



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE September 24, 2018

TO Members, Blockchain Task Force

FROM Chris Land, Staff Attorney

SUBJECT Special Purpose Depository Institutions Draft Bill Overview (19LSO-0055, v. 0.5)

This memorandum provides a brief overview of the provisions contained in the special purpose depository institutions draft bill (19LSO-0055, v. 0.5) which will be considered by the Blockchain Task Force. The provisions of the draft are organized by topic with corresponding page numbers.

As used in this memorandum, "institution" means the special purpose depository institution created by this bill. This memorandum is provided as a factual summary of the provisions of the draft bill.

Special Purpose Depository Institution Customers *(pgs. 7, 15–17)*

- Only a "subscriber" may have an account or transact any business with an institution.
- A subscriber must be a business entity carrying on a bona fide business, or an entity which will start a business in the next six months. Documentary evidence of the entity's business is required to be provided to an institution before an account can be opened.
- Subscribers may be required by an institution to pay initial and periodic fees ("subscriptions").
- A minimum deposit of \$100,000, or an equivalent amount of virtual currency, is required to open an account.
- Individuals are not authorized to be subscribers.

Scope of Business *(pgs. 10–15)*

- Institutions may provide depository, payment and exchange services for subscribers in both traditional currency and virtual currency, as well as other banking-related activities authorized by the Banking Commissioner.
- Lending is not authorized.
- An institution is required to obtain a license under the Wyoming Money Transmitters Act to conduct business in virtual currency. The permissible investments requirement of the Money Transmitters Act is exempted.

Federal Law (pgs. 22–24)

- The bill underscores that all applicable federal laws continue to apply to institutions, including anti-money laundering, customer identification and beneficial ownership requirements.¹
- The bill also provides standards governing the adoption of administrative rules relating to institutions and the influence of federal law/banking best practices on these rules.
- The Attorney General is required to take legal action under 12 U.S.C. § 248a on behalf of the State of Wyoming and an institution if the institution is unable to obtain a master account with a federal reserve bank to access currency, deposit and wire transfer services, among others.

Technology Platform & Security (pgs. 24–28)

- Institutions are authorized to maintain a specialized technology platform for their operations which automatically integrates customer identification, anti-money laundering and customer identification requirements.
- This technology platform may use a blockchain, smart contracts, standardized financial contract language or legal entity identifiers.
- Use of a specialized technology platform is voluntary.
- The institution is required to utilize electronic and physical security systems which maintain the security of the institution's data, which may include multi-signature requirements or cold storage² of the private keys necessary to execute a virtual currency transaction.
- The Banking Commissioner is authorized to accept electronic versions of reports, filings and other submissions required for institutions.

Organization (pgs. 10, 12–22, 30–32)

- The institution is a mutual corporation owned by its subscribers.
- The institution is required to maintain a 100% ratio of liquid assets to depository liabilities.
- "Liquid assets" are defined as: (1) U.S. currency held by the institution on its premises; (2) U.S. currency deposits maintained with a federal reserve bank; (3) U.S. currency deposits held by a federally-insured financial institution; or (4) highly liquid investments of the quality authorized for banks under existing law.
- The institution is authorized, but not required, to maintain Federal Deposit Insurance Corporation insurance.
- Subscribers may be paid dividends or be liable for assessments based on the financial condition of the institution.
- The institution is required to maintain a contingency account of not less than 2% of depository liabilities to cover unexpected losses and expenses, subject to rules adopted by the Banking Commissioner.

¹ See, e.g., Bank Secrecy Act, 12 U.S.C. §§ 1829b, 1951 *et seq.*, as amended; Money Laundering Control Act, 18 U.S.C. §§ 1956, 1957, as amended; USA PATRIOT Act, 31 U.S.C. § 5311 *et seq.*, as amended; 31 C.F.R. § 1010.230 *et seq.* (beneficial ownership).

² "Cold storage" means storage of the credentials required to execute a virtual currency transaction in paper form or on a secured computer not connected to the internet (air-gapped) (pg. 27).

- The institution is required to have a specified amount of subscriptions pledged by subscribers before applying for a charter. This Task Force will set this amount during the mark-up.
- At least one physical office must be maintained by an institution in Wyoming. An institution must also hold at least two board meetings in Wyoming every year.

Required Disclosures (pgs. 29–30)

- The institution is required to provide notice that deposits are uninsured in the following ways: (1) a display on the institution's website; (2) a sign at each window or place it accepts deposits; (3) a written acknowledgment provided to each subscriber; and (4) on all advertising.

Chartering, Approval, Examination, Liquidation/Receivership & Winding-Up (pgs. 30–68)

- The mechanics of chartering, approval, examination, liquidation/receivership and winding-up of an institution are similar to existing laws governing banks and trust companies, except that the Banking Board is required to approve a charter application which meets specified criteria.
- A surety bond or pledged investments are required to be provided by an institution to the Banking Commissioner upon approval of a charter, in order to cover the costs of any potential liquidation or receivership.

Additional Positions & Appropriations (pgs. 68–69)

- The bill authorizes the Banking Commissioner to hire one additional employee to carry out the duties specified by this bill. The bill makes an appropriation to cover these personnel costs, as well as other administrative expenses incurred by the Division of Banking under this bill.
- The Task Force will set the appropriation during the mark-up of the bill.