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.
This Interpretative Opinion discusses the “institutional investor” exemption provided by Section 8-1111(8) of the Securities Act of Nebraska.

Section 8-1111(8) provides an exemption from registration for:

(8)(a) Any offer or sale to any of the following, whether the purchaser is acting for itself or in some fiduciary capacity:
   (i) A bank, savings institution, credit union, trust company, or other financial institution;
   (ii) An insurance company;
   (iii) An investment company as defined in the Investment Company Act of 1940;
   (iv) A pension or profit-sharing trust;
   (v) A broker-dealer;
   (vi) A corporation with total assets in excess of five million dollars, not formed for the specific purpose of acquiring the securities offered;
   (vii) A Massachusetts or similar business trust with total assets in excess of five million dollars, not formed for the specific purpose of acquiring the securities offered;
   (viii) A partnership with total assets in excess of five million dollars, not formed for the specific purpose of acquiring the securities offered;
   (ix) A trust with total assets in excess of five million dollars, not formed for the specific purpose of acquiring the securities, whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment;
   (x) Any entity in which all of the equity owners are individuals who are individual accredited investors as defined in subdivision (b) of this subdivision;
   (xi) An institutional buyer as may be defined by the director by rule and regulation or order; or
   (xii) An individual accredited investor.

For purposes of Section 8-1111(8), the following definitions shall apply:

1. “Bank” means a bank as defined in Section 3(a)(2) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(2);

2. “Insurance Company” means an insurance company as defined in Section 2(13) of the Securities Act of 1933, 15 U.S.C. § 77b(13);

3. A “pension or profit-sharing trust” means an employee benefit plan, as defined in Title I of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(2) if:
   a. The investment decisions are made by a “plan fiduciary”, as defined in Section 3(21) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(21), which is either a bank, insurance company or registered investment adviser; or
   b. The employee benefit plan has total assets in excess of $5,000,000.
4. “Financial institution” means a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the United States, the department, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; or a trust company.


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