



# Certification Page Regular and Emergency Rules

Revised July 2019

☒ **Emergency Rules** (Complete Sections 1-3 and 5-6)

☐ **Regular Rules**

## 1. General Information

a. Agency/Board Name 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 Sept. 30, 2019	
i. Program Division of Banking		

**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 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: 3	Chapter Name: Fees	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number: 20	Chapter Name: Special Purpose Depository Institutions	<input checked="" type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

\* If the name of a chapter of rules is changing, please only provide the NEW chapter name on this rules certification form.

**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

Printed Name of Signatory

Jeffrey Vogel

Signatory Title

Director, Department of Audit

Date of Signature

Sept. 30, 2019

**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 Fax: (307) 777-3555

**Mark Gordon**  
Governor

**Jeffrey C. Vogel**  
Director

**Albert L. Forkner**  
Commissioner

### MEMORANDUM

**To:** Governor Gordon  
**From:** Commissioner Albert Forkner, Division of Banking  
**Date:** 30 September 2019  
**Re:** Special Purpose Depository Institutions—Emergency Rules

In the 2019 session, the Wyoming Legislature enacted HB 74, which authorized the chartering of special purpose depository institutions (SPDIs). These new institutions are limited-purpose banks that receive deposits and conduct other incidental activities, including custodial services and asset management. It is likely that many SPDIs will focus heavily on digital assets. The Division of Banking ("the Division") currently expects 3–4 charter applications to be filed by November 2019.

The Division has spent the last three months consulting with other government agencies, law firms, the financial services industry, potential SPDI applicants and other stakeholders regarding potential rules. These discussions covered fees, application requirements, incidental activities, resolution procedures and provisions of the legislation that required further clarification.

The attached rules incorporate much of this work and are intended to address the issues most relevant to the application and chartering process of an SPDI. The Division intends to promulgate regular rules in 2020 which will incorporate most of the attached emergency rules and will also address in greater detail other areas such as the operation, supervision and examination of an SPDI.

Emergency rules are necessary in this context because of the impending October 1 effective date of the SPDI legislation and the need for guidance to be provided to potential SPDI applicants regarding fees, application requirements, in-state business requirements, capital, permissible activities and other issues that will likely affect applicants' business models before applications are filed in October/November 2019.

The adoption of regular rules was not feasible because the Division was required to spend a great deal of time conducting research into how an SPDI could operate in an effective manner. Also, the SPDI is a new kind of financial institution, and the Division, in consultation with industry and other regulators, was required to develop standards from scratch on many facets of the SPDI. The Division also recently concluded adoption of detailed rules on digital asset custody.

These rules are new in the sense that they are being adopted in response to legislation enacted in 2019, but they are not 'new' in the legal sense under § 2(k), chapter 1 of the Secretary of State's Rules on Rules because of their emergency nature.

Please do not hesitate to contact me at (307) 777-7797 or [albert.forkner@wyo.gov](mailto:albert.forkner@wyo.gov) if you have any questions or concerns.



## Chapter 3

### Fees

**Emergency rules are in effect no longer than 120 days after filing  
with the Registrar of Rules.**

#### **Section 1. Authority; Scope.**

~~This Chapter is promulgated in part pursuant to Wyoming Statute 13-1-603(d) (fees generally), W.S. 13-3-702 (bank Supervisory fee), W.S. 13-5-110 (trust Company supervisory fee), W.S. 13-5-213 (family trust company supervisory fee), W.S. 13-7-603 (savings and loan association supervisory fee).~~

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 (supervised trust company supervisory fee), W.S. 13-7-603 (savings and loan association supervisory fee), W.S. 13-12-111(c) (special purpose depository institutions charter application fee), W.S. 13-12-119(c) and (d) (special purpose depository institution examination and supervisory fees) and W.S. 13-12-126 (special purpose depository institution rules).

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

(a) Except as otherwise provided by subsections (e) and (f) 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 and over 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 W.S. 34-29-104(n) and 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) Charter Application: \$50,000.

(ii) Examination Costs: \$100 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 assets under custody and assets under management. If a bank pays the supervisory fee established in W.S. 34-29-104(n) and that fee 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) shall be deducted from the fee payable under subsection (a).

(f) Each bank that provides custody, safekeeping or asset servicing activities for digital assets, but that does not opt-in to the provisions of W.S. 34-29-104, shall pay a supervision fee of equal to one tenth and eighty-five hundredths of one mill on the dollar (\$0.000185) of assets under custody as of December 31 of each year, with payment of the supervision fee made on or before the following January 31. The fee under this subsection shall also be payable on all digital assets under management in the same manner. If a bank pays the fee under this section and that fee 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 shall be deducted from the fee payable under subsection (a).

(g) 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 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 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 trust company pays by the portion of the fee designated for the Resolution Fund.

(c) A chartered 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 Trust Service Office application.

(d) A Letter of Assurance from the Commissioner may be issued for a family trust company that does not apply for a Wyoming charter. A fee of two hundred fifty dollars (\$250) shall accompany the request for such Letter of Assurance.

(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 trust company to chartered family trust company: \$10,000.

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

## **Chapter 20**

### **Special Purpose Depository Institutions**

**Emergency rules are in effect no longer than 120 days after filing  
with the Registrar of Rules.**

#### **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 construed to include special purpose depository institutions when not inconsistent with the powers, limitations and other characteristics specified by W.S. 13-12-101 through 13-12-126, 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 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. A special purpose depository institution may request the Commissioner to provide guidance on the applicability of a specific federal law.

#### **Section 2. Capital and Surplus/Operating Expenses Requirement.**

- (a) Consistent with W.S. 13-12-110(b), 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, including incidental activities, as determined by the Commissioner on a case-by-case basis. A special purpose depository institution shall also maintain a capital plan analyzing potential capital needs based on growth and the availability of capital from identified sources, which 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 letters of commitment or other evidence to the Commissioner that the required capital will be available if a charter application is approved.
- (b) After a special purpose depository institution has commenced operations, the Commissioner may require the institution to modify its capital levels based on the risk profile or activities of the institution within sixty (60) days of a request by the Commissioner, consistent with W.S. 13-4-203. In making a request for modification of an institution's capital levels, the Commissioner shall take into account the capital plan of the institution under subsection (a) of this section.



(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.

### **Section 3. Application Requirements.**

(a) To be accepted for filing, an application shall be provided to the Commissioner in physical and electronic form and 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 satisfying the requirements of W.S. 13-12-109(b), plus any filing fee required by the Secretary of State;

(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) Letters of commitment or other evidence satisfactory to the Commissioner that capital equal to or greater than that required under § 2 of this Chapter is available to the special purpose depository institution upon chartering;

(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 reasonable promise of successful operation;

(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. Identification of other applicable state and federal laws is the responsibility of the incorporators; and

(E) Other information material to the investigation and report of the Commissioner and the decision of the Board, as determined by the incorporators.

(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 or capital 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 mutual 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;

(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;

(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, license numbers, license expiration dates and agency contact persons; and

(xiii) Any other information required by law or requested by the Commissioner or Board which is material to the charter application or the operation of a special purpose depository institution.

(b) The incorporators shall provide truthful and complete information in a charter application, all accompanying materials and in communications relating to an application. The incorporators shall supplement the application or communication promptly when information in the application or communication changes materially or if an 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) An applicant may describe proposed activities or other portions of an application in contemplation of proposed legislative amendments to the laws governing special purpose depository institutions, if the proposed legislative amendments have been adopted by a legislative committee or task force as of the date of the application. If applicable, the incorporators shall attach a copy of the proposed amendments to the application and identify portions of the application which are based on the proposed amendments. The proposed activities or other portions of the application which require legislative amendments shall not be conducted by the special purpose depository institution until the amendments become effective.

#### **Section 4. Resolution Plan/Required Insurance.**

(a) Not more than forty-five (45) days after a charter has been approved by the Board, a draft resolution plan shall be submitted to the Commissioner for review.

(b) A draft resolution plan shall encompass the requirements of a "tailored resolution plan" specified by 12 C.F.R. § 243.4(a)(3), as of October 1, 2019. As determined by the Commissioner, the draft resolution plan shall follow the format of the "Model Template for § 165(d) Tailored Resolution Plan" prepared by the Board of Governors of the Federal Reserve System, as of October 1, 2019. A resolution plan shall also identify at least two (2) business entities that could potentially have the resources and interest to acquire the special purpose depository institution, or any component of the institution, in the event of financial distress or another contingency warranting use of the resolution plan. The resolution plan shall include a procedure for speedily transferring all assets of the institution to another institution and a procedure for speedily liquidating all assets of the institution.

(c) The Commissioner, in consultation with the officers of the special purpose depository institution, shall review the draft resolution plan submitted under this section for completeness and determine whether it appropriately addresses the risks inherent in a potential resolution of the institution. 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 federal and state financial system from material risks. After consultation with the Commissioner under this subsection, the board of directors of the institution shall review the draft resolution plan and approve a final resolution plan within ninety (90) days of obtaining a certificate of authority under W.S. 13-12-116. Not later than thirty (30) days after the approval of the board of directors, the chief executive officer of the special purpose depository institution shall file the final resolution plan with the Commissioner.

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

- (i) Critical operations or core business lines;
- (ii) Corporate structure, including interconnections and interdependencies with other business entities;
- (iii) Deposits, assets under custody, assets under management, or similar relationships;

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

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

(e) 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 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.

(g) In the event of financial distress or another contingency warranting use of the resolution plan, the Commissioner shall consult the resolution plan filed under this section, and to the extent appropriate under the circumstances, use the plan for the resolution of the institution.

(h) 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. 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 by an institution.

(b) As used in W.S. 13-12-103(d) and this section, "principal operating headquarters" means the location where the chief executive officer 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 6. Investments & Liquid Asset Requirements.**

(a) Consistent with W.S. 13-12-105(b)(iii), a special purpose depository institution may, in addition to other options, 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) Investments specified by W.S. 13-3-302;

(vii) Other investments which are determined by the Commissioner to be substantially similar to the assets described in this subsection.

(b) In the event of an emergency, the Commissioner may, after consulting with affected institutions, reasonably restrict special purpose depository institutions from investing in some 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, other than digital asset markets;

(ii) An unsafe or unsound condition, as defined in § 8(a)(ii) of this Chapter.

#### **Section 7. Disclosure of Material Communications with Governmental Agencies; Information Sharing 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 agreements with government agencies or self-regulatory organizations to carry out this section, or for any other purpose relating to a special purpose depository institution.

#### **Section 8. Safety and Soundness of a Special Purpose Depository Institution.**

(a) 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 depositors on demand or to discharge any certificates of deposit, promissory notes 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 (a)(i);

(B) Cause a substantial dissipation of assets or earnings, including accepting, renewing or rolling over a brokered deposit while less than well capitalized without the authorization of the Commissioner;

(C) Substantially disrupt the services provided by the institution to depositors;

(D) Otherwise substantially prejudice the depository interests of depositors.

(b) Nothing in this section shall be construed to limit the Commissioner's authority to act under other state or federal laws, including action to address unsafe or unsound conditions, deficient capital levels or other violations of law.

#### **Section 9. Reports and Examinations.**

(a) A special purpose depository institution shall submit monthly call reports relating to the condition of the institution, using the form prescribed by the Commissioner.

(b) The Commissioner shall conduct a full-scope, on-site examination of every special purpose depository institution at least once during each twelve (12) month period.

#### **Section 10. Incidental Activities.**

(a) Consistent with W.S. § 13-12-103(b)(vii), activities that are usual or incidental to the business of banking that a special purpose depository institution may conduct include:

(i) Custody, safekeeping and asset servicing, including custodial services under W.S. 34-29-104. Permissible activities under this paragraph include all activities permissible under Chapter 18, § 4 of the Rules of the Division;

(ii) Non-custodial key management services;

(iii) Investment adviser, investment company and broker-dealer activities;

(iv) Commodities intermediary activities;

(v) Exercising fiduciary powers similar to those permitted to national banks;

(vi) Receiving deposits relating to activities under this paragraph; and

(vii) Other activities subject to the prior written approval of the Commissioner.

## **Chapter 3**

### **Fees**

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with the Registrar of Rules.**

#### **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 (supervised trust company supervisory fee), W.S. 13-7-603 (savings and loan association supervisory fee), W.S. 13-12-111(c) (special purpose depository institutions charter application fee), W.S. 13-12-119(c) and (d) (special purpose depository institution examination and supervisory fees) and W.S. 13-12-126 (special purpose depository institution rules).

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

(a) Except as otherwise provided by subsections (e) and (f) 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 W.S. 34-29-104(n) and 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) Charter Application: \$50,000.

(ii) Examination Costs: \$100 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 assets under custody and assets under management. If a bank pays the supervisory fee established in W.S. 34-29-104(n) and that fee 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) shall be deducted from the fee payable under subsection (a).

(f) Each bank that provides custody, safekeeping or asset servicing activities for digital assets, but that does not opt-in to the provisions of W.S. 34-29-104, shall pay a supervision fee of equal to one tenth and eighty-five hundredths of one mill on the dollar (\$0.000185) of assets under custody as of December 31 of each year, with payment of the supervision fee made on or before the following January 31. The fee under this subsection shall also be payable on all digital assets under management in the same manner. If a bank pays the fee under this section and that fee 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 shall be deducted from the fee payable under subsection (a).

(g) 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 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 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 trust company pays by the portion of the fee designated for the Resolution Fund.

(c) A chartered 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 Trust Service Office application.

(d) A Letter of Assurance from the Commissioner may be issued for a family trust company that does not apply for a Wyoming charter. A fee of two hundred fifty dollars (\$250) shall accompany the request for such Letter of Assurance.

(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 trust company to chartered family trust company:  
\$10,000.

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

## **Chapter 20**

### **Special Purpose Depository Institutions**

**Emergency rules are in effect no longer than 120 days after filing  
with the Registrar of Rules.**

#### **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 construed to include special purpose depository institutions when not inconsistent with the powers, limitations and other characteristics specified by W.S. 13-12-101 through 13-12-126, 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 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. A special purpose depository institution may request the Commissioner to provide guidance on the applicability of a specific federal law.

#### **Section 2. Capital and Surplus/Operating Expenses Requirement.**

- (a) Consistent with W.S. 13-12-110(b), 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, including incidental activities, as determined by the Commissioner on a case-by-case basis. A special purpose depository institution shall also maintain a capital plan analyzing potential capital needs based on growth and the availability of capital from identified sources, which 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 letters of commitment or other evidence to the Commissioner that the required capital will be available if a charter application is approved.
- (b) After a special purpose depository institution has commenced operations, the Commissioner may require the institution to modify its capital levels based on the risk profile or activities of the institution within sixty (60) days of a request by the Commissioner, consistent with W.S. 13-4-203. In making a request for modification of an institution's capital levels, the Commissioner shall take into account the capital plan of the institution under subsection (a) of this section.

(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.

### **Section 3. Application Requirements.**

(a) To be accepted for filing, an application shall be provided to the Commissioner in physical and electronic form and 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 satisfying the requirements of W.S. 13-12-109(b), plus any filing fee required by the Secretary of State;

(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) Letters of commitment or other evidence satisfactory to the Commissioner that capital equal to or greater than that required under § 2 of this Chapter is available to the special purpose depository institution upon chartering;

(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 reasonable promise of successful operation;

(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. Identification of other applicable state and federal laws is the responsibility of the incorporators; and

(E) Other information material to the investigation and report of the Commissioner and the decision of the Board, as determined by the incorporators.

(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 or capital 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 mutual 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;

(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;

(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, license numbers, license expiration dates and agency contact persons; and

(xiii) Any other information required by law or requested by the Commissioner or Board which is material to the charter application or the operation of a special purpose depository institution.

(b) The incorporators shall provide truthful and complete information in a charter application, all accompanying materials and in communications relating to an application. The incorporators shall supplement the application or communication promptly when information in the application or communication changes materially or if an 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) An applicant may describe proposed activities or other portions of an application in contemplation of proposed legislative amendments to the laws governing special purpose depository institutions, if the proposed legislative amendments have been adopted by a legislative committee or task force as of the date of the application. If applicable, the incorporators shall attach a copy of the proposed amendments to the application and identify portions of the application which are based on the proposed amendments. The proposed activities or other portions of the application which require legislative amendments shall not be conducted by the special purpose depository institution until the amendments become effective.

#### **Section 4. Resolution Plan/Required Insurance.**

(a) Not more than forty-five (45) days after a charter has been approved by the Board, a draft resolution plan shall be submitted to the Commissioner for review.

(b) A draft resolution plan shall encompass the requirements of a "tailored resolution plan" specified by 12 C.F.R. § 243.4(a)(3), as of October 1, 2019. As determined by the Commissioner, the draft resolution plan shall follow the format of the "Model Template for § 165(d) Tailored Resolution Plan" prepared by the Board of Governors of the Federal Reserve System, as of October 1, 2019. A resolution plan shall also identify at least two (2) business entities that could potentially have the resources and interest to acquire the special purpose depository institution, or any component of the institution, in the event of financial distress or another contingency warranting use of the resolution plan. The resolution plan shall include a procedure for speedily transferring all assets of the institution to another institution and a procedure for speedily liquidating all assets of the institution.

(c) The Commissioner, in consultation with the officers of the special purpose depository institution, shall review the draft resolution plan submitted under this section for completeness and determine whether it appropriately addresses the risks inherent in a potential resolution of the institution. 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 federal and state financial system from material risks. After consultation with the Commissioner under this subsection, the board of directors of the institution shall review the draft resolution plan and approve a final resolution plan within ninety (90) days of obtaining a certificate of authority under W.S. 13-12-116. Not later than thirty (30) days after the approval of the board of directors, the chief executive officer of the special purpose depository institution shall file the final resolution plan with the Commissioner.

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

- (i) Critical operations or core business lines;
- (ii) Corporate structure, including interconnections and interdependencies with other business entities;
- (iii) Deposits, assets under custody, assets under management, or similar relationships;

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

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

(e) 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 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.

(g) In the event of financial distress or another contingency warranting use of the resolution plan, the Commissioner shall consult the resolution plan filed under this section, and to the extent appropriate under the circumstances, use the plan for the resolution of the institution.

(h) 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. 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 by an institution.

(b) As used in W.S. 13-12-103(d) and this section, "principal operating headquarters" means the location where the chief executive officer 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 6. Investments & Liquid Asset Requirements.**

(a) Consistent with W.S. 13-12-105(b)(iii), a special purpose depository institution may, in addition to other options, 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) Investments specified by W.S. 13-3-302;
- (vii) Other investments which are determined by the Commissioner to be substantially similar to the assets described in this subsection.

(b) In the event of an emergency, the Commissioner may, after consulting with affected institutions, reasonably restrict special purpose depository institutions from investing in some 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, other than digital asset markets;
- (ii) An unsafe or unsound condition, as defined in § 8(a)(ii) of this Chapter.

#### **Section 7. Disclosure of Material Communications with Governmental Agencies; Information Sharing 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 agreements with government agencies or self-regulatory organizations to carry out this section, or for any other purpose relating to a special purpose depository institution.

#### **Section 8. Safety and Soundness of a Special Purpose Depository Institution.**

(a) 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 depositors on demand or to discharge any certificates of deposit, promissory notes 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 (a)(i);

(B) Cause a substantial dissipation of assets or earnings, including accepting, renewing or rolling over a brokered deposit while less than well capitalized without the authorization of the Commissioner;

(C) Substantially disrupt the services provided by the institution to depositors;

(D) Otherwise substantially prejudice the depository interests of depositors.

(b) Nothing in this section shall be construed to limit the Commissioner's authority to act under other state or federal laws, including action to address unsafe or unsound conditions, deficient capital levels or other violations of law.

#### **Section 9. Reports and Examinations.**

(a) A special purpose depository institution shall submit monthly call reports relating to the condition of the institution, using the form prescribed by the Commissioner.

(b) The Commissioner shall conduct a full-scope, on-site examination of every special purpose depository institution at least once during each twelve (12) month period.

#### **Section 10. Incidental Activities.**

(a) Consistent with W.S. § 13-12-103(b)(vii), activities that are usual or incidental to the business of banking that a special purpose depository institution may conduct include:

(i) Custody, safekeeping and asset servicing, including custodial services under W.S. 34-29-104. Permissible activities under this paragraph include all activities permissible under Chapter 18, § 4 of the Rules of the Division;

(ii) Non-custodial key management services;

(iii) Investment adviser, investment company and broker-dealer activities;

(iv) Commodities intermediary activities;

(v) Exercising fiduciary powers similar to those permitted to national banks;

(vi) Receiving deposits relating to activities under this paragraph; and

(vii) Other activities subject to the prior written approval of the Commissioner.