Certification Page
Regular and Emergency Rules

Revised June 2020

☐ **Emergency Rules** *(Complete Sections 1-3 and 5-6)* ■ **Regular Rules**

1. General Information

a. Agency/Board Name*	Wyoming Department of Audit		
b. Agency/Board Address	Hathaway Building, 2nd Floor, 2300 Capitol Avenue	c. City: Cheyenne	d. Zip Code: 82002
e. Name of Agency Liaison	Albert L. Forkner	f. Agency Liaison Telephone Number	(307)-777-7797
g. Agency Liaison Email Address	albert. forkner@wyo.gov	h. Adoption Date	3/30/2021
i. Program	Banking Division		

Amended Program Name (*if applicable*):

* ☐ *By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.*

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular (non-emergency) rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

■ **No.** ☐ **Yes.** If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):

3. Rule Type and Information

For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title* and Proposed Action for Each Chapter. *Please use the "Additional Rule Information" form to identify additional rule chapters.*

Chapter Number:	Chapter Name:			
3	Fees	☐ New	■ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*):			
Chapter Number: 5	Chapter Name: Charter Applications	☐ New	■ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*):			
Chapter Number: 19	Chapter Name: Enhanced Digital custody Opt-in Regime	☐ New	■ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*): Enhanced Digital Asset Custody Framework			
Chapter Number: 20	Chapter Name: Special Purpose Depository Institutions	☐ New	■ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*):			
Chapter Number:	Chapter Name:	☐ New	☐ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*):			
Chapter Number:	Chapter Name:	☐ New	☐ Amended	☐ Repealed
	Amended Chapter Name (*if applicable*):			

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. ☐ No. ☐ Yes. ☑ N/A

b. A public hearing was held on the proposed rules. ■ No. ☐ Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

5. Checklist

a. ☑ For regular rules, the Statement of Principal Reasons is attached to this Certification and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule

b. ☐ For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

Signature of Authorized Individual	Fred Rife
Printed Name of Signatory	Fred Rife
Signatory Title	Interim Director, Wyoming Department. of Audit
Date of Signature	3/30/2021

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

STATE OF WYOMING
DEPARTMENT OF AUDIT

DIVISION OF BANKING
Phone: (307) 777-7797 Email: wyomingbankingdivision@wyo.gov

Mark Gordon
Governor

Fred Rife
Interim Director

Albert L. Forkner
Commissioner

Summary of Public Comments & Responses

Public comment is attached to this form.

Division Response:

The Division of Banking has taken the public comment under consideration and intends to make no change in response to the public comment at this time, but may consider the public comment in any future rulemaking.

Avanti Financial Group, Inc.
2120 Carey Avenue
Cheyenne, WY 82001

March 26, 2021

Wyoming Division of Banking
2300 Capitol Ave 2nd floor
Cheyenne, WY 82002
Attn: Commissioner Albert Forkner

Dear Commissioner Forkner:

In this letter, we respectfully submit three comments to the proposed rules for Special Purpose Depository Institutions ("SPDI") in Chapter 20.[1]

1. Chapter 20, Section 5: Supervision of Controlling Interests; Affiliate Relationships

Section 5(b) reads: "A person with a controlling interest in a special purpose depository institution shall...(i) Submit annual audited financial statements, and as otherwise reasonably required by the Commissioner."[2]

Pursuant to Wyoming law, a "person" includes "an individual, partnership, corporation, joint stock company or any other association or entity, public or private."[3]

Comment: As drafted, it is impossible for a controlling shareholder of an SPDI that is an *individual*, rather than a business entity, to comply with the requirement. While businesses can submit audited financial statements, it is not possible for an individual to obtain audited financial statements.

We understand that the public policy behind adding Section 5 is to align Wyoming banking law with that of the federal Bank Holding Company Act ("BHCA"), and we support that policy goal. The challenge, though, is that the BHCA applies only to *companies* that own a controlling stake in a bank.[4] It does not address the case in which an *individual* owns a controlling stake in a bank.

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[1] https://rules.wyo.gov/Search.aspx?mode=2
[2] Id.
[3] WY Stat § 8-1-102(a)(vi).
[4] 12 U.S. Code § 1841.

One potential solution to the drafting issue raised in Section 5(b)(i) could be to restrict its applicability to companies rather than individuals, just as the BHCA does. Another potential solution could be to use an attestation of solvency from an individual controlling shareholder, in lieu of audited financial statements.

We request that the Division of Banking be mindful to keep the requirements for SPDIs consistent with those of traditional state-chartered banks in Wyoming, so that the compliance requirements for SPDIs are not unnecessarily more burdensome for SPDIs than for traditional banks.

2. Chapter 20, Section 5: Supervision of Controlling Interests; Affiliate Relationships

Section 5(e) reads: "If the Commissioner finds that it is in the public interest and has reasonable cause to believe it is necessary to protect the customers of a special purpose depository institution, the Commissioner may . . . (ii) Require a person with a controlling interest in a special purpose depository institution to divest or sever their relationship with the institution, if necessary to maintain safety and soundness."[5]

Comment: This provision contains neither standards for judging "safety and soundness" nor provisions for due process that protect a controlling shareholder against a scenario in which a Commissioner might take unreasonable action in the future, such as arbitrarily requiring the controlling shareholder to divest within an unreasonably short period of time (e.g., 24 hours).

A potential solution to the drafting issue raised in Section 5(e) could be to incorporate the due process provisions applicable to Wyoming banks under Title 13, Section 10. For example, WY Stat. §13-10-203(b) contains a written notice requirement when the Commissioner intends to issue a cease and desist order pertaining to an unsafe and unsound practice at a bank, and WY Stat §13-10-203(c) contains a provision for a hearing on such a proposed cease and desist order. WY Stat §13-10-208 prescribes detailed procedures around such actions, and provides for due process.

It would seem appropriate to apply these provisions to Section 5(e). Moreover, doing so would restore equal treatment to both the SPDI and traditional bank charters in the event that the Commissioner needs to take action to protect depositors.

[5] https://rules.wyo.gov/Search.aspx?mode=2

3. Chapter 20, Section 13: Operations And Activities

Section 13(c) reads: "A special purpose depository institution shall maintain policies and conduct appropriate market surveillance to prevent, detect and combat manipulative or illegal trading practices in traditional and digital asset markets."[6]

Comment: The policy behind this provision is likely aimed at SPDIs that engage in market making activities, such as those that operate exchanges/order books or those that engage in brokerage activities. The drafting, however, requires all SPDIs to "conduct appropriate market surveillance," even if they do not engage in such brokerage or market making activities. The challenge with such a blanket requirement is that not all SPDIs would have access to the information required to conduct market surveillance in most cases. To have access to such data probably requires participation in markets, and an SPDI that does not act as a market maker would not naturally have such pricing information.

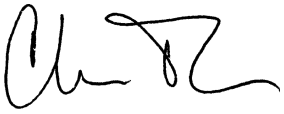
It is possible that the Commissioner may rely on the adjective "appropriate" to conclude that this requirement does not apply to SPDIs that do not engage in market making or brokerage activities. In such cases, there may be no "appropriate" surveillance required. Ideally, though, the rules would specify the particular activities to which the requirement applies, rather than applying to all SPDIs as a whole.

Please do not hesitate to contact us if you have additional questions.

Sincerely,

Caitlin Long
Chief Executive Officer

Sincerely,



Chuck Thompson
Chief Legal Officer / Chief Compliance Officer

[6] Id.

Chapter 3
Fees

Section 1. Authority; Scope.

This Chapter is promulgated pursuant to Wyoming Statute ("W.S.") 13-1-603(d) (fees generally), W.S. 13-3-702 (bank supervisory fee), W.S. 13-5-410 (powers of the Commissioner regarding supervised trust companies), W.S. 13-7-603 (savings and loan association supervisory fee), W.S. 13-12-111(c) (special purpose depository institution charter application fee), W.S. 13-12-119(c) and (d) (special purpose depository institution examination and supervisory fees), W.S. 13-12-126 (special purpose depository institution rules) and W.S. 34-29-104(n) (digital asset custody).

Section 2. Bank and Savings and Loan Association Supervisory Fees.

(a) Except as otherwise provided by subsection (e) of this section, the Commissioner shall collect from every bank for supervision of such bank and every savings and loan association for supervision of such association an amount determined by the total resources of such bank and savings and loan association, as of reports of condition at the end of June and December of each year. The fees for all banks and saving and loan associations shall be based upon the total resources as follows:

(i) $0 to $1,500,000: 0.0013328 of total assets.

(ii) $1,500,001 to $15,000,000: $1,999.20, plus 0.0001666 of the excess over $1,500,000.

(iii) $15,000,001 to $25,000,000: $4,248.33, plus 0.000159936 of the excess over $15,000,000.

(iv) $25,000,001 to $50,000,000: $5,847.69, plus 0.00013328 of the excess over $25,000,000.

(v) $50,000,001 to $75,000,000: $9,179.69, plus 0.000119952 of the excess over $50,000,000.

(vi) $75,000,001 to $150,000,000: $12,178.49, plus 0.00009996 of the excess over $75,000,000.

(vii) $150,000,001 to $1,000,000,000: $19,675.49, plus 0.0000733040 of the excess over $150,000,000.

(viii) $1,000,000,001 to $3,000,000,000: $81,983.86, plus 0.0000659736 of the excess over $1,000,000,000.

(ix) $3,000,000,001 to $5,000,000,000: $213,931.06, plus 0.0000659736 of the excess over $3,000,000,000.

(x) $5,000,000,001 and over: $324,106.97, plus 0.000055022 of the excess over $5,000,000,000.

(b) Except as otherwise provided by this section, not later than the last day of January and July in each year, every bank and savings and loan association shall:

(i) Compute the semi-annual supervisory fee based upon the report of condition next preceding, on forms established by the Commissioner, and

(ii) Submit to the Commissioner such report of condition together with payment of the semi-annual fee as so computed.

(c) Miscellaneous bank fees:

(i) Bank charter application: $15,000.

(ii) Emergency bank charter application: $4,000.

(iii) Interim charter for which a public hearing is waived: $4,000.

(iv) Branch application: $1,000.

(v) Out-of-state acquisition of a Wyoming bank: $7,500.

(vi) Operating subsidiary application: $700.

(vii) Additional examination fee when examined more than twice per year: $50.00/examiner/day.

(viii) Change in place of business: $2,500.

(ix) Merger or conversion into state bank application: $2,500.

(x) Each additional bank established by merger or consolidation application: $1,250.

(xi) Acquisition of bank by bank holding companies: $4,500.

(d) The following fees are applicable to special purpose depository institutions:

(i) Bank charter application: $50,000.

(ii) Examination costs: $35 per examiner hour, plus per diem or actual travel expenses, as determined by the Commissioner.

(iii) Application for certificate of dissolution: $1,000.

(iv) Overdue report: $250 per business day in which the report is late.

(e) The supervisory fee established in subsection (a) of this section shall exclude off-balance sheet digital assets. If a bank pays the supervisory fee established by W.S. 34-29-104(n) or subsection (g) of this section and that fee, on its own, is:

(i) Greater than the fee established by subsection (a) of this section, the fee established by subsection (a) is waived.

(ii) Less than the fee established by subsection (a) of this section, the supervisory fee paid under W.S. 34-29-104(n) or subsection (g) of this section shall be ~~deducted from~~ added to the fee payable under subsection (a).

(f) To ensure consistency with existing bank fee payment schedules, the two tenths of one mill on the dollar ($.0002) supervision fee established by W.S. 34-29-104(n) shall be paid as follows:

(i) One-tenth of one mill on the dollar ($.0001) of off-balance sheet digital assets as of December 31 of each year, payable by the following January 31; and

(ii) One-tenth of one mill on the dollar ($.0001) of off-balance sheet digital assets as of June 30 of each year, payable by the following July 31.

(g) Each bank that administers off-balance sheet digital assets, but which does not pay the fee established by W.S. 34-29-104(n), shall pay a supervision fee of one-tenth and eighty-six hundredths of one mill on the dollar ($0.000186) of off-balance sheet digital assets. To ensure consistency with existing bank fee payment schedules, this supervision fee shall be paid as follows:

(i) Ninety-three hundredths of one mill on the dollar ($.000093) of off-balance sheet digital assets as of December 31 of each year, payable by the following January 31; and

(ii) Ninety-three hundredths of one mill on the dollar ($.000093) of off-balance sheet digital assets as of June 30 of each year, payable by the following July 31.

(h) Other fees established by subsection (c) of this section shall apply to special purpose depository institutions.

Section 3. Trust Company Fees.

(a) The Commissioner shall collect from every ~~chartered~~ supervised trust company ~~for supervision of such trust company~~ an amount determined by the total assets of the company as of December 31 of each year as follows:

(i) For a company with total assets less than three million dollars ($3,000,000), a supervisory fee of $7,500 shall be paid no later than January 31 each year.

(ii) For a company with total assets greater than three million dollars ($3,000,000), a supervisory fee of $12,500 shall be paid no later than January 31 of each year.

(b) The Trust Company Resolution Fund shall be funded with twenty-five percent (25%) of the annual supervisory fee paid by each ~~chartered~~ supervised trust company.

(i) The amount shall be paid in each year until the Resolution Fund reaches a balance of one million dollars ($1,000,000).

(ii) Once the Resolution Fund reaches a balance of one million dollars ($1,000,000), the Commissioner may lower the supervisory fee, at his discretion, that each ~~chartered~~ supervised trust company pays by the portion of the fee designated for the Resolution Fund.

(c) A ~~chartered~~ supervised family trust company may apply to the Commissioner to establish a ~~Trust Service Office~~ trust service office. A fee of one thousand dollars ($1,000) shall accompany the ~~Trust Service Office~~ application.

(d) A person may apply to the Commissioner for a letter of assurance relating to the establishment of a private family trust company, compliance with applicable Wyoming law and a determination that the company is not required to apply for a public or family trust company charter based on the activities it intends to conduct. The Commissioner shall provide a letter of assurance if the private family trust company has complied with the requirements of W.S. 13-5-701. The application shall be accompanied by a fee of two hundred fifty dollars ($250). A letter of assurance shall be supplemental to the requirements to provide a waiver to the Commissioner under W.S. 13-5-701(d).

(e) Miscellaneous trust company fees:

(i) Public and family trust company charter application: $15,000.

(ii) Voluntary dissolution of trust company: $1,500.

(iii) Conversion from public trust company to chartered family trust company: $10,000.

(iv) Fee for failure to submit required reports: $25/day overdue.

(v) Merger application: $1,500.

(vi) Out-of-state acquisition of a Wyoming trust company: $7,500.

(f) The fee established in subsection (a) of this section shall exclude off-balance sheet digital assets. Each supervised trust company that administers off-balance sheet digital assets shall pay a supervision fee of one-tenth and eighty-six hundredths of one mill on the dollar ($0.000186) of off-balance sheet digital assets as of December 31 of each year, payable by the following January 31. If a supervised trust company pays the supervisory fee established by this subsection and that fee, on its own, is:

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(i) Greater than the fee established by subsection (a) of this section, the fee established by subsection (a) is waived.

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(g) Each bank that administers off-balance sheet digital assets, but which does not pay the fee established by W.S. 34-29-104(n), shall pay a supervision fee of one-tenth and eighty-six hundredths of one mill on the dollar ($0.000186) of off-balance sheet digital assets. To ensure consistency with existing bank fee payment schedules, this supervision fee shall be paid as follows:

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(h) Other fees established by subsection (c) of this section shall apply to special purpose depository institutions.

Section 3. Trust Company Fees.

(a) The Commissioner shall collect from every supervised trust company an amount determined by the total assets of the company as of December 31 of each year as follows:

(i) For a company with total assets less than three million dollars ($3,000,000), a supervisory fee of $7,500 shall be paid no later than January 31 each year.

(ii) For a company with total assets greater than three million dollars ($3,000,000), a supervisory fee of $12,500 shall be paid no later than January 31 of each year.

(b) The Trust Company Resolution Fund shall be funded with twenty-five percent (25%) of the annual supervisory fee paid by each supervised trust company.

(i) The amount shall be paid in each year until the Resolution Fund reaches a balance of one million dollars ($1,000,000).

(ii) Once the Resolution Fund reaches a balance of one million dollars ($1,000,000), the Commissioner may lower the supervisory fee, at his discretion, that each supervised trust company pays by the portion of the fee designated for the Resolution Fund.

(c) A supervised family trust company may apply to the Commissioner to establish a trust service office. A fee of one thousand dollars ($1,000) shall accompany the application.

(d) A person may apply to the Commissioner for a letter of assurance relating to the proper establishment of a private family trust company, compliance with applicable Wyoming law and a determination that the company is not required to apply for a public or family trust company charter based on the activities it intends to conduct. The Commissioner shall provide a letter of assurance if the private family trust company has complied with the requirements of W.S. 13-5-701. The application shall be accompanied by a fee of two hundred fifty dollars ($250). A letter of assurance shall be supplemental to the requirements to provide a waiver to the Commissioner under W.S. 13-5-701(d).

(e) Miscellaneous trust company fees:

(i) Public and family trust company charter application: $15,000.

(ii) Voluntary dissolution of trust company: $1,500.

(iii) Conversion from public trust company to chartered family trust company: $10,000.

(iv) Fee for failure to submit required reports: $25/day overdue.

(v) Merger application: $1,500.

(vi) Out-of-state acquisition of a Wyoming trust company: $7,500.

(f) The fee established in subsection (a) of this section shall exclude off-balance sheet digital assets. Each supervised trust company that administers off-balance sheet digital assets shall pay a supervision fee of one-tenth and eighty-six hundredths of one mill on the dollar ($0.000186) of off-balance sheet digital assets as of December 31 of each year, payable by the following January 31. If a supervised trust company pays the supervisory fee established by this subsection and that fee, on its own, is:

(i) Greater than the fee established by subsection (a) of this section, the fee established by subsection (a) is waived.

(ii) Less than the fee established by subsection (a) of this section, the supervisory fee established by this subsection shall be added to the fee payable under subsection (a).

Chapter 5
Charter Applications

Section 1. Authority; Scope.

This Chapter provides for matters that apply generally to the Commissioner's involvement in application proceedings before the Board. Because the Commissioner is directly and intrinsically involved in such proceedings, this Chapter must be read in the context of Chapter 3 of the Board Regulations.

Section 2. Special Definitions.

(a) As used in this Chapter:

(i) "Acceptance date" means the date of the acceptance notice.

(ii) "Acceptance notice" means the notice required under Section 3(c)(i) Section 3(c)(ii), as the case may be.

(iii) "Applicant" means the single incorporator or the group of incorporators named in an application. All financial institutions shall have at least five (5) incorporators, except for a trust company, which shall have at least one (1) incorporator.

(iv) "Application" means the completed application prescribed in Section 3(a), including all exhibits and other materials attached to or otherwise filed simultaneously with the application form, together with all other information required by the Commissioner under Section 3.

(v) "Commencement date" means, as the context may require, the acceptance date in the case of an application, the receipt date in the case of a petition, or the date of the hearing notice in the case of a submission.

(vi) "Comment period" means the period of time that begins on the commencement date and ends on that date which is ten (10) days before the hearing.

(vii) "FDIC application" means the application of a proposed institution for insurance of deposits by FDIC.

(viii) "Hearing" means the public hearing by the Board on an application, as provided in the Board Regulations.

(ix) "Incorporator" means an adult individual of sound mind who intends singly or with others to incorporate or organize a financial institution.

(x) "Presiding officer" means the person designated by the Board to serve as the presiding officer of a hearing.

(xi) "Proposed institution" means the financial institution that the applicant proposes to organize.

Section 3. Application Required; Filing; Incomplete Application; Extension.

(a) To organize a financial institution, the incorporators shall submit to the Commissioner an application. Each application shall be in writing and contain the information required in Section 4. In the case of a trust company, the application shall name and be executed by at least one (1) incorporator; in all other cases, the application shall name and be executed by at least five (5) incorporators.

(b) The applicant shall submit its application with the Commissioner for evaluation. The Commissioner shall keep and maintain the application as provided in Section 8.

(c) Within thirty (30) days after the date on which an application is submitted to the Commissioner for evaluation, he shall give written notice to the applicant either:

(i) that the application is in order and has been accepted for filing; or

(ii) that deficiencies exist in the information required to be included in the application and identifying each with reasonable particularity.

(d) If the Commissioner notifies the applicant of deficiencies in the application, the applicant shall correct the identified deficiencies and resubmit the application within ninety (90) days after the date of the notice of the deficiencies. If the applicant fails to submit a corrected application within such 90-day period, the applicant shall be deemed for all purposes to have withdrawn the application as of 5:00 p.m., Cheyenne, Wyoming local time, on the last day of such 90-day period.

(e) Within thirty (30) days after the date on which a corrected application is submitted to the Commissioner for further evaluation, he shall give written notice to the applicant either:

(i) that the application is in order and has been accepted for filing; or

(ii) that the application is rejected as incomplete.

Section 4. Content; Electronic Media.

(a) To be accepted for filing, each application shall be comprised of the following information:

(i) The signatures of all incorporators, verifying the contents of the application;

(ii) Three (3) duplicate originals of the articles of incorporation satisfying the requirements of Section 5;

(iii) The by-laws proposed for adoption either by the incorporators simultaneously with incorporation or by the board of directors of the proposed institution at its first meeting, indicating which method will be used to adopt the by-laws;

(iv) Evidence satisfactory to the Commissioner that the proposed institution has paid-in capital stock as required by the Banking Statutes;

(v) A complete, true and accurate copy of the proposed institution's completed FDIC application or, in the case of a trust company, the proposed institution's completed application on the form prescribed from time to time by ~~resolution of~~ the Commissioner;

(vi) The name, proposed title and residence post-office address of each individual proposed to serve as an executive officer of the corporation during any part of the corporation's first year of existence;

(vii) A statement with supporting evidence, demonstrating that the conditions in the community in which the proposed institution would transact business afford reasonable promise of successful operation;

(viii) A statement with supporting evidence, demonstrating that the proposed capital and surplus are adequate in light of current and prospective conditions;

(ix) A statement with supporting evidence, demonstrating that the proposed executive officers and proposed directors have sufficient experience, ability and standing to afford reasonable promise of successful operation;

(x) As to each depository institutions and trust companies then open for business in the home county, a list of the name of the entity, its president (and branch managers, if the local presence is a branch), its local street address, and its local telephone and fax numbers such financial institutions and trust companies;

(xi) A copy of any bonds obtained in accordance with W.S. 13-6-206;

(xii) If applicable, the designation of an agent for service of process described in Section 7; and

(xiii) Any other information required by these Regulations or as requested by the Commissioner.

(b) The obligation to provide the information required for an application is a

continuing obligation. The applicant shall supplement the application promptly when, but only to the extent that, significant information in the application changes materially and should its FDIC application change in any way.

(c) The applicant shall also deliver the application to the Commissioner on electronic media. The Commissioner shall reasonably assist applicants and reasonably cooperate with them in assuring substantial compliance with this subsection.

Section 5. Filing Fee; Withdrawn Applications.

(a) At the same time as it submits an application to the Commissioner for evaluation, the applicant shall pay to the Commissioner a fee in the amount of $15,000 or, in the case of an interim bank, $4,000.

(b) If an application is withdrawn at any time before the hearing, the filing fee shall be refunded to the applicant, reduced by the amount of all expenses authorized by W.S. 13-2-208.

(c) If an application is rejected, it shall be treated under this Section as if it were withdrawn as of 5:00 p.m., Cheyenne, Wyoming local time, on the last day of the 30-day time period described in Section 3(e).

Section 6. Articles of Incorporation.

(a) The articles of incorporation for a proposed institution shall include the following information:

(i) The name of the proposed institution;

(ii) The objects for which the corporation is organized, together with a statement that the corporation is organized for no other purpose than the accomplishment of legitimate and lawful objects;

(iii) A statement that the articles of incorporation are made to enable the incorporators:

(A) In the case of a bank, to avail themselves of the advantages of the banking laws and regulations of the State of Wyoming;

(B) In the case of an interim bank, to avail themselves of the advantages of the banking laws and regulations of the State of Wyoming but only to the extent necessary to serve as a vehicle to facilitate a merger and change of ownership of an existing bank in accordance with W.S. 13-4-108;

(C) In the case of a savings and loan association, to avail themselves

of the advantages of the savings and loan laws and regulations of the State of Wyoming;

(D) In the case of trust companies, to avail themselves of the advantages of the trust company laws and regulations of the State of Wyoming and the general corporation laws of the State of Wyoming; or

(E) In the case of a bank or a savings and loan association that also desires to engage in the trust business in this state, to avail themselves of the advantages of the trust company laws and regulations of the State of Wyoming;

(iv) The object for which the corporation is organized;

(v) In the case of an interim bank, a statement that it

(A) shall not operate independently,

(B) shall not conduct banking business, and

(C) shall exist only so long as is necessary to serve as a vehicle to facilitate a merger and change of ownership of an existing bank in accordance with W.S. 13-4-108;

(vi) In the case of a trust company, such other matters as may be required under the Wyoming Business Corporation Act;

(vii) The term of its existence, which may be perpetual, except that, in the case of an interim bank, its term of existence shall not be longer than is necessary to serve as a vehicle to facilitate a merger and change of ownership of an existing bank in accordance with W.S. 13-4-108;

(viii) The street address at which its principal place of business will be located;

(ix) The amount and par value of each class of its common capital stock and the number of shares in each class authorized to be issued (in the case of a savings and loan association, common stock must have a par value of at least $100 per share and be issued as a single class);

(x) Except for a savings and loan association, the amount and par value of each class of preferred capital stock and the number of shares in each class authorized to be issued, specifying all rights, powers and incidents of each class of such stock;

(xi) The amount of capital actually paid in;

(xii) The name, residence post-office address and occupation of each

shareholder subscribing for more than ten percent (10%) of the capital stock of the corporation and the number and class of shares subscribed for;

(xiii) The number of directors (which shall be five (5) or more, in the case of a bank, an interim bank or a savings and loan association, or any number, in the case of a trust company);

(xiv) The names, residence post-office address and occupation of each member of the board of directors that is expected to serve during any part of the corporation's first year of existence;

(xv) The name, occupation and residence post-office address of each incorporator; and

(xvi) The number of shares of capital stock, by class, for which each incorporator has subscribed.

(b) The articles of incorporation for a trust company may also include such matters as are permitted under the Wyoming Business Corporation Act.

(c) The articles of incorporation for any proposed institution may include an indemnification provision consistent with Chapter 2, Section 4.

Section 7. Designation of Agent for Service of Process.

Should the applicant be comprised of a group of incorporators, the application shall be accompanied with a designation by all incorporators of one of them to serve as agent on behalf of each and all of them for service of process and delivery of materials. All materials to be served on or delivered to the applicant shall be served on or delivered to the designated agent and shall not require service or delivery on all incorporators.

Section 8. Confidentiality.

(a) To reduce the possibility of disclosure of protected material that is in the Division's possession in connection with an application, the Commissioner shall maintain a case file, a correspondence file and a confidential file for each application.

(b) The case file shall consist only of the following documents:

(i) the public portions of the application;

(ii) the acceptance notice;

(iii) the proof of publication submitted by the applicant;

~~(iv) the written findings of the Commissioner's investigation and examination; and~~

~~(v)~~ all formal notices, motions, public hearing transcripts and other documents filed with, served on, delivered to or issued by the Board, by the Commissioner or by the presiding officer in connection with the hearing and other similar records.

(c) The correspondence file shall include all documents produced or received in connection with an application, except for those documents required to be kept in the case file or the confidential file.

(d) The confidential file shall consist of materials that contain information that is protected material.

(e) Only those portions of the case file and the correspondence file that are subject to public inspection under the Wyoming Public Records Act shall be available for public inspection.

(f) Discussions held between the Division and an applicant before an application is accepted for filing and while an application is pending, including any materials relating to these discussions, shall be confidential.

Section 9. Investigation and Examination by Commissioner.

Promptly after the acceptance date, the Commissioner shall make a careful investigation and examination, as described in W.S. 13-2-211.

Section 10. Written Comments.

A person may file written comments on an application with the Commissioner during the comment period. The Commissioner shall promptly deliver to the Chairman and to all parties copies of all comments received by him, although he may determine to deliver comments on a weekly or other periodic basis. The applicant may respond in writing to any comments at any time before the conclusion of the hearing.

Chapter 5
Charter Applications

Section 1. Authority; Scope.

This Chapter provides for matters that apply generally to the Commissioner's involvement in application proceedings before the Board. Because the Commissioner is directly and intrinsically involved in such proceedings, this Chapter must be read in the context of Chapter 3 of the Board Regulations.

Section 2. Special Definitions.

(a) As used in this Chapter:

(i) "Acceptance date" means the date of the acceptance notice.

(ii) "Acceptance notice" means the notice required under Section 3(c)(i) Section 3(c)(ii), as the case may be.

(iii) "Applicant" means the single incorporator or the group of incorporators named in an application. All financial institutions shall have at least five (5) incorporators, except for a trust company, which shall have at least one (1) incorporator.

(iv) "Application" means the completed application prescribed in Section 3(a), including all exhibits and other materials attached to or otherwise filed simultaneously with the application form, together with all other information required by the Commissioner under Section 3.

(v) "Commencement date" means, as the context may require, the acceptance date in the case of an application, the receipt date in the case of a petition, or the date of the hearing notice in the case of a submission.

(vi) "Comment period" means the period of time that begins on the commencement date and ends on that date which is ten (10) days before the hearing.

(vii) "FDIC application" means the application of a proposed institution for insurance of deposits by FDIC.

(viii) "Hearing" means the public hearing by the Board on an application, as provided in the Board Regulations.

(ix) "Incorporator" means an adult individual of sound mind who intends singly or with others to incorporate or organize a financial institution.

(x) "Presiding officer" means the person designated by the Board to serve as the presiding officer of a hearing.

(xi) "Proposed institution" means the financial institution that the applicant proposes to organize.

Section 3. Application Required; Filing; Incomplete Application; Extension.

(a) To organize a financial institution, the incorporators shall submit to the Commissioner an application. Each application shall be in writing and contain the information required in Section 4. In the case of a trust company, the application shall name and be executed by at least one (1) incorporator; in all other cases, the application shall name and be executed by at least five (5) incorporators.

(b) The applicant shall submit its application with the Commissioner for evaluation. The Commissioner shall keep and maintain the application as provided in Section 8.

(c) Within thirty (30) days after the date on which an application is submitted to the Commissioner for evaluation, he shall give written notice to the applicant either:

(i) that the application is in order and has been accepted for filing; or

(ii) that deficiencies exist in the information required to be included in the application and identifying each with reasonable particularity.

(d) If the Commissioner notifies the applicant of deficiencies in the application, the applicant shall correct the identified deficiencies and resubmit the application within ninety (90) days after the date of the notice of the deficiencies. If the applicant fails to submit a corrected application within such 90-day period, the applicant shall be deemed for all purposes to have withdrawn the application as of 5:00 p.m., Cheyenne, Wyoming local time, on the last day of such 90-day period.

(e) Within thirty (30) days after the date on which a corrected application is submitted to the Commissioner for further evaluation, he shall give written notice to the applicant either:

(i) that the application is in order and has been accepted for filing; or

(ii) that the application is rejected as incomplete.

Section 4. Content; Electronic Media.

(a) To be accepted for filing, each application shall be comprised of the following information:

(i) The signatures of all incorporators, verifying the contents of the application;

(ii) Three (3) duplicate originals of the articles of incorporation satisfying the requirements of Section 5;

(iii) The by-laws proposed for adoption either by the incorporators simultaneously with incorporation or by the board of directors of the proposed institution at its first meeting, indicating which method will be used to adopt the by-laws;

(iv) Evidence satisfactory to the Commissioner that the proposed institution has paid-in capital stock as required by the Banking Statutes;

(v) A complete, true and accurate copy of the proposed institution's completed FDIC application or, in the case of a trust company, the proposed institution's completed application on the form prescribed from time to time by ~~resolution of~~ the Commissioner;

(vi) The name, proposed title and residence post-office address of each individual proposed to serve as an executive officer of the corporation during any part of the corporation's first year of existence;

(vii) A statement with supporting evidence, demonstrating that the conditions in the community in which the proposed institution would transact business afford reasonable promise of successful operation;

(viii) A statement with supporting evidence, demonstrating that the proposed capital and surplus are adequate in light of current and prospective conditions;

(ix) A statement with supporting evidence, demonstrating that the proposed executive officers and proposed directors have sufficient experience, ability and standing to afford reasonable promise of successful operation;

(x) As to each depository institutions and trust companies then open for business in the home county, a list of the name of the entity, its president (and branch managers, if the local presence is a branch), its local street address, and its local telephone and fax numbers such financial institutions and trust companies;

(xi) A copy of any bonds obtained in accordance with W.S. 13-6-206;

(xii) If applicable, the designation of an agent for service of process described in Section 7; and

(xiii) Any other information required by these Regulations or as requested by the Commissioner.

(b) The obligation to provide the information required for an application is a

continuing obligation. The applicant shall supplement the application promptly when, but only to the extent that, significant information in the application changes materially and should its FDIC application change in any way.

(c) The applicant shall also deliver the application to the Commissioner on electronic media. The Commissioner shall reasonably assist applicants and reasonably cooperate with them in assuring substantial compliance with this subsection.

Section 5. Filing Fee; Withdrawn Applications.

(a) At the same time as it submits an application to the Commissioner for evaluation, the applicant shall pay to the Commissioner a fee in the amount of $15,000 or, in the case of an interim bank, $4,000.

(b) If an application is withdrawn at any time before the hearing, the filing fee shall be refunded to the applicant, reduced by the amount of all expenses authorized by W.S. 13-2-208.

(c) If an application is rejected, it shall be treated under this Section as if it were withdrawn as of 5:00 p.m., Cheyenne, Wyoming local time, on the last day of the 30-day time period described in Section 3(e).

Section 6. Articles of Incorporation.

(a) The articles of incorporation for a proposed institution shall include the following information:

(i) The name of the proposed institution;

(ii) The objects for which the corporation is organized, together with a statement that the corporation is organized for no other purpose than the accomplishment of legitimate and lawful objects;

(iii) A statement that the articles of incorporation are made to enable the incorporators:

(A) In the case of a bank, to avail themselves of the advantages of the banking laws and regulations of the State of Wyoming;

(B) In the case of an interim bank, to avail themselves of the advantages of the banking laws and regulations of the State of Wyoming but only to the extent necessary to serve as a vehicle to facilitate a merger and change of ownership of an existing bank in accordance with W.S. 13-4-108;

(C) In the case of a savings and loan association, to avail themselves

of the advantages of the savings and loan laws and regulations of the State of Wyoming;

(D) In the case of trust companies, to avail themselves of the advantages of the trust company laws and regulations of the State of Wyoming and the general corporation laws of the State of Wyoming; or

(E) In the case of a bank or a savings and loan association that also desires to engage in the trust business in this state, to avail themselves of the advantages of the trust company laws and regulations of the State of Wyoming;

(iv) The object for which the corporation is organized;

(v) In the case of an interim bank, a statement that it

(A) shall not operate independently,

(B) shall not conduct banking business, and

(C) shall exist only so long as is necessary to serve as a vehicle to facilitate a merger and change of ownership of an existing bank in accordance with W.S. 13-4-108;

(vi) In the case of a trust company, such other matters as may be required under the Wyoming Business Corporation Act;

(vii) The term of its existence, which may be perpetual, except that, in the case of an interim bank, its term of existence shall not be longer than is necessary to serve as a vehicle to facilitate a merger and change of ownership of an existing bank in accordance with W.S. 13-4-108;

(viii) The street address at which its principal place of business will be located;

(ix) The amount and par value of each class of its common capital stock and the number of shares in each class authorized to be issued (in the case of a savings and loan association, common stock must have a par value of at least $100 per share and be issued as a single class);

(x) Except for a savings and loan association, the amount and par value of each class of preferred capital stock and the number of shares in each class authorized to be issued, specifying all rights, powers and incidents of each class of such stock;

(xi) The amount of capital actually paid in;

(xii) The name, residence post-office address and occupation of each

shareholder subscribing for more than ten percent (10%) of the capital stock of the corporation and the number and class of shares subscribed for;

(xiii) The number of directors (which shall be five (5) or more, in the case of a bank, an interim bank or a savings and loan association, or any number, in the case of a trust company);

(xiv) The names, residence post-office address and occupation of each member of the board of directors that is expected to serve during any part of the corporation's first year of existence;

(xv) The name, occupation and residence post-office address of each incorporator; and

(xvi) The number of shares of capital stock, by class, for which each incorporator has subscribed.

(b) The articles of incorporation for a trust company may also include such matters as are permitted under the Wyoming Business Corporation Act.

(c) The articles of incorporation for any proposed institution may include an indemnification provision consistent with Chapter 2, Section 4.

Section 7. Designation of Agent for Service of Process.

Should the applicant be comprised of a group of incorporators, the application shall be accompanied with a designation by all incorporators of one of them to serve as agent on behalf of each and all of them for service of process and delivery of materials. All materials to be served on or delivered to the applicant shall be served on or delivered to the designated agent and shall not require service or delivery on all incorporators.

Section 8. Confidentiality.

(a) To reduce the possibility of disclosure of protected material that is in the Division's possession in connection with an application, the Commissioner shall maintain a case file, a correspondence file and a confidential file for each application.

(b) The case file shall consist only of the following documents:

(i) the public portions of the application;

(ii) the acceptance notice;

(iii) the proof of publication submitted by the applicant;

(iv) all formal notices, motions, public hearing transcripts and other documents filed with, served on, delivered to or issued by the Board, by the Commissioner or by the presiding officer in connection with the hearing and other similar records.

(c) The correspondence file shall include all documents produced or received in connection with an application, except for those documents required to be kept in the case file or the confidential file.

(d) The confidential file shall consist of materials that contain information that is protected material.

(e) Only those portions of the case file and the correspondence file that are subject to public inspection under the Wyoming Public Records Act shall be available for public inspection.

(f) Discussions held between the Division and an applicant before an application is accepted for filing and while an application is pending, including any materials relating to these discussions, shall be confidential.

Section 9. Investigation and Examination by Commissioner.

Promptly after the acceptance date, the Commissioner shall make a careful investigation and examination, as described in W.S. 13-2-211.

Section 10. Written Comments.

A person may file written comments on an application with the Commissioner during the comment period. The Commissioner shall promptly deliver to the Chairman and to all parties copies of all comments received by him, although he may determine to deliver comments on a weekly or other periodic basis. The applicant may respond in writing to any comments at any time before the conclusion of the hearing.

Chapter 19
Enhanced Digital Asset Custody ~~Opt-in Regime~~ Framework

Section 1. Authority and Scope.

(a) These rules are promulgated pursuant to Wyoming Statute ("W.S.") 13-1-603(c)(v) and W.S. 34-29-104(o).

(b) This chapter governs banks, as defined in W.S. 13-1-101(a)(i), that elect to opt into enhanced regulatory requirements for digital asset custodial services under W.S. 34-29-104.

(c) If an examination conforming to the requirements of ~~subsection (s) of~~ section 8 is not feasible because of the inability of any reasonably available auditor to comply with all provisions of subsection (s), the bank may voluntarily opt into all of the remaining provisions of this chapter.

Section 2. Definitions.

(a) As used in this chapter:

(i) "Bailment" means a legal circumstance when a customer has entrusted possession or control of a digital asset to a bank for a specific purpose, pursuant to an express agreement that the purpose shall be faithfully executed and that possession or control of the digital asset will be returned when the specific purpose is accomplished or when the customer requests return of the asset, consistent with W.S. 34-29-104. This term means a change in possession or control but not a change of title, and may be carried into effect through the exercise of fiduciary and trust powers or on a purely contractual basis;

(ii) "Control" means as defined in W.S. 34-29-103(e);

(iii) "Custody" or "custodial services" means as defined in W.S. 34-29-104(p)(iii) and other applicable federal laws, including those federal laws governing commodities as necessary, and means the possession or control~~,~~ and safekeeping ~~and management~~ of customer currency, traditional assets and digital assets. ~~through the exercise of fiduciary, trust and related powers under this chapter as a custodian, and~~ This term includes fund administration, the execution of customer instructions and custodial services customary in the banking industry, provided that the Commissioner may rely on guidance from foreign, federal or state agencies to determine customary custodial services. Custody consisting of non-discretionary asset safekeeping activities is generally non-fiduciary and an activity incidental to the business of banking. This term may include the exercise of fiduciary and trust powers to the extent the bank is exercising discretion in managing customer assets as well as providing safekeeping;

(iv) "Fungible" means a characteristic of a digital asset which makes the asset commercially interchangeable with digital assets of the same kind;

(v) “Independent public accountant” means a public accountant that meets the standards described in 17 C.F.R. 210.2-01, as incorporated herein by reference on July 1, 2019;

(vi) “Multi-signature arrangement” means as specified in W.S. 34-29-103(e)(ii);

(vii) “Nonfungible” means a characteristic of a digital asset which makes the asset unique and not commercially interchangeable with digital assets of the same kind for monetary, commercial or other intrinsic reasons;

(viii) “Omnibus account” means a commingled account in which a bank that provides custodial services does not strictly segregate digital assets for each customer or beneficial owner, consistent with W.S. 34-29-104(d)(ii);

(ix) “Private key” means as defined in W.S. 34-29-103(e)(iii);

(x) “Reasonable efforts” means providing written notice to a customer, but shall not require customer acknowledgement or consent;

(xi) “Rehypothecation” means the simultaneous reuse or repledging of a digital asset that is already in use or has already been pledged as collateral to another person;

(xii) “Source code version” means the version of the software that enforces block validation rules that enable consensus and define a digital asset~~.~~;

(xiii) "Possession" means as defined in W.S. 34-29-103(e);

(xiv) "Fiduciary and trust powers" means the discretionary authority customarily exercised by state and national banks in either a fiduciary or trust relationship.

(b) The term "blockchain" shall encompass any other form of distributed ledger appropriate for the context in which the term is used. Any reference in these rules to a technological process, system or other form of technology shall also include any other process or technology which is a substantially similar analogue, as determined by the Commissioner. For example, a "blockchain" is a form of "distributed ledger." The Commissioner shall adhere to the purposes and standards of this Chapter in analyzing any substantially similar analogue.

(c) The term "person" shall include a digital asset wallet possessed or controlled by a person for the purposes of any applicable commercial law, if agreed to by a bank and a customer.

(d) In classifying a digital asset within the categories of W.S. 34-29-101 for the purposes of this Chapter, the Commissioner shall use a predominant characteristics test and examine the substance of the asset over its form, consistent with federal law.

Section 3. Opt-In Procedure; Form of Notice.

(a) Consistent with W.S. 34-29-104(a), a bank may provide custodial services upon providing sixty (60) days written notice to the Commissioner.

(b) Written notice under subsection (a) shall contain the following information:

(i) A complete, detailed outline of the proposed custodial services, including measures which will be taken to comply with W.S. 34-29-104 and risk mitigation activities;

(ii) Verification that the bank is currently in compliance with all applicable state and federal statutes and rules, and will, unless a change in law occurs, be in compliance with all applicable state and federal statutes and rules while providing custodial services;

~~(iii) A copy of the agreement with an independent public accountant to conduct an examination conforming to the requirements of 17 C.F.R. § 275.206(4)-2(a)(4) and (6), as incorporated by reference on July 1, 2019, as required by W.S. 34-29-104(c);~~

~~(iv)~~ Reasons why the proposed custodial services will likely not impair the solvency or the safety and soundness of the bank, consistent with W.S. 34-29-104(m); and

~~(v)~~(iv) The signatures of the Chief Executive Officer and Chief Financial Officer of the bank or the equivalent officers, verifying the true and complete nature of the written notice.

Section 4. Digital Asset Custodial Services; Permissible Transactions; Customer Funds.

(a) A bank providing custodial services under W.S. 34-29-104 may serve as a "qualified custodian," as specified by 17 C.F.R. § 275.206(4)-2, as incorporated by reference on July 1, 2019 or as a custodian authorized by the United States commodity futures trading commission or other law. A "qualified custodian" shall maintain customer digital assets, funds and other securities which are not digital assets:

(i) In a separate account for each customer under that customer's name; or

(ii) In accounts that contain only customer digital assets, funds and other securities which are not digital assets, under the bank's name as agent or trustee for customers.

(b) A bank shall maintain possession or control over each digital asset while in custody. If a customer makes an election under W.S. 34-29-104(d)(ii), a bank maintains possession or control under this subsection by entering into an agreement with the counterparty to a transaction which contains a time for return of the asset.

(c) Consistent with W.S. 34-29-104(d) and subsection (d) of this section, before providing custodial services to a customer, a bank shall require the customer to elect, via a written agreement with the bank, one (1) of the following relationships for each digital asset account, or class of digital assets, for which custodial services will be provided:

(i) Custody under a bailment as a nonfungible or fungible asset, dependent on the nature and quality of the asset. Assets held under this paragraph shall be strictly segregated from other assets; or

(ii) Custody ~~under a bailment~~ pursuant to subsection (d) of this section for the purpose of conducting fiduciary and trust activities, which may include a securities intermediary relationship under title 34.1, article 8, Wyoming statutes (Uniform Commercial Code).

(d) If a customer makes an election under W.S. 34-29-104(d)(ii) and paragraph (c)(ii) of this section, the bank may, based solely on customer instructions, undertake transactions with a digital asset authorized under subsection (e) of this section on behalf of the customer. The bank shall not act, and may not use its discretion, unless explicitly granted such authority by the customer. As used in this chapter, "customer instructions":

(i) Except as otherwise provided in paragraph (e)(ii) of this section, mean a distinct, written authorization from a customer to undertake transactions specified under subsection (e) of this section, and need not include all or a majority of the aspects of the transaction, or all requirements customary to be provided to a directed custodian, as long as the intent of the customer regarding the type of transaction and understanding of potential risks is clearly apparent in the written authorization;

(ii) May include all information customarily provided to a directed custodian with respect to a transaction, and may provide for the bank to serve only as a directed custodian for that transaction;

(iii) May include a form the bank provides to a customer, whether solicited or unsolicited, listing a range of options from which a customer may choose, provided that the role of the bank shall be limited to setting forth the potential benefits and risks of a transaction in a straightforward manner.

(e) In accordance with customer instructions as specified under subsection (d) of this section and subject to applicable federal law, a bank may undertake the following transactions with digital assets in any market in which the transaction is not prohibited by law:

(i) Buying and selling digital assets;

(ii) Participating in staking pools for proof-of-stake-type digital assets, in masternodes, voting for delegates in delegated proof-of-stake protocols, leased proof-of-stake arrangements, locked stability fee arrangements, or similar revenue-generating arrangements characterized by higher gains accruing to larger pools of assets for the purpose of providing economic incentives for customers to pool assets. Banks may share in gains accruing to such pools but only if the terms through which the custodian may share in the gains, as well as the benefits and risks from participation in the pools, are fully disclosed to customers and customers expressly agree;

(iii) Regulated commodities activities, including derivatives, ~~which shall only include the following:~~ consistent with safe and sound banking practices;

~~(A) Binary options;~~

~~(B) Forwards;~~

~~(C) Futures;~~

~~(D) Options;~~

~~(E) Swaps; and~~

~~(F) Warrants.~~

(iv) Exchange services from digital assets to any official currency of a jurisdiction or other type of digital asset and vice versa. To the extent practicable, services under this paragraph shall be based on existing standards and best practices for foreign exchange transactions;

(v) Lending of digital assets, excluding rehypothecation, consistent with W.S. 34-29-104(k) and section 12 of this chapter;

(vi) Securities activities, including those specified by 17 C.F.R. 218.100, consistent with safe and sound banking practices;

~~(vi)~~(vii) Other classes of transactions approved by the Commissioner in writing in advance ~~of the transaction~~, including exchange-traded derivative contracts defined by an exchange and over-the-counter derivative contracts. The role of the Commissioner under this paragraph shall not include consideration of the merits of a proposed class of transactions brought under this paragraph, but rather is limited to ensuring that the proposed class of transactions is clearly defined so that the boundaries of the approval are clear and that the solvency, safety and soundness of the bank is not likely to be impaired by participating in the proposed class of transactions.

(f) Consistent with section 2 of this chapter, custodial services includes providing services to mutual funds and investment managers, retirement plans, bank fiduciary and agency accounts, bank marketable securities accounts, insurance companies, corporations, endowments and foundations and private banking customers based on the following:

(i) Core custodial services: Control of customer assets, settlement of trades, investment or allocation of cash balances as directed, collection of income (including ancillary and subsidiary benefits), processing of corporate actions, pricing assets, providing recordkeeping, reporting services, fund administration, performance measurement, risk measurement, compliance monitoring and transactions based on customer instructions, consistent with subsections (d) and (e) of this section;

(ii) Global custodial services: Custodial services for cross-border transactions, executing foreign exchange transactions and processing tax reclaims and other tax-based transactions;

(g) A bank shall not provide custodial services under this chapter in a manner that would likely impair the solvency or the safety and soundness of the bank, as determined by the Commissioner after considering the nature of custodial services customary in the banking industry.

(h) A bank may act as a fiduciary or trustee while providing custodial services or may provide custodial services on a purely contractual basis.

(j) A special purpose depository institution, as chartered under W.S. 13-12-101 through 13-12-126, may, based on customer instructions consistent with this section, undertake all transactions specified under subsection (e) of this section while providing custodial services. Consistent with W.S. 13-12-103(b) and (c) and section 3, 2019 Wyoming Session Laws, chapter 91, the lending prohibition in W.S. 13-12-103(c) shall not apply to custodial services provided by a special purpose depository institution as a result of the customer assuming all risk of loss for custodial service transactions. This prohibition is intended to ensure the solvency of the special purpose depository institution's banking business, as defined in W.S. 13-1-101(a)(ii).

(k) A bank may execute all components of a transaction within the bank or as otherwise agreed by the bank and the customer if that execution is in the best interests of the affected customer. Unless a bank and a customer have entered into an agreement for transactions to be executed with a specific person or ~~within~~ by the bank, the bank shall ~~have a duty to obtain~~ provide best execution and seek the most favorable terms for the contemplated transaction reasonably available under the circumstances. A bank may tailor execution based on the nature of the legal relationship with the customer. Public availability of pricing shall adhere to existing securities or commodities market practices for banks. Best execution shall not require that the lowest possible commission be obtained or be executed within a set period of time different ~~than~~ from ~~–~~customer instructions. Banks shall establish procedures to evaluate and demonstrate that transactions are executed in accordance with these rules and customer instructions using the following standards:

(i) The selection of a person to complete a transaction, as well as all aspects of the transaction, shall comply with federal and state standards and, as reasonably possible, industry best practices. For purposes of this subsection, "person" may include broker-dealers, digital asset exchanges or digital asset lenders; and

(ii) Banks shall conduct reasonable research, under the circumstances, regarding best price, speed of execution, certainty of execution, counterparty risk, security practices, conflicts of interest, recordkeeping capabilities and the commission rate or spread.

(l) Banks shall provide custodial services for customer funds~~, referred to as "client funds" in 17 C.F.R. § 275.206(4)-2, as provided under that section, as incorporated by reference on July 1, 2019. Customer funds under custody shall be managed to minimize risk. Permissible investments of customer funds under custody include United States Treasury Bonds, obligations issued by United States government entities, Federal Deposit Insurance Company-insured bank deposits, deposits at Federal Reserve banks, gold, United States government money market funds and other assets rated triple-A or equivalent by at least two credit rating agencies that are designated as Nationally Recognized Statistical Rating Organizations by the United States Securities and Exchange Commission.~~ consistent with safe and sound banking practices, and as otherwise required by applicable securities or commodities laws.

(m) As an incidental activity, a bank may provide non-custodial key management services, including key services for multi-signature arrangements and smart contracts, transaction verification, signature services, oracle functions, dispute or emergency resolution and other services incidental to multi-signature arrangements or smart contracts which may be performed by a trusted third-party. A bank which provides such non-custodial key management services under this paragraph shall not be considered to have custody of an asset.

(n) A bank may provide safekeeping services for a device containing digital asset private keys. Unless otherwise agreed to by the bank, the bank shall not have a duty to provide power and monitoring services relating to the device.

(o) A bank may issue, use or participate in innovative payment instruments and networks, including independent node verification networks and stablecoins, consistent with applicable law and safe and sound banking practices.

Section 5. Customer Protections; Requirements for Customer Agreements.

(a) A bank and a customer shall agree in writing regarding the source code version the bank will use for each digital asset, and the treatment of each asset under the Uniform Commercial Code, title 34.1, Wyoming statutes, if necessary. Any ambiguity under this subsection shall be resolved in favor of the customer.

(b) A bank may periodically determine whether to implement a source code version that uses block validation rules different than those of the source code version specified in the customer agreement under subsection (a) of this section, including in circumstances where is not possible to predict in advance whether utilization of the different source code version will be in the best ~~interest~~ interests of the customer. Additionally, the nature of proposed changes to source code versions from time to time may require the bank to consider the potential effects resulting from third-party actors (a person not a party to the agreement between the bank and its customer), who may create different source code versions resulting in new networks that could create economic value for the customers of the bank. Banks shall not be required to support digital assets and source code versions which the bank has not entered into an agreement with customers to support. Banks shall not capriciously redefine the digital assets under their custody, and the Commissioner shall have discretion to determine whether a redefinition is capricious. In communicating with customers regarding the situations set forth in this subsection, banks shall

have a duty to provide higher standards of customer notice and acknowledgement if there is likely to be a material impact on the economic value of the customer's digital asset. Customer agreements and notifications shall clearly describe the consequences of hard forks without replay protection, as required by the Commissioner, and how that may cause the transfer of assets that were previously in bank custody without explicit instructions to the bank, accounting for the fact that some forks allow valid transactions from another distributed ledger to also be valid on the fork. In the event of a replay protection attack by a new hard fork, the bank may pause withdrawals and investigate appropriately. As used in this paragraph, "replay protection" means, in the case of a digital asset fork, the ability to duplicate a transaction made on one fork of a distributed ledger to another fork. When changes to source code versions occur that use different block validation rules than those of the source code version specified in the customer agreement, the following customer notice and acknowledgement rules shall apply:

(i) If the bank chooses not to continue to support the original source code version agreed upon with the customer pursuant to subsection (a) of this section, it shall receive written affirmative consent from the customer as provided in this paragraph. Notice and affirmative consent are only required under this paragraph when the conditions in subparagraphs (A) through (C) occur:

(A) The bank seeks to implement a source code version that uses a consensus rule that differs from the original, as defined by the source code version specified in the customer agreement pursuant to subsection (a) of this section;

(B) The bank will not continue support for the original source code version; and

(C) The original source code version continues to exist, or is reasonably expected to continue to exist.

(D) The following examples apply to this paragraph:

(I) A hard fork of virtual currency "B" created a new source code version, "New B." Consequently, if a bank stopped supporting B but did choose to support New B, then the notice and affirmative consent requirements of this subsection would apply. For illustrative purposes, "New B" and "B" could be considered as similar to the virtual currencies "Bitcoin Cash" and "Bitcoin," respectively.

(II) A hard fork of virtual currency "E" created a new source code version, "New E," and followed the block validation rule change contained in the newly created source code version. The original source code version of E did not change but was renamed "E-Classic" and continued to follow the original block validation rules. Consequently, if a bank supported New E but no longer supported E-Classic, then the notice and affirmative consent requirements of this subsection would apply. For illustrative purposes, "New E" and "E-Classic" could be considered as similar to the virtual currencies "Ethereum" and "Ethereum Classic," respectively.

(ii) If the bank continues to support the original source code version agreed upon with the customer pursuant to subsection (a) of this section, and the bank seeks to implement a source code version that uses a consensus rule that differs from the original, the bank shall make reasonable efforts to inform the customer, as provided in this paragraph. Notice under this paragraph is only required when all of the following occur:

(A) The bank seeks to implement a source code version that uses a consensus rule that differs from the original, as defined by the source code version specified in the customer agreement pursuant to subsection (a) of this section;

(B) The bank will continue to support the original source code version specified in the customer agreement pursuant to subsection (a) of this section; and

(C) The original source code version continues to exist, or is reasonably expected to continue to exist.

(iii) If the original source code version no longer exists, or is not reasonably expected to continue to exist, the bank shall make reasonable efforts to inform the customer regarding source code changes from the original source code version agreed upon with the customer pursuant to subsection (a) of this section, as provided in this paragraph. Notice under this paragraph is only required when all of the following occur:

(A) The bank seeks to implement a source code version that uses a consensus rule that differs from the original, as defined by the source code version specified in the customer agreement pursuant to subsection (a) of this section;

(B) The bank will not continue to accommodate the source code version specified in the customer agreement pursuant to subsection (a) of this section; and

(C) The original source code version no longer exists, or is not reasonably expected to continue to exist.

(iv) In all other circumstances, the bank shall make reasonable efforts to notify the customer regarding source code version changes and act in a manner that the bank reasonably believes will be of economic benefit to the customer.

(v) Notice requirements under this subsection shall not apply to security vulnerabilities or other emergencies, as reasonably determined by the bank. After a source code version change relating to a security vulnerability or other emergency which would affect block validation rules, the bank shall provide written notice of the change to each customer as soon as practicable to minimize the security risk to customer assets.

(vi) In the case of customers who have not maintained current contact information with the bank, a bank shall be deemed to meet the notice requirement if it provides notice through its website and other media routinely used by the bank.

(c) As applicable, the bank shall provide customers with clear notices of the following:

(i) The heightened risk of loss from transactions under subsections (d) and (e) of section 4. For asset pooling arrangements, including proof-of stake digital assets, masternodes or similar arrangements, a bank shall additionally describe the security measures the bank will undertake to manage risk of loss;

(ii) That some risk of loss as a pro rata creditor exists as the result of custody as a fungible asset or custody under paragraph (c)(ii) of section 4;

(iii) That custody under paragraph (c)(ii) of section 4 may not result in the digital assets of the customer being strictly segregated from other customer assets; and

(iv) That the bank is not liable for losses suffered as the result of transactions under subsection (e) of section 4, except for liability consistent with the bank's fiduciary and trust powers ~~as a custodian under this section~~.

(d) A bank and a customer shall agree in writing to a time period within which the bank must return a digital asset held in custody. If a customer makes an election under paragraph (c)(ii) of section 4, the bank and the customer may also agree in writing to the form in which the digital asset shall be returned.

(e) All ancillary or subsidiary proceeds relating to digital assets held in custody, commonly known as forks, airdrops, staking gains or similar proceeds from offshoots, including interest, shall accrue to the benefit of the customer, except as specified by a written agreement with the customer. The bank may elect not to collect certain ancillary or subsidiary proceeds, as long as the election is disclosed in writing. A customer who makes an election under paragraph (c)(i) of section 4 may withdraw the digital asset in a form that permits the collection of the ancillary or subsidiary proceeds.

(f) A bank shall enter into a written agreement with a customer, if desired by the customer, regarding the manner in which to invest ancillary or subsidiary proceeds or other gains attributable to digital assets held in custody.

(g) A bank shall not authorize or permit rehypothecation of digital assets under its custody. The bank shall not engage in any activity to use or exercise discretionary authority relating to a digital asset except based on customer instructions.

(h) To promote legal certainty and greater predictability of digital asset transactions, a bank and a customer ~~may~~ shall define in writing the terms of settlement finality for all transactions, as specified by subsection (j) of this section. The following components apply to all such agreements unless the parties contract otherwise:

(i) Wyoming law applies to all transactions and the venue for disputes is in the courts of Wyoming;

(ii) Transactions are deemed to have occurred in Wyoming, consistent with W.S. 34-29-103~~(f)~~(g); and

(iii) Digital assets are deemed to be located in Wyoming, consistent with W.S. 34-29-103~~(f)~~(g).

(j) Agreements entered into between a bank and a customer relating to settlement finality under subsection (h) shall also address the following issues:

(i) The conditions under which a digital asset may be deemed fully transferred, provided that these legal conditions may diverge from operational conditions under which digital assets are considered transferred, owing to the distributed and probabilistic nature of digital assets;

(ii) The exact moment of transfer of a digital asset; and

(iii) The discharge of any obligations upon transfer of a digital asset.

Section 6. Standard of Custodial Services.

(a) If a bank ~~becomes~~ is subject to the requirements of the United States Securities and Exchange Commission's "Customer Protection Rule" for digital securities as specified by 17 C.F.R. 240.15c3-3, as incorporated by reference on July 1, 2019, the bank may be considered to have satisfied the requirement for a satisfactory control location if the bank has control of the digital security, consistent with supervisory manuals adopted by the Commissioner.

Section 7. Risk Management and Operations.

(a) In conducting supervision activities, the Commissioner shall determine whether a bank providing custodial services under this chapter has adequate systems in place to identify, measure, monitor and manage risks. Such systems include policies, procedures, internal controls and management information systems governing custodial services.

(b) A bank shall have a clearly documented and audited operational risk management program. The program shall include the following:

(i) Developing strategies to identify, assess, monitor and manage operational risk;

(ii) Defining procedures concerning operational risk management;

(iii) Defining an operational risk assessment methodology; and

(iv) Managing a risk reporting system for operational risk.

(c) If an incident occurs relating to a breach of the operational risk management program, a report shall be prepared by an officer of the bank documenting the following:

(i) Known causes, if any, of the incident;

(ii) Impact of the incident;

(iii) A timeline of the incident, including duration of time to resolve the incident; and

(iv) Corrective action, if necessary.

(d) The report under subsection (c) of this section shall be disclosed to all officers of the bank, senior employees and the Board of Directors, and referenced for future revisions to the operational risk management procedure. In the event an incident results in revisions or additions to these procedures, the officer in charge of operational risk management shall establish a timeline for complying with the necessary changes and shall document compliance in a timely manner.

(e) Operational risk management procedures shall be revisited on a recurring basis by the bank to ensure all reasonably foreseeable scenarios have been considered. A bank shall demonstrate that its scope of scenario planning has taken into consideration current industry risks and practices and reflects possible high-severity and plausible risks. Scenario planning should also be undertaken with consideration of the bank's contingency planning and business continuity plans.

(f) At all times, a bank shall have in place a business continuity plan based on the following:

(i) Personnel redundancy;

(ii) Standards for triggering the business continuity plan;

(iii) Procedures to mitigate operational impacts or transfer operational functions;

(iv) An alternate site location sufficient to recover and continue operations for a reasonable period of time. A bank should be able to demonstrate that the alternate site has appropriate distance between it and the primary custody location to mitigate environmental and technical interruptions at both sites and which adheres to all criteria of these rules; and

(v) A recovery plan for the restoration of normal operations after interruption.

(g) A bank shall adopt procedures for providing customers with perpetual access to all digital assets in custody in the event the bank ceases to operate or cannot fulfill its custodial services agreement. This may include a formal disbursement or custody transfer process. This

requirement may be satisfied by the adoption of a recovery or resolution plan by a special purpose depository institution under Chapter 20.

Section 8. Business Requirements.

(a) A bank providing custodial services under this chapter shall have verified mechanisms in place to assess its liquidity needs, including sums required for the execution of transactions. These mechanisms shall inform the bank's customer private key storage policy for custodial services. Unless otherwise demonstrated to be no longer best practices:

(i) The customer private key storage policy should require that ~~the majority of customer private keys not required for customer transactions should be held in cold storage to mitigate against losses arising from malicious computer intrusion or computer failure~~ the method of digital asset storage (e.g., hot versus cold storage) be conducted on a risk-focused basis; and

(ii) ~~A bank shall only maintain private keys in hot storage which are necessary to conduct customer transactions.~~ The mechanism and thresholds for transfer between hot, cold and other forms of storage must be well documented and subject to rigorous internal controls and auditing. To ensure sufficient liquidity and the protection of customer assets, a bank shall be able to timely execute a withdrawal of all digital assets.

(b) As a component of the bank's private key storage policy under subsection (a) of this section, a bank shall take into account its ability to obtain insurance or other forms of risk mitigation.

(c) A bank may generate a new data address, as defined in W.S. 17-16-140(a)(xlvii), for each transaction to ensure a customer's privacy, security and confidentiality. Before adopting such a policy, a bank shall consider potential business cases where traceability of address activity is desirable, especially to ensure compliance with federal customer identification, anti-money laundering, sanctions and beneficial ownership requirements. A bank shall exercise appropriate judgment in determining a data address strategy based on the use case of its customers.

(d) Each digital asset type may have a different protocol for its wallet functionality. Regardless of protocol differences, a bank shall demonstrate its ability to manage ~~the same~~ a similar level of compliance related to safekeeping, recording and transaction handling. A bank shall demonstrate compliance with the standards outlined in these rules for every asset type in its custody.

(e) A bank shall develop a protocol for fraud detection and adherence to federal customer identification, anti-money laundering, sanctions and beneficial ownership requirements. This should include a detection system for identifying suspicious transactions as well as a procedure for reviewing and reporting identified transactions.

(f) A bank shall disclose to the Commissioner, upon request, the methodology and data related to its asset valuation calculations and, if possible, use recognized benchmarks or observable, bona-fide, arms-length market transactions. A bank may provide a summary of its

methodology to customers or the public which does not disclose proprietary data. A bank shall exercise due care where the current market value of a digital asset is a conditional element of the transaction being executed. A bank shall ensure adherence to its customer agreement and industry best practices relating to the execution of exchange, derivatives, ~~and~~ lending and other transactions. A bank shall also disclose in advance the source of the asset valuation to the customer and all signatories of the transaction.

(g) A bank shall have established roles and responsibilities for custodial service operations and custody operational risk management. Responsibility for manually executed (non-automated) core functions of custodial services should be performed by employees who have been subject to appropriate background screenings.

(h) A bank shall provide industry-leading information technology security training on a regular basis to all employees and monitor its employees compliance with established procedures. This training shall include potential attacks that are specifically applicable to digital assets. Two training programs may be produced, one for information technology staff and one for non-information technology staff.

(j) A bank shall have appropriate numbers of staff who are trained and competent to discharge their duties effectively. The bank shall ensure that the responsibilities and authority of each staff member are clear and appropriate given the staff member's qualifications and experience, and that staff members receive the necessary training appropriate for their respective roles.

(k) A bank shall review and document the adequacy of its training programs at least annually, along with any relevant elements after the occurrence, or near occurrence, of material risk incidents. Policies and procedures must also provide for appropriate disciplinary measures for employees who violate policies and procedures.

(l) For any outsourced services or integrated partnerships, a bank shall demonstrate that proper due diligence was done in vetting the partner, whether an affiliate, vendor or supplier, regarding information security, operational risk and financial solvency. Although a bank may outsource such services, responsibility for compliance with applicable laws and rules shall remain with the bank. A bank shall also have sufficient governance mechanisms in place to monitor the outsourced party's continued compliance. To the extent possible under this chapter, bank policies on outsourcing or partnerships shall be consistent with the bank's existing processes for outsourcing or partnerships.

(m) A bank shall regularly assess the risk of information technology systems or software integrations with external parties, particularly as they relate to the risk of malicious intrusion, unauthorized access or theft of customer assets in custody, and ensure that appropriate safeguards are implemented to mitigate the risk. A bank shall engage a qualified, independent third party to conduct penetration testing annually. Results of such penetration tests shall be documented and retained for at least five years in a manner that allows the reports to be provided to the Commissioner upon request.

(n) For any third-party supplier of equipment that enables core functions of custodial services (e.g. steel storage, cold storage wallets, etc.), a demonstrated redundancy strategy shall exist ~~for alternative suppliers~~ that allows the bank to maintain service level agreements in the event of primary equipment or supplier failure.

(o) A bank shall provide to the Commissioner written verification that assets under custody carry appropriate insurance or other financial protections, as determined by the Commissioner, to cover or mitigate potential loss exposure.

(p) A bank shall maintain documented policies and procedures related to customer identification, anti-money laundering, sanctions and beneficial ownership requirements, which shall be as reasonably consistent as possible with existing processes, for both jurisdiction and asset types. A bank shall comply with all applicable federal laws relating to anti-money laundering, customer identification, sanctions and beneficial ownership, which may include enhanced compliance measures or procedures necessary to comply with these laws. A bank shall, upon request by the Commissioner, demonstrate its protocols for compliance with these laws, including its practice of new customer identity verification process as well as any required ongoing screenings and transaction-specific screenings.

(q) A bank shall comply with the following requirements:

(i) ~~Consistent with subsection (a) of section 6 of these rules,~~ If applicable, a bank shall provide customer account statements as required by 17 C.F.R. § 275.206(4)-2(a)(3), as incorporated by reference on July 1, 2019, including a timeframe of statement activity, all digital asset transactions specific to each account with dates and transaction amounts of corresponding transactions, balances for each type of digital asset and valuation of assets for each digital asset type, including the method used to create the valuation, consistent with subsection (f) of section 8.

(ii) Disclose all service level agreements for custodial services to customers; and

(iii) Disclose its responsibilities with respect to processing of corporate actions, pricing assets, providing recordkeeping, reporting services, fund administration, performance measurement, risk measurement and compliance monitoring.

(r) Consistent with W.S. 34-29-104(c), regular examinations of both customer currency and digital assets shall be completed by an independent public accountant if required. ~~The~~ Any examination shall include, if feasible, independent and cryptographically verifiable control of all digital assets under custody or a random sample selected by the auditor. A proof of reserve scheme may be used, if feasible, but only if customer privacy is protected by disclosing the total balance, data addresses or keys to the independent public accountant on a confidential basis. The examination conducted by the independent public accountant under this subsection shall proceed as follows, unless otherwise directed by the Commissioner for good cause:

(i) A bank shall provide the independent public accountant with all public data addresses used and shall sign ~~the addresses~~ messages demonstrating possession or control of private keys for those addresses. A hash of the most recent block of an agreed-upon ~~blockchain~~ distributed ledger at the time of signature shall be included in the signed message in order ~~public addresses~~ for messages to serve as a timestamp for when the signature was made. The signatures of those shall be verified by the accountant. The accountant shall use the ~~blockchain~~ distributed ledger to extract the total amount available at those addresses at a certain point in time;

(ii) The accountant shall determine to his satisfaction that a bank has control of the public data addresses provided in the signed message by requiring a signed message of the accountant's choosing using the private key to any of the public addresses provided by a bank. A bank shall not provide the accountant with a private key to any digital asset under custody;

(iii) A bank shall provide the digital asset balances, per asset, of each customer to the accountant and generate a Merkle tree, or in the determination of the Commissioner, any substantially similar analogue. The accountant shall publicly publish the root node hash, and affirm if true, that the total holdings represented by the root hash closely approximates the value that the accountant has verified in the wallet of the bank relating to the ~~blockchain~~ distributed ledger. The accountant shall ensure that the bank is not attempting to obfuscate or conceal material issues in the nodes that lead to the root node; and

(iv) A bank shall provide customers with the digital asset balances reported to the accountant, as well as the nodes and adjacent nodes from their account to the root which matches the root node hash published by the accountant. A bank shall disclose the hashing method used to generate the hash for the bank's node to customers, so that customers can verify that the node accurately represents the balance that is claimed, enabling customers to independently prove that their account was included in the data verified by the independent public accountant.

(s) The Commissioner may conduct an examination of custodial services provided by a bank at any time, with or without notice to the bank.

(t) A bank shall designate ~~an employee to be a point of contact~~ a method for the public to responsibly disclose critical vulnerabilities or other potential exploits and security risks by protocol developers~~, and the designated employee's contact information shall be made publicly available on the bank's website~~. A bank shall designate at least one employee to be responsible for handling inbound communication regarding critical security vulnerabilities or other security sensitive matters.

Section 9. Technology Controls and Custody Safekeeping.

(a) Consistent with this section, procedures shall be in place to ensure digital assets are securely created, stored and maintained to ensure uninterrupted availability appropriate for the circumstances.

(b) ~~A~~ If applicable, a seed relating to a digital asset shall be created using a National Institute of Standards and Technology (NIST) compliant deterministic random bit generator, secure non-deterministic key generation mechanism, or other method approved by the Commissioner. A bank shall create safeguards in the seed and subsequent key generation process that demonstrates resistance to supposition and potential collusion. The seed or private key shall have, as a minimum, random sequence 256-bit entropy. The result shall be at least a 256-bit entropy input that is encoded into a mnemonic ~~24-word~~ phrase. A bank shall then utilize a hashing function to generate a 512-bit value. Unless determined by the Commissioner not to be feasible in a particular instance, a bank shall use a passphrase as part of a seed which can be used as an additional measure of security and leveraged as a defense in brute force attacks, if the bank chooses to use mnemonic seed word phrases. The ~~24-word~~ phrase referenced in this subsection shall be considered the backup seed because it can be utilized to regenerate a seed.

(c) A bank shall utilize at least three officers or employees to perform the process of creating entropy in the creation and production of the seed, with no single person ever possessing the entirety of the seed, private key or backup mnemonic word phrase. When a private key or single seed is produced for a signatory, the signatory shall not be involved in the production of the public and private keys. None of the seed, private key or entropy creators shall be permitted to participate in the act of cryptographically signing or have access to the systems that ~~facilitate transactions~~ enable malicious activity.

(d) A bank shall comply with an industry-standard method of generating asymmetric private and public key combinations. Permissible industry-standard methods include those established by NIST.

(e) A bank shall have in place secure deletion and destruction mechanisms to ensure unwanted artefacts from seed, key and wallet generation, consistent with industry best practices.

(f) A bank shall adopt industry best practices utilizing strong encryption and secure device storage for customer private keys that are not in use. A bank shall ensure the keys stored online or in any one physical location are insufficient to conduct a digital asset transaction, unless appropriate controls are in place to render physical access insufficient to conduct a transaction. Key/seed backups shall be stored in a separate location from the primary key/seed.

(g) Key/seed backups shall be stored with strong encryption equal or superior to that used to protect the primary key. The key/seed backup shall be protected by access controls to prevent unauthorized access. For the storage of critical seeds, keys and key parts relating to the internal core cryptographic systems, hardware security modules that are at least Federal Information Processing Standard 140-2 Level 3 certified shall be used, or any other means which provides equal or superior protection, as determined by the Commissioner.

(h) If applicable, a bank shall ensure that once ~~the~~ a mnemonic backup seed phrase has been generated, it is broken into at least two or more parts. A bank shall ensure that a sufficient number of backup seed phrases that could be used to facilitate a transaction are not stored within any single point of access.

(j) A bank shall use physical storage facilities which are ~~equipped with vaults meeting at least a Class 1 UL rating of penetrative resistance to forcible attack~~ appropriate for the risk profile of the bank. A bank shall ensure that all physical storage areas in use are monitored on an uninterrupted basis and shall include reinforced ~~concrete and steel~~ vaults equipped with alarms, locks, and other appropriate security devices and be resistant to fire, flood, heat, earthquakes, tornadoes and other natural disasters. Access to the physical storage facility shall be limited to authorized persons through multifactor identity verification, which shall be annually verified by the independent public accountant, consistent with industry best practices.

(k) A bank shall ensure that a regular and recurring internal audit of backup seeds is performed on storage devices to ensure that no backups were ~~tampered with~~ modified, copied or removed. The audit shall occur no less than quarterly. All audits of seeds and subsequent results shall be well documented, with any risk incidents noted and necessary corrective action taken. All audit records shall be retained for at least five years in a manner that can be made available to the Commissioner upon request.

(l) A bank shall develop a documented protocol in the event there is reasonable belief that a wallet, private key or seed is compromised or subject to a security risk. The protocol shall be protected against adverse events including, but not limited to, the compromise of the whole seed, partial seed or a key derived from a seed, or any other potential security risk. In this event, if the underlying seed is believed to be compromised or at risk, the bank shall create a new wallet and migrate the digital assets. If a key is compromised or is at risk, a risk event shall be documented and investigated.

(m) Strict access management safeguards shall be in place to manage access to keys. Upon departure of a signatory from employment that had access to a wallet key or multi-signature arrangement key, a formal assessment shall be conducted to determine whether a new key ceremony and accompanying migration of digital assets is required. An audit trail shall record every change of access including who performed the change.

(n) A bank shall adopt procedures for the immediate revocation of a signatory's access. Key generation shall be performed in a manner in which a revoked signatory does not have access to the backup seed or knowledge of the phrase used in the creation. All keys shall be encrypted in a manner preventing a compromised signatory from recovering the seed. Procedures shall follow the standard protocol around removing user access without the need to create a new wallet. Quarterly internal audits shall be performed by the bank on the removal of user access by reviewing user access logs and verifying access as appropriate. A bank shall have a written checklist/procedure document that is followed for on- and off-boarding of employees. The checklist shall outline every permission to grant/revoke for every role in the bank's key management systems. All grant and revoke requests must be made via an authenticated communication channel which was transmitted using an encrypted protocol.

(o) A bank may place digital assets in an omnibus account if the customer elects a custodial relationship under W.S. 34-29-104(d)(ii) and paragraph (c)(ii) of section 4, consistent with federal law and industry best practices. Proper accounting shall be in place to accurately allocate each digital asset to a customer. The bank shall document and implement measures to

demonstrate that the level of security achieved is commensurate with custody under W.S. 34-29-104(d)(i) and paragraph (c)(i) of section 4.

(p) For cold storage of digital assets, a bank shall have physical security that requires at least two authorized key holders with security badges and at least two of the following multi-factor authentication methods:

(i) Personal knowledge, which shall include login credentials;

(ii) A tangible device or computer program, which shall include a hardware or software token or access card; or

(iii) Biometric data, which shall include fingerprints or eye scans.

(q) Physical security under subsection (r) of this section shall also include:

(i) Segmented access safeguards from primary workspaces;

(ii) A facility access logging system which maintains access records and security camera video for a minimum of one year on-site and for three years at an off-site location;

(iii) Security cameras which are hardened against attack and clearly show the entire body of a person upon access in and out of the ~~safe~~ vault; and

(iv) Documentation and use of principles of least privilege when assigning access controls. This documentation shall be made available to the Commissioner upon his request.

(r) A bank shall have procedures for required actions, customer notifications and notifications to the Commissioner in any situation whereby the bank has a reasonable belief that a digital asset under custody has been compromised or is subject to a security risk. These procedures shall be reviewed and audited annually and may include a velocity limit, freeze or circuit breaker actions designed to protect digital assets in an emergency.

(s) Within twenty-four (24) hours of forming a reasonable belief that any act has occurred that resulted in, or is likely to result in, unauthorized access to, disruption or misuse of the bank's electronic systems or information stored on such systems, a senior officer of the bank shall provide the following information to the Commissioner:

(i) The nature of the incident, including the categories and approximate number of digital assets involved;

(ii) The time of the incident;

(iii) An identification of the means by which the incident is likely to have occurred;

(iv) A description of the likely consequences of the incident, including any communications to customers which have been sent or are planned by the bank; and

(v) A summary of all mitigation actions the bank has taken in response to the incident.

(t) Within fourteen (14) days of a notification to the Commissioner under subsection (s) of this section, the senior executive shall furnish the Commissioner with a written report establishing all of the available details of the incident, as required by the Commissioner. The incident report shall also contain a root-cause analysis and impact analysis.

Section 10. Transaction Handling.

(a) To ensure that all transactions are subject to appropriate safeguards, a bank shall put in place secure and trusted measures ~~that can~~ to prevent fraud. Transactions shall be recorded in system audit records.

(b) A bank shall consider the use of multi-signature arrangements, as defined in W.S. 34-29-103(e)(ii), in all appropriate transactions. The Commissioner may require a bank to use multi-signature arrangements in specific situations.

(c) All individuals with authorized access to any secured location or system shall utilize individually named accounts to allow for auditing of access. Where a bank has various multi-signature arrangement procedures that vary depending on the risks of the transaction, including the value of a transaction, type of wallet risk, type of customer, the procedures of the bank shall be well-documented and audited.

(d) A bank shall adopt a method for managing a signing process that prevents a quorum of individuals from acting in bad faith to collude or manipulate automated systems. This may be achieved by separation of duties of different quorums over different subsystems, but does not require that quorums must not be used to protect individual subsystems. The bank shall use a system in which customer instructions for transactions may be authenticated or verified as genuine, and subsequently audited, to reduce the risk of theft and collusion. The risk of collusion and other malicious acts shall be addressed as part of recurring operational risk assessments. Collusion mitigation may be accomplished in the following ways:

(i) Safeguards including oversight and/or separation of duties that prevent a linear ability to create, approve, sign transactions and broadcast to distributed ledger networks;

(ii) Use of automated systems to create, approve, sign transactions and broadcast to distributed ledger networks;

(iii) Distribution of signatories with differing incentives, including customers, custodians, ~~and~~ trustees, other financial institutions, counterparties, and other third parties;

(iv) Concealment of the identities of signatories among each other; and

(v) Rotation of signatories, signing times or signing locations.

(e) For a transaction, each signatory shall record their reasoning or evidence for the decision to authorize or reject the transaction. Reasoning or evidence to approve or reject a transaction shall be based on a set procedure and determined with the same diligence and with the same required information for each occurrence, without regard to customer identity or transaction value unless otherwise approved by the Commissioner. Transaction reasoning or evidence under this subsection shall be retained and available for review upon request by a customer, with a chain of custody evidencing every access attempt, but which may not disclose actual employee identities. The following shall also apply:

(i) The reasoning or evidence required for each signatory to prove true in order to authorize a transaction shall be contractually agreed upon by all signatories in the customer agreement. In the event approval signing and transaction signing are abstracted, transaction approvers shall have access and appropriate expertise to evaluate required reasoning or evidence prior to an authorized signing ceremony;

(ii) Each approver or signatory shall be required to provide proof of the evidence referenced for an authorization;

(iii) Each transaction and signature action associated with a transaction shall have a specific time duration tracked against each option for any transaction where the conditions of the evidence are time-based;

(iv) A bank shall store all reasoning or evidence internally and the evidence shall be reviewed at multiple levels within a transaction. A minimum of four separate individuals shall perform reviews around a specific request. Evidence shall be collected based on a set checklist of necessary documentation based on the role the signatory is representing. A bank shall establish safeguards around the processes that shall be evaluated on a periodic basis and adjusted as necessary;

(v) A bank shall maintain a full audit trail of all transaction activities. A bank shall conduct timely reconciliation of all transactions in its records. This includes specific information about each transaction, including the:

(A) Date and time of transaction;

(B) Transaction event type;

(C) Jurisdiction in which the customer is located;

(D) Relevant signatories; and

(E) Account balances and the value of the transaction.

(f) Each quarter, a bank shall extract a sample of transactions for internal audit in order to ensure that internal processes are functioning in conformity with established procedures. Banks shall take corrective action as needed in the event faults are discovered. Safeguards shall be in place to ensure that records and audit trails cannot be changed.

(g) A bank shall maintain a detailed policy covering data sanitization requirements, procedures and validation steps for every media type used by the bank. The bank shall inform officers and employees of how data may remain on digital media after deletion, how to securely wipe data and when secure wiping should be used.

Section 11. Custody Operations.

(a) A bank shall ensure that information technology operational safeguards are subject to industry best practices to ensure a secure and stable custody operating environment is in place. These safeguards shall include the following:

(i) A bank shall ensure that technology measures consistent with industry best practices are in place to protect all systems~~. The then-current best practice of "defense in depth," an industry principle, shall be followed~~ which may include "defense in depth." A bank may adopt the ISO 27001 information technology standard, but if the bank chooses not to adopt this standard, it shall implement as many components of this standard as appropriate. The Commissioner may require the adoption of additional technology safeguards or standards. Particular rigor shall be applied to ensure that all internet-facing systems are hardened and secure; and

(ii) Access to systems and data shall only be granted to individuals with a demonstrated business need that cannot be achieved through other means. Safeguards shall be in place to ensure identification, authorization and authentication of the individual. A current list of access rights shall be maintained along with documented procedures for assigning and revoking access privileges. A log of all access changes shall be maintained to demonstrate proof of proper access rights management.

(b) A bank shall perform the following:

(i) Internal information technology security testing of both infrastructure and applications on a regular basis;

(ii) At least annually, penetration tests by an independent and qualified testing company. Any new internet facing services or significant changes to existing services shall be subject to internal penetration testing and hardened before being presented online as live services;

(iii) At least quarterly, internal system vulnerability ~~scans~~ audits; and

(iv) At least monthly, external system vulnerability ~~scans~~ audits.

(c) Decentralized applications shall be subject to a software development life cycle based on industry best practices.

(d) Proof of tests and ~~scans~~ audits conducted under subsection (b) of this section and corresponding results shall be documented and made available in an examination conducted by an independent public accountant or the Commissioner~~ upon request~~. Testing and ~~scans~~ audits shall include participation by both employees and external parties. Banks shall ensure external parties have a key role in testing and ~~scans~~ audits. Testing standards shall adhere to best industry practices. Recurring testing and ~~scans~~ audits under subsection (b) shall include:

(i) Wallet integrity audits;

(ii) Key and seed generation procedures;

(iii) Completed transactions, to ensure compliance of proof of evidence protocols;

(iv) Suspicious transaction handling;

(v) Migration of storage devices, including cold to hot storage; and

(vi) Random verification of digital asset balances and control of digital assets.

(e) A bank may, in its discretion, employ risk mitigation tools designed to automate a core function, including transaction signatures that have received and passed a demonstrated risk assessment performed by a qualified third party. Corresponding operational risk procedures shall be documented. The bank shall implement risk monitoring mechanisms to identify failures in automation if they occur.

Section 12. Digital Asset Lending Based on Customer Instructions.

(a) Based only on customer instructions and authority, consistent with W.S. 34-29-104 and section 4 of this chapter, a bank may undertake digital asset lending. Digital asset lending shall exclude rehypothecation of digital assets, consistent with W.S. 34-29-104(k) and subsection (g) of section 5 of this chapter.

(b) Digital asset lending shall be restricted solely to the department of the bank providing custodial services and shall not extend to any other functions of the bank which are not required for custodial services.

(c) Bank-owned assets or customer depository accounts shall not be involved in digital asset lending, except that the bank may accept deposits of customer funds related to digital asset lending.

~~(d) A bank shall not engage in maturity transformation of its digital asset lending portfolio. The duration of the digital asset loan portfolio shall match the duration of the cash portfolio into which customer cash is invested. The duration of both the lending and cash portfolios shall be matched at the inception of new lending activities and shall continue to be matched as long as lending activities continue. Derivatives shall only be used to create duration matching in extenuating circumstances, such as unexpected material defaults that cause the asset and liability durations of the portfolio to become mismatched.~~

~~(e) Customer funds may be invested as specified in subsection (m) of section 4 of this chapter.~~

Chapter 19
Enhanced Digital Asset Custody Framework

Section 1. Authority and Scope.

(a) These rules are promulgated pursuant to Wyoming Statute ("W.S.") 13-1-603(c)(v) and W.S. 34-29-104(o).

(b) This chapter governs banks, as defined in W.S. 13-1-101(a)(i), that elect to opt into enhanced regulatory requirements for digital asset custodial services under W.S. 34-29-104.

(c) If an examination conforming to the requirements of section 8 is not feasible because of the inability of any reasonably available auditor to comply with all provisions of subsection (s), the bank may voluntarily opt into all of the remaining provisions of this chapter.

Section 2. Definitions.

(a) As used in this chapter:

(i) "Bailment" means a legal circumstance when a customer has entrusted possession or control of a digital asset to a bank for a specific purpose, pursuant to an express agreement that the purpose shall be faithfully executed and that possession or control of the digital asset will be returned when the specific purpose is accomplished or when the customer requests return of the asset, consistent with W.S. 34-29-104. This term means a change in possession or control but not a change of title, and may be carried into effect through the exercise of fiduciary and trust powers or on a purely contractual basis;

(ii) "Control" means as defined in W.S. 34-29-103(e);

(iii) "Custody" or "custodial services" means as defined in W.S. 34-29-104(p)(iii) and other applicable federal laws, including those federal laws governing commodities as necessary, and means the possession or control and safekeeping of customer currency and digital assets. This term includes fund administration, the execution of customer instructions and custodial services customary in the banking industry, provided that the Commissioner may rely on guidance from foreign, federal or state agencies to determine customary custodial services. Custody consisting of non-discretionary asset safekeeping activities is generally non-fiduciary and an activity incidental to the business of banking. This term may include the exercise of fiduciary and trust powers to the extent the bank is exercising discretion in managing customer assets as well as providing safekeeping;

(iv) "Fungible" means a characteristic of a digital asset which makes the asset commercially interchangeable with digital assets of the same kind;

(v) "Independent public accountant" means a public accountant that meets the standards described in 17 C.F.R. 210.2-01, as incorporated herein by reference on July 1, 2019;

(vi) “Multi-signature arrangement” means as specified in W.S. 34-29-103(e)(ii);

(vii) “Nonfungible” means a characteristic of a digital asset which makes the asset unique and not commercially interchangeable with digital assets of the same kind for monetary, commercial or other intrinsic reasons;

(viii) “Omnibus account” means a commingled account in which a bank that provides custodial services does not strictly segregate digital assets for each customer or beneficial owner, consistent with W.S. 34-29-104(d)(ii);

(ix) “Private key” means as defined in W.S. 34-29-103(e)(iii);

(x) “Reasonable efforts” means providing written notice to a customer, but shall not require customer acknowledgement or consent;

(xi) “Rehypothecation” means the simultaneous reuse or repledging of a digital asset that is already in use or has already been pledged as collateral to another person;

(xii) “Source code version” means the version of the software that enforces block validation rules that enable consensus and define a digital asset.;

(xiii) "Possession" means as defined in W.S. 34-29-103(e);

(xiv) "Fiduciary and trust powers" means the discretionary authority customarily exercised by state and national banks in either a fiduciary or trust relationship.

(b) The term "blockchain" shall encompass any other form of distributed ledger appropriate for the context in which the term is used. Any reference in these rules to a technological process, system or other form of technology shall also include any other process or technology which is a substantially similar analogue, as determined by the Commissioner. For example, a "blockchain" is a form of "distributed ledger." The Commissioner shall adhere to the purposes and standards of this Chapter in analyzing any substantially similar analogue.

(c) The term "person" shall include a digital asset wallet possessed or controlled by a person for the purposes of any applicable commercial law, if agreed to by a bank and a customer.

(d) In classifying a digital asset within the categories of W.S. 34-29-101 for the purposes of this Chapter, the Commissioner shall use a predominant characteristics test and examine the substance of the asset over its form, consistent with federal law.

Section 3. Opt-In Procedure; Form of Notice.

(a) Consistent with W.S. 34-29-104(a), a bank may provide custodial services upon providing sixty (60) days written notice to the Commissioner.

(b) Written notice under subsection (a) shall contain the following information:

(i) A complete, detailed outline of the proposed custodial services, including measures which will be taken to comply with W.S. 34-29-104 and risk mitigation activities;

(ii) Verification that the bank is currently in compliance with all applicable state and federal statutes and rules, and will, unless a change in law occurs, be in compliance with all applicable state and federal statutes and rules while providing custodial services;

(iii) Reasons why the proposed custodial services will likely not impair the solvency or the safety and soundness of the bank, consistent with W.S. 34-29-104(m); and

(iv) The signatures of the Chief Executive Officer and Chief Financial Officer of the bank or the equivalent officers, verifying the true and complete nature of the written notice.

Section 4. Digital Asset Custodial Services; Permissible Transactions; Customer Funds.

(a) A bank providing custodial services under W.S. 34-29-104 may serve as a "qualified custodian," as specified by 17 C.F.R. § 275.206(4)-2, as incorporated by reference on July 1, 2019 or as a custodian authorized by the United States commodity futures trading commission or other law. A "qualified custodian" shall maintain customer digital assets, funds and other securities which are not digital assets:

(i) In a separate account for each customer under that customer's name; or

(ii) In accounts that contain only customer digital assets, funds and other securities which are not digital assets, under the bank's name as agent or trustee for customers.

(b) A bank shall maintain possession or control over each digital asset while in custody. If a customer makes an election under W.S. 34-29-104(d)(ii), a bank maintains possession or control under this subsection by entering into an agreement with the counterparty to a transaction which contains a time for return of the asset.

(c) Consistent with W.S. 34-29-104(d) and subsection (d) of this section, before providing custodial services to a customer, a bank shall require the customer to elect, via a written agreement with the bank, one (1) of the following relationships for each digital asset account, or class of digital assets, for which custodial services will be provided:

(i) Custody under a bailment as a nonfungible or fungible asset, dependent on the nature and quality of the asset. Assets held under this paragraph shall be strictly segregated from other assets; or

(ii) Custody pursuant to subsection (d) of this section for the purpose of conducting fiduciary and trust activities, which may include a securities intermediary relationship under title 34.1, article 8, Wyoming statutes (Uniform Commercial Code).

(d) If a customer makes an election under W.S. 34-29-104(d)(ii) and paragraph (c)(ii) of this section, the bank may, based solely on customer instructions, undertake transactions with a digital asset authorized under subsection (e) of this section on behalf of the customer. The bank shall not act, and may not use its discretion, unless explicitly granted such authority by the customer. As used in this chapter, "customer instructions":

(i) Except as otherwise provided in paragraph (e)(ii) of this section, mean a distinct, written authorization from a customer to undertake transactions specified under subsection (e) of this section, and need not include all or a majority of the aspects of the transaction, or all requirements customary to be provided to a directed custodian, as long as the intent of the customer regarding the type of transaction and understanding of potential risks is clearly apparent in the written authorization;

(ii) May include all information customarily provided to a directed custodian with respect to a transaction, and may provide for the bank to serve only as a directed custodian for that transaction;

(iii) May include a form the bank provides to a customer, whether solicited or unsolicited, listing a range of options from which a customer may choose, provided that the role of the bank shall be limited to setting forth the potential benefits and risks of a transaction in a straightforward manner.

(e) In accordance with customer instructions as specified under subsection (d) of this section and subject to applicable federal law, a bank may undertake the following transactions with digital assets in any market in which the transaction is not prohibited by law:

(i) Buying and selling digital assets;

(ii) Participating in staking pools for proof-of-stake-type digital assets, in masternodes, voting for delegates in delegated proof-of-stake protocols, leased proof-of-stake arrangements, locked stability fee arrangements, or similar revenue-generating arrangements characterized by higher gains accruing to larger pools of assets for the purpose of providing economic incentives for customers to pool assets. Banks may share in gains accruing to such pools but only if the terms through which the custodian may share in the gains, as well as the benefits and risks from participation in the pools, are fully disclosed to customers and customers expressly agree;

(iii) Regulated commodities activities, including derivatives, consistent with safe and sound banking practices;

(iv) Exchange services from digital assets to any official currency of a jurisdiction or other type of digital asset and vice versa. To the extent practicable, services under

this paragraph shall be based on existing standards and best practices for foreign exchange transactions;

(v) Lending of digital assets, excluding rehypothecation, consistent with W.S. 34-29-104(k) and section 12 of this chapter;

(vi) Securities activities, including those specified by 17 C.F.R. 218.100, consistent with safe and sound banking practices;

(vii) Other classes of transactions approved by the Commissioner in writing in advance including exchange-traded derivative contracts defined by an exchange and over-the-counter derivative contracts. The role of the Commissioner under this paragraph shall not include consideration of the merits of a proposed class of transactions brought under this paragraph, but rather is limited to ensuring that the proposed class of transactions is clearly defined so that the boundaries of the approval are clear and that the solvency, safety and soundness of the bank is not likely to be impaired by participating in the proposed class of transactions.

(f) Consistent with section 2 of this chapter, custodial services includes providing services to mutual funds and investment managers, retirement plans, bank fiduciary and agency accounts, bank marketable securities accounts, insurance companies, corporations, endowments and foundations and private banking customers based on the following:

(i) Core custodial services: Control of customer assets, settlement of trades, investment or allocation of cash balances as directed, collection of income (including ancillary and subsidiary benefits), processing of corporate actions, pricing assets, providing recordkeeping, reporting services, fund administration, performance measurement, risk measurement, compliance monitoring and transactions based on customer instructions, consistent with subsections (d) and (e) of this section;

(ii) Global custodial services: Custodial services for cross-border transactions, executing foreign exchange transactions and processing tax reclaims and other tax-based transactions;

(g) A bank shall not provide custodial services under this chapter in a manner that would likely impair the solvency or the safety and soundness of the bank, as determined by the Commissioner after considering the nature of custodial services customary in the banking industry.

(h) A bank may act as a fiduciary or trustee while providing custodial services or may provide custodial services on a purely contractual basis.

(j) A special purpose depository institution, as chartered under W.S. 13-12-101 through 13-12-126, may, based on customer instructions consistent with this section, undertake all transactions specified under subsection (e) of this section while providing custodial services. Consistent with W.S. 13-12-103(b) and (c) and section 3, 2019 Wyoming Session Laws, chapter

91, the lending prohibition in W.S. 13-12-103(c) shall not apply to custodial services provided by a special purpose depository institution as a result of the customer assuming all risk of loss for custodial service transactions. This prohibition is intended to ensure the solvency of the special purpose depository institution's banking business, as defined in W.S. 13-1-101(a)(ii).

(k) A bank may execute all components of a transaction within the bank or as otherwise agreed by the bank and the customer if that execution is in the best interests of the affected customer. Unless a bank and a customer have entered into an agreement for transactions to be executed with a specific person or by the bank, the bank shall provide best execution and seek the most favorable terms for the contemplated transaction reasonably available under the circumstances. A bank may tailor execution based on the nature of the legal relationship with the customer. Public availability of pricing shall adhere to existing securities or commodities market practices for banks. Best execution shall not require that the lowest possible commission be obtained or be executed within a set period of time different from customer instructions. Banks shall establish procedures to evaluate and demonstrate that transactions are executed in accordance with these rules and customer instructions using the following standards:

(i) The selection of a person to complete a transaction, as well as all aspects of the transaction, shall comply with federal and state standards and, as reasonably possible, industry best practices. For purposes of this subsection, "person" may include broker-dealers, digital asset exchanges or digital asset lenders; and

(ii) Banks shall conduct reasonable research, under the circumstances, regarding best price, speed of execution, certainty of execution, counterparty risk, security practices, conflicts of interest, recordkeeping capabilities and the commission rate or spread.

(l) Banks shall provide custodial services for customer funds consistent with safe and sound banking practices, and as otherwise required by applicable securities or commodities laws.

(m) As an incidental activity, a bank may provide non-custodial key management services, including key services for multi-signature arrangements and smart contracts, transaction verification, signature services, oracle functions, dispute or emergency resolution and other services incidental to multi-signature arrangements or smart contracts which may be performed by a trusted third-party. A bank which provides such non-custodial key management services under this paragraph shall not be considered to have custody of an asset.

(n) A bank may provide safekeeping services for a device containing digital asset private keys. Unless otherwise agreed to by the bank, the bank shall not have a duty to provide power and monitoring services relating to the device.

(o) A bank may issue, use or participate in innovative payment instruments and networks, including independent node verification networks and stablecoins, consistent with applicable law and safe and sound banking practices.

Section 5. Customer Protections; Requirements for Customer Agreements.

(a) A bank and a customer shall agree in writing regarding the source code version the bank will use for each digital asset, and the treatment of each asset under the Uniform Commercial Code, title 34.1, Wyoming statutes, if necessary. Any ambiguity under this subsection shall be resolved in favor of the customer.

(b) A bank may periodically determine whether to implement a source code version that uses block validation rules different than those of the source code version specified in the customer agreement under subsection (a) of this section, including in circumstances where is not possible to predict in advance whether utilization of the different source code version will be in the best interests of the customer. Additionally, the nature of proposed changes to source code versions from time to time may require the bank to consider the potential effects resulting from third-party actors (a person not a party to the agreement between the bank and its customer), who may create different source code versions resulting in new networks that could create economic value for the customers of the bank. Banks shall not be required to support digital assets and source code versions which the bank has not entered into an agreement with customers to support. Banks shall not capriciously redefine the digital assets under their custody, and the Commissioner shall have discretion to determine whether a redefinition is capricious. In communicating with customers regarding the situations set forth in this subsection, banks shall have a duty to provide higher standards of customer notice and acknowledgement if there is likely to be a material impact on the economic value of the customer's digital asset. Customer agreements and notifications shall clearly describe the consequences of hard forks without replay protection, as required by the Commissioner, and how that may cause the transfer of assets that were previously in bank custody without explicit instructions to the bank, accounting for the fact that some forks allow valid transactions from another distributed ledger to also be valid on the fork. In the event of a replay protection attack by a new hard fork, the bank may pause withdrawals and investigate appropriately. As used in this paragraph, "replay protection" means, in the case of a digital asset fork, the ability to duplicate a transaction made on one fork of a distributed ledger to another fork. When changes to source code versions occur that use different block validation rules than those of the source code version specified in the customer agreement, the following customer notice and acknowledgement rules shall apply:

(i) If the bank chooses not to continue to support the original source code version agreed upon with the customer pursuant to subsection (a) of this section, it shall receive written affirmative consent from the customer as provided in this paragraph. Notice and affirmative consent are only required under this paragraph when the conditions in subparagraphs (A) through (C) occur:

(A) The bank seeks to implement a source code version that uses a consensus rule that differs from the original, as defined by the source code version specified in the customer agreement pursuant to subsection (a) of this section;

(B) The bank will not continue support for the original source code version; and

(C) The original source code version continues to exist, or is reasonably expected to continue to exist.

(D) The following examples apply to this paragraph:

(I) A hard fork of virtual currency "B" created a new source code version, "New B." Consequently, if a bank stopped supporting B but did choose to support New B, then the notice and affirmative consent requirements of this subsection would apply. For illustrative purposes, "New B" and "B" could be considered as similar to the virtual currencies "Bitcoin Cash" and "Bitcoin," respectively.

(II) A hard fork of virtual currency "E" created a new source code version, "New E," and followed the block validation rule change contained in the newly created source code version. The original source code version of E did not change but was renamed "E-Classic" and continued to follow the original block validation rules. Consequently, if a bank supported New E but no longer supported E-Classic, then the notice and affirmative consent requirements of this subsection would apply. For illustrative purposes, "New E" and "E-Classic" could be considered as similar to the virtual currencies "Ethereum" and "Ethereum Classic," respectively.

(ii) If the bank continues to support the original source code version agreed upon with the customer pursuant to subsection (a) of this section, and the bank seeks to implement a source code version that uses a consensus rule that differs from the original, the bank shall make reasonable efforts to inform the customer, as provided in this paragraph. Notice under this paragraph is only required when all of the following occur:

(A) The bank seeks to implement a source code version that uses a consensus rule that differs from the original, as defined by the source code version specified in the customer agreement pursuant to subsection (a) of this section;

(B) The bank will continue to support the original source code version specified in the customer agreement pursuant to subsection (a) of this section; and

(C) The original source code version continues to exist, or is reasonably expected to continue to exist.

(iii) If the original source code version no longer exists, or is not reasonably expected to continue to exist, the bank shall make reasonable efforts to inform the customer regarding source code changes from the original source code version agreed upon with the customer pursuant to subsection (a) of this section, as provided in this paragraph. Notice under this paragraph is only required when all of the following occur:

(A) The bank seeks to implement a source code version that uses a consensus rule that differs from the original, as defined by the source code version specified in the customer agreement pursuant to subsection (a) of this section;

(B) The bank will not continue to accommodate the source code version specified in the customer agreement pursuant to subsection (a) of this section; and

(C) The original source code version no longer exists, or is not reasonably expected to continue to exist.

(iv) In all other circumstances, the bank shall make reasonable efforts to notify the customer regarding source code version changes and act in a manner that the bank reasonably believes will be of economic benefit to the customer.

(v) Notice requirements under this subsection shall not apply to security vulnerabilities or other emergencies, as reasonably determined by the bank. After a source code version change relating to a security vulnerability or other emergency which would affect block validation rules, the bank shall provide written notice of the change to each customer as soon as practicable to minimize the security risk to customer assets.

(vi) In the case of customers who have not maintained current contact information with the bank, a bank shall be deemed to meet the notice requirement if it provides notice through its website and other media routinely used by the bank.

(c) As applicable, the bank shall provide customers with clear notices of the following:

(i) The heightened risk of loss from transactions under subsections (d) and (e) of section 4. For asset pooling arrangements, including proof-of stake digital assets, masternodes or similar arrangements, a bank shall additionally describe the security measures the bank will undertake to manage risk of loss;

(ii) That some risk of loss as a pro rata creditor exists as the result of custody as a fungible asset or custody under paragraph (c)(ii) of section 4;

(iii) That custody under paragraph (c)(ii) of section 4 may not result in the digital assets of the customer being strictly segregated from other customer assets; and

(iv) That the bank is not liable for losses suffered as the result of transactions under subsection (e) of section 4, except for liability consistent with the bank's fiduciary and trust powers.

(d) A bank and a customer shall agree in writing to a time period within which the bank must return a digital asset held in custody. If a customer makes an election under paragraph (c)(ii) of section 4, the bank and the customer may also agree in writing to the form in which the digital asset shall be returned.

(e) All ancillary or subsidiary proceeds relating to digital assets held in custody, commonly known as forks, airdrops, staking gains or similar proceeds from offshoots, including interest, shall accrue to the benefit of the customer, except as specified by a written agreement with the customer. The bank may elect not to collect certain ancillary or subsidiary proceeds, as long as the election is disclosed in writing. A customer who makes an election under paragraph

(c)(i) of section 4 may withdraw the digital asset in a form that permits the collection of the ancillary or subsidiary proceeds.

(f) A bank shall enter into a written agreement with a customer, if desired by the customer, regarding the manner in which to invest ancillary or subsidiary proceeds or other gains attributable to digital assets held in custody.

(g) A bank shall not authorize or permit rehypothecation of digital assets under its custody. The bank shall not engage in any activity to use or exercise discretionary authority relating to a digital asset except based on customer instructions.

(h) To promote legal certainty and greater predictability of digital asset transactions, a bank and a customer shall define in writing the terms of settlement finality for all transactions, as specified by subsection (j) of this section. The following components apply to all such agreements unless the parties contract otherwise:

(i) Wyoming law applies to all transactions and the venue for disputes is in the courts of Wyoming;

(ii) Transactions are deemed to have occurred in Wyoming, consistent with W.S. 34-29-103(g); and

(iii) Digital assets are deemed to be located in Wyoming, consistent with W.S. 34-29-103(g).

(j) Agreements entered into between a bank and a customer relating to settlement finality under subsection (h) shall also address the following issues:

(i) The conditions under which a digital asset may be deemed fully transferred, provided that these legal conditions may diverge from operational conditions under which digital assets are considered transferred, owing to the distributed and probabilistic nature of digital assets;

(ii) The exact moment of transfer of a digital asset; and

(iii) The discharge of any obligations upon transfer of a digital asset.

Section 6. Standard of Custodial Services.

(a) If a bank is subject to the requirements of the United States Securities and Exchange Commission's "Customer Protection Rule" for digital securities as specified by 17 C.F.R. 240.15c3-3, as incorporated by reference on July 1, 2019, the bank may be considered to have satisfied the requirement for a satisfactory control location if the bank has control of the digital security, consistent with supervisory manuals adopted by the Commissioner.

Section 7. Risk Management and Operations.

(a) In conducting supervision activities, the Commissioner shall determine whether a bank providing custodial services under this chapter has adequate systems in place to identify, measure, monitor and manage risks. Such systems include policies, procedures, internal controls and management information systems governing custodial services.

(b) A bank shall have a clearly documented and audited operational risk management program. The program shall include the following:

(i) Developing strategies to identify, assess, monitor and manage operational risk;

(ii) Defining procedures concerning operational risk management;

(iii) Defining an operational risk assessment methodology; and

(iv) Managing a risk reporting system for operational risk.

(c) If an incident occurs relating to a breach of the operational risk management program, a report shall be prepared by an officer of the bank documenting the following:

(i) Known causes, if any, of the incident;

(ii) Impact of the incident;

(iii) A timeline of the incident, including duration of time to resolve the incident; and

(iv) Corrective action, if necessary.

(d) The report under subsection (c) of this section shall be disclosed to all officers of the bank, senior employees and the Board of Directors, and referenced for future revisions to the operational risk management procedure. In the event an incident results in revisions or additions to these procedures, the officer in charge of operational risk management shall establish a timeline for complying with the necessary changes and shall document compliance in a timely manner.

(e) Operational risk management procedures shall be revisited on a recurring basis by the bank to ensure all reasonably foreseeable scenarios have been considered. A bank shall demonstrate that its scope of scenario planning has taken into consideration current industry risks and practices and reflects possible high-severity and plausible risks. Scenario planning should also be undertaken with consideration of the bank's contingency planning and business continuity plans.

(f) At all times, a bank shall have in place a business continuity plan based on the following:

(i) Personnel redundancy;

(ii) Standards for triggering the business continuity plan;

(iii) Procedures to mitigate operational impacts or transfer operational functions;

(iv) An alternate site location sufficient to recover and continue operations for a reasonable period of time. A bank should be able to demonstrate that the alternate site has appropriate distance between it and the primary custody location to mitigate environmental and technical interruptions at both sites and which adheres to all criteria of these rules; and

(v) A recovery plan for the restoration of normal operations after interruption.

(g) A bank shall adopt procedures for providing customers with perpetual access to all digital assets in custody in the event the bank ceases to operate or cannot fulfill its custodial services agreement. This may include a formal disbursement or custody transfer process. This requirement may be satisfied by the adoption of a recovery or resolution plan by a special purpose depository institution.

Section 8. Business Requirements.

(a) A bank providing custodial services under this chapter shall have verified mechanisms in place to assess its liquidity needs, including sums required for the execution of transactions. These mechanisms shall inform the bank's customer private key storage policy for custodial services. Unless otherwise demonstrated to be no longer best practices:

(i) The customer private key storage policy should require that the method of digital asset storage (e.g., hot versus cold storage) be conducted on a risk-focused basis; and

(ii) The mechanism and thresholds for transfer between hot, cold and other forms of storage must be well documented and subject to rigorous internal controls and auditing. To ensure sufficient liquidity and the protection of customer assets, a bank shall be able to timely execute a withdrawal of all digital assets.

(b) As a component of the bank's private key storage policy under subsection (a) of this section, a bank shall take into account its ability to obtain insurance or other forms of risk mitigation.

(c) A bank may generate a new data address, as defined in W.S. 17-16-140(a)(xlvii), for each transaction to ensure a customer's privacy, security and confidentiality. Before adopting such a policy, a bank shall consider potential business cases where traceability of address activity is desirable, especially to ensure compliance with federal customer identification, anti-money

laundering, sanctions and beneficial ownership requirements. A bank shall exercise appropriate judgment in determining a data address strategy based on the use case of its customers.

(d) Each digital asset type may have a different protocol for its wallet functionality. Regardless of protocol differences, a bank shall demonstrate its ability to manage a similar level of compliance related to safekeeping, recording and transaction handling. A bank shall demonstrate compliance with the standards outlined in these rules for every asset type in its custody.

(e) A bank shall develop a protocol for fraud detection and adherence to federal customer identification, anti-money laundering, sanctions and beneficial ownership requirements. This should include a detection system for identifying suspicious transactions as well as a procedure for reviewing and reporting identified transactions.

(f) A bank shall disclose to the Commissioner, upon request, the methodology and data related to its asset valuation calculations and, if possible, use recognized benchmarks or observable, bona-fide, arms-length market transactions. A bank may provide a summary of its methodology to customers or the public which does not disclose proprietary data. A bank shall exercise due care where the current market value of a digital asset is a conditional element of the transaction being executed. A bank shall ensure adherence to its customer agreement and industry best practices relating to the execution of exchange, derivatives, lending and other transactions. A bank shall also disclose in advance the source of the asset valuation to the customer and all signatories of the transaction.

(g) A bank shall have established roles and responsibilities for custodial service operations and custody operational risk management. Responsibility for manually executed (non-automated) core functions of custodial services should be performed by employees who have been subject to appropriate background screenings.

(h) A bank shall provide industry-leading information technology security training on a regular basis to all employees and monitor its employees compliance with established procedures. This training shall include potential attacks that are specifically applicable to digital assets. Two training programs may be produced, one for information technology staff and one for non-information technology staff.

(j) A bank shall have appropriate numbers of staff who are trained and competent to discharge their duties effectively. The bank shall ensure that the responsibilities and authority of each staff member are clear and appropriate given the staff member’s qualifications and experience, and that staff members receive the necessary training appropriate for their respective roles.

(k) A bank shall review and document the adequacy of its training programs at least annually, along with any relevant elements after the occurrence, or near occurrence, of material risk incidents. Policies and procedures must also provide for appropriate disciplinary measures for employees who violate policies and procedures.

(l) For any outsourced services or integrated partnerships, a bank shall demonstrate that proper due diligence was done in vetting the partner, whether an affiliate, vendor or supplier, regarding information security, operational risk and financial solvency. Although a bank may outsource such services, responsibility for compliance with applicable laws and rules shall remain with the bank. A bank shall also have sufficient governance mechanisms in place to monitor the outsourced party's continued compliance. To the extent possible under this chapter, bank policies on outsourcing or partnerships shall be consistent with the bank's existing processes for outsourcing or partnerships.

(m) A bank shall regularly assess the risk of information technology systems or software integrations with external parties, particularly as they relate to the risk of malicious intrusion, unauthorized access or theft of customer assets in custody, and ensure that appropriate safeguards are implemented to mitigate the risk. A bank shall engage a qualified, independent third party to conduct penetration testing annually. Results of such penetration tests shall be documented and retained for at least five years in a manner that allows the reports to be provided to the Commissioner upon request.

(n) For any third-party supplier of equipment that enables core functions of custodial services (e.g. steel storage, cold storage wallets, etc.), a demonstrated redundancy strategy shall exist that allows the bank to maintain service level agreements in the event of primary equipment or supplier failure.

(o) A bank shall provide to the Commissioner written verification that assets under custody carry appropriate insurance or other financial protections, as determined by the Commissioner, to cover or mitigate potential loss exposure.

(p) A bank shall maintain documented policies and procedures related to customer identification, anti-money laundering, sanctions and beneficial ownership requirements, which shall be as reasonably consistent as possible with existing processes, for both jurisdiction and asset types. A bank shall comply with all applicable federal laws relating to anti-money laundering, customer identification, sanctions and beneficial ownership, which may include enhanced compliance measures or procedures necessary to comply with these laws. A bank shall, upon request by the Commissioner, demonstrate its protocols for compliance with these laws, including its practice of new customer identity verification process as well as any required ongoing screenings and transaction-specific screenings.

(q) A bank shall comply with the following requirements:

(i) If applicable, a bank shall provide customer account statements as required by 17 C.F.R. § 275.206(4)-2(a)(3), as incorporated by reference on July 1, 2019, including a timeframe of statement activity, all digital asset transactions specific to each account with dates and transaction amounts of corresponding transactions, balances for each type of digital asset and valuation of assets for each digital asset type, including the method used to create the valuation, consistent with subsection (f) of section 8.

(ii) Disclose all service level agreements for custodial services to customers; and

(iii) Disclose its responsibilities with respect to processing of corporate actions, pricing assets, providing recordkeeping, reporting services, fund administration, performance measurement, risk measurement and compliance monitoring.

(r) Consistent with W.S. 34-29-104(c), regular examinations of both customer currency and digital assets shall be completed by an independent public accountant if required. Any examination shall include, if feasible, independent and cryptographically verifiable control of all digital assets under custody or a random sample selected by the auditor. A proof of reserve scheme may be used, if feasible, but only if customer privacy is protected by disclosing the total balance, data addresses or keys to the independent public accountant on a confidential basis. The examination conducted by the independent public accountant under this subsection shall proceed as follows, unless otherwise directed by the Commissioner for good cause:

(i) A bank shall provide the independent public accountant with all public data addresses used and shall sign messages demonstrating possession or control of private keys for those addresses. A hash of the most recent block of an agreed-upon distributed ledger at the time of signature shall be included in the signed message in order for messages to serve as a timestamp for when the signature was made. The signatures of those shall be verified by the accountant. The accountant shall use the distributed ledger to extract the total amount available at those addresses at a certain point in time;

(ii) The accountant shall determine to his satisfaction that a bank has control of the public data addresses provided in the signed message by requiring a signed message of the accountant's choosing using the private key to any of the public addresses provided by a bank. A bank shall not provide the accountant with a private key to any digital asset under custody;

(iii) A bank shall provide the digital asset balances, per asset, of each customer to the accountant and generate a Merkle tree, or in the determination of the Commissioner, any substantially similar analogue. The accountant shall publicly publish the root node hash, and affirm if true, that the total holdings represented by the root hash closely approximates the value that the accountant has verified in the wallet of the bank relating to the distributed ledger. The accountant shall ensure that the bank is not attempting to obfuscate or conceal material issues in the nodes that lead to the root node; and

(iv) A bank shall provide customers with the digital asset balances reported to the accountant, as well as the nodes and adjacent nodes from their account to the root which matches the root node hash published by the accountant. A bank shall disclose the hashing method used to generate the hash for the bank's node to customers, so that customers can verify that the node accurately represents the balance that is claimed, enabling customers to independently prove that their account was included in the data verified by the independent public accountant.

(s) The Commissioner may conduct an examination of custodial services provided by a bank at any time, with or without notice to the bank.

(t) A bank shall designate a method for the public to responsibly disclose critical vulnerabilities or other potential exploits and security risks by protocol developers. A bank shall designate at least one employee to be responsible for handling inbound communication regarding critical security vulnerabilities or other security sensitive matters.

Section 9. Technology Controls and Custody Safekeeping.

(a) Consistent with this section, procedures shall be in place to ensure digital assets are securely created, stored and maintained to ensure uninterrupted availability appropriate for the circumstances.

(b) If applicable, a seed relating to a digital asset shall be created using a National Institute of Standards and Technology (NIST) compliant deterministic random bit generator, secure non-deterministic key generation mechanism, or other method approved by the Commissioner. A bank shall create safeguards in the seed and subsequent key generation process that demonstrates resistance to supposition and potential collusion. The seed or private key shall have, as a minimum, random sequence 256-bit entropy. The result shall be at least a 256-bit entropy input that is encoded into a mnemonic phrase. A bank shall then utilize a hashing function to generate a 512-bit value. Unless determined by the Commissioner not to be feasible in a particular instance, a bank shall use a passphrase as part of a seed which can be used as an additional measure of security and leveraged as a defense in brute force attacks, if the bank chooses to use mnemonic seed word phrases. The phrase referenced in this subsection shall be considered the backup seed because it can be utilized to regenerate a seed.

(c) A bank shall utilize at least three officers or employees to perform the process of creating entropy in the creation and production of the seed, with no single person ever possessing the entirety of the seed, private key or backup mnemonic word phrase. When a private key or single seed is produced for a signatory, the signatory shall not be involved in the production of the public and private keys. None of the seed, private key or entropy creators shall be permitted to participate in the act of cryptographically signing or have access to the systems that enable malicious activity.

(d) A bank shall comply with an industry-standard method of generating asymmetric private and public key combinations. Permissible industry-standard methods include those established by NIST.

(e) A bank shall have in place secure deletion and destruction mechanisms to ensure unwanted artefacts from seed, key and wallet generation, consistent with industry best practices.

(f) A bank shall adopt industry best practices utilizing strong encryption and secure device storage for customer private keys that are not in use. A bank shall ensure the keys stored online or in any one physical location are insufficient to conduct a digital asset transaction,

unless appropriate controls are in place to render physical access insufficient to conduct a transaction. Key/seed backups shall be stored in a separate location from the primary key/seed.

(g) Key/seed backups shall be stored with strong encryption equal or superior to that used to protect the primary key. The key/seed backup shall be protected by access controls to prevent unauthorized access. For the storage of critical seeds, keys and key parts relating to the internal core cryptographic systems, hardware security modules that are at least Federal Information Processing Standard 140-2 Level 3 certified shall be used, or any other means which provides equal or superior protection, as determined by the Commissioner.

(h) If applicable, a bank shall ensure that once a mnemonic backup seed phrase has been generated, it is broken into at least two or more parts. A bank shall ensure that a sufficient number of backup seed phrases that could be used to facilitate a transaction are not stored within any single point of access.

(j) A bank shall use physical storage facilities which are appropriate for the risk profile of the bank. A bank shall ensure that all physical storage areas in use are monitored on an uninterrupted basis and shall include reinforced vaults equipped with alarms, locks, and other appropriate security devices and be resistant to fire, flood, heat, earthquakes, tornadoes and other natural disasters. Access to the physical storage facility shall be limited to authorized persons through multifactor identity verification, which shall be annually verified by the independent public accountant, consistent with industry best practices.

(k) A bank shall ensure that a regular and recurring internal audit of backup seeds is performed on storage devices to ensure that no backups were modified, copied or removed. The audit shall occur no less than quarterly. All audits of seeds and subsequent results shall be well documented, with any risk incidents noted and necessary corrective action taken. All audit records shall be retained for at least five years in a manner that can be made available to the Commissioner upon request.

(l) A bank shall develop a documented protocol in the event there is reasonable belief that a wallet, private key or seed is compromised or subject to a security risk. The protocol shall be protected against adverse events including, but not limited to, the compromise of the whole seed, partial seed or a key derived from a seed, or any other potential security risk. In this event, if the underlying seed is believed to be compromised or at risk, the bank shall create a new wallet and migrate the digital assets. If a key is compromised or is at risk, a risk event shall be documented and investigated.

(m) Strict access management safeguards shall be in place to manage access to keys. Upon departure of a signatory from employment that had access to a wallet key or multi-signature arrangement key, a formal assessment shall be conducted to determine whether a new key ceremony and accompanying migration of digital assets is required. An audit trail shall record every change of access including who performed the change.

(n) A bank shall adopt procedures for the immediate revocation of a signatory's access. Key generation shall be performed in a manner in which a revoked signatory does not

have access to the backup seed or knowledge of the phrase used in the creation. All keys shall be encrypted in a manner preventing a compromised signatory from recovering the seed. Procedures shall follow the standard protocol around removing user access without the need to create a new wallet. Quarterly internal audits shall be performed by the bank on the removal of user access by reviewing user access logs and verifying access as appropriate. A bank shall have a written checklist/procedure document that is followed for on- and off-boarding of employees. The checklist shall outline every permission to grant/revoke for every role in the bank's key management systems. All grant and revoke requests must be made via an authenticated communication channel which was transmitted using an encrypted protocol.

(o) A bank may place digital assets in an omnibus account if the customer elects a custodial relationship under W.S. 34-29-104(d)(ii) and paragraph (c)(ii) of section 4, consistent with federal law and industry best practices. Proper accounting shall be in place to accurately allocate each digital asset to a customer. The bank shall document and implement measures to demonstrate that the level of security achieved is commensurate with custody under W.S. 34-29-104(d)(i) and paragraph (c)(i) of section 4.

(p) For cold storage of digital assets, a bank shall have physical security that requires at least two authorized key holders with security badges and at least two of the following multi-factor authentication methods:

(i) Personal knowledge, which shall include login credentials;

(ii) A tangible device or computer program, which shall include a hardware or software token or access card; or

(iii) Biometric data, which shall include fingerprints or eye scans.

(q) Physical security under subsection (r) of this section shall also include:

(i) Segmented access safeguards from primary workspaces;

(ii) A facility access logging system which maintains access records and security camera video for a minimum of one year on-site and for three years at an off-site location;

(iii) Security cameras which are hardened against attack and clearly show the entire body of a person upon access in and out of the vault; and

(iv) Documentation and use of principles of least privilege when assigning access controls. This documentation shall be made available to the Commissioner upon his request.

(r) A bank shall have procedures for required actions, customer notifications and notifications to the Commissioner in any situation whereby the bank has a reasonable belief that a digital asset under custody has been compromised or is subject to a security risk. These

procedures shall be reviewed and audited annually and may include a velocity limit, freeze or circuit breaker actions designed to protect digital assets in an emergency.

(s) Within twenty-four (24) hours of forming a reasonable belief that any act has occurred that resulted in, or is likely to result in, unauthorized access to, disruption or misuse of the bank's electronic systems or information stored on such systems, a senior officer of the bank shall provide the following information to the Commissioner:

(i) The nature of the incident, including the categories and approximate number of digital assets involved;

(ii) The time of the incident;

(iii) An identification of the means by which the incident is likely to have occurred;

(iv) A description of the likely consequences of the incident, including any communications to customers which have been sent or are planned by the bank; and

(v) A summary of all mitigation actions the bank has taken in response to the incident.

(t) Within fourteen (14) days of a notification to the Commissioner under subsection (s) of this section, the senior executive shall furnish the Commissioner with a written report establishing all of the available details of the incident, as required by the Commissioner. The incident report shall also contain a root-cause analysis and impact analysis.

Section 10. Transaction Handling.

(a) To ensure that all transactions are subject to appropriate safeguards, a bank shall put in place secure and trusted measures to prevent fraud. Transactions shall be recorded in system audit records.

(b) A bank shall consider the use of multi-signature arrangements, as defined in W.S. 34-29-103(e)(ii), in all appropriate transactions. The Commissioner may require a bank to use multi-signature arrangements in specific situations.

(c) All individuals with authorized access to any secured location or system shall utilize individually named accounts to allow for auditing of access. Where a bank has various multi-signature arrangement procedures that vary depending on the risks of the transaction, including the value of a transaction, type of wallet risk, type of customer, the procedures of the bank shall be well-documented and audited.

(d) A bank shall adopt a method for managing a signing process that prevents a quorum of individuals from acting in bad faith to collude or manipulate automated systems. This may be achieved by separation of duties of different quorums over different subsystems, but does

not require that quorums must not be used to protect individual subsystems. The bank shall use a system in which customer instructions for transactions may be authenticated or verified as genuine, and subsequently audited, to reduce the risk of theft and collusion. The risk of collusion and other malicious acts shall be addressed as part of recurring operational risk assessments. Collusion mitigation may be accomplished in the following ways:

(i) Safeguards including oversight and/or separation of duties that prevent a linear ability to create, approve, sign transactions and broadcast to distributed ledger networks;

(ii) Use of automated systems to create, approve, sign transactions and broadcast to distributed ledger networks;

(iii) Distribution of signatories with differing incentives, including customers, custodians, trustees, other financial institutions, counterparties, and other third parties;

(iv) Concealment of the identities of signatories among each other; and

(v) Rotation of signatories, signing times or signing locations.

(e) For a transaction, each signatory shall record their reasoning or evidence for the decision to authorize or reject the transaction. Reasoning or evidence to approve or reject a transaction shall be based on a set procedure and determined with the same diligence and with the same required information for each occurrence, without regard to customer identity or transaction value unless otherwise approved by the Commissioner. Transaction reasoning or evidence under this subsection shall be retained and available for review upon request by a customer, with a chain of custody evidencing every access attempt, but which may not disclose actual employee identities. The following shall also apply:

(i) The reasoning or evidence required for each signatory to prove true in order to authorize a transaction shall be contractually agreed upon by all signatories in the customer agreement. In the event approval signing and transaction signing are abstracted, transaction approvers shall have access and appropriate expertise to evaluate required reasoning or evidence prior to an authorized signing ceremony;

(ii) Each approver or signatory shall be required to provide proof of the evidence referenced for an authorization;

(iii) Each transaction and signature action associated with a transaction shall have a specific time duration tracked against each option for any transaction where the conditions of the evidence are time-based;

(iv) A bank shall store all reasoning or evidence internally and the evidence shall be reviewed at multiple levels within a transaction. A minimum of four separate individuals shall perform reviews around a specific request. Evidence shall be collected based on a set checklist of necessary documentation based on the role the signatory is representing. A bank

shall establish safeguards around the processes that shall be evaluated on a periodic basis and adjusted as necessary;

(v) A bank shall maintain a full audit trail of all transaction activities. A bank shall conduct timely reconciliation of all transactions in its records. This includes specific information about each transaction, including the:

(A) Date and time of transaction;

(B) Transaction event type;

(C) Jurisdiction in which the customer is located;

(D) Relevant signatories; and

(E) Account balances and the value of the transaction.

(f) Each quarter, a bank shall extract a sample of transactions for internal audit in order to ensure that internal processes are functioning in conformity with established procedures. Banks shall take corrective action as needed in the event faults are discovered. Safeguards shall be in place to ensure that records and audit trails cannot be changed.

(g) A bank shall maintain a detailed policy covering data sanitization requirements, procedures and validation steps for every media type used by the bank. The bank shall inform officers and employees of how data may remain on digital media after deletion, how to securely wipe data and when secure wiping should be used.

Section 11. Custody Operations.

(a) A bank shall ensure that information technology operational safeguards are subject to industry best practices to ensure a secure and stable custody operating environment is in place. These safeguards shall include the following:

(i) A bank shall ensure that technology measures consistent with industry best practices are in place to protect all systems, which may include "defense in depth." A bank may adopt the ISO 27001 information technology standard, but if the bank chooses not to adopt this standard, it shall implement as many components of this standard as appropriate. The Commissioner may require the adoption of additional technology safeguards or standards. Particular rigor shall be applied to ensure that all internet-facing systems are hardened and secure; and

(ii) Access to systems and data shall only be granted to individuals with a demonstrated business need that cannot be achieved through other means. Safeguards shall be in place to ensure identification, authorization and authentication of the individual. A current list of access rights shall be maintained along with documented procedures for assigning and revoking

access privileges. A log of all access changes shall be maintained to demonstrate proof of proper access rights management.

(b) A bank shall perform the following:

(i) Internal information technology security testing of both infrastructure and applications on a regular basis;

(ii) At least annually, penetration tests by an independent and qualified testing company. Any new internet facing services or significant changes to existing services shall be subject to internal penetration testing and hardened before being presented online as live services;

(iii) At least quarterly, internal system vulnerability audits; and

(iv) At least monthly, external system vulnerability audits.

(c) Decentralized applications shall be subject to a software development life cycle based on industry best practices.

(d) Proof of tests and audits conducted under subsection (b) of this section and corresponding results shall be documented and made available in an examination conducted by an independent public accountant or the Commissioner. Testing and audits shall include participation by both employees and external parties. Banks shall ensure external parties have a key role in testing and audits. Testing standards shall adhere to best industry practices. Recurring testing and audits under subsection (b) shall include:

(i) Wallet integrity audits;

(ii) Key and seed generation procedures;

(iii) Completed transactions, to ensure compliance of proof of evidence protocols;

(iv) Suspicious transaction handling;

(v) Migration of storage devices, including cold to hot storage; and

(vi) Random verification of digital asset balances and control of digital assets.

(e) A bank may, in its discretion, employ risk mitigation tools designed to automate a core function, including transaction signatures that have received and passed a demonstrated risk assessment performed by a qualified third party. Corresponding operational risk procedures shall be documented. The bank shall implement risk monitoring mechanisms to identify failures in automation if they occur.

Section 12. Digital Asset Lending Based on Customer Instructions.

(a) Based only on customer instructions and authority, consistent with W.S. 34-29-104 and section 4 of this chapter, a bank may undertake digital asset lending. Digital asset lending shall exclude rehypothecation of digital assets, consistent with W.S. 34-29-104(k) and subsection (g) of section 5 of this chapter.

(b) Digital asset lending shall be restricted solely to the department of the bank providing custodial services and shall not extend to any other functions of the bank which are not required for custodial services.

(c) Bank-owned assets or customer depository accounts shall not be involved in digital asset lending, except that the bank may accept deposits of customer funds related to digital asset lending.

Chapter 20
Special Purpose Depository Institutions

Section 1. Authority; Scope; Applicability of Other Rules; Federal Law.

(a) This Chapter is promulgated pursuant to Wyoming Statute ("W.S.") 13-12-126.

(b) This Chapter governs special purpose depository institutions, as defined in W.S. 13-1-101(a)(xvi).

(c) The rules of the Board and the Division, except as provided in this subsection and to the extent not inconsistent with W.S. 13-12-101 through 13-12-126, shall apply to special purpose depository institutions. The term "bank" or "financial institution" in other rules shall be reasonably construed to include special purpose depository institutions, as determined by the Commissioner. Chapter 4, §§ 5 and 6 of the Rules of the Division shall not apply to special purpose depository institutions.

(d) Consistent with W.S. 13-12-107, a special purpose depository institution ~~is~~ shall be subject to all applicable federal laws relating to insured depository institutions which are consistent with the powers, limitations and other characteristics specified by W.S. 13-12-101 through 13-12-126 and this Chapter, as determined by the Commissioner. Reference to a particular federal law or rule in this Chapter shall not be construed to imply that other laws or rules not referenced are inapplicable.

(e) A special purpose depository institution may request the Commissioner to provide guidance on the applicability of a specific federal law under subsection (d) of this section.

Section 2. Capital and Surplus/Operating Expenses.

(a) Consistent with W.S. 13-12-110(b) and subsection (d) of this section, a special purpose depository institution shall have initial capital, subscribed for as fully paid stock, which is commensurate with the risk profile and proposed activities of the institution, as determined by the Commissioner. A special purpose depository institution shall also maintain a capital plan analyzing capital needs based on initial requirements, projected growth and the availability of capital from identified sources. The plan may include a moratorium on the payment of dividends during a specified future period. The initial capital required by this subsection shall be subscribed and fully paid in at the time the institution applies for a certificate of authority under W.S. 13-12-116, but prior to this time, as part of the charter application of the institution, the incorporators shall present evidence that the required capital will be available if a charter is granted, which may include letters of commitment, as required by the Commissioner.

(b) After a special purpose depository institution has commenced operations, the Commissioner may require the institution to modify its capital levels based on the size, risk profile or activities of the institution. To the extent possible, the Commissioner will give the institution a sufficient period to implement a modified capital requirement. The Commissioner retains the authority to require a modification of capital within sixty (60) days, consistent with W.S. 13-4-203, if conditions warrant.

(c) A special purpose depository institution shall have a paid-up surplus fund of not less than three (3) years of operating expenses prior to applying for a certificate of authority under W.S. 13-12-116.

(d) In establishing a capital requirement under this section, the Commissioner shall consider the following factors holistically, accounting for the non-leveraged nature of the institution and the impact of operational risk and impact on earnings:

(i) Peer institutions of the special purpose depository institution, which may include custodial banks and national trust banks;

(ii) The activities and risks posed by the business plan and financial projections of the special purpose depository institution;

(iii) The prompt corrective action tier 1 leverage ratio, as specified by 12 C.F.R. § 208.43 as of October 1, 2020;

(iv) The non-leveraged nature of deposits related to custodial, fiduciary and trust accounts administered by the institution, consistent with 12 C.F.R. § 217.10 as of October 1, 2020, and the treatment of custodial, fiduciary and trust deposits under the supplementary leverage ratio for custodial banks;

(v) Current market conditions; and

(vi) Potential costs of a receivership, as specified by § 5 of this Chapter.

(e) As used in this Chapter, "custodial bank" means a depository institution predominantly engaged in custody, safekeeping, and asset servicing activities, consistent with the Economic Growth, Regulatory Relief and Consumer Protection Act (132 Stat. 1296, 1359).

Section 3. Application Requirements.

(a) To be accepted for filing, a special purpose depository institution charter application shall be comprised of the following information:

(i) The signatures of all incorporators, verifying the contents of the application;

(ii) ~~Three (3) signed, original copies of the articles of incorporation of the institution plus any filing fee required by the Secretary of State, or existing incorporation documents required by the Commissioner~~ The articles of incorporation of the institution plus any filing fee required by the Secretary of State, or existing incorporation documents as required by the Commissioner;

(iii) The final bylaws or draft bylaws proposed for adoption either by the incorporators simultaneously with incorporation or by the board of directors of the proposed special purpose depository institution at its first meeting, indicating which method will be used to adopt the bylaws;

(iv) The capital plan of the institution;

(v) Evidence satisfactory to the Commissioner that the proposed special purpose depository institution will be able to obtain private insurance as specified by W.S. 13-12-119(e) upon chartering, including coverage types, coverage limits and any conditions relating to payment of claims;

(vi) The name, proposed title, physical address and biographical sketch of each individual proposed to serve as an executive officer or director of the institution during the first year of operations, demonstrating sufficient experience, ability and standing to afford the institution a reasonable promise of successful operation, to the extent reasonably possible;

(vii) A detailed business plan, which shall include:

(A) All proposed activities of the special purpose depository institution, including identification of likely customers, a marketing plan and business projections based on statistical data or other accepted business methods;

(B) A business risk assessment, consistent with subparagraphs (a) and (c) of this paragraph;

(C) A comprehensive estimate of operating expenses for the first three (3) years of operation, consistent with subparagraph (A) of this paragraph;

(D) A complete proposal for compliance with this Chapter, W.S. 13-12-101 through 13-12-126 and all other applicable state and federal laws; and

(E) Other information material to the investigation and report of the Commissioner and the decision of the Board.

(viii) Evidence satisfactory to the Commissioner regarding the availability of a surety bond under W.S. 13-12-118(a), or a statement that the special purpose depository institution will irrevocably pledge assets to the Commissioner, as specified by W.S. 13-12-118(b);

(ix) If applicable, the designation of an agent for service of process which is described in Chapter 5, § 7 of the Rules of the Division;

(x) Information relating to corporate partnerships or affiliations, including a description of corporate interests and activities and the most recent ~~audited~~ financial statement of ~~any business entity which has a twenty-five percent (25%) or greater ownership stake in the proposed institution;~~ a person with a proposed controlling interest in the special purpose depository institution, as defined in § 5(a) of this Chapter;

(xi) ~~Information relating to all prospective investors in the proposed institution who are not United States citizens, including the name of the natural person making an investment, date of birth, nationality and the mailing and physical address of the primary residence of the natural person;~~ Identification of all prospective investors in the proposed

institution, and other information as the Commissioner may require, including information regarding non-United States citizens;

(xii) Information relating to government agencies or self-regulatory organizations which the proposed special purpose depository institution may be subject to, whether state, federal or foreign, including activities which the agency or organization regulates or supervises, as well as license numbers, license expiration dates and agency contact persons;

(xiii) Information sufficient to conduct a background investigation on proposed directors, officers and shareholders who control ten percent (10%) or more of the voting securities of the institution, in the manner required by the Commissioner; and

(xiv) Any other information required by law or requested by the Commissioner or Board which is material to the charter application or the future operation of the institution.

(b) The incorporators shall provide truthful and complete information in a charter application, in all accompanying materials and in communications relating to an application. The application and all accompanying materials shall be attested to under penalty of perjury pursuant to Wyo. Stat. §§ 6-5-301 and 6-5-303. The incorporators shall supplement an application, accompanying materials or any communication promptly when information in the application, materials or communication changes materially or if an error or omission is discovered.

(c) If an application is withdrawn at any time before a hearing of the Board, the filing fee shall be refunded to the applicant, reduced by the amount of all expenses authorized by W.S. 13-2-208.

(d) If a charter application is rejected by the Board, it shall be treated as if it were withdrawn at 5:00 p.m. Mountain Time on the last day of the thirty (30) day time period described in Chapter 5, § 3(e), Rules of the Division.

(e) As appropriate and consistent with safe and sound banking practices, the capital structure of a special purpose depository institution shall favor common stock.

Section 4. Recovery/Resolution ~~Plan/Required Insurance./~~Planning.

(a) Not later than six (6) months after a special purpose depository institution commences operations, a draft recovery and resolution plan shall be submitted to the Commissioner for review.

(b) A draft recovery and resolution plan shall generally encompass the requirements of a national bank recovery plan and the "targeted resolution plan" specified by 12 C.F.R. § 243.6, as of June 1, 2020. The plan shall outline potential recovery actions to address significant financial or operational stress that could threaten the safe and sound operation of the institution, as well as and strategies for orderly disposition of the institution without the need for the appointment of a receiver, including actions under § 5 of this Chapter. A ~~resolution~~ plan shall also identify at least two (2) business entities that could potentially acquire the special purpose depository institution, or any component of the institution, in the event of financial

distress, receivership or another contingency warranting use of the ~~resolution~~ plan. The ~~resolution~~ plan shall include a procedure for quickly and safely transferring all assets of the institution to another entity and a procedure for liquidating the assets of the institution.

(c) The Commissioner, in consultation with the officers of the special purpose depository institution, shall review the draft recovery and resolution plan and determine whether it appropriately addresses the risks inherent in a potential recovery or resolution scenario. The institution shall amend the draft plan as reasonably required by the Commissioner to protect the interests of the customers of the institution and to protect the ~~state and national~~ financial system from material risks. The board of directors of the institution shall review the draft ~~resolution~~ plan and approve a final plan within sixty (60) days of submission of a plan by the officers. After approval, the chief executive officer of the special purpose depository institution shall file the ~~resolution~~ plan with the Commissioner.

(d) After filing under subsection (c) of this section, the board of directors of a special purpose depository institution shall annually review and amend the recovery and resolution plan of the institution to account for material changes in each of the following areas:

(i) Critical operations or core business lines, including information technology;

(ii) Corporate structure, including interconnections and interdependencies with other business entities, management and succession planning;

(iii) Deposits and assets under custody, assets under management or similar relationships;

(iv) Funding, liquidity or capital needs or sources;

(v) Changes in law or regulation; and

(vi) Any other area determined to be relevant by the Commissioner.

(e) A plan amended under subsection (d) of this section shall be filed with the Commissioner within thirty (30) days of approval by the board of directors. In addition to the requirements of subsection (d) of this section, the Commissioner may, at any time, require the board of directors of a special purpose depository institution to review and amend its recovery and resolution plan.

(f) ~~Chapter 1, § 4 of the Rules of the Division apply to resolution plans filed with the Commissioner under this section. A resolution plan may be disclosed to other governmental agencies, self-regulatory organizations or persons assisting with the resolution of an institution in a confidential format, as deemed appropriate by the Commissioner.~~ A recovery and resolution plan, or draft plan, filed with the Commissioner shall be confidential. A recovery and resolution plan may be disclosed in a confidential format to other governmental agencies, self-regulatory organizations or persons assisting with the recovery or resolution of an institution, as deemed appropriate by the Commissioner.

~~(g) Not more than forty-five (45) days after a charter has been approved by the Board, all executed insurance policies required by W.S. 13-12-119(e) shall be provided to the Commissioner.~~

Section 5. Supervision of Controlling Interests; Affiliate Relationships.

(a) As used in this Chapter, "controlling interest in a special purpose depository institution" means a circumstance when a person, directly or indirectly, or acting through or in concert with one or more persons:

(i) Owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the institution;

(ii) Controls in any manner the election of a majority of the directors of the institution;

(iii) Have the power to exercise a controlling influence over the management or policies of the institution.

(b) A person with a controlling interest in a special purpose depository institution shall:

(i) Submit annual audited financial statements, and as otherwise reasonably required by the Commissioner;

(ii) Provide a description of all affiliated or parent entities and their relationships with the institution, including annual updates;

(iii) Serve as a source of strength for the institution, which may include capital plans, maintenance agreements or agreements for resource-sharing, as required by the Commissioner.

(c) The Commissioner may require a legal entity with a controlling interest in a special purpose depository institution to execute a tax allocation agreement with the institution that expressly states that an agency relationship exists between the person and the institution with respect to tax assets generated by the institution, and that these assets are held in trust by the person for the benefit of the institution and will be promptly remitted to the institution. The tax allocation agreement may also provide that the amount and timing of any payments or refunds to the institution by the person should be no less favorable than if the institution were a separate taxpayer.

(d) A person who meets the definition of a "commercial firm" under the Dodd-Frank Wall Street Reform and Consumer Protection Act (124 Stat. 1376, 1596–97), shall not obtain a controlling interest in a special purpose depository institution.

(e) If the Commissioner finds that it is in the public interest and has reasonable cause to believe it is necessary to protect the customers of a special purpose depository institution, the Commissioner may:

(i) Conduct an examination of a legal entity with a controlling interest in a special purpose depository institution or otherwise require information from the person;

(ii) Require a person with a controlling interest in a special purpose depository institution to divest or sever their relationship with the institution, if necessary to maintain safety and soundness.

(f) If a person with a controlling interest in a special purpose depository institution is subject to supervision by another state or federal banking regulator, the Commissioner may reasonably exempt the person from this section to facilitate coordinated supervision as appropriate.

(g) Consistent with § 1(d) of this Chapter, 12 C.F.R. § 223.1 *et seq*., as of October 1, 2020, shall apply to special purpose depository institutions.

(h) As used in this section, "person" means as defined in Wyo. Stat. § 8-1-102(a)(vi).

Section 6. Receivership.

(a) Subject to court supervision as otherwise required by law, the Commissioner is the receiver and resolution official for special purpose depository institutions, consistent with Wyo. Stat. 13-12-122 and 11 U.S.C. § 109(b)(2). As used in this Chapter, "receivership" means a liquidation conducted under W.S. 13-12-122.

(b) In the event of financial distress or another contingency warranting use of the resolution plan created under § 4 of this Chapter, the Commissioner shall, to the extent appropriate under the circumstances, use the plan for the resolution of the institution.

(c) If appropriate, the Commissioner may retain such staff and enter into contracts for professional services as are necessary to carry out a receivership. The Commissioner may retain services on a continuing retainer or on an as-needed basis.

(d) Persons who have claims against the special purpose depository institution may present claims, along with supporting documentation, for consideration by the Commissioner. The Commissioner shall determine the validity and approve the amounts of claims. All claims against the institution shall be fixed when the Commissioner takes possession of the institution and the Commissioner shall stand in the place of the institution. Constructive notice provided by the filing made under W.S. 13-4-303(a) shall be deemed to satisfy the knowledge requirement of subsection (b) of that section.

(e) The Commissioner shall establish a date by which any person seeking to present a claim against the institution must present their claim for determination. The Commissioner shall also mail notice to creditors as required by W.S. 13-4-402 and other applicable law.

(f) The Commissioner shall allow any claim against the institution received on or before the deadline for presenting claims, if the claim is established to the Commissioner's satisfaction by the information on the institution's books and records or as otherwise submitted. The Commissioner may disallow any portion of any claim by a creditor or claim of a security

interest, preference, set-off or priority which is not established to the satisfaction of the Commissioner.

(g) Wyoming law relating to the nature of digital assets under title 34.1, Wyoming statutes and W.S. 34-29-101 through 34-29-103, including security interests, shall govern claims made under this section, as well as the receivership of the institution.

(h) If a person with a claim against a special purpose depository institution also has an obligation owed to the institution, the claim and obligation shall be set-off against the other and only the net balance remaining after set-off shall be considered as a claim, if the set-off is otherwise legally valid.

(j) The Commissioner shall pay expenses and claims in the following priority order:

(i) Administrative expenses of the Commissioner, as defined in subsection (k) of this section, to the extent those expenses exceed pledged capital or a surety bond;

(ii) Customer claims relating to deposits, custodial, fiduciary and trust assets, as well as any claims of the Federal Reserve System;

(iii) Claims of secured creditors and any preferences which may be required by W.S. 13-4-502;

~~(iii)~~(iv) Unsecured creditors of the institution, including secured creditors to the extent any claim exceeds a valid and enforceable security interest;

~~(iv)~~(v) Creditors of the institution, if any, whose claims are subordinated to general creditor claims; and

~~(v)~~ (vi) Shareholders of the institution.

(k) "Administrative expenses" mean those costs incurred by the Commissioner under W.S. 13-4-501 in maintaining institution operations, ~~as necessary and for the purpose of~~ preserving assets, ~~while liquidating and~~ resolving the affairs of the institution and other related activities. Expenses include pre-receivership and post-receivership obligations that the Commissioner determines are necessary and appropriate to facilitate the orderly liquidation and resolution of the institution. Expenses shall also include:

(i) Expenses of the Commissioner and the costs of contracts entered into by the Commissioner for professional services relating to the receivership, including audit, accountancy, information technology, legal, fiduciary, trust and real estate services, except for the cost of any continuing retainer paid by the Commissioner for professional services related to receivership that is not directly related to the receivership of a specific institution;

(ii) Expenses necessary for the continued operations of an institution during the receivership, including wages and salaries of employees, expenses for professional services, contractual rent pursuant to an existing lease or rental agreement and payments to third-party or affiliated service providers that, in the opinion of the Commissioner, are of benefit to the receivership until the date the Commissioner repudiates, terminates, cancels or otherwise discontinues the applicable contract.

(m) Subject to court supervision as otherwise required by law, in resolving the affairs of a special purpose depository institution, the Commissioner may:

(i) Take possession of the books, records, property and assets of the institution, including the value of collateral pledged by the institution, to the extent it exceeds a valid and enforceable security interest of a claim;

(ii) Collect all debts, dues and claims belonging to the institution, including claims remaining after set-off;

(iii) Sell or compromise all bad or doubtful debts, including fraudulent transfers;

(iv) Sell the real and personal property of the institution~~; and~~

(v) Deposit all receivership funds collected from the liquidation of the institution with a Wyoming bank or trust company~~.~~;

(vi) Avoid fraudulent transfers or other transfers made in contemplation or in close proximity to the receivership, and recover these assets as provided by law; and

(vii) Take other necessary actions to efficiently and prudently complete a receivership.

(n) ~~The Commissioner may exercise other rights, privileges and powers authorized by law, including the common law of receiverships as applied by courts to bank receiverships. The Commissioner shall follow the procedure for bank receiverships used by the Federal Deposit Insurance Corporation.~~ To carry out this section, the Commissioner may employ all rights, privileges and powers exercised by the Federal Deposit Insurance Corporation under federal law and the common law of receiverships as applied by courts to banks, when not inconsistent with this Chapter and Wyoming law.

(o) Subject to W.S. 13-4-506 and subsection (j) of this section, the Commissioner may make ratable dividends from available funds, based on the claims that have been proved to the Commissioner's satisfaction.

(p) ~~Consistent with W.S. 34-29-104(d), assets held by a special purpose depository institution off-balance sheet in a custodial or fiduciary capacity, as designated on the institution's books and records, shall not be considered as part of the institution's general assets and liabilities held in connection with its other business and will not be considered a source for payment of unrelated claims of creditors and other claimants. Custodial and fiduciary assets shall be recoverable by customers in full, in the absence of institution mismanagement, misconduct or other similar activity. As used in this subsection, "designated on the institution's books and records" means the following:~~

~~(i) Appropriate segregation from institution assets; and~~

~~(ii) The structure of the custodial or fiduciary relationship meets all applicable legal requirements.~~

Consistent with W.S. 34-29-104(d), assets held by a special purpose depository institution off-balance sheet in a custodial, fiduciary or trust capacity are not part of the institution's general assets and liabilities held in connection with its other business and shall not be a source for payment of unrelated claims of creditors and other claimants if the following requirements are met:

(i) Appropriate segregation from institution assets;

(ii) Appropriate recordkeeping relating to custodial, fiduciary and trust accounts;

(iii) The structure of the custodial, fiduciary or trust relationship generally meets all other applicable legal requirements.

(q) ~~Upon~~ Immediately upon taking possession of a special purpose depository institution, the Commissioner shall transfer the institution's custodial, trust or fiduciary appointments and accounts to successor custodians or fiduciaries, or if not practical, close the bank's fiduciary and custodial appointments and accounts and return assets to customers. The Commissioner shall conduct transfers under this subsection as quickly as possible to prevent or minimize disruption to customers.

(r) The Commissioner, to the extent reasonably possible, shall act to recover missing, unavailable or pledged deposits, custodial or fiduciary assets for the benefit of customers or the receivership.

(s) The Commissioner shall conclude a receivership as provided by W.S. 13-4-701.

Section 7. Anti-Money Laundering, Customer Identification and Sanctions Compliance.

(a) A special purpose depository institution shall maintain a written compliance program covering the topics set forth in subsection (a) of this section, commensurate with the risk profile of the institution, as determined by the Commissioner. The program shall:

(i) Be approved initially by the board of directors and reviewed on an annual basis by the board for potential updates;

(ii) Require annual, written risk assessments, which shall be approved by the board and noted in the minutes of the board; and

(iii) Establish a written training program, which shall include annual training for directors, officers, and other key personnel which are in a position to promote institutional compliance.

(b) The board of directors of a special purpose depository institution shall approve all new products and services before launch, and assess material risks and the means by which the institution can satisfy compliance obligations with respect to each product and service.

(c) The board of directors shall also establish and update clear risk appetite standards for special purpose depository institution activities each year, with periodic reporting of anti-

money laundering, customer identification and sanctions key risk indicators, key performance indicators, remedial action status, evolving regulatory issues and industry best practices.

(d) A special purpose depository institution shall conduct annual independent testing by qualified personnel with respect to its anti-money laundering, customer identification and sanctions controls, unless granted an exemption by the Commissioner.

(e) In the event of the discovery of any violation of state or federal law relating to anti-money laundering, customer identification or sanctions, a special purpose depository institution shall immediately inform the Division and the appropriate federal agency on a confidential basis relating to the circumstances of the violation, irrespective of whether disclosure is otherwise required under federal law.

(f) If engaged in digital asset activities, a special purpose depository institution shall maintain a digital asset analytics provider to assist with anti-money laundering, customer identification and sanctions compliance. Alternatively, an institution may develop an in-house solution that is comparable to available third-party solutions if approved by the Commissioner.

(g) A special purpose depository institution shall conduct a source of funds review for each customer using a risk-focused approach.

(h) Special purpose depository institutions may provide digital asset transfers to external, non-custodial addresses from institution accounts. As used in this subsection, "non-custodial" means not held by a supervised financial institution in the United States or a foreign jurisdiction that has an effective anti-money laundering framework. Non-custodial transfers shall occur as follows:

(i) In the context of transfers from a customer account with an institution to a non-custodial address held by an institution customer, each institution shall appropriately screen for ownership of the counterparty address, with auditable processes in place to recreate the methods through which the bank conducted screening, and appropriate escalation processes in the event that the bank identifies a change in ownership of the wallet address.

(ii) In the context of transfers from a customer account with an institution to a non-custodial address held by a non-customer, the institution shall employ a risk-based approach, which may include pre-authorization and appropriate screening before the transfer shall take place.

(j) The Commissioner shall conduct transaction testing of the digital asset transactions of a special purpose depository institution on a regular basis, commensurate with the activities of the institution and supervisory manuals, policies and procedures.

Section 8. Directors; Officers; Operations in Wyoming.

(a) A special purpose depository institution shall be managed by not less than five (5) directors, consistent with W.S. 13-2-401. An institution shall maintain the following executive officers, or functional equivalents, to manage its operations:

(i) Chief executive officer/president;

(ii) Chief operations officer;

(iii) Chief compliance officer;

(iv) Chief financial officer;

(v) Chief technology/information security officer; and

(vi) Any other officers deemed appropriate.

(b) As used in W.S. 13-12-103(d) and this section, "principal operating headquarters" means the location or locations in Wyoming where the chief executive officer/president of the special purpose depository institution and at least one (1) of the other officers listed in paragraphs (a)(ii) through (a)(v) of this section directs, controls and coordinates the activities of the institution for a majority of a calendar year.

Section 9. Investments and Liquid Assets.

(a) Consistent with W.S. 13-12-105(b)(iii) and this section, a special purpose depository institution may, in addition to ~~other options~~ Federal Reserve Bank balances, maintain unencumbered liquid assets ~~and capital~~ through investments in the following asset classes:

(i) Obligations of the U.S. Treasury or other federal agencies;

(ii) Obligations of a U.S. state or U.S. municipal government which are investment grade;

~~(iii) Debt securities issued by a business entity which are investment grade;~~

~~(iv)~~ Securities issued by a U.S. federal or state government agency or government sponsored enterprise which are investment grade;

~~(v) Gold, silver or other stable commodities;~~

~~(vi)~~(iv) Investments specified by W.S. 13-3-302;

~~(vii)~~ (v) Other investments which are determined by the Commissioner to be substantially similar to the assets described in this subsection or permissible under safe and sound banking practices.

(b) The investments specified by subsection (a) of this section shall be level 1 high-quality liquid assets, as defined in 12 C.F.R. § 249.20, as of October 1, 2020, unless otherwise approved by the Commissioner.

(c) In the event of an emergency, the Commissioner may, after consulting with affected institutions, reasonably restrict special purpose depository institutions from investing in one or more of the asset classes described in subsection (a) of this section, or may reasonably modify the manner in which investments may take place. As used in this subsection, "emergency" means:

(i) Illiquid or otherwise abnormally functioning markets, excluding digital asset markets, which pose a substantial and specific risk to an institution;

(ii) An unsafe or unsound condition, as defined in § ~~8(a)(ii)~~11(e)(ii) of this Chapter.

(d) The Commissioner shall ensure generally that the duration of investments specified by subsection (a) of this section matches the duration of deposit liabilities of the special purpose depository institution. An institution shall ensure the investments specified by subsection (a) of this section are managed prudently, consistent with safe and sound banking practices, in a manner that:

(i) Addresses interest rate risk, including repricing, basis, yield curve and option risk;

(ii) Prevents mismatching; and

(iii) Accounts for potential stress scenarios.

(e) A special purpose depository institution shall maintain a comprehensive policy on investments, liquidity risk, interest rate risk and other related issues that is reviewed during each examination.

(f) After consulting with a special purpose depository institution, the Commissioner may use real-time supervisory technology that permits monitoring of the investments and liquidity position of the institution.

Section 10. Material Communications with Governmental Agencies; Agreements.

(a) A special purpose depository institution, or the incorporators of a proposed institution, shall promptly disclose to the Commissioner in a confidential format any material communications with other governmental agencies or self-regulatory organizations, whether state, federal or foreign, which relate to the chartering, operation, licensure, activities, condition or legal compliance of the institution. The Commissioner shall maintain any communications received under this section in a confidential format.

(b) The Commissioner may enter into information sharing, branching, joint supervision or other agreements with government agencies or self-regulatory organizations relating to special purpose depository institutions or digital asset activities more generally. Information subject to an information sharing agreement with another government agency shall remain confidential and shall be only used for the purposes specified in the agreement.

Section 11. Safety and Soundness.

(a) The Commissioner retains the authority to take action under applicable state or federal law to address unsafe or unsound conditions, deficient capital levels, violations of law or conditions that may negatively impact the operations of the institution, customers of the institution or the ~~state or national~~ financial system.

(b) To mitigate legal and contractual risk to the institution, a special purpose depository institution shall ensure that the following contracts exclusively apply Wyoming law and applicable federal law, with the venue of any litigation also in Wyoming:

(i) All customer agreements;

(ii) Any agreement governing a transaction that involves customer deposits, custodial, trust or fiduciary assets, including qualified financial contracts, as defined in 12 U.S.C. § 1821(e)(8)(D), and transactions made under § 5, Chapter 19, Rules of the Division.

(c) Agreements under subsection (b) should generally include provisions specifying that the parties agree that, for the purposes of title 34.1, Wyoming statutes and W.S. 34-29-101 through 34-29-103, digital assets are located in Wyoming and that, if applicable, a possessory security interest exists. The Commissioner may make exceptions to the requirements of this subsection or subsection (b) of this section as necessary.

(d) A special purpose depository institution may, based on customer instructions or the scope of authority granted by a customer under W.S. 34-29-104 or § 5, Chapter 19, Rules of the Division, conduct custodial ~~or~~, trust, fiduciary or related transactions with customer digital assets in a safe and sound manner, including lending of digital assets. A customer bears all risk of loss from these transactions, except for any liability of the special purpose depository institution relating to its fiduciary and trust powers. Consistent with W.S. 13-12-103(b) and (c) and § 3, 2019 Wyoming Session Laws, ch. 91 and W.S. 34-29-104, the lending prohibition in W.S. 13-12-103(c) shall not apply to custodial and fiduciary transactions undertaken by a special purpose depository institution to the extent that a transaction undertaken by the institution does not subject to the institution, as opposed to the customer, to credit risk.

(e) As used in this Chapter:

(i) "Failed" or "failure" means, consistent with W.S. 13-12-122(b), a circumstance when a special purpose depository institution has not:

(A) Complied with the requirements of W.S. 13-12-105;

(B) Maintained a contingency account, as required by W.S. 13-12-106;

(C) Paid, in the manner commonly accepted by business practices, its legal obligations to customers on demand or to discharge any certificates of deposit, promissory notes, negotiable instruments or other indebtedness when due.

(ii) "Unsafe or unsound condition" means, consistent with W.S. 13-12-122(b), a circumstance relating to a special purpose depository institution which is likely to:

(A) Cause the failure of the institution, as defined in paragraph (e)(i);

(B) Cause a substantial dissipation of assets or earnings;

(C) Substantially disrupt the services provided by the institution to customers;

(D) Prejudice the interests of customers in any potential receivership, including through:

(I) Failure to maintain clear, appropriate segregation of custodial, trust and fiduciary assets from institution assets; and

(II) Failure to ensure that all custodial, trust and fiduciary accounts and other aspects of the customer relationship meet all legal requirements.

(E) Result in non-compliance with applicable state, federal or foreign law;

(F) Otherwise substantially impact the operations of the institution, the interests of customers or the state or national financial system in a negative manner, in the determination of the Commissioner.

Section 12. Reports and Examinations.

(a) Consistent with § 1(d) of this Chapter, a special purpose depository institution shall generally be supervised in the same manner as other state and national banks engaged in deposit-taking, custodial, trust and fiduciary activities.

(b) A special purpose depository institution shall submit electronic reports relating to the condition of the institution, in the manner and frequency required by the Commissioner.

(c) The Commissioner shall conduct a full-scope, on-site examination of every special purpose depository institution not more frequently than every twelve (12) months, unless an unsafe or unsound condition exists.

(d) The Commissioner shall develop and maintain manuals and procedures, including necessary ratings and policies, to ensure legal compliance, safe and sound operations and to set expectations for examinations and ongoing supervision.

Section 13. Operations and Activities.

(a) Consistent with W.S. 13-12-103(b) and subject to the approval of the Commissioner, a special purpose depository institution may engage in all activities permitted to state and national banks which are consistent with the safe and sound operation of the institution, with the exception of lending activities prohibited by W.S. 13-12-103(c) which subjects the institution to credit risk.

(b) A special purpose depository institution shall consult with the Commissioner and seek any necessary approval, before engaging in a new substantial activity or line of business.

(c) A special purpose depository institution shall maintain policies and conduct appropriate market surveillance to prevent, detect and combat manipulative or illegal trading practices in traditional and digital asset markets.

(d) A special purpose depository institution shall not engage in a narrowly focused business model that involves taking deposits from institutional investors and investing all or

substantially all of the proceeds in balances within the Federal Reserve System or similar means as a pass-through investment entity. The following apply:

(i) As used in this subsection, "narrowly focused business model" means a circumstance in which custodial, fiduciary, trust or other financial activities (as defined in 12 U.S.C. § 1843(k)(4), excluding the pass-through investment activities described above), do not constitute a substantial majority of the business model of the special purpose depository institution.

(ii) The Commissioner shall interpret this provision in the same manner as custodial banks, which are authorized under federal law not to provide the same range or scale of traditional commercial or retail banking products as are provided by other banking organizations.

Chapter 20
Special Purpose Depository Institutions

Section 1. Authority; Scope; Applicability of Other Rules; Federal Law.

(a) This Chapter is promulgated pursuant to Wyoming Statute ("W.S.") 13-12-126.

(b) This Chapter governs special purpose depository institutions, as defined in W.S. 13-1-101(a)(xvi).

(c) The rules of the Board and the Division, except as provided in this subsection and to the extent not inconsistent with W.S. 13-12-101 through 13-12-126, shall apply to special purpose depository institutions. The term "bank" or "financial institution" in other rules shall be reasonably construed to include special purpose depository institutions, as determined by the Commissioner. Chapter 4, §§ 5 and 6 of the Rules of the Division shall not apply to special purpose depository institutions.

(d) Consistent with W.S. 13-12-107, a special purpose depository institution ~~is~~ shall be subject to all applicable federal laws relating to insured depository institutions which are consistent with the powers, limitations and other characteristics specified by W.S. 13-12-101 through 13-12-126 and this Chapter, as determined by the Commissioner. Reference to a particular federal law or rule in this Chapter shall not be construed to imply that other laws or rules not referenced are inapplicable.

(e) A special purpose depository institution may request the Commissioner to provide guidance on the applicability of a specific federal law under subsection (d) of this section.

Section 2. Capital and Surplus/Operating Expenses.

(a) Consistent with W.S. 13-12-110(b) and subsection (d) of this section, a special purpose depository institution shall have initial capital, subscribed for as fully paid stock, which is commensurate with the risk profile and proposed activities of the institution, as determined by the Commissioner. A special purpose depository institution shall also maintain a capital plan analyzing capital needs based on initial requirements, projected growth and the availability of capital from identified sources. The plan may include a moratorium on the payment of dividends during a specified future period. The initial capital required by this subsection shall be subscribed and fully paid in at the time the institution applies for a certificate of authority under W.S. 13-12-116, but prior to this time, as part of the charter application of the institution, the incorporators shall present evidence that the required capital will be available if a charter is granted, which may include letters of commitment, as required by the Commissioner.

(b) After a special purpose depository institution has commenced operations, the Commissioner may require the institution to modify its capital levels based on the size, risk profile or activities of the institution. To the extent possible, the Commissioner will give the institution a sufficient period to implement a modified capital requirement. The Commissioner retains the authority to require a modification of capital within sixty (60) days, consistent with W.S. 13-4-203, if conditions warrant.

(c) A special purpose depository institution shall have a paid-up surplus fund of not less than three (3) years of operating expenses prior to applying for a certificate of authority under W.S. 13-12-116.

(d) In establishing a capital requirement under this section, the Commissioner shall consider the following factors holistically, accounting for the non-leveraged nature of the institution and the impact of operational risk and impact on earnings:

(i) Peer institutions of the special purpose depository institution, which may include custodial banks and national trust banks;

(ii) The activities and risks posed by the business plan and financial projections of the special purpose depository institution;

(iii) The prompt corrective action tier 1 leverage ratio;

(iv) The non-leveraged nature of deposits related to custodial, fiduciary and trust accounts administered by the institution, consistent with 12 C.F.R. § 217.10 as of October 1, 2020, and the treatment of custodial, fiduciary and trust deposits under the supplementary leverage ratio for custodial banks;

(v) Current market conditions, including capital requirements of recently-chartered de novo banks; and

(vi) Potential costs of a receivership, as specified by § 5 of this Chapter.

(e) As used in this Chapter, "custodial bank" means a depository institution predominantly engaged in custody, safekeeping, and asset servicing activities, consistent with the Economic Growth, Regulatory Relief and Consumer Protection Act (132 Stat. 1296, 1359).

Section 3. Application Requirements.

(a) To be accepted for filing, a special purpose depository institution charter application shall be comprised of the following information:

(i) The signatures of all incorporators, verifying the contents of the application;

(ii) The articles of incorporation of the institution plus any filing fee required by the Secretary of State, or existing incorporation documents as required by the Commissioner;

(iii) The final bylaws or draft bylaws proposed for adoption either by the incorporators simultaneously with incorporation or by the board of directors of the proposed special purpose depository institution at its first meeting, indicating which method will be used to adopt the bylaws;

(iv) The capital plan of the institution;

(v) Evidence satisfactory to the Commissioner that the proposed special purpose depository institution will be able to obtain private insurance as specified by W.S. 13-12-119(e) upon chartering, including coverage types, coverage limits and any conditions relating to payment of claims;

(vi) The name, proposed title, physical address and biographical sketch of each individual proposed to serve as an executive officer or director of the institution during the first year of operations, demonstrating sufficient experience, ability and standing to afford the institution a reasonable promise of successful operation, to the extent reasonably possible;

(vii) A detailed business plan, which shall include:

(A) All proposed activities of the special purpose depository institution, including identification of likely customers, a marketing plan and business projections based on statistical data or other accepted business methods;

(B) A business risk assessment, consistent with subparagraphs (a) and (c) of this paragraph;

(C) A comprehensive estimate of operating expenses for the first three (3) years of operation, consistent with subparagraph (A) of this paragraph;

(D) A complete proposal for compliance with this Chapter, W.S. 13-12-101 through 13-12-126 and all other applicable state and federal laws; and

(E) Other information material to the investigation and report of the Commissioner and the decision of the Board.

(viii) Evidence satisfactory to the Commissioner regarding the availability of a surety bond under W.S. 13-12-118(a), or a statement that the special purpose depository institution will irrevocably pledge assets to the Commissioner, as specified by W.S. 13-12-118(b);

(ix) If applicable, the designation of an agent for service of process which is described in Chapter 5, § 7 of the Rules of the Division;

(x) Information relating to corporate partnerships or affiliations, including a description of corporate interests and activities and the most recent financial statement of a person with a proposed controlling interest in the special purpose depository institution, as defined in § 5(a) of this Chapter;

(xi) Identification of all prospective investors in the proposed institution, and other information as the Commissioner may require, including information regarding non-United States citizens;

(xii) Information relating to government agencies or self-regulatory organizations which the proposed special purpose depository institution may be subject to,

whether state, federal or foreign, including activities which the agency or organization regulates or supervises, as well as license numbers, license expiration dates and agency contact persons;

(xiii) Information sufficient to conduct a background investigation on proposed directors, officers and shareholders who control ten percent (10%) or more of the voting securities of the institution, in the manner required by the Commissioner; and

(xiv) Any other information required by law or requested by the Commissioner or Board which is material to the charter application or the future operation of the institution.

(b) The incorporators shall provide truthful and complete information in a charter application, in all accompanying materials and in communications relating to an application. The application and all accompanying materials shall be attested to under penalty of perjury pursuant to Wyo. Stat. §§ 6-5-301 and 6-5-303. The incorporators shall supplement an application, accompanying materials or any communication promptly when information in the application, materials or communication changes materially or if an error or omission is discovered.

(c) If an application is withdrawn at any time before a hearing of the Board, the filing fee shall be refunded to the applicant, reduced by the amount of all expenses authorized by W.S. 13-2-208.

(d) If a charter application is rejected by the Board, it shall be treated as if it were withdrawn at 5:00 p.m. Mountain Time on the last day of the thirty (30) day time period described in Chapter 5, § 3(e), Rules of the Division.

(e) As appropriate and consistent with safe and sound banking practices, the capital structure of a special purpose depository institution shall favor common stock.

Section 4. Recovery/Resolution Planning.

(a) Not later than six (6) months after a special purpose depository institution commences operations, a draft recovery and resolution plan shall be submitted to the Commissioner for review.

(b) A draft recovery and resolution plan shall generally encompass the requirements of a national bank recovery plan and the "targeted resolution plan" specified by 12 C.F.R. § 243.6, as of June 1, 2020. The plan shall outline potential recovery actions to address significant financial or operational stress that could threaten the safe and sound operation of the institution, as well as and strategies for orderly disposition of the institution without the need for the appointment of a receiver, including actions under § 5 of this Chapter. A plan shall also identify at least two (2) business entities that could potentially acquire the special purpose depository institution, or any component of the institution, in the event of financial distress, receivership or another contingency warranting use of the plan. The plan shall include a procedure for quickly and safely transferring all assets of the institution to another entity and a procedure for liquidating the assets of the institution.

(c) The Commissioner, in consultation with the officers of the special purpose depository institution, shall review the draft recovery and resolution plan and determine whether it appropriately addresses the risks inherent in a potential recovery or resolution scenario. The institution shall amend the draft plan as reasonably required by the Commissioner to protect the interests of the customers of the institution and to protect the financial system from material risks. The board of directors of the institution shall review the draft plan and approve a final plan within sixty (60) days of submission of a plan by the officers. After approval, the chief executive officer of the special purpose depository institution shall file the plan with the Commissioner.

(d) After filing under subsection (c) of this section, the board of directors of a special purpose depository institution shall annually review and amend the recovery and resolution plan of the institution to account for material changes in each of the following areas:

(i) Critical operations or core business lines, including information technology;

(ii) Corporate structure, including interconnections and interdependencies with other business entities, management and succession planning;

(iii) Deposits and assets under custody, assets under management or similar relationships;

(iv) Funding, liquidity or capital needs or sources;

(v) Changes in law or regulation; and

(vi) Any other area determined to be relevant by the Commissioner.

(e) A plan amended under subsection (d) of this section shall be filed with the Commissioner within thirty (30) days of approval by the board of directors. In addition to the requirements of subsection (d) of this section, the Commissioner may, at any time, require the board of directors of a special purpose depository institution to review and amend its recovery and resolution plan.

(f) A recovery and resolution plan, or draft plan, filed with the Commissioner shall be confidential. A recovery and resolution plan may be disclosed in a confidential format to other governmental agencies, self-regulatory organizations or persons assisting with the recovery or resolution of an institution, as deemed appropriate by the Commissioner.

Section 5. Supervision of Controlling Interests; Affiliate Relationships.

(a) As used in this Chapter, "controlling interest in a special purpose depository institution" means a circumstance when a person, directly or indirectly, or acting through or in concert with one or more persons:

(i) Owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the institution;

(ii) Controls in any manner the election of a majority of the directors of the institution;

(iii) Have the power to exercise a controlling influence over the management or policies of the institution.

(b) A person with a controlling interest in a special purpose depository institution shall:

(i) Submit annual audited financial statements, and as otherwise reasonably required by the Commissioner;

(ii) Provide a description of all affiliated or parent entities and their relationships with the institution, including annual updates;

(iii) Serve as a source of strength for the institution, which may include capital plans, maintenance agreements or agreements for resource-sharing, as required by the Commissioner.

(c) The Commissioner may require a legal entity with a controlling interest in a special purpose depository institution to execute a tax allocation agreement with the institution that expressly states that an agency relationship exists between the person and the institution with respect to tax assets generated by the institution, and that these assets are held in trust by the person for the benefit of the institution and will be promptly remitted to the institution. The tax allocation agreement may also provide that the amount and timing of any payments or refunds to the institution by the person should be no less favorable than if the institution were a separate taxpayer.

(d) A person who meets the definition of a "commercial firm" under the Dodd-Frank Wall Street Reform and Consumer Protection Act (124 Stat. 1376, 1596–97), shall not obtain a controlling interest in a special purpose depository institution.

(e) If the Commissioner finds that it is in the public interest and has reasonable cause to believe it is necessary to protect the customers of a special purpose depository institution, the Commissioner may:

(i) Conduct an examination of a legal entity with a controlling interest in a special purpose depository institution or otherwise require information from the person;

(ii) Require a person with a controlling interest in a special purpose depository institution to divest or sever their relationship with the institution, if necessary to maintain safety and soundness.

(f) If a person with a controlling interest in a special purpose depository institution is subject to supervision by another state or federal banking regulator, the Commissioner may reasonably exempt the person from this section to facilitate coordinated supervision as appropriate.

(g) Consistent with § 1(d) of this Chapter, 12 C.F.R. § 223.1 *et seq*., as of October 1, 2020, shall apply to special purpose depository institutions.

(h) As used in this section, "person" means as defined in Wyo. Stat. § 8-1-102(a)(vi).

Section 6. Receivership.

(a) Subject to court supervision as otherwise required by law, the Commissioner is the receiver and resolution official for special purpose depository institutions, consistent with Wyo. Stat. 13-12-122 and 11 U.S.C. § 109(b)(2). As used in this Chapter, "receivership" means a liquidation conducted under W.S. 13-12-122.

(b) In the event of financial distress or another contingency warranting use of the resolution plan created under § 4 of this Chapter, the Commissioner shall, to the extent appropriate under the circumstances, use the plan for the resolution of the institution.

(c) If appropriate, the Commissioner may retain such staff and enter into contracts for professional services as are necessary to carry out a receivership. The Commissioner may retain services on a continuing retainer or on an as-needed basis.

(d) Persons who have claims against the special purpose depository institution may present claims, along with supporting documentation, for consideration by the Commissioner. The Commissioner shall determine the validity and approve the amounts of claims. All claims against the institution shall be fixed when the Commissioner takes possession of the institution and the Commissioner shall stand in the place of the institution. Constructive notice provided by the filing made under W.S. 13-4-303(a) shall be deemed to satisfy the knowledge requirement of subsection (b) of that section.

(e) The Commissioner shall establish a date by which any person seeking to present a claim against the institution must present their claim for determination. The Commissioner shall also mail notice to creditors as required by W.S. 13-4-402 and other applicable law.

(f) The Commissioner shall allow any claim against the institution received on or before the deadline for presenting claims, if the claim is established to the Commissioner's satisfaction by the information on the institution's books and records or as otherwise submitted. The Commissioner may disallow any portion of any claim by a creditor or claim of a security interest, preference, set-off or priority which is not established to the satisfaction of the Commissioner.

(g) Wyoming law relating to the nature of digital assets under title 34.1, Wyoming statutes and W.S. 34-29-101 through 34-29-103, including security interests, shall govern claims made under this section, as well as the receivership of the institution.

(h) If a person with a claim against a special purpose depository institution also has an obligation owed to the institution, the claim and obligation shall be set-off against the other and only the net balance remaining after set-off shall be considered as a claim, if the set-off is otherwise legally valid.

(j) The Commissioner shall pay expenses and claims in the following priority order:

(i) Administrative expenses of the Commissioner, as defined in subsection (k) of this section, to the extent those expenses exceed pledged capital or a surety bond;

(ii) Customer claims relating to deposits, custodial, fiduciary and trust assets, as well as any claims of the Federal Reserve System;

(iii) Claims of secured creditors and any preferences which may be required by W.S. 13-4-502;

(iv) Unsecured creditors of the institution, including secured creditors to the extent any claim exceeds a valid and enforceable security interest;

(v) Creditors of the institution, if any, whose claims are subordinated to general creditor claims; and

(vi) Shareholders of the institution.

(k) "Administrative expenses" mean those costs incurred by the Commissioner under W.S. 13-4-501 in maintaining institution operations, preserving assets, resolving the affairs of the institution and other related activities. Expenses include pre-receivership and post-receivership obligations that the Commissioner determines are necessary and appropriate to facilitate the orderly liquidation and resolution of the institution. Expenses shall also include:

(i) Expenses of the Commissioner and the costs of contracts entered into by the Commissioner for professional services relating to the receivership, including audit, accountancy, information technology, legal, fiduciary, trust and real estate services, except for the cost of any continuing retainer paid by the Commissioner for professional services related to receivership that is not directly related to the receivership of a specific institution;

(ii) Expenses necessary for the continued operations of an institution during the receivership, including wages and salaries of employees, expenses for professional services, contractual rent pursuant to an existing lease or rental agreement and payments to third-party or affiliated service providers that, in the opinion of the Commissioner, are of benefit to the receivership until the date the Commissioner repudiates, terminates, cancels or otherwise discontinues the applicable contract.

(m) Subject to court supervision as otherwise required by law, in resolving the affairs of a special purpose depository institution, the Commissioner may:

(i) Take possession of the books, records, property and assets of the institution, including the value of collateral pledged by the institution, to the extent it exceeds a valid and enforceable security interest of a claim;

(ii) Collect all debts, dues and claims belonging to the institution, including claims remaining after set-off;

(iii) Sell or compromise all bad or doubtful debts, including fraudulent transfers;

(iv) Sell the real and personal property of the institution;

(v) Deposit all receivership funds collected from the liquidation of the institution with a Wyoming bank or trust company;

(vi) Avoid fraudulent transfers or other transfers made in contemplation or in close proximity to the receivership, and recover these assets as provided by law; and

(vii) Take other necessary actions to efficiently and prudently complete a receivership.

(n) The Commissioner may exercise other rights, privileges and powers authorized by law, including the common law of receiverships as applied by courts to bank receiverships. The Commissioner shall follow the procedure for bank receiverships used by the Federal Deposit Insurance Corporation. To carry out this section, the Commissioner may employ all rights, privileges and powers exercised by the Federal Deposit Insurance Corporation under federal law and the common law of receiverships as applied by courts to banks, when not inconsistent with this Chapter and Wyoming law.

(o) Subject to W.S. 13-4-506 and subsection (j) of this section, the Commissioner may make ratable dividends from available funds, based on the claims that have been proved to the Commissioner's satisfaction.

(p) Consistent with W.S. 34-29-104(d), assets held by a special purpose depository institution off-balance sheet in a custodial, fiduciary or trust capacity are not part of the institution's general assets and liabilities held in connection with its other business and shall not be a source for payment of unrelated claims of creditors and other claimants if the following requirements are met:

(i) Appropriate segregation from institution assets;

(ii) Appropriate recordkeeping relating to custodial, fiduciary and trust accounts;

(iii) The structure of the custodial, fiduciary or trust relationship generally meets all other applicable legal requirements.

(q) Immediately upon taking possession of a special purpose depository institution, the Commissioner shall transfer the institution's custodial, trust or fiduciary appointments and accounts to successor custodians or fiduciaries, or if not practical, close the bank’s fiduciary and custodial appointments and accounts and return assets to customers. The Commissioner shall conduct transfers under this subsection as quickly as possible to prevent or minimize disruption to customers.

(r) The Commissioner, to the extent reasonably possible, shall act to recover missing, unavailable or pledged deposits, custodial or fiduciary assets for the benefit of customers or the receivership.

(s) The Commissioner shall conclude a receivership as provided by W.S. 13-4-701.

Section 7. Anti-Money Laundering, Customer Identification and Sanctions Compliance.

(a) A special purpose depository institution shall maintain a written compliance program covering the topics set forth in subsection (a) of this section, commensurate with the risk profile of the institution, as determined by the Commissioner. The program shall:

(i) Be approved initially by the board of directors and reviewed on an annual basis by the board for potential updates;

(ii) Require annual, written risk assessments, which shall be approved by the board and noted in the minutes of the board; and

(iii) Establish a written training program, which shall include annual training for directors, officers, and other key personnel which are in a position to promote institutional compliance.

(b) The board of directors of a special purpose depository institution shall approve all new products and services before launch, and assess material risks and the means by which the institution can satisfy compliance obligations with respect to each product and service.

(c) The board of directors shall also establish and update clear risk appetite standards for special purpose depository institution activities each year, with periodic reporting of anti-money laundering, customer identification and sanctions key risk indicators, key performance indicators, remedial action status, evolving regulatory issues and industry best practices.

(d) A special purpose depository institution shall conduct annual independent testing by qualified personnel with respect to its anti-money laundering, customer identification and sanctions controls, unless granted an exemption by the Commissioner.

(e) In the event of the discovery of any violation of state or federal law relating to anti-money laundering, customer identification or sanctions, a special purpose depository institution shall immediately inform the Division and the appropriate federal agency on a confidential basis relating to the circumstances of the violation, irrespective of whether disclosure is otherwise required under federal law.

(f) If engaged in digital asset activities, a special purpose depository institution shall maintain a digital asset analytics provider to assist with anti-money laundering, customer identification and sanctions compliance. Alternatively, an institution may develop an in-house solution that is comparable to available third-party solutions if approved by the Commissioner.

(g) A special purpose depository institution shall conduct a source of funds review for each customer using a risk-focused approach.

(h) Special purpose depository institutions may provide digital asset transfers to external, non-custodial addresses from institution accounts. As used in this subsection, "non-custodial" means not held by a supervised financial institution in the United States or a foreign jurisdiction that has an effective anti-money laundering framework. Non-custodial transfers shall occur as follows:

(i) In the context of transfers from a customer account with an institution to a non-custodial address held by an institution customer, each institution shall appropriately screen

for ownership of the counterparty address, with auditable processes in place to recreate the methods through which the bank conducted screening, and appropriate escalation processes in the event that the bank identifies a change in ownership of the wallet address.

(ii) In the context of transfers from a customer account with an institution to a non-custodial address held by a non-customer, the institution shall employ a risk-based approach, which may include pre-authorization and appropriate screening before the transfer shall take place.

(j) The Commissioner shall conduct transaction testing of the digital asset transactions of a special purpose depository institution on a regular basis, commensurate with the activities of the institution and supervisory manuals, policies and procedures.

Section 8. Directors; Officers; Operations in Wyoming.

(a) A special purpose depository institution shall be managed by not less than five (5) directors, consistent with W.S. 13-2-401. An institution shall maintain the following executive officers, or functional equivalents, to manage its operations:

(i) Chief executive officer/president;

(ii) Chief operations officer;

(iii) Chief compliance officer;

(iv) Chief financial officer;

(v) Chief technology/information security officer; and

(vi) Any other officers deemed appropriate.

(b) As used in W.S. 13-12-103(d) and this section, "principal operating headquarters" means the location or locations in Wyoming where the chief executive officer/president of the special purpose depository institution and at least one (1) of the other officers listed in paragraphs (a)(ii) through (a)(v) of this section directs, controls and coordinates the activities of the institution for a majority of a calendar year.

Section 9. Investments and Liquid Assets.

(a) Consistent with W.S. 13-12-105(b)(iii) and this section, a special purpose depository institution may, in addition to Federal Reserve Bank balances, maintain unencumbered liquid assets through investments in the following asset classes:

(i) Obligations of the U.S. Treasury or other federal agencies;

(ii) Obligations of a U.S. state or U.S. municipal government which are investment grade;

(iii) Securities issued by a U.S. federal or state government agency or government sponsored enterprise which are investment grade;

(iv) Investments specified by W.S. 13-3-302;

(v) Other investments which are determined by the Commissioner to be substantially similar to the assets described in this subsection or permissible under safe and sound banking practices.

(b) The investments specified by subsection (a) of this section shall be level 1 high-quality liquid assets, as defined in 12 C.F.R. § 249.20, as of October 1, 2020, unless otherwise approved by the Commissioner.

(c) In the event of an emergency, the Commissioner may, after consulting with affected institutions, reasonably restrict special purpose depository institutions from investing in one or more of the asset classes described in subsection (a) of this section, or may reasonably modify the manner in which investments may take place. As used in this subsection, "emergency" means:

(i) Illiquid or otherwise abnormally functioning markets, excluding digital asset markets, which pose a substantial and specific risk to an institution;

(ii) An unsafe or unsound condition, as defined in § 11(e)(ii) of this Chapter.

(d) The Commissioner shall ensure generally that the duration of investments specified by subsection (a) of this section matches the duration of deposit liabilities of the special purpose depository institution. An institution shall ensure the investments specified by subsection (a) of this section are managed prudently, consistent with safe and sound banking practices, in a manner that:

(i) Addresses interest rate risk, including repricing, basis, yield curve and option risk;

(ii) Prevents mismatching; and

(iii) Accounts for potential stress scenarios.

(e) A special purpose depository institution shall maintain a comprehensive policy on investments, liquidity risk, interest rate risk and other related issues that is reviewed during each examination.

(f) After consulting with a special purpose depository institution, the Commissioner may use real-time supervisory technology that permits monitoring of the investments and liquidity position of the institution.

Section 10. Material Communications with Governmental Agencies; Agreements.

(a) A special purpose depository institution, or the incorporators of a proposed institution, shall promptly disclose to the Commissioner in a confidential format any material communications with other governmental agencies or self-regulatory organizations, whether state, federal or foreign, which relate to the chartering, operation, licensure, activities, condition or legal compliance of the institution. The Commissioner shall maintain any communications received under this section in a confidential format.

(b) The Commissioner may enter into information sharing, branching, joint supervision or other agreements with government agencies or self-regulatory organizations relating to special purpose depository institutions or digital asset activities more generally. Information subject to an information sharing agreement with another government agency shall remain confidential and shall be only used for the purposes specified in the agreement.

Section 11. Safety and Soundness.

(a) The Commissioner retains the authority to take action under applicable state or federal law to address unsafe or unsound conditions, deficient capital levels, violations of law or conditions that may negatively impact the operations of the institution, customers of the institution or the financial system.

(b) To mitigate legal and contractual risk to the institution, a special purpose depository institution shall ensure that the following contracts exclusively apply Wyoming law and applicable federal law, with the venue of any litigation also in Wyoming:

(i) All customer agreements;

(ii) Any agreement governing a transaction that involves customer deposits, custodial, trust or fiduciary assets, including qualified financial contracts, as defined in 12 U.S.C. § 1821(e)(8)(D), and transactions made under § 5, Chapter 19, Rules of the Division.

(c) Agreements under subsection (b) should generally include provisions specifying that the parties agree that, for the purposes of title 34.1, Wyoming statutes and W.S. 34-29-101 through 34-29-103, digital assets are located in Wyoming and that, if applicable, a possessory security interest exists. The Commissioner may make exceptions to the requirements of this subsection or subsection (b) of this section as necessary.

(d) A special purpose depository institution may, based on customer instructions or the scope of authority granted by a customer under W.S. 34-29-104 or § 5, Chapter 19, Rules of the Division, conduct custodial, trust, fiduciary or related transactions with customer digital assets in a safe and sound manner, including lending of digital assets. A customer bears all risk of loss from these transactions, except for any liability of the special purpose depository institution relating to its fiduciary and trust powers. Consistent with W.S. 13-12-103(b) and (c) and § 3, 2019 Wyoming Session Laws, ch. 91 and W.S. 34-29-104, the lending prohibition in W.S. 13-12-103(c) shall not apply to custodial and fiduciary transactions undertaken by a special purpose depository institution to the extent that a transaction undertaken by the institution does not subject to the institution, as opposed to the customer, to credit risk.

(e) As used in this Chapter:

(i) "Failed" or "failure" means, consistent with W.S. 13-12-122(b), a circumstance when a special purpose depository institution has not:

(A) Complied with the requirements of W.S. 13-12-105;

(B) Maintained a contingency account, as required by W.S. 13-12-106;

(C) Paid, in the manner commonly accepted by business practices, its legal obligations to customers on demand or to discharge any certificates of deposit, promissory notes, negotiable instruments or other indebtedness when due.

(ii) "Unsafe or unsound condition" means, consistent with W.S. 13-12-122(b), a circumstance relating to a special purpose depository institution which is likely to:

(A) Cause the failure of the institution, as defined in paragraph (e)(i);

(B) Cause a substantial dissipation of assets or earnings;

(C) Substantially disrupt the services provided by the institution to customers;

(D) Prejudice the interests of customers in any potential receivership, including through:

(I) Failure to maintain clear, appropriate segregation of custodial, trust and fiduciary assets from institution assets; and

(II) Failure to ensure that all custodial, trust and fiduciary accounts and other aspects of the customer relationship meet all legal requirements.

(E) Result in non-compliance with applicable state, federal or foreign law;

(F) Otherwise substantially impact the operations of the institution, the interests of customers or the state or national financial system in a negative manner, in the determination of the Commissioner.

Section 12. Reports and Examinations.

(a) Consistent with § 1(d) of this Chapter, a special purpose depository institution shall generally be supervised in the same manner as other state and national banks engaged in deposit-taking, custodial, trust and fiduciary activities.

(b) A special purpose depository institution shall submit electronic reports relating to the condition of the institution, in the manner and frequency required by the Commissioner.

(c) The Commissioner shall conduct a full-scope, on-site examination of every special purpose depository institution not more frequently than every twelve (12) months, unless an unsafe or unsound condition exists.

(d) The Commissioner shall develop and maintain manuals and procedures, including necessary ratings and policies, to ensure legal compliance, safe and sound operations and to set expectations for examinations and ongoing supervision.

Section 13. Operations and Activities.

(a) Consistent with W.S. 13-12-103(b) and subject to the approval of the Commissioner, a special purpose depository institution may engage in all activities permitted to

state and national banks which are consistent with the safe and sound operation of the institution, with the exception of lending activities prohibited by W.S. 13-12-103(c) which subjects the institution to credit risk.

(b) A special purpose depository institution shall consult with the Commissioner and seek any necessary approval, before engaging in a new substantial activity or line of business.

(c) A special purpose depository institution shall maintain policies and conduct appropriate market surveillance to prevent, detect and combat manipulative or illegal trading practices in traditional and digital asset markets.

(d) A special purpose depository institution shall not engage in a narrowly focused business model that involves taking deposits from institutional investors and investing all or substantially all of the proceeds in balances within the Federal Reserve System or similar means as a pass-through investment entity. The following apply:

(i) As used in this subsection, "narrowly focused business model" means a circumstance in which custodial, fiduciary, trust or other financial activities (as defined in 12 U.S.C. § 1843(k)(4), excluding the pass-through investment activities described above), do not constitute a substantial majority of the business model of the special purpose depository institution.

(ii) The Commissioner shall interpret this provision in the same manner as custodial banks, which are authorized under federal law not to provide the same range or scale of traditional commercial or retail banking products as are provided by other banking organizations.