



STATE OF WASHINGTON
DEPARTMENT OF GENERAL ADMINISTRATION
218 General Administration Building • Olympia, Washington 98504
DIVISION OF BANKING - ROOM 219

November 3, 1982

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

This statement is filed pursuant to Chapter 6, Section 4, Laws of 1982, amending Title 34 RCW.

Administrative Order No. 47, approved and adopted on November 3, 1982, was an emergency rule and amends WAC 50-12-080 (Purchase or Sale of Securities - - Resale or Repurchase Agreement).

An analysis has been made of compliance required for small business under provisions of Chapter 6, Laws of 1982. Compliance requirements under the emergency rule will not be disproportionate nor create an adverse economic impact on small businesses operating under the rules.

A handwritten signature in black ink, appearing to read "M. D. Edwards".

M. D. Edwards
Supervisor of Banking



JOHN SPEELMAN
Governor

KEITH A. ANGER
Director

STATE OF WASHINGTON

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STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

The introduction of new financial services and products by financial institutions other than banks, as well as extended interpretations by federal banking regulatory bodies as to the use of these services and products requires immediate response for state chartered banks to remain competitive. Many competitive institutions are offering "sweep" accounts tied to a pool of securities in a retail repurchase agreement. State banks must respond immediately to these competitive pressures or lose valuable customers.

The Division of Banking has previously issued regulations and guidelines for retail repurchase agreements. Questions have arisen, however, concerning their relationship to statutory restrictions on the granting of security interests and assets of the state chartered bank and in dealing in securities.

These rules are promulgated to authorize state banks to enter into retail repurchase agreements with a grant of a perfected security interest to the consumer customer and eliminate doubt with respect to the ability of state banks to do so without violating securities prohibitions.

The rules were drafted and proposed by M. D. Edwards, State Supervisor of Banking, 219 General Administration Building, Olympia, Washington, 98502, (Telephone (206) 753-6520. Together with his staff, the Supervisor will be responsible for the implementation and enforcement of the rules.

M. D. Edwards
Supervisor of Banking

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DIVISION OF BANKING, DEPARTMENT OF GENERAL ADMINISTRATION
(agency name)

Administrative Order No. 47

(1) I, MICHAEL D. EDWARDS, Supervisor of Banking

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:
purchase or sale of United States government securities;
amending WAC 50-12-080 and adding a new section WAC 50-12-090.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on These rules shall take effect:
[] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
[] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, MICHAEL D. EDWARDS, Supervisor of Banking, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is: Rapid development of new banking services and products requires immediate response for state banks to remain competitive. Many competitive institutions are offering "sweep" accounts tied to a pool of securities in a retail repurchase agreement. This office has previously issued regulations and guidelines for retail repurchase agreements. However, questions have arisen concerning their relationship to statutory restrictions on the granting of security interests and assets of the bank and in dealing in securities. Therefore, These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser. (cont'd on reverse)

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[] (a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.

[X] (b) This rule is promulgated pursuant to RCW 30.04.030 which directs that the

Supervisor of Banking (agency)

has authority to implement the provisions of Title 30 RCW (name of act or RCW citation)

[] (c) This rule is promulgated under the general rule-making authority of the (agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

STATE OF WASHINGTON

APPROVED AND ADOPTED November 3, 19 82

NOV 3 1982

MICHAEL D. EDWARDS, Supvr. of Banking
By L. O. MALMBERG Deputy Supvr. of Banking
Title

CODE REVISER'S OFFICE

WSR 82-22-083

NOTE:

¹RCW 34.04.026 provides:

"(1) In addition to the provisions of RCW 34.04.025(1)(a)(i), every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules:

(a) The most specific reference shall be to a section of law which the rule is implementing, and shall be quoted as follows: "This rule is promulgated pursuant to RCW _____ and is intended to administratively implement that statute."

(b) The next specific reference, and one which shall be used only if paragraph (a) of this subsection is not applicable, shall be to that portion of an act which directs an agency to adopt rules and regulations as necessary to implement the act, and shall be quoted as follows: "This rule is promulgated pursuant to RCW _____ which directs that the (agency) has authority to implement the provisions of (name of act or RCW citation)."

(c) The least specific reference, and one which shall be used only if paragraphs (a) and (b) of this subsection are not applicable, is one which indicates that the rule is promulgated under the agency's broad rule-making authority—either in the agency enabling legislation or chapter 34.04 RCW, and shall be quoted as follows: "This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW _____."

(2) The code reviser is directed to develop a format for placing such specific language in each rule, and agencies shall then comply with the code reviser's direction, and shall include the same in the final rule.

(3) During the promulgation hearings process the public may question whether such rule should have a more specific reference, and the agency shall, pursuant to RCW 34.04.025(1)(b), give consideration to such requests."

(2)B. (continued from front page)

these regulations are promulgated to authorize state banks to enter into retail repurchase agreements with a grant of a perfected security interest to the consumer customer and to eliminate doubt with respect to the ability of the banks to do so without violating securities prohibitions.

State banks must repond immediately to these competitive pressures or lose valuable customers. Therefore, these rules are promulgated on an emergency basis.

AMENDATORY SECTION (Amending Order 28, filed 9/10/74)

WAC 50-12-080 PURCHASE OR SALE OF UNITED STATES GOVERNMENT SECURITIES--RESALE OR REPURCHASE AGREEMENT. The purchase or sale of securities of the United States government and agencies thereof, or a fractional undivided interest therein by a bank, under an agreement or agreements to resell or repurchase the interest transferred, or a portion thereof, at the end of a stated period, (~~is not a borrowing subject to RCW 30.04.140 nor an obligation subject to the lending limit of RCW 30.04.110~~) shall not constitute an obligation subject to the lending limit of RCW 30.04.110, an indebtedness or liability of the bank within the meaning of RCW 30.04.150, a borrowing for the purposes of reloading within the meaning of RCW 30.04.160, nor a pledge or hypothecation of securities or assets of the bank to a depositor or creditor within the meaning of RCW 30.04.140.

NEW SECTION

WAC 50-12-090 PURCHASE OR SALE OF UNITED STATES GOVERNMENT SECURITIES SOLELY FOR CUSTOMERS' ACCOUNT NOT WITHIN PURVIEW OF RCW 30.04.200. The provisions of RCW 30.04.200 shall not prohibit banks or the officers or employees thereof in the course of their employment from purchasing and selling securities and stocks without recourse, solely upon the order and for the account of customers of the bank, or from dealing in, underwriting and purchasing for the account of the bank obligations of, or obligations guaranteed as to principal and interest by, the United States or agencies thereof or of any state or political subdivision thereof.