

**WAC 208-514-060 Formation of a mutual holding company.** (1) (a)

The plan of reorganization may authorize the formation of a MHC by:

(i) The organization by or at the discretion or request of the mutual savings bank of a business trust or mutual corporation that shall serve as a MHC, the organization by the MHC of a stock savings bank subsidiary and the transfer to such stock savings bank of substantially all of the mutual savings bank's assets and liabilities, including all of its deposit liabilities, in accordance with these rules;

(ii) The organization by or at the direction or request of the mutual savings bank of a business trust or mutual corporation that shall serve as the MHC, and the organization by such MHC of a stock savings bank subsidiary that merges with the mutual savings bank; or

(iii) The reorganization of the mutual savings bank under any other method approved by the director.

(b) For the purposes of (a) of this subsection and when authorized by the director, as hereinafter provided, the trustees of the mutual holding company, consisting of five or more natural persons who are citizens of the United States, may incorporate an interim stock savings bank subsidiary in the manner herein prescribed. No savings bank shall incorporate for less amount nor commence business unless it has a paid-in capital stock in such amount as may be determined by the director after consideration of the proposed transaction.

(i) Persons desiring to incorporate an interim stock savings bank shall file with the director a notice of their intention to organize a savings bank in such form and containing such information as the director shall prescribe by regulation or otherwise require, together with proposed articles of incorporation and bylaws, which shall be submitted for examination to the director at his office in Olympia. The proposed articles of incorporation shall state:

(A) The name of such savings bank.

(B) The city, village or locality and county where the head office of such savings bank is to be located.

(C) The nature of its business (i.e., that of a savings bank).

(D) The amount of its capital stock, which shall be divided into shares of a par or no par value as may be provided in the articles of incorporation.

(E) The names, places of residence, and mailing addresses of the persons who as directors are to manage the bank until the first annual meeting of its shareholders.

(F) If there is to be preferred or special classes of stock, a statement of preferences, voting rights, if any, limitations and relative rights in respect of the shares of each class; or a statement that the shares of each class shall have the attributes as shall be determined by the bank's board of directors from time to time with the approval of the director.

(G) Any provision granting the shareholders the preemptive right to acquire additional shares of the bank and any provision granting shareholders the right to cumulate their votes.

(H) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including, without limitation, any provision restricting the transfer of shares.

(I) Any provision the incorporators elect to so set forth, not inconsistent with law or with the purposes for which the bank is organized, or any provision limiting any of the powers granted in the applicable provisions of the Revised Code of Washington.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers granted in the applicable provisions of the Revised Code of Washington. The articles of incorporation shall be signed by all of the incorporators and acknowledged before an officer authorized to take acknowledgements.

(ii) In case of approval, the director shall forthwith give notice thereof to the proposed incorporators and file one of the triplicate articles of incorporation in his own office, transmit another triplicate to the secretary of state, and the last to the incorporators. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other articles of incorporation, the secretary of state shall file such articles and record the same. Upon the filing of articles of incorporation approved as aforesaid by the director, with the secretary of state, all persons named therein and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by the applicable provisions of the Revised Code of Washington, and whose existence shall continue from the date of the filing of such articles until terminated pursuant to law; but such corporation shall not transact any business, except as is necessary or convenient to its organization and preparation to engage in business, until it has received from the director a certificate of authority to engage in the banking business as a stock savings bank.

(c) For the purposes of (a) of this subsection, WAC 208-514-080 permits a newly organized stock savings bank to issue to persons other than its parent MHC, an amount of common stock and securities convertible into common stock that, in the aggregate, does not exceed forty-nine percent of the issued and outstanding common stock of such stock savings bank upon completion of the offering. Issued and outstanding securities that are convertible into common stock shall be considered issued and outstanding common stock for purposes of computing the forty-nine percent limitation. This subsection shall not limit the authority of such stock savings bank to issue equity or debt securities other than common stock and securities convertible into common stock.

(2) In connection with the reorganization of a mutual savings bank as provided in WAC 208-514-040, the MHC may acquire assets of the mutual savings bank to the extent that such assets are not then required to be transferred to (or retained by) the stock savings bank in order to satisfy capital or reserve requirements of any applicable state or federal law or regulation.

(3) A stock savings bank whose outstanding common stock is at least fifty-one percent but less than one hundred percent owned by a mutual holding company shall have at least one director, but no more than two-fifths of its directors, who are "unaffiliated directors" who shall represent the interests of the minority shareholders. An "unaffiliated director" is a director who is not:

(a) An officer or employee of the stock savings bank (or any affiliate thereof); or

(b) An officer, trustee, or employee of the mutual holding company.

If the incorporation certificate or bylaws of the stock savings bank provide that the board of directors shall be divided into two or more classes, then to the extent possible, each class shall contain the same number of unaffiliated directors as each other class.

[Statutory Authority: RCW 30.04.030 and 43.320.040. WSR 00-17-141, amended and recodified as § 208-514-060, filed 8/22/00, effective

9/22/00. Statutory Authority: RCW 32.34.040 - [32.34].050 and chapters 32.08 and 34.05 RCW. WSR 93-13-142, § 50-14-060, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 32.34.040 - [32.34.]050. WSR 92-06-041, § 50-14-060, filed 2/28/92, effective 3/30/92.]