



STATE OF WYOMING

DEPARTMENT OF AUDIT

DIVISION OF BANKING
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Special Purpose Depository Institutions: Capital Requirement Guidance

Wyo. Stat. § 13-12-110 and implementing rules¹ establish an overall bank capital requirement for chartering a special purpose depository institution ("SPDI"). This requirement has three components:

- **Capital Stock:** Statutory requirement of not less than \$5,000,000. Banking Commissioner authorized to set capital requirement on a case-by-case basis, in a manner commensurate with the risk profile and proposed activities of the institution.
- **Surplus/Operating Expenses:** 3 years of projected operating expenses, as specified in the business plan of the institution.
- **Contingency Account:** 2% of demand (non-custodial) deposits of fiat currency. Only applies after third year of operation and other requirements may count towards this mandate.

The Division of Banking ("the Division") focuses heavily on the business plan and proposed activities of an SPDI in determining an overall capital requirement. Consequently, the required initial capital will vary from institution to institution. The Division takes a holistic view of these requirements and focuses on the overall resources available to a prospective SPDI for a safe and sound operation.

After consultations with industry and other regulators, as well as an analysis of potential business models, the Division anticipates that a prospective SPDI should consider 1.25–1.75% of proposed assets under management/assets under custody (off-balance sheet assets) or \$10,000,000—whichever is greater—as an appropriate *minimum* requirement for chartering. Again, the Division will assess the initial requirement of each institution on a case-by-case basis, after consulting with the applicant.

The operations of an SPDI will likely be different than a traditional retail-focused bank, because the institution is required to maintain 100% of its fiat demand deposits as liquid assets and is prohibited from lending fiat deposits. This requirement does not apply to off-balance sheet assets. SPDIs may resemble a custody bank² because of their focus on fiduciary activities, asset management and custody.

This guidance is principally tailored to ensure the financial strength of a prospective institution and to ensure the Division has adequate resources available to cover receivership costs in the unlikely event of a failed SPDI. An institution must pledge assets to the Division equivalent to the total capital of the institution to cover potential receivership costs, consistent with Wyo. Stat. § 13-12-108. The Division will not accept a pledge of capital stock, surplus, undivided profits or retained earnings accounts to fulfill this requirement. Capital is not required to be paid in, however, until a charter is granted and may be invested in investment grade assets, as provided by rule.

The Division is happy to discuss this guidance further with potential applicants. Please contact us at (307) 777-7797 or wyoingbankingdivision@wyo.gov with questions or concerns.

¹ Rules of the Division, Chapter 20, § 2.

² THE CLEARING HOUSE, THE CUSTODY SERVICES OF BANKS (2016), available at https://www.theclearinghouse.org/-/media/tch/documents/research/articles/2016/07/20160728_tch_white_paper_the_custody_services_of_banks.pdf.