

WAC 208-536-090 Collective investment funds—Investments and administration. (1) A trust company administering a collective investment fund shall have the exclusive management thereof, except as a prudent person might delegate responsibilities to others.

(2) No trust company shall have any interest in a collective investment fund other than in its fiduciary capacity. Except for temporary net cash overdrafts or as otherwise specifically provided herein, it may not lend money to a fund, sell property to, or purchase property from a fund. No assets of a collective investment fund may be invested in stock or obligations, including time or savings deposits, of the bank or any of its affiliates: Provided, That such deposits may be made of funds awaiting investment or distribution. Subject to all other provisions of this part, funds held by a trust company as fiduciary for its own employees may be invested in a collective investment fund.

(3) A trust company may not make any loan on the security of a participation in a fund. If because of a creditor relationship or otherwise the trust company acquires an interest in a participation in a fund, the participation shall be withdrawn on the first date on which such withdrawal can be effected. However, in no case shall an unsecured advance until the time of the next valuation date to an account holding a participation be deemed to constitute the acquisition of an interest by the bank.

(4) Any trust company administering a collective investment fund may purchase for its own account from such fund any devaluated fixed income investment held by such fund, if in the judgment of the board of directors the cost of segregation of such investment would be greater than the difference between its market value and its principal amount plus interest and penalty charges due. If the trust company elects to so purchase such investment, it must do so at its market value or at the sum of cost, accrued unpaid interest, and penalty charges, whichever is greater.

(5) Except in the case of collective investment funds described in paragraph (b) of WAC 208-536-040:

(a) No funds or other property shall be invested in a participation in a collective investment fund if as a result of such investment the participant would have an interest aggregating in excess of 10 percent of the then market value of the fund: Provided, That in applying this limitation if two or more accounts are created by the same person or persons and as much as one-half of the income or principal of each account is payable or applicable to the use of the same person or persons, such accounts shall be considered as one;

(b) No investment for a collective investment fund shall be made in stocks, bonds, or other obligations of any closely held corporation, as may be determined by the director of the department of financial institutions, or, of any one person, firm, or corporation if as a result of such investment the total amount invested in stocks, bonds, or other obligations issued or guaranteed by such person, firm, or corporation would aggregate in excess of 10 percent of the then market value of the fund: Provided, That this limitation shall not apply to investments in direct obligations of the United States or its agencies or other obligations fully guaranteed by the United States or its agencies as to principal and interest: And Provided Further, That this limitation shall not apply to investments in securities of, or other interests in, an open-end or closed-end management type investment company or investment trust registered under the Federal Investment

Company Act of 1940, as now or hereafter amended, if both of the following conditions are met:

(i) The portfolio of the investment company or investment trust is limited to such obligations of, or fully guaranteed by, the United States or its agencies and to repurchase agreements fully collateralized by such obligations; and

(ii) The investment company or investment trust takes delivery of the collateral for any repurchase agreement either directly or through an authorized custodian;

(6) In addition to the investments permitted under WAC 208-536-040, funds or other property received or held by a trust company as fiduciary may be invested collectively, to the extent not prohibited by law, as follows:

(a) In shares of a mutual trust investment company, organized and operated pursuant to a statute that specifically authorizes the organization of such companies exclusively for the investment of funds held by corporate fiduciaries, commonly referred to as a "bank fiduciary fund."

(b) In a single real estate loan, a direct obligation of the United States, or an obligation fully guaranteed by the United States, or in a single fixed amount security, obligation or other property, either real, personal or mixed, of a single issue: Provided, That the trust company owns no participation in the loan or obligation and has no interest in any investment therein except in its capacity as fiduciary.

(c) In a common trust fund maintained by the trust company for the collective investment of cash balances received or held by a trust company in its capacity as trustee, executor, administrator, or guardian, which the trust company considers to be individually too small to be invested separately to advantage. The total investment for such fund must not exceed \$1,000,000; the number of participating accounts is limited to 100, and no participating account may have an interest in the fund in excess of \$1,000,000: Provided, That in applying these limitations if two or more accounts are created by the same person or persons and as much as one-half of the income or principal of each account is presently payable or applicable to the use of the same person or persons, such account shall be considered as one: And Provided, That no fund shall be established or operated under this subparagraph for the purpose of avoiding the provisions of chapter 208-536 WAC.

(d) In any investment specifically authorized by court order, or authorized by the instrument creating the fiduciary relationship, in the case of trusts created by a corporation, its subsidiaries or affiliates or by several individual settlors who are closely related: Provided, That such investment is not made under this subparagraph for the purpose of avoiding any provision of this regulation, in particular, but not limited to the provisions beginning with new section WAC 208-536-040.

(e) In such other manner as shall be approved in writing by the director of the department of financial institutions.

[Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-536-090, filed 8/22/00, effective 9/22/00. Statutory Authority: RCW 43.320.010, 43.329.040 and 30.04.030. WSR 99-01-119, § 50-36-090, filed 12/18/98, effective 1/18/99. Statutory Authority: RCW 30.04.030. WSR 90-07-011, § 50-36-090, filed 3/13/90, effective 4/13/90; Order 22, § 50-36-090, filed 8/14/73.]