

**WAC 208-512A-012 Exception to general limitation—Nonconforming loans.** (1) A loan or extension of credit that was within the limit on loans and extensions of credit when made, will not be deemed a violation of the legal lending limit and will be treated as "nonconforming" if the loan or extension of credit is no longer in conformity with the bank's limit on loans and extensions of credit because:

(a) The bank's capital has declined, borrowers have subsequently merged or formed a common enterprise, lenders have merged, or the limit on loans and extensions of credit or capital rules have changed; or

(b) Collateral securing the loan or extension of credit, in order to satisfy the requirements of an exception to the limit, has declined in value; or

(c) In the case of an extension of credit arising from a derivative transaction (or, if required by the FDIC or Federal Reserve Board, a securities financing transaction), and measured by the internal model method described in WAC 208-512A-300, the extension of credit subject to the lending limit increases after execution of the transaction.

(2) A bank must use reasonable efforts to bring a loan or extension of credit that is nonconforming as a result of subsection (1)(a) or (c) of this section into conformity with the bank's limit on loans and extensions of credit unless to do so would be inconsistent with safe and sound banking practices.

(3) A bank must bring a loan or extension of credit that is nonconforming as a result of circumstances described in subsection (1)(b) of this section into conformity with the bank's limit on loans and extensions of credit within thirty calendar days, except when judicial proceedings, regulatory actions, or other extraordinary circumstances beyond the bank's control prevent the bank from taking action.

(4) Notwithstanding any provision of this section, the director of banks may by interpretation and policy statement prescribe standards for treatment of nonconforming extensions of credit that are derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions, or securities borrowing transactions, and may, if required for state insured banks or state member banks, rely upon rules or interpretations of the FDIC or the Federal Reserve Board, as applicable.

[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. WSR 13-03-037, § 208-512A-012, filed 1/8/13, effective 2/8/13.]