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National Banks and Savings Associations Cleared to Provide Cryptocurrency Custody Services

By: Rich May, David Glod

National banks and federal savings associations have been explicitly authorized to provide custody services for cryptocurrencies, according to an interpretive letter issued by the Office of the Comptroller of the Currency last week. These banks join several institutions which had previously been granted state banking licenses to perform cryptocurrency custody and execution services.

The letter recognizes that because cryptocurrencies do not exist in any physical form, "custody" of them really means holding the cryptographic keys that allow the holder to transfer the cryptocurrency–and which, if lost, generally make the cryptocurrency unrecoverable. As a result, the letter notes that some owners of cryptocurrencies may prefer to rely on a bank's security processes rather than their own ability to keep their holdings safe. On the other hand, for some crypto investors, handing their assets over to a bank would defeat one of the purposes of cryptocurrencies–the ability to control one's own assets entirely free from the traditional financial system.

The letter may also be of interest to investment advisers looking to incorporate cryptocurrency assets into their clients' portfolios, because such an adviser is generally required to maintain all client assets with a qualified custodian such as a bank. Thus, the letter may facilitate the adoption of advisory services related to crypto assets.

The letter cautions that banks taking on cryptocurrency custody functions must do so consistent with sound risk management practices designed to safeguard the assets, which will differ significantly from those applicable to physical assets. In fact, different cryptocurrencies with different technical characteristics may require different risk management procedures.

Our investment management practice group regularly monitors developments in this area. Contact us if you have questions about custody, security or other issues relating to cryptocurrencies.

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David Glod

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