



January 12, 2024

Via Email:
regulations@dfpi.ca.gov.

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 (PRO 02-23)

Circle Internet Financial Ltd. (“Circle”) supports the Department of Financial Protection and Innovation’s (“DFPI”) approach of strong and open engagement with the private sector while formulating the regulatory regime for digital financial businesses. The partnership between the public and private sector is critical in developing principled, technology-neutral, and activity-based regulation. Since Circle’s founding, we have prioritized responsible financial services innovation and constructive engagement with regulators and public authorities around the world.

About Circle

Circle is a global financial technology company that provides internet-native payments and treasury infrastructure on open distributed ledger technology. Circle’s foundational technology allows for the frictionless exchange of value on the internet.

Circle is the sole issuer of USDC and EURC, dollar and euro-backed digital currencies. USDC is one of the largest fiat-backed stablecoins measured by market capitalization globally with approximately \$25 billion in circulation as of January 12, 2024, and is currently issued on fifteen blockchains. USDC has been integrated as a settlement option in leading merchant and credit card networks, deployed as a payment option by e-commerce platforms, and currently supports cross-border remittances and humanitarian assistance. Since 2018, USDC has been used to settle more than \$13 trillion in transactions throughout its history. USDC is the leading U.S.-regulated stablecoin and a critical component of the growing global market for dollar digital currencies and blockchains to support always-on financial needs.

USDC is always redeemable on a 1:1 basis for U.S. dollars for USDC holders, and it is fully reserved by high quality liquid assets that are held in a bankruptcy remote manner for the benefit of USDC holders. Circle’s tokenized cash innovations allow for payments that are faster, immutable, and more cost effective than existing means of payment like wire transfers, and are also programmable into smart contracts that allow for the composability of money.



Regulation of Fiat-Backed Stablecoins

Circle is fully supportive of establishing financial regulatory supervision for fiat-backed stablecoin issuers. Fiat-backed stablecoins are virtual currencies pegged to the value of real-world currencies, such as the U.S. dollar or Euro, and are backed by high quality liquid asset reserves. We believe that a fully-reserved virtual currency backed by conservative, high quality liquid assets, built on digital currency technology, can lead to not just a radically more efficient, but also a safer, more resilient financial system. Establishing regulatory standards for digital financial businesses, like Circle, is crucial to enabling the potential of digital currencies in the real economy, including standards for reserve management and composition.

It is important that digital financial businesses are licensed, regulated, operate with supervision by governmental authorities and provide the public with appropriate levels of information regarding their ownership structure, management team, corporate practices, cybersecurity and regulatory compliance. Not all virtual currencies are created equal, so there is a need for well-designed supervision of this highly strategic financial market infrastructure.

Circle welcomes the opportunity to respond to DFPI's consultation on Digital Financial Asset Law ("DFAL"). Circle's response primarily focuses on the clarity of the regulatory regime given the multiple different rule sets that will apply to the market and the prioritization of which rules take precedence. The burden on firms should be considered given the potential need for multiple permissions to act as a fiat-backed stablecoin issuer. Other state and global jurisdictions have streamlined registration and licensing of fiat-backed stablecoin issuers. It is critical that state and global regulators and central banks harmonize their treatment of and regulatory structures for fiat-backed stablecoins in a similar manner as legacy monetary systems.

One of the key innovations that fiat-backed stablecoins provide is the ability to cross borders on open public blockchains in a way that does not rely on aging and inefficient financial rails. Global transactions must be governed by complementary regulatory systems to ensure that the movement of money does not encounter a Balkanized system that reduces its utility.

Circle looks forward to continued engagement with DFPI throughout the rule-writing and implementation process and beyond.



1. **Financial Code section 3203, subdivision (a)(2)(X) requires the license application to include “any other information” the DFPI reasonably requires by rule. In addition to the information that is listed in the law, what other information should the application include?**

In addition to applicants supplying a list of financial regulatory licenses held in other states, the Department should also request information pertaining to financial regulatory licenses held in foreign jurisdictions. Global licenses are relevant to digital asset businesses, particularly fiat-backed stablecoin issuers. Fiat-backed stablecoins are used as a store of value and as a global borderless payment instrument. Therefore, there are liquidity, financial stability, and capital requirements imposed by prudential regulators not only in other state jurisdictions, but also amongst other foreign jurisdiction regulators. It is imperative for DFPI to consider how its regulatory requirements for fiat-backed stablecoin issuers either complement or unnecessarily duplicate efforts in other jurisdictions. We encourage DFPI to consider providing reciprocity to credible jurisdictions whose own schemes approximate regulatory equivalence, and we encourage ongoing work to collaboratively harmonize material rules.

2. **Financial Code section 3203, subdivision (a)(3) requires the license application to be accompanied by a nonrefundable fee to cover the reasonable costs of application review. Additionally, Financial Code section 3203, subdivision (e) requires the applicant to pay the reasonable costs of the DFPI’s investigation under section 3203, subdivision (b).**

- a. **Are there aspects of the costs and fees in Financial Code section 3203 that should be clarified through rulemaking?**

Methodology for costs and fees should be explained in detail through rulemaking. There should be transparency as to how DFPI calculates consistently and indiscriminately its fees for investigations. For purposes of application fees, it is imperative for digital asset businesses to understand how application fees are being administered for timely processing of applications. This includes how application fees will be used to recruit the appropriate amount of staff for processing applications and supervision of digital asset businesses.

- b. **Are there factors the DFPI should consider in determining these reasonable costs and fees? For example, should the DFPI charge every applicant the same application fee, or charge different fees depending on the type or complexity of the application? Where applicable, please provide information about the methodology and impact of costs and fees in other state or federal regulatory environments.**

In the majority of state jurisdictions, regulatory agencies conduct fee studies to determine the full cost of recovery for the state’s service in the review of application. These studies take into consideration the state’s cost for labor and administrative efforts needed for the review of licensing applications. We would encourage DFPI to follow suit and determine a fee that is commensurate with the agency’s resources expended for review of each digital asset business license. The determined amount should be a flat fee for all applicants that is not overly burdensome to chill the participation of small, innovative digital asset companies that would seek to conduct business within California.



3. What factors should the DFPI consider in determining the dollar amount of surety bond or trust account it may require under Financial Code section 3207, subdivision (a)?

The primary goal of requiring surety bonds or trust accounts for licensees is to ensure retail customers are made whole for any alleged harm or injury caused by the licensee. DFPI has primarily required surety bonds for businesses with broad exposure to retail customers such as insurance adjusters, third-party logistics providers, and mortgage loan brokers. Unlike digital asset exchanges or other digital asset businesses that are retail facing, Circle only transacts with enterprise clients. Therefore, Circle is not similarly situated in its exposure to retail customers in the same fashion as digital asset exchanges, insurance adjusters, or mortgage loan brokers.

The business model for fiat-backed stablecoin issuers, like Circle, consists of minting newly-issued USDC, and depositing the fiat currency backing USDC to Circle's audited reserves held at regulated financial institutions. When Circle customers wish to redeem their stablecoin for fiat, they deposit USDC into their Circle Mint account and are refunded the underlying dollar amount immediately. Some direct Circle customers are exchanges and these exchanges may make use of these systems to provide USDC to retail users through the secondary market or to engage with financial services.

As a company that solely serves businesses, Circle provides its customers with a legal right to directly redeem Circle-issued stablecoins. U.S. money transmitter licenses, under which Circle is currently regulated, provide that Circle maintains legal title to the USDC reserves but does not have an equitable interest in those reserves, unlike a bank or an unregulated financial institution. USDC reserves are assets that belong to USDC holders, not Circle, and they are wholly held in segregated accounts designated for the benefit of USDC holders. Circle is not allowed to use the USDC for any other purpose. Circle cannot fractionalize or lend out the reserves, cannot borrow against them, and cannot use them to cover the firm's operating costs, by law.

Therefore, surety bond or trust account requirements may not be necessary for license applicants whose primary business activity involves issuance of a fiat-backed stablecoin to enterprise rather than retail customers. So long as reserves are held for the sole benefit of holders, there will be sufficient funds to make customers whole without a surety bond or trust account. We would encourage DFPI to consider whether additional rulemaking on the proper segregation of reserving assets by fiat-backed stablecoin holders could be a stronger tool for consumer protection than surety bond or trust account requirements.

4. Should the DFPI require a minimum amount of surety bond or trust account? Please explain.

We do not recommend a required minimum amount for a surety bond or trust account because the business activity licensed within the DFAL regime varies by each licensee's unique risk profile and customer exposure. As mentioned in our previous response, conservatively managed fiat-backed stablecoin issuers have a lower risk profile since issuers do not service retail customers and hold reserves for the designated benefit of fiat-backed stablecoin holders. Further, proper oversight and regulation of management of reserve assets held by fiat-backed stablecoin issuers may relinquish the need for a surety bond or trust account.



5. Should surety bond or trust account amounts vary by the type of activity requiring licensure? Please explain.

Yes. All business activity covered by the DFAL license varies in risk and customer exposure, and DFPI's treatment of those activities should be tailored accordingly. Additionally, DFPI should consider whether the risk assessment of a DFAL licensee could exempt it from surety bond and trust account requirements.

6. How should specific activity requirements provided for in DFAL, such as the custody requirements of Financial Code section 3503 or the reserve requirements of Financial Code section 3601, impact surety bond or trust account amounts?

The stringent reserve requirements, as outlined in DFAL Sec. 3601, should either negate or significantly reduce the need for additional surety bond and trust account requirements. Given the inherently low operational risk associated with conservatively managed fiat-backed stablecoin issuers like Circle, the presence of full reserve backing composed of high quality liquid assets as required by DFAL Sec. 3601 provides substantial consumer protection. This backing promotes financial stability and reduces the likelihood of financial shortfalls that surety bonds and trust accounts are typically designed to cover.

7. Financial Code section 3207, subdivision (b) requires a licensee to maintain capital “in an amount and form as the [DFPI] determines is sufficient to ensure the financial integrity of the licensee and its ongoing operations based on an assessment of the specific risks applicable to the licensee.” It provides nine factors the DFPI may, but is not required to, consider when determining the minimum amount of capital required of a licensee.

Are the factors provided in Financial Code section 3207, subdivision (b) sufficient, or are additional factors needed and if so, what should those potential additional factors be and why?

In addition to the factors outlined in Financial Code Sec. 3207, DFPI should consider capital requirements that must be met in additional jurisdictions in which digital financial businesses must be licensed. Jurisdictions, such as New York and the European Union, Hong Kong, and Japan license the business activity of fiat-backed stablecoin issuers and other digital financial businesses, and may carry similar capital requirements for licensees. DFPI should consider how to harmonize capital requirements or consider whether the fulfillment of capital requirements from equitable jurisdictions can satisfy the expectations of DFPI.

A patchwork regulatory system can place an undue burden on digital financial businesses, if DFPI chooses to put in place regulations within a silo.

DFPI should also avoid the practice of “double counting,” for example applying capital requirements for risk that have already been mitigated in other provisions of DFAL, such as reserving requirements applied to fiat-backed stablecoin issuers that are outlined in Sec. 3601. DFPI should also consider a diverse set of liquid assets to satisfy capital requirements and determine the eligibility of backing assets on a case by case basis, for example insurance policies held by digital asset businesses should be considered a risk mitigant/capital requirement offset for purposes of assessing financial stability and risk.



8. Should capital minimums vary by the type of activity requiring licensure?

In response to the question of whether capital minimums should vary by type of activity requiring licensure under DFAL, yes, we strongly encourage that capital minimums should be tailored to the digital business activity covered by the license. In accordance with Sec. 3601 under DFAL, fiat-backed stablecoin issuers “must at all times own eligible securities having an aggregate market value computed in accordance with United States generally accepted accounting principles of not less than the aggregate amount of all of its outstanding stablecoins issued or sold.” Therefore, licensees such as Circle will be required to hold high quality liquid assets of equal value for the total circulation of its fiat-backed stablecoin. This requirement is unique to fiat-backed stablecoin issuers - in contrast to other virtual asset issuers - under DFAL.

Considering the high bar set in Sec. 3601, operations for fiat-backed stablecoin issuers will involve stringent reserve management practices, where customer funds are segregated and fully backed by fiat reserves, unlike other digital financial business models or even traditional banking institutions that fractionalize reserves. Circle does not rehypothecate or fractionalize our customer reserves, presenting a markedly lower risk profile. This operational distinction is fundamental to conservatively managed fiat-backed stablecoin issuers and this practice should be reflected in de minimis capital requirements. Acknowledging these unique aspects in DFAL’s regulatory framework ensures capital requirements are commensurate with the actual risks posed by different activities.

9. Under Financial Code section 3603, subdivision (b)(2)(B), in determining whether to approve a stablecoin the Commissioner must consider “[t]he amount, nature, and quality of assets owned or held by the issuer of the stablecoin that may be used to fund any redemption requests from residents.” Subdivision (a)(2) of Financial Code section 3601 requires that the “issuer of the stablecoin at all times own[] eligible securities having an aggregate market value computed in accordance with United States generally accepted accounting principles of not less than the aggregate amount of all of its outstanding stablecoins issued or sold.” Subdivision (b)(1) of Financial Code section 3601 specifies that “eligible securities” means those described in subdivision (b) of Financial Code section 2082 or foreign currency eligible securities described in subdivision (c) of section 2082.

- a. 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)?**

Circle believes that Sec. 3601 and 3603 are separate regulatory frameworks for two different types of stablecoins. Sec. 3601 governs fiat-backed stablecoins, while Sec. 3603 governs other forms of stablecoins such as crypto-collateralized stablecoins. The language “except as provided in Section 3603,” designates that stablecoins qualifying under Sec. 3601 shall be treated in a separate manner with separate reserve and capital requirements than stablecoins seeking to retain a license under DFAL under Sec. 3603.

Conflating the two forms of stablecoins would compromise the intent of the legislation to



recognize the marked difference between stablecoins backed by high quality liquid assets, such as cash and government treasuries in comparison to stablecoins that are pegged to other virtual currencies that are subject to volatility or stablecoins that do not have any backing assets at all. To treat licensing all forms of stablecoins in the same manner would contradict other licensing regimes in New York and the proposed federal fiat-backed stablecoin licensing regime under H.R. 4766 “The Clarity for Payment Stablecoin Act.” This is also supported by the European Union’s categorization of fiat-backed stablecoins as “e-money tokens” or electronic money.

The qualification process outlined in Sec. 3603 was drafted in recognition that DFPI must provide deeper analysis for stablecoins not backed by fiat currency because of the potential of heightened risk.

DFAL makes clear that there is a separate licensing process for issuers of fiat-backed stablecoins as outlined in Sec. 3601 and fiat-backed stablecoin issuers can only obtain a license if issuers hold eligible securities as defined by the California Financial Code Sec. 2082. Therefore, it is in line with the legislative intent of DFAL to require the Commissioner to consider “[t]he amount, nature, and quality of assets owned or held by the issuer of the stablecoin that may be used to fund any redemption requests from residents” only for stablecoins that may be collateralized by other forms of digital assets or algorithmic stablecoins that are seeking a license, because such stablecoins are not a fiat-backed stablecoins as outlined in Sec. 3601.

b. Regarding the amount and nature of assets, is there particular information that the DFPI should consider?

Assets outlined in California Financial Code 2082 include high quality liquid assets such as, cash, government treasuries, and repurchase agreements. Circle would encourage DFPI to also consider reserve assets held in foreign jurisdictions to satisfy reserving requirements under DFAL Sec. 3601, so long as the entirety of assets held in reserves meets or exceeds the issuer’s aggregate liabilities to fiat-backed stablecoin holders. As a licensee in foreign jurisdictions and more broadly as a global financial services company that must offer liquidity in jurisdictions holders transact in USDC, Circle and other fiat-backed stablecoin issuers are required to hold a percentage of assets in local banking institutions in order to ensure global customers have access to timely redemptions.

10. Under Financial Code section 3603, subdivision (b)(2)(C), in determining whether to approve a stablecoin the Commissioner must consider “[a]ny risks related to how the assets described in subparagraph (B) are owned or held by the issuer that may impair the ability of the issuer of the stablecoin to meet any redemption requests from residents.” Are there particular risks regarding how assets are owned or held that the DFPI should consider?

As stated above, the risk assessment of fiat-backed stablecoins should be governed by Section 3601. Sec. 3603 is not applicable to fiat-backed stablecoin issuers. Any supervision and capital requirements assessed against fiat-backed stablecoins under Section 3601 should acknowledge and take into account that fiat-backed stablecoin issuers may only hold “eligible securities” or “eligible foreign securities” under California Financial Code Section 2082.



11. 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.”

- a. To what extent should the DFPI consider the amount and type or quality of the issuer’s other liabilities before approving a stablecoin?**

The assessment of fiat-backed stablecoins should be governed by Sec. 3601 and Sec. 3603 is not applicable to fiat-backed stablecoin issuers.

- b. What “other factors” should the DFPI consider?**

The assessment of fiat-backed stablecoins should be governed by Sec. 3601 and Sec. 3603 is not applicable to fiat-backed stablecoin issuers.

- c. 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.**

The assessment of fiat-backed stablecoins should be governed by Sec. 3601 and Sec. 3603 is not applicable to fiat-backed stablecoin issuers. As it pertains to stablecoins that **are not** backed 1:1 by fiat currency and other high quality liquid assets, we believe that the greenlisting standard applied by NYDFS, which -among other things - looks to whether the coin issuer has a demonstrated, historic record consistent with safety and soundness and the protection of customers, including broad marketplace adoption, is aligned with the goals of DFPI in determining the suitability of a stablecoin for use in California.

12. Under Financial Code section 3603, subdivision (c), the Commissioner may impose conditions, restrictions, or other requirements on an issuer or a covered person as a condition of approval of a stablecoin.

- a. Are there restrictions or requirements that should be imposed generally on all issuers or covered persons? If so, why?**

The assessment of fiat-backed stablecoins should be governed by Sec. 3601 and Sec. 3603 is not applicable to fiat-backed stablecoin issuers.

- b. Should there be a general requirement that all issuers certify that they meet requirements similar to those for covered exchanges under Financial Code section 3505, subdivision (a)?**

The assessment of fiat-backed stablecoins should be governed by Sec. 3601 and Sec. 3603 is not applicable to fiat-backed stablecoin issuers.