

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.