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MEMORANDUM

July 24, 2020

To Our Clients and Friends

Re: Comptroller Reaffirms National Bank Cryptocurrency Custody Services

In reviewing a proposal by a national bank to offer cryptocurrency custody services as part of its custody business, the Office of the Comptroller of the Currency (OCC) reaffirmed the authority of national banks to provide cryptocurrency custody services for customers, including the holding unique cryptographic keys. The OCC's Interpretive Letter provides a general description of cryptocurrencies and states that because cryptocurrencies exist only on the distributed ledger on which they are recorded, a particular unit of cryptocurrency is assigned through the use of a set of unique cryptographic access keys. Those keys allow the transfer of the cryptocurrency. If the keys are lost, a party will generally be unable to access its cryptocurrency. Moreover, if a third party gains access to the keys, the third party can use the keys to transfer the cryptocurrency. Because the keys to a unit of cryptocurrency are essentially irreplaceable if lost there is a growing demand for safe places such as banks to hold them.

The OCC recognized that providing custody services for cryptocurrencies differs in from other custody activities because the banks would not take physical possession of the cryptocurrency. Rather, banks would take possession of the access keys which are typically maintained in a "wallet." Stating that national banks have long provided safekeeping and custody services for a wide variety of customer assets, including both physical objects and electronic assets, the OCC concluded that providing cryptocurrency custody services, including holding access keys associated with cryptocurrency, is a modern form of traditional bank custody activities and is therefore a permissible activity for national banks. The OCC also stated that providing custody services for cryptocurrency falls within the authority of Federal savings associations to provide custody services.

A copy of the Comptroller's Interpretive Letter is available on our website at <http://schwartzandballen.com/news.html>.

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