CHAMBER OF PROGRESS

January 12, 2024

Department of Financial Protection and Innovation
Attn: Legal Division
2101 Arena Boulevard
Sacramento, CA 95834

RE: Invitation for Comments on Proposed Application-Related Rulemaking Under the Digital Financial Assets Law (FILE NO: PRO 02-23)

On behalf of Chamber of Progress, a tech industry association working to ensure that all Americans benefit from technological leaps, I appreciate the chance to submit comments to the Department of Financial Protection and Innovation (DFPI) Proposed Rule regarding the stablecoin approval process. Responses are provided below:

Stablecoin Approval Process (Fin. Code, § 3603)
9a. Given that Financial Code section 3601 already restricts the types of assets that qualify as eligible securities (and can therefore be used to fund redemption requests) that an issuer may hold to those assets described in Financial Code section 2082, are there other criteria that the DFPI should consider in evaluating "quality of assets" under Financial Code section 3603, subdivision (b)(2)(B)?
9b. Regarding the amount and nature of assets, is there particular information that the DFPI should consider?

> **Algorithmic and Fiat-backed Stablecoins Should Be Evaluated Separately**
>
> Fiat-backed stablecoins are only subject to Section 3601 of the Digital Assets Financial Law and DFPI should treat this class of stablecoins differently than other stablecoins in the market, like algorithmic stablecoins. We encourage DFPI to categorize stablecoins based on the type of assets that back them, seeing as there are distinguishing traits that fiat-backed and algorithmic stablecoins have that separate the two. Fiat-backed stablecoins generally have a low risk profile since they are backed by government-issued currencies and have an easier redemption process compared to algorithmic stablecoins. Algorithmic stablecoins often rely on arbitrage systems, market fluctuations and algorithm adjustments that could lead to increased consumer risk from using these tokens. While some of these algorithmic stablecoins may technically meet the reserve requirements laid out in

the law, the nature and quality of the assets backing them and the systems used to support their redemption warrant greater scrutiny than fiat-backed stablecoins. We encourage DFPI to adopt a nuanced approach to evaluating these two distinct classes of stablecoins, and establish criteria that distinguish between these classes that include evaluating the liquidity, volatility, regulatory risk of the stablecoin and its underlying assets.

11c. Under Financial Code section 3603, subdivision (b)(2)(F), in determining whether to approve a stablecoin, the Commissioner must consider "any other factors the commissioner deems material to making their determination."
Should the DFPI consider whether the stablecoin is listed on the "Greenlist" maintained by the New York State Department of Financial Services? Please explain why or why not.

New York Should be a Reference, Not a Reliance

The inclusion of a stablecoin on the New York State Department of Financial Services (DFS) Greenlist indicates that both the token and its issuer have undergone a thorough vetting process. It's important to note that the Greenlist serves different purposes for stablecoins and other currencies. For stablecoins, it confirms approval for issuance, while for other currencies, it signifies a demonstrated historical record consistent with safety, soundness, and customer protection.[1] DFPI should consider this approval as a favorable indication of a coin's reliability and safety. This endorsement should be viewed positively by DFPI, however it should not be weighted heavily due to the fact that DFS recently revised its Greenlist standards[2] and tokens can be removed from the list at the discretion of DFS without public notification. Additionally, the recent revision of the standards may not align with DFPI's execution of the Digital Assets Financial Law.

Although the Greenlist provides a helpful list of tokens and issuers adhering to a regulatory standard, a token's absence or exclusion from the Greenlist should not be viewed negatively by DFPI. Many companies have taken issue with DFS's BitLicense process, which include high compliance costs and long response times for approvals. At one time, DFS had approved only five applications over a three year period.[3] In previous years, the agency had a significant backlog of applications, forcing newer companies with innovative products to join the back of the line or leave the market. New York recently reviewed all pending BitLicense applications, but the reputation of its licensing process potentially affected companies interested in entering their market. Therefore, the absence from the Greenlist should not automatically imply a lack of safety or reliability, as some issuers awaiting approval may still meet the regulatory threshold to operate in

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[1] https://www.dfs.ny.gov/industry_guidance/industry_letters/il20230918_gen_framework_greenlisted_coins
[2] https://www.dfs.ny.gov/industry_guidance/industry_letters/il20231115_listing_virtual_currencies
[3] https://www.yahoo.com/news/inside-york-apos-bitlicense-bottleneck-192703107.html

New York. DFPI should work to establish a set of Greenlist standards containing criteria with California consumers in mind, and use the Digital Assets Financial Law as an opportunity to develop an optimized licensing process that aligns with the nascency of the industry.

Sincerely,

Janay Eyo
Director, Financial Policy
Chamber of Progress