.111 and chapter 208-512A WAC and is not considered a pledge or hypothecation of investment securities or assets of the bank to a depositor within the meaning of RCW 30A.04.140.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-080, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-080, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.030. WSR 83-03-020 (Order 51), § 50-12-080, filed 1/13/83; Order 28, § 50-12-080, filed 9/10/74.]

WAC 208-512-090 Purchase or sale of investment securities—For customer or institution accounts allowable. Subject to the Federal Reserve Board's Regulation R, 12 C.F.R. Part 218, a bank may purchase and sell investment securities upon the order and for the account of its customers and may deal in the underwriting and purchasing of investment securities for the bank's investment account subject to WAC 208-512-110 through 208-512-117, inclusive.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of

the Dodd-Frank Act. WSR 17-24-053, § 208-512-090, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-090, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.030. WSR 83-01-082 (Order 49), § 50-12-090, filed 12/17/82.]

WAC 208-512-100 Leasing bank premises—Limitations. (1) A bank may lease part of the premises in which it conducts its day-to-day business to persons engaged in nonbanking business activities subject to the following limitations:

(a) No director, officer, or employee of such bank may have any direct or indirect financial interest exceeding ten percent of the lessee's business activities conducted on the premises leased, unless the transaction is made on substantially the same terms as those prevailing at the same time for comparable transactions by the bank with other persons who are not affiliated with the institution, and the transaction has been approved in advance by a majority of the board of the directors of the institution;

(b) No bank may receive commissions or other revenues from the lessee other than periodic rental payments received under terms that are usual and customary in leasing space used for similar commercial purposes, as determined by the director;

(c) No lessee may have access to secure areas of the bank's premises and a lessee may not conduct business activities on the secure areas of the bank's premises other than during regular banking hours;

(d) No bank may exercise managerial control over the lessee's business activities or assume, guarantee, or otherwise become obligated for the lessee's debts or legal obligations;

(e) No bank may advertise a lessee's business activities conducted on such bank's premises as a service provided by the bank, or otherwise represent that the lessee's business activities are not independently owned and operated;

(f) No bank may use tying arrangements involving the sale of a lessee's goods or services offered on such bank's premises or in any other way require purchase of a lessee's goods or services as a condition for granting credit or performing services.

(2) For purposes of this section, the term "bank" means any person or corporation operating under the provisions of Title 30A, 32, or 33 RCW directly or indirectly affiliated with the lessor.

[Statutory Authority: WAC is RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-100, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-100, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.12.060. WSR 85-19-052 (Order 62), § 50-12-100, filed 9/13/85.]

WAC 208-512-110 Investment securities—Permissible investments. (1) Permissible investments include the following investment security types, subject to specific capital limitations:

(a) Type I security, which a bank may deal in, purchase, and sell for its own account without any capital and surplus limitation.

(b) Type II security, which a bank may deal in, purchase and sell for its own account subject to a twenty percent of capital and surplus limitation, in addition to any limitation set forth in WAC 208-512-115(1).

(c) Type III security which a bank may purchase and sell for its own account with a twenty percent of capital and surplus limitation, in addition to any limitation set forth in WAC 208-512-115(1).

(d) Type IV security, which a bank may purchase and sell for its own account without any capital and surplus limitation.

(e) Type V security, which a bank may purchase and sell for its own account with a twenty-five percent of capital and surplus limitation.

(2) Any investment security held by a bank, regardless of investment security type, must be considered investment grade.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-110, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 01-06-024, § 208-512-110, filed 2/27/01, effective 3/30/01; WSR 00-17-141, recodified as § 208-512-110, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.08.140. WSR 87-20-036 (Order 70), § 50-12-110, filed 9/30/87. Statutory Authority: RCW 30.12.060. WSR 85-19-052 (Order 62), § 50-12-110, filed 9/13/85.]

WAC 208-512-115 Investment securities—Proper management. (1)

If a bank holds at any time Type II or III securities that are not considered investment grade and represent an aggregate par value exceeding five percent of the bank's capital and surplus, the investment securities must be charged down to market value, or a specific reserve must be established within ninety days.

(2) Each bank shall maintain in its files credit information adequate to demonstrate that it has exercised prudence in carrying out the securities-related transactions involving the underwriting, the dealing in, and the purchase and sale of investment securities. This information shall be retained:

(a) When investment securities are purchased for the bank's own portfolio, as long as the investment security remains in the portfolio;

(b) When investment securities are underwritten by the bank, for the maturity or the life of the investment security; and

(c) With regard to dealer activities, for periods set forth in the relevant rules of the municipal securities rule-making board.

(3) When a bank purchases an investment security convertible into stock, or with stock purchase warrants attached, entries must be made by the bank at the time of purchase to write down the cost of such investment security to an amount that represents the investment value of the investment security independent of the conversion feature or attached stock purchase warrants. Purchase of investment securities convertible into stock at the option of the issuer is prohibited.

(4) When an investment security is purchased at a price exceeding par or face value, the bank shall:

(a) Charge off the entire premium at the time of purchase; or

(b) Provide for a program to amortize the premium paid or that portion of premium remaining after the write-down subject to subsection (1) of this section so that such premium or portion thereof shall be entirely extinguished at or before the maturity of the investment security.

(5) Each bank shall take measures to ensure the cumulative investment holdings do not exceed the limitations for a specific investment set forth in Titles 30A, 32, and 33 RCW, as applicable.

(6) The board of directors, a committee thereof, or a duly appointed committee of senior level management shall review at least quarterly the bank's investment portfolio to ensure compliance with the provisions contained in WAC 208-512-110 through 208-512-117, inclusive.

(7) The restrictions and limitations set forth in this section do not apply to securities acquired through foreclosure on collateral, or acquired in good faith by way of compromise of a doubtful claim, or to avoid a loss in connection with a debt previously contracted.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-115, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 01-06-024, § 208-512-115, filed 2/27/01, effective 3/30/01; WSR 00-17-141, recodified as § 208-512-115, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.08.140. WSR 87-20-036 (Order 70), § 50-12-115, filed 9/30/87.]

WAC 208-512-116 Investment securities—Investment in investment companies. A bank may invest in shares of an investment company provided that all of the following conditions are met:

(1) The investment company must be registered with Securities and Exchange Commission under the Investment Company Act of 1940 and the Securities Act of 1933 or be a privately offered fund sponsored by an affiliated commercial bank.

(2) The shareholder has a fair and equal proportionate undivided interest in the underlying assets of the investment company calculated pursuant to the Investment Company Act of 1940.

(3) When an investment company's assets consist solely of and are expressly limited to obligations that are eligible for unlimited investment (Type I) as described in WAC 208-512-100, there is no limit on the bank's investment. However, where the investment company's portfolio contains, or is permitted to contain, investment securities subject to the bank's investment or lending limitations, investment by the bank shall be subject to a twenty percent of capital and surplus limitation.

(4) The shareholders are protected against personal liability for acts or obligations of the investment company.

(5) The bank's investment policy, as formally approved by its board of directors, specifically provides for such investments; prior approval of the board of directors is obtained for initial investments in specific investment companies and recorded in the official board minutes; and procedures, standards, and controls for managing such investments are implemented prior to acquiring these investments.

(6) If the investment company makes use of futures, forwards, options, repurchase agreements and securities lending arrangements, their use must be consistent with standards adopted for use of such instruments in the bank's portfolio.

(7) Regulatory reporting of holdings in investment companies is consistent with established standards for marketable investment securities.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-116, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 01-06-024, § 208-512-116, filed 2/27/01, effective 3/30/01; WSR 00-17-141, recodified as § 208-512-116, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.08.140(7). WSR 92-04-027, § 50-12-116, filed 1/28/92, effective 2/28/92. Statutory Authority: RCW 30.08.140. WSR 87-20-036 (Order 70), § 50-12-116, filed 9/30/87.]

WAC 208-512-117 Investment securities—Investments in corporations. Nothing in WAC 208-512-110, 208-512-115, or 208-512-116 shall limit the authority of a bank to invest in corporations or entities pursuant to chapters 32.20 and 33.24 RCW, or with the prior authorization of the director pursuant to RCW 30A.04.127.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-117, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 01-06-024, § 208-512-117, filed 2/27/01, effective 3/30/01; WSR 00-17-141, amended and recodified as § 208-512-117, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.08.140. WSR 87-24-042 (Order 71), § 50-12-117, filed 11/25/87.]

WAC 208-512-130 Community Reinvestment Act—Purpose. WAC 208-512-180 and 208-512-190, inclusive, are intended to further refine the requirements under chapter 30A.60 RCW and RCW 30A.04.212 to encourage banks to help meet the credit needs of their local communities in satisfying their continuing and affirmative obligations to help meet the credit needs of the local communities, including low-income and moderate-income neighborhoods, consistent with safe and sound operation of those banks; and, to provide for further consideration of those records in connection with certain applications.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-130, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-130, filed 8/22/00, effective 9/22/00. Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. WSR 87-02-010 (Order 66), § 50-12-130, filed 12/30/86.]

WAC 208-512-180 Community Reinvestment Act—Limitation on single investment for commercial banks. The total investment by a commercial bank in a single parcel of real property, and improvements thereon, shall not exceed twenty-five percent of the aggregate amount of such bank's real estate investments allowed by RCW 30A.04.212.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-180, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-180, filed 8/22/00, effective 9/22/00. Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. WSR 87-02-010 (Order 66), § 50-12-180, filed 12/30/86.]

WAC 208-512-190 Community Reinvestment Act—Investment in qualifying community investments for commercial banks. (1) An amount equal to ten percent of the aggregate amount invested in real estate by a commercial bank pursuant to RCW 30A.04.212 shall be placed in qualifying community investments.

(2) A qualifying community investment made by an entity that wholly owns a bank, is wholly owned by a bank, or is wholly owned by an entity that wholly owns the bank, shall be deemed to have been made by a bank to satisfy the requirements of subsection (1) of this section.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-190, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-190, filed 8/22/00, effective 9/22/00. Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. WSR 87-02-010 (Order 66), § 50-12-190, filed 12/30/86.]

WAC 208-512-200 Community Reinvestment Act—Consideration of performance in approving and disapproving applications. Subject to RCW 30A.60.020, the division shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low-income and moderate-income neighborhoods in determining the approval or disapproval for the following applications:

- (1) New branch or satellite facility;
- (2) Purchase or sale of assets;
- (3) Merger;
- (4) Acquisition;
- (5) Authority to engage in a business activity;
- (6) Conversion from a national bank to a state-chartered bank;

and

(7) Such other application as the director may consider appropriate.

The performance record need not be considered for subsections (2), (3), and (4) of this section where solvency and safety soundness of the bank is threatened. Assessment of an institution's Community

Reinvestment Act performance may be a basis for denying an application.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-200, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-200, filed 8/22/00, effective 9/22/00. Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. WSR 87-02-010 (Order 66), § 50-12-200, filed 12/30/86.]

WAC 208-512-320 Insurance-related activities—Purpose. WAC 208-512-320 through 208-512-370, inclusive, govern the authority of a bank to engage in insurance-related activities.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-320, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-320, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.030. WSR 90-10-074, § 50-12-320, filed 5/2/90, effective 6/2/90.]

WAC 208-512-340 Insurance-related activities—General rule. Except as provided in these rules, or as otherwise provided by law, a bank may not act as a principal in any insurance-related activity that is not permissible for a national bank, unless consistent with 12 U.S.C. Sec. 1831a.

(1) The Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the Deposit Insurance Fund; and

(2) The bank is, and continues to be, in compliance with the capital standards required pursuant to 12 U.S.C. Sec. 1831o and as specified in 12 C.F.R. Part 325, or any applicable successor federal rule; and

(3) If the bank is a federal reserve member bank, any additional requirement or restriction involving insurance-related activities that the Board of Governors of the Federal Reserve system may prescribe.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-340, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-340, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.030. WSR 90-10-074, § 50-12-340, filed 5/2/90, effective 6/2/90.]

WAC 208-512-350 Insurance-related activities—Exceptions. Notwithstanding WAC 208-512-340, a bank may not engage in insurance un-

derwriting except to the extent that activity is permissible for a national bank.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-350, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-350, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.030. WSR 90-10-074, § 50-12-350, filed 5/2/90, effective 6/2/90.]

WAC 208-512-360 Insurance-related activities—Subsidiary. (1) A bank may conduct insurance-related activities through a subsidiary of the bank as authorized by RCW 30A.04.125(8) subject to subsection 2 of this section.

(2) A subsidiary of a bank may not engage as a principal in any insurance-related activity that is not permissible for a subsidiary of a national bank unless, consistent with 12 U.S.C. Sec. 1831a.

(a) The Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the Deposit Insurance Fund;

(b) The bank is, and continues to be, in compliance with the capital standards required pursuant to 12 U.S.C. Sec. 1831o and as specified in 12 C.F.R. Part 325, or any applicable successor federal rule; and

(c) If the parent bank is a Federal Reserve member bank, any additional requirement or restriction applicable to the subsidiary involving insurance-related activities that the Board of Governors of the Federal Reserve System may prescribe.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-360, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, recodified as § 208-512-360, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.030. WSR 90-10-074, § 50-12-360, filed 5/2/90, effective 6/2/90.]

WAC 208-512-370 Insurance-related activities—Enforcement. It shall be considered an unsafe and unsound practice in conducting the affairs of the bank if in the opinion of the director, the insurance-related activities of a bank or bank subsidiary are:

(1) A violation of WAC 208-512-340, 208-512-350, or 208-512-360; or

(2) A violation of any requirements under Title 48 RCW and the rules of the office of insurance commissioner involving insurance-related activities;

(3) In violation of any applicable state or federal consumer protection law; or

(4) In violation of any applicable state or federal statute prohibiting anti-competitive activities.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-370, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-512-370, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 30.04.030. WSR 90-10-074, § 50-12-370, filed 5/2/90, effective 6/2/90.]

WAC 208-512-400 Subprime mortgage lending—Purpose of these rules. These rules are designed to help Washington state-chartered banks (Title 30A RCW), savings banks (Title 32 RCW) and savings associations (Title 33 RCW) establish, reiterate, integrate and maintain their own policies and procedures regarding subprime and nontraditional mortgage lending guidance. These policies and procedures are required by a new state law, chapter 108, Laws of 2008 (chapter 19.144 RCW).

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-400, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 19.144.040 [19.144.030]. WSR 08-22-070, § 208-512-400, filed 11/4/08, effective 12/5/08.]

WAC 208-512-410 Subprime mortgage lending—What is the "guidance"? Because of concerns about problems with subprime mortgage lending, the federal government issued the *Interagency Guidance on Nontraditional Mortgage Product Risks* and a *Statement on Subprime Mortgage Lending* (collectively, "the guidance"). In 2007, the governor convened the Washington state task force for homeowner security. The task force recommended including the federal guidance in state legislation. The 2008 Washington state legislature enacted SHB 2770, requiring the department of financial institutions to apply the two guidance documents to financial institutions in Washington. Starting in 2008, credit unions, banks, savings banks, savings associations, mortgage brokers and other Washington state consumer loan companies (collectively, "financial institutions") must have policies and procedures that use the guidance.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-410, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 19.144.040 [19.144.030]. WSR 08-22-070, § 208-512-410, filed 11/4/08, effective 12/5/08.]

WAC 208-512-420 Subprime mortgage lending—What does the guidance require of banks, savings banks and savings associations? The stated intent of the guidance is to help borrowers to better understand adjustable rate mortgage (ARM) risks. The guidance requires financial institutions to have policies and procedures that focus on the

various risks of subprime/nontraditional mortgage lending. The guidance requires financial institutions to be aware of portfolio and risk management practices, to use appropriate underwriting standards and to abide by consumer protection principles. Financial institutions also need to maintain strong internal control systems. Many of the recommendations in the guidance are good business practices and may already be followed by financial institutions.

Not all of the elements of the guidance may be applicable to all banks, savings banks and savings associations, or to all other financial institutions. Banks, savings banks and savings associations must determine which elements are relevant to their operations, and incorporate only those subjects into their policies and procedures.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-420, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 19.144.040 [19.144.030]. WSR 08-22-070, § 208-512-420, filed 11/4/08, effective 12/5/08.]

WAC 208-512-430 Subprime mortgage lending—Is there a list of subjects that banks, savings banks and savings associations must include in their policies and procedures? Yes, the guidance requires all financial institutions, including banks, savings banks and savings associations, to focus on the following subjects and apply the relevant ones to their existing policies and procedures:

- (1) Help borrowers understand ARM risks, including:
 - (a) Low initial payment;
 - (b) High or unlimited reset rate caps;
 - (c) Low or no documentation loans;
 - (d) Problems of frequent refinancing;
 - (e) Risk layering;
 - (f) Simultaneous second lien loans;
 - (g) Prepayment penalties;
 - (h) FDIC or FRB prohibited practices (banks, savings banks and savings associations).
- (2) Understand portfolio and risk management practices, including:
 - (a) Relationship between subprime lending and predatory lending;
 - (b) Risks of loans based on foreclosed or liquidation value;
 - (c) Problem of loan "flipping";
 - (d) Fraud detection;
 - (e) Use of qualifying standards;
 - (f) Maintenance of appropriate capital levels;
 - (g) Use of appropriate allowance for loan and lease loss levels;
 - (h) Risks of stated income loans.
- (3) Underwriting standards.
- (4) Workout arrangements.
- (5) Consumer protection principles, including:
 - (a) Use of a summary disclosure form;
 - (b) Avoidance of steering borrowers to inappropriate products;
 - (c) Explanation of payment shock risk;
 - (d) Explanation of prepayment penalty;
 - (e) Explanation of balloon payment;

- (f) Explanation of costs of low documentation or stated income loans;
 - (g) Compliance with the Truth in Lending Act and other federal requirements;
 - (h) Importance of good consumer communications in promotional materials and product descriptions;
 - (i) Explanation of borrower responsibility for taxes and insurance.
- (6) Development and maintenance of strong internal controls, including:
- (a) Management of deals with third-party originators;
 - (b) Management of secondary market risk;
 - (c) Effective management information and reporting;
 - (d) Use of stress testing and performance measures;
 - (e) Actual practices consistent with policies.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-430, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 19.144.040 [19.144.030]. WSR 08-22-070, § 208-512-430, filed 11/4/08, effective 12/5/08.]

WAC 208-512-440 Subprime mortgage lending—Where can I read the guidance documents? You can find the two federal guidance documents on the internet: <http://www.fdic.gov/news/news/press/2006/pr06086b.pdf>; and <http://www.fdic.gov/news/news/press/2007/pr07055a.html>.

You can also click on the links on the DFI web site at www.dfi.wa.gov.

If you do not have internet access, you may contact the department of financial institutions, division of banks (division of banks) for a copy of the documents.

Read these documents to ensure proper application of the law to your institution and to comply with the required integration of the guidance into your policies and procedures. If your institution needs help incorporating the guidance or reconciling it to your policies and procedures, contact your legal counsel.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-440, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 19.144.040 [19.144.030]. WSR 08-22-070, § 208-512-440, filed 11/4/08, effective 12/5/08.]

WAC 208-512-450 Subprime mortgage lending—Why do I need to read the federal guidance documents? The federal guidance consists of two lengthy documents that are very detailed. Because they are required by state statutory law, they apply in their entirety. Division of banks cannot merely summarize them or give you a checklist. You must read the documents in order to apply them to your particular institution by means of integrating the guidance into your own policies and procedures.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-450, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 19.144.040 [19.144.030]. WSR 08-22-070, § 208-512-450, filed 11/4/08, effective 12/5/08.]

WAC 208-512-460 Subprime mortgage lending—What will the division of banks do about compliance with guidance policies and procedures? Every state-chartered bank, savings banks and savings association is different. There is no "one-size-fits-all" guidance available. Division of banks will not issue model guidance, because the process of self-analysis that your institution needs to do, in order to develop its own guidance policies and procedures, is beneficial. The division of banks does not provide technical legal advice. Also, the guidance is complex and will result in variations in wording or applicability of guidance policies and procedures among institutions, depending upon the size and complexity of a particular institution, the overall characteristics of its mortgage lending market base, and the specific types of mortgage lending it does, if any.

For supervision purposes, the division of banks will:

(1) Verify that an institution has integrated the guidance into its policies and procedures, as part of its risk-focused examination. Division of banks will not mandate the length or exact wording used in the guidance policies and procedures.

(2) Review the guidance policies and procedures with the institution, if a consumer complaint indicates a problem or issue regarding subprime and nontraditional mortgage lending practices.

(3) Verify that an institution is following its policies and procedures.

The division of banks expects prompt compliance by banks, savings banks and savings associations with the requirements of this rule.

The law provides the division of banks with examination, enforcement and investigation authority to take appropriate action against banks, savings banks and savings associations that are in noncompliance with the guidance policies and procedures requirement.

[Statutory Authority: RCW 43.320.040, 43.320.050, 30A.04.030, 30A.12.060, 30A.04.140, 30A.04.210, 30A.04.212, 30A.60.010 - [30A.60.]901, 30A.08.140, 30A.08.150, 30A.04.125 and section 939A of the Dodd-Frank Act. WSR 17-24-053, § 208-512-460, filed 12/1/17, effective 1/1/18. Statutory Authority: RCW 19.144.040 [19.144.030]. WSR 08-22-070, § 208-512-460, filed 11/4/08, effective 12/5/08.]