

## GUIDANCE DOCUMENT

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**NEBRASKA DEPARTMENT OF BANKING AND FINANCE  
BUREAU OF SECURITIES**

**INTERPRETATIVE OPINION NO. 7: – FINANCIAL INSTITUTION OFFERINGS AND THE  
SECTIONS 8-1110(3), 8-1110(4) AND 8-1110(5) EXEMPTIONS**

This Interpretative Opinion discusses the application of registration provisions of the Securities Act of Nebraska (“Act”) to securities issued by an entity formed for the purpose of applying for a charter to operate as a specific type of financial institution, but for which no such charter has yet been issued.

The following securities issued by various types of chartered financial institutions are not required to be registered under the Act:

1. A “security issued or guaranteed by any bank; or any security issued by or representing an interest in or a direct obligation of a Federal Reserve bank; or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian” Section 3(a)(2) of the Securities Act of 1933<sup>1</sup>;
2. A security issued “by a savings and loan association, building and loan association, cooperative bank, homestead association, or similar institution, which is supervised and examined by state or federal authority having supervision over any such institution” Section 3(a)(5)(A) of the Securities Act of 1933;
3. A “security issued or guaranteed by any federal credit union or any credit union, industrial loan and investment company, or similar association organized and supervised under the laws of this state.” Neb. Rev. Stat. § 8-1110(3).

In order to qualify for the above exemptions from registration, the issuer must be chartered by the appropriate state or federal government agency. An entity formed for the purpose of applying for a charter to operate as any of the above types of financial institutions, but to which no such charter has yet been issued, may not claim exemption from registration based on the above provisions.

The exemptions described above are not available for securities offered by holding companies of financial institutions, unless the securities qualify for the exemption contained in Section 3(a)(12) of the Securities Act of 1933.

Unless another exemption is available, securities of a financial institution in formation, or securities of a holding company of an existing financial institution or a financial institution in formation, must be registered as provided in Section 8-1104 of the Act.

Section 8-1108.02 of the Act provides that the Director may require the issuer of a security described in Section 18(b)(4)(C) of the Securities Act of 1933 to provide the Department with

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<sup>1</sup> Securities exempt from federal registration pursuant to Section 3(a) of the Securities Act of 1933 are federal covered securities under Section 18(b)(4)(C) of the Securities Act of 1933. States are prohibited from requiring the registration of such securities. Thus, while the securities are not exempt under the Act, they are not required to be registered.

copies of information filed with the Securities and Exchange Commission and to pay a filing fee. The Department does not require such a filing by financial institutions issuing securities to Nebraska residents.

Questions regarding this opinion should be addressed to:

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