

Chapter 208-532 WAC

ESTABLISHMENT OF ALIEN BANKS IN WASHINGTON— PROCEDURE

(Formerly chapter 50-32 WAC)

WAC

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WAC 208-532-010 Purpose. The purpose of this chapter is to ensure compliance with and provide the rules and regulations necessary to administer the provisions and requirements of chapter 53, Laws of 1973 1st ex. sess.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, recodified as § 208-532-010, filed 9/6/00, effective 10/7/00; Order 23, § 50-32-010, filed 8/14/73.]

WAC 208-532-020 Definitions. For purposes of these rules and regulations, the following terms are defined as:

(1) **Act** - chapter 53, Laws of 1973 1st ex. sess.

(2) **Application** - "Application" means an application of an alien bank to the director of the department of financial institutions for a certificate of authority to establish and operate an agency, branch or bureau in the state of Washington.

(3) **Domiciliary country** - "Domiciliary country" means the foreign country under the laws of which the alien bank is organized.

(4) **Fiscal year** - "Fiscal year" means the fiscal year of the alien bank.

(5) **Depository** - "Depository" shall mean a bank with its principal place of business within the state of Washington selected by the alien bank and approved by the director, for the deposit of the cash or liquid assets required by section 7 and 12 of the act.

(6) **Rules and regulations** - "Rules and regulations" means all of Title 208 WAC. Alien banks in conducting authorized banking business shall be subject to such rules and regulations under the same terms and conditions as applied to banks organized under the laws of this state to the extent that such rules and regulations as applied to alien banking operations are consistent with the intent and purposes of the alien bank act and subject to limitations and restrictions imposed by these alien bank rules and regulations.

(7) **Section** - Section numbers referred to herein are those found in chapter 53, Laws of 1973 1st ex. sess.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, amended and recodified as § 208-532-020, filed 9/6/00, effective 10/7/00; Order 23, § 50-32-020, filed 8/14/73.]

WAC 208-532-030 Application procedure. An application by an alien bank to establish and operate an office or bureau in the state of Washington shall be made on the form prescribed in Appendices 1, 2 or 3, whichever is applicable.

An application shall not be deemed complete if, in the opinion of the director, the applicant has not supplied all of the required information or the information supplied is deficient. After receipt of the completed application, the director shall conduct his required investigation.

(1) **Office.** The director shall notify the applicant of denial or conditional approval of an application for a certificate for an agency or branch within 180 days of his receipt of the completed application.

If the application for a certificate for an agency or branch is conditionally approved, the applicant must supply the following documents executed by the governing board and properly sworn to before a U.S. Consular Official within 60 days of notification.

(a) Appointment of the director of the department of financial institutions as agent

(b) Designation of bank's agent for service in Washington

(c) Letter of guaranty

(d) Appointment of depository(ies)

(e) Certificate of allocation and assignment of capital

(f) Depository agreements for assigned and allocated capital

(g) A power of attorney in favor of the person designated to be in charge of the business and affairs of the office.

The applicant shall also provide proof of fidelity bond coverage and the oath of the managing officer of the Washington office.

After receipt of these documents and after the director is satisfied that all statutory requirements have been met, he shall issue his certificate.

(2) **Bureau.** The director shall notify the applicant of denial or approval of an application for a certificate for a bureau within 90 days of his receipt of the completed application. If the application is approved, the certificate will be issued forthwith.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, amended and recodified as § 208-532-030, filed 9/6/00, effective 10/7/00; Order 23, § 50-32-030, filed 8/14/73.]

WAC 208-532-040 Examination—Frequency—Scope. The accountant selected to audit the books of account of an alien office shall be an independent accountant licensed to practice by the state of Washington and who is not an employee, officer, or holder of the securities of the alien bank or its subsidiaries. Such accountant must have knowledge and experience with respect to auditing books of international corporations. A resume' of such accountant wherein the knowledge and experience is set forth must accompany the alien bank's request that such accountant be approved by the director. The report of such independent accountant shall be based upon an audit made in accordance with generally accepted auditing standards without limitation on its scope and shall be unqualified.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, amended and recodified as § 208-532-040, filed 9/6/00, effective 10/7/00; Order 23, § 50-32-040, filed 8/14/73.]

WAC 208-532-050 Fees. (1) The fees to accompany the filing of an application and attendant investigation are prescribed in WAC 208-512-045, as now or hereafter amended.

(2) Cost of examination. The examination fees charged to an alien bank for the examination of an office or bureau shall be the estimated actual cost of each examination calculated under the same terms and conditions as for state chartered banks and trust companies.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 01-06-024, § 208-532-050, filed 2/27/01, effective 3/30/01; 00-18-103, recodified as § 208-532-050, filed 9/6/00, effective 10/7/00; Order 23, § 50-32-050, filed 8/14/73.]

WAC 208-532-060 Records and books of account. Records and books of account of an alien bank office shall be kept as though the Washington office was conducted as a separate and distinct entity with its assets and liabilities entirely separate and apart from other operations of its head office and its subsidiaries or affiliated corporations. Books and accounts shall be maintained, where possible, as are the books and accounts of banks chartered by the state of Washington, to:

(1) Facilitate the preparation of required reports of condition.

(2) Facilitate the preparation of the required report of income.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, recodified as § 208-532-060, filed 9/6/00, effective 10/7/00; Order 23, § 50-32-060, filed 8/14/73.]

WAC 208-532-070 Branch records. An alien branch shall:

(1) Identify United States domiciled creditors.

(2) Segregate and maintain controls for:

(a) Demand deposits.

(b) Time deposits.

for each class of depositors specified and authorized in section 11(1)(i) through (vii) of the act.

(3) Maintain loan records and controls to:

(a) Identify loan customers as to types as restricted by section 11 (2)(a)(i) through (iv) of the act.

(b) Specify the purpose of each loan or guarantee with respect to the restrictions imposed by section 11 (2)(b)(i), (ii) and (iii) of the act.

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(c) Organize and maintain credit files, including appropriate comments relative to (a) and (b) above and to demonstrate the credit worthiness and standing of the customer.

(4) Maintain credit files to reflect the credit worthiness or rating of assets held as required or authorized by sections 7 and 12(2) of the act.

(5) Establish and maintain controls to reflect at all times that liquid assets held in accordance with the requirements of section 12(2) of the act are not less than one hundred eight percent of the aggregate amount of liabilities of the alien bank payable at or through its Washington office.

(6) Establish and maintain controls to reflect maintenance of additional capital equal to not less than ten percent of deposit liabilities.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, recodified as § 208-532-070, filed 9/6/00, effective 10/7/00; Order 23, § 50-32-070, filed 8/14/73.]

WAC 208-532-080 Agency records. With consideration to the statutory requirements imposed upon an approved agency of an alien bank by section 18 of the act, an agency shall maintain controls and records relating to the making of loans and guaranteeing obligations for the financing of the international movement of goods and services and for all operational needs including working capital and short-term operating needs and for the acquisition of fixed assets to:

(a) Readily identify the customer and basis upon which the loan or guaranty was granted;

(b) The purpose and terms of such loan or guaranty; and

(c) The precise manner in which the business of the customer is directly related to the international movement of goods and services.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, recodified as § 208-532-080, filed 9/6/00, effective 10/7/00; Order 23, § 50-32-080, filed 8/14/73.]

WAC 208-532-090 Reports—Required reports. Each alien bank shall file the following periodic reports relating to the financial condition of the office:

(1) Examination (audit) report by an accountant approved by the director as of the last business day of the fiscal year as prescribed by section 14 of the act.

(2) Reports of resources and liabilities as required by banks chartered by the state of Washington as prescribed by RCW 30.08.180 and 30.08.190, together with proof of publication. An agency need not publish such reports.

(3) Annual report of income on calendar year basis as a special report as required of banks chartered by the state of Washington (RCW 30.08.190).

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, amended and recodified as § 208-532-090, filed 9/6/00, effective 10/7/00; Order 23, § 50-32-090, filed 8/14/73.]

WAC 208-532-100 Notice concerning deposit insurance. Every alien bank branch, the deposits of which are not insured by the Federal Deposit Insurance Corporation, shall display at its place of business in Washington a sign at least seven inches by three inches at each window or place where deposits are accepted stating that deposits are not insured by the Federal Deposit Insurance Corporation. A statement may

(2/27/01)

be included on the same sign to the effect that deposits of U.S. domiciled depositors are partially protected by capital maintained pursuant to RCW 30.42.120(1).

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, recodified as § 208-532-100, filed 9/6/00, effective 10/7/00; Order 25, § 50-32-100, filed 3/21/74.]

WAC 208-532-99001 Appendix I—Forms—Application for certificate authorizing an alien bank to establish and operate a branch in the state of Washington.

APPLICATION FOR CERTIFICATE AUTHORIZING AN ALIEN BANK TO ESTABLISH AND OPERATE A BRANCH IN THE STATE OF WASHINGTON

TO: Director of the Department of Financial Institutions
Division of Banks
Olympia, Washington 98504

The (Applicant alien bank), with its head office and principal place of business located at (Domiciliary Country) hereby initiates this application for certificate authorizing the establishment and operation of a branch to be located in the City of, County of, State of Washington.

The (Bank), is incorporated, chartered or otherwise authorized to conduct a banking business under the laws of (Domiciliary Country). We enclose a verified copy of the resolution adopted by the bank's governing board, properly sworn to before a U.S. Consular Official, authorizing the filing of this application and designating the officer(s) who is (are) to sign this application and provide the material required herein, authorizing the payment of fees required by law or regulation, and designating the managing officer(s) of the proposed branch. We enclose a bank draft for \$1,500.00 to apply upon the statutory cost of investigation. If the cost of investigation to be made exceeds \$1,500.00 we agree to pay such excess in accordance with WAC 208-512-040 together with such other costs and fees as may be legally required by statute or regulation.

Correspondence, instructions, requests for information, reports, etc., should be addressed:

.....
Head Office
.....
Proposed Branch

To expedite the statutory investigation the following information, schedules, certifications, resume's, etc., are furnished:

- (a) Name of present Chief Executive Officer and Name of the Secretary
- (b) The bank's fiscal year ends
- (c) (English translation): Four certified copies of the most recent edition of the bank's certificate of authority or other legal authorization of your country to conduct a banking business and the bank's articles of incorporation.
- (d) Date of certificate of authority or its equivalent under which presently operating and expiration date, or duration, of the certificate of authority or its equivalent

(e) Capital structure at end of last fiscal year: (i.e., equity capital, surplus, undivided profits, unallocated or contingency reserves).

(f) Two copies of last available statement of condition.

(g) Statement of object and purpose or purposes which bank proposes to pursue in the transaction of business in the state of Washington.

(h) Copy of (English translation where applicable) laws of domiciliary country under which applicant bank is organized which permits a bank with its principal place of business in the state of Washington to establish in that foreign country a branch, agency or similar operation. Attached to a copy of such laws shall be either (a) an opinion of counsel (a member of the bar in the foreign country under whose laws the applicant is organized), including references to or extracts from relevant statutes, if any, to the effect that a bank with its principal place of business in the state of Washington may be permitted to establish and maintain in such foreign country a branch, agency or similar operation, or (b) a certificate of an official of the applicant's country who is authorized under its laws to issue a license to a bank with its principal place of business in the state of Washington to maintain either a branch or agency, to the effect he is so authorized.

(i) An opinion of counsel for the applicant (a member of the bar in the foreign country under whose laws the applicant is organized) to demonstrate that this application to establish a branch is in compliance with local laws. Such opinion should state that (a) the applicant's charter authorizes it to carry on the business contemplated by the application, (b) the applicant has conducted, and is now conducting, its business as authorized by the charter and bylaws in compliance with the laws of its country of incorporation, and (c) the making of the application is in compliance with the laws of the country of incorporation.

(j) Letter or certificate from banking authorities of domiciliary country granting permission to the applicant to apply for a branch in this state.

(k) Furnished herewith:

(1) Name, title and resume' for each officer of the proposed branch in Washington.

(2) Confidential financial statement for the managing officer of the proposed branch in Washington.

(l) Deposit projections for the first three years of operations:

I. Highest deposit totals anticipated by end of first year of operations of the proposed branch \$.

II. Highest deposit totals anticipated by end of second year of operations of the proposed branch \$.

III. Highest deposit totals anticipated by the end of the third year of operations of the proposed branch \$.

(m) Indicate whether eligible deposit liabilities of the branch in the state of Washington will be covered by the insurance protection of the Federal Deposit Insurance Corporation (yes or no).

(n) Outline of background information in support of application.

(o) Copy of option or conditional lease on proposed branch site.

(p) A verified or authenticated copy of the bank's by-laws.

EXECUTED at, for the (Bank), this day of, 19. . .

(By the bank's chief executive officer) *
(and the secretary of the banking corporation) *

Bank Seal

*Please type name and official title under the signatures.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, amended and recodified as § 208-532-99001, filed 9/6/00, effective 10/7/00; Order 23, Appendix I (codified as WAC 50-32-99001), filed 8/14/73.]

WAC 208-532-99002 Appendix II—Forms—Application for certificate authorizing an alien bank to establish and operate an agency in the state of Washington.

APPLICATION FOR CERTIFICATE AUTHORIZING AN ALIEN BANK TO ESTABLISH AND OPERATE AN AGENCY IN THE STATE OF WASHINGTON

TO: Director of the Department of Financial Institutions
Division of Banks
Olympia, Washington 98504

The (Applicant alien bank) with its head office and principal place of business located (Domiciliary Country) hereby initiates this application for certificate authorizing the establishment and operation of an agency to be located in the City of, County of, State of Washington.

The (Bank), is incorporated, chartered or otherwise authorized to conduct a banking business under the laws of (Domiciliary Country). We enclose a verified copy of the resolution adopted by the bank's governing board, properly sworn to before a U.S. Consular Official, authorizing the filing of this application and designating the officer(s) who is (are) to sign this application and provide the material required herein, authorizing the payment of fees required by law or regulation, and designating the managing officer(s) of the proposed agency. We enclose a bank draft for \$1,500.00 to apply upon the statutory cost of investigation. If the cost of investigation to be made exceeds \$1,500.00 we agree to pay such excess in accordance with WAC 208-512-040 together with such other costs and fees as may be legally required by statute or regulation.

Correspondence, instructions, requests for information, reports, etc., should be addressed:

.....
Head Office
.....
Proposed Agency

To expedite the statutory investigation, the following information, schedules, certifications, resume's, etc., are furnished:

(a) Name of present chief executive officer and name of the secretary

(b) The bank's fiscal year ends

(c) Four certified copies (English translation where applicable) of the most recent edition of the bank's certificate of authority or other legal authorization of your country to conduct a banking business and the bank's articles of incorporation.

(d) Date of certificate of authority or its equivalent under which presently operating and expiration date, or duration, of the certificate of authority or its equivalent

(e) Capital structure at end of last fiscal year: (i.e., equity capital, surplus, undivided profits, unallocated or contingency reserves).

(f) Two copies of last available statement of condition.

(g) Statement of object and purpose or purposes which bank proposes to pursue in the transaction of business in the state of Washington.

(h) Copy of (English translation where applicable) laws of domiciliary country under which applicant bank is organized which permits a bank with its principal place of business in the state of Washington to establish in that foreign country a branch, agency of similar operation. Attached to a copy of such laws shall be either (a) an opinion of counsel (a member of the bar in the foreign country under whose laws the applicant is organized), including references to or extracts from relevant statutes, if any, to the effect that a bank with its principal place of business in the state of Washington may be permitted to establish and maintain in such foreign country a branch, agency or similar operation, or (b) a certificate of an official of the applicant's country who is authorized under its laws to issue a license to a bank with its principal place of business in the state of Washington to maintain either a branch or agency, to the effect he is so authorized.

(i) An opinion of counsel for the applicant (a member of the bar in the foreign country under whose laws the applicant is organized) to demonstrate that this application to establish an agency is in compliance with local laws. Such opinion should state that (a) the applicant's charter authorizes it to carry on the business contemplated by the application, (b) the applicant has conducted, and is now conducting, its business as authorized by the charter and bylaws in compliance with the laws of its country of incorporation, and (c) the making of the application is in compliance with the laws of the country of incorporation.

(j) Letter or certificate from banking authorities of domiciliary country granting permission to the applicant to apply for an agency in this state.

(k) Furnished herewith:

(1) Name, title and resume' for each officer of the proposed agency in Washington.

(2) Confidential financial statement of the managing officer of the proposed agency in Washington.

(l) Outline of background information in support of application.

(m) Copy of option or conditional lease on proposed agency site.

(n) A verified or authenticated copy of the bank's by-laws.

EXECUTED at, for the (Bank), this day of, 19. . .

(By the bank's chief executive officer) * (and the secretary of the banking entity) * Bank Seal

*Please type name and official title under the signatures.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, amended and recodified as § 208-532-99002, filed 9/6/00, effective 10/7/00; Order 23, Appendix II (codified as WAC 50-32-99002), filed 8/14/73.]

WAC 208-532-99003 Appendix III—Forms—Application for certificate authorizing an alien bank to establish and operate a bureau in the state of Washington.

APPLICATION FOR CERTIFICATE AUTHORIZING AN ALIEN BANK TO ESTABLISH AND OPERATE A BUREAU IN THE STATE OF WASHINGTON

(To be filed in duplicate)

TO: Director of the Department of Financial Institutions
Division of Banks
Olympia, Washington 98504

The (Applicant alien bank), with its head office and principal place of business located at (Domiciliary Country), hereby initiates this application for certificate authorizing the establishment and operation of a bureau to be located in the City of, County of, State of Washington.

The (Bank) is incorporated, chartered or otherwise authorized to conduct a banking business under the laws of (Domiciliary Country).

We enclose a verified copy of the resolution, adopted by the bank's governing board, specifically empowering its President (or Chief Executive Officer) and the bank's Secretary (or equivalent officer) to execute this application, pay the fees required by law or regulation, provide such information and furnish such reports and enter into such agreements as may be necessary.

Correspondence, instructions, and requests for information, reports, etc., should be addressed:

- Head Office
- Proposed Bureau

To expedite the statutory investigation, the following information, schedules, documents, etc., are furnished:

- (a) Name of present Chief Executive Officer. and name of the Secretary.
- (b) The bank's fiscal year ends
- (c) (English translation) Four certified copies of most recent edition of the bank's certificate of authority or other legal authorization of your country to conduct an international banking business and the bank's articles of incorporation.

(d) Date of certificate of authority or its equivalent under which presently operating. and expiration date, or duration, of the certificate of authority or its equivalent.

(e) Capital structure at end of last fiscal year: (i.e., equity capital, surplus or rest accounts, undivided profits, unallocated or contingency reserves).

(f) Two copies of last available statement of condition.

(g) Statement of object, purpose and activities which bank proposes to pursue the establishment and operation of a bureau in this state at the place designated herein.

Enclosed is a bank draft for \$300.00 to apply upon the statutory cost of investigation. If the cost of investigation to be made exceeds \$300.00, we agree to pay such excess in accordance with WAC 208-512-040 together with such other costs and fees as may be legally required by state or regulation.

..... EXECUTED in duplicate at for the (Legal name of applicant bank) this. . . . day of., 19. . .

(By the chief executive officer) * (and the Secretary of the banking corporation) *

Bank Seal

*Please type name and official title under the signatures.

[Statutory Authority: RCW 30.04.030 and 43.320.040. 00-18-103, amended and recodified as § 208-532-99003, filed 9/6/00, effective 10/7/00; Order 23, Appendix III (codified as WAC 50-32-99003), filed 8/14/73.]