

June 8, 2022

TO: Entities Licensed Under 23 NYCRR Part 200 or Chartered as Limited Purpose Trust Companies Under the New York Banking Law That Issue U.S. Dollar-Backed Stablecoins Under the Supervision of the New York State Department of Financial Services (“DFS”)

FROM: Adrienne A. Harris, Superintendent of Financial Services

RE: Guidance on the Issuance of U.S. Dollar-Backed Stablecoins

The adoption of stablecoins worldwide has grown substantially in recent years, and more regulators and policymakers are showing an interest in stablecoin arrangements and the rules that apply to them. Recent public policy discussions have addressed prudential authority over stablecoins generally, as well as specific prudential concerns with stablecoins, such as the existence of appropriate reserves backing the stablecoins and the possibility of “runs” on the stablecoins similar to bank runs.^[1] As the prudential regulator of companies engaged in virtual currency business activity in New York,^[2] DFS has imposed requirements, standards, and controls on the stablecoins issued by its regulated entities since 2018, when DFS approved the first issuance of stablecoins by its regulated virtual currency companies.^[3]

When a company applies for a license to engage in virtual currency business activity (a “BitLicense”)^[4] or a charter as a limited purpose trust company under the New York Banking Law, DFS reviews the company’s business plan and product offerings in detail, and any stablecoin-related aspects of the company’s business model are thoroughly evaluated as part of DFS’s determination of whether to grant the license or charter. After licensure, BitLicensees must obtain DFS’s written approval before introducing a materially new product, service, or activity,^[5] and this prior-

approval requirement applies to the issuance of a stablecoin. DFS imposes analogous requirements on New York State limited purpose trust companies that engage in virtual currency business activity and, accordingly, these companies also require DFS's written approval before they may issue a new stablecoin in New York.

The purpose of this Guidance on the Issuance of U.S. Dollar-Backed Stablecoins (this "Guidance") is to emphasize certain requirements that will generally apply to stablecoins backed by the U.S. dollar that are issued under DFS oversight. Specifically, this Guidance focuses on DFS requirements relating to:

- i. the redeemability of such stablecoins;
- ii. the asset reserves that back such stablecoins (the "Reserves"); and
- iii. attestations concerning the backing by these Reserves.

Entities that issue stablecoins under DFS supervision, or that may be interested in doing so, can use this Guidance to better understand the baseline requirements in these three categories that they are expected to meet concerning U.S. dollar-backed stablecoins.

It is noted that, although stablecoins are a type of virtual currency that can be designed to maintain a stable value relative to any national currency or other reference asset, this Guidance applies *only* to stablecoins backed by the U.S. dollar, and only to stablecoins that are *issued* under DFS supervision by DFS-regulated virtual currency entities.

Baseline requirements for the issuance of U.S. dollar-backed stablecoins
DFS will generally impose the following conditions on all U.S. dollar-backed stablecoins whose issuance is subject to DFS approval.

1. Backing and redeemability

- a. The stablecoin must be fully backed by a Reserve of assets, meaning that the market value of the Reserve is at least equal to the nominal value of

all outstanding units of the stablecoin as of the end of each business day.
[6]

- b. The issuer of the stablecoin (the "Issuer") must adopt clear, conspicuous redemption policies, approved in advance by DFS in writing, that confer on any lawful holder of the stablecoin a right to redeem units of the stablecoin from the Issuer in a timely fashion at par — i.e., at a 1:1 exchange rate for the U.S. dollar, net of ordinary, well-disclosed fees — subject to reasonable, non-burdensome conditions including otherwise applicable legal or regulatory requirements, such as the ability of the stablecoin holder to onboard successfully with the Issuer before redeeming. These redemption policies shall clearly disclose the meaning of "redemption" and the required timing of "timely" redemption, or shall expressly adopt the following default terms:
- i. Redemption in U.S. dollars is deemed to have occurred when the Issuer has fully processed and initiated the outgoing transfer of funds to the holder's financial or other institution, if and as requested by the holder, or has credited the funds to the holder's cash account with the Issuer, if requested by the holder. And,
 - ii. "Timely" redemption means redemption not more than two full business days ("T+2") after the business day on which the Issuer receives a "compliant redemption order," meaning the business day on which (A) the Issuer has received a redemption order and (B) the holder or the holder's designee has onboarded successfully with the Issuer and all other conditions necessary to permit compliant redemption have been met.^[7]
 - iii. In extraordinary circumstances, where DFS concludes that timely redemption would likely jeopardize the Reserve's asset-backing requirement or the orderly liquidation of Reserve assets, DFS has the authority to require or allow redemption that would not qualify as timely under item 1(b), as it deems necessary.

2. Reserve

- a. The assets in the Reserve must be segregated from the proprietary assets of the issuing entity, and must be held in custody with (i) U.S. state or federally chartered depository institutions with deposits insured by the

Federal Deposit Insurance Corporation ("FDIC") and/or (ii) asset custodians, approved in advance in writing by DFS. The Reserve assets shall be held at these depository institutions and custodians for the benefit of the holders of the stablecoin, with appropriate titling of accounts.

- b. The Reserve shall consist only of the following assets:
- i. U.S. Treasury bills acquired by the Issuer three months or less from their respective maturities.
 - ii. Reverse repurchase agreements fully collateralized by U.S. Treasury bills, U.S. Treasury notes, and/or U.S. Treasury bonds on an overnight basis, subject to DFS-approved requirements concerning overcollateralization. Such reverse repurchase agreements shall be either (A) tri-party or (B) bilateral with a counterparty that the Issuer has found to be adequately creditworthy and whose identity has been submitted to DFS in writing, without objection, together with the Issuer's credit assessment, at least 14 days prior to the Issuer's commencing to enter into contracts with such counterparty.
 - iii. Government money-market funds, subject to DFS-approved caps on the fraction of Reserve assets to be held in such funds and DFS-approved restrictions on the funds, such as a minimum percentage allocation to direct obligations of the Government of the United States and reverse repurchase agreements on such obligations. And,
 - iv. Deposit accounts at U.S. state or federally chartered depository institutions, subject to DFS-approved restrictions such as (A) percentage-of-Reserve or absolute-dollar-value caps on the assets to be deposited at any given depository institution and/or (B) limitations based on DFS's conclusions concerning the risk characteristics of particular depository institutions, taking into consideration the amounts reasonably needed to be held at depository institutions to meet anticipated redemption demands.
- c. Issuers are expected to manage the liquidity risk of the Reserve in accordance with the redemption requirements discussed in paragraph 1 above.

3. Attestation

a. The Reserve must be subject to an examination of management's assertions, as set forth herein, at least once per month by an independent Certified Public Accountant ("CPA") licensed in the United States and applying the attestation standards of the American Institute of Certified Public Accountants ("AICPA"), where such CPA and such CPA's engagement letter shall have been approved in advance in writing by DFS. In each of these attestations, the CPA shall attest to management's assertions of the following as of the last business day of the period covered by the attestation and as of at least one randomly selected business day during the period: (i) the end-of-day market value of the Reserve, both in aggregate and broken down by asset class; (ii) the end-of-day quantity of outstanding stablecoin units; (iii) whether the Reserve was, at these times, adequate to fully back all outstanding stablecoin units as set forth in item 1(a) above, including reconciling items^[8]; and (iv) whether all DFS-imposed conditions on the Reserve assets (whether set forth in paragraph 2 hereof or otherwise specified by DFS) have been met.

For purposes of item 3(a)(iv), the CPA shall be entitled to rely on the DFS-imposed conditions on the Reserve assets that applied as of each day in the period covered by the attestation as reported to the CPA by the Issuer, together with the Issuer's certification that such conditions are being accurately reported. In all events, the specific conditions on the Reserve assets against which the attestation was performed shall be included in the CPA's attestation report.

b. In addition to attestations referred to in item 3(a), the Issuer shall obtain an annual attestation report by an independent CPA licensed in the United States and applying the attestation standards of the AICPA, attesting to management's assertions concerning the effectiveness of the internal controls, structure, and procedures for compliance with the requirements described in items 3(a)(i) through 3(a)(iv) hereof. Such CPA and such CPA's engagement letter shall have been approved in advance in writing by DFS.

c. For each attestation described in item 3(a), the Issuer must make the CPA's reports available to the public, and produce a copy to DFS in

writing, not more than 30 days after the end of the period covered by the attestation.

- d. For each annual attestation report described in item 3(b), the Issuer must produce a copy to DFS in writing, not more than 120 days after the end of the period covered by the report.

Please note that the above requirements as to redeemability, the Reserve, and attestations are not the only requirements DFS places or may place on the issuance of stablecoins, and the risks connected to these factors are not the only risks DFS considers. DFS looks at a range of potential risks before authorizing a regulated virtual currency entity to issue a stablecoin, including risks relating to cybersecurity and information technology; network design and maintenance and related technology and operational considerations; Bank Secrecy Act/anti-money-laundering ("BSA/AML") and sanctions compliance; consumer protection; safety and soundness of the issuing entity; and the stability/integrity of the payment system, as applicable. DFS may impose requirements on a stablecoin arrangement to address any of these risks, or any other risks, consistent with DFS's statutory mandate and the laws and regulations relevant to the circumstances.^[9]

This Guidance is not intended to limit, and does not limit, any power of DFS or the scope or applicability of any law or regulation. DFS may, at any time and in its sole discretion, prohibit or otherwise limit a stablecoin's issuance or use before or after a DFS-regulated Issuer begins issuing the stablecoin, and may require that any such Issuer delist, halt, or otherwise limit or curtail activity with respect to any stablecoin.

This Guidance is not intended to, and does not, affect obligations of Issuers to submit audited financial statements to DFS pursuant to the New York Banking Law, the virtual currency business activity regulation, 23 NYCRR Part 200, the Issuer's Supervisory Agreement with DFS, or

any other relevant law or regulation. DFS may update this Guidance from time to time, or withdraw it.

Each DFS-regulated issuer of a stablecoin is responsible for understanding and complying with all applicable laws and regulations, including any applicable legal and regulatory requirements imposed by other state or federal regulatory agencies. This Guidance is not intended to address and does not address such other state, federal, or other requirements.

Issuers that currently issue U.S. dollar-backed stablecoins under DFS supervision are expected to come into compliance with this Guidance within three months of the date hereof, except as to the requirements set forth in items 3(b) and 3(d), with which these Issuers shall come into compliance in a reasonable period as determined by DFS in its sole discretion.

[1] See, e.g., *President's Working Group on Financial Markets, et al. Report on Stablecoins (Nov. 2021) at 1-2.*

[2] See 23 NYCRR Part 200.

[3] See [DFS Continues to Foster Responsible Growth in New York's Fintech Industry With New Virtual Currency Product Approvals \(Sept. 10, 2018\)](#).

[4] See 23 NYCRR Part 200.

[5] 23 NYCRR § 200.10.

[6] In this Guidance, a "business day" is defined as a business day (9 a.m.-5 p.m.) in the United States, New York time.

[7] A compliant redemption order received between the end of a business day and the start of the following business day shall be treated

as having arrived during the following business day. Note that “receipt” of a redemption order shall be deemed to have occurred at the earlier of actual receipt and the time when actual receipt would have occurred but for Issuer negligence or willful ignorance.

[8] Reconciling items may exist, for example, in cases where the assets backing a newly minted stablecoin are in transit to the depository institutions and/or custodians.

[9] See, e.g., New York Financial Services Law §§ 102 and 201; New York Banking Law § 10; 23 NYCRR Part 200; and 23 NYCRR Part 500.