



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF BANKS

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**CONCISE EXPLANATORY STATEMENT**

Division of Banks Rulemaking

“Banks and Trust Companies,” Chapter 208-512 WAC

“Limits on Loans and Extensions of Credit,” Chapter 208-512A WAC

December 4, 2017

The Department of Financial Institutions – Division of Banks (“Division”) is authorized to engage in this rulemaking under RCWs 43.320.040 & 050, RCW 30A.04.020, 030, 111, & 215, RCW 30A.08.140, RCW 30B.04.020, and RCW 32.08.157, as well as Section 939A of the Dodd-Frank Act.

The Division began this rulemaking activity in January of 2017 to be in conformance with Federal laws and regulations and make technical changes or repeal outdated and inapplicable sections of the WACs pertaining to state-chartered banks and trust companies.

1.0 Summary of Rulemaking.

The Preproposal Statement of Inquiry (CR-101) was filed with the Code Reviser on January 17, 2017, and published in the Washington State Register at WSR 17-03-115. The Proposed Rule (CR-102) was filed with the Code Reviser September 20, 2017, and published in the Washington State Register at WSR 17-19-119. A Public Hearing was held on November 28, 2017.

The final rule was adopted and a [Rule-Making Order \(CR-103\)](#) was entered on December 1, 2017, and will be published in the Washington State Register at WSR 17-24-053. The final rule will take effect 31 days after adoption, or January 1, 2018.

All rulemaking information can be found at the [Division’s Rulemaking Docket](#).

1.1 Rulemaking Changes.

The purpose of this rulemaking is to be in conformance with Federal laws and regulations, make technical changes, and repeal outdated and inapplicable sections of the WACs pertaining to state-chartered banks and trust companies.

Chapter 208-512 is now called “Banks” instead of “Banks and Trust Companies.” Chapter 208-512A’s name remains unchanged, “Limits on Loans and Extensions of Credit.”

Other changes include adding a definitions section to Chapter 208-512 WAC, as well as to modernize securities investment standards for state-chartered banks as required under Federal law, Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Changes were made to Chapter 208-512A WAC, specifically the derivative lending limit rules for Federal parity with the Office of Comptroller of the Currency, as cited in 12 CFR Parts 32, 159 and 160. A specific option available to National Banks, called the current exposure method, will now be available to state-chartered banks with respect to derivative activity.

Changes were made for purposes of technical clean up, modernization, or repeal of certain outdated or inapplicable sections of Chapter 208-512 WAC and Chapter 208-512A WAC. Specific clean-up efforts include: changing “Title 30” to “Title 30A” and removing references to trust companies stemming from recodification of the Commercial Bank Act, 2014 c 37 § 1-70; and, moving toward gender neutral language.

Last, the following outdated WAC Sections will be repealed: 208-512-020, 208-512-030, 208-512-050, 208-512-060, 208-512-120, 208-512-140, 208-512-150, 208-512-160, 208-512-170, 208-512-310, 208-512-330.

## 2.0 Department Reasons for Adoption of Rulemaking.

The Division determined that the proposed rules were either (1) required by Federal law, or (2) were beneficial to regulated entities, as many of the provisions amend or repeal rules that are outdated or are superseded by subsequent Federal and state statutes, rules, and regulations.

## 3.0 Differences between Proposed Rule Text and Adopted Rule Text.

Additional changes were made to WAC 208-512-100 subsections 3 and 4 based on comments received after the CR-102. Changes were made to subsection 3 to clarify that when a bank leases out a portion of the building, tenants may have access to non-secure (versus secure) areas of a bank during non-bank hours. Subsection 4 was repealed, which previously included broad prohibitions for directors, officers, and employees to serve on boards where the legal entity is a lessee of the bank.

Other minor changes were made to the draft including eliminating the term “and Trust Companies” in the title of Chapter 208-512 WAC (now called “Banks”). Other small changes included clarifying the heading in WAC 208-512-117 from “Investments in corporations” to “Investment Securities – Investments in corporations” to be congruent with other headings in the same category. Furthermore, a correction to an internal citation error in 208-512-090 was made, changing “WAC 208-512-510 through 208-512-517” to “WAC 208-512-110 through 208-512-117.”

#### 4.0 Summary of Public Comment and Department Response.

A public hearing was held on November 28, 2017, at 10 A.M. The hearing was called to order at 10:07 A.M. and adjourned at 10:20 A.M. Descriptions of the outlined changes were detailed, and the opportunity for oral testimony was given. No oral testimony was taken at the hearing. Participants were notified that written testimony would be taken until 5:00 P.M. Thursday, November 30th. No additional written testimony was received in response to the rule. The agenda and audio recording of this public hearing can be found at the Division’s Modernize Bank and Trust Company [Rulemaking Page](#).

#### 4.1 Other Public Outreach.

There was an informal information session and Virtual Meeting held on October 24, 2017. This information session was open to all stakeholders, but was not technically considered a public hearing.

During that meeting, Brad Tower of the Community Bankers of Washington posed some questions regarding some of the WAC changes. For WAC Sections 208-512-050 (“limiting loans to officers”), Mr. Tower questioned whether repealing the WAC language was prudent, and that perhaps the WAC was useful to compliance professionals. The Division explained that identical information is contained in the RCW 30A.12.060.

His second question was whether the insurance section headings for WAC 208-512-310 to 370 changing from “insurance agency” to “insurance-related activities” was too broad. The Division explained that changing to “insurance-related activities” was prudent because the Division is more likely to receive questions regarding banks engaging in insurance-related activities. Furthermore, there is existing state insurance law and Federal law that gives more guidance, which the Division is adopting.

On November 16, 2017, the Division reached back out to Mr. Tower to see if he and his constituent group had ongoing concerns with the sections he had highlighted during the Virtual Meeting. He said that the bankers he represents did not have any issues with WAC 208-512-050, and they were not concerned with the “insurance-related activities” language being used instead of “insurance

agency.” He indicated that his suggestions were for the Division’s consideration, but making further revisions in those areas were not necessary at this time.

Mr. Tower did, however, provide new feedback in relation to language set forth in WAC 208-512-100, “Leasing Bank Premises.” He provided written comments to the Division on November 16th, and the Division took those written comments under advisement. Those written comments are available on the Division’s Modernize Bank and Trust Company [Rulemaking Page](#).

The suggestions included making clarifications to the existing 208-512-100(3) and (4). The first suggestion was to clarify that when a bank leases out a portion of its building, tenants should not have access to the secure portions of the bank outside of banking hours. The original language indicated that a lessee should not have access to any area of a bank building outside of banking hours. The second suggestion was to eliminate the broad language prohibiting bank directors, officers, and employees from serving on boards or non-profits that might be lessees of the bank’s property. Both suggestions were deemed reasonable, and edits were made in final draft to reflect those changes. That revised draft was posted to the rulemaking page on November 21, 2017, and a bulletin was sent out to the stakeholders reflecting those changes.

The final rule reflects suggested comments made during the informal Virtual Meeting on October 24, 2017, and subsequent oral and written comments. In summary, the Division opted to maintain the repeal of WAC 208-512-050, relating to “limiting loans to officers,” as this language already exists in RCW 30A.12.060. The Division opted to keep the insurance-related activities headings, as the Division was guided by current state and Federal law. Last, the Division amended WAC 208-512-100 to clarify that lessees may use non-secure areas of a bank during non-bank hours. The Division also removed broad prohibitions for directors, officers, and employees to serve on boards where the legal entity is a lessee of the bank.

## 5.0 Conclusion.

The rules adopted by the Division are now in conformance with Federal laws and regulations, make technical changes, and repeal outdated and inapplicable sections of the WACs pertaining to state-chartered banks and trust companies. This rulemaking conformed to the Division’s open and deliberative rulemaking process.

Information has been made available to all stakeholders and interested parties during the rulemaking process. Information will continue to be made available by visiting the [Division’s Rulemaking Docket](#).

Please direct any questions regarding this rule or the rulemaking process to: Ali Higgs, Chief of Regulatory & Trust Affairs - Division of Banks, at [ali.higgs@dfi.wa.gov](mailto:ali.higgs@dfi.wa.gov) or (206) 639-6054.