

## **Notice Regarding Availability of NDBF Draft of Digital Asset Depository Application: Business Plan**

4/20/2022

The Nebraska Financial Innovation Act is the statutory framework Nebraska has chosen to encourage the creation of Nebraska Digital Asset Depositories, protect digital asset consumers, preserve confidence in Nebraska Financial Institutions, and promote FinTech innovation.

The Department is making a draft version of the Business Plan portion of any digital asset depository application available for review and comment. This is only a draft and is subject to change by the Department and cannot be relied upon as a final version, or portion, of any final application issued by the Department. The draft business plan portion of a possible digital asset depository is available at <https://ndbf.nebraska.gov/industries/digital-assets>. After a final version is available, any application will be evaluated in accordance with the Nebraska Financial Innovation Act, sound financial institution practices, and current digital asset best practices and frameworks.

Comments regarding the draft business plan portion of the digital asset depository application can be submitted at [dob.digitalassets@nebraska.gov](mailto:dob.digitalassets@nebraska.gov). Comments should be submitted within 30 days of the date of this notice. Rules and regulations are currently being developed for public review in accordance with Nebraska law and will be made available for review at a later date.

# STATE OF NEBRASKA

## Department of Banking & Finance

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### Business Plan Guidelines

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#### PREPARATION AND USE

The business plan is an integral part of the management and oversight of a financial institution ("institution"). It should establish the institution's goals and objectives. It is a written summary of how the business will organize its resources to meet its goals and how the institution will measure progress. The business plan should be a comprehensive plan, which is the result of in-depth planning by the institution's organizers and management. It should realistically forecast market demand, customer base, competition, and economic conditions. The plan must reflect sound principles and demonstrate realistic assessment of risk in light of economic and competitive conditions in the market to be served.

The business plan must cover the first three years and must include a comprehensive estimate of operation expenses over the period. Additionally, the plan must provide detailed explanations of actions that are proposed to accomplish the primary functions of the institution. The description must provide enough detail to demonstrate that the institution has a reasonable chance for success, will operate in a safe and sound manner, and will have adequate capital to support the risk profile. The plan must include a comprehensive risk assessment and a complete proposal for compliance with all applicable state, federal and foreign laws, and in particular, the Nebraska Financial Innovation Act.

For any institution with an Internet or alternative electronic delivery channel, the plan should contain a clear and detailed definition of the market the institution plans to serve and the products and services it will provide through electronic channels. Because the Internet has a potential global market and can reach anyone with Internet access, the selected information on market area and products and services is essential. The marketing plan should explain how the institution would achieve brand recognition.

#### CONFIDENTIALITY

Any Applicant desiring confidential treatment of specific portions of the plan and projections must submit the request in writing. The request must discuss the justification for the requested treatment. The Applicant's reasons for requesting confidentiality should specifically demonstrate the harm (for example, loss of its competitive position, invasion of privacy) that would result from public release of information (The Nebraska Public Records Act (Neb. Rev. Stat. § 84-712, et. seq.) and other applicable Nebraska law). Information for which confidential treatment is requested should be: (1) specifically identified in the public portion of the application (by reference to the confidential section); (2) separately bound (physically or electronically); and (3) labeled "Confidential." The Applicant should follow the same procedure when requesting confidential treatment for the subsequent filing of supplemental information to the plan. The Applicant should contact the Department for specific instructions regarding requests for confidential treatment. The Department will determine whether the information will be treated as confidential and will advise the Applicant of any decision to publicly release information labeled as "Confidential."

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#### BUSINESS PLAN

##### 1. Table of Contents

##### 2. Executive Summary

Describe the highlights of the plan.

##### 3. Description of Business

- a. Describe the institution's business and any special market niche, including the products, market, services, and any nontraditional digital asset activities.
- b. If in a holding company structure or in a corporate relationship with another entity (another business entity controls ten (10%) or more of the institution), discuss the operations of the organization, including a brief detail of the organizational structure and interaction between the institution and its affiliates.
- c. Attach the most recent audited financial statement of any business entity which controls 10% or more of the institution.
- d. Describe the extent, if any, that there are or will be transactions with affiliated entities or persons. Include terms.
- e. Discuss the legal form and stock ownership of the institution and any investment in subsidiaries or service corporations.
- f. For an operating company, describe the present financial condition and current resources, such as office network, staff, and customer base. Specifically discuss the strengths and weaknesses.
- g. Describe the proposed location, office quarters, and any branch structure. Include information regarding the Nebraska presence required under Neb. Rev. Stat. § 8-3005.
- h. Discuss any growth or expansion plans, including additional branches, other offices, mergers, or acquisitions.
- i. Discuss the proposed activities of the institution and the legal basis under which each activity is conducted within each applicable jurisdiction, including an outline of proposed transactions that the institution will make available to customers.
- j. Provide copies of sample documents the institution plans to issue or use with customers, including customer disclosure and agreements, operating agreements, third-party agreements, and receipts, customer confirmations, and any similar instruments.
- k. Provide a risk assessment relating to the business of the digital asset depository department as well as the financial institution along with a methodology that includes the metrics used to evaluate the risks identified in the risk assessment.
  - i. The risk assessment should identify the risks based upon the applicant's specific business activities. Each policy should be risk-based and should include measures designed to mitigate the risks identified by the related risk assessment. Finally, the procedures should describe how the objectives identified in the policy will be achieved in the day-to-day operations of the organization.

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- I. Describe and graphically demonstrate the flow of funds structure, specifying all flows of funds that will occur in the institution's normal operations. Describe: (1) who directs the flow; (2) the name and address of each entity the funds flow through; (3) the title of each account; (4) ownership or control of the accounts and addresses; and (5) who or what entity is liable for the funds at all points.

#### 4. Marketing Plan

A marketing plan must provide detailed, factual support that the institution has reasonable prospects to achieve the revenue projections, customer volume, and key marketing and income targets. The analysis must be based on the most current data available, and the sources of information must be referenced. This section must contain an in-depth discussion of the major planning assumptions for the market analysis, economic, and competitive components used to develop the plans, objectives, and the basis for the assumptions.

##### a. Product Strategy

- i. List and describe the general terms of the planned products and services, including activities of any subsidiaries.
- ii. Discuss how the institution will offer products and services over the first three years, indicating any variation in the different market areas or distribution channels, and include the time frame for the introduction and the anticipated cost associated with each.
- iii. Describe how the institution aims to help meet the digital financial needs of the communities in which it operates.
- iv. Provide an explanation of the methodologies the applicant uses to calculate the value of digital assets in terms of United States dollars and vice versa, and to calculate the value of one digital asset in terms of another; or, if not applicable, a detailed explanation as to why.

##### b. Market Analysis

- i. Describe the intended target market and the geographical market area(s), including foreign jurisdictions.
- ii. Describe the demographics of the target market population (for example, age, education, and occupation).
- iii. List the domestic and international jurisdictions in which the applicant, or any parent, affiliate, or subsidiary, is licensed, or is otherwise authorized to engage in digital asset, money transmission, or other financial services activity, or has applied for such authorization, and the amount of any bond or deposit furnished in each such jurisdiction. In each case, please also specify the type of activity for which the applicant is licensed or otherwise authorized.

##### c. Economic Component<sup>1</sup>

- i. Describe the economic forecast for the three years of the plan. The plan should cover the most likely scenario and discuss possible economic downturns.

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<sup>1</sup> If obtained, discuss any independent economic survey or market feasibility study.

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- ii. Indicate any international, national, regional, or local economic factors that may affect the operations of the institution. Include an analysis of any anticipated changes in the market, the factors influencing those changes, and the effect they will have on the institution.
- iii. Describe the current economic characteristics of the proposed market(s).
- iv. Based on the economic characteristics described previously, discuss the economic factors that influence the products and services to be offered. A more in-depth discussion is warranted when different types of services are identified for different market areas in the Description of Business section.

#### **d. Competitive Analysis**

- i. Compare and contrast the institution's product strategy with its principal competitors in the target market(s). Include expected results in terms of relative strength, market share, and pricing.
- ii. Discuss the overall marketing/advertising strategy, including approaches to reach target market through the marketing of brand, products, and services. Outline the specific medium that will be used, including timing and level of advertising efforts.
- iii. Discuss potential competition in the target market(s).

#### **5. Management Plan – Directors and Officers**

- a. Provide the number of organizers and directors. Provide a list of board committees and a brief explanation of the responsibilities of each committee.
- b. Describe the organizational structure and provide an organizational chart, indicating the number of officers and employees. Describe the duties and responsibilities of the senior executive officers. Describe any management committees that are or will be established.
- c. Discuss the institution's plans to address management succession, including any management training program or other available resources.
- d. Describe the proposed individual or individuals who will be responsible for coordinating and monitoring day-to-day compliance with the institution's AML/BSA/KYC/beneficial ownership program and provide background information and materials demonstrating that the individuals are qualified.
- e. Provide copies of all written policies and procedures relating to the following: AML/BSA/KYC/beneficial ownership, market manipulation, conflict of interest transactions, fiduciary duties, consumer protection, information technology security, high level public key infrastructure (key) management, policies regarding asset control, business continuity and disaster recovery, and complaint resolution.

#### **6. Records, Systems, and Controls**

- a. Describe the institution's current and/or proposed accounting and internal control systems.
- b. Describe management's proposed internal audit function. The description should set forth the independence of the department and the scope and frequency of audits. Discuss the experience and education of the audit staff. If external auditors will be used for internal audits, provide similar information for the external auditors.

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- c. Describe the compliance management programs, addressing independence, scope, frequency, and staff qualifications. Discuss how the institution will respond to consumer complaints.
  - d. Outline plans for an annual audit by independent public accountants including System and Organization Control Reports (SOC 2). Discuss the parameters of an audit and whether the firm has the technical knowledge and tools to issue an opinion relating to digital assets.
  - e. Discuss the functions that will be outsourced and what the institution will do in-house.
  - f. Discuss the degree to which third-party service providers (including affiliates) that provide services to the applicant relevant to its digital asset business activity.
  - g. Provide a detailed description of digital asset custodianship, including the wallet structure in use by the applicant and/or its customers, and including, as relevant, the use of and percentages stored in hot/cold wallets.
  - h. Provide a detailed description of how the applicant uses blockchain and/or internal ledgers to facilitate transactions. Provide a flowchart of financial or technical events timed with acceptance or creation of tokens, funds, or pledges.
  - i. Identify the financial institution(s) the applicant will use for purposes of digital asset business activity, both foreign and domestic.
  - j. Identify financial institution(s) that will extend credit to the applicant.
- 7. Financial Management Plan**
- a. Capital and Earnings**
    - i. Discuss the institution's capital goals and the means to achieve them.
    - ii. Discuss the segregation of capital and/or reserves and earnings between the financial institution and the digital asset depository department. The digital asset depository department capital and reserve structure must protect as well as serve as a resource to the financial institution.
    - iii. Discuss the institution's earnings goals in terms of return on assets, profit margin, or other profitability measurements, and summarize the strategies to achieve those goals.
    - iv. Discuss the plan for raising capital and for financing growth, with particular emphasis on conformance with regulatory capital requirements.
    - v. Discuss the adequacy of the proposed capital structure relative to internal and external risks, planned operational and financial assumptions, including technology and projected organization and operating expenses. Present a thorough justification to support the proposed capital, including all proposed activities.
    - vi. Describe the debt service requirements for any debt that will be issued at the holding company or parent entity level to capitalize the institution.
    - vii. Discuss the use of options, warrants, and/or other benefits associated with the institution's capital.
    - viii. Discuss off-balance sheet financial activities, if any.
    - ix. Summarize the dividend policy.

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#### **b. Liquidity and Funds Management**

- i. Discuss how the institution will identify and measure liquidity risk.
- ii. Discuss the institution's plan to monitor and control its liquidity risk, including funding sources. Include holding company support, if any.
- iii. Describe any plans to borrow funds from any financial institutions or other sources, including the amount, composition, interest rate, maturity, purpose, and collateral.
- iv. Discuss the type of investment securities the institution plans to purchase.
- v. If the institution plans to custody digital assets, describe the reporting tools and procedures for ensuring compliance with the requirement to hold certain liquid assets against digital assets in custody. (Neb. Rev. Stat. § 8-3009)
- vi. Provide a schedule of fees to be charged by the applicant, and an equivalent description of any other revenue sources.

#### **c. Sensitivity to Market Risk**

- i. Discuss the institution's objectives, strategies, and risk tolerance for interest rate risk, basis risk, and price risk.
- ii. Discuss the institution's asset and liability portfolio in terms of sensitivity to interest rate changes and the impact of earnings and capital and net portfolio value. Discuss the risk limits to control interest rate risk, basis risk, and price risk.
- iii. If the institution is issuing stablecoins, describe, in detail, the mechanism for compliance with the reserves required by Neb. Rev. Stat. § 8-3009.
- iv. Discuss the institution's asset and liability portfolio in terms of sensitivity to interest rate or price changes and the impact of earnings and capital and net portfolio value.
- v. Describe any plans to use hedging activities (for example, futures, options, interest rate swaps, or other derivative instruments).

#### **8. Financial Projections**

- a. Provide financial information for the opening day pro forma and quarterly projections for the first three years of operations, in U.S. dollars and as a percentage of assets. Include issued and outstanding stablecoin or other electronically controllable records, if appropriate. The line items in the financial statements should be consistent so that projected items may be compared conveniently with actual performance. The following reports should be used:
  - i. Projected Balance Sheet of the Institution and the Digital Asset Depository Department.
  - ii. Projected Income Statement of both.
  - iii. Statement of Cash Flows of both.
- b. The financial statements should be presented in two ways: (1) showing the dollar amounts, and (2) as a percentage of total assets.

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- i. Describe in detail the assumptions used to prepare the projected statements, including the assumed interest rate scenario for each interest earning asset and interest costing liability over the term of the business plan.
    - ii. Provide the basis for the assumptions used for noninterest income and noninterest expense. Indicate the amount of lease expense, capital improvements, and furniture, fixtures, and equipment, including systems and equipment upgrades.
    - iii. Describe the assumptions for the start-up costs, volumes, expected returns, and expected time frame to introduce each new product and service.
  - c. Discuss how the institution used marketing studies or surveys to support the institution's projected growth.
  - d. Discuss the level of marketing expenses necessary to achieve the projected market share for products and services. Assumptions should be consistent with those experienced by other institutions in the target market. Explain any significant variances between the assumptions in the target market.
  - e. Provide a sensitivity analysis of the financial projections. A sensitivity analysis provides a realistic stress test of the major underlying assumptions used in the business plan and the resultant financial projections. For example, adjust the financials to reflect the effects of adverse changes in the interest rate environment, changes in the asset/liability mix, higher than expected operating expenses, marketing costs, and/or growth rates.
- 9. Monitoring and Revising the Plan**
- a. Describe how the board of directors will monitor adherence to the business plan, including any metrics.
  - b. Describe how the board of directors will adjust and amend the plan to accommodate significant or material economic or regulatory changes.