

Title 419 WAC

SAVINGS AND LOAN ASSOCIATIONS, DIVISION OF

Chapters

- 419-04 Working understanding for processing of applications for new facilities between the Federal Home Loan Bank Board and the Washington division of savings and loan associations.**
- 419-14 Examination and supervision fees for savings and loan associations.**
- 419-18 Examination and supervision fees for credit unions.**
- 419-20 Operation and procedures of the division of savings and loan and access to public records—Form.**
- 419-28 Applications for satellite facilities—Forms—Fees.**
- 419-36 Rules governing supervisory approval of credit union investment practices.**
- 419-40 Rules on credit union participation in commercial business activities.**
- 419-44 Miscellaneous credit union rules.**
- 419-52 Merger or acquisition of troubled associations.**
- 419-56 Savings and loan trust powers.**
- 419-60 Foreign association branch application procedures.**
- 419-64 Credit union member business loans.**
- 419-70 Credit union common bond definition.**
- 419-72 Credit union field of membership expansion.**
- 419-80 Real estate appraisals.**

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 419-12 EXAMINATION FEES FOR SAVINGS AND LOAN ASSOCIATIONS

- 419-12-010 Examination fees. [Order 2, § 419-12-010, filed 7/7/72.] Repealed by Order 77-3, filed 10/5/77.

Chapter 419-16 EXAMINATION AND SUPERVISION FEES FOR CREDIT UNIONS

- 419-16-010 Examination and supervision fees. [Order 4, § 419-16-010, filed 10/16/72.] Repealed by Order 77-4, filed 10/5/77.

Chapter 419-24 NOTIFICATION BY SUPERVISOR OF APPLICATIONS FOR OFFICES

- 419-24-010 Purpose. [Order 74-4, § 419-24-010, filed 5/21/74.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.
- 419-24-020 Definitions. [Order 74-4, § 419-24-020, filed 5/21/74.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.
- 419-24-030 Operations and procedures. [Order 74-4, § 419-24-030, filed 5/21/74.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.

Chapter 419-32 REGULATIONS ON MOBILE HOME LENDING BY SAVINGS AND LOAN ASSOCIATIONS

- 419-32-010 Definitions. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-010, filed 11/13/78.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.
- 419-32-020 Flooring loans. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-020, filed 11/13/78.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.
- 419-32-030 Flooring loans—Dealer application. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-030, filed 11/13/78.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.
- 419-32-040 Register of loans originated by dealers required. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-040, filed 11/13/78.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.
- 419-32-050 Floor plan inventories. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-050, filed 11/13/78.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.
- 419-32-060 Flooring plans—Geographical limits. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-060, filed 11/13/78.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.
- 419-32-070 Flooring loans—Maximum amount. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-070, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- 419-32-080 Flooring loans—Maximum term. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-080, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- 419-32-090 Retail loans. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-090, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- 419-32-100 Retail loans—Maximum amount. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-100, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- 419-32-110 Retail loans—Maximum term. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-110, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- 419-32-120 Retail loans—Appraisal. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-120, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- 419-32-130 Mobile home loans—Secondary market. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-130, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- 419-32-140 Retail loans—Security agreement. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-140, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- 419-32-150 Retail mobile home loans—Application. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-150, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.

Title 419

Title 419 WAC: Savings and Loan Associations

- 419-32-160 Mobile home loans—Insurance coverage. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-160, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- 419-32-170 Mobile home loans—Accounting principles. [Statutory Authority: RCW 33.04.020. 78-12-016 (Order 78-1), § 419-32-170, filed 11/13/78.] Repealed by 88-17-032 (Order 88-2), filed 8/12/88. Statutory Authority: RCW 33.04.025.
- Chapter 419-48**
REGULATIONS ON EXERCISE OF
FEDERAL CREDIT UNION POWERS
- 419-48-010 Grant of federal credit union powers to state chartered credit unions. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-010, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-020 Application to exercise federal credit union powers. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-020, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-030 Supervisor action on application. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-030, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-040 Applicability of federal statutes, regulations and case law. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-040, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-051 Loans to members. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-051, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-052 Self-replenishing line of credit. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-052, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-053 Loans to other credit unions. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-053, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-054 Loans to credit union organizations. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-054, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-055 Participation loans. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-055, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-060 Receipt of payments on shares from members and non-member governmental units. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-060, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-070 Investments. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-070, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-080 Deposits. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-080, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-090 Borrowing by a credit union. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-090, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-100 Levying of late charges. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-100, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-110 Lien on shares and dividends. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-110,

- 419-48-120 Check selling and cashing. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-120, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-130 Purchase of obligations. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-130, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-140 Sale and purchase of assets. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-140, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
- 419-48-150 Other federal credit union powers. [Statutory Authority: 1979 1st ex.s. c 98. 79-10-043 (Order 79-3), § 419-48-150, filed 9/13/79.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.

Chapter 419-04 WAC

WORKING UNDERSTANDING FOR PROCESSING OF APPLICATIONS FOR NEW FACILITIES BETWEEN THE FEDERAL HOME LOAN BANK BOARD AND THE WASHINGTON DIVISION OF SAVINGS AND LOAN ASSOCIATIONS

WAC

- 419-04-010 Processing of applications for new facilities—Introduction.
- 419-04-020 Processing of applications for new facilities—Priority of decision.
- 419-04-030 Processing of applications for new facilities—Preemption following approval.

WAC 419-04-010 Processing of applications for new facilities—Introduction. It appears that a working understanding between the Federal Home Loan Bank Board and the Washington division of savings and loan associations is desirable to coordinate the treatment of applications filed during the same time period and in the same general area in both jurisdictions. It also appears desirable to provide equal availability for applications in both jurisdictions and the same extent of protection during an agreed-upon start-up period after approval. Such agreement does not alter the understanding that the internal methods of processing and the criteria used vary between the two jurisdictions by virtue of both law and regulation. This set of guidelines is intended to establish a method of procedural coordination which will be both fair and workable.

All new facilities approved prior to the effective date of this working understanding shall be governed both as to time period and area of preemption by the provisions hereinafter set forth; and all applications pending on the effective date will be processed in accordance with these provisions.

[Order 74-3, § 419-04-010, filed 5/13/74.]

WAC 419-04-020 Processing of applications for new facilities—Priority of decision. (1) **Priority.**

(a) When an application is filed with the division of savings and loan, for a period of five months no favorable decision shall be made by the Federal Home Loan Bank Board on a subsequent application for that location or one within the area of potential preemption surrounding it.

(b) When an application is filed with the Federal Home Loan Bank Board, for a period of five months no favorable

decision shall be made by the division of savings and loan on a subsequent application for that location or one within the area of potential preemption surrounding it.

(c) The state's statutory period for consideration RCW 33.08.070 (six months) is not altered by these guidelines.

(2) **Filing date.**

(a) Filing date and processing (publication and notice) would be effective upon receipt of the complete application. It is understood that in order to qualify for priority, applications must be complete in accordance with the standards established by each jurisdiction. A so-called "letter of intent" will carry no weight in establishing such priority.

(b) In the event that applications are filed in both jurisdictions on the same date, creating a tie, then the respective jurisdictions may both proceed to a decision on such application.

(3) **Consolidation.** Either jurisdiction may, however, consolidate two or more pending applications for consideration at the same time, leading to a set of decisions on the same date. The procedure for consolidation to be followed by the division of savings and loan is:

(a) The first applicant to file at a given location shall have the application processed to establish a decision no more than five months after the date of filing.

(b) An application filed after the first application but before the deadline for decision may be consolidated for consideration with the first application if:

(i) The second application is for a location within the potential area of preemption of the first application; and

(ii) The application, at the time of filing, does not fall within the potential radius of preemption of a previously filed application in other jurisdiction.

(4) **Location.** It is important that the recipients of the notice of application be able readily to ascertain its specific location. Each application should, if possible, disclose the street address of the proposed location and/or the street intersection nearest to the location. Locations in or adjacent to shopping centers should be clearly identified by naming the existing or proposed center.

[Order 74-3, § 419-04-020, filed 5/13/74.]

WAC 419-04-030 Processing of applications for new facilities—Preemption following approval. (1) **Period of preemption.** A new association approved by either jurisdiction shall have preemption protection for a period of two years from the date of approval. A newly authorized branch shall have preemption protection for a span of one year from the date of approval.

(2) **Area of preemption.** The area covered during the preemption period shall be:

(a) A distance of one-eighth mile in any direction for a location within the central business districts of Seattle, Spokane, or Tacoma.

(b) A distance of one-half mile in any direction for a location within a standard metropolitan statistical area. (SMSA.)

(c) Elsewhere in the state including urban and sub-urban areas, within a one-mile radius of the approved new location (unless special geographic conditions prevail).

(3) **Special treatment clause.** Should either authority receive a particular application which appears to require

special treatment, there will be notification to the other with opportunity for response. Should there not be mutual agreement that such treatment is warranted (within a reasonable time), the authority indicating the need may proceed accordingly, upon notification to the other.

[Order 74-3, § 419-04-030, filed 5/13/74.]

Chapter 419-14 WAC

EXAMINATION AND SUPERVISION FEES FOR SAVINGS AND LOAN ASSOCIATIONS

WAC

419-14-020	Collection of examination and supervision costs— Collection method.
419-14-030	Hourly charge for examinations.
419-14-040	Semiannual asset charge.
419-14-050	Investigation fee for new charter application.
419-14-060	Branch application fee—Domestic associations.
419-14-070	Loans to directors, officers, or employees—Maximum amount.
419-14-075	Branch application fee—Foreign associations.
419-14-080	Annual license fees.
419-14-085	Loans to one borrower.
419-14-090	Hourly charge for legal assistance.
419-14-100	Supervisory review of examination.
419-14-110	Special examinations.
419-14-120	Acquisition application fee.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

419-14-010	Examination and supervision fees. [Statutory Authority: RCW 33.04.025 and 33.08.020. 79-01-024 (Order 78-2), § 419-14-010, filed 12/18/78; Order 77-3, § 419-14-010, filed 10/5/77.] Repealed by 82-13-015 (Order 82-4), filed 6/7/82.
------------	--

WAC 419-14-020 Collection of examination and supervision costs—Collection method. The requirement of RCW 33.28.020 that the supervisor collect from each savings and loan association the actual costs of examinations and supervision shall be met in accordance with the procedures established in this chapter. The fee shall consist of three elements: (1) An hourly charge for the number of hours spent by division personnel in conducting an examination of the association, (2) a semiannual asset charge; and (3) an hourly charge for the number of hours of extraordinary or special services.

[Statutory Authority: RCW 33.28.020. 83-20-028 (Order 83-5), § 419-14-020, filed 9/26/83; 82-13-015 (Order 82-4), § 419-14-020, filed 6/7/82.]

WAC 419-14-030 Hourly charge for examinations. The hourly charge for hours spent by personnel of the division of savings and loan in conducting examinations shall be assessed as follows:

(1) For division personnel classified as savings and loan analyst, \$40.00 per hour;

(2) For division personnel classified as savings and loan senior analyst, \$45.00 per hour;

(3) For division personnel classified as review analyst or above, \$50.00 per hour;

In addition to the hourly examination fee, foreign associations doing business in the state of Washington will defray the costs of travel and per diem paid to division

personnel in examinations performed outside the state of Washington.

The supervisor may charge the actual cost of examinations performed under personal service contracts by third parties. 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 33.28.020. 91-06-063, § 419-14-030, filed 3/1/91, effective 4/1/91; 85-07-009 (Order 85-3), § 419-14-030, filed 3/8/85. Statutory Authority: RCW 33.08.110. 84-12-043 (Order 84-4), § 419-14-030, filed 5/31/84. Statutory Authority: RCW 30.28.020. 82-13-015 (Order 82-4), § 419-14-030, filed 6/7/82.]

WAC 419-14-040 Semiannual asset charge. The semiannual asset charge will be assessed at a rate of three cents per thousand dollars of assets. Asset fees will be computed on assets as of June 30 and December 31 of each calendar year, and payable no later than July 15 and January 15 next following the respective assessment dates.

[Statutory Authority: RCW 33.28.020. 91-06-063, § 419-14-040, filed 3/1/91, effective 4/1/91; 85-07-009 (Order 85-3), § 419-14-040, filed 3/8/85. Statutory Authority: RCW 30.28.020. 82-13-015 (Order 82-4), § 419-14-040, filed 6/7/82.]

WAC 419-14-050 Investigation fee for new charter application. The investigation fee required by RCW 33.08.060 for submission in connection with applications to charter a new savings and loan association shall be two thousand five hundred dollars. In the event the actual costs of the investigation conducted with respect to a particular application are less than the amount of the fee, such difference between the fee and the actual costs submitted shall be refunded, provided that in no event shall more than one thousand five hundred dollars be refunded. For the purposes of this section, actual costs shall include travel and per diem expenses paid to division personnel in connection with the investigation.

[Statutory Authority: RCW 33.08.110. 82-13-015 (Order 82-4), § 419-14-050, filed 6/7/82.]

WAC 419-14-060 Branch application fee—Domestic associations. The fee required by RCW 33.08.110 to be submitted in connection with an application to establish a branch office of an association shall be five hundred dollars. In the event the actual costs of the investigation with respect to a particular application are less than the amount of the fee, such difference between the fee and the actual cost submitted shall be refunded, provided that in no event shall more than three hundred fifty dollars be refunded. For the purposes of this section, actual costs shall include travel and per diem expenses paid to division personnel in connection with the investigation.

[Statutory Authority: RCW 33.08.110. 84-12-043 (Order 84-4), § 419-14-060, filed 5/31/84; 82-13-015 (Order 82-4), § 419-14-060, filed 6/7/82.]

WAC 419-14-070 Loans to directors, officers, or employees—Maximum amount. The total value of loans made or obligations acquired under the authority of RCW 33.12.060 (2)(f) for any director, officer, or employee of an association shall not exceed twenty-five thousand dollars,

unless all applicable regulations of the Federal Savings and Loan Insurance Corporation have been complied with, in which case loans not in excess of one hundred thousand dollars total may be made. Loans in amounts larger than one hundred thousand dollars may be made only with the prior written approval of the supervisor has been obtained in accordance with the provisions of this section.

Requests to the supervisor for permission to exceed the maximum loan limit shall be made at least ten days in advance of the date upon which it is anticipated that funds will be disbursed, if the loan is approved. Such requests must be accompanied by a certified copy of the authorizing resolution, which shall set forth with specificity the reasons that the board of directors believes that exceeding the loan limitation established in this section is in the best interest of the association in each instance. The authorizing resolution shall also set forth the directors' evaluation of the quality of the security for the loan, and the ability of the debtor to repay the loan in accordance with its terms.

[Statutory Authority: RCW 33.12.060 (2)(f). 84-09-058 (Order 84-1), § 419-14-070, filed 4/18/84; 82-13-015 (Order 82-4), § 419-14-070, filed 6/7/82.]

WAC 419-14-075 Branch application fee—Foreign associations. The fee required by RCW 33.08.110 to be submitted in connection with an application to establish a branch office of a foreign association in this state shall be two thousand five hundred dollars, nonrefundable for the first branch and five hundred dollars for each additional branch. In the event the actual costs of the investigation with respect to a particular application exceed the amount of the fee, such difference between the fee and the actual costs shall be paid by the applicant. For the purposes of this section, actual costs shall include travel and per diem expenses paid to division personnel in connection with the investigation.

[Statutory Authority: RCW 33.08.110. 85-07-010 (Order 85-4), § 419-14-075, filed 3/8/85; 84-12-043 (Order 84-4), § 419-14-075, filed 5/31/84.]

WAC 419-14-080 Annual license fees. Every savings and loan association organized under the laws of this state shall pay a license fee before the 31st of July each year. The license fee for each domestic association shall be fifty dollars for the office designated as the home office or executive office and an additional fifty dollar fee for each branch.

Every foreign association doing business in the state of Washington shall pay a license fee before the 31st of July each year. The license fee shall be in the amount of fifty dollars for each branch in business within the state of Washington as of the close of business June 30th immediately preceding.

[Statutory Authority: RCW 33.04.020(2). 82-19-020 (Order 82-6), § 419-14-080, filed 9/8/82.]

WAC 419-14-085 Loans to one borrower. RCW 33.24.010 provides that an association may not invest more than two and one-half percent of its assets in any loan or obligation to any one person, except with the written approval of the supervisor. The supervisor hereby gives written approval for any state chartered association to make

a loan to any one borrower in an amount which, taken together with all other outstanding loans and obligation to the same borrower, does not exceed either ten percent of the institution's withdrawable accounts, or the association's net worth, whichever is less.

"One borrower" is defined as (a) any person or entity that is, or that upon the making of a loan will become, obligor on a loan; (b) nominees of such obligor; (c) all persons trusts, partnerships, syndicates, and corporations of which such obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock, and (d) if such obligor is a trust partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning ten percent of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock of such obligor; and the term "total balances of all outstanding loans" means the original amounts loaned by an insured institution plus any additional advances and interest due unpaid, less repayments and participating interests sold and exclusive of any loan on the security of such institution's savings accounts or real estate, the title to which has been conveyed to a bona fide purchaser of such real estate.

[Statutory Authority: RCW 33.24.010. 84-09-058 (Order 84-1), § 419-14-085, filed 4/18/84.]

WAC 419-14-090 Hourly charge for legal assistance. The hourly charge for consultation involving an assistant attorney general shall be assessed at a rate of \$60.00 per hour. Legal assistance shall include, but not be limited to, legal research and advice pertaining to granting new charters, acquisition of savings and loan associations, conversions, stock offerings, board meetings requiring legal assistance, preparation and enforcement of removal actions, involuntary liquidations, declarations of insolvency, cease and desist orders, and other agreements or actions requiring legal advice; and to administrative hearings and preparation of memorandum opinions which relate to a specific savings and loan association.

[Statutory Authority: RCW 33.28.020. 91-06-063, § 419-14-090, filed 3/1/91, effective 4/1/91; 83-20-028 (Order 83-5), § 419-14-090, filed 9/26/83.]

WAC 419-14-100 Supervisory review of examination. Upon completion of each examination the analyst's report shall be reviewed and an examination letter prepared by administrative personnel. The hourly charge for the review and preparation of the examination letter shall be assessed at the rate of \$50.00 per hour.

[Statutory Authority: RCW 33.28.020. 91-06-063, § 419-14-100, filed 3/1/91, effective 4/1/91; 85-07-009 (Order 85-3), § 419-14-100, filed 3/8/85; 83-20-028 (Order 83-5), § 419-14-100, filed 9/26/83.]

WAC 419-14-110 Special examinations. Special examinations shall be assessed at the rate of \$50.00 per hour. Special examinations shall include, but not be limited to electronic data processing examinations, special investigations, special examinations involving the division's staff

supervisory personnel, and other special examinations and reviews the supervisor deems necessary.

[Statutory Authority: RCW 33.28.020. 91-06-063, § 419-14-110, filed 3/1/91, effective 4/1/91; 85-07-009 (Order 85-3), § 419-14-110, filed 3/8/85; 83-20-028 (Order 83-5), § 419-14-110, filed 9/26/83.]

WAC 419-14-120 Acquisition application fee. RCW 33.28.020 requires the supervisor to collect from each association a fee to cover the actual cost of supervision.

To maintain fairness to all associations the acquiring party(ies) will defray the costs involving the supervisor and his staff as follows:

A minimum nonrefundable fee of \$5,000 payable with the acquisition application described in RCW 33.24.360. In addition direct costs involving travel and lodging of the supervisor or his staff and legal expense billed directly to the division will be paid by the acquirers.

Savings and loan associations merging under authority of RCW 33.04.010 are not considered within the scope of RCW 33.24.360 and are therefore not included with respect to this WAC.

[Statutory Authority: RCW 33.24.360. 84-12-042 (Order 84-5), § 419-14-120, filed 5/31/84.]

Chapter 419-18 WAC

EXAMINATION AND SUPERVISION FEES FOR CREDIT UNIONS

WAC

419-18-020	Collection of examination and supervision costs— Collection method.
419-18-030	Hourly charge for examinations.
419-18-040	Semiannual asset charge.
419-18-050	Hourly charge for legal assistance.
419-18-060	Supervisory review of examinations.
419-18-070	Special examinations.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

419-18-010	Examination and supervision fees. [Statutory Authority: RCW 31.12.320. 79-01-025 (Order 78-3), § 419-18-010, filed 12/18/78; Order 77-4, § 419-18-010, filed 10/5/77.] Repealed by 82-13-016 (Order 82-5), filed 6/7/82. Statutory Authority: RCW 31.12.320.
------------	--

WAC 419-18-020 Collection of examination and supervision costs—Collection method. The requirement of RCW 31.12.320 that the supervisor collect from each credit union the actual costs of examinations and supervision shall be met in accordance with the procedures established in this chapter. The fee shall consist of three elements: (1) An hourly charge for the number of hours spent by division personnel in conducting an examination of the credit union, (2) a semiannual asset charge, and (3) an hourly charge for the number of hours of extraordinary or special services.

[Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-020, filed 9/26/83; 82-13-016 (Order 82-5), § 419-18-020, filed 6/7/82.]

WAC 419-18-030 Hourly charge for examinations. The hourly charge for hours spent by personnel of the division of savings and loan in conducting examinations shall be assessed as follows:

(1) For division personnel classified as savings and loan analyst, \$40.00 per hour;

(2) For division personnel classified as savings and loan senior analyst, \$45.00 per hour; and

(3) For division personnel classified as review analyst or above, \$50.00 per hour.

The supervisor may charge the actual cost of examinations performed under personal service contracts by third parties. The supervisor shall submit a statement for the forgoing [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 31.12.535 and 31.12.545. 91-06-062, § 419-18-030, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.545(1), 85-07-008 (Order 85-2), § 419-18-030, filed 3/8/85. Statutory Authority: RCW 31.12.320. 82-13-016 (Order 82-5), § 419-18-030, filed 6/7/82.]

WAC 419-18-040 Semiannual asset charge. The semiannual asset charge will be assessed at a rate of three cents per thousand dollars of total assets, computed on assets as of June 30 and December 31 of each calendar year, and payable no later than July 15 and January 15 next following the respective assessment dates. Those credit unions the total assets of which are less than two hundred thousand dollars as of a particular assessment date shall not be required to pay an asset charge for the semiannual period immediately preceding such assessment date. Assets included in total assets include all assets held by a Washington chartered credit union whether held within this state or a branch in another state and assets of foreign credit unions held through branches within the state of Washington, provided that the supervisor shall have the authority to waive the assessment of asset fees held by Washington chartered credit unions in branches within other states based upon reciprocal agreements with the foreign state's regulatory authority.

[Statutory Authority: RCW 31.12.535 and 31.12.545. 91-06-062, § 419-18-040, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.545(1), 85-07-008 (Order 85-2), § 419-18-040, filed 3/8/85. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-040, filed 9/26/83; 82-13-016 (Order 82-5), § 419-18-040, filed 6/7/82.]

WAC 419-18-050 Hourly charge for legal assistance. The hourly charge for consultation involving an assistant attorney general shall be assessed at the rate of \$60.00 per hour. Legal assistance shall include, but not be limited to, supervisory committee meetings and board meetings requiring legal assistance, preparation and enforcement of removal actions, involuntary liquidations, declarations of insolvency, cease and desist orders, and other agreements or actions requiring legal advice; and to administrative hearings and preparation of memorandum opinions which relate to a specific credit union.

[Statutory Authority: RCW 31.12.535 and 31.12.545. 91-06-062, § 419-18-050, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-050, filed 9/26/83.]

WAC 419-18-060 Supervisory review of examinations. Upon completion of each examination the analyst's report shall be reviewed and an examination letter prepared by administrative personnel. The hourly charge for the

review and preparation of the examination letter shall be assessed at the rate of \$50.00 per hour.

[Statutory Authority: RCW 31.12.535 and 31.12.545. 91-06-062, § 419-18-060, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.545(1), 85-07-008 (Order 85-2), § 419-18-060, filed 3/8/85. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-060, filed 9/26/83.]

WAC 419-18-070 Special examinations. Special examinations shall be assessed at the rate of \$50.00 per hour, per examiner. Special examinations shall include, but not be limited to electronic data processing examinations, special investigations, special examinations involving the division's staff supervisory personnel, and other special examinations and reviews the supervisor deems necessary.

[Statutory Authority: RCW 31.12.535 and 31.12.545. 91-06-062, § 419-18-070, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.545(1), 85-07-008 (Order 85-2), § 419-18-070, filed 3/8/85. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-070, filed 9/26/83.]

Chapter 419-20 WAC

OPERATION AND PROCEDURES OF THE DIVISION OF SAVINGS AND LOAN AND ACCESS TO PUBLIC RECORDS—FORM

WAC

419-20-010	Purpose.
419-20-020	Definitions.
419-20-030	Description of central and field organization of division of savings and loan.
419-20-040	Operations and procedures.
419-20-050	Public records available.
419-20-060	Public records officer.
419-20-070	Office hours.
419-20-080	Requests for public records.
419-20-090	Copying.
419-20-100	Exemptions.
419-20-110	Review of denials of public records requests.
419-20-120	Protection of public records.
419-20-130	Records index.
419-20-140	Communications with division.
419-20-150	Adoption of form.
419-20-900	Appendix 1—Request for public record.

WAC 419-20-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of general administration, division of savings and loan, 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 73-2, § 419-20-010, filed 7/13/73.]

WAC 419-20-020 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 of 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 savings and loan. The supervisor of savings and loan is appointed by the director of the department of general administration. The division of savings and loan shall hereinafter be referred to as the "division of savings and loan." Where appropriate, the term supervisor of savings and loan also refers to the staff and employees of the division of savings and loan.

[Order 73-2, § 419-20-020, filed 7/13/73.]

WAC 419-20-030 Description of central and field organization of division of savings and loan. The division is an administrative, supervisory, licensing and chartering agency. The administrative office of the division of savings and loan and its staff is located at 217-C General Administration Building, Olympia, Washington 98504.

[Statutory Authority: Chapter 42.17 RCW. 83-23-067 (Order 83-6), § 419-20-030, filed 11/17/83; Order 73-2, § 419-20-030, filed 7/13/73.]

WAC 419-20-040 Operations and procedures. The primary purpose of the division of savings and loan is the maintenance of a sound home financing system within the state of Washington; and the maintenance of a sound and viable credit union system to serve eligible persons within the state of Washington in the area of consumer loans; the prevention of irresponsible acts by members of the two systems and the insuring that these systems serve the needs and convenience of the public and eligible memberships through the fostering of appropriate competition and operating efficiency. In order to accomplish this purpose, the division of savings and loan's duties are divided into two major areas, i.e., examination and chartering.

The supervisor of savings and loan is required by law to examine the operation of all state chartered savings and loan associations and credit unions. These duties are carried out through a staff of field examiners employed by the division of savings and loan. The examiners examine the books and records of an institution in order to detect any violations of the relevant statutes 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 to be corrected.

The other main function of the division of savings and loan is processing of applications by various groups to establish a financial institution or to change an existing one. Some of the functions are as follows:

- (1) To charter new savings and loan associations and new credit unions;
- (2) To authorize branches of existing savings and loan associations;
- (3) To authorize mergers of savings and loans and of credit unions.
- (4) Conversion to federal charter applications.

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 savings and loan in Olympia. In general, the public may obtain information, make submittals or requests, or obtain copies of division of savings and loan decisions

through application to personnel in Room 111A of the General Administration Building.

[Order 73-2, § 419-20-040, filed 7/13/73.]

WAC 419-20-050 Public records available. All public records of the division of savings and loan as defined in WAC 419-20-020 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 419-20-100 and 419-20-120. Substantive rules of general applicability adopted by the supervisor of savings and loan can be found in Title 419 WAC, and are incorporated herein by reference as though fully set forth.

[Order 73-2, § 419-20-050, filed 7/13/73.]

WAC 419-20-060 Public records officer. The division of savings and loan public records shall be in the charge of the public records officer designated by the division of savings and loan. The person so designated shall be located in the administrative office of the division of savings and loan. The public records officer shall be responsible for the following: The implementation of the division of savings and loan rules and regulations regarding release of public records, coordinating the staff of the division of savings and loan in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

[Order 73-2, § 419-20-060, filed 7/13/73.]

WAC 419-20-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the division of savings and loan. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: Chapter 42.17 RCW. 83-23-067 (Order 83-6), § 419-20-070, filed 11/17/83; Order 73-2, § 419-20-070, filed 7/13/73.]

WAC 419-20-080 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 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 savings and loan 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 savings and loan staff, if the public records officer is not available, at the administrative office of the division of savings and loan 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;
- (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 savings and loan current index, an appropriate description of the record requested.

(f) 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 73-2, § 419-20-080, filed 7/13/73.]

WAC 419-20-090 Copying. No fee shall be charged for the inspection of public records. The division of savings and loan 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 savings and loan copy equipment. This charge is the amount necessary to reimburse the division of savings and loan for its actual costs incident to such copying. The division of savings and loan 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 73-2, § 419-20-090, filed 7/13/73.]

WAC 419-20-100 Exemptions. (1) The division of savings and loan reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 419-20-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) RCW 43.19.120 provides as a general rule that all information received by the supervisor and his office from any savings and loan or credit union is confidential and may not be disclosed to any person other than certain other government officials, on penalty of a gross misdemeanor.

(3) In addition, pursuant to section 26, chapter 1, Laws of 1973, the division of savings and loan 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.

[Order 73-2, § 419-20-100, filed 7/13/73.]

WAC 419-20-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition the supervisor 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 constitutes 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 the division of savings and loan. The supervisor shall immediately consider the matter and either affirm or reverse such denial. In any case, the petition 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 savings and loan has responded to the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Order 73-2, § 419-20-110, filed 7/13/73.]

WAC 419-20-120 Protection of public records. (1) Public records shall be available for public inspection during regular office hours as provided for by regulation at the office of the Division of Savings and Loan, 217-C General Administration Building, Olympia, Washington 98504. 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 savings and loan available for copying.

[Statutory Authority: Chapter 42.17 RCW. 83-23-067 (Order 83-6), § 419-20-120, filed 11/17/83; Order 73-2, § 419-20-120, filed 7/13/73.]

WAC 419-20-130 Records index. The division of savings and loan 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 division;

(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 division relating to any regulatory, supervisory or enforcement responsibilities of the division, whereby the division 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 savings and loan 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 73-2, § 419-20-130, filed 7/13/73.]

WAC 419-20-140 Communications with division.

All communications with the division of savings and loan including but not limited to the submission of material[s] 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 savings and loan's decisions and other matters, shall be addressed as follows:

Division of Savings and Loan
Records Officer
217-C General Administration Building
Olympia, Washington 98504

[Statutory Authority: Chapter 42.17 RCW. 83-23-067 (Order 83-6), § 419-20-140, filed 11/17/83; Order 73-2, § 419-20-140, filed 7/13/73.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 419-20-150 Adoption of form. The division of savings and loan hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as WAC 419-20-900, entitled "Request for public record."

[Order 73-2, § 419-20-150, filed 7/13/73.]

WAC 419-20-900 Appendix 1—Request for public record.

"REQUEST FOR PUBLIC RECORD"

TO: The Division of Savings and Loan:

- (a) Name of person requesting public record(s)
Signature
()
Name of organization, if applicable
Mailing address of Applicant Phone Number
(b) Date request made at Division of Savings and Loan, Olympia Time of day 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 Savings and Loan's current index:

[Order 73-2, Appendix 1 (codified as WAC 419-20-900), filed 7/13/73.]

Chapter 419-28 WAC

APPLICATIONS FOR SATELLITE FACILITIES—FORMS—FEES

- WAC
419-28-010 Applications for satellite facilities—Form.
419-28-020 Applications for satellite facilities—Fee.
419-28-030 Applications for satellite facilities—Additional information.
419-28-040 Public convenience.
419-28-050 Definitions.
419-28-060 Network systems.
419-28-070 Modification of approved network systems.
419-28-080 Approval—Disapproval—Request for hearing.
419-28-990 Appendix 1—Application to provide satellite facility.

WAC 419-28-010 Applications for satellite facilities—Form. Pursuant to RCW 33.04.025 the official form for use in making application to the division of savings and loan for a satellite facility is hereby adopted. The form is attached hereto as Appendix 1 [419-28-990], entitled "Application to provide satellite facility." Copies of this form may be obtained at Room 111A, General Administration Building, Olympia, Washington.

[Order 74-5, § 419-28-010, filed 6/3/74.]

WAC 419-28-020 Applications for satellite facilities—Fee. (1) The fee for filing an application for approval of the supervisor for a savings and loan association or credit union to provide a satellite facility or facilities which are to be used exclusively by its own customers is one hundred dollars. 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 one hundred dollars for the first such satellite facility and one hundred dollars for each additional satellite facility. This fee shall be deemed to include the cost of processing the application and the cost of an attendant investigation, but if the cost therefor (computed at thirty dollars per employee hour plus actual expenses) exceeds the filing fee, the applicant shall pay such excess when ascertained by the supervisor.

(2) The fee for filing an application for approval of a network system of satellite facilities as defined in WAC 419-28-050(4) is one thousand dollars. This fee shall be deemed to include the cost of processing the application and the cost of an attendant investigation, but if the actual cost of such processing and investigation (computed at thirty dollars per employee hour plus actual expenses) exceeds the filing fee, the applicant shall pay such excess when ascertained by the supervisor.

(3) The fee for each application to modify a previously approved network system made in accordance with WAC 419-28-070 (1) or (2) is one hundred dollars. The fee for

application to modify a previously modified network system under WAC 419-28-070(3) shall be computed by the supervisor at thirty dollars per employee hour plus actual expenses, with a minimum fee of one hundred dollars per application.

[Statutory Authority: RCW 33.04.025, 83-01-065 (Order 82-8), § 419-28-020, filed 12/15/82; Order 74-5, § 419-28-020, filed 6/3/74.]

WAC 419-28-030 Applications for satellite facilities—Additional information. Application for approval to provide a satellite facility or facilities which are to be used exclusively by the customers of one state-chartered savings and loan association or credit union 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 419-28-990. A separate application must be made for each satellite facility, and must include the minimum fee required by WAC 419-28-020.

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 33.04.025, 83-01-065 (Order 82-8), § 419-28-030, filed 12/15/82; Order 74-5, § 419-28-030, filed 6/3/74.]

WAC 419-28-040 Public convenience. As an aid in the supervisor's determination of whether the public convenience will be served by the proposed satellite facility, the applicant shall provide an analysis of the area to be served by the proposed facility. Included within this analysis shall be a study of the number of customers of the applicant likely to be served by the proposed satellite facility and the likelihood of those customers using the facility.

[Order 74-5, § 419-28-040, filed 6/3/74.]

WAC 419-28-050 Definitions. As used in these regulations:

(1) "Supervisor" means supervisor of savings and loan associations appointed pursuant to RCW 43.19.100.

(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.

(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 33.04.025, 83-01-065 (Order 82-8), § 419-28-050, filed 12/15/82; Order 74-5, § 419-28-050, filed 6/3/74.]

WAC 419-28-060 Network systems. Application for approval to establish or operate a network system in which one or more state-chartered savings and loan associations or credit unions 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 savings and loan association or credit union 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 description 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 in full detail 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 examinations of financial institutions as set forth in WAC 419-14-030 and 419-18-040; (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 30.43.020 and 30.43.045. 83-05-022 (Order 83-1), § 419-28-060, filed 2/9/83.]

WAC 419-28-070 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 savings and loan association

or credit union, 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 419-28-060(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 33.04.025. 83-01-065 (Order 82-8), § 419-28-070, filed 12/15/82.]

WAC 419-28-080 Approval—Disapproval—Request for hearing. The supervisor shall notify the applicant and, in the case of a network system, all participating savings and loan associations and credit unions, of the approval of the satellite facilities or network system or modifications 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 33.04.025. 83-01-065 (Order 82-8), § 419-28-080, filed 12/15/82.]

WAC 419-28-990 Appendix 1—Application to provide satellite facility.

APPENDIX 1
APPLICATION TO PROVIDE
SATELLITE FACILITY

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

To the supervisor of the division of savings and loan.

.....
Washington, (city)
(savings & loan association
or credit union
referred to as the applicant)

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 (county)
if outside city limits)

Washington.

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 (date) by the board of directors or board of trustees 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 419-28-020, the applicant will pay such excess in accordance with that section.

We also enclose the supporting data required by WAC 419-28-030.

SUBSCRIBED AT, Washington, this day of, 19

(Please type name and position under signature)

[Statutory Authority: RCW 33.04.025. 83-01-065 (Order 82-8), § 419-28-990, filed 12/15/82; Order 74-5, Appendix 1 (codified as WAC 419-28-990), filed 6/3/74.]

Chapter 419-36 WAC

RULES GOVERNING SUPERVISORY APPROVAL OF CREDIT UNION INVESTMENT PRACTICES

WAC

- 419-36-010 Application to make investments not otherwise permitted by law.
419-36-020 Supplementary application information.
419-36-030 Investments previously approved for other state chartered credit unions.
419-36-040 Investment practice permitted to federally chartered credit unions.
419-36-050 Investment practice not previously permitted to any credit union.
419-36-060 Supervisor action on application.
419-36-070 Engagement in unauthorized investment practice prohibited.
419-36-080 Modification or revocation of investment practices previously authorized.
419-36-090 Investment limitations—Other requirements.

WAC 419-36-010 Application to make investments not otherwise permitted by law. If any credit union wishes to deposit or invest its capital, deposits, or surplus funds in a manner not specifically permitted to credit unions by chapter 31.12 RCW, the credit union shall, before engaging in the proposed investment practice, make written application to the supervisor of savings and loan associations for authority to make the proposed investment. The application shall contain at least the following information:

- (a) The name of the credit union;
(b) The proposed source or sources of the funds to be deposited or invested;
(c) A detailed description of the type of deposit or investment the credit union proposes to make, including the names of any natural persons, corporations, financial institutions or government agencies serving as banker, trustee, management agent, broker, guarantor, seller of securities, or purchaser of securities;
(d) References, if known to the applicant, showing that other state chartered credit unions have been permitted to make the same type of investment or deposit;
(e) Copies of statutes, regulations, rulings, official correspondence or other information showing that federally chartered credit unions doing business within the state of Washington are permitted to make the type of investment or deposit proposed in the application;
(f) Such other information as the applicant credit union wishes to offer in evidence that the proposed investment or

deposit would be a safe and prudent one for the applicant credit union to engage in.

[Statutory Authority: RCW 31.12.260(g). 79-07-002 (Order 79-1), § 419-36-010, filed 6/7/79.]

WAC 419-36-020 Supplementary application information. Upon receiving an application from a credit union to engage in an investment or deposit practice pursuant to this chapter, the supervisor may request such additional information as he deems necessary for the informed disposition of the application. If supplementary application information is requested by the supervisor, the application will not be deemed complete until the supplementary information is supplied.

[Statutory Authority: RCW 31.12.260(g). 79-07-002 (Order 79-1), § 419-36-020, filed 6/7/79.]

WAC 419-36-030 Investments previously approved for other state chartered credit unions. If the supervisor finds that the applicant credit union proposes to make the same type of investment or deposit which one or more other state chartered credit unions have previously received permission to make, the supervisor shall grant the application unless he finds that the financial position or the state of management of the applicant credit union is such that the proposed investments or deposits would not be sound or prudent investment practices for the applicant credit union, in which case the supervisor may instead grant the application conditionally, grant it in modified form or deny the application.

[Statutory Authority: RCW 31.12.260(g). 79-07-002 (Order 79-1), § 419-36-030, filed 6/7/79.]

WAC 419-36-040 Investment practice permitted to federally chartered credit unions. If the supervisor finds that the applicant credit union proposes to make the same type of investment or deposit which one or more other federally chartered credit unions doing business in the state of Washington have previously received permission to make, the supervisor shall grant the application unless he finds that the financial position or the state of management of the applicant credit union is such that the proposed investments or deposits would not be sound or prudent investment practices for the applicant credit union, in which case the supervisor may instead grant the application conditionally, grant it in modified form or deny the application.

[Statutory Authority: RCW 31.12.260(g). 79-07-002 (Order 79-1), § 419-36-040, filed 6/7/79.]

WAC 419-36-050 Investment practice not previously permitted to any credit union. If the supervisor shall find that the proposed investment or deposit practice has not previously been permitted to any state chartered or federally chartered credit union doing business in Washington, he shall make inquiry as to whether the proposed investment or deposit practice would be consistent with Washington law and as to whether the proposed investment or deposit practice would be a sound and prudent practice for the applicant credit union. In connection with his inquiry, the supervisor may consider the general nature and functions of

credit unions and he may also consider the specific financial condition and management of the applicant credit union, as revealed in the application, the supervisor's periodic examinations, or such other information as he may have at hand. If the supervisor finds that the investment or deposit practice as proposed would be contrary to or inconsistent with the laws of the state of Washington, or would not be a sound investment practice, he shall deny the application. If the supervisor finds that proposed investment or deposit practice would be a sound and prudent practice for the applicant credit union, he shall grant the application. Alternatively, the supervisor may, for cause, grant the application conditionally, grant it in modified form or deny it in whole or in part.

[Statutory Authority: RCW 31.12.260(g). 79-07-002 (Order 79-1), § 419-36-050, filed 6/7/79.]

WAC 419-36-060 Supervisor action on application.

After receiving an application from a credit union to engage in an investment or deposit practice not otherwise permitted by law, and after having considered it as provided in this chapter, the supervisor shall grant, grant conditionally, grant in modified form, or deny the application and shall inform the applicant credit union in writing of his action and of the reasons therefor. Any application not acted upon within six months after its receipt by the supervisor shall be deemed denied unless the supervisor, in writing, informs the applicant credit union that he is holding the application for further review.

[Statutory Authority: RCW 31.12.260(g). 79-07-002 (Order 79-1), § 419-36-060, filed 6/7/79.]

WAC 419-36-070 Engagement in unauthorized investment practice prohibited. No state chartered credit union shall engage in any investment or deposit practice not authorized by a specific provision of Washington state law or by the supervisor in accordance with this chapter. Unless the supervisor, in writing, informs an applicant credit union that it may engage in an investment or deposit practice provisionally while he reviews the application, no credit union shall make deposits or investments pursuant to an application made under this chapter until it has received written authority to do so as provided herein. Failure of a credit union to comply with the terms of this chapter shall be deemed an unsound credit union practice and a wilful violation of an order of the supervisor and may be grounds for appropriate supervisory action against the credit union, its directors or officers.

[Statutory Authority: RCW 31.12.260(g). 79-07-002 (Order 79-1), § 419-36-070, filed 6/7/79.]

WAC 419-36-080 Modification or revocation of investment practices previously authorized. The supervisor may find that an investment or deposit practice previously authorized by him is no longer a safe and prudent practice for credit unions generally to engage in, or has become inconsistent with applicable state or federal law, or has ceased to be a safe and prudent practice in one or more particular credit unions in light of their financial condition or management. Upon such a finding, the supervisor may in writing inform the board of directors of any or all of the

credit unions engaging in such a practice that the authority to engage in the practice has been revoked or modified. When the supervisor so notifies any credit union, its directors and officers shall forthwith take steps to liquidate the investments in question (if authority to engage in the practice has been revoked) or to make such modifications as the supervisor requires. The supervisor may for cause shown grant a credit union some definite period of time in which to arrange its affairs to comply with the supervisor's orders. Credit unions which continue to engage in investment practices where their authority to do so has been revoked or modified will be treated as if the authority to engage in the practice had never been granted, and their actions may be deemed an unsound credit union practice and a wilful violation of an order of the supervisor and may be grounds for appropriate supervisory action against the credit union, its directors or officers.

[Statutory Authority: RCW 31.12.260(g). 79-07-002 (Order 79-1), § 419-36-080, filed 6/7/79.]

WAC 419-36-090 Investment limitations—Other requirements. The supervisor, division of savings and loan associations, finds that investments in common trust funds under RCW 31.12.425 (1)(f) present potential serious risks to credit unions and that rules establishing specific procedures for those investments are necessary to protect the safety and soundness of credit unions. These rules are not intended to either endorse or encourage credit union investment in common trust funds. Credit unions investing in common trust funds as authorized by RCW 31.12.425 (1)(f) are therefore subject to the following limitations:

(1) Prior to making any investment in a common trust fund, the board of directors shall approve an investment policy detailing the maximum investment the credit union may have in common trust funds and specific investment guidelines. The policy shall also specify who is to authorize such investments.

(2) A credit union shall not invest an aggregate amount of greater than fifteen percent of its total assets in all such common trust funds.

(3) A credit union shall not invest an aggregate amount greater than five percent of its total assets in common trust funds without the supervisor's prior written approval of its investment policy.

(4) A credit union shall not invest an aggregate amount greater than ten percent of its total assets in common trust funds without the supervisor's prior written approval to make such investment.

(5) A credit union whose aggregate investment in common trust funds exceeds ten percent of its total assets shall establish, by transfer from undivided earnings, a special investment valuation reserve in an amount equal to five percent of the aggregate investment in common trust funds exceeding ten percent of total assets. The special reserve shall be adjusted not less than quarterly based on the aggregate investment in common trust funds amount exceeding ten percent of total assets.

(6) Prior to making any investment in common trust fund, a credit union shall obtain a prospectus for such fund and determine that all investments, investment activities and

deposits of such common trust fund would be legal investments if held by the credit union.

(7) Prior to making any investment in a common trust fund, a credit union shall secure from the investment company marketing the fund a written statement, in addition to any prospectus, specifying that the fund is not engaged in and will not engage in any speculative marketing activity including but not limited to adjusted trading, futures contracts, short sales, and standby commitments, defined as follows:

(a) Adjusted trading means any method of transaction used to defer a loss by selling a security at a price above its current market price and simultaneously purchasing or committing to purchase from that same party another security at a price above its current market price, including interest rate swaps.

(b) Futures contract means a contract for the future delivery of commodities, including certain government securities, sold on commodities exchanges.

(c) Short sale means the sale of a security not owned by the seller.

(d) Standby commitment means a commitment to either buy or sell a security, on or before a future date, at a predetermined price. The seller of the commitment is the party receiving payment for assuming the risk associated with committing either to purchase a security in the future at a predetermined price, or to sell a security in the future at a predetermined price. The seller of the commitment is required to either accept delivery of a security (in the case of a commitment to buy) or make delivery of a security (in the case of a commitment to sell), in either case at the option of the buyer of the commitment.

(8) A credit union's directors, officials, committee members, and employees, and immediate family members of such persons, may not receive consideration in any form in connection with the making of an investment or deposit in a common trust fund by the credit union.

[Statutory Authority: RCW 31.12.545. 86-04-068 (Order 85-7), § 419-36-090, filed 2/5/86.]

Chapter 419-40 WAC

RULES ON CREDIT UNION PARTICIPATION IN COMMERCIAL BUSINESS ACTIVITIES

WAC

419-40-010	Credit union financial interest in commercial enterprise.
419-40-020	Endorsements of commercial products or services.
419-40-030	Offering of gifts, prizes and premiums.
419-40-040	Use of credit union space to advertise commercial products and services.
419-40-050	Commercial programs offered to credit union members.

WAC 419-40-010 Credit union financial interest in commercial enterprise. No credit union shall have any direct financial interest in a commercial enterprise by way of stock or other ownership interest in a commercial corporation, by way of partnership interest or participation in a joint venture in a general business enterprise or by way of exchanging money or services for a share of the proceeds of any commercial business enterprise except as provided below:

(1) Any credit union may make loans to commercial enterprises and investments in commercial enterprises to the extent permitted by statute;

(2) Any credit union may engage in the business of renting, leasing or subleasing portions of the land and building(s), in which the credit union carries on its business, to the extent that such land and buildings are not needed for credit union operations;

(3) The supervisor may upon written application grant permission to a credit union to participate in a business enterprise not otherwise authorized by law or by this section, where the supervisor is satisfied that the business enterprise is appropriate and adjunct to ordinary credit union operations and would not be contrary to law.

[Statutory Authority: RCW 31.12.360. 79-08-047 (Order 79-2), § 419-40-010, filed 7/19/79.]

WAC 419-40-020 Endorsements of commercial products or services. No credit union shall endorse or vouch for the quality of the products or services offered by any other commercial business, nor shall the directors of a credit union spend any credit union money for the purpose of endorsing or advertising the products or services of another commercial business.

[Statutory Authority: RCW 31.12.360. 79-08-047 (Order 79-2), § 419-40-020, filed 7/19/79.]

WAC 419-40-030 Offering of gifts, prizes and premiums. No credit union may offer any commercial product or service as an inducement to membership or other participation in credit union activities: *Provided*, That this section shall not be construed to prohibit a credit union from offering share accounts in nominal amounts or other items of nominal value to members or prospective members of the credit union, in connection with general promotional activities of the credit union or in connection with the opening of a new credit union, a new credit union office, or the relocation of a credit union office. The supervisor may from time to time issue written guidelines defining the terms "nominal amounts" and "nominal value" as used in this section.

[Statutory Authority: RCW 31.12.360. 79-08-047 (Order 79-2), § 419-40-030, filed 7/19/79.]

WAC 419-40-040 Use of credit union space to advertise commercial products and services. Any credit union may permit the use of its property for the advertisement of goods and services offered by other commercial establishments, providing that the space or property devoted to such purposes constitutes a small proportion of the total property occupied by the credit union, and providing that no product or service is displayed or advertised in such a manner as to imply that the product or service is offered for sale directly by the credit union or is endorsed or vouched for by the credit union.

[Statutory Authority: RCW 31.12.360. 79-08-047 (Order 79-2), § 419-40-040, filed 7/19/79.]

WAC 419-40-050 Commercial programs offered to credit union members. The board of directors of any credit union may by resolution permit any business enterprise to

contact its membership for the purpose of offering some product or service to the membership, or the board of directors of any credit union may authorize the use of its own facilities for the purpose of communicating the offer of some commercial product or service to the membership, so long as no funds of the credit union are spent in connection with such an offer, so long as the offer neither states nor implies endorsement of the product or service offered, so long as every such offer states plainly that the product or service offered is not endorsed or vouched for by the credit union and that the credit union will accept no liability in connection with the use of the product or service offered, and so long as the credit union obtains from the business enterprise making the offer a written agreement to hold the credit union harmless from any claim arising out of the sale or use of the product or service concerned.

[Statutory Authority: RCW 31.12.360. 79-08-047 (Order 79-2), § 419-40-050, filed 7/19/79.]

Chapter 419-44 WAC

MISCELLANEOUS CREDIT UNION RULES

WAC

419-44-010 State chartered credit unions—Acceptance of audit instead of examination.

WAC 419-44-010 State chartered credit unions—Acceptance of audit instead of examination. (1) RCW 31.12.320 authorizes the acceptance, in the supervisor's discretion, of independent audit reports prepared pursuant to RCW 31.12.200 in lieu of the examination required thereunder. In order to be considered for acceptance in lieu of an examination by the supervisor's staff, an audit must meet the following conditions:

(a) The audit was performed by accountants who have demonstrated to the supervisor extensive knowledge of the examination procedures and techniques utilized by the division of savings and loan;

(b) The scope of the audit follow, but is not limited to, the scope of examinations conducted by the division of savings and loan, including a compliance review;

(c) The audit includes a verification of loan and share accounts performed in accordance with WAC 419-44-020;

(d) The audit includes a cash reconciliation, including an adequately documented physical cash count, and also includes an affirmative verification of investments and deposits made by the audited credit union;

(e) Verification of the status of funds borrowed by the audited credit union, including promissory notes and certificates;

(f) The audit sets forth such comments as are appropriate in a positive format specifying corrective action recommended and schedule for completing such corrective action;

(g) The audit was performed not less than nine months after and not more than fifteen months after the last examination by the division of savings and loan or an audit which was accepted in lieu thereof.

(h) All working papers as well as the accountant's report, internal control report, and any other documents associated with the audit are made available to the supervisor.

(2) Select portions of an audit may be utilized by division of savings and loan examiners in conducting a particular examination if:

(a) The date of the audit corresponds reasonably with the date of the examination; and

(b) That portion of the audit being utilized is supported by working papers which substantially correspond to examination work papers utilized in the conduct of division of savings and loan examinations.

[Statutory Authority: RCW 31.12.320. 83-05-022 (Order 83-1), § 419-44-010, filed 2/9/83.]

Chapter 419-52 WAC

MERGER OR ACQUISITION OF TROUBLED ASSOCIATIONS

WAC

419-52-010 Purpose.
419-52-020 Merger or acquisition of a troubled foreign association by a domestic association.
419-52-030 Acquisition of a troubled domestic association by a foreign association.

WAC 419-52-010 Purpose. The purpose of this chapter is to set forth the guidelines which allow for the interstate merger or acquisition of troubled savings and loan associations. The guidelines follow the federal home loan bank board's statement of policy regarding interstate branching.

[Statutory Authority: RCW 33.12.014. 82-08-023 (Order 82-1), § 419-52-010, filed 3/30/82.]

WAC 419-52-020 Merger or acquisition of a troubled foreign association by a domestic association. Pursuant to RCW 33.12.012 and 33.12.014, a domestic savings and loan association may acquire or merge with a foreign association under the following circumstances:

(1) The regulator of the foreign association believes that a merger is necessary to prevent the failure of the foreign association;

(2) The regulator of the foreign association believes that no adequate merger candidates exist within the regulator's jurisdiction;

(3) The regulator of the foreign association believes that it is appropriate for the foreign association to be acquired by a domestic association; and

(4) The supervisor believes that it is appropriate for the domestic association to acquire the foreign association.

Any acquisition made under this authority shall be conducted in the same manner so outlined in RCW 33.24.350 - 33.24.380.

[Statutory Authority: RCW 33.12.014. 82-08-023 (Order 82-1), § 419-52-020, filed 3/30/82.]

WAC 419-52-030 Acquisition of a troubled domestic association by a foreign association. Pursuant to RCW 33.12.012 and 33.12.014, and notwithstanding any other law to the contrary, a foreign savings and loan association may acquire a domestic association under the following circumstances:

- (1) The supervisor believes that a merger is necessary to prevent the failure of the domestic association;
- (2) The supervisor believes that no adequate merger candidates exist in Washington;
- (3) The supervisor believes that it is appropriate for the domestic association to be acquired by a foreign association; and
- (4) The regulator of the foreign association believes that it is appropriate for the foreign association to acquire the domestic association.

Any acquisition made under this authority shall be subject to RCW 33.24.350 - 33.24.380.

[Statutory Authority: RCW 33.12.014. 82-08-023 (Order 82-1), § 419-52-030, filed 3/30/82.]

Chapter 419-56 WAC SAVINGS AND LOAN TRUST POWERS

WAC

419-56-010	Definitions.
419-56-020	Administration of fiduciary powers.
419-56-030	Application process.
419-56-040	Supervisor action on application.
419-56-050	Engagement in unauthorized trust business prohibited.
419-56-060	Modification or revocation of investment practices previously authorized.
419-56-070	Investigation fee for new trust applications.
419-56-080	Audit of the trust department.
419-56-090	Examinations and fees.

WAC 419-56-010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means the fiduciary relationship in which title to the property constituting the agency does not pass to the trust department 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.

(2) "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.

(3) "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, depositary, committee of estates of incompetents.

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

(5) "Supervisor" means the supervisor of savings and loan associations, department of general administration.

(6) "Trust business" means the business of doing any or all of the activities specified in RCW 30.08.150 (2) through (11).

(7) "Trust department" means that group or groups of officers and employees of a savings and loan association to

whom are designated by the board of directors the performance of the fiduciary responsibilities of the association, whether or not the groups or groups are so named.

[Statutory Authority: RCW 33.12.010(24). 88-02-068 (Order 87-2), § 419-56-010, filed 1/6/88.]

WAC 419-56-020 Administration of fiduciary powers. (1)(a) The board of directors of the savings and loan association is responsible for the proper exercise of fiduciary powers by the trust department. 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 savings and loan association 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 association'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 fifteen months of the last review, all the assets held in or for each fiduciary account where the association 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 chapter 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 savings and loan association and its trust department.

(4) The trust department may utilize personnel and facilities of other departments of the savings and loan association, and other departments of the savings and loan association 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 savings and loan association 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 savings and loan associations.

(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.

[Statutory Authority: RCW 33.12.010(24). 88-02-068 (Order 87-2), § 419-56-020, filed 1/6/88.]

WAC 419-56-030 Application process. Associations desiring to establish trust departments shall complete an application establishing the scope of the intended operation. Upon receiving an application from an association to engage in trust business pursuant to this chapter, the supervisor may request such additional information as he deems necessary for the informed disposition of the application. If supplementary information is requested by the supervisor, the application will not be complete until the supplementary information is supplied.

[Statutory Authority: RCW 33.12.010(24). 88-02-068 (Order 87-2), § 419-56-030, filed 1/6/88.]

WAC 419-56-040 Supervisor action on application. After receiving an application from a savings and loan association to engage in trust business and after having considered it, the supervisor shall grant, grant conditionally, grant in modified form, or deny the application and shall inform the applicant in writing of his action and of the reasons therefor. Any application not acted upon within six months after its receipt by the supervisor shall be deemed denied unless the supervisor, in writing, informs the applicant that he is holding the application for further review.

[Statutory Authority: RCW 33.12.010(24). 88-02-068 (Order 87-2), § 419-56-040, filed 1/6/88.]

WAC 419-56-050 Engagement in unauthorized trust business prohibited. No savings and loan association shall engage in any trust business not authorized in advance by the supervisor in accordance with this rule, unless the supervisor informs an applicant in writing that it may engage in a trust business provisionally while he reviews the application. Failure of a savings and loan association to comply with the terms of this chapter may be grounds for supervisory action against the savings and loan, its directors, or officers.

[Statutory Authority: RCW 33.12.010(24). 88-02-068 (Order 87-2), § 419-56-050, filed 1/6/88.]

WAC 419-56-060 Modification or revocation of investment practices previously authorized. The supervisor may find that a trust business previously authorized by him is no longer a safe and prudent practice for savings and loan associations generally to engage in, or has become inconsistent with applicable state or federal law, or has ceased to be a safe and prudent practice in one or more particular savings and loan associations in light of their financial condition or management. Upon such a finding, the supervisor may in writing inform the board of directors of any or all of the associations engaging in such a trust business that the authority to engage in the activity has been revoked or modified. When the supervisor so notifies any savings and loan association, its directors and officers shall forthwith take steps to cease the trust business (if authority to engage in the activity has been revoked) or to make such modifications as the supervisor requires. The supervisor may for cause shown grant a savings and loan association some definite period of time within which to arrange its affairs to comply with the supervisor's orders. Savings and loan associations which continue to engage in a trust business where their authority to do so has been revoked or

modified will be treated as if the authority to engage in the practice had never been granted, and their actions may be grounds for supervisory action against the association, its directors, or officers.

[Statutory Authority: RCW 33.12.010(24). 88-02-068 (Order 87-2), § 419-56-060, filed 1/6/88.]

WAC 419-56-070 Investigation fee for new trust applications. The investigation fee charged under RCW 33.28.020 in connection with applications to establish a new savings and loan trust department shall be one thousand dollars. In the event the actual costs of the investigation conducted with respect to a particular application are less than the amount of the fee, such difference between the fee and the actual costs submitted shall be refunded, provided that in no event shall more than five hundred dollars be refunded. Expansion of the originally approved scope of trust business must also be approved by the supervisor by additional application and fee. In the event that actual costs of processing additional applications are less than the amount of the fee, such difference between the fee and the actual cost shall be refunded, provided that in no event shall more than seven hundred dollars be refunded. For the purposes of this section, actual costs include travel and per diem expenses paid to division personnel in connection with the investigation.

[Statutory Authority: RCW 33.12.010(24). 88-02-068 (Order 87-2), § 419-56-070, filed 1/6/88.]

WAC 419-56-080 Audit of the trust department. A committee of directors, exclusive of any active officers of the savings and loan association shall at least once during each calendar year and within fifteen 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 rule, 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.

[Statutory Authority: RCW 33.12.010(24). 88-02-068 (Order 87-2), § 419-56-080, filed 1/6/88.]

WAC 419-56-090 Examinations and fees. The supervisor shall have the power to examine the affairs of a trust department of a state-chartered savings and loan association under the same general powers as outlined in RCW 33.04.020. The report of examination of any trust department will be subject to the same restrictions as those of the parent association as outlined in RCW 33.04.110. Fees for such examinations will be charged on the same hourly basis as those for the parent association as established by administrative rule.

[Statutory Authority: RCW 33.12.010(24). 88-02-068 (Order 87-2), § 419-56-090, filed 1/6/88.]

Chapter 419-60 WAC

FOREIGN ASSOCIATION BRANCH APPLICATION PROCEDURES

WAC

419-60-010	Application procedures.
419-60-020	Information to be included in the application.
419-60-030	Approval to conduct the business of an association in Washington.

WAC 419-60-010 Application procedures. RCW 33.32.030 provides for regulatory authority by the supervisor over the activities of foreign associations within the state of Washington, and requires that such associations conduct their business in accordance with the appropriate statutes and under the requirements set forth by the supervisor in various rules. In order to conduct the business of a savings and loan in Washington, a foreign association must formally apply for the approval of the supervisor. Procedures for application are as follows:

(1) The application must be filed with the supervisor at the offices of the Division of Savings and Loan, Room 217C, General Administration Building, Olympia, Washington 98504.

(2) The application shall be filed in duplicate and shall be accompanied by a filing fee of five thousand dollars. In the event the actual costs of investigating the application exceed this amount, such difference between the fee and the actual costs shall be paid by the applicant. For the purposes of this section, actual costs shall include but not be limited to travel and per diem expense paid to division personnel in connection with the investigation.

[Statutory Authority: RCW 33.32.030. 88-02-067 (Order 87-1), § 419-60-010, filed 1/6/88.]

WAC 419-60-020 Information to be included in the application. An application shall include at least the following information:

(1) Name, address, and telephone number of the applicant.

(2) Name, address, and telephone number of the person to be contacted concerning the application.

(3) A summary of the applicant's history, which should include as a minimum the date and place of incorporation, the date and nature of any mergers or acquisitions, and certified current copies of the applicant's articles of incorporation and bylaws.

(4) A description of the applicant's business and corporate structure, including a listing of all branches or similar offices, and each majority owned subsidiary, and the nature and extent of the business activities of each.

(5) A business plan describing the applicant's proposed business activities in this state.

(6) A copy of the independent auditor's report for the applicant's most recent fiscal year and comparative financial statements for the prior fiscal year.

(7) The name, address, professional experience, and financial statement of the chief executive officer and principal operating officers.

(8) The name, address, and principal occupation of each director of applicant, and completed biographical and financial statements on each.

[Title 419 WAC—page 18]

(9) A copy of the last two examination reports prepared by the applicable Federal Home Loan Bank, the last two state examination reports, any correspondence from the relevant regulator to the board of directors discussing each report, and the board's responses thereto.

(10) A statement as to the presence or absence of any supervisory agreement or regulatory order that may be in effect or may have been in effect in the last five years, and, if so, a copy of each such order or agreement.

(11) An opinion from the applicant's state regulatory agency which describes the conditions under which Washington associations may conduct business in such state.

(12) A statement of total shares outstanding and total number of stockholders if the applicant is a stock association. Additionally, provide a breakdown of stock ownership by officers and directors and any other entities owning five percent or more of the association's stock.

(13) A copy of the association's bond and its riders/attachments.

(14) Any additional information that may be required by the supervisor or deemed appropriate by the applicant.

[Statutory Authority: RCW 33.32.030. 88-02-067 (Order 87-1), § 419-60-020, filed 1/6/88.]

WAC 419-60-030 Approval to conduct the business of an association in Washington. The information required by WAC 419-06-020 must demonstrate to the satisfaction of the supervisor:

(1) That the applicant, the directors of the applicant, and the chief officers of the applicant are each of good character and sound financial standing.

(2) That the financial history and condition of the applicant are satisfactory.

(3) That the applicant's plan to conduct the business of an association in Washington affords a reasonable promise of success.

(4) That the state in which the home office of the applicant is located permits Washington associations to conduct the business of an association in such state in substantially the same manner as the applicant proposes in this state.

[Statutory Authority: RCW 33.32.030. 88-02-067 (Order 87-1), § 419-60-030, filed 1/6/88.]

Chapter 419-64 WAC

CREDIT UNION MEMBER BUSINESS LOANS

WAC

419-64-010	Purpose.
419-64-020	Definitions.
419-64-030	Policy requirements.
419-64-040	Underwriting review requirements.
419-64-050	Loans to one borrower.
419-64-060	Allowance for loan losses.
419-64-070	Minimum reserves-to-assets ratio.
419-64-080	Prohibitions, director and employee loans.
419-64-090	Prohibitions, other.

WAC 419-64-010 Purpose. This chapter is adopted by the supervisor for the purpose of setting guidelines for credit unions to make member business loans. The objective of this chapter is to ensure that member business loans are

made in such a way as to minimize the risk inherent in this type of lending. The supervisor's goal is to provide the basis for a system of member business lending that is consistent with safe and sound credit union practices. This chapter does not change the restrictions on loans to nonpersons outlined in RCW 31.12.406(1).

[Statutory Authority: RCW 31.12.015 and 31.12.535. 89-04-050 (Order 89-1), § 419-64-010, filed 2/1/89.]

WAC 419-64-020 Definitions. Unless the context clearly requires otherwise, as used in this chapter:

(1) "Member business loan" means any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial business or agricultural purpose, except the following, which shall not be considered a member business loan for the purposes of this chapter:

(a) A loan which is fully secured by a first or second lien on a one-to-four unit dwelling that is the member's primary or secondary residence.

(b) A loan which is fully secured by shares in the credit union or by perfected security interests in deposits in other financial institutions.

(c) A loan, the repayment of which is fully guaranteed or insured by the federal government or by the state of Washington or any of its political subdivisions. A binding advance commitment to purchase a member business loan in full by any such entity shall be considered a guarantee for the purposes of this paragraph.

(d) A loan which, when added to all other loans (excluding loans described in paragraphs (a), (b), and (c) of this subsection) to the borrower totals less than twenty thousand dollars.

(2) "Reserves" means the regular reserve, undivided earnings or surplus, and any other unencumbered reserves.

(3) "Affiliated company" means a partnership, corporation, or other entity, fifteen per cent of which is owned by any one director, officer, agent, or employee of the credit union or twenty-five per cent of which is owned by any combination of directors, or employees of the credit union.

(4) "Borrower" means any individual member of the credit union or other entity such as a partnership, corporation, or any other business combination in which the member has a financial interest.

[Statutory Authority: RCW 31.12.015 and 31.12.535. 89-04-050 (Order 89-1), § 419-64-020, filed 2/1/89.]

WAC 419-64-030 Policy requirements. A credit union may make member business loans only in accordance with the following requirements unless prior written approval is obtained from the supervisor:

(1) Written commercial lending policies. Credit unions presently involved in member business loans must adopt specific commercial loan policies within sixty days of the effective date of this chapter and must review them at least once every twelve months and certify in the minutes of the board meeting that the review occurred. Amendments to these policies also must be approved by the board. Other credit unions must adopt similar policies in accordance with this chapter prior to implementing a member business loan program.

These policies and any amendments thereto must be submitted to the supervisor for review at least thirty days prior to the proposed date of implementation of the member business loan program or the amendment. These formal written policies shall at a minimum appropriately address the following:

(1) The types of business loans that will be made.

(2) The credit union's market area for business loans.

(3) The maximum amount of the credit union's assets in relationship to reserves that will be invested in member business loans. In no case will this ratio exceed three hundred percent.

(4) The maximum amount of the credit union's assets in relationship to reserves that will be loaned under this program to any one member, not to exceed the amount set in WAC 419-64-050.

(5) The qualifications and experience of personnel involved in making and administering member business loans.

(6) Collateral requirements for these loans which shall include loan-to-value ratios based on type of loan and type of security, title and casualty insurance requirements, and valuation cycles to regularly determine marketability of collateral.

(7) Schedules of interest rates and terms for each category of member business loan and on what basis these will be adjusted.

(8) Procedures for loan monitoring, servicing, and follow-up procedures, including collection activities.

[Statutory Authority: RCW 31.12.015 and 31.12.535. 89-04-050 (Order 89-1), § 419-64-030, filed 2/1/89.]

WAC 419-64-040 Underwriting review requirements. A written analysis of the borrower's ability to repay member business loans shall be made based on the following underwriting areas at a minimum:

(1) Present financial status based on a current balance sheet and income and expense statement, supported by appropriate tax returns, credit information, and historical data.

(2) Pro-forma financial statements showing the impact of the loan on the borrower's capacity to repay.

(3) A feasibility analysis of the project considering local economic conditions and comparative industry trends for the type of venture involved.

(4) Capacity of the borrower to repay from assets not related to the venture in case of failure.

(5) Certification by the appropriately designated loan officer or credit committee that the loan under consideration meets all applicable credit union and statutory requirements.

[Statutory Authority: RCW 31.12.015 and 31.12.535. 89-04-050 (Order 89-1), § 419-64-040, filed 2/1/89.]

WAC 419-64-050 Loans to one borrower. The aggregate amount of outstanding member business loans to any one borrower shall not exceed twenty percent of the credit union's reserves. If any portion of a member business loan is fully secured by shares in the credit union or a perfected security interest in deposits in another financial institution, such portion shall not be calculated in determining the twenty percent limitation. The supervisor may waive

this limitation upon application in writing from a credit union prior to the making of the loan in question. The application for waiver must include the total amount sought, the reason for the waiver request, and other such information as the supervisor may require to evaluate the request.

[Statutory Authority: RCW 31.12.015 and 31.12.535. 89-04-050 (Order 89-1), § 419-64-050, filed 2/1/89.]

WAC 419-64-060 Allowance for loan losses. Under RCW 31.12.475, the supervisor may require the write-off of losses or the establishment of such reserves for weak assets as is deemed appropriate by the supervisor. Member business loans may be classified as performing, substandard, doubtful, or loss, depending on various factors not limited to the delinquency of the loan. Insufficient collateral or unreasonable collateral appraisals, inadequate documentation, and uncertain source of repayment are among the primary weaknesses that will be considered grounds for asset classification. Member business loans adversely classified (substandard, doubtful, or loss) shall be reserved as follow:

(1) Loss loans shall be charged off or reserved at one hundred per cent of the outstanding principal balance.

(2) Doubtful loans shall be reserved at fifty per cent of the outstanding principal balance.

(3) Substandard loans shall be reserved at ten per cent of the outstanding principal balance.

The supervisor may require establishment of reserves of greater or lesser amounts.

[Statutory Authority: RCW 31.12.015 and 31.12.535. 89-04-050 (Order 89-1), § 419-64-060, filed 2/1/89.]

WAC 419-64-070 Minimum reserves-to-assets ratio. Because of the higher risk associated with member business loans, a credit union must have a reserves-to-assets ratio of not lower than four percent to make such loans. The supervisor may waive the requirements of this section in writing.

[Statutory Authority: RCW 31.12.015 and 31.12.535. 89-04-050 (Order 89-1), § 419-64-070, filed 2/1/89.]

WAC 419-64-080 Prohibitions, director and employee loans. Any loan or loans to directors, agents, employees, supervisory or credit committee members, members of their immediate families, or an affiliated company must be made on no more favorable terms and conditions and must not present greater risk to the credit union than similar loans available at that time to other members.

The board of directors shall specifically review each member business loan made to the entities listed in the preceding paragraph and shall certify in writing that the terms, conditions, and elements of risk of each loan(s) meet the requirements stated.

[Statutory Authority: RCW 31.12.015 and 31.12.535. 89-04-050 (Order 89-1), § 419-64-080, filed 2/1/89.]

WAC 419-64-090 Prohibitions, other. A credit union shall not grant a member business loan where it receives any portion of profits from the venture other than

the contractual payment of principal, interest, and normal fees as set forth on the debt instrument.

[Statutory Authority: RCW 31.12.015 and 31.12.535. 89-04-050 (Order 89-1), § 419-64-090, filed 2/1/89.]

Chapter 419-70 WAC

CREDIT UNION COMMON BOND DEFINITION

WAC

419-70-010	Purpose.
419-70-020	General requirement.
419-70-030	Common bond of occupation.
419-70-040	Common bond of association.
419-70-050	Common bond of community.

WAC 419-70-010 Purpose. This chapter is adopted by the supervisor pursuant to RCW 31.12.045 (1)(a) for the purpose of defining "common bond" as it applies to the ability of certain groups to be included within the field of membership of a credit union.

[Statutory Authority: RCW 31.12.045(1) and 31.12.535. 89-16-083 (Order 89-2), § 419-70-010, filed 8/1/89, effective 9/1/89.]

WAC 419-70-020 General requirement. RCW 31.12.045 limits credit union membership "to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district." Any group seeking inclusion within the field of membership of a credit union must share a common bond of occupation, association, or community.

[Statutory Authority: RCW 31.12.045(1) and 31.12.535. 89-16-083 (Order 89-2), § 419-70-020, filed 8/1/89, effective 9/1/89.]

WAC 419-70-030 Common bond of occupation. "Common bond of occupation" means a current, unifying factor or characteristic among a group of natural persons which links them together and distinguishes them from the general public and which is based on employment by or a similar relationship with the same enterprise. Employees of subsidiaries or affiliates of the enterprise, nonemployee officials of the enterprise, and persons under contract to work regularly for the enterprise may be included in the same common bond of occupation if they are separately identified in the credit union's bylaws.

[Statutory Authority: RCW 31.12.045(1) and 31.12.535. 89-16-083 (Order 89-2), § 419-70-030, filed 8/1/89, effective 9/1/89.]

WAC 419-70-040 Common bond of association. "Common bond of association" means a current, unifying factor or characteristic among a group of natural persons which links them together and distinguishes them from the general public and which is based on membership in a bona fide association, fraternal organization, or religious organization. Such an association or organization must be primarily composed of natural persons, who participate within the group in organized activities developing common loyalties, common interests, and mutual benefits. Such an association or organization must have clearly defined membership eligibility requirements, must have officers elected by the membership, and must hold regular meetings at least once

each year and otherwise provide activities promoting contact among its members. Matriculating students of an accredited college or university also have a common bond of association.

A group (a) the primary purpose of which is to provide products or services to members at a discount, (b) which has no meaningful qualifications for membership other than a generalized interest in or agreement on a particular topic, with no requirement of an ongoing commitment for personal participation in the group, (c) which is formed or continued primarily for a commercial purpose or (d) which is formed or continued primarily for the purpose of its members obtaining credit union services, does not qualify as a bona fide association or organization, for the purposes of this section.

[Statutory Authority: RCW 31.12.045(1) and 31.12.535. 89-16-083 (Order 89-2), § 419-70-040, filed 8/1/89, effective 9/1/89.]

WAC 419-70-050 Common bond of community. "Common bond of community" means a current unifying factor or characteristic among a group of natural persons, which links them together and distinguishes them from the general public and which is based on residence or employment with a well-defined geographic area that is recognized by those who live or work there as a neighborhood, community, or rural district. The boundaries of the proposed group must be clearly identifiable and must set it apart from the surrounding area.

[Statutory Authority: RCW 31.12.045(1) and 31.12.535. 89-16-083 (Order 89-2), § 419-70-050, filed 8/1/89, effective 9/1/89.]

Chapter 419-72 WAC

CREDIT UNION FIELD OF MEMBERSHIP EXPANSION

WAC

419-72-010	Purpose.
419-72-015	Definitions.
419-72-020	Expansion of a group with a common bond of occupation.
419-72-025	Application.
419-72-030	Consolidation.
419-72-035	Other information.
419-72-040	Overlap justification.
419-72-045	Expansion of a group with a common bond of association.
419-72-050	Application.
419-72-055	Other information.
419-72-060	Expansion of a group with a common bond of community.
419-72-065	Application.
419-72-070	Application deemed complete.
419-72-075	Approval.
419-72-080	Special circumstances.
419-72-090	Adoption of form.
419-72-095	Appendix 1—Request for bylaw amendment.

WAC 419-72-010 Purpose. This chapter is adopted by the supervisor for the purpose of establishing the application process for a credit union to expand its field of membership to include a separate group with a common bond of occupation, association, or community which each have a common bond.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-010, filed 12/6/89, effective 1/6/90.]

WAC 419-72-015 Definitions. Unless the context clearly requires otherwise, as used in this chapter:

- (1) "Common bond of occupation" has the same meaning as in WAC 419-70-030
- (2) "Common bond of association" has the same meaning as in WAC 419-70-040
- (3) "Common bond of community" has the same meaning as in WAC 419-70-050
- (4) "Credit union" means a credit union organized and operating under chapter 31.12 RCW.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-015, filed 12/6/89, effective 1/6/90.]

WAC 419-72-020 Expansion of a group with a common bond of occupation. If a credit union wants to include a separate group with a common bond of occupation in its field of membership it shall make application to the supervisor to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as set forth in WAC 419-72-095 and shall be submitted to the supervisor in duplicate along with an application as described in WAC 419-72-025.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-020, filed 12/6/89, effective 1/6/90.]

WAC 419-72-025 Application. The application to include a separate group with a common bond of occupation shall include at least the following information:

- (1) The name of the credit union;
- (2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;
- (3) A description of the enterprise including its name, number of employees, the geographic location of those employees, and the degree of employee support to be made available, i.e., payroll deduction, access to employer premises. If other related individuals specified in WAC 419-70-030 are included, they must be separately identified;
- (4) A statement from the enterprise's managing officer that the enterprise desires membership for its employees in the applicant credit union and that they are not currently eligible for membership in an existing credit union, either state or federally chartered, because of their employment. If the employees of the enterprise are eligible for membership in another credit union the applicant credit union must provide a statement of non-objection from the other credit union;

(5) A copy of the applicant credit union's most recent financial statement;

(6) A copy of the applicant credit union's business plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.

Upon receipt of the above application, the supervisor may request such additional information as is necessary to clarify the application.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-025, filed 12/6/89, effective 1/6/90.]

WAC 419-72-030 Consolidation. If a credit union submits multiple bylaw amendments either simultaneously or within the same six month period, the requirements of subsection (5) and (6) of WAC 419-72-025 can be satisfied by reference to the first application submitted during the semi-annual period.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-030, filed 12/6/89, effective 1/6/90.]

WAC 419-72-035 Other information. If a separate group with a common bond of occupation exceeds 700 individuals, the applicant credit union shall provide the following additional information with its application:

(1) An analysis that explains why the group does not have sufficient size or resources to form a credit union of its own;

(2) Documentation that the applicant credit union is serving its current field of membership or has plans in place to do so within a reasonable period of time;

(3) Documentation that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-035, filed 12/6/89, effective 1/6/90.]

WAC 419-72-040 Overlap justification. If a credit union cannot obtain the letter of non-objection required in WAC 419-72-025(4), after having made a best efforts attempt to do so, it may submit documentation that:

(1) At least 30% of the employees of the enterprise desire membership in the applicant credit union, or

(2) The other credit union has failed to adequately serve the group after a reasonable period of time, and

(3) How the applicant credit union plans to improve that service.

A copy of the information required in subsections (1), (2), and (3) above will be supplied to the other credit union. That credit union will be given 60 days during which to respond or raise objections to the overlap.

Overlaps will be approved if approval is consistent with WAC 419-72-075 and at least 30% of the employees of the enterprise desire membership in the applicant credit union; or if, in the opinion of the supervisor, (a) the other credit union is not adequately serving the group, (b) the group itself desires membership in the applicant credit union and (c) the applicant credit union has reasonable plans to do so. More consideration will be given to the quality of service rather than variety of services.

Overlaps will not be granted if the result, in the opinion of the supervisor, might reasonably threaten the viability of the other credit union.

This section is intended to establish procedures to deal with unavoidable conflicts; it is not intended to encourage overlaps. Overlaps will not be granted if, in the opinion of

the supervisor, an applicant credit union is using this section as a marketing device.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-040, filed 12/6/89, effective 1/6/90.]

WAC 419-72-045 Expansion of a group with a common bond of association. If a credit union wants to include a separate group with a common bond of association into its field of membership it shall make application to the supervisor to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as set forth in WAC 419-72-095 and shall be submitted to the supervisor in duplicate along with an application as described in WAC 419-72-050.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-045, filed 12/6/89, effective 1/6/90.]

WAC 419-72-050 Application. The application to include a separate group with a common bond of association shall contain at least the following information:

(1) The name of the credit union;

(2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;

(3) A detailed description of the group including its charter or articles of incorporation, its bylaws, the qualifications and requirements for membership, and the number and geographic location of its current members;

(4) A resolution from the petitioning group's governing body that the members of the group are not currently eligible for membership in an existing credit union and have been informed of the proposal to affiliate with the applicant credit union and that those members desire to be associated with the applicant credit union and are willing to support its objectives;

(5) A statement by the applicant credit union that its marketing efforts will be directed toward active members of the group and that the group will not be used as vehicle to create eligibility for credit union membership to the general public;

(6) A copy of the applicant credit union's most recent financial statement;

(7) A copy of the applicant credit union's business plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.

Upon receipt of the above application the supervisor may request such other information as is necessary to clarify the application.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-050, filed 12/6/89, effective 1/6/90.]

WAC 419-72-055 Other information. If group has more than 700 members the applicant credit union shall provide the following additional information to the supervisor with its application:

(1) Documentation that explains why the group does not have sufficient size or resources to form a credit union of its

own. A statement from the group that it lacks sufficient size or its resources are not sufficient to satisfy this requirement;

(2) Documentation that the applicant credit union is actively serving its current field of membership or has plans in place to do so within a reasonable period of time;

(3) Documentation that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-055, filed 12/6/89, effective 1/6/90.]

WAC 419-72-060 Expansion of a group with a common bond of community. If a credit union wants to include a group with a common bond of community into its field of membership it shall make application to the supervisor to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as set forth in WAC 419-72-095 and shall be submitted to the supervisor in duplicate along with an application as described in WAC 419-72-065.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-060, filed 12/6/89, effective 1/6/90.]

WAC 419-72-065 Application. The application to include a community shall contain at least the following information:

(1) The name of the credit union;

(2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;

(3) A detailed description of the community, neighborhood or rural district including a map setting forth the geographic boundaries of the community and the current population of the proposed community;

(4) Documentation satisfactory to the supervisor describing how the proposed community meets the definition of common bond as set forth in WAC 419-70-050;

(5) Documentation satisfactory to the supervisor that the community does not have adequate credit union financial services available to it;

(6) Letters of support from community organizations and/or residents of the area demonstrating their desire to be associated with the applicant credit union and their willingness to support its objectives;

(7) Any other information that demonstrates the community's desire to have the services of a community based credit union;

(8) A copy of the applicant credit union's most recent financial statement;

(9) A copy of the applicant credit union's business plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels. The plan should include active participation in community activities;

(10) A copy of the credit union's current loan underwriting standards describing adequate safeguards for its lending activities;

(11) Evidence that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located.

Upon receipt of the above application the supervisor may request such other information as necessary to clarify the application.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-065, filed 12/6/89, effective 1/6/90.]

WAC 419-72-070 Application deemed complete. An application to expand its field of membership shall be deemed complete when the supervisor has received the information required in this chapter except when the applicant credit union is required to give notice to other credit unions. Such an application will not be deemed complete until at least 30 days from the date such notification was given. When an application involves an overlap dispute, such application will not be deemed complete until 60 days from the date that information required in WAC 419-72-040 has been supplied to the affected credit union. If an application is received that is not complete the supervisor will give written notice to the credit union that further information is necessary no later than 30 days from the date the original application was received.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-070, filed 12/6/89, effective 1/6/90.]

WAC 419-72-075 Approval. The supervisor shall give written approval or denial of a request made in conformance with this regulation within 30 days from the date it is deemed complete. The supervisor's decision will be based on the following general criteria:

(1) The application is consistent with the provisions of chapter 31.12 RCW and this regulation;

(2) The credit union is currently operating in conformance with the provisions of chapter 31.12 RCW, applicable rules in Title 419 WAC, and written supervisory orders, directives and agreements;

(3) The proposed new group possesses a common bond as defined in chapter 419-70 WAC. The strongest consideration will be given to groups on the lowest organizational level;

(4) The application is economically feasible and advisable;

(5) The proposed new group does not have sufficient size or resources to form a credit union of its own;

(6) The proposed new group is composed of individuals who work or reside within a reasonable distance from an operating office of the applicant credit union;

(7) The applicant credit union is financially sound and possesses the financial resources and management capability to provide credit union service to the proposed group in a safe and sound manner;

(8) The applicant credit union is providing adequate service to its existing eligible membership or has plans to do so in a reasonable time period;

(9) The proposal will make credit union service available to individuals who wish to have it;

(10) Approval of the request will not create a financial hardship on another credit union or threaten its viability.

Approval of a request for a group with a common bond of community will be based on the following additional general criteria:

- (1) The geographic boundaries of the proposed community, set it off as distinct and recognizable;
(2) The common bond of community is the most viable common bond available to provide credit union services to the residents or workers in the subject area;
(3) The proposed community has a total population of 60,000 or less.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-075, filed 12/6/89, effective 1/6/90.]

WAC 419-72-080 Special circumstances. An applicant credit union may request that one or more of the provisions of this regulation be waived if an emergency exists which requires immediate expansion in order to preserve the viability of the applicant credit union.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-080, filed 12/6/89, effective 1/6/90.]

WAC 419-72-090 Adoption of form. The division of savings and loan associations hereby adopts for use by all credit unions requesting approval of amendments to its bylaws, the form attached hereto as WAC 419-72-095, entitled "Request for Bylaw Amendment."

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-090, filed 12/6/89, effective 1/6/90.]

WAC 419-72-095 Appendix 1—Request for bylaw amendment.

"Request for Bylaw Amendment"

AMENDMENT TO BYLAWS NO.

THIS IS TO CERTIFY: That at a meeting called for that purpose the following amendment to the bylaws of the Credit Union was adopted on by the Board of Directors in accordance with the provisions of RCW 31.12.115.

*ARTICLE SECTION :
AMENDED TO READ: ARTICLE SECTION :

Signed this day of , 19

ATTEST:

Chairman/President

Secretary

The foregoing amendment of the Bylaws approved this day of , 19

Supervisor, Division of Savings and Loan Associations, having supervision of Credit Unions.

* Insert section as it now reads.

[Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-095, filed 12/6/89, effective 1/6/90.]

Chapter 419-80 WAC
REAL ESTATE APPRAISALS

WAC

- 419-80-010 Definitions.
419-80-020 Appraisals required.
419-80-030 Transactions for which a state-certified appraiser is required.
419-80-040 Transactions for which either a state-certified or state-licensed appraiser is required.
419-80-050 Appraisal standards.
419-80-060 Appraiser independence.
419-80-070 Professional association membership—Competency.

WAC 419-80-010 Definitions. (1) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately-described property as of a specific date(s), supported by the presentation and analysis of relevant market information.

(2) "Appraisal Foundation" means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(3) "Appraisal subcommittee" means the appraisal subcommittee of the federal Financial Institutions Examination Council.

(4) "Complex one-to-four family residential property appraisal" means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

(5) "Market value" means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- (a) Buyer and seller are typically motivated;
(b) Both parties are well informed or well advised, and acting in what they consider their own best interests;
(c) A reasonable time is allowed for exposure in the open market;
(d) Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
(e) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(6) "Real estate" or "real property" means an identified parcel or tract of land, with any improvements, and includes easements, rights of way, undivided or future interests, or similar rights in a tract of land, but does not include mineral rights, growing crops, water rights, or similar interests

severable from the land when the transaction does not involve the associated parcel or tract of land.

(7) "Real estate-related financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; or

(b) The refinancing of real property or interests in real property; or

(c) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(8) "State-certified appraiser" means any individual who has satisfied the requirements for certification in a state or territory whose criteria for certification as a real estate appraiser currently meet the minimum criteria for certification issued by the appraiser qualifications board of the Appraisal Foundation. No individual shall be a state-certified appraiser unless such individual has achieved a passing grade upon a suitable examination administered by a state or territory that is consistent with and equivalent to the uniform state certification examination issued or endorsed by the appraisal qualification board. In addition, the appraisal subcommittee must not have issued a finding that the policies, practices, or procedures of the state or territory are inconsistent with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) 12 USC 1811. This is equivalent to the state-certified general real estate appraiser classification in the state of Washington.

(9) "State-licensed appraiser" means any individual who has satisfied the requirements for licensing in a state or territory where the licensing procedures comply with Title XI of FIRREA and where the appraisal subcommittee has not issued a finding that the policies, practices, or procedures of the state or territory are inconsistent with Title XI. This is equivalent to the state-certified residential real estate appraiser classification in the state of Washington.

(10) "Tract development" means a project of five units or more that is constructed or is to be constructed as a single development.

(11) "Transaction" means any real estate-related financial transaction entered into on or after January 1, 1993, that:

(a) Any Washington state chartered credit union engages in or contracts for; and

(b) Requires the services of an appraiser.

(12) "Transaction value" means:

(a) For loans or other extensions of credit, the amount of the loan or extension of credit; and

(b) For sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved; and

(c) For the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

[Statutory Authority: RCW 31.12.535. 92-24-053, § 419-80-010, filed 11/30/92, effective 12/31/92.]

WAC 419-80-020 Appraisals required. (1) An appraisal performed by a state-certified or state-licensed

appraiser in accordance with this chapter is required for all real estate-related financial transactions except those in which:

(a) The transaction value is fifty thousand dollars or less; or

(b) A lien on real property has been taken as collateral solely through an abundance of caution and where the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of the lien; or

(c) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate; or

(d) There is a subsequent transaction resulting from a maturing extension of credit, provided that (i) the borrower has performed satisfactorily according to the original terms; (ii) no new moneys have been advanced; (iii) the credit standing of the borrower has not deteriorated; and (iv) there has been no obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection; or

(e) A regulated institution purchases a loan or interest in a loan, pooled loans or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each pooled loan or real property interest met the requirements of this chapter, if applicable, at the time of origination.

(2) Any transaction for which a state-certified or state-licensed appraiser is not required must have an appropriate evaluation of real property collateral that is consistent with the principles of safety and soundness.

(3) The requirements imposed under this section are not intended to excuse or relieve the duty to obtain an appraisal when general financial institution operating practices or other prudent standards would otherwise require an appropriate evaluation of real property collateral.

[Statutory Authority: RCW 31.12.535. 92-24-053, § 419-80-020, filed 11/30/92, effective 12/31/92.]

WAC 419-80-030 Transactions for which a state-certified appraiser is required. The following transactions require a state-certified appraiser:

(1) All transactions having a transaction value of one million dollars or more.

(2) All transactions having a transaction value of more than fifty thousand dollars, other than those involving appraisals of one-to-four family residential properties, shall require an appraisal prepared by a state-certified appraiser.

(3) All complex one-to-four family residential property appraisals rendered in conjunction with transactions shall require a state-certified appraiser if the transaction value is two hundred fifty thousand dollars or more. A regulated institution may presume that appraisals of one-to-four family residential properties are not complex, unless the institution has readily available information that a given appraisal will be complex. The regulated institution shall be responsible for making the final determination of whether the appraisal is complex. If, during the course of the appraisal, a licensed appraiser identifies factors that would result in the property, form of ownership, or market conditions being considered atypical, then either:

(a) The regulated institution may ask the licensed appraiser to complete the appraisal and have a certified appraiser approve and co-sign the appraisal; or

(b) The institution may engage a certified appraiser to complete the appraisal.

(4) Valuation requirement. Secured transactions exempted from appraisal requirements pursuant to WAC 419-80-020(1) and not otherwise exempted from this chapter shall be supported by a written estimate of market value, as defined in this chapter, performed by an individual having no direct or indirect interest in the property, and qualified and experienced to perform such estimates of value for the type and amount of credit being considered.

[Statutory Authority: RCW 31.12.535. 92-24-053, § 419-80-030, filed 11/30/92, effective 12/31/92.]

WAC 419-80-040 Transactions for which either a state-certified or state-licensed appraiser is required. All transactions for which an appraisal is required but which does not require a state-certified appraiser shall be performed by either a state-certified appraiser or state-licensed appraiser.

[Statutory Authority: RCW 31.12.535. 92-24-053, § 419-80-040, filed 11/30/92, effective 12/31/92.]

WAC 419-80-050 Appraisal standards. (1) Minimum standards. Where appraisals are required pursuant to this chapter, all such appraisals shall, at a minimum:

(a) Conform to the uniform standards of professional appraisal practice ("USPAP") adopted by the appraisal standards board of the Appraisal Foundation (the complete text of the USPAP is available from the Appraisal Foundation, 1029 Vermont Ave., N.W. Suite 900, Washington, D.C. 20005), except that the departure provision of the USPAP shall not apply;

(b) Be based upon the definition of market value as set forth in WAC 419-80-010;

(c)(i) Be written and presented in a narrative format, or on forms, that satisfy all the requirements of this section; (ii) be sufficiently descriptive to enable the reader to ascertain the estimated market value and the rationale for the estimate; and (iii) provide detail and depth of analysis that shall reflect the complexity of the real estate appraised;

(d) Analyze and report in reasonable detail any prior sales of the property being appraised that occurred within the following time periods:

(i) For one-to-four family residential property, one year preceding the date when the appraisal was prepared; and

(ii) For all other property, three years preceding the date when the appraisal was prepared;

(e) Analyze and report data on current revenues, expenses, and vacancies for the property if it is and will continue to be incoming-producing;

(f) Analyze and report a reasonable marketing period for the subject property;

(g) Analyze and report on current market conditions and trends that will affect projected income or the absorption period, to the extent they affect the value of the subject property;

(h) Analyze and report appropriate deductions and discounts for any proposed construction, or any completed

properties that are partially leased, any properties that are partially leased or leased at other than market rents, as of the date of the appraisal, or any tract developments with unsold units;

(i) Include in the certification required by the USPAP an additional statement that the appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan;

(j) Contain sufficient supporting documentation with all pertinent information reported so that the appraiser's logic, reasoning, judgment, and analysis in arriving at a conclusion indicates to the reader the reasonableness of the market value reported;

(k) Include a legal description of the real estate being appraised, in addition to the description required by the USPAP;

(l) Identify and separately value any personal property, fixtures, or intangible items that are not real property but are included in the appraisal, and discuss the impact of their inclusion, or exclusion, on the estimate of market value; and

(m) Follow a reasonable valuation method that addresses the direct sales comparison, income, and cost approaches to market value, reconciles those approaches, and explains the elimination of each approach not used.

(2) Unavailability of information. If information required or deemed pertinent to the completion of an appraisal is unavailable, that fact shall be disclosed and explained in the appraisal.

(3) Additional standards. Nothing contained herein shall prevent a regulated institution from requiring additional appraisal standards if deemed appropriate.

[Statutory Authority: RCW 31.12.535. 92-24-053, § 419-80-050, filed 11/30/92, effective 12/31/92.]

WAC 419-80-060 Appraiser independence. (1) Staff appraisers. If an appraisal is prepared by a staff appraiser, that appraiser must be independent of the lending, investment, and collection functions and not involved, except as an appraiser, in the transaction, and have no direct or indirect interest, financial or otherwise, in the property. If the only qualified persons available to perform an appraisal are involved in the lending, investment, or collection functions of the credit union, the credit union shall take appropriate steps to ensure that the appraisers exercise independent judgment and that appraisal is adequate. Such steps include, but are not limited to, prohibiting an individual from performing an appraisal in connection with transactions in which the appraiser is otherwise involved and prohibiting directors and officers from participating in any vote or approval involving assets on which they performed an appraisal.

(2) Fee appraisers. If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the credit union or its agent, and have no direct or indirect interest, financial or otherwise, in the property or transaction. A credit union may accept an appraisal that was prepared by an appraiser engaged by another institution subject either to this chapter or to Title XI of FIRREA, if the credit union that accepts the appraisal has:

(a) Established procedures for review of real estate appraisals;

(b) Reviewed the appraisal under the established review procedures, finding the appraisal acceptable; and

(c) Documented the review in writing.

[Statutory Authority: RCW 31.12.535. 92-24-053, § 419-80-060, filed 11/30/92, effective 12/31/92.]

WAC 419-80-070 Professional association membership—Competency. (1) A state-certified appraiser or a state-licensed appraiser may not be excluded from consideration for an assignment for a transaction solely by virtue of membership or lack of membership in any particular appraisal organization.

(2) All staff and fee appraisers performing appraisals in connection with transactions must be state-certified or state-licensed as appropriate. However, a state-certified or state-licensed appraiser may not be considered competent for any particular assignment solely by virtue of being certified or licensed. Any determination of competency shall be based upon the individual's experience and educational background as they relate to the particular appraisal assignment for which he or she is being considered.

[Statutory Authority: RCW 31.12.535. 92-24-053, § 419-80-070, filed 11/30/92, effective 12/31/92.]