

NEBRASKA ADMINISTRATIVE CODE

Title 47 – DEPARTMENT OF BANKING AND FINANCE

Chapter 3 – CAPITAL REQUIREMENTS; PAID-UP OPERATING EXPENSES

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. §§ 8-3013 and 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 CAPITAL REQUIREMENTS.

002.01 No digital asset depository may be chartered with capital stock of less than ten million dollars (\$10,000,000.00).

002.02 The Director shall have the discretion to increase the required amount of capital, as may be required to ensure the digital asset depository’s continued safety and soundness. In making the determination to require an increase or allow a decrease under this Section, the Director may consider the depository’s call reports, examinations, investigations, or any other indicia of financial condition that may provide information as to the depository’s ongoing safety and soundness.

003 SURPLUS REQUIREMENTS.

003.01 Applicants for a charter to become a digital asset depository under the Act must provide proof of a paid-up surplus fund of at least three (3) years of estimated operating expenses. Such operating expenses must be included within a comprehensive estimate provided to the Director as part of the application for a charter.

003.02 The term “Operating Expenses” means any and all expenses an applicant incurs through its normal business operations, and must include, but is not limited to:

003.02A Costs of real property utilized by the Applicant, including but not limited to: rent, mortgage payments, utility costs, insurance, maintenance costs, and property taxes;

003.02B Costs of personal property utilized by the applicant, including, but not limited to, materials, machinery, equipment, and software;

003.02C Insurance;

003.02D Payroll expenses;

003.02E Marketing costs;

003.02F Business services offered by partners, affiliates, third parties, or other vendors; and

003.02G All other ongoing costs of the digital asset depository of any kind or nature.

003.03 The items required to be considered as operating expenses under the Act can and will vary across applicants and will be dependent upon an individual applicant's business type, business model, organizational structure, and other factors, and will be assessed on a case-by-case basis. Estimated operating expenses must be comprehensive, realistic, consistent with pro forma financials, and indicate an ability to secure a Certified Public Accounting Audit opinion that indicates the institution is likely to be a successful ongoing concern.