



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: General Administration, Division of Banking

- Permanent Rule
 Emergency Rule

(1) Date of adoption: June 23, 1993

(2) Purpose:

To provide guidelines for the formation of mutual holding companies and to define the powers of mutual holding companies.

(3) Citation of existing rules affected by this order:

Repealed:
Amended: Chapter 50-14 WAC
Suspended:

(4) Authority for adoption:

Statute: RCW 32.34.040-.050, Chapters 32.08 and 34.05 RCW
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 93-11-087 on May 19, 1993 (date).

Describe any changes other than editing from proposed to adopted version: Editing change made to WAC 50-14-050(2)(a), the last sentence was changed to read "The supervisor shall approve or disapprove the plan of reorganization within sixty days of acceptance of a completed plan of reorganization."

(5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

Emergency Rules

- 31 days after filing Immediately
 Other (specify) _____ * Later (specify) _____

*(if less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JUN 23 1993

TIME: 11:07
WSR: 93-13-192

NAME (TYPE OR PRINT)

John L. Bley

SIGNATURE

John L. Bley

Supervisor of Banking

DATE

6/23/93

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-020 Introduction. This chapter implements the authority of the supervisor of banking(~~(s)~~) (the "supervisor") (~~(authority)~~) under chapters 32.08, 32.34, and 34.05 RCW to enact regulations (~~(to regulate)~~) concerning the (~~(establishment)~~) organization and operation(~~(s)~~) of mutual holding companies. It addresses only those features of the organization and operation of mutual holding companies and their subsidiary stock savings banks that are not governed by (~~(existing provisions of)~~) Title 32 RCW. Among the provisions that must be considered are (~~(the following)~~):

(1) Chapter(~~(s 32.08 and)~~) 32.32 RCW for the chartering of a mutual savings bank and (~~(its)~~) the conversion of a mutual savings bank to a stock(~~(-form)~~) savings bank (~~(subsidiary of a mutual holding company)~~);

(2) Title 32 RCW generally for the operations of any such savings bank; and

(3) Chapter 32.34 RCW for any merger or acquisition of assets involving a mutual holding company or banking subsidiary of a mutual holding company.

In addition, the supervisor has determined that formation of a business trust is not the sole and exclusive method by which a state savings bank may form a mutual holding company ("MHC").

Under RCW 32.34.050, a state savings bank is allowed to form a business trust that, in turn, is authorized to become a MHC. However, based on the statutory authority granted to the supervisor under that statute as well as chapters 32.08 and 34.05 RCW, the supervisor has determined that utilization of a business trust is not the exclusive procedure for creation of MHCs.

By enacting RCW 32.08.142, the legislature evidenced a clear intent that state-chartered savings banks not be placed at a competitive disadvantage to federally chartered savings banks. While the state Constitution prohibits automatic incorporation into state law of federal laws enacted after adoption of RCW 32.08.142, that restriction does not invalidate the legislative intent that state institutions not be placed at an undue competitive disadvantage with federal savings banks.

Conditioning MHC formation on the utilization of a business trust to act as the MHC is potentially disadvantageous to state savings banks in view of:

(a) The absence of state statutory and regulatory guidance concerning the governance and authority of trusts when acting as holding companies;

(b) The uncertainty of regulations of such trusts as MHCs; and

(c) The potential federal tax uncertainties that would arise by utilizing a trust in connection with a tax free reorganization into a mutual holding company.

In addition, business trusts are permitted by statute (chapter 23.90 RCW) to exercise the general powers of domestic corporations, including the power to merge into a domestic corporation. As a result, the supervisor has determined that the scope of chapter

32.34 RCW and the incidental powers clause of RCW 32.08.140 make it convenient or useful in connection with a savings bank's performance of its specifically enumerated powers to accomplish a MHC reorganization, to utilize either a corporation formed under the laws of the state of Washington or a business trust.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-030 Definitions--Regulations not exclusive. (1) The definitions (~~(contained)~~) in RCW 32.32.025 shall apply to any transaction under these rules unless the context requires otherwise and except as provided herein.

(2) The reorganization of a mutual savings bank into mutual holding company form (~~((hereafter sometimes referred to as the))~~) "reorganization") and the subsequent conversion of ((a mutual holding company) the MHC into ((a) stock ((holding company (hereafter sometimes referred to as the "conversion")) form or the offering of common stock of a subsidiary of a MHC that will cause the MHC to hold less than fifty-one percent of the issued and outstanding common stock of the stock savings bank ("conversion to stock form") shall be governed by ((the rules prescribed in) chapter 32.32 RCW, ((except to the extent such rules are inconsistent with the transaction and)) except as provided in these rules. ((Any savings bank or mutual holding company may apply to the supervisor, in connection with a transaction authorized by these rules, for such variations from the rules prescribed by chapter 32.32 RCW as are necessary and proper to effectuate the transaction.))

(3) The term "mutual holding company" shall mean the business trust or mutually owned corporation, or the successor of either, originally established by a savings bank to serve as the holding company of a stock savings bank subsidiary, provided that a MHC shall at all times own fifty-one percent or more of the issued and outstanding common stock of a stock savings bank subsidiary that is the successor by merger or purchase to substantially all of the assets and all of the deposits and other liabilities of the savings bank that has reorganized into a mutual holding company pursuant to RCW 32.34.050 and these rules.

(4) To achieve the intent of RCW 32.34.050 in a manner that ensures consistency with chapter 32.32 RCW, and acting pursuant to RCW 32.32.010, the supervisor hereby waives or modifies to the extent set forth in these rules the applicability of the following provisions of chapter 32.32 RCW as they relate to the organization and operation of mutual holding companies and their stock savings bank subsidiaries: RCW 32.32.035, 32.32.045 through 32.32.070, 32.32.085, 32.32.090, 32.32.095, 32.32.110, 32.32.120, 32.32.135 through 32.32.160, 32.32.185 through 32.32.205, 32.32.240 through 32.32.275, 32.32.315, 32.32.320, 32.32.330, 32.32.335, 32.32.355, 32.32.440, and 32.32.485.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-040 Authorization (~~(of the formation of)~~) to form mutual holding companies. (1) Notwithstanding any other provision of law, and in accordance with the general requirements (~~(of the supervisor)~~) set forth in WAC 50-14-050 through (~~(50-14-150)~~) 50-14-140, a mutual savings bank may reorganize under a plan of reorganization so as to cause its deposit-taking and one or more other activities to be conducted by a stock savings bank subsidiary of a mutual holding company, which subsidiary is formed for such purpose. The plan of reorganization must be adopted by the bank's trustees and submitted to and approved by the supervisor as provided in these rules.

(2) Except to the extent that such provisions are inconsistent with these rules, the new stock savings bank subsidiary of the mutual holding company shall be subject to the same provisions of Title 32 RCW as apply to other stock savings banks.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-050 Required approvals. (1) A reorganization of a mutual savings bank pursuant to these rules shall be approved by not less than two-thirds of the board of trustees of the mutual savings bank.

(2)(a) A mutual savings bank proposing a reorganization pursuant to these rules shall provide the supervisor with written notice of such proposed reorganization. Such notice shall include (i) a copy of the plan of reorganization approved by the board of trustees pursuant to subsection (1) of this section, (ii) the proposed incorporation and authorization certificates for the mutual holding company and/or the stock savings bank subsidiary, as appropriate, and (~~(shall also contain)~~) (iii) such other information as the supervisor shall require. The supervisor shall approve or disapprove the plan of reorganization within sixty days of (~~(the submission of such plan, together with such other information as the supervisor shall require)~~) acceptance of a completed plan of reorganization.

(b) In determining whether to approve the plan of reorganization, the supervisor shall consider:

(i) Whether the formation of the mutual holding company would (~~(not)~~) be (~~(detrimental to)~~) in the interests of the depositors of the mutual savings bank proposing to reorganize (~~(as provided in WAC 50-14-040)~~);

(ii) Whether (~~(disapproval is necessary to prevent unsafe or unsound)~~) the reorganization would promote safe and sound banking practices;

(iii) Whether the (~~(interest of the public will be served by the proposed)~~) reorganization would serve the public interest;

(iv) Whether the financial (~~(or)~~) and management resources of the mutual savings bank proposing to reorganize (~~(as provided in~~

~~WAC 50-14-040~~) are sufficient to warrant (~~(disapproval)~~) approval of the (~~(proposed plan of)~~) reorganization; and

(v) Whether the mutual savings bank proposing to reorganize (~~(as provided in WAC 50-14-040)~~) either fails to furnish any information required under (a) of this subsection or furnishes information containing any statement (~~(which)~~) that, at the time and in the circumstances under which it was made, was false or misleading with respect to any material fact or omits (~~(to state)~~) any material fact necessary to make (~~(the)~~) statements therein not false or misleading.

(c) When the supervisor shall have determined to approve or disapprove the plan of reorganization, the supervisor shall so advise the mutual savings bank in writing and, if appropriate, shall endorse approval on the incorporation and authorization certificates and cause the same to be filed in such manner and in the respective offices provided in chapter 32.08 RCW. Upon the filing of the authorization certificate as provided in RCW 32.08.080, the existence of the mutual holding company and/or stock savings bank, as appropriate, shall commence. As used in (~~(this chapter)~~) these rules, the term "authorization certificate" shall include an amended authorization certificate.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-060 Formation of a mutual holding company. (1)(a) The plan of reorganization may authorize the formation of a (~~(mutual holding company)~~) MHC by:

(~~(a)~~)(i) The organization by or at the discretion or request of the mutual savings bank of a business trust or mutual corporation that shall serve as a MHC, the organization by the MHC of a stock savings bank subsidiary and the transfer to such stock savings bank of ((the substantial part of its)) substantially all of the mutual savings bank's assets and liabilities, including all of its deposit liabilities, in accordance with ((the general provisions of)) these rules;

(ii) The organization by or at the direction or request of the mutual savings bank ((of a mutual holding company)) of a business trust or mutual corporation that shall serve as the MHC, and the organization by such ((mutual holding company)) MHC of a stock savings bank subsidiary ((which)) that merges with the mutual savings bank; or

(iii) The reorganization of the mutual savings bank under any other method approved by the supervisor.

(b) For the purposes of (a) of this subsection and when authorized by the supervisor, as hereinafter provided, the trustees of the mutual holding company, consisting of five or more natural persons who are citizens of the United States, may incorporate an interim stock savings bank subsidiary in the manner herein prescribed. No savings bank shall incorporate for less amount nor commence business unless it has a paid-in capital stock in such amount as may be determined by the supervisor after consideration of the proposed transaction.

(i) Persons desiring to incorporate an interim stock savings bank shall file with the supervisor a notice of their intention to organize a savings bank in such form and containing such information as the supervisor shall prescribe by regulation or otherwise require, together with proposed articles of incorporation and bylaws, which shall be submitted for examination to the supervisor at his office in Olympia. The proposed articles of incorporation shall state:

(A) The name of such savings bank.

(B) The city, village or locality and county where the head office of such savings bank is to be located.

(C) The nature of its business (i.e., that of a savings bank).

(D) The amount of its capital stock, which shall be divided into shares of a par or no par value as may be provided in the articles of incorporation.

(E) The names, places of residence, and mailing addresses of the persons who as directors are to manage the bank until the first annual meeting of its shareholders.

(F) If there is to be preferred or special classes of stock, a statement of preferences, voting rights, if any, limitations and relative rights in respect of the shares of each class; or a statement that the shares of each class shall have the attributes as shall be determined by the bank's board of directors from time to time with the approval of the supervisor.

(G) Any provision granting the shareholders the preemptive right to acquire additional shares of the bank and any provision granting shareholders the right to cumulate their votes.

(H) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including, without limitation, any provision restricting the transfer of shares.

(I) Any provision the incorporators elect to so set forth, not inconsistent with law or with the purposes for which the bank is organized, or any provision limiting any of the powers granted in the applicable provisions of the Revised Code of Washington.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers granted in the applicable provisions of the Revised Code of Washington. The articles of incorporation shall be signed by all of the incorporators and acknowledged before an officer authorized to take acknowledgements.

(ii) In case of approval, the supervisor shall forthwith give notice thereof to the proposed incorporators and file one of the triplicate articles of incorporation in his own office, transmit another triplicate to the secretary of state, and the last to the incorporators. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other articles of incorporation, the secretary of state shall file such articles and record the same. Upon the filing of articles of incorporation approved as aforesaid by the supervisor, with the secretary of state, all persons named therein and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by the applicable provisions of the Revised Code of Washington, and whose existence shall continue from the date of the filing of such articles until terminated pursuant to law; but such corporation shall not transact any business, except as is necessary or convenient to its

organization and preparation to engage in business, until it has received from the supervisor a certificate of authority to engage in the banking business as a stock savings bank.

(c) For the purposes of (a) of this subsection, WAC 50-14-080 permits ((the)) a newly organized stock savings bank to issue to persons other than ((the mutual holding company of which it is a subsidiary)) its parent MHC, an amount of common stock and securities convertible into common stock ((which)) that, in the aggregate, does not exceed forty-nine percent of the issued and outstanding common stock of such stock savings bank upon completion of the offering. Issued and outstanding securities that are convertible into common stock shall be considered issued and outstanding common stock for ((the)) purposes of computing the forty-nine percent limitation((s)). This subsection shall not limit the authority of such stock savings bank to issue equity or debt securities other than common stock and securities convertible into common stock.

(2) In connection with the reorganization of a mutual savings bank as provided in WAC 50-14-040, the ((mutual holding company)) MHC may ((retain or)) acquire assets of the mutual savings bank to the extent that such assets are not then required to be transferred to (or retained by) the stock savings bank in order to satisfy capital or reserve requirements of any applicable state or federal law or regulation.

(3) A stock savings bank whose outstanding common stock is at least fifty-one percent but less than one hundred percent ((of the outstanding common stock of which is)) owned by a mutual holding company shall have at least one director, but no more than two-fifths of its directors, who are "unaffiliated directors" who shall represent the interests of the minority shareholders. An "unaffiliated director" is a director who is not:

(a) An officer or employee of the stock savings bank (or any affiliate thereof); or

(b) An officer, trustee, or employee of the mutual holding company.

If the incorporation certificate or bylaws of the stock savings bank provide that the board of directors shall be divided into two or more classes, then to the extent possible, each class shall contain the same number of unaffiliated directors as each other class.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-070 Mutual holding company powers. (1) Upon the formation of a ((mutual holding company by a mutual savings bank)) MHC:

(a) The ((mutual holding company)) MHC shall possess all the rights, powers, and privileges((r)) (except deposit-taking powers((r)) and shall be subject to all the limitations, not inconsistent with these rules, of a mutual savings bank under Title 32 RCW; and

(b) The (~~mutual holding company~~) MHC shall be subject to the limitations imposed by the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841, et seq.) or, in the case of a (~~mutual holding company~~) MHC resulting from the reorganization of a savings bank (~~which has~~) that elected either (~~prior or subsequent to~~) before or after such reorganization to be treated as a savings association (~~as (that term is)~~) defined in 12 U.S.C. Section 1467a), such mutual holding company shall be subject to the limitations imposed by the savings and loan holding company provisions of the Home Owners' Loan Act (12 U.S.C. Section 1467a).

(2) Notwithstanding any inconsistent provisions of Title 32 RCW, and subject to the express approval of(~~(τ)~~) (or additional rules promulgated by(~~(τ)~~) the supervisor, a (~~mutual holding company~~) MHC may:

(a) Merge with, acquire, or purchase the assets of a mutual holding company established pursuant to these rules or the savings and loan holding company provisions of the Home Owners' Loan Act (12 U.S.C. Section 1467a);

(b) Acquire or purchase the assets or stock of a stock savings bank, commercial bank, credit union, stock savings and loan association, stock federal savings bank, or stock federal savings and loan association;

(c) Acquire a mutual savings bank, (~~(a)~~) mutual savings and loan association, (~~(a)~~) federal mutual savings bank, or (~~(a)~~) federal mutual savings and loan association through the merger of such institution with a stock subsidiary of such mutual holding company;

(d) Convert to a stock holding company pursuant to the provisions of a plan which is approved by the supervisor, preserves the subscription and liquidation account rights of depositors of the mutual savings bank who then remain depositors of the stock savings bank and otherwise complies with WAC 50-14-130; and

(e) Engage in any other acquisition or combination, specifically permitted by the supervisor, including a merger into or sale of assets to another mutual or stock corporation.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-080 ((Subsequent)) Offering of securities. (1) Any (~~public~~) offering of shares of voting securities by a (~~subsidiary of a mutual holding company, subsequent to the reorganization but after which the mutual holding company would retain at least~~) MHC which converts to stock form or of common stock of a stock savings bank subsidiary of a MHC that will cause the holding company to hold less than fifty-one percent of the issued and outstanding ((shares)) common stock of the stock savings bank upon completion of the offering (a "subsequent offering") shall be governed by the rules prescribed in chapter 32.32 RCW, except to the extent ((such)) that those rules are ((inconsistent with the transaction and except as provided in these rules)) explicitly waived or modified by the supervisor.

(2) Any ~~((subsequent))~~ offering ~~((shall be made pursuant to an offering circular which complies with the terms and conditions prescribed in chapter 32.32 RCW and has been approved by the supervisor, whether the offering consists of newly issued shares being offered by the stock savings bank or previously issued shares being sold by the mutual holding company))~~ of shares of any class of stock of a stock savings bank subsidiary of a MHC that will not cause the MHC to hold less than fifty-one percent of the issued and outstanding common stock of the stock savings bank upon completion of the offering may be accomplished through either a public distribution or by means of a limited distribution or placement of the securities, none of which methods of offering will require the stock of the savings bank subsidiary to be offered to members of the unconverted mutual savings bank or of the MHC. Any such offering shall comply with the disclosure requirements of chapter 32.32 RCW, shall be made by means of an offering circular approved by the supervisor, and shall be sold at a price that is approved (a) by the supervisor in the case of the initial offering of shares to persons other than the MHC, and in such case based upon a proposed price range established by qualified persons who are independent of the bank and (b) by the board of directors in the case of other offerings contemplated by this subsection.

(3) The procedures to ~~((be followed))~~ follow in conducting a subsequent offering may, with the supervisor's approval ~~((of the supervisor))~~, differ from those set ~~((out))~~ forth in chapter 32.32 RCW ~~((so long as eligible account holders' subscription rights are not abrogated. Such differences may include, but need not be limited to, the distribution of offering circulars only to those eligible account holders who have requested them and combining a subscription offering with a public offering))~~.

(4) Notwithstanding any contrary provision of Title 32 RCW, there shall be no requirement to use an underwriter in an offering made pursuant to subsection (2) of this section, though such use is permissible.

(5) Subject to approval of the supervisor, a stock savings bank subsidiary of a MHC may declare or pay a cash dividend that is payable only to shareholders of the stock savings bank other than the MHC.

(6) Notwithstanding any contrary provision of Title 32 RCW, no offering circular used in connection with an offering pursuant to subsection (2) of this section shall be required to set forth the estimated subscription price range of the shares being offered.

(7) A stock savings bank subsidiary of a MHC may issue and, consistent with these rules, any person may acquire any amount of preferred stock of the bank.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-090 Subscription rights. (1) ((Except for shares issued to a mutual holding company, and except for the shares referred to in WAC 50-14-100, all shares of stock issued in connection with a reorganization or conversion shall be subject to

subscription rights granted to eligible account holders of the subsidiary savings bank(s). As used in these rules, "shares of stock issued in connection with the reorganization or conversion of a mutual savings bank" include shares issued upon the reorganization, shares sold in any subsequent offering (whether shares held by the mutual holding company or shares newly issued by the stock savings bank), or shares sold in connection with the conversion. Also included are any securities convertible into shares of the stock form savings bank.

(2) An "eligible account holder" for the purposes of this section is any depositor of a savings bank who owned in such bank one or more accounts valued in the aggregate of fifty dollars or more on the pertinent record date. In the case of the reorganization, the record date shall be the date established by the board of trustees, which date shall be no less than ninety days prior to the date on which the plan of reorganization is adopted by the trustees; in the case of any subsequent offering, the record date shall be the date established by the board of directors of the stock form savings bank issuing new shares or the board of trustees of the mutual holding company selling shares, as the case may be, which date shall be no less than ninety days prior to the date on which the shares are offered; in the case of the conversion, the record date shall be the date established by the mutual holding company's board of trustees, which date shall be no less than ninety days prior to the date on which the plan of conversion is adopted by the trustees.) Upon a conversion to stock form, as such conversion is defined in WAC 50-14-030(2), by a MHC or a stock savings bank subsidiary of a MHC, depositors of the stock savings bank at the record date of the conversion to stock form who continuously have been depositors since the reorganization, or were depositors of any savings association subsequently acquired by a MHC at a time when the association was in mutual form and remained depositors of the stock savings bank, shall receive, without payment, nontransferable rights to subscribe for stock of the converted MHC or the converted stock savings bank to be sold in the subsequent offering, to the extent that such depositors would have received those rights pursuant to RCW 32.32.045 in a stock conversion of the savings bank as prescribed in chapter 32.32 RCW; provided, however, that such depositors who are not shareholders of the stock savings bank at the record date for the subsequent offering shall have priority rights, not inconsistent with the provisions of chapter 32.32 RCW, to subscribe for shares to be issued in the subsequent offering in accordance with a plan approved by the supervisor or made pursuant to subsequent rules to be promulgated by the supervisor.

(2) For purposes of this section, an "eligible account holder" is any depositor of a stock savings bank at the record date for a conversion to stock form of the bank or the MHC who has continuously owned in such bank one or more accounts valued in the aggregate of fifty dollars or more since the date that the trustees of the unconverted mutual savings bank approved the reorganization or the date that the bank's predecessor mutual association was acquired by the MHC.

(3) Nothing in chapter 32.34 RCW or chapter 50-14 WAC shall be construed to authorize or require that depositors in a mutual savings bank that reorganizes as a MHC be offered stock in the

stock savings bank subsidiary except as provided in subsection (1) of this section.

(4) Depositors in a mutual savings bank that reorganizes as a MHC with a stock savings bank subsidiary shall become depositors in such subsidiary when the mutual savings bank merges with or transfers its assets and liabilities to the stock savings bank.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-100 Stock (~~(options)~~) issuance and stock (~~(grants)~~) award plans. ((Shares of stock issued in connection with the reorganization of a mutual savings bank may be reserved to satisfy a stock option plan and issued pursuant to a restricted stock plan approved by the savings bank's stockholder(s). The aggregate number of shares so reserved and issued shall be reasonably proportionate to the number of shares, if any, held by persons other than the mutual holding company.)) The authority for a stock savings bank subsidiary of a MHC to issue stock shall be subject to the following limitations, unless otherwise approved by the supervisor.

(1) The stock sold in the reorganization shall be sold at a total price equal to the estimated pro forma market value of such stock, based on an independent valuation as provided in WAC 50-14-080(2) and any stock sold in a later offering shall be sold at its fair value as determined by the board of directors of the stock savings bank.

(2) The aggregate amount of issued and outstanding common stock of the stock savings bank owned or controlled by persons other than the MHC at the close of any proposed issuance shall be forty-nine percent or less than the savings bank's total outstanding common stock.

(3) The aggregate amount of common stock acquired in the proposed issuance, plus all prior issuances of the savings bank, by any nontax-qualified employee stock benefit plan of the savings bank or any insider (which for the purpose of these rules will mean an officer, director, or associate of an officer or director) of the savings bank (exclusive of any stock acquired by said plan or insider and his or her associates in the secondary market) shall not exceed ten percent of the outstanding shares of common stock of the savings bank held by persons other than the savings bank's MHC parent at the close of the proposed issuance. In calculating the number of shares held by any insider or associate, shares held by any tax-qualified or nontax-qualified employee stock benefit plan of the savings bank that are attributable to such person shall not be counted.

(4) The aggregate amount of stock, whether common or preferred, acquired in the proposed issuance, plus all prior issuances of the savings bank, by any nontax-qualified employee stock benefit plan of the savings bank or any insider of the savings bank and his or her associates (exclusive of any stock acquired by said plan or insider and his or her associates in the secondary market) shall not exceed ten percent of the stockholders'

equity of the savings bank held by persons other than the MHC parent at the close of the proposed issuance.

(5) The aggregate amount of common stock acquired in the proposed issuance, plus all prior issuances of the savings bank, by any one or more tax-qualified employee stock benefit plans of the savings bank (exclusive of any stock acquired by such plans in the secondary market) shall not exceed ten percent of the outstanding shares of common stock of the savings bank held by persons other than the MHC parent at the close of the proposed issuance.

(6) The aggregate amount of stock, whether common or preferred, acquired in the proposed issuance, plus all prior issuances of the savings bank, by any one or more tax-qualified employee stock benefit plans of the savings bank (exclusive of any stock acquired by such plans in the secondary market) shall not exceed ten percent of the stockholders' equity of the savings bank held by persons other than the MHC parent at the close of the proposed issuance.

(7) The aggregate amount of common stock acquired in the proposed issuance, plus all prior issuances of the savings bank by all nontax-qualified employee stock benefit plans of the savings bank and insiders of the savings bank (exclusive of any stock acquired by said plans and by insiders in the secondary market) shall not exceed thirty-five percent of the outstanding shares of common stock of the savings bank held by persons other than the MHC parent at the close of the proposed issuance if the savings bank has less than fifty million dollars in total assets prior to the issuance or twenty-five percent of such outstanding shares if the savings bank has more than five hundred million dollars in total assets before the issuance. If the savings bank has between fifty million dollars and five hundred million dollars in total assets before the issuance, the maximum percentage shall be equal to thirty-five percent minus one percent multiplied by the quotient of total assets less fifty million dollars divided by forty-five million dollars. In calculating the number of shares held by insiders and their associates, shares held by any tax-qualified or nontax-qualified employee stock benefit plan of the savings bank that are attributable to such persons shall not be counted.

(8) The aggregate amount of stock, whether common or preferred, acquired in the proposed issuance, plus all prior issuances of the savings bank, by all nontax-qualified employee stock benefit plans of the savings bank, insiders of the savings bank, and associates of insiders of the savings bank (exclusive of any stock acquired by said plans and by insiders in the secondary market) shall not exceed thirty-five percent of the stockholders' equity of the savings bank held by persons other than the association's mutual holding company parent at the close of the proposed issuance if the savings bank has less than fifty million dollars in total assets before the issuance or twenty-five percent of such stockholders' equity if the savings bank has more than five hundred million dollars in total assets prior to the issuance. If the savings bank has between fifty million dollars and five hundred million dollars in total assets before the proposed issuance, the maximum percentage shall be equal to thirty-five percent minus one percent multiplied by the quotient of total assets less fifty million dollars divided by forty-five million dollars.

(9) Shares of authorized but unissued stock of a stock savings bank subsidiary of a MHC may be reserved to satisfy and may be

issued pursuant to any stock-based incentive plan for employees, directors, and others approved by the savings bank's board of directors and a majority of its stockholders.

(10) If, at the close of any stock issuance, the stock savings bank has holders of record of its outstanding voting securities that would require registration under the Securities Exchange Act of 1934, then such requirement shall be met.

(11) For a period of three years following the proposed issuance, no insider of the savings bank shall sell, without the supervisor's prior written approval, any stock of the savings bank purchased in connection with the reorganization except that the personal representative of such insider may sell shares in the event of the death of the insider.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-110 Liquidation account. (1) The entire unconsolidated net worth of a (~~mutual holding company~~) MHC shall constitute a liquidation account for the benefit of the depositors of its subsidiary stock savings bank(s) who continuously have been depositors since the reorganization or were depositors of any savings association subsequently acquired by a MHC at a time when the association was in mutual form and remained depositors of the stock savings bank ("eligible depositors"). The liquidation account shall not be a fixed amount but may increase (as to the entire account but not as to any individual eligible depositor) or decrease (as provided in RCW 32.32.190 through 32.32.205, except as application of those sections is inconsistent with these rules) over time. The function of the liquidation account is to establish that upon the complete liquidation of the mutual holding company, the entire net worth of the mutual holding company will be distributed among those persons who are the eligible depositors of its subsidiary savings bank(s) as of the date of the liquidation. The designation of the mutual holding company's net worth as a liquidation account shall not operate to restrict the use or application of the mutual holding company's net worth accounts.

(2) In the event of a complete liquidation of a mutual holding company, the (~~entire net worth~~) remaining liquidation account of the mutual holding company shall be distributed ratably among all the eligible depositors of its subsidiary savings bank(s) as of the date of the liquidation.

(3) Upon the conversion to stock form of a mutual holding company, the (~~net worth of the holding company shall no longer be designated a~~) liquidation account of the holding company shall no longer be maintained. Instead, each subsidiary savings bank shall at that time establish a liquidation account, which liquidation accounts shall in the aggregate equal the mutual holding company's liquidation account as of its last periodic report of condition immediately preceding its conversion into a stock-form holding company. The liquidation account established by each subsidiary savings bank shall be in the same proportion to the mutual holding company's liquidation account (~~that~~) as the total (~~deposits of~~

that)) of the subaccount balances of the then eligible depositors of the subsidiary savings bank bears to the total ((deposits)) subaccount balances of the eligible depositors of all subsidiary savings banks of the mutual holding company. The liquidation account established by a subsidiary savings bank shall comply with the rules contained in RCW 32.32.185 through 32.32.205, to the extent not inconsistent with these rules.

AMENDATORY SECTION (Amending WSR 92-06-041, filed 2/28/92, effective 3/30/92)

WAC 50-14-130 Conversion of mutual holding company into stock holding company. (1) If approved by the supervisor, a ~~((mutual holding company))~~ MHC may convert to a stock form holding company ~~((in accordance with the provisions contained in these rules))~~.

(2) ~~((If approved by the supervisor, the mutual holding company))~~ The MHC shall adopt a plan of conversion ~~((subject to and))~~ which the supervisor finds to be in accordance with the provisions of chapter 32.32 RCW and these rules.

(3) ~~((A plan of))~~ The conversion must include ~~((a))~~ such provisions requiring the exchange of shares of the subsidiary savings bank(s) for shares of the resulting stock holding company ~~((in a proportion established by independent appraisals of the mutual holding company and))~~ as the supervisor finds to be fair to members of the MHC who possess subscription rights and to stockholders of the subsidiary ((savings)) bank((+))s((+)).

~~((4) The limitation contained in RCW 32.32.075 shall continue until three years after conversion into a stock holding company.))~~