

GUIDANCE DOCUMENT

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**NEBRASKA DEPARTMENT OF BANKING AND FINANCE
BUREAU OF SECURITIES**

INTERPRETATIVE OPINION NO. 6: – SHELF REGISTRATION BY COORDINATION AND SECTION 8-1106

This Interpretative Opinion discusses procedures for effective registration under the Securities Act of Nebraska for “Shelf Registration Statements” filed with the United States Securities and Exchange Commission (“SEC”) pursuant to SEC Rule 415, 17 C.F.R. § 230.415.

Rule 415 prescribes procedures by which debt and equity securities may be registered with the SEC for sale thereafter on a delayed or continuous basis, pursuant to a “shelf registration”. Rule 415 is designed to provide registrants with greater flexibility in timing their financial needs.

To effect a shelf registration by coordination in Nebraska of debt and equity securities which are registered with the SEC for primary offerings pursuant to Rule 415, the following procedures are followed:

1. **INITIAL FILING**. Upon filing a Shelf Registration Statement with the SEC pursuant to Rule 415, the registrant should file a Form U-1 annexing the Shelf Registration Statement with the Department of Banking and Finance (“Department”), along with the requisite registration fee provided by Section 8-1108, and a statement of the maximum proposed underwriting discount applicable to all offerings to be made thereafter of securities registered by the Shelf Registration Statement.
2. **REVIEW**. Following review, any comment, and approval, the Department will issue an Order of Effectiveness declaring the Shelf Registration Statement effective as of the date and time of SEC effectiveness. If an amendment to the Shelf Registration Statement is required prior to SEC effectiveness, such amendment must likewise be filed with the Department. After review, any comment, and approval, the Department may declare the Shelf Registration Statement effective as amended.
3. **EFFECTIVENESS OF REGISTRATION**. The securities registered by a Shelf Registration may be offered and sold on definite terms in Nebraska without any prior notification to or approval of the Department, so long as such offerings are effected within the maximum underwriting discount provided to the Department with the Shelf Registration Statement.
4. **SUBSEQUENT FILINGS**. The registrant must furnish the Department with copies of the Prospectus Supplements and/or Post-Effective Amendments filed with the SEC which related to particular offerings of securities registered by the Shelf Registration Statement.
 - a. **Registrants on Forms S-2 and S-3**. The furnishing of Prospectus Supplements and/or Post-Effective Amendments by registrants registering on SEC Forms S-2 and S-3 will be merely for the purpose of keeping the Department registration files current. No action affecting the prior registration of the securities offered thereby will be taken by the Department on receipt of such Prospectus Supplements and/or Post-Effective Amendments.

- b. Registrants on Form S-1. The Department will review Post-Effective Amendments of SEC Form S-1 registrants. Securities may not be sold thereafter by Post-Effective Amendment until the Department has reaffirmed, in writing, the Order of Effectiveness with respect to the securities offered thereby.
5. UNDERWRITING DISCOUNT. A registrant shall notify the Department in the event that securities registered by the Shelf Registration Statement will be offered at an underwriting discount which exceeds the maximum contained in the Registration Statement provided to the Department under Paragraph 1 of this Opinion. The new proposed underwriting discount must be approved by the Department prior to any sale at such discount.
6. RE-REGISTRATION. Prior to the termination date of the effectiveness of the Shelf Registration, the registrant may apply to re-register the securities for one additional year. The application and required registration fee must be received at least ten days prior to such termination date. The registrant must file a new Form U-1, which may incorporate by reference the original Form U-1 and Shelf Registration Statement. If, after review, the new Form U-1 is acceptable, the Department will declare the offering effective, with respect to the new Form U-1 and incorporated Shelf Registration Statement, as of the date of termination of the original Shelf Registration Statement.

Questions regarding this opinion should be addressed to:

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