

GUIDANCE DOCUMENT

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

NEBRASKA FINANCIAL INNOVATION ACT
STATEMENT OF POLICY #5

LIQUIDITY PROGRAM

The Nebraska Department of Banking and Finance (“Department”) sets forth Statement of Policy #5, regarding appropriate liquidity program considerations, required for safe and sound operations by 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”).

Liquidity risk is the current and potential risk to earnings or capital arising from a charter’s inability to meet its obligations in a timely manner. Depending upon the charter’s asset mix and the timing of the demands of the secure stablecoins minted and redeemed, short-term asset losses may need to be absorbed by the charter’s earnings and capital to ensure payment and settlement at par. The liquidity program must identify, measure, and mitigate such liquidity risk.

Consistent with Neb. Rev. Stat. § 8-3009, at all times a charter shall maintain segregated unencumbered liquid assets, denominated in United States currency, valued at not less than one hundred percent of outstanding stablecoin issued by the charter. Accordingly, the charter must adopt appropriate stablecoin minting and redemption policies and procedures to identify and redeem units of the stablecoin from the charter in an expeditious manner at a value of no less than one-to-one for the U.S. dollar. Such policies and procedures must take into consideration business activities, technological practicalities, customer expectations, and standard industry practice when determining expeditious timelines for redemption.

The outstanding stablecoin issuance must be, at face value, not less than one hundred percent of U.S. dollars used to purchase the stablecoins. The market value of liquid assets is at least equal to the nominal value of all outstanding minted stablecoins.

Redemption has occurred once the issuer has fully processed and initiated the outgoing transfer of funds to the holder’s financial institution or other institution cash account. If the Department concludes that a redemption transaction jeopardizes the safety and soundness of a digital asset depository, or the unencumbered liquid asset requirement, the Department has authority to require or allow redemptions that would not qualify as expeditious, as it deems appropriate.

UNENCUMBERED LIQUID ASSET

Consistent with Neb. Rev. Stat. § 8-3009, liquid assets are investments which are highly liquid and obligations of the United States Treasury, deposits in a federal reserve bank or a federally insured depository institution, which has a main chartered office, or branch that was a main chartered office in this state prior to becoming a branch, or other federal agency

obligations, consistent with rules and regulations or order adopted by the Director.

Requirements for liquid asset reserves may include, but are not limited to, minimum percentage allocation, percentage of reserve or absolute dollar value caps on liquid assets, or limitations based on the Department's conclusions concerning risk factors of specific issuers, instruments, and related third-party depository institutions.

In the event of an emergency, the Director may impose restrictions on the charter's ability to invest in, or divest from, one or more of the permissible liquid asset classes described above, or may reasonably modify the manner in which investments or divestments may take place.

ATTESTATION

The charter's unencumbered liquids are subject to a daily statement of value, monthly call report, and an annual audit by an accountant or accounting firm approved by the Department, in lieu of the required annual examination by the board of directors. The accounting or accountant firm must make applications for approval upon forms prescribed by the Department. Additionally, approval must be obtained for each individual charter audited. Such approval will be perpetual, until the approval is cancelled by the charter, accountant, or accounting firm, or is revoked by the Department.

The accountant or accounting firm must be an independent Certified Public Accountant ("CPA") licensed in the United States and applying the attestation standards of the American Institute of Certified Public Accountants ("AICPA"). The attestation must include the CPA's engagement letter. Additionally, the CPA shall attest to management's assertions of the following, as of the last business day of the period covered by the attestation and as of at least one randomly selected business day during the period:

- End of day market value of the unencumbered liquid assets reserve, both in aggregate and segmented by asset class;
- End of day quantity of outstanding stablecoin units; and
- Whether, at any point in time, the unencumbered liquid asset balance was insufficient to meet the requirements of Neb. Rev. Stat. § 8-3009.

For each attestation described above, the charter must make the CPA's reports adequately available to the public, and produce a copy to the Department in writing, not more than 120 days after the end of the period covered by the attestation.

It is the responsibility of the CPA or accounting firm to disclose to the Department any unusual relationships or affiliations, which the CPA, or any member of the accounting firm, may have with the charter, any affiliate of the charter, or any persons closely connected with the charter, and to have resolved any questions as to his, her, or the firm's independence before proceeding with the engagement.

ENHANCED PROCEDURES

The Director may require a charter presenting safety and soundness concerns or other supervisory concerns to engage an independent CPA to perform external auditing services or may require a financial statement audit or other specified type of external audit.

Original Issue Date: August 1, 2024