

TRUST COMPANY ANNUAL DISCLOSURE STATEMENT

Authority: Section 8-224 of the Nebraska Trust Company Act (attached).

Background. In 2008, trust companies received the authority to make an annual disclosure statement available to the public upon request in lieu of publishing the trust company's annual report. The law provides that the annual disclosure statement shall be in a form prescribed by the Nebraska Department of Banking and Finance (Department). Trust companies which choose the annual disclosure statement option shall follow this format.

Requirements for Annual Disclosure Statement.

1. The annual disclosure statement shall be prepared as of December 31. The statement shall contain information required by Section 8-223, and the Report of Trust Assets, as set forth below.
2. The annual disclosure statement for any year shall reflect a fair presentation of the trust company's financial condition at the end of that year and the preceding year and the results of operations for each such year. The annual disclosure statement may, at the option of trust company management, consist of the public portions of the institution's Report of Trust Assets, or applicable portions thereof, for the relevant dates and periods.
3. At a minimum, the statement must contain information comparable to that provided in the Report of Trust Assets, Schedule C, Fiduciary Balance Sheet, except that the trust company may (i) substitute the total of trust securities held and the total trust funds held for distribution or investment for "Assets, lines 12 - 20" and (ii) substitute a total of securities and funds due trust relationships for "Liabilities Lines 5 - 11."
4. The annual disclosure statement shall include such other information as the Department may require of a particular trust company. This could include disclosure of enforcement actions where the Department deems it in the public interest to do so. The Department will notify the trust company by January 15 of each year if other information is required to be disclosed.
5. The following disclaimer shall be included in every annual disclosure statement:
"This statement has not been reviewed, or confirmed for accuracy or relevance, by the Nebraska Department of Banking and Finance."
6. A trust company may, at its option, provide additional information that management considers important to an evaluation of the overall condition of the institution. This information could include, but is not limited to, a discussion of the financial data; information relating to mergers and acquisitions; the existence of and facts relating to regulatory enforcement actions; business plans; and material changes in balance sheet and income statement items.
7. A trust company with independently audited financial statements may provide a copy of the audited financial statements and the certificate or report of the independent accountant to the extent that such statements contain information comparable to that specified in Paragraphs 1 – 5, above.
8. A trust company must provide the Department with a copy of its Disclosure Statement by February 15th. If the trust company provides the information in Paragraph 7 in lieu of the Disclosure Statement, it must notify the Department of that fact by February 15th.

Section 8-224 *Reports; form; publication; trust company; disclosure statement.*

(1) The reports required by section 8-223 shall be verified by one of the managing officers, and a summary of the annual report, in a form prescribed by the Department of Banking and Finance, shall, within thirty days after the filing of the statement with the department, be published in a newspaper of general circulation in the county where the trust company is chartered.

(2) The publication required by this section shall not apply to any trust company that makes an annual disclosure statement available to any member of the general public upon request in accordance with the following provisions:

(a) The annual disclosure statement shall be in a form prescribed by the department;

(b) In the lobby of its main office, in every branch trust office, and in every representative trust office, the trust company shall at all times display a notice that the annual disclosure statement may be obtained from the trust company;

(c) If the trust company maintains an Internet web site, the home page of the web site shall at all times contain a notice that the annual disclosure statement may be obtained from the trust company;

(d) The notice described in subdivisions (b) and (c) of this subsection shall include, at a minimum, an address and telephone number to which requests for an annual disclosure statement may be made;

(e) The first requested copy of the annual disclosure statement shall be provided to a requester free of charge; and

(f) A trust company shall make its annual disclosure statement available to the public beginning not later than the following March 31 or, if the trust company mails an annual disclosure statement to its shareholders, beginning not later than five days after the mailing of the disclosure statement, whichever occurs first. A trust company shall make its annual disclosure statement available continuously until (i) the annual disclosure statement for the succeeding year becomes available or (ii) a summary of its annual report is published for the succeeding year in accordance with this section.

(3) The publication required by this section shall not apply to reports of the trust department of a bank if the report of condition of the trust department is included in the reports of the bank required by the Nebraska Banking Act.

Source: Laws 2008, LB851, § 9.