



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF BANKS

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**Date: May 13, 2021**

**To: Current and Future Washington State-Chartered Bank and Trust Company CEOs**

**From: State of Washington Department of Financial Institutions, Division of Banks**

**Statement from the Washington State Department of Financial Institutions, Division of Banks –  
Banking and Custody Services for Digital Assets**

This statement serves to establish the stance of the Washington State Department of Financial Institutions (DFI) in relation to current and future Washington state-chartered banks' and non-depository trust companies' ability to provide banking services and custody services of digital assets.

**Washington State-Chartered Banks**

Washington state-chartered banks are permitted to provide banking services to companies operating in digital assets. Furthermore, it is permissible for banks to seek permission from the DFI to provide custody of digital assets.

Permissibility Background

On July 22, 2020, the Office of the Comptroller of the Currency (OCC), who serves as the regulator for nationally chartered banks, [issued Interpretive Letter #1170](#) (Letter). The OCC states, in part, "This letter also reaffirms the OCC's position that national banks may provide permissible banking services to any lawful business they choose, including cryptocurrency businesses, so long as they effectively manage the risks and comply with applicable law." The Letter further states, "National banks have long provided safekeeping and custody services for a wide variety of customer assets, including both physical objects and electronic assets."

Further, [RCW 30A.04.215](#), states in part, "(3) Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a bank has under the laws of this state, a bank shall have the powers and authorities conferred as of July 28, 1985, or as of any subsequent date not later than July 28, 2013, upon any federally chartered bank doing business in this state. A bank may exercise the powers and authorities conferred on a federally chartered bank after July 28, 2013, only if the director finds that the exercise of such powers and authorities:

- (a) Serves the convenience and advantage of depositors, borrowers, or the general public; and

(b) Maintains the fairness of competition and parity between state-chartered banks and federally chartered banks.

In accordance with [RCW 30A.04.215](#), the Director finds that both provisions (a) and (b) of [RCW 30A.04.215](#) (3) have been satisfied in relation to the providing of custody services of digital assets. As such, Washington state-chartered banks are eligible to apply to DFI for authorization to provide custody services via [RCW 30A.04.215](#) (2), which states in part, “A bank that desires to perform an activity that is not expressly authorized by subsection (1) of this section shall first apply to the director for authorization to conduct such activity. Within thirty days of the receipt of this application, the director shall determine whether the activity is closely related to the business of banking, whether the public convenience and advantage will be promoted, whether the activity is apt to create an unsafe and unsound practice by the bank and whether the applicant is capable of performing such an activity. If the director finds the activity to be closely related to the business of banking and the bank is otherwise qualified, he or she shall immediately inform the applicant that the activity is authorized. If the director determines that such activity is not closely related to the business of banking or that the bank is not otherwise qualified, he or she shall promptly inform the applicant in writing.”

### **Washington State-Chartered Non-Depository Trust Companies**

Existing Washington law provides the ability for Washington state-chartered non-depository trust companies to provide custody services of digital assets. Specifically, [RCW 30B.08.080](#) states, in part, “(3) Pursuant to such certificate of authority, a state trust company may also perform incidental activities, other than trust business, which include:

- (a) Acting as a bailee or receiving for safekeeping personal property;
- (b) Acting as a custodian for money or its equivalent, or for other personal property, which conduct has not otherwise been determined by rule to be trust business pursuant to subsection (1)(d) of this section;”.

The custody of digital assets is complex and the company should assess these risks prior to going into this line of business. Contacting the DFI Division of Banks prior to engaging in this activity is encouraged.

### **Consultation with the DFI Division of Banks**

Washington state-chartered banks and non-depository trust companies interested in more information about permissibility and safety and soundness considerations are encouraged to reach out to the DFI Division of Banks.

Banks can direct questions to Matthew Harvey, Chief of Supervision or Shannon Tushar, Chief of Examinations at (360) 902-8704 or [Banks@dfi.wa.gov](mailto:Banks@dfi.wa.gov).

Trust Companies can direct questions to Corrie Mann, Applications and Trust Company Manager at (360) 902-8704 or [Banks@dfi.wa.gov](mailto:Banks@dfi.wa.gov).