

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Department of General Administration
(agency name)

Administrative Order No. 72

(1) I, Thomas H. Oldfield, director of the Division of Banking, Department of General Administration

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

the definition of loans and extensions of credit.

(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, Thomas H. Oldfield, 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:

A bank currently under supervision of a conservator has filed a call report indicating negative net worth. In the absence of this amendment, this bank and others which might become similarly situated, would be unable to renew or restructure existing loans.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(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:

[X] (a) This rule is promulgated pursuant to RCW 30.04.111 and is intended to administratively implement that statute.

[ ] (b) 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) 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.

APPROVED AND ADOPTED May 5 19 88

STATE OF WASHINGTON FILED

MAY 5 1988

By Thomas H. Oldfield, Supervisor Division of Banking Title

CODE REVISER'S OFFICE WSR 88-10-002

AMENDATORY SECTION (Amending Order 69, filed 9/30/87)

WAC 50-12-230 DEFINITIONS. (1) The term "person" shall include an individual, sole proprietor, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

(2) The term "loans and extensions of credit" means any direct or indirect advance of funds to a person made on a basis of any obligation of that person to repay the funds, or repayable from specific property pledged by or on behalf of a person. "Loans and extensions of credit" also includes a "contractual commitment to advance funds" as that term is defined in this section, and includes a renewal, modification, or extension of the maturity date of a loan or extension of credit. Provided, the term "loan or extension of credit" does not include a renewal, extension or restructuring of an existing loan, with interest paid current and no further advance of funds, by a bank under the direction and control of a conservator appointed by the supervisor.

(3) The term "contractual commitment to advance funds" means:

(a) An obligation on the part of the bank to make payments (directly or indirectly) to a designated third party contingent upon a default by the bank's customer in the performance of an obligation under the terms of that customer's contract with the third party; or

(b) An obligation to guarantee or stand as surety for the benefit of a third party. The term includes, but is not limited to, standby letters of credit, guarantees, puts, and other similar arrangements. Undisbursed loan funds, loan commitments not yet drawn upon which do not fall under this definition, and commercial letters of credit or similar instruments are not considered contractual commitments to advance funds.

(4) The term "readily marketable collateral" means financial instruments and bullion which are saleable under ordinary circumstances with reasonable promptness at a fair market value determined by daily quotations based on actual transactions on an auction or a similarly available daily bid and ask price market.

(5) The term "financial instruments" shall include stocks, notes, bonds, and debentures traded on a national securities exchange, "OTC margin stocks" (as defined in Regulation U of the Federal Reserve Board), commercial paper, negotiable certificates of deposit, bankers' acceptances, and shares in money market and mutual funds of the type which issue shares in which banks may perfect a security interest.

(6) The term "current market value" means the bid or closing price listed for an item in a regularly published listing or an electronic reporting service.

(7) The term "capital" will include the amount of common stock outstanding and unimpaired, the amount of preferred stock outstanding and unimpaired, and capital notes or debentures issued pursuant to chapter 30.36 RCW.

(8) The term "surplus" shall include capital surplus, reflecting the amounts paid in excess of the par or stated value of capital stock, or amounts contributed to the bank other than for capital stock, and amounts transferred to surplus from undivided profits pursuant to resolution of the board of directors.

(9) The term "subsidiary" means:

(a) Any company twenty-five percent or more of whose voting shares (excluding shares owned by the United States or by any company wholly owned by the United States) is directly or indirectly owned or controlled by such person, or is held by it with power to vote;

(b) Any company the election of a majority of whose directors is controlled in any manner by such person; or

(c) Any company with respect to the management or policies of which such person has power, directly or indirectly, to exercise a controlling influence, as determined by the division, after notice and opportunity for hearing.