

STATE OF NEBRASKA

Department of Banking & Finance

DIGITAL ASSET DEPOSITORY CHARTER APPLICATION

Regulatory Requirements

The Nebraska Financial Innovation Act (Neb. Rev. Stat. §§ 8-3001 to 8-3031) (“the Act”) provides that no corporation shall act as a digital asset depository without first obtaining *authority* or a *charter* to operate from the Director under the Act. The application shall contain (1) the corporation’s articles of incorporation, (2) a detailed business plan¹, (3) a comprehensive estimate of operating expenses for the first three years of operation, (4) a complete proposal for compliance with the provisions of the Act, (5) evidence of the capital required under Neb. Rev. Stat. § 8-3013 of the Act, and (6) any investors or owners holding ten percent or more equity in the corporation.

This application is used by a corporation to request a *digital asset depository charter* or by a financial institution to operate a *digital asset depository department* by amendment to its current charter, as provided for in the Act. An application fee of \$50,000.00 (check or ACH drawn on a United States bank payable in US Dollars) must accompany an application to the Department.

A public hearing shall be set after the application is deemed substantially complete. The date of the hearing on the application shall be not less than sixty (60) days, nor more than one hundred twenty (120) days, (unless the date is otherwise agreed upon) after notice from the Director to the applicants that the application is substantially complete. The hearing will be conducted pursuant to the Department’s Rules of Procedure for Public Hearings, 49 NAC 1, 2, and 3 (see link ²) on the Department’s website. All expenses incurred, including that of the court reporter, who will prepare a transcript of the hearing, will be assessed to the applicant in addition to the fifty thousand dollars (\$50,000.00) application fee.

The Department will give notice of the application and the public hearing by publishing the notice for three consecutive weeks in a newspaper of general circulation in the county where the proposed digital asset depository is to be located. The applicant must pay the costs of publication and the newspaper will be instructed to bill the applicant accordingly. Proof that the costs of such publication have been paid by the applicant is to be sent to the Department by the applicant. Additionally, the Director will send electronic notice of the hearing to state and national banks, federal savings and loan associations, state and federal credit unions, and other financial institutions in the state, federal agencies, and financial industry trade groups.

Instructions

1. **Application – Original**– Sign all papers with an approved digital signature or in ink if submitting in paper. An original application (Digital / Paper) must be submitted to the Department. A complete copy should be retained by the applicant.
2. **Acceptance of Application** – The Department will accept the application for filing when the Department determines the application is substantially complete.

¹ Refer to the Business Plan Guidelines at www.ndbf.nebraska.gov/sites/ndbf.nebraska.gov/files/doc/forms/bizplan.pdf UPDATE LINK

² Link to Title 49 <https://ndbf.nebraska.gov/about/legal/administrative-rules-and-regulations>

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- 3. Articles of Incorporation** – Provide a copy of the Articles of Incorporation. If applicant is establishing a digital asset depository department, provide a copy of the draft of the Amendment(s) to the Institution’s Articles of Incorporation.
- 4. Additional Information and Forms** – The application requires the submission of biographical and financial information from principal shareholders (10% and greater), directors, and officers on forms provided by the Department. The Department requires use of the Biographical and Financial Report, attached, by the parties described in this paragraph. (*Link to be finalized*)

The applicant is responsible for presenting and documenting information sufficient to process the application. All questions must be answered with complete and accurate information. If the answer is “none,” “not applicable,” or “unknown,” so state and explain.

Schedules or inserts may be attached to this application whenever the space provided is insufficient. Such attached schedules or inserts are considered part of this application and are to be on (or formatted to fit) 8.5” x 11” paper, in portrait mode. Text shall be aligned to the left side and not justified. Margins shall be set to 1.5 inches on all sides, and lines shall be spaced at 1.15 or 1.2. Extra line spacing is allowed before headings and between paragraphs. Footnotes are not permitted. Preferred fonts shall be Century or Century Schoolbook. Other allowed fonts are Times New Roman, Baskerville Old Face, Book Antigua, or Palatino, and shall be set no less than 12 nor more than 13 point. Type shall not be underlined, but may be italicized or boldfaced for emphasis.

The informational questions in the application are not intended to limit the applicant’s presentation. The applicant may provide any additional information deemed appropriate to provide a complete understanding of the proposal. The Department may request additional necessary information.

If any information initially furnished in the application changes materially during the processing of the application, such changes should be communicated promptly to the Department.

Requests for clarification as to what information is necessary to complete this application should be directed to DOB.DigitalAssets@nebraska.gov.

Confidentiality

Under Nebraska law, an application for a digital asset depository charter or department requires a public hearing. A web link will be provided for public viewing. Any interested party who has filed a formal protest/objection may appear at the public hearing, make a statement, present evidence, examine exhibits, and examine witnesses in compliance with Department rules for hearing procedures. This application will be an exhibit introduced at the hearing and will be subject to examination in its entirety by all interested parties. Any person may review the application and appear at the hearing to make a statement on the record.

The Department considers an individual’s financial statement filed as part of the application as confidential information and not subject to public examination. The home address, social security number, and date of birth of an individual(s) who submits a Biographical and Financial form will be

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redacted in the event there is a request from the public for information about the application. A redacted copy of the exhibit will be an exhibit at the hearing. A non-redacted exhibit will be presented as a sealed exhibit at the hearing. The Financial Report and statement of borrowings are considered confidential by the Department and are offered for its use only and are not considered part of this application for public distribution. However, the information discussed/provided in this paragraph may be released pursuant to a court order or subpoena.

Questions

Applicants with questions should contact the Department at (402) 471-2171 or DOB.DigitalAssets@nebraska.gov.

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Type of Application Digital Asset Depository Institution
 Digital Asset Depository Department

APPLICANT INFORMATION:

Name: _____
Address: _____ City: _____ State: ___ Zip Code: _____
Applicant Official to Contact: _____ Phone: _____
Address: _____ City: _____ State: ___ Zip Code: _____
Email Address: _____

PROPOSED ACTIVITIES:

- Provide digital asset and cryptocurrency custody services
- Issue stablecoins and related payment activities
- Use independent node verification networks
- DeFi (Decentralized Finance) direct or indirect activity
- Other (describe) _____

For Department use

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In support of this application, the following statements, representations, and information are submitted to the Director of the Department for the purpose of receiving approval of this application.

OWNERSHIP and MANAGEMENT:

WE, THE UNDERSIGNED, STOCKHOLDERS OF THIS CORPORATION, JOINTLY, AND SEVERALLY MAKE APPLICATION AND HEREBY CERTIFY, that the statements contained herein are true to our best knowledge and belief, and that they are made for the purpose of inducing the Director of the Department of Banking and Finance to approve this application and grant or amend a charter to this company to transact the business of a digital asset depository in accordance with the laws of the State of Nebraska.

Typed Name and Place of Residence	Number of Shares Owned	Percent of Total Shares Owned	Signature

COPY THIS PAGE AS NEEDED

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OWNERSHIP and MANAGEMENT (Continued):

1. For each shareholder owning ten (10) percent or more of the applicant corporation, provide a complete Biographical and Financial Report. *(Link to be finalized)*
2. Provide a list of board committees and members.
3. Each Board Member is required to obtain approval from the Department prior to serving in the capacity as a board member. Approval of Board Members is included in this process which requires the Biographical and Financial Report included above as well as a criminal history review. If the Applicant is currently NOT a director of a Nebraska state-chartered bank or trust company, submit a copy of all Criminal History Reports for the Individual Applicant acquired through the appropriate state Criminal History Record repositories. A Criminal History Report must be acquired from each state in which the applicant has resided over the past ten years. When requesting a Criminal History Report from the Nebraska State Patrol, a signed release must be submitted to the Patrol. *(Link to be finalized)*
4. Describe any plans to provide ongoing director education or training.
5. Describe any potential conflicts of interest relating to incorporators, directors, and executive officers.
6. Describe any transaction, contract, professional fees, or any other type of business relationship involving the institution, the holding company, and its affiliates (if applicable), and any incorporator, director, executive officer, a shareholder owning or controlling 10 percent (10%) or more, and other insiders. Include professional services or goods for organizational expenses, bank premises and fixed asset transactions. (Not required to describe transactions between affiliates of the holding company that do not involve the institution.)
 - a. Describe whether the business relationship is made in the ordinary course of business and is made on substantially the same terms as those prevailing at the time for comparable transactions with non-insiders. Also state whether the transaction presents more than normal risks or other unfavorable terms.
 - b. Specify those incorporators that approved each transaction and whether the transaction was disclosed to proposed directors and prospective shareholders.
 - c. Provide all relevant documentation, including contracts, independent appraisals, market valuations, and comparisons.

OPERATIONS:

1. Provide a summary describing the institution or department's proposed activities.
2. If applying for a digital asset department, describe how the department will be separate and apart from every other department of the financial institution as required by Neb. Rev. Stat. § 8-3014(4).
3. Describe any issues regarding the permissibility of the digital asset activities under Neb. Rev. Stat. §§ 8-3000 through 3031 and other applicable state and federal laws.

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4. Provide a copy of the articles of incorporation of the institution, or amendment to the articles of incorporation establishing the digital asset depository department. The articles should be subscribed to but not filed with the Nebraska Secretary of State. As required by Neb. Rev. Stat. § 8-3012, the articles shall include the following information:
 - a. The corporate name;
 - b. The object for which the corporation is organized;
 - c. The term of its existence, which may be perpetual;
 - d. The place in Nebraska where its main office shall be physically located and its operations conducted;
 - e. The amount of capital stock and the number of shares;
 - f. The name and residence of each shareholder subscribing to more than ten percent of the stock and the number of shares owned by that shareholder;
 - g. The number of directors and the names of those who shall manage the affairs of the corporation for the first year;
 - h. A statement that the articles of incorporation are made to enable the incorporators to avail themselves of the advantages of the laws of the state.
5. Provide a draft copy of the bylaws. Indicate how and when the bylaws will be adopted.
6. Provide letters of commitment or other evidence of paid in capital. Neb. Rev. Stat. § 8-3013 sets the minimum paid-up capital amount at \$10,000,000.00.
7. Provide a comprehensive estimate of the first three years of operating expenses for the charter or department along with evidence of a paid-up surplus account equal to or greater than the estimated operating expenses. (Neb. Rev. Stat. § 8-3013 (2))
8. Provide preliminary evidence that a surety bond is available to the proposed institution, or a statement that the institution will pledge assets consistent with Neb. Rev. Stat. § 8-3022 (2) and Neb. Rev. Stat. § 8-210.
9. List all other state, federal and foreign regulators that may have jurisdiction over the proposed digital asset depository, whether in whole or in part, relating to the proposed activities of the institution and provide the nature or extent of the jurisdiction. Describe all contacts with other regulators regarding the proposed institution as of the date of this application.

CAPITAL:

1. For each class of stock, provide the number of authorized shares, the number of shares to be issued, par value, voting rights, convertibility features, liquidation rights, and the projected sales price per share. Indicate net proceeds to be allocated to common stock, paid-in surplus, and other capital segregations.
2. Describe any noncash contributions to capital, and provide supporting documents for assigned values, including an independent evaluation or appraisal.
3. Discuss the adequacy of the proposed capital structure relative to internal and external risks, planned operational and financial assumptions, including technology, branching, and projected organization and operating expenses. Present a thorough justification to support the proposed capital, including incidental services that will be provided by the institution. Describe any plans for the payment of dividends.

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4. List all known subscribers to stock. For incorporators, directors, ten (10%) percent shareholders, executive officers, and other insiders, include the number of shares and anticipated investment and the amount of direct and indirect borrowings to finance the investment. Discuss debt servicing.
5. List recipients and amounts of any fees, commissions, or other considerations in connection with the sale of stock.
6. Indicate whether the institution plans to file for S corporation tax status.
7. Information relating to all prospective investors in the proposed institution who are not United States citizens, including the name of the natural person making an investment, date of birth, nationality, and the mailing and physical address of the primary residence of the natural person.

INFRASTRUCTURE:

1. Provide a physical description of the permanent premises of the institution. Indicate the level and type of property insurance to be carried.
2. If the permanent premises are to be purchased, provide the name of seller, purchase price, cost and description of necessary repairs and alterations, and annual depreciation. If the premises are to be constructed, provide the name of the seller, the cost of the land, and the construction costs. Indicate the percentage of the building that will be occupied by the institution. Provide a copy of the appraisal.
3. If the permanent premises are to be leased, provide the name of owner, terms of the lease, cost and description of leasehold improvements. Provide a copy of the proposed lease when available.
4. If temporary quarters are planned, describe the interim facility, length of use, lease terms, and other associated commitments and costs.
5. State whether proposed premises and fixed asset expenditures conform to applicable legal limitations.
6. Outline the physical security program of the institution.
7. Discuss any significant effect the proposal will have on the quality of the human environment. Include in the discussion changes in air and/or water quality, noise levels, energy consumption, congestion of population, solid waste disposal, or environmental integrity of private land.
8. Describe any plan to establish branches or relocate the main office within the first three years. Any acquisition or operating expenses must be reflected in the financial projections.

INFORMATION SYSTEMS:

1. Outline the proposed or existing information systems architecture. The information should describe how:
 - a. the information system will work within existing technology;
 - b. the information system is suitable to the type of business in which the institution will engage;
 - c. the security hardware, software, and procedures will be sufficient to protect the institution from unauthorized tampering or access; and
 - d. whether the organizers and directors will allocate sufficient resources to the entire technology plan.

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2. Provide lists or descriptions of the primary systems and flowcharts of the general processes related to the products and services. The level of detail in these system descriptions should be sufficient to enable verification of cost projections.
3. Estimate the start-up budget for all information systems related to the products and services and the expected annual operating and maintenance costs.
4. Describe the physical and logical components of security. Describe the security system and discuss the technologies used and key elements for the security controls, internal controls, and audit procedures. Discuss the types of independent testing the institution will conduct to ensure the integrity of the system and its controls.
5. Describe the information security program that will be in place to comply with the “Interagency Guidelines Establishing Standards for Safeguarding Customer Information” and other applicable state and federal laws.

OTHER INFORMATION:

1. List activities and functions that will be outsourced to third-party vendors, identifying the parties, and noting any affiliations. Describe all terms and conditions of the vendor management activities and provide a copy of the proposed agreement when available. Describe due diligence processes and the planned oversight and management program of the vendors’ or service providers’ relationships (for general vendor management guidance, see the Appendix of the Federal Financial Institution Examination Council’s guidance—Risk Management of Outsourced Technology Services).
2. List all planned expenses related to the organization of the institution and include the name of the recipient, type of professional service or goods, and amount. Describe payment of organization expenses.
3. Provide evidence that the institution can obtain sufficient fidelity coverage on its officers and employees to conform with generally accepted banking practices.
4. If applicable, list names and addresses of all correspondent depository institutions.
5. Provide a copy of management’s policies for investments, liquidity, funds management, interest rate risk, and other relevant policies, including procedures to ensure compliance with the provisions of Neb. Rev. Stat. § 8-3009.
6. Provide a proposed Bank Secrecy Act/anti-money laundering/customer identification/beneficial ownership program, including an overview of director/employee training, detailed policies and procedures relating to digital assets, and Office of Foreign Assets Control requirements.
7. Provide copies of the proposed terms and conditions of a customer’s digital asset depository account along with any other account-related disclosures consistent with Neb. Rev. Stat. § 8-3008.
8. Provide a copy of the proposed acknowledgement statement to be signed by customers at account opening consistent with Neb. Rev. Stat. § 8-3011(2).