

GUIDANCE DOCUMENT

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NEBRASKA FINANCIAL INNOVATION ACT
STATEMENT OF POLICY #3

CAPITAL REQUIREMENTS

The Nebraska Department of Banking and Finance (“Department”) sets forth Statement of Policy #3 regarding capital requirement guidance for a Digital Asset Depository Institution or a Digital Asset Depository Department (collectively referred to as “charters”). All statutory citations are to the Nebraska Financial Innovation Act (the “Act”).

The purpose of the minimum capital requirements is to promote four essential functions of the charter: the ability to absorb losses and remain as a going business concern, to maintain public confidence, to safeguard asset growth, and to protect customers should the charter enter bankruptcy, receivership, or liquidation. Consistent with Neb. Rev. Stat. § 8-3013, an applicant shall not be chartered with capital stock of less than ten million dollars. In addition, no charter shall commence business until the full amount of its authorized capital is subscribed, capital stock is fully paid in, and there is a paid-up surplus fund established of at least three years of estimated operating expenses, or in another amount required by the Director. Furthermore, the Department may require additional capital prior to the granting of a charter.

MINIMUM CAPITAL REQUIREMENTS

Minimum capital requirements continue to evolve as innovations in the financial industry, instruments, and activities introduce greater deviations and complexity to the industry. Therefore, the minimum capital requirements set forth by the Department utilize a risk-based approach, which may trigger Prompt Corrective Action (“PCA”). In establishing minimum capital requirements, the Director shall consider the impact of operational risk and the impact on earnings, as well as the following factors:

1. The risk associated with, but not limited to, the products, services, payment systems, and technology included within the charter’s line of business, strategic plan, capital plan, and budget;
2. Peer institutions and data of the digital asset depository, which may include state and federal financial institutions;
3. Past, present, and future economic and market conditions and indicators;
4. Potential direct or indirect costs of receivership, or voluntary dissolution as described in Neb. Rev. Stat. § 8-3028; and
5. The PCA tier 1 leverage ratio, which is calculated by tier 1 capital divided by average total assets, along with the total risk-based capital ratio, which is calculated by total capital divided by total risk weighted assets.

Therefore, the minimum threshold for a charter is a tier 1 leverage ratio that is greater than, or equal to, 5 percent and a total risk-based capital ratio that is greater than, or equal to, 10 percent. This threshold is subject to change based upon the risk profile and

aforementioned factors of the charter.

CAPITAL RESTRICTIONS

In order to ensure that a charter has the capability to absorb losses and protect its customers, the charter should have sufficient liquid capital that is, or could be, readily available for use by the charter in an expeditious manner. Accordingly, it is the supervisory expectation of the Department, that in order to maintain safe and sound operations and to maintain a sufficient capital position for continued operations, the charter will provide for reasonable restrictions on its computation of capital. This includes an expectation that a charter will limit its overall capital computation so that it only provides for 15% of capital to be accounted for in terms of software, code, or other technological or intangible assets, and 10% of capital to be accounted for in premises of the charter. The 10% in premises of the charter should include both any premise directly owned by the charter, along with the stock, bonds, debentures, or other such obligations of any other entity or individuals holding the premises of the charter.

MINIMUM CAPITAL REPORTING REQUIREMENTS

The Department's complete Call Report, along with applicable documentation must be completed and submitted by the charter to the Department on a monthly basis. Select fields of the call report, addressing the charter's stablecoin, assets, and capital, are required on a daily basis, in order to appropriately assess the capital and liquidity position of the charter. The Director has discretion to change the reporting frequency of capital levels, composition of reserves, and the Call Report based upon the risk profile and aforementioned factors. If the report is not submitted within the time required, the Director may impose and collect a fee of five thousand dollars for each day the report is overdue pursuant to Neb. Rev. Stat. § 8-3029.

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