

Title 50 WAC

BANKING, DIVISION OF

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Chapter 50-08 WAC

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WAC 50-08-009 Hearings--Methods. Hearing which may involve the revocation or suspension of a li-
cense shall be called and conducted in the following
manner:

(1) Before any such hearing shall be called, the su-
pervisor of banking shall give written approval to the
holding of it. When it has been determined that a hear-
ing shall be held, the entire record of the licensed prem-
ises involved and of the licensees shall be given to the
assistant attorney general assigned to the division of
banking, who will hereinafter be referred to as the
attorney.

(2) The attorney shall prepare a written complaint
which shall fully advise the licensees of all charges
which will be considered at the hearing. The complaint
shall be signed by the supervisor of banking.

(3) The supervisor shall conduct the hearing, which
shall be held as soon as feasible. Each licensee charged
shall be served with a copy of the complaint together
with written notice of the time and place of the hearing
and the issues involved. Such notice and complaint shall

be served not less than ten days prior to the hearing unless the licensee consents to shorter notice.

(4) All subpoenas shall be issued by the supervisor, who shall issue them when requested by the attorney, a licensee or a licensee's attorney, and he may issue them on his own motion.

(5) Nothing contained herein shall prevent the supervisor from exercising any power given by chapter 31.08 RCW.

[Subsections 1-5, filed 4/21/67.]

WAC 50-08-010 Hearings--Appearance and practice before the division of banking. No person may appear in a representative capacity before the division of banking or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation, who appears for such individual firm, association, partnership, or corporation.

[§ 50-08-010, filed 4/21/67.]

WAC 50-08-020 Hearings--Appearance in certain proceedings may be limited to attorneys. In all hearings involving the taking of testimony and the formulation of a record subject to review by the courts, where the division of banking or its designated hearing officer determines that representative activity in such hearing requires a high degree of legal training, experience, and skill, the division of banking or its designated hearing officer may limit those who may appear in a representative capacity to attorneys at law.

[§ 50-08-020, filed 4/21/67.]

WAC 50-08-040 Hearings--Standards of ethical conduct. All persons appearing in proceedings before the division of banking in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the division of banking may decline to permit such person to appear in a representative capacity in any proceeding before the division of banking.

[§ 50-08-040, filed 4/21/67.]

WAC 50-08-050 Hearings--Appearance by former employee of division or former member of the attorney general's staff. No former employee of the division of banking or member of the attorney general's staff may at any time after severing his employment with the division or the attorney general appear, except with the

written permission of the division of banking, in a representative capacity on behalf of other parties in a formal proceeding wherein he previously took an active part as a representative of the division.

[§ 50-08-050, filed 4/21/67.]

WAC 50-08-060 Hearings--Former employee as expert witness. No former employee of the division of banking shall at any time after severing his employment with the division of banking appear, except with the written permission of the division of banking, as an expert witness on behalf of other parties in a formal proceeding wherein he previously took an active part in the investigation as a representative of the division of banking.

[§ 50-08-060, filed 4/21/67.]

WAC 50-08-070 Hearings--Computation of time. In computing any period of time prescribed or allowed by the division of banking rules, by order of the division or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. This section shall not apply to periods of license suspension or revocation.

[§ 50-08-070, filed 4/21/67.]

WAC 50-08-080 Hearings--Notice and opportunity for hearing in contested cases. All parties shall be served with a notice at least ten days before the date set for the hearing. The notice shall state the time, place and issues involved, as required by RCW 34.04.090(1), or any case where the Small Loan Act of the state of Washington, chapter 31.08 RCW provides for a hearing.

[§ 50-08-080, filed 4/21/67.]

WAC 50-08-085 Hearings--Waiver of hearing. In any case involving violations of the regulations, where the supervisor deems it appropriate, may afford the licensee an opportunity to waive formal hearing. If the licensee so elects to waive formal hearing, he may then state in writing on the waiver form furnished by the supervisor any matter in explanation or mitigation of the violations which he desires the supervisor to consider in making his decision. The licensee, at the time he submits the waiver, may also request to be present when the supervisor meets to consider his decision in the matter. In the event the licensee elects to waive formal hearing he shall thereafter be bound by such election and may not thereafter request formal hearing.

[§ 50-08-085, filed 4/21/67.]

WAC 50-08-090 Hearings--Service of process--By whom served. The division of banking shall cause to be

served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.

[§ 50-08-090, filed 4/21/67.]

WAC 50-08-100 Hearings--Upon whom served. All papers served by either the division of banking or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiations of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.

[§ 50-08-100, filed 4/21/67.]

WAC 50-08-110 Hearings--Service upon parties. The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to counsel of record.

[§ 50-08-110, filed 4/21/67.]

WAC 50-08-120 Hearings--Method of service. Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered mail, or by telegraph.

[§ 50-08-120, filed 4/21/67.]

WAC 50-08-130 Hearings--When service complete. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid.

[§ 50-08-130, filed 4/21/67.]

WAC 50-08-140 Hearings--Filing with agency. Papers required to be filed with the division of banking shall be deemed filed upon actual receipt by the division accompanied by proof of service upon parties required to be served.

[§ 50-08-140, filed 4/21/67.]

WAC 50-08-150 Hearings--Subpoenas where provided by law--Form. Every subpoena shall be issued in the name of the division of banking and shall set forth the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

[§ 50-08-150, filed 4/21/67.]

WAC 50-08-160 Hearings--Issuance to parties. Upon application of counsel for any party to a hearing, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The division of

banking may issue subpoenas to parties not so represented upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought. No subpoena shall be issued except where authorized by statute.

[§ 50-08-150, filed 4/21/67.]

WAC 50-08-170 Hearings--Service. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering him on demand the fees for one day's attendance and the mileage allowed by law.

[§ 50-08-170, filed 4/21/67.]

WAC 50-08-180 Hearings--Fees. Witnesses summoned before the division of banking shall be paid by the party at whose instance they appear the same fees and mileage that are paid to witnesses in the superior courts of the state of Washington.

[§ 50-08-180, filed 4/21/67.]

WAC 50-08-190 Hearings--Proof of service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgement of service with the division of banking or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the division of banking, and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

[§ 50-08-190, filed 4/21/67.]

WAC 50-08-200 Hearings--Quashing. Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed (and upon notice to the party to whom the subpoena was issued) the division of banking may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

[§ 50-08-200, filed 4/21/67.]

WAC 50-08-210 Hearings--Enforcement. Upon application and for good cause shown, the division of banking will seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

[§ 50-08-210, filed 4/21/67.]

WAC 50-08-220 Hearings--Geographical scope. Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

[§ 50-08-220, filed 4/21/67.]

WAC 50-08-230 Hearings--Depositions and interrogatories in contested cases--Right to take. Except as

may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within ten days after service of original process. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this rule and the rule on subpoenas.

[§ 50-08-230, filed 4/21/67.]

WAC 50-08-240 Hearings--Scope. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

[§ 50-08-240, filed 4/21/67.]

WAC 50-08-250 Hearings--Officer before whom taken. Within the United states or within a territory or insular possession subject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the division of banking or agreed upon by the parties by stipulation in writing filed with the division of banking. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party or a privy of any counsel of a party, or who is financially interested in the proceeding.

[§ 50-08-250, filed 4/21/67.]

WAC 50-08-260 Hearings--Authorization. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the division of banking. The notice shall state the time and place for the taking of the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

[§ 50-08-260, filed 4/21/67.]

WAC 50-08-270 Hearings--Protection of parties and deponents. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the division of banking may make an order that the deposition shall not

be taken, or that it may be taken only at some designated place other than stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel or that after being sealed, the deposition shall be opened only by order of the division, or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the division or the division may make any other order which justice required to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the division of banking may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the agency. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

[§ 50-08-270, filed 4/21/67.]

WAC 50-08-280 Hearings--Oral examination and cross-examination. Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross-interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim.

[§ 50-08-280, filed 4/21/67.]

WAC 50-08-290 Hearings--Recordation. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

[§ 50-08-290, filed 4/21/67.]

WAC 50-08-300 Hearings--Signing attestation and return. When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress the division of banking holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here insert name of the witness)" and shall promptly send it by registered or certified mail to the division or its designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

[§ 50-08-300, filed 4/21/67.]

WAC 50-08-310 Hearings--Use and effect. Subject to rulings by the hearing officer upon objections, a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon his own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party.

[§ 50-08-310, filed 4/21/67.]

WAC 50-08-320 Hearings--Fees of officers and deponents. Deponents whose depositions are taken and the officers taking the same shall be entitled to the same fees as are paid for like services in the superior courts of the state of Washington, which fees shall be paid by the party at whose instance the depositions are taken.

[§ 50-08-320, filed 4/21/67.]

WAC 50-08-330 Hearings--Depositions upon interrogatories--Submission of interrogatories. Where the deposition is taken upon written interrogatories, the

party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within 10 days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

[§ 50-08-330, filed 4/21/67.]

WAC 50-08-340 Hearings--Interrogation. Where the interrogatories are forwarded to an officer authorized to administer oaths as provided in these rules, the officer taking the same after duly swearing the deponent, shall read to him seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer and the court reporter or stenographer recording and transcribing it shall be present during the interrogation.

[§ 50-08-340, filed 4/21/67.]

WAC 50-08-350 Hearings--Attestation and return. The officer before whom interrogatories are verified or answered shall (1) certify under his official signature and seal that the deponent was duly sworn by him, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither he nor the stenographer, to his knowledge, is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with his attestation to the division, or its designated hearing officer, one copy to the counsel who submitted the interrogatories and another copy to the deponent.

[§ 50-08-350, filed 4/21/67.]

WAC 50-08-360 Hearings--Provisions of deposition rule. In all other respects, depositions upon interrogatories shall be governed by the previous deposition rule.

[§ 50-08-360, filed 4/21/67.]

WAC 50-08-370 Hearings--Official notice--Matters of law. The division of banking, upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The Constitution; Congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register;

(2) **State law.** The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions and administrative agencies of the state of Washington, executive

orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser;

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations;

(4) **Agency organization.** The division of banking organizations, administrations, officers, personnel, official publications, and practitioners before its bar.

[§ 50-08-370, filed 4/21/67.]

WAC 50-08-380 Hearings--Material facts. In the absence of controverting evidence, the division of banking upon request made before or during a hearing may officially notice:

(1) **Agency proceedings.** The pendency of, the issues and position of the parties herein, and the disposition of any proceeding then pending before or theretofore concluded by the division;

(2) **Business customs.** General customs and practices followed in the transaction of business;

(3) **Notorious facts.** Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) **Technical knowledge.** Matters within the technical knowledge of the department as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) **Request or suggestion.** Any party may request, or the hearing officer or the division may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) **Statement.** Where an initial or final decision of the division rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer of the division may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert,

any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) **Evaluation of evidence.** Nothing herein shall be construed to preclude the division of banking or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

[§ 50-08-380, filed 4/21/67.]

WAC 50-08-390 Hearings--Presumptions. Upon proof of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the division of banking, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) **Continuity.** That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) **Identity.** That persons and objects of the same name and description are identical;

(3) **Delivery.** Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) **Ordinary course.** That a fact exists or does not exist, upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly coexists with the fact presumed;

(5) **Acceptance of benefit.** That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his own self-interest so to do;

(6) **Interference with remedy.** That evidence, with respect to a material fact which in bad faith is destroyed, eloigned, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

[§ 50-08-390, filed 4/21/67.]

WAC 50-08-400 Hearings--Stipulations and admissions of record. The existence or nonexistence of a material fact, as made or agreed in a stipulation or in any admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) **Upon whom binding.** Such a stipulation or admission is binding upon the parties by whom it is made, their privies, and upon all other parties to the proceeding

who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) **Withdrawal.** Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing officer or the division of banking that such a stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

[§ 50-08-400, filed 4/21/67.]

WAC 50-08-410 Hearings--Form and content of decisions in hearings. Every decision and order, whether proposed, initial or final shall:

(1) Be correctly captioned as to name of agency and name of proceeding;

(2) Designate all parties and counsel to the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;

(5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;

(6) Wherever practical, the conclusions and/or order shall be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same.

[§ 50-08-410, filed 4/21/67.]

WAC 50-08-420 Hearings--Definition of issues before hearing. In all proceedings, the issues to be adjudicated shall be made initially as precise as possible, in order that hearing officers may proceed promptly to conduct the hearings on relevant material matter only.

[§ 50-08-420, filed 4/21/67.]

WAC 50-08-430 Hearings--Prehearing conference rule. In any proceeding the division of banking may upon its own motion, or upon the motion of one of the parties or their qualified representatives, direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider:

(1) The simplification of the issues;

(2) The necessity of amendments to the pleadings;

(3) The possibility of obtaining stipulations, admissions of facts and of documents;

(4) The limitation of the number of expert witnesses;

(5) Such other matters as may aid in the disposition of the proceeding.

[§ 50-08-430, filed 4/21/67.]

(1986 Ed.)

WAC 50-08-440 Hearings--Record of conference action. The division of banking shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

[§ 50-08-440, filed 4/21/67.]

WAC 50-08-450 Hearings--Submission of documentary evidence in advance. Where practicable, the division of banking may require:

(1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(2) That documentary evidence not submitted in advance, as may be required by section (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(3) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

[§ 50-08-450, filed 4/21/67.]

WAC 50-08-460 Hearings--Excerpts from documentary evidence. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

[§ 50-08-460, filed 4/21/67.]

WAC 50-08-470 Hearings--Expert or opinion testimony and testimony based on economic and statistical data--Number and qualifications of witnesses. The hearing examiner or other appropriate officer in all classes of cases where practicable shall make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, shall require them to submit to him and to the other parties written statements containing

the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications.

[§ 50-08-470, filed 4/21/67.]

WAC 50-08-480 Hearings--Written sworn statements. The hearing examiner or other appropriate officer, in all classes of cases in which it is practicable and permissible, shall require, and when not so permissible, shall make every effort to bring about by voluntary submission, that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally. Witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses.

[§ 50-08-480, filed 4/21/67.]

WAC 50-08-490 Hearings--Supporting data. That the hearing examiner or other appropriate officer, in his discretion but consistent with the rights of the parties, cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with written sworn statements, but, wherever practicable, that he restrict to a minimum the placing of such data in the record.

[§ 50-08-490, filed 4/21/67.]

WAC 50-08-500 Hearings--Effect of noncompliance with WAC 50-08-470 or 50-08-480. Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirements fixed under the provisions of these rules, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements.

[§ 50-08-500, filed 4/21/67.]

WAC 50-08-510 Hearings--Continuances. Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the division of banking of said desire, stating in detail the reasons why such continuance is necessary. The division, in passing upon a request for a continuance shall consider whether such request was promptly and

timely made. For a good cause shown, the division of banking may grant such a continuance and may at any time order a continuance upon its own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner conducting the hearing may in his discretion, continue the hearing and fix the date for introduction of additional evidence, or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

[§ 50-08-510, filed 4/21/67.]

WAC 50-08-520 Hearings--Rules of evidence--Admissibility criteria. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

[§ 50-08-520, filed 4/21/67.]

WAC 50-08-530 Hearings--Tentative admission--Exclusion--Discontinuance--Objections. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.

[§ 50-08-530, filed 4/21/67.]

WAC 50-08-540 Hearings--Petitions for rule making, amendment, or repeal--Who may petition. Any interested person may petition the division of banking requesting the promulgation, amendment, or repeal of any rule.

[§ 50-08-540, filed 4/21/67; Rule 1 (part), filed 3/23/60.]

WAC 50-08-550 Hearings--Requisites. Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

[§ 50-08-550, filed 4/21/67; Rule 1 (part), filed 3/23/60.]

WAC 50-08-560 Hearings--Agency must consider. All petitions shall be considered by the division of banking and it may, in its discretion, order a hearing for the further consideration and discussion of the requested

promulgation, amendment, repeal, or modification of any rule.

[§ 50-08-560, filed 4/21/67.]

WAC 50-08-570 Hearings--Notice of disposition. The division of banking shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition.

[§ 50-08-570, 4/21/67.]

WAC 50-08-580 Hearings--Declaratory rulings. As prescribed by RCW 34.04.080, any interested person may petition the division of banking for a declaratory ruling. The division shall consider the petition and within a reasonable time it shall:

- (1) Issue a nonbinding declaratory ruling; or
- (2) Notify the person that no declaratory ruling is to be issued; or
- (3) Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.

If a hearing as provided in subsection (3) is conducted, the division shall, within a reasonable time:

- (1) Issue a binding declaratory ruling; or
- (2) Issue a nonbinding declaratory ruling; or
- (3) Notify the person that no declaratory ruling is to be issued.

[§ 50-08-580, filed 4/21/67.]

WAC 50-08-590 Hearings--Forms. (1) Any interested person petitioning the division of banking for a declaratory ruling pursuant to RCW 34.04.080, shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the division of banking, department of general administration, state of Washington." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

The body of the petition shall be set out in numbered paragraphs, the first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

The original and five legible copies shall be filed with the agency. Petitions shall be on white paper, 8 1/2" x 11" in size.

(2) Any interested person petitioning the division of banking requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

(1986 Ed.)

At the top of the page shall appear the wording "Before the division of banking, department of general administration, state of Washington." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of rule (or rules)." Opposite the foregoing caption shall appear the word "petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

[§ 50-08-590, filed 4/21/67.]

Chapter 50-12 WAC

BANKS AND TRUST COMPANIES

WAC	
50-12-020	Characterization of "federal fund transactions."
50-12-030	Definitions and characterization of time deposits.
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50-12-200	Consideration of performance record in meeting community credit needs in approving and disapproving applications.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

50-12-010	Minimum reserve requirements for state banks and trust companies—Computations. [Statutory Authority: RCW 30.04.090. 79-10-107 (Order 42), § 50-
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12-010, filed 9/26/79; Order 38, § 50-12-010, filed 2/23/77; Order 35, § 50-12-010, filed 12/22/75; Order 12, § 50-12-010, filed 11/20/72; Order 2, § 50-12-010, filed 12/23/68; Order 1, § 50-12-010, filed 5/28/68, filed 3/1/66.] Repealed by 85-19-052 (Order 62), filed 9/13/85. Statutory Authority: RCW 30.12.060

WAC 50-12-020 Characterization of "federal fund transactions." When a bank purchases funds for reserve purposes or sells excess funds to another bank so that such bank may meet its reserve requirements, these transactions between banks have been commonly referred to as "overnight borrowings," "overnight security transactions," or "federal fund transactions." "Federal fund transactions" would normally occur when member banks purchase funds for reserve purposes through the Federal Reserve System or when such banks sell excess funds through the Federal Reserve System to another member bank so that such bank may meet its reserve requirements. However, for the purpose of uniformity, all future transactions of this sort, whether through the Federal Reserve System or between banks, may be referred to as "federal fund transactions."

This type of transaction takes the form of a transfer of funds from the seller to the buyer. Payment is usually made by the purchasing bank the following day in the amount of the funds purchased and for a specified fee.

Such a transaction does not create, on the part of the buyer, an obligation subject to RCW 30.04.140 but is considered a purchase of such funds.

Conversely, such a transaction does not create a loan or investment subject to RCW 30.04.110 on the part of the seller, but is to be considered a sale of such funds.

[Order 3, § 50-12-020, filed 12/23/68.]

WAC 50-12-030 Definitions and characterization of time deposits. The term "time deposits" means "time certificates of deposit" and, "time deposits, open account," as defined below.

(1) **Time certificates of deposit.** The term "time certificate of deposit" means a deposit evidenced by a negotiable or nonnegotiable instrument which provides on its face that the amount of such deposit is payable:

(a) On a certain date, specified in the instrument, not less than thirty days after the date of the deposit; or

(b) At the expiration of a specified period not less than thirty days after the date of the instrument; or

(c) Upon written notice to be given not less than thirty days before the date of repayment.

(2) **Time deposits, open account.** The term "time deposit, open account," means a deposit, other than a "time certificate of deposit," with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which shall be not less than thirty days after the date of the deposit, or prior to the expiration of the period of notice which must be given by the depositor in writing not less than thirty days in advance of withdrawals.

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A time deposit is a deposit and therefore not subject to individual bank and trust company lending limits, as proscribed by RCW 30.04.110. However, before a bank or trust company may deposit its funds with another bank in the form of a time deposit, the depository bank must first be appointed a depository by a vote of a majority of the directors of the depositing bank and approved as a depository by the supervisor of banking.

If a bank acquires a time deposit with a bank that has not been approved as a depository by the supervisor of banking, such transaction shall be considered to be an investment and subject to the bank's lending limitation.

[Order 2, § 50-12-030, filed 12/23/68.]

WAC 50-12-040 Schedule of fees for banks, trust companies, stock savings banks, mutual savings banks, and alien banks. (1) Except as provided by subsection (2) of this section, the supervisor shall collect in advance the following fees:

(a) \$2,000.00 for each application for a certificate of authority and attendant investigation for a new bank or trust company or for conversion to a state-chartered institution.

(b) \$1,500.00 for filing an application for certificate authorizing an alien bank to establish and operate an office in the state of Washington and attendant investigation.

(c) \$500.00 for filing an application for certificate authorizing an alien bank to establish and operate a bureau in the state of Washington.

(d) \$500.00 for filing an application for a certificate of authority for a branch and attendant investigation.

(e) \$500.00 for filing an application for a certificate conferring trust powers and attendant investigation.

(f) \$2,000.00 for filing merger, consolidation or reorganizational agreement and attendant investigation. If three or more banks are involved, then the fee for each is \$1,000.00.

(g) \$300.00 for filing an application for a certificate of appropriate adjunct and attendant investigation.

(h) \$300.00 for filing application to relocate main office or branch and attendant investigation.

(i) \$100.00 for issuing each branch certificate for branch resulting from merger.

(j) \$100.00 for filing articles of incorporation, or amendments thereof, or other certificates required to be filed with the supervisor.

(k) \$100.00 for issuing a certificate of increase or decrease of capital stock or issuing a certificate of authority.

(l) \$100.00 for issuing any other certificate.

(m) Fifty cents per page for furnishing copies of papers filed with the supervisor.

(n) \$300.00 for filing an application for approval of the supervisor for a bank, trust company, mutual savings bank, or stock savings bank to provide a satellite facility or facilities which are to be used by its own customers or customers of another bank. In the event the application is for approval of the supervisor to provide more than

one such satellite facility, the filing fee on such a multiple application is \$300.00 for the first such satellite facility and \$100.00 for each additional satellite facility.

(o) \$100.00 for the issuance of a certificate of approval to provide a satellite facility.

(p) \$1,000.00 for filing an application for approval of a network system of satellite facilities as defined in WAC 50-40-010(4).

(q) \$100.00 for each application to modify a previously approved network system made in accordance with WAC 50-40-060 (1) or (2).

(r) \$300.00 for issuing certificate of approval for capital notes.

(s) \$5,000.00 for each application by an out-of-state bank holding company for acquisition and control of more than five percent of the shares of voting stock or substantially all of the assets of a bank, trust company, national banking association, or bank holding company, the principal operations of which are conducted within this state.

(t) \$500.00 for each application for a certificate of authority and attendant investigation of a phantom or interim bank created to acquire all of the capital stock of a bank or trust company.

(u) \$500.00 for each application to purchase or sell a branch. In the event such application provides for the sale or purchase of more than one branch, the fee shall be \$500.00 per branch.

(v) Hourly charges for services plus actual expenses for voluntary or involuntary liquidation of a bank or trust company pursuant to chapter 30.44 RCW or for acting as conservator of a bank or trust company pursuant to chapter 30.46 RCW.

(w) \$2,000.00 for each application for conversion from a mutual savings bank to a stock savings bank.

(2) If the cost of any of the services rendered under subsection (1) of this section is determined by the supervisor to differ significantly from the fees prescribed for those services in that section, the bank, trust company, or applicant shall pay such cost computed at \$40.00 per employee hour expended plus actual expenses incurred.

[Statutory Authority: RCW 30.12.060. 85-19-052 (Order 62), § 50-12-040, filed 9/13/85. Statutory Authority: RCW 30.04.030. 82-24-074 (Order 48), § 50-12-040, filed 12/1/82. Statutory Authority: RCW 30.08.095. 79-04-042 (Order 40), § 50-12-040, filed 3/23/79; Order 32, § 50-12-040, filed 10/2/75; Order 27, § 50-12-040, filed 6/3/74; Order 20, § 50-12-040, filed 8/6/73; Order 4, § 50-12-040, filed 5/15/69, effective 6/16/69.]

WAC 50-12-050 Limiting loans to officers. (1) A bank or trust company may make the following loans to any of its officers:

(a) A loan secured by a first lien on a dwelling if at the time the loan is made:

(i) The dwelling secured is expected to be both owned by the officer and used by him as his residence after the loan is made; and

(ii) No other such loan made by the bank or trust company to the officer under the authority of (a) of this subsection is outstanding;

(b) A loan to finance the education of an officers' children; and

(c) Any other secured or unsecured loan including a line of credit which, at the time the loan is made, is not in excess of the greater of \$25,000 or 2.5% of capital and unimpaired surplus as defined in RCW 30.12.060(2), but in no event for an amount greater than \$100,000.

(2) A bank or trust company shall not make a loan under subsection (1) of this section to an officer which, at the time the loan is made, exceeds the greater of \$25,000 or 5% of capital and unimpaired surplus as defined in RCW 30.12.060(2) unless a resolution authorizing a loan for a greater amount is adopted by a vote of a majority of the board of directors of the bank or trust company prior to the making of such loan, and the vote and resolution is entered in the corporate minutes.

(3) In no case shall the total liability of an officer to a bank or trust company under subsection (1) of this section exceed either \$500,000, unless approved in advance for a greater amount by a majority of the board of directors prior to the making of any loan in excess of this amount, or the limit prescribed by RCW 30.04.110, whichever is less. When computing the total outstanding liability of an officer of a bank or trust company belonging to an affiliated group of two or more corporations, all loans to the officer from the affiliated corporations shall be aggregated, including but not limited to loans from:

(a) The bank or trust company's parent bank holding company; or

(b) Any other corporation held by the bank or trust company's parent bank holding company; or

(c) A subsidiary of the bank or trust company; or

(d) A subsidiary of any other corporation if such corporation is held by the bank or trust company's parent bank holding company.

(4) Any loan to an officer of a bank that does not require specific prior approval by a majority of the board of directors by resolution or otherwise pursuant to subsections (2) and (3) of this section shall be promptly reported to the board of directors and duly reflected in the minutes of the next regular board meeting.

(5) For purposes of this section, the words "loan" and "loans" shall mean all extensions of credit by the bank or trust company including but not limited to the purchase, discount, or acquisition, as security or otherwise, of any debt or obligation of any officer owed to any other person.

[Statutory Authority: RCW 30.12.060. 85-19-052 (Order 62), § 50-12-050, filed 9/13/85; 84-03-036 (Order 58), § 50-12-050, filed 1/13/84; 79-04-042 (Order 40), § 50-12-050, filed 3/23/79; Order 31, § 50-12-050, filed 10/2/75; Order 4, § 50-12-050, filed 5/15/69, effective 6/16/69.]

WAC 50-12-060 Accounts in excess of one hundred thousand dollars. A mutual savings bank may accept or hold accounts in excess of one hundred thousand dollars on the following terms and conditions:

(1) Such accounts in the aggregate are placed in assets of similar maturity;

(2) The following records are maintained at all times with respect to each such account:

- (a) The name(s) and address(es) of the depositor(s);
- (b) The manner in which the account is held;
- (c) The amount of the initial deposit;
- (d) The contemplated time of withdrawal, if known;
- (e) The interest rate; and
- (f) Such other information available to the mutual savings bank as the supervisor may from time to time require in order to carry out the duties of his office;

(3) A separate report maintained showing at all times the aggregate total of all such accounts accepted or held; and

(4) Asset liquidity records and controls are maintained. The supervisor may from time to time impose such requirements or restrictions as he deems appropriate in connection with accepting or holding one or more such accounts, based upon the nature and size of the account, the condition of the mutual savings bank accepting the same, the general economic conditions then existing, and such other factors as the supervisor may deem relevant to the prudent operation of the mutual savings bank accepting or holding the account.

[Order 29, § 50-12-060, filed 10/2/75; Order 7 and Emergency Order 6, § 50-12-060, filed 1/7/70.]

WAC 50-12-070 Nonbankable assets. In determining whether an asset of a bank, mutual savings bank or trust company is bankable all of the circumstances of the asset shall be weighed, including but not limited to the following:

- (1) Character of the borrower
- (2) Capacity of the borrower
- (3) Capital of the borrower
- (4) Collateral, sufficiency of
- (5) Economic conditions pertaining to the type of business in which the borrower is engaged
- (6) Conformance to general banking standards as then currently practiced in the banking industry.

If, in the examination of a bank, mutual savings bank or trust company, an examiner finds an asset which in his opinion, after weighing all the circumstances of the asset, is nonbankable, the supervisor may require that such asset be charged off the books of the bank, mutual savings bank or trust company.

Within fifteen days following the next meeting of the board of directors following receipt of written notice from the supervisor to charge off such asset, but in no event more than forty-five days following receipt of such written notice, the bank, mutual savings bank or trust company, shall write the same off as an asset or file a written statement with the supervisor explaining why, in its opinion, the asset should not be so treated. After considering such written statement and within ten days after receipt thereof, the supervisor will notify the bank in writing of his decision as to the treatment of the asset.

[Order 9, § 50-12-070, filed 5/9/72.]

WAC 50-12-080 Purchase or sale of United States government securities--Resale or repurchase agreement. The purchase or sale of securities of, or fully guaranteed

as to principal and interest by, the United States government and agencies thereof, or a fractional undivided interest therein by a bank, under an agreement or agreements to resell or repurchase the interest transferred, or a portion thereof, at the end of a stated period, shall not constitute an obligation subject to the lending limit of RCW 30.04.110, an indebtedness or liability of the bank within the meaning of RCW 30.04.150, a borrowing for the purposes of reloaning within the meaning of RCW 30.04.160, nor a pledge or hypothecation of securities or assets of the bank to a depositor or creditor within the meaning of RCW 30.04.140.

[Statutory Authority: RCW 30.04.030. 83-03-020 (Order 51), § 50-12-080, filed 1/13/83; Order 28, § 50-12-080, filed 9/10/74.]

WAC 50-12-090 Purchase or sale of United States government securities solely for customers' account not within purview of RCW 30.04.200. The provisions of RCW 30.04.200 shall not prohibit banks or the officers or employees thereof in the course of their employment from purchasing and selling securities and stocks without recourse, solely upon the order and for the account of customers of the bank, or from dealing in, underwriting and purchasing for the account of the bank obligations of, or obligations guaranteed as to principal and interest by, the United States or agencies thereof or of any state or political subdivision thereof.

[Statutory Authority: RCW 30.04.030. 83-01-082 (Order 49), § 50-12-090, filed 12/17/82.]

WAC 50-12-100 Leasing bank premises--Limitations. A bank or trust company may lease part of the premises in which it conducts its day-to-day business pursuant to RCW 30.04.210 to persons engaged in nonbanking or nontrust business activities subject to the following limitations:

(1) No director, officer, or employee of such bank or trust company may have any direct or indirect financial interest in the lessee's business activities conducted on the premises leased;

(2) No bank or trust company may receive commissions or other revenues from the lessee other than periodic rental payments received under terms that are usual and customary in leasing space used for similar commercial purposes as determined by the supervisor;

(3) No lessee may have access to security areas of the bank or trust company's premises, nor may a lessee conduct business activities on a bank or trust company's premises other than during regular banking hours;

(4) No director, officer, or employee of a bank or trust company may be employed by, or serve in any fiduciary capacity for a corporation or other person leasing the premises of such bank or trust company for such business activities;

(5) No bank or trust company may exercise managerial control over the lessee's business activities or assume, guarantee, or otherwise become obligated for the lessee's debts or legal obligations;

(6) No bank or trust company may advertise a lessee's business activities conducted on such bank or trust company's premises as a service provided by the bank or

trust company, or otherwise represent that the lessee's business activities are not independently owned and operated;

(7) No bank or trust company may use tying arrangements involving the sale of a lessee's goods or services offered on such bank or trust company's premises or in any other way require purchase of a lessee's goods or services as a condition for granting credit or performing services.

(8) For purposes of this section, the term "bank or trust company" means any person or corporation operating under the provisions of Title 30 RCW directly or indirectly affiliated with the lessor.

[Statutory Authority: RCW 30.12.060, 85-19-052 (Order 62), § 50-12-100, filed 9/13/85.]

WAC 50-12-110 Investment securities--Limit on holdings. No bank or trust company may purchase or hold obligations of a single obligor in excess of the limits prescribed by RCW 30.04.110, nor purchase or hold any obligation not authorized by Title 30 RCW, except for the following:

- (1) Obligations of the United States;
- (2) Obligations issued, insured, or guaranteed by a department or agency of the United States, including obligations of such departments or agencies representing an interest in a loan or pool of loans, if such obligation commits the full faith and credit of the United States to its repayment;
- (3) General obligations of a state or political subdivision of a state including but not limited to obligations of a county, city, town, municipal corporation, or any publicly-owned entity that is an instrumentality of a state or municipal corporation;
- (4) Obligations of any state or political subdivision of a state if a state or political subdivision of a state having general powers of taxation has unconditionally promised to make sufficient funds available for full repayment of the obligation.

[Statutory Authority: RCW 30.12.060, 85-19-052 (Order 62), § 50-12-110, filed 9/13/85.]

WAC 50-12-120 Promulgation. The division of banking, hereinafter referred to as the "division," after due and proper notice, and pursuant to chapter 30.60 RCW hereby adopts and promulgates the following rules and regulations, effective January 1, 1986.

[Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214, 87-02-010 (Order 66), § 50-12-120, filed 12/30/86.]

WAC 50-12-130 Purpose. This regulation is intended to encourage banks chartered under Title 30 RCW to help meet the credit needs of their local community or communities; to provide guidance to banks as to how the division will assess the records of these banks in satisfying their continuing and affirmative obligations to help meet the credit needs of the local communities, including low-income and moderate-income neighborhoods, consistent with safe and sound operation of those banks; and to provide for proper consideration of those records in connection with certain applications.

[Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214, 87-02-010 (Order 66), § 50-12-130, filed 12/30/86.]

WAC 50-12-140 Definitions. For purposes of interpreting and administering the provisions and procedures contained herein, the definitions of terms used shall be identical to the corresponding definitions set forth in the Community Reinvestment Act of 1977, Public Law 95-128, sections 801-806, 12 U.S.C. 2901, et seq. and regulations promulgated pursuant thereto; provided, these definitions are not inconsistent with the context used, or otherwise defined, in this regulation.

The term "division" means the division of banking of the state of Washington. The term "supervisor" means the supervisor of banking.

[Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214, 87-02-010 (Order 66), § 50-12-140, filed 12/30/86.]

WAC 50-12-150 Assessing the record of performance. In connection with its examination of a bank, the division shall assess the record of performance of the bank in helping to meet the credit needs of its entire community, including low-income and moderate-income neighborhoods, consistent with safe and sound operation of the bank. The division will review the bank's Community Reinvestment Act statement(s) and any other written and signed reports, documents, or comments prepared or filed by the bank with the division, or one or more federal bank regulatory agencies, and will use this material as part of or in lieu of an investigation as set forth by RCW 30.60.010. The foregoing material, together with such additional information as may be deemed necessary and obtained by investigation performed by the division, will be considered in assessing the bank's record of performance, based upon the following factors:

- (1) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;
- (2) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;
- (3) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;
- (4) Any practices intended to discourage applications for types of credit set forth in the institution's Community Reinvestment Act statement(s);
- (5) The geographic distribution of the institution's credit extensions, credit applications and credit denials;
- (6) Evidence of prohibited discriminatory or other illegal credit practices;
- (7) The institution's record of opening and closing of offices and providing services at offices;
- (8) The institution's participation, including investments, in local community development projects;

(9) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(10) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(11) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(12) Other factors that, in the judgment of the supervisor, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

[Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. 87-02-010 (Order 66), § 50-12-150, filed 12/30/86.]

WAC 50-12-160 Rating assignment. (1) Based upon the foregoing investigation and assessment, the supervisor shall annually assign to the bank a numerical community reinvestment rating based on a one through five scoring system in accordance with RCW 30.60.010. Such numerical scores shall represent performance assessments as follows:

(a) Excellent performance:	1
(b) Good performance:	2
(c) Satisfactory performance:	3
(d) Inadequate performance:	4
(e) Poor performance:	5

(2) For each calendar year commencing after December 31, 1986, the most recent community reinvestment rating assigned to the bank by the supervisor shall be used as a basis for limiting the funds invested in real property and improvements thereof pursuant to RCW 30.04.212. These investments shall be limited to a percentage of capital, surplus, and undivided profits, as follows:

(a) Excellent performance-rating (1):	10% limitation
(b) Good performance-rating (2):	8% limitation
(c) Satisfactory performance-rating (3):	6% limitation
(d) Inadequate performance-rating (4):	3% limitation
(e) Poor performance-rating (5):	no investment

No bank may at any time be required to dispose of any investment made in accordance with this section because the bank is not then authorized to acquire such investment, if such investment was lawfully acquired by the bank at the time of acquisition.

[Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. 87-02-010 (Order 66), § 50-12-160, filed 12/30/86.]

WAC 50-12-170 Rating for period January 1, 1986 through December 31, 1986. For the period January 1, 1986 through December 31, 1986, the rating assigned to all state chartered banks shall be a "1"; provided, however, that if a bank has been assigned a CRA rating of 3 or less in the most recent compliance report prepared by the FDIC or the Federal Reserve, the division deems the ten percent limitation for this period to be excessive, and an unsafe and unsound banking practice, and the bank

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shall be allowed to invest only the amount which would be allowable pursuant to RCW 30.04.212 if the rating of the most recent compliance report of the FDIC or Federal Reserve were assigned to the bank for the period January 1, 1986 through December 31, 1986.

[Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. 87-02-010 (Order 66), § 50-12-170, filed 12/30/86.]

WAC 50-12-180 Limitation on single investment. The total investment by a bank in a single parcel of real property, and improvements thereon, shall not exceed twenty-five percent of the aggregate amount of such bank's real estate investments allowed by RCW 30.04.212.

[Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. 87-02-010 (Order 66), § 50-12-180, filed 12/30/86.]

WAC 50-12-190 Investment in qualifying community investments. (1) An amount equal to ten percent of the aggregate amount invested in real estate by a bank pursuant to RCW 30.04.212 shall be placed in qualifying community investments as defined in subsection (3) of this section.

(2) A qualifying community investment made by an entity that wholly owns a bank, is wholly owned by a bank, or is wholly owned by an entity that wholly owns the bank, shall be deemed to have been made by a bank to satisfy the requirements of subsection (1) of this section.

(3) The term "qualifying community investment" means any direct or indirect investment or extension of credit made by a bank in projects or programs designed to develop or redevelop areas in which persons with low-incomes or moderate-incomes reside, designed to meet the credit needs of such low-income or moderate-income areas, or that primarily benefits low-income and moderate-income residents of such areas. The term includes, but is not limited to, any of the following investments within the state of Washington:

(a) Investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or business that address the needs of the low-income and moderate-income areas.

(b) Investments in residential mortgage loans, home improvement loans, housing rehabilitation loans, and small business or small farm loans originated in low-income and moderate-income areas, or the purchase of such loans originated in low-income and moderate-income areas.

(c) Investments for the preservation or revitalization of urban or rural communities in low-income and moderate-income areas.

The term does not include personal installment loans, or loans made for the purchase of, or secured by, an automobile.

[Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. 87-02-010 (Order 66), § 50-12-190, filed 12/30/86.]

WAC 50-12-200 Consideration of performance record in meeting community credit needs in approving

and disapproving applications. The division shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low-income and moderate-income neighborhoods in determining the approval or disapproval for the following applications:

- (1) For a new branch or satellite facility;
- (2) For a purchase of assets;
- (3) For a merger;
- (4) For an acquisition;
- (5) For authority to engage in a business activity;
- (6) For a conversion from a national bank to a state-chartered bank; and
- (7) Such other application as the supervisor may consider appropriate.

The performance record need not be considered for subsections (2), (3), and (4) of this section where solvency and safety soundness of the bank is threatened. Assessment of an institution's CRA performance may be a basis for denying an application.

[Statutory Authority: Chapter 30.60 RCW, RCW 30.04.212 and 30.04.214. 87-02-010 (Order 66), § 50-12-200, filed 12/30/86.]

Chapter 50-14 WAC MUTUAL SAVINGS BANKS

WAC
50-14-010 Facilitating loans—Real property.

WAC 50-14-010 Facilitating loans—Real property. For purposes of this section the following words shall have the following meanings:

- (1) "Foreclosed property" means real estate or interest therein, or other property used in connection therewith acquired through foreclosure or similar action, deed of trust sales, or by deed in lieu of any thereof.
- (2) "Facilitating loan" means a loan or real estate contract covering foreclosed property made by a mutual savings bank to the purchaser of the foreclosed property.
- (3) "Loan limits" means the limitations on investments imposed by RCW 32.20.410.

A mutual savings bank may make a facilitating loan for not in excess of the sale price of the property if the board of trustees or officers or committees designated by the board deem it prudent to dispose of the property in that manner. Facilitating loans shall not be deemed violations of RCW 32.20.250 or 32.20.260, nor shall the division of banking require facilitating loans to be classified as loans made pursuant to RCW 32.20.255. Until such time as a facilitating loan conforms to the requirements of RCW 32.20.250, 32.20.255 or 32.20.260, or other investment statutes relating to mutual savings bank, it shall be carried on the books and records of the bank as "Other real estate loans - Debts previously contracted," and shall not be carried at more than the value of the property securing it. Facilitating loans shall be included in determining the amounts invested which are subject to the loan limits to the extent of the value at

which they are carried on the books of the bank. The bank may, however, make facilitating loans regardless of the loan limits.

[Order 36, § 50-14-010, filed 7/8/76.]

Chapter 50-16 WAC CONSUMER FINANCE ACT RULES

WAC	
50-16-020	Recordkeeping—General.
50-16-025	Allocation of expenses to consumer finance business.
50-16-030	Books, files and accounting records required.
50-16-035	Forms.
50-16-040	Litigation record.
50-16-045	Loans.
50-16-050	Computation of charges.
50-16-055	Rebate of precomputed charges.
50-16-060	Splitting loans prohibited.
50-16-065	Statement to borrower—Receipt.
50-16-070	Advertising.
50-16-075	Restrictions on insurance.
50-16-080	Delivery of policy or evidence to borrower—Master policy required.
50-16-085	Rebate of credit life insurance charge.
50-16-090	File for official correspondence and reports.
50-16-095	Knowledge of the law and regulations.
50-16-100	Hours of business.
50-16-105	Insufficient funds charge.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

50-16-990 Appendix to Small Loan Act rules. [Letters (codified as WAC 50-16-990), filed 3/23/60.] Repealed by 82-24-074 (Order 48), filed 12/1/82. Statutory Authority: RCW 31.08.230.

WAC 50-16-020 Recordkeeping—General. Each licensee shall install and maintain, in connection with the business done in each licensed office, such books, accounts and records as will lend themselves readily to inspection and audit by the supervisor of banking or his representatives, and shall maintain separate books and records pertaining to the business done under the provisions of the Consumer Finance Act in the event any other type of business is conducted in the same office by the licensee.

[Statutory Authority: RCW 31.08.230. 82-24-074 (Order 48), § 50-16-020, filed 12/1/82; Rule 50-16-020, filed 12/20/63; § 50-16-020, filed 1/17/61; § 50-16-020, filed 12/12/60; Small Loan Act rules (part), filed 11/29/60; Small Loan Act rules, § 1 (part), filed 3/23/60.]

WAC 50-16-025 Allocation of expenses to consumer finance business. If any other business than that authorized under the Consumer Finance Act is conducted in the same office, the licensee shall fairly and equitably allocate all expenses for the purpose and with the result that the books relating to the licensee's business under the Consumer Finance Act will fairly reflect the expense of conducting such business.

[Statutory Authority: RCW 31.08.230. 82-24-074 (Order 48), § 50-16-025, filed 12/1/82; Rule 50-16-025, filed 12/20/63; § 50-16-025, filed 1/17/61; § 50-16-025, filed 12/12/60; Small Loan Act rules (part), filed 11/29/60; § 1 (part), filed 3/23/60.]

WAC 50-16-030 Books, files and accounting records required. At least the following books, files and accounting records shall be maintained:

(1) **Loan register.**

(a) Every loan shall be recorded in the loan register, which shall be kept currently in the order made showing the following information:

- (i) Number of loan
- (ii) Date of loan
- (iii) Name of borrower
- (iv) Amount of loan

(b) As an alternative method for maintaining records, the licensee may maintain a copy of the disclosure statement in a separate binder, and in chronological order.

(2) **Borrowers' individual account cards or looseleaf ledgers.** A separate account record shall be maintained for each loan made to any one borrower. Each such account record shall provide space for the proper recording of the following information:

- (a) Loan register number of loan
- (b) Date of loan
- (c) Name and address of borrower
- (d) Rate at which charges are to be computed or the annual percentage rate (APR), if less than the maximum

- (e) Terms of repayment
- (f) Face amount of note
- (g) If charges are precomputed:
- (i) Principal amount of loan
- (ii) Total amount of charges
- (iii) Amount which may be collected as a default charge

(h) Payments received showing:

- (i) Date of payment
- (ii) Amount paid on principal or amount paid on note when charges have been precomputed
- (iii) Remaining principal balance or remaining face amount of note when charges have been precomputed
- (iv) Amount paid on charges, except when charges are precomputed

(v) Date to which charges are paid, except when charges are precomputed

(vi) The amount of default and/or deferment charges collected

- (i) Name and address of co-maker or endorser, if any
- (j) Date of maturity of loan
- (k) Amount of charge for life insurance

(l) When a note has been reduced to judgment, the face of the account record must show the following:

- (i) Date of judgment
- (ii) Amount of judgment
- (iii) Court costs

Thereafter, all payments received must be applied on the judgment and properly identified.

(3) **Cash book.** Acceptable records showing all cash receipts and disbursements.

(4) **Alphabetical record of makers, endorsers, co-makers, sureties.** Cards or other records of makers, endorsers, co-makers or sureties, showing liability thereof on all loans.

(5) **General ledger.** The general ledger, which shall be posted at least once as of the close of business on a fixed date (preferably the last business day) of each month, and a trial balance taken therefrom. When the general ledger for the office is maintained elsewhere, a copy of the monthly trial balance shall be forwarded to the consumer finance office, showing the following information as of the end of each month:

- (a) Total number and amount of precomputed loans
- (b) Reserve for unearned precomputed charges
- (c) Total number and amount of nonprecomputed loans
- (d) Total number and amount of contracts outstanding
- (e) Total number and amount of all other loans, being loans not made under the Consumer Finance Act.

(6) Such books, accounts, and records may be maintained in each licensed office by means of electronic display equipment if such equipment is made available to the supervisor of banking or his representatives for purposes of examination in the licensed office. Such books, accounts, and records shall be made available to the supervisor of banking or his representatives in printed form within ten days after a request for such records.

[Statutory Authority: RCW 31.04.150. 85-19-054 (Order 64), § 50-16-030, filed 9/13/85. Statutory Authority: RCW 31.08.230. 82-24-074 (Order 48), § 50-16-030, filed 12/1/82; 79-04-042 (Order 40), § 50-16-030, filed 3/23/79; Rule 50-16-030, filed 12/20/63; § 50-16-030, filed 1/17/61; § 50-16-030, filed 12/12/60; Small Loan Act rules (part), filed 11/29/60; § 1 (part), filed 3/23/60.]

WAC 50-16-035 Forms. Copies of all forms of applications, notes, statements to borrowers, receipts, mortgages, security agreements and/or chattel assignments, and other documents which are currently used by the licensee and which relate to loan transactions, shall be filed with the supervisor.

[Statutory Authority: RCW 31.08.230. 79-04-042 (Order 40), § 50-16-035, filed 3/23/79; Rule 50-16-035, filed 12/20/63; § 50-16-035, filed 1/17/61; § 50-16-035, filed 12/12/60; Small Loan Act rules (part), filed 11/29/60; § 1 (part), filed 3/23/60.]

WAC 50-16-040 Litigation record. Each licensed office shall maintain a separate permanent record of all loans in litigation, so entitled, including all loans assigned, sold or transferred for the purpose of suit, which record shall contain the following:

(1) Loan number, original amount of loan, and unpaid balance.

(2) Nature of security foreclosed, attached, to be recovered, or otherwise repossessed.

(3) Name of owner of such property, if not the property of the borrower.

(4) Date and terms of settlement of account, if prior to obtaining judgment, or if after judgment obtained, all items included in collection after suit is instituted.

[Rule 50-16-040, filed 12/20/63; § 50-16-040, filed 1/17/61; § 50-16-040, filed 12/12/60; Small Loan Act rules (part), filed 11/29/60; § 1 (part), filed 3/23/60.]

WAC 50-16-045 Loans. (1) Numbering and filing. Each loan made shall have its proper account number

and all instruments taken in connection with any loan must bear this account number. All such instruments and papers required by the Consumer Finance Act to be retained by the licensee shall be filed so as to be readily available for inspection at any time, and shall be retained for a period of two years after date of final entry.

(2) **Payment schedule.** All loan contracts shall provide for substantially equal payments, and such payments shall be due not less frequently than once in each month. If agreed by the parties to the loan contract the due date of the first installment may be not more than fifteen days more than one month from date of loan. A month shall be that period of time from any date in a month to a corresponding date in the next month and if there is no corresponding date, then to the last day of the next month.

[Statutory Authority: RCW 31.08.230. 82-24-074 (Order 48), § 50-16-045, filed 12/1/82; 79-04-042 (Order 40), § 50-16-045, filed 3/23/79; Rule 50-16-045, filed 12/20/63; § 50-16-045, filed 1/17/61; § 50-16-045, filed 12/12/60; Small Loan Act rules, § II, filed 11/29/60; § 2, filed 3/23/60.]

WAC 50-16-050 Computation of charges. Licensees shall adopt a fixed method of computing charges on fractional balances and shall either compute charges on the actual fractional dollar which may be contained in any balance or disregard the fraction entirely. Under no circumstances shall charges be computed on "even dollar" balances in excess of the amount actually due upon the loan.

[Rule 50-16-050, filed 12/20/63; § 50-16-050, filed 1/17/61; § 50-16-050, filed 12/12/60; Small Loan Act rules, § III A, filed 11/29/60; § 3, filed 3/23/60.]

WAC 50-16-055 Rebate of precomputed charges. (1) **General.** When the loan is prepaid in full, a rebate of the precomputed charge must be made either by the method prescribed by the Consumer Finance Act in RCW 31.08.160 (3)(b) or by recomputing charges on actual unpaid balances for the actual time outstanding.

(2) **Prepayment before first installment date.** If prepayment in full occurs before the first installment date the rebate must be made as of the exact day of prepayment. In addition to the standard rebate as of the first installment, an additional rebate of one-thirtieth of the portion of the precomputed charge applicable to a first installment period of one month shall be made for each day from the date of such prepayment to the first scheduled installment date. The full amount of the precomputed charges may be rebated and charges recomputed on the unpaid principal balance for the actual time such balance was outstanding.

(3) **Prepayment after first installment date.** When prepayment in full occurs on an installment date the rebate must be made as of that installment date. When an installment date precedes the prepayment date by fifteen days or less, the rebate shall be made as of such preceding installment date. When an installment date precedes the prepayment date by sixteen days or more, the rebate shall be made as of the first installment date following such prepayment (except during the first installment period).

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(4) **Renewal, refinanced, judgment obtained before maturity.** When the contract is renewed or refinanced before maturity, or judgment is obtained before maturity, the same rebate is required as for prepayment in full.

[Statutory Authority: RCW 31.08.230. 82-24-074 (Order 48), § 50-16-055, filed 12/1/82; Rule 50-16-055, filed 12/20/63; § 50-16-055, filed 1/17/61; § 50-16-055, filed 12/12/60; Small Loan Act rules, § III B, filed 11/29/60.]

WAC 50-16-060 Splitting loans prohibited. A licensee who makes loans to both members of a marital community individually in compliance with the provisions of the Federal Equal Credit Opportunity Act shall not be deemed to have violated RCW 31.08.160(4). If separate loans are made for the purpose of obtaining a higher rate of charge, then the making of such loans shall be deemed a violation. For the purpose of RCW 31.08.160(4), and this rule, "licensee" shall include two or more licensees who are, directly or indirectly owned or controlled by the same group or have common management.

[Statutory Authority: RCW 31.08.230. 79-04-042 (Order 40), § 50-16-060, filed 3/23/79; Rule 50-16-060, filed 12/20/63; § 50-16-060, filed 1/17/61; § 50-16-060, filed 12/12/60; Small Loan Act rules, § III D, filed 11/29/60.]

WAC 50-16-065 Statement to borrower—Receipt. Every licensee shall:

(1) Deliver to the borrower at the time the loan is made, a statement of the loan as provided in RCW 31.08.170(1) of the Consumer Finance Act and shall retain a copy of said statement which shall bear an acknowledgment by the borrower that he has received the original thereof.

(2) Procure a receipt from the borrower for the proceeds of the loan. (Statement of loan, acknowledgment by borrower and receipt for proceeds of loan, for convenience, may be incorporated in one instrument.)

(3) All of the above instruments shall be retained by the licensee for a period of not less than two years after recorded date of cancellation of the note.

[Statutory Authority: RCW 31.08.230. 82-24-074 (Order 48), § 50-16-065, filed 12/1/82; Rule 50-16-065, filed 12/20/63; § 50-16-065, filed 1/17/61; § 50-16-065, filed 12/12/60; Small Loan Act rules, § IV, filed 11/29/60; § 4(a), filed 3/23/60.]

WAC 50-16-070 Advertising. (1) **General.** No licensee in any of its advertising or upon any of its forms, instruments or stationary shall use any phrase or expression referring to its authority or supervision by the state, or any department thereof, or the supervisor of banking, except the following: "Licensed under the Washington Consumer Finance Act" or "under state regulation," or both: *Provided*, That when either such phrase is employed, it shall be used in conjunction only with the business of making small loans under the Consumer Finance Act.

(2) **Misleading advertising.** All advertising, printed or spoken, shall be truthful in statement and implication and shall not be of such a nature as may reasonably be construed to be misleading or deceptive. In determining

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whether any particular advertising matter violates the provisions or intent of RCW 31.08.150, the supervisor will give consideration to general arrangement of copy and to whether, from statements made, the inference or impression may reasonably be drawn that such statements or representations are inaccurate, deceptive or misleading. It shall be considered misleading:

(a) To use phrases such as "lowest costs," "lowest rates," "quickest service," "legal rates," "no red tape," "easy payments," "repayment in easy installments."

(b) To advertise "new reduced rates" or "a new type of service" or any such similar comparative expression unless such statement is in fact accurate with respect to the business of the licensee so advertising and unless such advertisement clearly indicates that such new plan refers specifically to a change in the particular licensee's plan of operation, and which change must be of more than minor importance with respect to the business of the licensee. Any such advertisement shall not be used for a period longer than sixty days after such plan has been put into effect.

(3) **Blind loan advertisements.** Licensees shall not use blind loan advertisements such as using only telephone numbers or newspaper box addresses. Every advertisement shall clearly indicate the identity of the licensee.

(4) **Disclosure of extension charge.** Licensees shall not advertise that in the event of sickness or disability or other contingency, payment will be extended without also stating that charges continue during the period of extension, if such is the fact.

(5) **Distribution of handbills.** No licensee shall distribute, or cause to be distributed, handbills or similar advertising matter except in the office of the licensee or through the mails.

(6) **Credit cards--Letters of credit.** No licensee shall solicit business by means of "credit cards," "letters of credit," or other similar devices which indicate that a holder has an established credit standing with a licensee unless such holder has made a bona fide application to the licensee and credit has actually been established.

(7) **Inducements prohibited.** No licensee shall, by any representation or device, either directly or indirectly, offer to any persons anything of value by means of which they will be encouraged to become borrowers or for recommending, referring, or inducing applicants to apply for or secure loans from any such licensee.

Note: The distribution of articles of trivial value for general good will advertising, in the ordinary course of business, will not be deemed to be in violation of this prohibition.

(8) **Charges and payments specified.** When examples or tables of periodic payments under a flat payment plan are advertised, they shall include all charges to the borrower as well as principal. If principal payments only are advertised, a clear statement of the rate of charge or the total amount of charge shall be included. In all such advertising the total number and frequency of payments must be specified. No advertising shall include average repayments or average cost of a loan.

(9) **Retention of advertising copy.** Each licensee shall retain for a period of one year from date of use, with date of use indicated thereon, information disclosing the

medium through which any advertisement was disseminated, identical copies of all advertising material published, distributed, broadcast or televised, available for inspection by the supervisor at any time.

All form letters sent to former or present customers soliciting additional loans shall be considered advertising. If the advertisement relates to a specific office maintained by the licensee, the material must be maintained in that office. If the advertisement relates to the licensee's business generally and does not relate to a particular office, the material need be maintained only in one office in this state designated by the licensee.

[Statutory Authority: RCW 31.08.230. 82-24-074 (Order 48), § 50-16-070, filed 12/1/82; 79-04-042 (Order 40), § 50-16-070, filed 3/23/79; Rule 50-16-070, filed 12/20/63; § 50-16-070, filed 1/17/61; § 50-16-070, filed 12/12/60; Small Loan Act rules, § V, filed 11/29/60; § 5, filed 3/23/60.]

WAC 50-16-075 Restrictions on insurance. (1) No licensee shall write or sell insurance on the life of any borrowers where such insurance is a condition to the granting of a loan.

(2) No insurance shall be required in connection with any loan made under the Consumer Finance Act, except as and to the extent authorized by RCW 31.08.175.

[Statutory Authority: RCW 31.08.230. 82-24-074 (Order 48), § 50-16-075, filed 12/1/82; 79-04-042 (Order 40), § 50-16-075, filed 3/23/79; Rule 50-16-075, filed 12/20/63; § 50-16-075, filed 1/17/61; § 50-16-075, filed 12/12/60; Small Loan Act rules, § VI A and B, filed 11/29/60; § 3(d), filed 3/23/60.]

WAC 50-16-080 Delivery of policy or evidence to borrower--Master policy required. (1) If any borrowers procure any insurance by or through a licensee, the licensee shall cause to be delivered to the borrowers within thirty days from date of loan a copy of the policy, certificate, or other evidence thereof which may be incorporated in the statement required by RCW 31.08.170.

(2) Each licensee shall maintain at each licensed office a specimen copy of any master or blanket policy in lieu of which a certificate or other evidence thereof has been delivered to borrowers under the provisions of RCW 31.08.175(3).

[Statutory Authority: RCW 31.08.230. 79-04-042 (Order 40), § 50-16-080, filed 3/23/79; Rule 50-16-080, filed 12/20/63; § 50-16-080, filed 1/17/61; § 50-16-080, filed 12/12/60; Small Loan Act rules, § V, C and D, filed 11/29/60.]

WAC 50-16-085 Rebate of credit life insurance charge. When a loan is prepaid in full by cash, a new loan, renewal, refinancing or otherwise, a portion of the life insurance charge made in connection with the loan contract shall be rebated in accordance with paragraphs (a) and (b) of subsection (3) of RCW 31.08.160, regardless of the amount of such rebate.

[Rule 50-16-085, filed 12/20/63; § 50-16-085, filed 1/17/61; § 50-16-085, filed 12/12/60; Small Loan Act rules, § VI E, filed 11/29/60.]

WAC 50-16-090 File for official correspondence and reports. Each licensee shall maintain a permanent file for all official communications from the office of the

supervisor of banking and for copies of correspondence and reports addressed to the supervisor of banking.

[Rule 50-16-090, filed 12/20/63; § 50-16-090, filed 1/17/61; § 50-16-090, filed 12/12/60; Small Loan Act rules, § VII A, filed 11/29/60; § 7(a), filed 3/23/60.]

WAC 50-16-095 Knowledge of the law and regulations. Each licensee shall be responsible for assuring that any person making loans on behalf of the licensee under the Consumer Finance Act shall have a sufficient understanding of the statutes and regulations applicable to its business so as to insure compliance with the Consumer Finance Act.

[Statutory Authority: RCW 31.08.230. 82-24-074 (Order 48), § 50-16-095, filed 12/1/82; 79-04-042 (Order 40), § 50-16-095, filed 3/23/79; Rule 50-16-095, filed 12/20/63; § 50-16-095, filed 1/17/61; § 50-16-095, filed 12/12/60; Small Loan Act rules, § VII B, filed 11/29/60; § 7(b), filed 3/23/60.]

WAC 50-16-100 Hours of business. The place of business designated in the license shall be open during customary hours to receive payments from borrowers, and such hours shall be posted at the entrance to the office.

[Statutory Authority: RCW 31.08.230. 79-04-042 (Order 40), § 50-16-100, filed 3/23/79; Rule 50-16-100, filed 12/20/63; § 50-16-100, filed 1/17/61; § 50-16-100, filed 12/12/60; Small Loan Act rules, § VII C, filed 11/29/60; § 7 C, filed 3/23/60.]

WAC 50-16-105 Insufficient funds charge. If any payment on a loan is made by check and payment of that check is refused because there was no account or due to insufficient funds, the licensee may charge a fee not to exceed ten dollars for each check on which payment is refused.

[Statutory Authority: RCW 31.08.230. 83-18-017 (Order 54), § 50-16-105, filed 8/30/83.]

Chapter 50-20 WAC INDUSTRIAL LOAN COMPANIES

WAC

50-20-001	Foreword.
50-20-010	Books and records.
50-20-020	The note.
50-20-030	Investment certificates.
50-20-040	Contents of statement to borrower.
50-20-050	Restrictions as to charges.
50-20-055	Simple interest defined.
50-20-060	Advertising.
50-20-070	Other business in same office.
50-20-080	Branching.
50-20-090	Open-end loans—Increase in interest—Notice to borrower.

WAC 50-20-001 Foreword. The within rules and regulations have been made under the provisions of section 15, chapter 172, Laws of 1923 as amended by section 15(b), chapter 19, Laws of 1941 (RCW 31.04.180).

[Industrial loan rules (part), filed 3/23/60.]

WAC 50-20-010 Books and records. (1) The company shall maintain a borrower's individual account card file, income and expense accounts, and have a general

ledger readily available, and such other books and records including a monthly trial balance as will enable the supervisor to determine whether such company is complying with the provisions of this act and with the rules and regulations of the supervisor with the result that these books and accounts will fairly reflect the condition of the company independent of other business conducted in the office.

Such books, accounts, and records may be maintained in each industrial loan company office by means of electronic display equipment if such equipment is made available to the supervisor of banking or his representatives for purposes of examination in the industrial loan company office. Such books, accounts, and records shall be made available to the supervisor of banking or his representatives in printed form within ten days after a request for such records.

(2) For a period of not less than two years after the making of the final entry upon its books with respect to any such transaction the company shall preserve the records of original and final entry upon all loans made and upon all transactions pertinent to the sale and issuance of investment certificates.

(3) If the company operates branches, there shall be kept in each branch office such books, accounts and records as will enable the supervisor to determine whether such company is complying with the provisions of this act and with the rules and regulations of the supervisor.

(4) The original application for a loan and all original papers relating thereto, including the note, any instrument held as collateral security, security agreement, salary assignment, etc., shall be available for inspection by the supervisor, or any duly authorized representative. All real estate mortgage loans shall be supported by an appraisal from a qualified appraiser, disclosing all pertinent information, including a detailed schedule of all prior liens.

(5) No corporation shall take any instruments in which blanks are not filled in completely before the proceeds of the loan are delivered.

(6) Fees collected in advance to be subsequently disbursed by the company for recording and releasing collateral instruments or for other similar purposes shall be credited to a suspense account supported by a detailed record of the borrower's name and the respective amount of such fees.

[Statutory Authority: RCW 31.04.150. 85-19-053 (Order 63), § 50-20-010, filed 9/13/85. Statutory Authority: RCW 31.04.150(2). 79-04-042 (Order 40), § 50-20-010, filed 3/23/79; Order 5, § 50-20-010, filed 12/4/69; § 1, filed 3/23/60.]

WAC 50-20-020 The note. (1) Specimen forms of the written instrument or note evidencing any loan under this act shall be filed with the supervisor of banking.

(2) The written instrument or note shall carry on the face thereof the following:

(a) The number and date of the loan.

(b) Total amount to be repaid.

(c) The manner in which it is to be repaid.

(d) Adequate description of any collateral security deposited with the company.

(e) Maturity date.

(f) The rate of interest to be collected after original maturity date.

[Statutory Authority: RCW 31.04.150(2), 80-13-024 (Order 43), § 50-20-020, filed 9/9/80; Order 5, § 50-20-020, filed 12/4/69; § 2, filed 3/23/60.]

WAC 50-20-030 Investment certificates. (1) Specimen forms of investment certificates issued shall be filed with the supervisor of banking.

(2) Adequate records shall be maintained with respect to all investment certificates issued. Such records shall disclose the name of the purchaser, the date purchased, the number of the certificate, the terms and amount of payments agreed to, and if pledged as security for a loan, the loan shall be adequately identified.

(3) Adequate records shall be maintained with respect to all payments made upon investment certificates.

(4) The terms of payment upon an investment certificate purchased and pledged to the company as security for a loan shall provide for equal stated amounts payable over equal stated periods of time, to be fully paid not prior to the maturity date of the note.

(5) The company shall give to the purchaser a plain and complete receipt for all payments made on account of any investment certificate at the time such payments are made, specifying the amount applied to the face amount owing and to delinquent charges: *Provided, however,* On all payments by check or money order wherein the total amount paid is applied to the face amount owing on the investment certificate, the cancelled check or money order stub will serve as a plain and complete receipt.

[§ 3, filed 3/23/60.]

WAC 50-20-040 Contents of statement to borrower.

(1) The company shall deliver to the borrower at the time any loan is made, a statement which shall disclose in clear and distinct terms the following information:

(a) The name and address of the industrial loan company.

(b) The name and address of the borrower.

(c) The number and date of the loan.

(d) The total amount of the loan.

(e) List of statutory deductions from the face amount of the note:

(i) Interest-discount, rate and amount.

(ii) Investigation fee.

(iii) Filing and releasing fee.

(f) Date of maturity of the loan.

(g) Rate of interest after original maturity date.

(h) Description of the security, if any, including adequate description of the investment certificate.

(i) Agreement to permit payment in full before maturity. Refund of unearned interest shall be made in accordance with WAC 50-20-050(5).

(j) Amount and date of installment investment certificate.

(k) The terms of payment of the investment certificate, showing due dates and amount of installments.

(l) Penalty for payments which are delinquent one week or more.

(m) Service fees, if any.

(n) Any other requirements imposed by Regulation Z. (Titles I and V of Consumer Credit Protection Act, P.L. 90-321, 82 Stat. 146 1/5 U.S.C. 1601-1665.)

(2) Sufficient information must be maintained in the companies' files to show compliance with state and federal law.

[Order 5, § 50-20-040, filed 12/4/69; § 4, filed 3/23/60.]

WAC 50-20-050 Restrictions as to charges. (1) No company shall charge the borrower for notarial fees.

(2) No industrial loan company shall require the purchasing of property insurance from the company or any employee, affiliate or associate of the company or from any agent, broker, or insurance company designated by the company as a condition precedent to the making of a loan nor shall any company decline existing insurance which meets or exceeds the standards set forth in this section.

A company may provide insurance on the life and disability of one borrower and on the life of the spouse of the borrower if both are obligors, provided that such insurance coverage shall not exceed the approximate unpaid balance of the total amount repayable under contract of indebtedness scheduled to be outstanding. The premium or cost for all such insurance when written pursuant to the Washington insurance code and regulations issued thereunder, shall not be deemed interest, charges or consideration in connection with the loan transaction and any gain or advantage to the lender arising out of the premium or cost of the insurance from its sale shall not be a violation of any provision of chapter 31.04 RCW. The amount of the premium or cost of such insurance may be included in the original loan amount and may be paid from the proceeds of the loan.

If the loan contract is prepaid in full by cash, a new loan, renewal, refinancing, or otherwise, the credit life and/or accident and health insurance coverage shall be cancelled and a portion of the charge made for such insurance shall be rebated as provided by the Washington insurance code and regulations issued thereunder.

(3) No company shall make any charge for the filing, recording or releasing of mortgages or other instruments or for transferring title certificates to automobiles unless such charges are or are in fact to be paid out by the company to the proper officials for such filing, recording, transferring or releasing thereof.

(4) In the event a company makes a new loan where any part of the proceeds is used to pay the amount due it on an existing loan within four months from date of the existing loan, no charge for investigation fee shall be permitted, unless the investigation fee on the existing loan is refunded.

(5) No industrial loan company may charge and collect an annual fee in excess of eighteen dollars payable each year in advance for the privilege of opening and maintaining an open-end loan account.

(6) No industrial loan company may charge and collect an appraisal fee incurred in appraising security offered by the borrower in excess of the actual costs paid to an independent third party professional appraiser. No charge may be made or collected for costs of an appraisal if the loan application is rejected by the company, or if the appraisal is inadequate to meet reasonable appraisal requirements for comparable loans from other lending institutions.

(7) Any note which is prepaid in full by cash, a new loan, refinancing, or otherwise before the final due date, the unearned portion of the interest shall be refunded using the sum of the digits method commonly known as the "Rule of 78's."

Provided, however, That in the case of any loan originally scheduled to be repaid in sixty-one months or more which is secured by an investment certificate, the refund of the unearned portion of the interest shall be computed as follows: Interest shall be considered earned at the single nominal annual percentage rate which if applied to the unpaid amounts of principal outstanding from time to time would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments due on the certificate and calculations were made according to the actuarial method. Interest earned so calculated up to the scheduled due date nearest the date of prepayment shall be subtracted from the original amount of interest included in the note and the balance of such interest shall be refunded.

For purposes of this calculation only, the original principal amount of the loan shall be deemed to be the amount of the total note less the interest deducted in advance. Actuarial method means the method of allocating payments made between principal and interest whereby a payment is applied first to the interest accumulated to date and the remainder then applied to the unpaid principal amount. In computing an actuarial refund, the lender may round the single annual percentage rate used to the nearest quarter of one percent.

In computing any required refund, any prepayment made on or before the fifteenth day following the scheduled payment date on the investment certificate shall be deemed to have been made on the payment date preceding such prepayment. In the case of prepayment prior to the first installment date, the company may retain an amount not to exceed 1/30 of the first month's interest charge for each date between the origination date of the loan and the actual date of prepayment.

[Statutory Authority: RCW 31.04.150, 85-19-053 (Order 63), § 50-20-050, filed 9/13/85; 84-06-001 (Order 59), § 50-20-050, filed 2/23/84. Statutory Authority: RCW 31.04.150(2), 82-24-074 (Order 48), § 50-20-050, filed 12/1/82; 80-13-024 (Order 43), § 50-20-050, filed 9/9/80; 79-04-042 (Order 40), § 50-20-050, filed 3/23/79; Order 5, § 50-20-050, filed 12/4/69; § 5, filed 3/23/60.]

WAC 50-20-055 Simple interest defined. (1) For purposes of RCW 31.04.090, simple interest shall be computed by applying the annual simple interest rate to the unpaid balances of the principal of the loan outstanding for the time outstanding. Each payment shall

be applied first to accumulated interest and the remainder of the payment shall be applied to the unpaid balance of the principal until paid in full.

Interest may not be payable in advance nor compounded; however, if part or all of the consideration for a new loan contract is the unpaid balance of a prior loan, then the original principal payable under such new loan contract may include, on a simple interest loan any unpaid interest or other charges which have accrued (the unpaid balance of a discounted loan shall be the balance due after giving effect to any required refund or credit of interest charged). For the purpose of computing interest, a day shall be 1/365th of a year. The term "principal" as used herein means the sum of the "amount financed" and any "prepaid finance charge" disclosed to the borrower pursuant to the Federal Truth-in-Lending Act.

(2) The provisions of RCW 31.04.090 as they relate to investment certificates are not applicable to loans upon which interest is computed and charged on this basis.

[Statutory Authority: RCW 31.04.150(2), 85-22-014 (Order 65), § 50-20-055, filed 10/29/85; 82-24-074 (Order 48), § 50-20-055, filed 12/1/82.]

WAC 50-20-060 Advertising. (1) All advertising, printed or spoken, shall be truthful in statement and implication and shall not be of such a nature as may reasonably be construed to be misleading or deceptive.

(2) All advertising that mentions rates and/or amounts or periods of repayment shall fairly and accurately state the full and correct amount of such rates and periodic payments.

(3) The company shall keep a file of all circulars, form letters, pamphlets, booklets, radio broadcasts, newspaper advertisements and all other types of advertising for a period of not less than two years, which shall be available for examination by the supervisor or his duly authorized representative.

(4) No company shall advertise the giving or give directly or indirectly to borrowers premiums of merchandise, food, or other articles of value in connection with any loan transactions.

(5) No company shall give directly or indirectly to any borrower an allowance of cash, any premiums of merchandise or other consideration for the procuring of, referring to or sending to the company any applicants for loans.

(6) No company in any of its advertising or upon any of its forms, instruments or stationery shall use any phrase or expression referring to its authority or supervision by the state, or any department thereof, or the supervisor of banking except the following: "Authorized Under Industrial Loan Act" or "under state regulation" or both.

(7) All advertising must conform to Federal Reserve Board Regulation Z.

[Order 5, § 50-20-060, filed 12/4/69; § 6, filed 3/23/60.]

WAC 50-20-070 Other business in same office. (1) No company will be permitted to conduct its business

within an office room or place of business in which other business is solicited or engaged in, or in association or conjunction therewith, if the supervisor of banking shall find, after five days' written notice, and after a hearing, that the other business has concealed or facilitated evasion of the Industrial Loan Company Act. If the supervisor so finds, he shall order such company in writing to desist from such conduct.

(2) No company shall transact such business or make any loan provided for or by this act under any other name or at any other place of business than that named in the certificate of authority or in locations where branches have been established. This is not intended to prohibit loans by mail.

(3) No company shall change its place of business to another location unless and until authority for such change shall have been granted by the supervisor of banking.

(4) No borrower may be simultaneously indebted to two or more firms, the ownership of which firms is substantially the same and which engage in the business of lending money, if the loans, either individually or in combination, would violate the provisions of the Industrial Loan Act were it or they made by the industrial loan company directly. The intended purpose of this regulation is to prohibit an industrial loan company, through the use of the corporate veil from either directly or indirectly engaging in and receiving the benefits of a business which is not authorized an industrial loan company under the terms of the Industrial Loan Act.

[Order 16, § 50-20-070, filed 7/2/73; Order 5, § 50-20-070, filed 12/4/69; § 7, filed 3/23/60.]

WAC 50-20-080 Branching. The supervisor of banking's approval of a branch for an industrial loan company shall be conditioned on a finding that the business of the branch will be honestly and efficiently conducted in accordance with the intent and purpose of the Industrial Loan Act, that the resources in the neighborhood of the location of the proposed branch and in the surrounding country afford a reasonable promise of adequate support for the proposed branch, and that the proposed branch is being formed for legitimate objects covered by the Industrial Loan Act.

Before a certificate of authority for a branch is issued the industrial loan company must have a minimum capital equal to the amount required in RCW 31.04.080 plus an amount computed in the same manner as that required in RCW 31.04.080 for each branch of the industrial loan company.

[Order 33, § 50-20-080, filed 11/5/75.]

WAC 50-20-090 Open-end loans--Increase in interest--Notice to borrower. An industrial loan company is not required to give thirty days written notice of an increase in the interest rate charged on an open-end loan pursuant to RCW 31.04. (5) (section 3(5), chapter 74, Laws of 1985), if the following conditions are met:

(1) The interest rate charged on the open-end loan is based upon an index approved by the supervisor; and

(2) The borrower has agreed in writing prior to the increase to base the interest rate on the index.

[Statutory Authority: RCW 31.04.150. 85-19-053 (Order 63), § 50-20-090, filed 9/13/85.]

Chapter 50-24 WAC PUBLIC RECORDS

WAC

50-24-010	Purpose.
50-24-020	Definitions.
50-24-030	Description of central and field organization of division of banking.
50-24-040	Operations and procedures.
50-24-050	Public records available.
50-24-060	Public records officer.
50-24-070	Office hours.
50-24-080	Requests for public records.
50-24-090	Copying.
50-24-100	Exemptions.
50-24-110	Review of denials of public records requests.
50-24-120	Protection of public records.
50-24-130	Records index.
50-24-140	Information generally—Address.
50-24-150	Adoption of form.
50-24-990	Appendix I—Form—Request for public record.

WAC 50-24-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of general administration, division of banking with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25-32 of that act, dealing with public records.

[Order 14, § 50-24-010, filed 5/1/73.]

WAC 50-24-020 Definitions. (1) Public records. "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) Writing. "Writing means handwriting, typewriting, printing, photostating, photographing and every other means or recording any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents."

(3) Division of banking. The supervisor of banking, division of banking is appointed by the director of the department of general administration. The division of banking shall hereinafter be referred to as the "division of banking." Where appropriate, the term supervisor of banking also refers to the staff and employees of the division of banking.

[Order 14, § 50-24-020, filed 5/1/73.]

WAC 50-24-030 Description of central and field organization of division of banking. Division of banking. The division of banking is an administrative, supervisory,

licensing and chartering agency. The administrative office of the division of banking and its staff is located in the General Administration Building, Olympia, Washington. In addition to this office of record, a field office, for the convenience of the field examiners for the preparation of their reports of examination and other official duties, is maintained in Seattle, Washington. The Seattle office is not a depository for public records and none are available at that office for public inspection or copying.

[Statutory Authority: RCW 42.17.250, 82-24-074 (Order 48), § 50-24-030, filed 12/1/82; 79-04-042 (Order 40), § 50-24-030, filed 3/23/79; Order 14, § 50-24-030, filed 5/1/73.]

WAC 50-24-040 Operations and procedures. The primary purpose of the division of banking is the maintenance of a sound banking system and a sound consumer finance system, the prevention or irresponsible acts by members of the banking and financial system, and the insuring that these systems serve the needs and convenience of the public through the fostering of appropriate competition and operating efficiency. In order to accomplish this purpose, the division of banking's duties are divided into two major areas, i.e., examination and chartering.

The supervisor of banking has authority to examine the operations of all state banks, trust companies, mutual savings banks, consumer finance companies, industrial loan companies, industrial development corporations, stock savings banks, alien banks, bank holding companies, and agricultural credit corporations. These duties are carried out through a full-time staff of field examiners employed by the division of banking. The examiners examine the books and records of an institution in order to detect any violations of the relevant statutes or regulations and to determine if good industry practices are being followed. After receipt of the examination reports, the supervisor communicates the results to the managing group of the institution examined and requires any violations of law or regulations to be corrected.

The other main function of the division of banking is action upon applications by various groups to establish a financial institution or to change an existing one. The following general pattern or procedure is followed in such decision making by the supervisor of banking. This pattern is used and applies to applications:

- (1) To incorporate new state chartered banks, mutual savings banks or trust companies;
- (2) To establish branches of existing banks, mutual savings banks or trust companies;
- (3) Applications for agricultural credit corporations;
- (4) Applications for stock savings banks;
- (5) Applications for satellite (ATM) network systems;
- (6) Applications for trust powers to be conferred upon the existing banks or trust companies;
- (7) Applications to establish subsidiary corporations;
- (8) Merger applications;
- (9) Applications to move the main office or branch;
- (10) Applications for licenses for consumer finance companies or additional branches thereof;

(11) Applications for charter of industrial loan companies or additional branches thereof; and

(12) Applications for industrial development corporations. An application is filed accompanied by the filing fee set by statute or regulation. After the application has been fully documented and supported by all required schedules, statements, etc., an investigator is assigned to make the field investigation or survey. Upon completion of the field investigation and after analysis of all of the factors generally considered as required by pertinent statutes, the assigned investigator submits his written report including his summary and recommendations. Based upon the findings of the investigator and his recommendations, the supervisor of banking will then either approve or deny the application.

Operations are channeled and actions determined, and the public may obtain information, submit requests, or obtain copies of public records from the above listed office of the supervisor of banking in Olympia. In general, the public may obtain information, make submittals or requests, or obtain copies of division of banking decisions as follows:

I. For state chartered banks, trust companies, mutual savings banks, stock savings banks, industrial development corporations, agricultural credit corporations, and satellite (ATM) network systems, or branches thereof:

- (a) Chartering – supervisor of banking or deputy supervisor of banking;
- (b) Investigations, staff studies, research and instruction manuals – assistant supervisor, deputy supervisor, or supervisor of banking.
- (c) Examinations – chief bank examiner, assistant supervisor, or deputy supervisor;
- (d) General inquiries – office receptionist or any of above named officials.

II. Consumer finance:

- (a) Chartering industrial loan companies – supervisor or deputy supervisor of banking;
- (b) Licensing consumer finance companies – supervisor or deputy supervisor of banking;
- (c) Investigations and examinations of both, either of above officials;
- (d) General inquiries – deputy supervisor, supervisor of banking and chief examiner consumer finance.

General inquiries or requests to inspect public records may be made in person, as indicated above, or in writing addressed to the supervisor of banking, Olympia. Applications for permission to organize a new state bank, trust company, or mutual savings bank or for the chartering of a stock savings bank, or an industrial loan company, or for licensing of a consumer finance company, may be applied for in writing. However, as a matter of general procedure, it has been found desirable and is recommended that interested groups visit the office of the supervisor for a round-table discussion of requirements, forms to be filled out, fees payable to the supervisor of banking and the secretary of state, plus a general discussion of the primary market area the applicant wishes to serve and of the economic resources of that area together with a brief review of existing financial institutions already in that area.

[Statutory Authority: RCW 42.17.250, 82-24-074 (Order 48), § 50-24-040, filed 12/1/82; Order 14, § 50-24-040, filed 5/1/73.]

WAC 50-24-050 Public records available. All public records of the division of banking as defined in WAC 50-24-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by sections 26 and 31, chapter 1, Laws of 1973 and WAC 50-24-100, and by RCW 43.19.060 and 43.19.070. Substantive rules of general applicability adopted by the supervisor of banking can be found in Title 50 WAC, and are incorporated herein by reference as though fully set forth.

[Order 14, § 50-24-050, filed 5/1/73.]

WAC 50-24-060 Public records officer. The division of banking's public records shall be in charge of the public records officer designated by the division of banking. The person so designated shall be located in the administrative office of the division of banking. The public records officer shall be responsible for the following: The implementation of the division of banking rules and regulations regarding release of public records, coordinating the staff of the division of banking in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

[Order 14, § 50-24-060, filed 5/1/73.]

WAC 50-24-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the division of banking. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

[Order 14, § 50-24-070, filed 5/1/73.]

WAC 50-24-080 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the division of banking, which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the division of banking staff, if the public records officer is not available, at the administrative office of the division of banking during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the records;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;

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(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the division of banking current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

[Order 14, § 50-24-080, filed 5/1/73.]

WAC 50-24-090 Copying. No fee shall be charged for the inspection of public records. The division of banking shall charge a fee of twenty-five cents per page of copy for the first twenty pages and ten cents per page for every copy thereafter for providing copies of public records and for use of the division of banking copy equipment. This charge is the amount necessary to reimburse the division of banking for its actual costs incident to such copying. The division of banking will charge additional amounts based on employee salaries if a particular request requires an unusual amount of time to be spent by the division. The copying fee shall be paid in cash, certified check, cashier's check or money order.

[Order 14, § 50-24-090, filed 5/1/73.]

WAC 50-24-100 Exemptions. (1) The division of banking reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 50-24-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) RCW 30.04.075 provides as the general rule that all information received by the supervisor and his office from any bank or trust company or mutual savings bank is confidential and may not be disclosed to any person other than certain other government officials, on penalty of forfeiture of office and punishment as a gross misdemeanor.

(3) In addition, pursuant to RCW 42.17.260, the division of banking reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(4) All denials of requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Statutory Authority: RCW 30.12.060, 85-19-052 (Order 62), § 50-24-050, filed 9/13/85; Order 14, § 50-24-100, filed 5/1/73.]

WAC 50-24-110 Review of denials of public records requests. (1) Any person who objects to the denial of a

request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the supervisor of banking. The supervisor of banking shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the division of banking has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Statutory Authority: RCW 42.17.250, 82-24-074 (Order 48), § 50-24-110, filed 12/1/82; Order 14, § 50-24-110, filed 5/1/73.]

WAC 50-24-120 Protection of public records. Public records shall be available for public inspection during regular office hours as provided for by regulation at the Office of the Supervisor of Banking, General Administration Building, Olympia. No person shall be allowed to remove any records made available to him for inspection from the place designated for inspection by the public records officer. If copies are desired the person so desiring them shall inform the public records officer who shall then either have the copies made or make the copying facilities of the division of banking available for copying.

[Statutory Authority: RCW 42.17.250, 82-24-074 (Order 48), § 50-24-120, filed 12/1/82; 79-04-042 (Order 40), § 50-24-120, filed 3/23/79; Order 14, § 50-24-120, filed 5/1/73.]

WAC 50-24-130 Records index. (1) Index. The division of banking has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since June 30, 1972:

"(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(b) Those statements of policy and interpretations of policy, statute and the Constitution which have been adopted by the agency;

"(c) Administrative staff manuals and instructions to staff that affect a member of the public;

"(d) Planning policies and goals, and interim and final planning decisions;

"(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

"(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the

agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party."

(2) Availability. The current index promulgated by the division of banking shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Order 14, § 50-24-130, filed 5/1/73.]

WAC 50-24-140 Information generally--Address. All communications with the division of banking including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules, requests for copies of the division of banking's decisions and other matters, shall be addressed as follows: Division of Banking, Records Officer, General Administration Building, Olympia, Washington 98504.

[Statutory Authority: RCW 42.17.250, 82-24-074 (Order 48), § 50-24-140, filed 12/1/82; 79-04-042 (Order 40), § 50-24-140, filed 3/23/79; Order 14, § 50-24-140, filed 5/1/73.]

WAC 50-24-150 Adoption of form. The division of banking hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as Appendix No. 1 [WAC 50-24-990], entitled "Request for public record."

[Order 14, § 50-24-150, filed 5/1/73.]

WAC 50-24-990 Appendix I--Form--Request for public record.

"Request for public record"

To: The Division of Banking

(a) Name of person requesting public record(s)

----- (-----)
Signature Please Print

(-----)
Name of organization, if applicable

Mailing Address of Applicant Phone Number

(b) -----
Date request made at Time filed
Division of Banking, Time of day
Olympia request made

(c) Nature of request -----

(d) Identification Reference on
Current Index -----
Please Describe

- (e) Description of record, or matter, requested if not identifiable by reference to the division of banking's current index -----

[Order 14, Appendix I (codified as WAC 50-24-990), filed 5/1/73.]

Chapter 50-28 WAC
NEW STATE BANKS AND TRUST COMPANIES--
APPLICATION AND INVESTIGATION

WAC	
50-28-010	Purpose.
50-28-020	Operations and procedures.
50-28-030	Policy and guidelines.
50-28-040	Fees.
50-28-050	Field investigation.
50-28-060	Adoption of form.
50-28-070	Payment on subscription for the capital stock.
50-28-990	Appendix I—Form—Notice of intention to organize a state bank or trust company.

WAC 50-28-010 Purpose. The purpose of this chapter shall be to provide persons desiring to incorporate a bank or trust company with the requirements and guidelines necessary to comply with statutory provisions and to insure expeditious processing of a notice of intention to organize a bank or trust company.

[Order 21, § 50-28-010, filed 8/6/73.]

WAC 50-28-020 Operations and procedures. A notice of intention to incorporate a bank or trust company shall be filed with the supervisor at the division of banking in Olympia. As a matter of general procedure, it has been found desirable and is recommended that interested groups visit the office of the supervisor for a round-table discussion of statutory and other requirements, the forms, documentation and general information needed, the fees payable to the supervisor of banking and the secretary of state, plus a general discussion of the primary market area the applicants wish to serve and of economic resources of that area together with a brief review of existing financial institutions now serving that area.

[Order 21, § 50-28-020, filed 8/6/73.]

WAC 50-28-030 Policy and guidelines. The notice of intention to organize a state bank or trust company shall be filed with the supervisor in duplicate, on a form furnished by the division of banking. It is the established policy of the division of banking to require diligent and timely completion and submission of forms, schedules, surveys, economic studies, maps and all supporting data deemed necessary and required to conduct the statutory investigation. For the purpose of expediting the investigation and correlating said investigation with that of the

Federal Deposit Insurance Corporation, in the event deposits of the proposed bank or trust company are to be insured by that agency, the schedules, statements and supporting data shall be organized under six basic general headings or factors:

- (1) Financial history and condition.
 - (a) Pro forma statement of condition – beginning of business.
 - (b) Premises to be occupied by proposed bank, whether owned or leased, whether permanent or temporary, details as to description, costs, from whom purchased or leased, insurance coverage, estimated annual depreciation. If property is to be purchased or leased from a director, officer, a large shareholder, or an interest of any such, complete details should be furnished.
 - (c) Details as to proposed investment in and rental of furniture, fixtures and equipment.
 - (d) Relationships and associations with proposed bank of any of the sellers or lessors of land, buildings or equipment, either directly or indirectly.
 - (e) Organization expenses (which should not be borrowed from any source) – complete and detailed accounting is required for all expenses related to organization, including detailed account of actual legal work performed together with any additional costs anticipated prior to opening or costs incurred or work performed during the organization period for which disbursement has been deferred beyond the opening date.
 - (2) Adequacy of the capital structure.
 - (a) Proposed allocations within total capital structure.
 - (i) Amount of paid-in common capital stock (No. shares x par value).
 - (ii) Amount of paid-in surplus.
 - (iii) Amount of paid-in undivided profits.
 - (iv) Amount of other segregations, including the organization or expense fund, if planned.
 - (b) Minimum capital requirements of state law (RCW 30.08.010 as amended by chapter 104, Laws of 1973).
 - (c) The adequacy (deemed reasonable) of the proposed capital structure is evaluated, in part, by:
 - (i) The population of the community to be served.
 - (ii) Ratio the projected net total capital structure will bear to the estimated volume of deposits at the end of each of the first three years of operations.
 - (3) Future earnings prospects. A detailed projection of earnings and expenses is to be submitted showing the breakdown of income and expenses for each of the first three years of operations. Provision should be made for the bad debt reserve (loan losses) based upon the major types of loaning demands the proposed bank expects to serve and total loans expected by the end of the first, second and third years of operations.
 - (4) General character of management.
 - (a) A financial report and a biographical report for each officer and director is required together with a report by each officer and director stating the number of shares to be purchased, the total cost of such shares and details as to source and financing terms for such portion as not paid in cash. (If disclosure of any of the proposed

officers would jeopardize current employment, include the information in a special "CONFIDENTIAL SECTION.")

(b) The subscribers (proposed shareholders) are to be listed alphabetically with name and address, occupation and number of shares being purchased indicated by number of shares and total subscription price. The list should indicate "D" for the directors designee, "O" for officers.

(c) For any subscribers for 5% or more of the proposed capital stock, the financing terms are required as for directors and officers.

(d) The membership of the committees of the directorate are to be designated and duties outlined, including:

- (i) Loan and/or executive committee.
- (ii) Investment committee.
- (iii) Audit committee.

(e) Management of the proposed bank will report:

(i) Name of principal correspondent bank or banks and basis upon which the selection was made.

(ii) Determination that sufficiency of surety bond coverage conforms with generally accepted banking practices.

(f) Any changes contemplated in the proposed directorate or active management during the first year are to be reported, or, if none, so state.

(5) Convenience and needs of the community to be served.

(a) Applicants have the responsibility of developing as fully as possible the economic support and justification for the proposed bank including:

(i) The community and "surrounding country" (the trade territory or market area) which the proposed bank will serve, including the geographic boundaries within which all or most of the bank's potential customers reside.

(1) Furnish a detail map of such area pinpointing and indexing each financial institution (banks and savings and loan associations and mutual savings bank, whether head office or branch office).

(2) Provide list or recapitulation of subscribers residing in or closely identified with the area to be served.

(3) Provide estimates of the total deposits anticipated during the early period of operations together with totals expected by the end of each of the first three years. The latter should be segregated:

- (a) Demand deposits.
- (b) Savings passbook accounts.
- (c) Other time deposits.
- (d) Public funds.
- (e) Recapitulation as to total demand and total time.

(4) The economic characteristics of the trade territory specified above for the most recent five-year period where possible . . . including manufacturing, agricultural and other industrial data, construction activity, retail and wholesale sales, housing starts, school population, census figures and projections.

(5) Such additional data relating to the trade area considered relevant and indicating support for the proposed bank as may be obtained from such sources as local offices of utilities, planning commission, chamber of

commerce or trade associations, traffic surveys, county auditor, title insurance company, etc. (In the event an economic survey or feasibility study has been prepared it may provide most of the information needed.)

(ii) List principal business and industries of the market area by name of company, type of business, average number of employees, approximate annual payroll and annual sales. If significant, furnish details as to public employment of the area, including schools, military, U.S., state, county, municipal or other.

(b) List all banks, branches, trust companies, mutual savings banks and branches, together with savings and loan associations presently serving in the proposed market area and surrounding country, including any authorized but unopened offices, indicating "N/A" for information determined unobtainable:

- (i) Name of the financial institution.
- (ii) Location.
- (iii) Distance (road miles or city blocks) from proposed site.
- (iv) Direction from site.
- (v) Date established.
- (vi) Date of latest statement available.
- (vii) Deposits: Demand, time and total.
- (viii) Loans: Commercial, consumer, real estate secured and total to extent available.

(6) Consistency of corporate powers. In addition to the proposed articles of incorporation submitted with the notice of intention to organize, the proposed bylaws should be submitted together with articles of incorporation and complete details for any proposed affiliate (i.e., a premises holding company).

[Order 21, § 50-28-030, filed 8/6/73.]

WAC 50-28-040 Fees. The filing fee to accompany the notice of intention to organize a bank or trust company shall be that established by WAC 50-12-040, as now or hereafter amended. If the application is withdrawn by applicants before a field investigation is undertaken a refund will be made based upon retention of that portion deemed adequate to cover processing and preliminary investigation costs. The retained portion shall be the greater of:

- (1) \$500.00, or
- (2) Estimated number of hours times the current hourly rate as established by WAC 50-12-040 as devoted to processing and preliminary review and investigation.

[Order 21, § 50-28-040, filed 8/6/73.]

WAC 50-28-050 Field investigation. The required field investigation will be undertaken promptly upon submission of the notice of intention to organize a bank or trust company accompanied by statutory fees, provided the required documentation is determined by preliminary review to be complete in all respects. If, in the judgment of the supervisor, matters of substantive nature are missing or incomplete the notice of intent to organize and submitted documents may be returned to the correspondent of record. If the matters deemed incomplete be of relatively minor nature the applicants may be

notified in writing thereof and given a reasonable time to make corrections or submit additional information or schedules required. For purposes of section 5, chapter 104, Laws of 1973 1st ex. sess. (RCW 30.08.030), a notice of intention to organize a bank or trust company shall not be deemed to be received by the supervisor unless and until all of the information required by the supervisor has been provided to him.

[Order 21, § 50-28-050, filed 8/6/73.]

WAC 50-28-060 Adoption of form. The division of banking hereby adopts for use of all persons requesting permission to organize a state bank or trust company, the form attached hereto as Appendix No. 1, entitled "Notice of intention to organize a state bank or trust company."

[Order 21, § 50-28-060, filed 8/6/73.]

WAC 50-28-070 Payment on subscription for the capital stock. The subscription agreement with prospective purchasers of the capital stock of a proposed new bank or trust company shall not contain any agreement for any amount to be paid in advance for the purpose of defraying organization costs. No payment on subscription for stock shall be made until the articles of incorporation have been approved by the supervisor of banking and filed with the secretary of state.

[Order 30, § 50-28-070, filed 10/2/75.]

WAC 50-28-990 Appendix I--Form--Notice of intention to organize a state bank or trust company.

APPENDIX I

NOTICE OF INTENTION TO ORGANIZE A STATE BANK OR TRUST COMPANY

To the Supervisor of Banking:

We, the undersigned, as proposed incorporators and subscribing shareholders, being natural persons and citizens of the United States of America, make application for permission to organize a (state bank or trust company) under the title of _____ to be located in _____, County of _____, State of Washington, with capital stock of \$_____, surplus of \$_____, and undivided profits of \$_____.

We submit herewith the proposed articles of incorporation for examination together with all such data, information, schedules, maps and supporting documentation specified by statute and regulations as necessary and required to conduct the statutory investigation.

We enclose Cashier's Check for \$2,000 to apply upon the statutory cost of investigation. If the cost of the investigation to be made exceeds \$2,000, we agree to pay such excess in accordance with WAC 50-12-040.

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We designate _____, whose address is _____, as correspondent of records to receive all instructions and correspondence in connection with this application.

SUBSCRIBED at _____, Washington, this _____ day of _____, 19__.

* _____
* _____
* _____
* _____
* _____
* _____

Enclosure: \$2,000 Cashier's Check
Payable to the Supervisor
of Banking

(*) Please type name under signature.

[Order 21, Appendix I--Form (codified as WAC 50-28-990), filed 8/6/73.]

Chapter 50-32 WAC
ESTABLISHMENT OF ALIEN BANKS IN
WASHINGTON--PROCEDURE

WAC
50-32-010 Purpose.
50-32-020 Definitions.
50-32-030 Application procedure.
50-32-040 Examination--Frequency--Scope.
50-32-050 Fees.
50-32-060 Records and books of account.
50-32-070 Branch records.
50-32-080 Agency records.
50-32-090 Reports--Required reports.
50-32-100 Notice concerning deposit insurance.
50-32-99001 Appendix I--Forms--Application for certificate authorizing an alien bank to establish and operate a branch in the state of Washington.
50-32-99002 Appendix II--Forms--Application for certificate authorizing an alien bank to establish and operate an agency in the state of Washington.
50-32-99003 Appendix III--Forms--Application for certificate authorizing an alien bank to establish and operate a bureau in the state of Washington.

WAC 50-32-010 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.

[Order 23, § 50-32-010, filed 8/14/73.]

WAC 50-32-020 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 supervisor of banking 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) **DEPOSITARY** - "Depositary" shall mean a bank with its principal place of business within the state of Washington selected by the alien bank and approved by the supervisor of banking, for the deposit of their cash or liquid assets required by section 7 and 12 of the act.

(6) **RULES AND REGULATIONS** - "Rules and regulations" means all of Title 50 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.

[Order 23, § 50-32-020, filed 8/14/73.]

WAC 50-32-030 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 supervisor, the applicant has not supplied all of the required information or the information supplied is deficient. After receipt of the completed application, the supervisor shall conduct his required investigation.

(1) **Office.** The supervisor 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 supervisor of banking as agent
- (b) Designation of bank's agent for service in Washington
- (c) Letter of guaranty
- (d) Appointment of depositary(ies)
- (e) Certificate of allocation and assignment of capital
- (f) Depositary 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 supervisor is satisfied that all statutory requirements have been met, he shall issue his certificate.

(2) **Bureau.** The supervisor 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.

[Order 23, § 50-32-030, filed 8/14/73.]

WAC 50-32-040 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 supervisor of banking. 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.

[Order 23, § 50-32-040, filed 8/14/73.]

WAC 50-32-050 Fees. (1) The fees to accompany the filing of an application and attendant investigation are prescribed in WAC 50-12-040, 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.

[Order 23, § 50-32-050, filed 8/14/73.]

WAC 50-32-060 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.

[Order 23, § 50-32-060, filed 8/14/73.]

WAC 50-32-070 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.

(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.

[Order 23, § 50-32-070, filed 8/14/73.]

WAC 50-32-080 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.

[Order 23, § 50-32-080, filed 8/14/73.]

WAC 50-32-090 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 supervisor 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).

[Order 23, § 50-32-090, filed 8/14/73.]

WAC 50-32-100 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

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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 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).

[Order 25, § 50-32-100, filed 3/21/74.]

WAC 50-32-99001 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: Supervisor of Banking
Division of Banking
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 50-12-040 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 bylaws.

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.

[Order 23, Appendix I (codified as WAC 50-32-99001), filed 8/14/73.]

WAC 50-32-99002 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: Supervisor of Banking
Division of Banking
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 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 50-12-040 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 bylaws.

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.

[Order 23, Appendix II (codified as WAC 50-32-99002), filed 8/14/73.]

WAC 50-32-99003 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: Supervisor of Banking
Division of Banking
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 50-12-040 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.
[Order 23, Appendix III (codified as WAC 50-32-99003), filed 8/14/73.]

Chapter 50-36 WAC
ADMINISTRATION OF TRUST COMPANIES--
INVESTMENTS, ETC.

Table listing WAC codes and descriptions: 50-36-010 Definitions, 50-36-020 Administration of fiduciary powers, 50-36-030 Audit of the trust department, 50-36-040 Collective investment funds--Funds authorized, 50-36-050 Collective investment funds--Administration of funds, 50-36-060 Collective investment funds--Valuation of assets, admissions and withdrawals, 50-36-070 Collective investment funds--Audit, 50-36-080 Collective investment funds--Financial reports, 50-36-090 Collective investment funds--Investments and administration, 50-36-100 Organization and management fees, 50-36-110 Certificate of interest, 50-36-120 Remedy of mistake made in good faith.

WAC 50-36-010 Definitions. For purposes of this chapter, the following words are defined as:

- (1) "Fiduciary powers" means the power to act in any fiduciary capacity authorized by the state of Washington including, but not limited to, trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, agent, custodian, escrow agent, corporate bond paying and transfer agent, escrow holder, managing agent, depository, committee of estates of incompetents.
(2) "Trust department" means that group or groups of officers and employees of a trust company organized under the supervision of officers or employees to whom

are designated by the board of directors the performance of the fiduciary responsibilities of the trust company, whether or not the group or groups are so named.

(3) "Agency" means the fiduciary relationship in which title to the property constituting the agency does not pass to the trust institution but remains in the owner of the property, who is known as the principal, and in which the agent is charged with certain specific duties with respect to the property.

(4) "Agency coupled with an interest" means an agency in which the agent has a legal interest in the subject matter. Such an agency is not terminated automatically, as are other agencies, by the death of the principal but continue in effect until the agent can realize upon its legal interest.

(5) "Managing agent" means the fiduciary relationship assumed by a trust company upon the creation of an account which names the trust company as agent and confers investment discretion upon the trust company.

(6) "Trust company" as used herein shall also include banks which are authorized to exercise trust powers.

[Order 22, § 50-36-010, filed 8/14/73.]

WAC 50-36-020 Administration of fiduciary powers. (1)(a) The board of directors is responsible for the proper exercise of fiduciary powers by the trust company. All matters pertinent thereto, including the determination of policies, the investment and disposition of property held in a fiduciary capacity, and the direction and review of the actions of all officers, employees, and committees utilized by the trust company in the exercise of its fiduciary powers, are the responsibility of the board. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of such of the trust company's fiduciary powers as it may consider proper to assign to such director(s), officer(s), employee(s) or committee(s) as it may designate.

(b) No fiduciary account shall be accepted without the prior approval of the board, or of the director(s), officer(s) or committee(s) to whom the board may have designated the performance of that responsibility. A written record shall be made of such acceptances and of the relinquishment or closing out of all fiduciary accounts. Upon the acceptance of an account for which the trust company has investment responsibilities a prompt review of the assets shall be made. The board shall also ensure that at least once during every calendar year thereafter, and within 15 months of the last review, all the assets held in or for each fiduciary account where the bank has investment responsibilities are reviewed to determine the advisability of retaining or disposing of such assets.

(2) All officers and employees taking part in the operation of the trust department shall be adequately bonded.

(3) Every qualified fiduciary subject to this regulation and exercising fiduciary powers in this state shall designate, employ or retain legal counsel who shall be readily available to pass upon fiduciary matters and to advise the trust company and its trust department.

[Title 50 WAC—p 34]

(4) The trust department may utilize personnel and facilities of other departments of the trust company, and other departments of the trust company may utilize the personnel and facilities of the trust department only to the extent not prohibited by law and as long as the separate identity of the trust department is preserved.

(5) Fiduciary records shall be kept separate and distinct from other records of the trust company and maintained in compliance with the provisions of RCW 30.04.240. All fiduciary records shall be kept and retained for such time as to enable the fiduciary to furnish such information or reports with respect thereto as may be required by the supervisor of banking.

(6) Every such fiduciary shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of fiduciary powers.

[Order 22, § 50-36-020, filed 8/14/73.]

WAC 50-36-030 Audit of the trust department. A committee of directors, exclusive of any active officers of the trust company, shall at least once during each calendar year and within 15 months of the last such audit, make suitable audits of the trust department or cause suitable audits to be made by auditors responsible only to the board of directors, and at such time shall ascertain whether the department has been administered in accordance with law, this regulation and sound fiduciary principles. The board of directors may elect, in lieu of such periodic audits, to adopt an adequate continuous audit system. A report of the audits and examination required under this section, together with the action taken thereon, shall be noted in the minutes of the board of directors.

[Order 22, § 50-36-030, filed 8/14/73.]

WAC 50-36-040 Collective investment funds—Funds authorized. Any trust company qualified to act as fiduciary in this state may establish common trust funds (referred to in this regulation as "collective investment funds") for the purpose of furnishing investments to itself as fiduciary, or to itself and others, as co-fiduciaries; and may, as such fiduciary or co-fiduciary, invest funds which it lawfully holds for investment in interests in such common trust funds, if such investment is not prohibited by the instrument, judgment, decree, or order creating such fiduciary relationship, and if, in the case of co-fiduciaries, the trust company procures the consent of its co-fiduciary or co-fiduciaries to such investment, and provided such investment is not in contravention with the provisions of chapter 30.24 RCW:

(a) In a common trust fund maintained by the trust company exclusively for the collective investment and reinvestment of moneys contributed thereto by the trust company in its capacity as trustee, executor, administrator, or guardian.

(b) In a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or other trusts which are exempt from federal income taxation under the Internal Revenue Code.

[Order 22, § 50-36-040, filed 8/14/73.]

WAC 50-36-050 Collective investment funds--Administration of funds. Collective investments of funds or other property held by such qualified fiduciary (and referred to in this paragraph as "collective investment funds") shall be administered as follows:

(1) Each collective investment fund shall be established and maintained in accordance with a written plan (referred to herein as the plan) which shall be approved by a resolution of the trust company's board of directors and filed with the supervisor of banking. The plan shall contain appropriate provisions not inconsistent with the rules and regulations of the supervisor of banking as to the manner in which the fund is to be operated, including provisions relating to the investment powers and a general statement of the investment policy of the trust company with respect to the fund; the allocation of income, profits and losses; the terms and conditions governing the admission or withdrawal of participations in the fund; the auditing of accounts of the bank with respect to the fund; the basis and method of valuing assets in the fund, setting forth specific criteria for each type of asset; the minimum frequency for valuation of assets of the fund; the period following each such valuation date during which the valuation may be made (which period in usual circumstances should not exceed 10 business days); the basis upon which the fund may be terminated; and such other matters as may be necessary to define clearly the rights of participants in the fund. A copy of the plan shall be available at the principal office of the trust company for inspection during all banking hours, and upon request a copy of the plan shall be furnished to any person.

(2) Property held by a bank in its capacity as trustee of retirement, pension, profit sharing, stock bonus, or other trusts which are exempt from federal income taxation under any provisions of the Internal Revenue Code may be invested in collective investment funds established under the provisions of subparagraph (a) or (b) of WAC 50-36-040, subject to the provisions herein contained pertaining to such funds, and may qualify for tax exemption pursuant to section 584 of the Internal Revenue Code. Assets of retirement, pension, profit sharing, stock bonus, or other trusts which are exempt from federal income taxation by reason of being described in section 401 of the code may be invested in collective investment funds established under the provisions of subparagraph (b) of WAC 50-36-040, if the fund qualifies for tax exemption under Revenue Ruling 56-267 and following rulings.

(3) All participants in the collective investment fund shall be on the basis of a proportionate interest in all of the assets. In order to determine whether the investment of funds received or held by a trust company as fiduciary in a participation in a collective investment fund is proper, the trust company may consider the collective investment fund as a whole and shall not, for example, be prohibited from making such investment because any particular asset is nonincome producing.

[Order 22, § 50-36-050, filed 8/14/73.]

(1986 Ed.)

WAC 50-36-060 Collective investment funds--Valuation of assets, admissions and withdrawals. (1) Not less frequently than once during each period of 3 months a trust company administering a collective investment fund shall determine the value of the assets in the fund as of the date set for the valuation of assets. No participation shall be admitted to or withdrawn from the fund except: (a) On the basis of such valuation, and (b) as of such valuation date, (c) no participation shall be admitted to or withdrawn from the fund unless a written request for or notice of intention of taking such action shall have been entered on or before the valuation date in the fiduciary records of the trust company and approved in such manner as the board of directors shall prescribe, and (d) no requests or notice may be canceled or countermanded after the valuation date.

(2) When participations are withdrawn from a collective investment fund, distributions may be made in cash or ratably in kind, or partly in cash and partly in kind, provided that all distributions as of any one valuation date shall be made on the same basis.

(3) If for any reason an investment is withdrawn in kind from a collective investment fund for the benefit of all participants in the fund at the time of such withdrawal and such investment is not distributed ratably in kind, it shall be segregated and administered or realized upon for the benefit ratably of all participants in the collective investment fund at the time of withdrawal.

(4) Any trust company administering a collective investment fund shall have the responsibility of maintaining in cash and readily marketable investments such part of the assets of the fund as shall be deemed to be necessary to provide adequately for the needs of participants and to prevent inequities between such participants, and if prior to any admissions to or withdrawals from a fund the trust company shall determine that after effecting the admissions and withdrawals which are to be made less than 40 percent of the value of the remaining assets of the collective investment fund would be composed of cash and readily marketable investments, no admissions to or withdrawals from the fund shall be permitted as of the valuation date upon which such determination is made: *Provided*, That ratably distribution upon all participations shall not be so prohibited in any case.

[Order 22, § 50-36-060, filed 8/14/73.]

WAC 50-36-070 Collective investment funds--Audit. A trust company administering a collective investment fund shall at least once during each period of 12 months cause an adequate audit to be made of the collective investment fund by auditors responsible only to the board of directors of the trust company. In the event such audit is performed by independent public accountants, the reasonable expenses of such audit may be charged to the collective investment fund.

[Order 22, § 50-36-070, filed 8/14/73.]

WAC 50-36-080 Collective investment funds--Financial reports. (1) A trust company administering a collective investment fund shall at least once during each period of 12 months prepare a financial report of the

fund which shall be filed with the supervisor of banking within 90 days after the end of the fund's fiscal year. This report, based upon the above audit, shall contain a list of investments in the fund showing the cost and current market value of each investment; a statement for the period since the previous report showing purchases, with cost; sales, with profit or loss and any other investment changes; income and disbursements; and an appropriate notation as to any investments in default.

(2) The financial report may include a description of the fund's value on previous dates, as well as its income and disbursements during previous accounting periods. No predictions or representations as to future results may be made. In addition, as to funds described in WAC 50-36-040, neither the report nor any other publication of the trust company shall make reference to the performance of funds other than those administered by the trust company.

(3) A copy of the financial report shall be furnished, or notice shall be given that a copy of such report is available and will be furnished without charge upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each participating account. A copy of such financial report may be furnished to prospective customers. The cost of printing and distribution of these reports will be borne by the trust company. In addition, a copy of the report shall be furnished upon request to any person for a reasonable charge. The fact of the availability of the report for any fund described in WAC 50-36-040 may be given publicity solely in connection with the promotion of the fiduciary services of the trust company.

(4) Except as herein provided, the trust company shall not advertise or publicize its collective investment fund(s). Restraint is required in fiduciary advertisements to preclude the violation of securities laws including the Mutual Fund Reform Act.

[Order 22, § 50-36-080, filed 8/14/73.]

WAC 50-36-090 Collective investment funds--Investments and administration. (1) A trust company administering a collective investment fund shall have the exclusive management thereof.

(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 50-36-040:

(i) 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;

(ii) 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 supervisor of banking, 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;

(6) In addition to the investments permitted under WAC 50-28-040, 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:

(i) 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."

(ii) 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.

(iii) 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 \$100,000; the number of participating accounts is limited to 100, and no participating account may have an interest in the fund in excess of \$10,000: *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 50-36 WAC.

(iv) 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 50-28-040.

(v) In such other manner as shall be approved in writing by the supervisor of banking.

[Order 22, § 50-36-090, filed 8/14/73.]

WAC 50-36-100 Organization and management fees. (1) A trust company administering a collective investment fund shall absorb the costs of establishing or reorganizing a collective investment fund.

(2) The trust company may charge a fee for the management of the collective investment fund provided that the fractional part of such fee proportionate to the interest of each participant shall not, when added to any other compensations charged by a trust company to a participant, exceed the total amount of compensations which would have been charged to said participant if no assets of said participant had been invested in participations in the fund.

(3)(i) The reasonable expenses incurred in servicing mortgages held by a collective investment fund may be charged against the income account of the fund and paid to servicing agents, including the trust company administering the fund.

(ii) A trust company may (but shall not be required to) transfer up to 5 percent of the net income derived by a collective investment fund from mortgages held by such fund during any regular accounting period to a reserve account: *Provided*, That no such transfers shall be made which would cause the amount in such account to exceed 1 percent of the outstanding principal amount of all mortgages held in the fund. The amount of such reserve account, if established, shall be deducted from the assets of the fund in determining the fair market value of the fund for the purposes of admissions and withdrawals.

(1986 Ed.)

(iii) At the end of each accounting period, all interest payments which are due but unpaid with respect to mortgages in the fund shall be charged against such reserve account to the extent available and credited to income distributed to participants. In the event of subsequent recovery of such interest payments by the fund, the reserve account shall be credited with the amount so recovered.

[Order 22, § 50-36-100, filed 8/14/73.]

WAC 50-36-110 Certificate of interest. No trust company administering a collective investment fund shall issue any certificate or other document evidencing a direct or indirect interest in such fund in any form.

[Order 22, § 50-36-110, filed 8/14/73.]

WAC 50-36-120 Remedy of mistake made in good faith. No mistake made in good faith and in the exercise of due care in connection with the administration of a collective investment fund shall be deemed to be a violation of this part if promptly after the discovery of the mistake the trust company takes whatever action may be practicable in the circumstances to remedy the mistake.

[Order 22, § 50-36-120, filed 8/14/73.]

Chapter 50-40 WAC

SATELLITE FACILITIES—BANKS, TRUST COMPANIES AND MUTUAL SAVINGS BANKS

WAC

50-40-010	Definitions.
50-40-020	Application.
50-40-040	Adoption of form.
50-40-050	Network systems.
50-40-060	Modification of approved network systems.
50-40-070	Approval—Disapproval—Request for hearing.
50-40-990	Appendix I—Form—Application to provide satellite facility.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

50-40-030	Public convenience. [Order 27, § 50-40-030, filed 6/3/74.] Repealed by 82-24-074 (Order 48), filed 12/1/82. Statutory Authority: RCW 30.04.030.
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WAC 50-40-010 Definitions. As used in these regulations:

(1) "Supervisor" means supervisor of banking appointed pursuant to RCW 43.19.020.

(2) "Satellite facilities" within the meaning of chapter 30.43 RCW include, without limitation, both "on-line" and "off-line" cash dispensing or automated teller facilities which are not on the premises of the financial institution whose customers use these facilities. Such facilities constitute "satellite facilities" irrespective of whether they are owned by the financial institution or by others.

(3) "Switch" means an electronic or paper-based switching system, pursuant to which transactions in a network system of satellite facilities are effected, routed and processed.

[Title 50 WAC—p 37]

(4) "Network system" means one or more satellite facilities the use of which is shared on a contractual basis among more than one participating financial institution and which are identified with a common trademark or trade name.

(5) "Sponsor" means the owner or operator of a network system.

[Statutory Authority: RCW 30.04.030. 82-24-074 (Order 48), § 50-40-010, filed 12/1/82; Order 27, § 50-40-010, filed 6/3/74.]

WAC 50-40-020 Application. Application for approval to provide a satellite facility or facilities which are to be used exclusively by the customers of one state-chartered bank, trust company, stock savings bank, or mutual savings bank shall be submitted in accordance with this section. The application shall be filed with the supervisor's office in Olympia on the form set forth in WAC 50-40-990 and must include the minimum fee required by WAC 50-12-040(13).

The applicant shall submit the following information with the application form:

- (1) Types of transactions to be conducted.
- (2) Details as to ownership and operation of the facility or facilities.
- (3) If requested by the supervisor to aid the determination of whether the public convenience will be served by the proposed satellite facility or facilities, an analysis of the trade area to be served by the proposed facility or facilities. Included within this analysis shall be a study of the number of customers of the applicant living, working and/or shopping in the trade area to be served by the proposed satellite facility or facilities and the likelihood of those customers using the facility.

[Statutory Authority: RCW 30.04.030. 82-24-074 (Order 48), § 50-40-020, filed 12/1/82; Order 27, § 50-40-020, filed 6/3/74.]

WAC 50-40-040 Adoption of form. The division of banking hereby adopts for use of all persons requesting approval to provide a satellite facility or facilities which are to be used exclusively by the customers of one state-chartered bank, trust company, stock savings bank, or mutual savings bank, the form attached hereto as Appendix I (WAC 50-40-990), entitled "Application to provide satellite facility."

[Statutory Authority: RCW 30.04.030. 82-24-074 (Order 48), § 50-40-040, filed 12/1/82; Order 27, § 50-40-040, filed 6/3/74.]

WAC 50-40-050 Network systems. Application for approval to establish or operate a network system in which one or more state-chartered banks, trust companies, stock savings banks, or mutual savings banks participate shall be submitted in accordance with this section. Application may be made either by the sponsor or by one or more participating financial institutions. The application shall include the following:

(1) A copy of a resolution of the governing body of each state-chartered bank, trust company, stock savings bank, or mutual savings bank participating in the network system, authorizing such participation.

(2) A list showing the exact location of each proposed satellite facility, including the street address, city and

state. If a satellite facility is to be located in a retail store, institution, office building or other type of merchant or business establishment, indicate the name and type of establishment. If a satellite facility is to be located in a shopping center, state the name of the shopping center.

(3) A list of all equipment necessary to operate the network system, including the terminal (specify manufacturer), auxiliary equipment, and the data centers where transactions will be routed.

(4) Identification and description of the type of activator and personal identification code (PIC) which will be used by customers at satellite facilities to access their accounts, as well as indication of how and by whom the activator and the PIC will be issued, with a description of the security measures to be taken.

(5) A summary of the design and general operating features of the network system. At a minimum, this response must include a discussion of:

- (a) The proposed hours of operation;
- (b) The mode of operation (i.e., off-line, off-line with on-line terminals, on-line, or a combination);
- (c) Transactions and transaction restrictions;
- (d) Procedures for verification, authorization, storage and posting of transactions;
- (e) Receipts, audit trails, "hot-card" files, and any other measures used to protect the integrity of the system;
- (f) The switch, including (i) an explanation of the means by which a transaction is routed to the appropriate data centers; (ii) a description of logging and audit procedures for the purpose of verifying transactions processed through the switch; (iii) the identity of all data centers involved in the operation of the system; (iv) the identity of any party or parties other than the sponsor responsible for operation of the switch; (v) a description of the sponsor's or such other party's or parties' experience and qualifications in switch operation, and (vi) procedures for operation during terminal, switch, or CPU down-time (whether scheduled or unscheduled).

(6) If there are financial institutions participating in the network system which do not have offices within this state, evidence that satellite facilities in the jurisdiction in which such institutions are organized are made available on a reciprocal basis to financial institutions which have offices in the state of Washington.

(7) Such identification of the party or parties who will own and maintain the satellite facilities as the supervisor may require.

(8) Evidence of bonding and insurance coverage for the sponsor and other parties involved in operation of the switch or network system.

(9) A complete description in full detail of the procedures for protection of customer privacy and the confidentiality of account information.

(10) A summary description of the procedures to be used to protect against fraudulent use of the network system.

(11) Copies of agreements between financial institution participants and the sponsor. If the agreements are in standardized form, a sample will suffice.

(12) Names and head office addresses of all financial institutions who will participate in the network system.

(13) A description of the method of sharing, including the organizational structure of the network system and the basis for sharing capital expenditures and operating costs.

(14) A certified copy of a resolution of the governing body of the sponsor which (a) authorizes the supervisor to conduct such examinations of the network system and its various component parts as are deemed necessary by the supervisor; (b) sets forth the agreement of the sponsor to pay the supervisor's expenses incurred in such examinations in accordance with the supervisor's rates for special examinations of financial institutions as set forth in WAC 50-44-030; (c) gives assurances to the supervisor that such authorization and agreement shall not be withdrawn until the expiration of at least thirty days after notice of such withdrawal has been given to the supervisor; and (d) confirms the understanding of the sponsor that failure to permit such examination by the supervisor shall be grounds for immediate suspension of the supervisor's approval of the network system.

[Statutory Authority: RCW 34.04.030. 83-02-013 (Order 50), § 50-40-050, filed 12/23/82.]

WAC 50-40-060 Modification of approved network systems. (1) A previously approved network system which desires to add satellite facilities shall submit in writing to the supervisor the exact location of each proposed additional satellite facility, including the street address, city and state. If a satellite facility is to be located in a retail store, institution, office building or other type of merchant or business establishment, indicate the name and type of establishment. If a satellite facility is to be located in a shopping center, state the name of the shopping center.

(2) A previously approved network system which desires to add participating financial institutions shall, either separately or in conjunction with the financial institution, submit to the supervisor the name and head office address of each such financial institution. For each such additional financial institution which is a state-chartered bank, trust company, stock savings bank or mutual savings bank, a copy of a resolution of the governing body of such institution authorizing participation in the network system shall also be submitted.

If the proposed additional financial institutions do not have offices in this state, evidence of the type required under WAC 50-40-050(6) shall be submitted to the supervisor for the jurisdiction in which such institution is organized, unless such information has previously been submitted for such jurisdiction.

(3) A previously approved network system which proposes to modify its system so that the information previously submitted to the supervisor will no longer accurately describe such system, shall submit in writing to the supervisor such information necessary to describe accurately such system as modified.

[Statutory Authority: RCW 30.04.030. 82-24-074 (Order 48), § 50-40-060, filed 12/1/82.]

WAC 50-40-070 Approval--Disapproval--Request for hearing. The supervisor shall notify the applicant and, in the case of a network system, all participating state-chartered banks, trust companies, stock savings banks and mutual savings banks, of the approval of the satellite facilities or network system or modification thereto. If the supervisor disapproves the application, reasons for such disapproval shall be set forth in the written notice of disapproval. The applicant may request a hearing before the supervisor by submitting a written request therefor within twenty days of the date of the supervisor's notice of disapproval. Such hearing and all further proceedings shall be governed by the provisions of chapter 34.04 RCW.

[Statutory Authority: RCW 30.04.030. 82-24-074 (Order 48), § 50-40-070, filed 12/1/82.]

WAC 50-40-990 Appendix I--Form--Application to provide satellite facility.

APPENDIX I

FORM--APPLICATION TO PROVIDE SATELLITE FACILITY

(NOT TO BE CONSTRUED TO BE THE ESTABLISHMENT OF A BRANCH.)

To the Supervisor of Banking:

(Bank, Trust Company, Stock Savings or Mutual Savings Bank, hereinafter referred to as the Applicant), _____, Washington,
(City)

hereby initiates application for approval to provide satellite facilities at

(Include street designation or approximate location in terms of nearest intersection)

(City or Town, indicate direction if outside city limits)

_____, Washington.
(County)

The location of the proposed satellite facility would be ----- miles distant from the main office and ----- miles distant from the nearest branch

(Name) of the Applicant

We enclose a verified copy of a resolution adopted ----- by the Board of Directors or Board of Trustees
(Date)

of the Applicant, duly authorizing the undersigned to make this application, and obligate the Applicant for necessary costs. Also enclosed is a check to apply upon the costs of investigation. If the cost of investigation to be made exceeds the minimum required by WAC 50-12-040(13), the Applicant will pay such excess in accordance with that section.

We also enclose the supporting data required by WAC 50-40-020.

SUBSCRIBED AT _____, Washington, this
 _____ day of _____, 19____

(Please type name and position under signature)

[Statutory Authority: RCW 30.04.030. 83-20-072 (Order 55), § 50-40-990, filed 10/3/83; 82-24-074 (Order 48), § 50-40-990, filed 12/1/82; Order 27, Appendix I (codified as WAC 50-40-990), filed 6/3/74.]

**Chapter 50-44 WAC
 SCHEDULE OF COSTS OF EXAMINATIONS**

WAC	
50-44-010	Collection of examination costs—Collection method.
50-44-020	Semiannual asset charge—Assessment.
50-44-030	Additional fees and charges—Special examinations—Branch offices.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

50-44-040	Special assessment for working capital. [Statutory Authority: RCW 34.04.070. 82-02-037 (Order 45), § 50-44-040, filed 12/31/81.] Repealed by 83-09-037 (Order 52), filed 4/18/83. Statutory Authority: RCW 30.04.030.
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WAC 50-44-010 Collection of examination costs—Collection method. The requirement of RCW 30.04.070 that the supervisor collect from each bank, mutual savings bank, stock savings bank, trust company, or industrial loan company, the estimated cost of examinations, shall be met in accordance with the procedures established in this chapter. Costs shall be recouped by the following methods: Semiannual asset charges, a charge for each branch office in operation, and an hourly charge for the number of hours spent by division personnel in specialized examinations. In addition, a special assessment will be made over the next two years to provide working capital for the banking examination fund.

[Statutory Authority: RCW 30.04.030. 83-20-072 (Order 55), § 50-44-010, filed 10/3/83; 82-24-074 (Order 48), § 50-44-010, filed 12/1/82. Statutory Authority: RCW 34.04.070. 82-02-037 (Order 45), § 50-44-010, filed 12/31/81.]

WAC 50-44-020 Semiannual asset charge—Assessment. A semiannual charge for assets will be computed upon the asset value reflected in the most recent report of condition. The rate of such charge shall be as set forth in the following schedules:

(1) Commercial banks.
 If the bank's total assets are: The assessment is:

Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	1	\$ 500	.0000850	0
1	10	1,000	.0000850	1
10	100	1,000	.0000800	1
100	300	1,000	.0000600	1

Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
300	500	1,000	.0000575	1
500	700	1,000	.0000538	1
700	900	1,000	.0000525	1
900	1,000	1,000	.0000500	1
1,000	—	1,000	.0000450	1

(2) Alien banks.
 If the bank's total assets are: The assessment is:

Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	200	\$1,000	.0000625	1
200	300	1,000	.0000600	1
300	500	1,000	.0000575	1
500	700	1,000	.0000550	1
700	1,000	1,000	.0000500	1
1,000	—	1,000	.0000450	1

(3) Mutual savings banks and stock savings banks.
 If the bank's total assets are: The assessment is:

Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	100	\$3,000		
100	200	1,000	.0000225	1
200	500	1,000	.0000200	1
500	1,000	1,000	.0000175	1
1,000	3,000	1,000	.00001625	1
3,000	—	1,000	.0000150	1

(4) Industrial loan companies.
 If the total assets on a consolidated basis are: The assessment is:

Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	1	\$ 250		
1	—	250	.000075	1

The supervisor's office shall forward by first-class mail a notice to each respective financial institution showing the total amount of the asset charge due. The notices shall be mailed during the months of February and August, commencing in February 1982. The asset charge must be received by the office of the supervisor of banking within thirty days from the time the supervisor's notice is mailed. An additional two hundred dollar penalty shall be assessed if the amount is not paid within the time specified.

[Statutory Authority: RCW 30.04.030. 83-20-072 (Order 55), § 50-44-020, filed 10/3/83; 82-24-074 (Order 48), § 50-44-020, filed 12/1/82. Statutory Authority: RCW 34.04.070. 82-02-037 (Order 45), § 50-44-020, filed 12/31/81.]

WAC 50-44-030 Additional fees and charges—Special examinations—Branch offices. Each bank, mutual savings bank, trust company, or industrial loan company shall pay to the supervisor the following fees:

(1) For special examinations and reviews as determined by the supervisor, forty dollars per hour; (special examinations are for the express purpose of examining

unusual conditions or circumstances, including extensions of regular examinations wherein conditions may warrant extension of time required in the examination beyond normal allotted time);

(2) For electronic data processing examination, trust examination, or other examination requiring specialized expertise, forty dollars per hour;

(3) For each bank branch in operation at the time of any periodic examination, seventy-five dollars;

(4) For each industrial loan company branch in operation at the time of any periodic examination, one hundred fifty dollars.

The supervisor shall submit a statement for the foregoing charges following the completion of any applicable examination, and the charges shall be paid not later than thirty days after submission of such statement.

[Statutory Authority: RCW 30.12.060, 85-19-052 (Order 62), § 50-44-030, filed 9/13/85. Statutory Authority: RCW 34.04.070, 82-02-037 (Order 45), § 50-44-030, filed 12/31/81.]

Chapter 50-48 WAC

ACQUISITION OF BANKS, TRUST COMPANIES, NATIONAL BANKING ASSOCIATIONS OF BANK HOLDING COMPANIES BY OUT-OF-STATE BANK HOLDING COMPANIES

WAC

50-48-010	Authority and purpose.
50-48-020	Joint application.
50-48-030	Information required—Identity of applicant parties and operating subsidiaries—Designation of representative of each applicant.
50-48-040	Information required from applicant to be acquired.
50-48-050	Information required from acquiring applicant.
50-48-060	Information to be made available by acquiring applicant.
50-48-070	Information to be made available by applicant to be acquired.
50-48-080	Application to include statement of interlocking management or ownership.
50-48-090	Supervisor may consult with and obtain information from appropriate federal regulatory authority.

WAC 50-48-010 Authority and purpose. These regulations are promulgated pursuant to section 9, chapter 157, Laws of 1983, to establish a procedure under which an out-of-state bank holding company which desires to acquire more than five percent of the shares of the voting stock, or all or substantially all of the assets, of a bank, trust company, national banking association or bank holding company, the principal operations of which are conducted within this state, may apply to the supervisor for approval of such acquisition.

[Statutory Authority: RCW 30.04.230 as amended by 1983 c 157 § 9, 83-20-073 (Order 56), § 50-48-010, filed 10/3/83.]

WAC 50-48-020 Joint application. An application for approval of such acquisition shall be submitted jointly by the acquiring bank holding company and the domestic institution or bank holding company to be acquired. The application need not be in any particular format, but must set forth all the information required under these regulations. The application shall include a

copy of the agreement setting forth the plan of merger or acquisition, including certified copies of the resolutions of the respective boards of directors of parties to the agreement approving same. The application shall also include a statement authorizing any federal or state regulatory agency to make available to the supervisor any and all information which such agency may have relating to the applicants or any of their subsidiaries.

[Statutory Authority: RCW 30.12.060, 85-19-052 (Order 62), § 50-48-020, filed 9/13/85. Statutory Authority: RCW 30.04.230 as amended by 1983 c 157 § 9, 83-20-073 (Order 56), § 50-48-020, filed 10/3/83.]

WAC 50-48-030 Information required—Identity of applicant parties and operating subsidiaries—Designation of representative of each applicant. Unless included in other information required by this chapter, the application shall set forth the name and main office address of all operating subsidiaries of both the acquiring bank holding company and the bank, trust company, national banking association or domestic bank holding company to be acquired. In addition, the application shall set forth the name, office address, and telephone of one or more persons designated by each applicant to be its official representative in connection with the application. All contact between the supervisor's office and the applicant should, except in extraordinary circumstances, be through such representatives.

[Statutory Authority: RCW 30.04.230 as amended by 1983 c 157 § 9, 83-20-073 (Order 56), § 50-48-030, filed 10/3/83.]

WAC 50-48-040 Information required from applicant to be acquired. The bank, trust company, national banking association, or domestic bank holding company to be acquired shall include with the application each of the following items of information:

(a) A statement verifying that the bank, trust company, national banking association or domestic bank holding company to be acquired is in such a liquidity or financial condition as to be in danger of closing, failing or insolvency, setting forth with specificity the circumstances upon which such conclusion is based.

(b) A statement of all courses of action actively considered as an alternative to the proposed merger or acquisition; a statement of why each such course of action or combination of more than one of them was not taken; a statement as to why assistance available from the Federal Reserve Board, the Federal Deposit Insurance Corporation, or other governmental agency either alone or in combination with other actions is not sufficient to alleviate the liquidity or financial situation so as to avoid the danger of closing, failing or insolvency; and if known, the course or courses of action which will be taken in the event the merger or acquisition is not consummated.

(c) Financial records including: (1) Copies of reports of condition required to be filed with the appropriate regulatory authorities and financial statements showing its assets and liabilities as of the end of each of the six most recent quarterly periods of operation; (2) copies of income and expense statements for each of the six most

recent quarterly periods of operation; and (3) a copy of the most recent independent audit report.

Information submitted in response to this subsection shall be consolidated figures for the entire organization. If individual figures for operating subsidiaries are available, they shall also be submitted.

(d) A statement setting forth which, if any, state banks, trust companies, or national banking associations doing business in this state, or domestic bank holding companies have been solicited to make an offer for acquisition or merger. If no such solicitations have been made, the application shall include an explanation of the decision not to make such solicitations. The application shall include a summary of the terms of any bona fide offer for merger or acquisition received from any domestic bank, trust company, national banking association or bank holding company, and shall further state whether any domestic offerors have been given the opportunity to match the terms of the proposed acquisition by or merger with the out-of-state bank holding company.

[Statutory Authority: RCW 30.04.230 as amended by 1983 c 157 § 9. 83-20-073 (Order 56), § 50-48-040, filed 10/3/83.]

WAC 50-48-050 Information required from acquiring applicant. The applicant out-of-state bank holding company shall submit with the application each of the following items of information:

(a) A copy of its most recent audited financial statement, its most recently prepared statement of assets and liabilities, including footnotes and explanations, and its most recent income and expense report.

(b) A statement of its then existing business plan, both short-range and long-range, for operation of the bank, trust company, national banking association or domestic bank holding company to be acquired. Such statement shall include comments by the acquiror as to how the proposed acquisition will meet the needs and convenience of the people of the state of Washington.

(c) A list of any other notices pursuant to the change in Bank Control Act (12 U.S.C. § 1817(j)) filed on its behalf involving any other bank, trust company, national banking association or bank holding company which is presently pending. Such list shall include the date and place of filing each notice and the name and address of the institution to which each notice pertains.

(d) A statement as to what part, if any, of the funds to be used in making the acquisition or merger are borrowed from sources other than its own subsidiaries. With respect to any such funds, the applicant shall state: (1) The amount and source of borrowed funds; (2) collateral pledged, if any; (3) terms of the loan, including interest rates, amortization requirements, guarantors, endorsers, and any other arrangements or agreements among the parties to such loan transaction; (4) proposed source of funds for debt service; (5) whether and to what extent the acquiring party intends to rely on dividends, fees, etc. from the institution being acquired for debt servicing requirements.

[Statutory Authority: RCW 30.04.230 as amended by 1983 c 157 § 9. 83-20-073 (Order 56), § 50-48-050, filed 10/3/83.]

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WAC 50-48-060 Information to be made available by acquiring applicant. The applicant out-of-state bank holding company shall make available for review by the office of the supervisor the following:

(a) Any current file which it or its principal banking subsidiary or subordinate is required to maintain by regulations promulgated by the appropriate federal financial supervisory authority (as defined in 12 U.S.C. § 2902(1)) for purposes of the Community Reinvestment Act (12 U.S.C. § 2902 et seq.).

(b) Copies of all internal documents having to do with the proposed merger or acquisition, including, without limitation, memoranda or analyses together with conclusions and recommendations to management and all financial or other information from which such memoranda, analyses, conclusions, recommendations or other documents were prepared.

[Statutory Authority: RCW 30.04.230 as amended by 1983 c 157 § 9. 83-20-073 (Order 56), § 50-48-060, filed 10/3/83.]

WAC 50-48-070 Information to be made available by applicant to be acquired. The bank, trust company, national banking association or domestic bank holding company to be acquired shall make available to the supervisor all internally generated reports relating to the operation of any or all operating subsidiaries during the immediately preceding two-year period.

[Statutory Authority: RCW 30.04.230 as amended by 1983 c 157 § 9. 83-20-073 (Order 56), § 50-48-070, filed 10/3/83.]

WAC 50-48-080 Application to include statement of interlocking management or ownership. The application must state whether any management official (as defined in 12 U.S.C. § 3201(4)) of the acquiring out-of-state bank holding company or any of its affiliated corporations (as the term "affiliated" is defined by 12 U.S.C. § 3201(3)) is also a management official of any other depository institution or holding company other than the bank, trust company, or national banking association being acquired, or whether any person, partnership or corporation who owns or controls, directly or indirectly, ten percent or more of the outstanding voting shares of the acquiring applicant also owns, directly or indirectly, ten percent or more of the outstanding voting shares of any other depository institution or holding company. If such circumstances do exist, the application shall include: (1) The name of such person or persons, partnerships or corporations; (2) name and address of the depository institution or holding company; (3) relationship triggering this reporting requirement; and (4) nature and extent of ownership interest held by such person, partnership or corporation in the applicant and other depository institution or holding company.

[Statutory Authority: RCW 30.04.230 as amended by 1983 c 157 § 9. 83-20-073 (Order 56), § 50-48-080, filed 10/3/83.]

WAC 50-48-090 Supervisor may consult with and obtain information from appropriate federal regulatory authority. The supervisor may consult with appropriate

federal regulatory agencies in connection with any application filed hereunder and shall consider any information received from such agency or agencies in ruling upon the application.

[Statutory Authority: RCW 30.04.230 as amended by 1983 c 157 § 9. 83-20-073 (Order 56), § 50-48-090, filed 10/3/83.]