



NOTICE OF RULEMAKING HEARING NEBRASKA DEPARTMENT OF BANKING AND FINANCE

Notice is hereby given that the Nebraska Department of Banking and Finance will hold a rulemaking hearing on December 7, 2022, commencing at 9:30 a.m. CST, at the First Nebraska Administrative Building, 1526 K Street, Lower Level-Development Center, Lincoln, Nebraska 68508.

The purpose of the hearing is to take testimony and evidence concerning the following adoption of Rules and Regulations of the Department:

1. 47 NAC 1 – Adopts requirements for applicants of digital asset depository charters. Upon determination an application is substantially complete, the Director shall provide notice and schedule a public hearing in accordance with the Nebraska Financial Innovation Act and Administrative Procedure Act. Requires prior approval before a digital asset depository may conduct business in foreign markets or expand activities beyond what is disclosed in initial application. Provides guidance on filing fees, computation of time, and additional review of applications.
2. 47 NAC 2 – Sets surety bond and insurance requirements of digital asset depositories in case of potential liquidation, conservatorship, or receivership and to protect applicants by ensuring sufficient coverage to protect safety and soundness of business operations against insurable risk.
3. 47 NAC 3 – Harmonizes capital requirements for digital asset depository departments and digital asset depository institutions. Identifies examples of operating expenses to meet the three-year operating expense requirements provided for in the Nebraska Financial Innovation Act.
4. 47 NAC 4 – Allows state banks to amend existing financial institution charter with application to the Department of Banking and Finance to operate a digital asset depository department. Mandates separation of operations between digital asset depository department and other bank operations. A bank's capital structure will be evaluated using a risk-based analysis of the proposed digital asset depository department. Separation of FDIC-insured activities and non-insured digital asset activities and products to prevent customer confusion.



5. 47 NAC 5 – Provides standards and penalties for required reporting to the Department of Banking and Finance. Provides for digital signatures under Nebraska law. Defines a call report. Requires digital asset depositories to comply with federal reporting and notice requirements. Provides for computation of time to fulfill report timing requirements.
6. 47 NAC 6 – Sets requirements for digital asset depositories to have a documented system for addressing customer complaints. Provides for administrative proceedings in the case of failure to acknowledge and respond to complaints.
7. 47 NAC 7 – Provides that digital asset depositories must provide notice that digital asset products are not FDIC-insured and that it can provide notice that traditional banking products are FDIC-insured.
8. 47 NAC 8 – Establishes that digital asset depositories must have a written response program with detailed methods for handling data breaches or other cybersecurity events. Requires immediate notification to the Department of Banking and Finance of such incident at the time of awareness of occurrence and reviews of the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006 to determine further necessary notifications. Requires reporting to the Department of Banking and Finance where incident occurrence is reported federally.

The rulemaking hearing is being conducted under and by virtue of the provisions of Section 84-907, R.R.S 1943, as amended, which provides that COPIES OF THE PROPOSED RULES ARE AVAILABLE FOR PUBLIC EXAMINATION at the Office of the Department of Banking and Finance, 1526 K Street, Suite 300, Lincoln, Nebraska 68508, and at the Office of the Secretary of State, 1445 K Street, Suite 2300, Lincoln, Nebraska 68508. In addition, the proposed rules are available on the Department of Banking and Finance's website at <https://ndbf.nebraska.gov>, and the Secretary of State's website www.sos.ne.gov.

A copy of the Fiscal Impact Statement is available at the Office of the Department of Banking and Finance and on the Department's website.

All interested persons are invited to attend and testify at the hearing. Seating is limited. Anyone interested in viewing the hearing via a Webex online teleconference link must contact the Department at dob.digitalassets@nebraska.gov by 4:00 p.m. CST, November 30, 2022 and provide your name and email address. Teleconference seats are limited.

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**DEPARTMENT OF BANKING
AND FINANCE**

Pete Ricketts, Governor



Interested persons may submit written comments to the Department of Banking and Finance prior to the hearing. Submitted comments will be made part of the hearing record at the time of the hearing. Comments can only be made in person at the hearing room, or through previously written testimony. Comments will not be taken through the Webex teleconference. Written testimony should be sent to the Nebraska Department of Banking and Finance, Attn: Tag Herbek, 1526 K St., Suite 300, Lincoln, NE 68508, or emailed to dob.digitalassets@nebraska.gov.

If auxiliary aids or reasonable accommodations are needed for attendance at this hearing, please call the Nebraska Department of Banking and Finance at (402) 471-2171, or, for persons with hearing impairments, please call the Nebraska Relay System at (800) 833-7352 TDD. This contact should be made at least seven (7) days prior to the hearing.

Dated at Lincoln, Nebraska, this 28th day of October, 2022.

Kelly Lammers, Director
Nebraska Department of Banking and Finance

FISCAL IMPACT STATEMENT

Agency: Banking and Finance
 Title: 47
 Chapters: 1, 2, 3, 4, 5, 6, 7, 8

Prepared by: Tag Herbek, Legal Counsel
 Date prepared: 10/17/2022
 Telephone: 471-2171

Type of Fiscal Impact: There will be no fiscal impact to state agencies or political subdivisions. There will be costs for digital asset depositories due to costs associated with surety bonds, pledging of assets, and insurance in Chapter 2. Digital asset depositories will also have costs associated with capital requirements and paid-up operating expenses in Chapter 3. Chartered entities may also have costs associated with Department mandated reports and call reports in Chapter 5.

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	()
Increased Costs	()	()	(X)
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()

Description of Impact:

State Agency: No impact

Political Subdivisions: No impact

Regulated Public: The adoption of Chapter 2 will result in entities securing surety bonds to defray costs of a liquidation or receivership. If an entity pledges assets instead, it will still incur costs to pledge assets. Entities will also have to secure insurance to cover operational risks associated with the digital asset operations. Bonds or pledged assets are required by the Nebraska Financial Innovation Act (“Act”).

The adoption of Chapter 3 will result in an entity securing capital stock as required by the Act, the Rule, and the Director. An entity must also provide for the first three years of its estimated operating expenses in its surplus account.

The adoption of Chapter 5 will require entities to compile and maintain reports at the discretion of the Director and federal agencies. These reports will need to be maintained on a regular and ongoing basis.

All of the increased costs for the regulated public are expected and traditional costs for financial industry participants. Traditional financial industry participants currently incur costs similar to those of the proposed adopted Rules. None of the other amendments should have any fiscal impact upon the regulated industries.

NEBRASKA ADMINISTRATIVE CODE

Title 47 – DEPARTMENT OF BANKING AND FINANCE

Chapter 1 – APPLICATIONS

001 AUTHORITY.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director of the Department of Banking and Finance (“Department”) in Neb. Rev. Stat. § 8-3031 of the Nebraska Financial Innovation Act (“Act”).

001.02 Any terms used within this Rule shall have a definition consistent with the definitions contained within Neb. Rev. Stat. § 8-3003 and Neb. Rev. Stat. § 8-101.03. In the event of any inconsistency between definitions in these Sections, the Act shall control.

001.03 The Department has determined that this Rule is in the public interest.

001.04 The Director may, on a case-by-case basis, and with prior written notice to the affected person, require adherence to additional standards or policies, as deemed necessary in the public interest.

002 APPLICATION FORM AND REQUIREMENTS.

002.01 Applications are required to be on a form prescribed by the Director.

002.02 The Director has the discretion to require additional information on any application, where the initial application or any background search provides information that may necessitate the Department’s collection of additional information to ensure that the application is substantially complete, and that the applicant meets the statutory requirements under the Act.

002.03 Upon application for a charter to conduct operations as a digital asset depository, the Department will make a careful investigation and examination of the character, reputation, criminal record, financial standing, and ability of any direct owners effecting ten percent (10%) or more of the digital asset depository, as well as any indirect owners effecting ten percent (10%) or more of any direct owner, which affects ten percent (10%) or more of the digital asset depository.

002.03A Pursuant to Neb. Rev. Stat. § 8-3012(1), an adult person must be a natural person and cannot be a legal entity.

002.03B Pursuant to Neb. Rev. Stat. § 8-3018(3), “a misdemeanor involving any aspect of a digital asset depository business or any business of a similar nature” means a misdemeanor under any state, territory, or federal law which involves dishonesty or fraud, or which involves any aspect of a digital assets business or platform, financial institution, depository institution, mortgage business, money lending, check cashing, or other similar business.

002.03C Pursuant to Neb. Rev. Stat. § 8-3018(3), “felony” means any felony under state, territory, or federal law.

002.03D “Felony” and “misdemeanor” as used within Neb. Rev. Stat. § 8-3018(3), also include foreign criminal offenses of a comparable nature or severity.

002.03E The Director may require any individual listed in an application as a shareholder, director, or officer to provide documentation of character, reputation, criminal record, financial standing, ability, and business qualifications by any means satisfactory to the Director.

002.03F Inability of any individual listed in an application to locate and obtain any documentation requested by the Director does not relieve the listed individual of providing the requested documentation to the Director.

002.03G Unavailability of foreign jurisdiction documentation equal to information provided in the United States, or its territories, for its citizens, that is requested by the Director for an individual listed in an application does not relieve the listed individual of providing the requested documentation.

002.03H Individuals listed in applications may use independent third parties, approved by the Department, to assist in attaining and submitting personal information, or background reports, required by the Director for an application. Any independent third party used must submit individual background information to the Department directly in a secure manner.

003 PUBLIC HEARING.

003.01 Upon determining that an applicant has submitted a substantially complete application for a charter, the Director shall notify the applicant of a public hearing to be conducted on the application and schedule the hearing in accordance with, Neb. Rev. Stat. § 8-3016 of the Act.

003.01A A substantially complete application is one in which the applicant has addressed any deficiency in the required information and/or application.

003.02 The Department shall also provide electronic notice of the application and public hearing to financial institutions located within the State of Nebraska, federal agencies, and trade associations as provided for in Neb. Rev. Stat. § 8-3016.

003.02A For purposes of this Rule, “located within the State of Nebraska” means having a main office, branch, or other office that is physically located within the State of Nebraska;

003.02B State chartered or licensed financial institutions includes institutions chartered or licensed by a foreign state agency which operate an office located within the State of Nebraska;

003.02C Federal agencies are those involved in the regulation of financial institutions operating or located within the State of Nebraska, and includes, but is not limited to, the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Consumer Financial Protection Bureau, and the National Credit Union Association;

003.02D Known financial industry trade groups operating in or located within the State of Nebraska.

003.02D1 Any financial industry trade group may request notice of any public hearings by submitting a request for such notice to the Department.

003.03 The public hearing shall be conducted in accordance with 49 NAC 2, and the Administrative Procedure Act.

004 ADDITIONAL BUSINESS ACTIVITIES; FOREIGN OR INTERNATIONAL EXPANSION.

004.01 Digital asset depositories shall obtain prior approval from the Director before conducting any business activities that were not a part of the depository's original application, or that expand any pre-existing business activities of the depository into new foreign markets or jurisdictions. Such prior approval must be made on a form prescribed by the Director.

004.02 The Director may approve, conditionally approve, or deny such request to conduct other business activities, as may be required to ensure the depository's ongoing safety and soundness, or as may be determined by the Director to be in the public interest.

005 FILING FEES.

005.01 All filing fees are payable in U.S. dollars by corporate check, money order, or ACH to the Department, or through an electronic filing system recognized by the Director. Cash, personal checks, and checks drawn on non-United States banks will not be accepted.

005.02 All filing fees are nonrefundable and shall be retained by the Department regardless of the final determination regarding the application, or of any withdrawal of a pending application.

006 COMPUTATION OF TIME.

006.01 In computing time prescribed or allowed by any applicable statute or rule in which the method of computing time is not specifically provided, days will be computed by excluding the day of the act or event and including the last day of the period. If the last day of the period falls on a Saturday, Sunday, or legal holiday, the period shall include the next business day.

007 ADDITIONAL REVIEW.

007.01 All applications are subject to review by the Department's Securities Bureau.

007.02 All applications are subject to review by any federal regulator deemed necessary by the Department.

008 APPEAL.

008.01 Any applicant aggrieved by a determination of the Director regarding an application under Section 004 of this Rule may appeal such determination. Such appeal must be filed within thirty (30) days of the determination.

008.02 Upon receipt of an appeal, the Director shall set the matter for a public hearing, to be conducted within sixty (60) days of receipt.

008.03 Such public hearing shall be conducted in accordance the Department's Rules of Practice and Procedure, as set forth within 49 NAC 4, and the Administrative Procedure Act.

NEBRASKA ADMINISTRATIVE CODE

Title 47 – DEPARTMENT OF BANKING AND FINANCE

Chapter 2 – SURETY BONDS AND PLEDGE OF ASSETS; INSURANCE

001 AUTHORITY.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director of the Department of Banking and Finance (“Department”) in Neb. Rev. Stat. § 8-3031 of the Nebraska Financial Innovation Act (“Act”).

001.02 Any terms used within this Rule shall have a definition consistent with the definitions contained within Neb. Rev. Stat. § 8-3003 and Neb. Rev. Stat. § 8-101.03. In the event of any inconsistency between definitions in these Sections, the Act shall control.

001.03 The Department has determined that this Rule is in the public interest.

001.04 The Director may, on a case-by-case basis, and with prior written notice to the affected person, require adherence to additional standards or policies, as deemed necessary in the public interest.

002 SURETY BOND OR PLEDGED ASSETS TO COVER POTENTIAL LIQUIDATION OR RECEIVERSHIP.

002.01 To cover or defray the potential costs of a liquidation or receivership of a digital asset depository, all digital asset depositories shall maintain a surety bond and/or pledge of assets in the amount of one million dollars (\$1,000,000.00).

002.01A If a digital asset depository chooses to meet this requirement with a pledge of assets, such assets must be highly liquid assets secured by the United States or an agency of the United States.

002.01A1 Liquid assets are properly held United States currency, and highly liquid obligations of the U.S. Treasury or other U.S. federal agency.

002.01A2 Liquid assets may include other investments determined by the Director to be the equivalent of highly liquid obligations of the U.S. Treasury or other U.S. federal agency and determined permissible under safe and sound banking practices.

002.01B Any pledge of assets designated to cover or defray the potential costs of a liquidation or receivership shall not also be utilized in the calculation of the minimum reserves required under Neb. Rev. Stat. § 8-3009, or in the calculation of the minimum capital amount required under Neb. Rev. Stat. § 8-3013.

002.02 The Director shall have the discretion to increase or decrease the required monetary value of any surety bond or pledged assets, as may be required to ensure the digital asset depository's continued safety and soundness. In making the determination to require an increase or allow a decrease under this Section, the Director may consider the depository's call reports, examinations, investigations, or any other indicia of financial condition that may provide information as to the depository's ongoing safety and soundness.

003 INSURANCE TO COVER OPERATIONAL RISKS.

003.01 To cover the operational risks of the digital asset depository, a digital asset depository shall maintain appropriate insurance or bond coverage, which shall include coverage for directors' and officers' liability, errors and omissions liability, and information technology infrastructure and activities liability, in the amount of ten million dollars (\$10,000,000.00).

003.02 The Director shall have the discretion to increase or decrease the required amount of insurance or bonds, as may be required to ensure the digital asset depository's continued safety and soundness. In making the determination to require an increase or allow a decrease under this Section, the Director may consider the depository's call reports, examinations, investigations, or any other indicia of financial condition that may provide information as to the depository's ongoing safety and soundness.

NEBRASKA ADMINISTRATIVE CODE

Title 47 – DEPARTMENT OF BANKING AND FINANCE

Chapter 3 – CAPITAL REQUIREMENTS; PAID-UP OPERATING EXPENSES

001 AUTHORITY.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director of the Department of Banking and Finance (“Department”) in Neb. Rev. Stat. §§ 8-3013 and 8-3031 of the Nebraska Financial Innovation Act (“Act”).

001.02 Any terms used within this Rule shall have a definition consistent with the definitions contained within Neb. Rev. Stat. § 8-3003 and Neb. Rev. Stat. § 8-101.03. In the event of any inconsistency between definitions in these Sections, the Act shall control.

001.03 The Department has determined that this Rule is in the public interest.

001.04 The Director may, on a case-by-case basis, and with prior written notice to the affected person, require adherence to additional standards or policies, as deemed necessary in the public interest.

002 CAPITAL REQUIREMENTS.

002.01 No digital asset depository may be chartered with capital stock of less than ten million dollars (\$10,000,000.00).

002.02 The Director shall have the discretion to increase the required amount of capital, as may be required to ensure the digital asset depository’s continued safety and soundness. In making the determination to require an increase or allow a decrease under this Section, the Director may consider the depository’s call reports, examinations, investigations, or any other indicia of financial condition that may provide information as to the depository’s ongoing safety and soundness.

003 SURPLUS REQUIREMENTS.

003.01 Applicants for a charter to become a digital asset depository under the Act must provide proof of a paid-up surplus fund of at least three (3) years of estimated operating expenses. Such operating expenses must be included within a comprehensive estimate provided to the Director as part of the application for a charter.

003.02 The term “Operating Expenses” means any and all expenses an applicant incurs through its normal business operations, and must include, but is not limited to:

003.02A Costs of real property utilized by the Applicant, including but not limited to: rent, mortgage payments, utility costs, insurance, maintenance costs, and property taxes;

003.02B Costs of personal property utilized by the applicant, including, but not limited to, materials, machinery, equipment, and software;

003.02C Insurance;

003.02D Payroll expenses;

003.02E Marketing costs;

003.02F Business services offered by partners, affiliates, third parties, or other vendors; and

003.02G All other ongoing costs of the digital asset depository of any kind or nature.

003.03 The items required to be considered as operating expenses under the Act can and will vary across applicants and will be dependent upon an individual applicant's business type, business model, organizational structure, and other factors, and will be assessed on a case-by-case basis. Estimated operating expenses must be comprehensive, realistic, consistent with pro forma financials, and indicate an ability to secure a Certified Public Accounting Audit opinion that indicates the institution is likely to be a successful ongoing concern.

NEBRASKA ADMINISTRATIVE CODE

Title 47 – DEPARTMENT OF BANKING AND FINANCE

Chapter 4 – DIGITAL ASSET DEPOSITORY DEPARTMENT; CHARTER AMENDMENT;
DIRECTOR; POWERS AND DUTIES

001 AUTHORITY.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director of the Department of Banking and Finance (“Department”) in Neb. Rev. Stat. § 8-3031 of the Nebraska Financial Innovation Act (“Act”).

001.02 Any terms used within this Rule shall have a definition consistent with the definitions contained within Neb. Rev. Stat. § 8-3003 and Neb. Rev. Stat. § 8-101.03. In the event of any inconsistency between definitions in these Sections, the Act shall control.

001.03 The Department has determined that this Rule is in the public interest.

001.04 The Director may, on a case-by-case basis, and with prior written notice to the affected person, require adherence to additional standards or policies, as deemed necessary in the public interest.

002 ESTABLISHMENT OF A DIGITAL ASSET DEPOSITORY DEPARTMENT AND
CHARTER AMENDMENT REQUIREMENT.

002.01 Any financial institution with articles of incorporation that authorize the conduct of a digital asset depository business may be further chartered by the Director to operate a digital asset depository department.

002.02 The Director shall require such financial institution to apply for an amendment to its charter.

002.03 A digital asset depository department shall be separate and apart from every other department of the financial institution. Evaluation of the capital the financial institution dedicates to its digital asset depository department will be based upon a risk-based analysis of the size, risk profile, and proposed activities of the digital asset department.

002.04 Where a digital asset depository department shall operate in a manner that includes accounts, services, or products that are insured by the Federal Deposit Insurance Corporation (“FDIC”), the digital asset depository department must ensure that the sales or recommendations of such products are kept separate and apart from the sales or recommendations of any digital asset accounts, services, or products.

002.04A To minimize customer confusion with FDIC-insured products, the sales or recommendations of digital asset accounts, services, or products on the premises of a digital asset depository department should

be conducted in a physical location distinct from the area where retail deposits are taken.

002.04B Signs or other means should be used to distinguish the digital asset sales area from the retail deposit-taking area of the digital asset depository department. However, in the limited situation where physical considerations prevent sales or recommendations of digital asset accounts, services, or products from being conducted in a distinct area, the digital asset depository has a heightened responsibility to ensure appropriate measures are in place to minimize customer confusion.

NEBRASKA ADMINISTRATIVE CODE

Title 47 – DEPARTMENT OF BANKING AND FINANCE

Chapter 5 – REPORTS; CALL REPORTS

001 AUTHORITY.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director of the Department of Banking and Finance (“Department”) in Neb. Rev. Stat. §§ 8-3023 and 8-3031 of the Nebraska Financial Innovation Act (“Act”).

001.02 Any terms used within this Rule shall have a definition consistent with the definitions contained within Neb. Rev. Stat. § 8-3003 and Neb. Rev. Stat. § 8-101.03. In the event of any inconsistency between definitions in these Sections, the Act shall control.

001.03 The Department has determined that this Rule is in the public interest.

001.04 The Director may, on a case-by-case basis, and with prior written notice to the affected person, require adherence to additional standards or policies, as deemed necessary in the public interest.

002 REPORTS.

002.01 Any and all reports required to be provided under the Act are required to be provided in the form and manner developed by, authorized by, or otherwise approved for use by the Director, and are to be complete and attested to as accurate.

002.01A The failure to provide any required report in the form and manner in which it is required to be provided, shall constitute a failure to provide such report under Neb. Rev. Stat. § 8-3029, and shall subject the required filer of such report to the imposition of a fee of five thousand dollars (\$5,000.00) for each day that the report is not provided in the required form and manner.

002.01B In accordance with Neb. Rev. Stat. § 86-611, any report that requires a signature from a representative of a digital asset depository may be signed by a digital signature, if it comports to the requirements contained within Neb. Rev. Stat. § 86-611.

002.01C The failure to provide any required report in a completed manner, containing all of the information to be provided within such report, shall constitute a failure to provide such report under Neb. Rev. Stat. § 8-3029, and shall subject the required filer of such report to the imposition of a fee of five thousand dollars (\$5,000.00) for each day that the report is not provided in the required form and manner.

002.01D The submission or filing of any report required under the Act to the Department, shall constitute an attestation by the person making such

submission or filing that the information contained within such report is accurate to the best of that person's knowledge.

003 CALL REPORTS.

003.01 The term "call report" is defined as a recurring financial report of the digital asset depository's operations, financial condition, and production over a specific period of time, which allows for the Department to assess the financial health and risk profile of the depository.

003.02 Digital asset depositories shall be required to file call reports on a monthly basis. Such call reports shall be on forms prescribed by the Director and shall contain all required information under such form.

003.03 A digital asset depository, which is also an existing financial institution may file a consolidated call report featuring required non-digital asset depository call reporting data, together with all digital asset depository specific data.

003.04 Failure to file any required call report may result in the Department taking administrative action as set forth in the Act and pursuant to the other provisions of this Rule.

004 REPORTS REQUIRED PURSUANT TO FEDERAL LAW.

004.01 Digital asset depositories shall comply with all federal financial institution reporting or notice requirements, which includes, but is not limited to:

004.01A Anti-Money Laundering and Countering the Financing of Terrorism rules and regulations;

004.01B Office of Foreign Assets Control; and

004.01C Financial Crimes Enforcement Network requirements regarding Know Your Customer or due diligence performance.

005 COMPUTATION OF TIME.

005.01 In computing time prescribed or allowed by any applicable statute or rule in which the method of computing time is not specifically provided, days will be computed by excluding the day of the act or event and including the last day of the period. If the last day of the period falls on a Saturday, Sunday, or legal holiday, the period shall include the next business day.

NEBRASKA ADMINISTRATIVE CODE

Title 47 – DEPARTMENT OF BANKING AND FINANCE

Chapter 6 – COMPLAINTS

001 AUTHORITY.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director of the Department of Banking and Finance (“Department”) in Neb. Rev. Stat. § 8-3031 of the Nebraska Financial Innovation Act (“Act”).

001.02 Any terms used within this Rule shall have a definition consistent with the definitions contained within Neb. Rev. Stat. § 8-3003 and Neb. Rev. Stat. § 8-101.03. In the event of any inconsistency between definitions in these Sections, the Act shall control.

001.03 The Department has determined that this Rule is in the public interest.

001.04 The Director may, on a case-by-case basis, and with prior written notice to the affected person, require adherence to additional standards or policies, as deemed necessary in the public interest.

002 COMPLAINTS MANAGEMENT PROGRAM.

002.01 A Digital Asset Depository shall have in effect a documented system or process to intake, review, and address complaints from customers directly, and those forwarded from the Department of Banking and Finance.

003 RESPONSE TIMELINESS.

003.01 Any complaints received by a Digital Asset Depository shall acknowledge receipt of a complaint to the maker or provider, in writing, within two (2) business days of receiving the complaint. All complaints shall be fully responded to within ten (10) business days.

003.02 Any failure to address, or respond, to a complaint, as required in this Rule, will be considered a violation of the Act. Pursuant to Neb. Rev. Stat. § 8-1,134, violations of any provision of Chapter 8, or any rule and regulation or order of the Director, may result in an administrative proceeding being brought against the digital asset depository.

003.02A An administrative proceeding may result in the issuance of an administrative fine, along with the costs of the Department in the proceeding, against the depository. Such fines shall not exceed ten thousand dollars (\$10,000.00) for the first offense and twenty-five thousand dollars (\$25,000.00) for subsequent offenses.

003.02B In addition to an administrative fine and the costs of the proceeding being assessed against the depository, within any proceeding instituted under Neb. Rev. Stat. § 8-1,134 the Director may take further

administrative action against the depository's charter and/or its directors and officers, including, but not limited to, revocation, suspension, or cancellation of the charter.

004 NOTICE REGARDING THE SUBMISSION OF COMPLAINTS.

004.01 Each chartered digital asset depository shall provide instructions on the filing of a complaint with the digital asset depository, including via mail, telephone, or email, in a clear and conspicuous manner, on its website, mobile applications, advertisements, forms, and in any other form and manner as shall be required by the Director.

004.02 In addition to the charter-specific requirements detailed in Section 003.01 of this Rule, each chartered entity shall also provide information, in the same forms and manner contained therein, which states that any complaints may also be directed to the Department, with the contact information of the Department included therein.

005 COMPUTATION OF TIME.

005.01 In computing time prescribed or allowed by any applicable statute or rule in which the method of computing time is not specifically provided, days will be computed by excluding the day of the act or event and including the last day of the period. If the last day of the period falls on a Saturday, Sunday, or legal holiday, the period shall include the next business day.

NEBRASKA ADMINISTRATIVE CODE

Title 47 – DEPARTMENT OF BANKING AND FINANCE

Chapter 7 – NOTICE AND STATEMENT REGARDING DEPOSIT INSURANCE AND RISK

001 AUTHORITY.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director of the Department of Banking and Finance (“Department”) in Neb. Rev. Stat. § 8-3011 and Neb. Rev. Stat. § 8-3031 of the Nebraska Financial Innovation Act (“Act”).

001.02 Any terms used within this Rule shall have a definition consistent with the definitions contained within Neb. Rev. Stat. § 8-3003 and Neb. Rev. Stat. § 8-101.03. In the event of any inconsistency between definitions in these Sections, Act shall control.

001.03 The Department has determined that this Rule is in the public interest.

001.04 The Director may, on a case-by-case basis, and with prior written notice to the affected person, require adherence to additional standards or policies, as deemed necessary in the public interest.

002 REQUIRED NOTICE.

002.01 Digital asset depositories are required to display and include in all advertising and in all physical locations, such as windows or stands, and in all virtual locations, where digital asset deposits may be made, that digital assets are not insured by the Federal Deposit Insurance Corporation (“FDIC”); and

002.02 The following conspicuous statement: “Holdings of digital assets are speculative and involve a substantial degree of risk, including the risk of complete loss. There is no assurance that any digital asset will be viable, liquid, or solvent. Nothing in this communication is intended to imply that any digital asset held in custody by a digital asset depository is low-risk or risk-free. Digital assets held in custody are not guaranteed by a digital asset depository and are not FDIC insured.”

002.03 Where a digital asset depository also has deposit accounts that are insured by the FDIC within the same physical office location, the digital asset depository may still physically post notice that deposit accounts are insured by the FDIC, but must do so in a separate and distinct physical posting, apart from the required notice and statement regarding digital asset deposits and accounts, as detailed above in Sections 002.01 and 002.02 of this Rule.

NEBRASKA ADMINISTRATIVE CODE

Title 47 – DEPARTMENT OF BANKING AND FINANCE

Chapter 8 – RESPONSE PROGRAM FOR A CYBERSECURITY EVENT OR DATA BREACH

001 AUTHORITY.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director of the Department of Banking and Finance (“Department”) in Neb. Rev. Stat. § 8-3031 of the Nebraska Financial Innovation Act (“Act”).

001.02 Any terms used within this Rule shall have a definition consistent with the definitions contained within Neb. Rev. Stat. § 8-3003 and Neb. Rev. Stat. § 8-101.03. In the event of any inconsistency between definitions in these Sections, the Act shall control.

001.03 The Department has determined that this Rule is in the public interest.

001.04 The Director may, on a case-by-case basis, and with prior written notice to the affected person, require adherence to additional standards or policies, as deemed necessary in the public interest.

002 REQUIRED RESPONSE PROGRAM AND NOTICE TO THE DEPARTMENT.

002.01 Digital asset depositories shall have in place a written response program detailing the institution’s prescribed method of handling unauthorized access of customer information, a data breach, or any other similar event in which the integrity of the ledger or structure of an underlying digital asset that is being custodied by the digital asset depository is at risk.

002.02 At such time as a digital asset depository becomes aware of an incident referenced in this Section 002 of this Rule, the depository must immediately notify the Department of the event, and must also review Neb. Rev. Stat. §§ 87-801 to 87-807 to determine whether the incident may require notification to the Nebraska Attorney General and to impacted customers, if any. In the event that customer notification is required, the Department shall be provided with a copy of the notice sent to affected customers prior to, or simultaneously with, the customers receiving the notice.

002.03 If such an incident would require the filing of any federal required reporting or notification, such as a suspicious activity report, a copy of any such reporting or notification must be timely delivered to the Department.