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Circle’s Response to the California DFPI’s Invitation for Comments on Crypto-Asset Related Financial Products and Services Under the California Consumer Financial Protection Law

Circle Internet Financial, LLC (“Circle”) appreciates the opportunity to respond to the California Department of Financial Protection and Innovation (“CA DFPI”)’s Invitation for Comments on Crypto-Asset Related Financial Products and Services Under the California Consumer Financial Protection Law to discuss the ways that California can protect consumers in the digital assets market. Since Circle’s founding, our company has prioritized responsible financial services innovation and constructive engagement with regulators and public authorities in the United States and around the world. Please find our detailed response below for consideration.

Regulatory Priorities

1. What steps should the DFPI take to better protect consumers from scams and frauds associated with crypto asset-related financial products and services?

Protecting users from malign actors, such as scammers and fraudsters, is essential in order to responsibly broaden the market adoption of financial markets infrastructure on public blockchains. Circle believes the CA DFPI should focus on consumer-facing platforms where Californians often obtain and engage with digital assets, such as exchanges. In the name of so-called token agnosticism, exchanges will frequently list digital assets without meaningful differentiation or risk disclosure. For example, digital asset exchanges often put an asset like USD Coin (“USDC”) — a fully-reserved, fiat-backed payment stablecoin issued by a U.S.-regulated company — next to assets like



TerraUSD, an algorithmic “stablecoin” that has lost over \$40 billion in value¹ and is now worth about four cents². This is the equivalent of a supermarket placing rat poison on the same shelf as baby formula, and the CA DFPI should investigate and develop meaningful new regulations to ensure that these exchange platforms appropriately disclose their offerings.

Circle is the sole issuer of USDC, welcomes regulation, and has obtained licenses to operate as a money transmitter or its equivalent in the states where such licenses are required, as well as in the District of Columbia and Puerto Rico. In addition, Circle was the first company to obtain a BitLicense from the New York Department of Financial Services (NYDFS). Circle is registered as a “Money Services Business” with the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) and takes its anti-money laundering (AML)/Sanctions/Counter Terrorist Financing obligations seriously. USDC is fully-backed by reserves consisting of cash and short-dated U.S. Treasuries so that it enjoys parity with the U.S. dollar, making it a competitive digital currency for use in digital asset markets.

While exchanges do not bear sole responsibility for what consumers themselves decide to obtain, they should take greater care in evaluating what digital assets they list and provide appropriate risk disclosures to users interested in buying a particular digital asset. DFPI could consider encouraging exchanges to post disclosures for listed coins that are not regulated within California’s jurisdiction, and what type of regulations the digital asset’s issuer currently abides by. This may also provide DFPI with better visibility into what non-regulated assets are being actively offered to California consumers.

Ransomware also continues to be an issue in the digital asset economy, with \$602 million in ransomware payments made in digital assets during 2021.³ The DFPI can take proactive steps to stem this by aligning California and federal regulations, such as data protection laws, regulations that facilitate information sharing⁴, and tailored reporting

¹ New York Times, *How a Trash-Talking Crypto Founder Caused a \$40 Billion Crash*, at: <https://www.nytimes.com/2022/05/18/technology/terra-luna-cryptocurrency-do-kwon.html>

² CoinMarketCap, *TerraClassicUSD*, July 21, 2022, at: <https://coinmarketcap.com/currencies/terrausd/>
Circle’s responses to the DFPI’s questions are based upon our extensive experience in the market and long history of engagement with policymakers on the complex topic of digital asset regulation, and we welcome further dialogue with the DFPI on our response and its digital asset focused efforts in the future. However, our responses to this RFI should not be construed as an acknowledgement or admission that Circle’s activities subject it to the CCFPL or any similar regulatory framework.

³ Chainalysis, *The 2022 Crypto Crime Report*, at: <https://go.chainalysis.com/rs/503-FAP-074/images/Crypto-Crime-Report-2022.pdf>

⁴ Congressional Research Service, *Ransomware and Federal Law: Cybercrime and Cybersecurity*, at: <https://crsreports.congress.gov/product/pdf/R/R46932>

requirements.⁵ The DFPI should work to encourage more robust information sharing from the public sector to the private sector when they are aware of ongoing ransomware attacks, which would promote public-private cooperation that would benefit consumer protection. Additionally, the DFPI can take an active role in the tracing and taking down of fraudulent websites, along with putting in place an enforcement regime against offenders that include fines and criminal penalties.

Other scams and fraud that are facilitated through the blockchain and digital assets can be addressed by the DFPI through the use of blockchain intelligence solutions. These solutions, provided by firms such as Chainalysis and TRM Labs, can aid officials in identifying scams and prevent them by leveraging the open and auditable nature of the blockchain. For example, Circle partnered with TRM Labs to launch Chainabuse, a user reporting tool that identifies scammers and fraudsters by on-chain address.⁶ When fraud is suspected, users can check a public, searchable database prior to engaging. A solution like Chainabuse could help consumer protection authorities identify and track active scammers, empower digital assets users in avoiding these schemes, and prevent California residents from being victimized.

2. What steps should the DFPI take to improve consumer education and outreach for crypto asset-related financial products and services?

Consumer education is vital in the evolution of a healthy and sustainable digital assets market. Circle is proud to advance these efforts through our Circle Impact initiative. As part of Circle Impact, Circle launched a digital financial literacy initiative in partnership with Historically Black Colleges and Universities (HBCUs), including Bowie State University in Maryland and Rhodes University in South Africa. Education initiatives such as those that are part of Circle Impact will continue to require significant investment and prioritization, and we encourage the DFPI to properly resource and fund similar initiatives.

The DFPI should take an active role in consumer education and outreach regarding digital assets in partnership with respected industry participants. The Department already

⁵ Gibson Dunn, *President Biden Signs into Law the Cyber Incident Reporting for Critical Infrastructure Act, Expanding Cyber Reporting Obligations for a Wide Range of Public and Private Entities*, at: <https://www.gibsondunn.com/president-biden-signs-into-law-the-cyber-incident-reporting-for-critical-infrastructure-act-expanding-cyber-reporting-obligations-for-a-wide-range-of-public-and-private-entities/>

⁶ TRM Labs, *TRM Announces Launch of Chainabuse, the Multi-Chain Scam Reporting Tool that Empowers Crypto Users Against Fraud*, at: <https://www.trmlabs.com/post/announcing-the-launch-of-chainabuse-the-multi-chain-scam-reporting-tool-that-empowers-crypto-users-against-fraud>.

conducts valuable consumer education resources through brochures and consumer awareness education programs, and it should continue outreach into the digital assets sector by creating, publishing, and promoting these resources to all constituencies in California, with the help of industry participants. Allowing industry participants to partake in this form of consumer education would ensure that accurate, up-to-date information is communicated to consumers.

To encourage more industry participants to assist the state in developing consumer education and conducting outreach efforts, the DFPI should consider providing incentives to digital asset firms for consumer education costs. Circle consumer education, and would welcome the DFPI's continued engagement on this front.

3. What steps should the DFPI take to better ensure consumer protection in the offering and provision of crypto asset-related financial products and services?

The DFPI should employ multiple methods to target consumers and actions that threaten the financial well-being of California residents. Education, increased oversight of consumer financial institutions such as exchanges, and robust enforcement against scams and frauds are three methods of bolstering consumer protection. Other methods that would support the DFPI's commitment to consumer protection include financial disclosures, bankruptcy protections, restrictions on what digital assets could be considered "payment stablecoins" and coordination with other states to harmonize consumer protection rules.

It is currently unclear whether the DFPI would consider stablecoins a form of stored value under the Money Transmission Act. DFPI should make clear that stablecoins are a form of stored value, which would comport with the current treatment of stablecoins under the laws of a majority of other states, the state banking departments of which have found it appropriate to regulate fiat-backed stablecoins under their respective money transmission statutes, and consistent with positions taken by the Conference of State Banking Supervisors.⁷ Furthermore, because the Money Transmission Act does not include an obligation that issuers of fiat-backed stablecoins maintain reserves equal to the dollar amount of its outstanding stablecoins, the DFPI is forfeiting the right to regulate the fiat reserve funds backing such stablecoins. Finally, regulating stablecoins as stored value under the Money Transmission Act would also provide greater protections to

⁷ See, e.g., *CSBS Letter on Cryptocurrencies*, Sept. 27, 2021, available at: <https://www.csbs.org/policy/statements-comments/csbs-letter-cryptocurrencies>

California users if an issuer of fiat-backed stablecoins were to declare bankruptcy, which may increase trust in and adoption of digital assets.

Additionally, DFPI should consider setting guidelines for which digital assets can label themselves as “payment stablecoins.” As seen with the TerraUSD stablecoin collapse, not every digital asset that calls itself a stablecoin and purports to have price parity with a fiat currency can actually maintain that parity. Reserving the “payment stablecoins” identification for digital assets that have met the highest standards in asset-backing and redeemability, reserve requirements, and financial examination will help protect consumers from potential harms in interacting with this foundational category of digital assets.

Lastly, it is important to underscore the importance of harmonizing California regulations with the digital asset consumer protection regulations of other states. While a comprehensive federal regime to regulate and ensure digital asset consumer protection is not yet in place, multiple bills have recently been introduced in the U.S. Congress with the goal of establishing such a framework. It is important that states coordinate among each other - and with federal legislative efforts - to avoid creating a patchwork of differing regulations throughout the country, which could slow the innovation of U.S.-based digital asset firms in a fast-changing industry.

5. What steps should the DFPI take to better ensure financial stability in the market from risks posed in the offering and provision of crypto asset-related financial products and services?

In the pursuit of financial stability in the digital assets space, the DFPI should consider whether current regulations are harmonious with rules from other states and the federal government to better ensure financial stability and insulate California consumers from market risk and volatility. USDC is fully-backed by reserves consisting of cash and short-dated U.S. government obligations so that it enjoys parity with the U.S. dollar, making it a competitive digital currency for use in digital asset markets. Today, USDC is the fourth largest digital asset in circulation and on course to become the third largest, superseded only by Bitcoin and Ethereum. USDC reserves are also in the care, custody, and control of U.S.-regulated banks and financial institutions.

While Circle has disclosed the USDC reserve assets⁸, along with providing third-party monthly attestation reports⁹ to the sufficiency of the reserve and its composition from a leading global accounting firm, other firms do not provide the same transparency and accountability measures — creating a black box of information about reserve assets and raising essential questions about whether consumers can redeem their stablecoins at par. The DFPI should consider promulgating guidance regarding stablecoin reserves and redemptions — similar to standards the NYDFS recently released¹⁰ to promote market stability and protect consumers.

6. What steps should the DFPI take to address climate risks posed in the offering and provision of crypto asset-related financial products and services?

Historically, significant amounts of crypto mining have taken place outside of the United States, specifically in jurisdictions which allow for minimal transparency regarding the kinds of energy being used or the strain on existing infrastructure. This opacity has led to a lack of oversight or ability to regulate activities in the industry.

However, mining operations have recently migrated to jurisdictions with lower energy costs, such as Nordic countries, Canada, and the United States. This is a positive change for several reasons. First, these countries typically have more responsible oversight, and the mining activities create jobs and attract capital.

Additionally, these countries are increasingly embracing renewable energy and techniques to better manage the power grid. For example, if a mining operation is approaching a cap on power usage in a certain jurisdiction, mining operations temporarily shut down until energy loads come down. These represent practical measures to promote responsible, sustainable innovation.

7. How should the DFPI strive to harmonize its regulatory approach to crypto asset-related financial products and services with federal authorities?

Harmonization with the federal government, as well as other states, is key to establishing an effective regulatory regime surrounding digital assets. Ensuring cohesiveness with

⁸ Circle, *Providing Greater Transparency*, at: <https://www.circle.com/blog/providing-greater-transparency>

⁹ Circle, *USDC: Stability you can trust*, at: <https://www.circle.com/en/usdc#transparency>

¹⁰ New York Department of Financial Services, *Superintendent Adrienne A. Harris Announces New DFS Regulatory Guidance on the Issuance Of U.S. Dollar-Backed Stablecoins*, at: https://www.dfs.ny.gov/reports_and_publications/press_releases/pr202206081

other regulators would allow U.S.-based digital asset firms to innovate by avoiding a patchwork of differing state regulations throughout the country, which could slow innovation and impede U.S. competitiveness with digital asset firms globally.

The geopolitical and economic competition for attracting digital asset firms now includes major countries and financial centers, as well as the third largest economy in the world with the agreement of Europe's far-reaching Markets in Crypto Assets (MiCA). As the United States works towards establishing regulatory clarity on the federal level, it is important that states like California maintain a regulatory environment amenable to responsible developments in digital asset markets by coordinating with state and federal regulations. The "interim" period of the United States lacking federal prudential regulation may also be coming to an end soon, with Congress currently forming and considering regulatory regimes on digital assets.

The DFPI promoting regulatory cohesiveness with eventual federal government regulation, and avoiding the creation of regulatory inconsistencies, would also benefit California by making the state an attractive location for digital asset firms to do business. We encourage the DFPI to work closely with other states, the federal government, and organizations like the Conference of State Bank Supervisors to establish regulatory harmony, along with United States and California competitiveness.

8. In developing a comprehensive regulatory approach to crypto asset-related financial products and services, how should the DFPI work with other state financial regulators to promote a common approach that increases the reach of DFPI's consumer protection efforts and reduces unnecessary burdens, if any, on companies seeking to operate nationwide?

In developing its regulatory approach towards digital assets, the DFPI should aim to create rules that are cohesive with other states' regulations while working with and helping build organizations that can facilitate interstate dialogue. The DFPI should particularly focus on harmonizing its state money transmission license regulations with those of other states. Circle has obtained licenses to operate as a money transmitter or its equivalent in the states where such licenses are required, as well as in the District of Columbia and Puerto Rico.

Considering that the DFPI has yet to decide whether to regulate digital currency transmission under the state's Money Transmission Act (MTA) and has exempted some firms' digital asset activity from money transmission licensing, the DFPI should consider

looking to other states — many of whom consider digital assets as meeting their “money transmission” definition — and harmonizing California’s MTA rules with them. The DFPI could easily bolster its regulatory regime regarding stablecoins by folding in digital assets into the existing money transmitter regulatory framework. The CSBS’ Money Transmitter Model Law¹¹ also generally considers virtual currencies to fit within the definition of money transmission.¹² The harmonization would provide regulatory clarity for firms seeking to do business in the United States and give confidence for digital asset firms to expand into California, while providing the DFPI increased oversight into firms’ activities for consumer protection and enforcement. In addition to harmonizing regulations, DFPI should help establish or partake in interstate task forces to monitor fraud, share information, and set best practices.

9. How can the DFPI make California the most desirable home state for responsible companies when developing guidance and, as appropriate, regulatory clarity and supervision of persons involved in the offering and provision of crypto asset-related financial products and services in California?

As previously mentioned, creating clarity through regulatory parity with other states and the federal government would make California a more desirable home state for responsible digital asset companies. As digital assets and public blockchains have developed over the past decade, entrepreneurs in this space have built a more than \$3 trillion dollar sector.¹³ This period has seen risks, lessons learned, and growing regulatory understanding and clarity on how to responsibly harness these innovations. The growth of the digital asset economy and the growing sophistication of digital asset businesses speak to the attractiveness and competitiveness of U.S.-based digital asset firms. Continued competitive investment and job growth in this space will require a comprehensive regulatory framework that is supportive of innovation.

Circle also welcomes the DFPI’s continued efforts for industry participants to contribute to regulatory discussions, and encourages California to continue seeking participation from responsible industry partners in the future. Circle and other responsible industry participants have a first-hand view of market dynamics and evolving risks and should be

¹¹ CSBS, *CSBS Letter on Cryptocurrencies*, at: <https://www.csbs.org/policy/statements-comments/csbs-letter-cryptocurrencies>

¹² CSBS, *CSBS Uniform Money Transmission Modernization Act*, at: https://www.csbs.org/sites/default/files/2021-09/CSBS%20Money%20Transmission%20Modernization%20Act_1.pdf

¹³ The White House, *Executive Order on Ensuring Responsible Development of Digital Assets*, at: [https://www.whitehouse.gov/briefing-room/presidential-actions/2022/03/09/executive-order-on-ensuring-responsible-development-of-digital-assets/#:~:text=In%20November%202021%2C%20non%E2%80%91state,bank%20digital%20currencies%20\(CBDCs\).](https://www.whitehouse.gov/briefing-room/presidential-actions/2022/03/09/executive-order-on-ensuring-responsible-development-of-digital-assets/#:~:text=In%20November%202021%2C%20non%E2%80%91state,bank%20digital%20currencies%20(CBDCs).)

part of the policy formation process. Circle is also an employer in the state. It is in DFPI and the industry's interest to cultivate responsible use of this technology to enhance California's role as a central economic player in the burgeoning sector.

DFPI should also commission a study to report on the size of the digital assets industry in California. This report should establish a baseline for the number of jobs, direct and indirect, the industry supports and the related contribution to California's gross domestic product. Such data would help Californians understand the full benefits of supporting the growth of the digital asset economy.

10. How should the DFPI ensure that California values of inclusive innovation and equity focused consumer protection are core components of crypto asset-related financial products and services as it develops guidance and, as appropriate, regulatory clarity and supervision of those persons involved in the offering and provision of crypto asset-related financial products and services in California?

The DFPI can promote innovation focused on financial inclusion and consumer protection by continuing to engage and work with digital asset firms that demonstrate the values of equity, responsible innovation, and education that are core to California. Digital assets and blockchain technology are a critical tool to help increase financial inclusion because they are inherently lower cost, faster, and more accessible than a traditional bank account. Trusted digital currencies like Circle's USDC and blockchain-based financial services are enabling internet-native applications and real-world financial use cases and transactions.

For example, Circle recently announced a partnership with Coinme and the Stellar Development Foundation to enable the conversion of physical currency to USDC without a bank account, a critical step to onboarding unbanked populations to digital financial services. The facilitation of fiat conversion into USDC opens up an avenue for the unbanked in the United States — about 7.1 million U.S households in 2019 according to the FDIC¹⁴ — to have direct access to USDC and its many benefits as a frictionless, borderless, and internet-native form of financial value.

Additionally, as part of Circle Impact, Circle has allocated a meaningful share of USDC dollar reserves to community banks and minority-owned depository institutions (MDIs) across the United States, strengthening their balance sheets and therefore communities.

¹⁴ FDIC, *How America Banks: Household Use of Banking and Financial Services*, at: <https://www.fdic.gov/analysis/household-survey/2019report.pdf>

An additional pillar of Circle Impact is to drive digital financial literacy with the company's previously mentioned Digital Finance Literacy Initiative. As reiterated in the recently-published Payment Stablecoin Policy Principles, Circle promotes financial equity, inclusion and broader societal participation in lower cost payments, device-centric banking and trusted, always-on financial services can be a net benefit for historically marginalized communities.¹⁵

The growing list of companies that have adopted USDC to drive the next wave of financial inclusion includes both crypto-natives as well as incumbent payments and banking institutions. Circle has also established key partnerships to help combine some of the best practices of well-regulated, traditional financial and payments institutions with the inherent benefits of open, public blockchains. The DFPI could encourage other firms to take similar initiatives by providing incentives, guidance, and regulatory railways that would onramp meaningful action from the private sector.

More specifically, a tangible way the DFPI could encourage this type of meaningful action is to incentivise covered persons to place deposits with minority depository institutions, community development financial institutions, and community banks and credit unions located in economically distressed areas of the state. The Community Development Financial Institutions (CDFI) Fund or other economic development agency mapping tools could be a resource for implementing this effort. The DFPI could also establish a tailored community contribution plan which provides resources to back consumer education efforts, financial literacy initiatives, job training and internships, along with volunteer work and charity contributions. Within the DFPI itself, the agency could create an interagency committee to make recommendations regarding financial inclusion, and have input from economic development agencies and other partnerships on the committee to provide guidance.

CCFPL Regulation and Supervision

11. Financial Code section 90009, subdivision (a) of the CCFPL authorizes the DFPI to “prescribe rules regarding registration requirements applicable to a covered person engaged in the business of offering or providing a consumer financial product or service.” Are regulations needed to require registration of crypto asset-related financial products and services with the DFPI under Financial Code section 90009, subdivision (a) of the CCFPL?

¹⁵ See Appendix A. Circle, Payment Stablecoin Policy Principles, at: <https://www.circle.com/blog/payment-stablecoin-policy-principles>

Any firm offering digital asset financial products should be subject to sensible regulation, but the DFPI should first consider whether existing licenses would be suitable to properly regulate different types of digital asset firms before assessing whether regulation requirements for a new category of firm are necessary under the CCFPL.

Circle falls into a category that is already well-regulated along the likes of other money service businesses like PayPal, Block, Venmo, and others. California also has separate licenses for lenders, which businesses that make loans to consumers denominated in digital assets, or loans collateralized by digital assets, use. Digital asset firms that are money service businesses or lenders may not be materially different compared to businesses that lend exclusively in fiat currency, so additional registration requirements for these businesses may not be necessary for DFPI to sufficiently oversee these companies.

As Circle is enterprise facing, the primary way individuals may purchase USDC is through an intermediary with an existing Circle Account, such as an exchange, brokerage, or retail wallet service; legal entities that are not business customers of Circle can also purchase USDC this way. If an individual customer or legal entity engages with an exchange to buy USDC, they do not enter into a contract with Circle.

13. Financial Code section 90009, subdivision (c) of the CCFPL authorizes the DFPI to “prescribe rules applicable to any covered person or service provider identifying as unlawful, unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.” Are regulations needed to identify any unlawful, unfair, deceptive, or abusive acts or practices in connection with the offering of crypto asset-related financial products and services?

As stated previously, the DFPI should first and foremost seek to harmonize its regulations with those of other states and the federal government to avoid creating a regulatory patchwork that could harm the U.S. and California’s competitive edge in the digital asset space. This harmonization effort includes the definition of what constitutes “unlawful, unfair, deceptive, or abusive acts or practices.”

We also encourage the DFPI to assess whether the terms “unfair” and “deceptive,” as defined by California's Unfair Competition Law (Section 17200 of the Business and Professions Code), are cohesive with other state and federal definitions, including federal

case law. Circle believes the DFPI should prescribe rules identifying what acts or practices it would consider “abusive” because there is no clear definition at the state or federal level for such a term in the consumer financial services context. Market participants need to understand the rules of the road in order to comply with them; DFPI should issue regulations defining what constitutes abusive conduct so that covered persons can comply.

14. Financial Code section 90009, subdivision (d) of the CCFPL authorizes the DFPI to “prescribe rules applicable to any covered person to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.” Are regulations needed to ensure that features of crypto asset-related financial products and services are fully, accurately, and effectively disclosed?

Circle is supportive of responsible disclosures, particularly in the digital asset industry where businesses are able to obfuscate the nature of their products with buzzwords and techspeak. As outlined in Circle’s recently-published Payment Stablecoin Policy Principles, harmonized risk disclosures are essential preconditions of market trust and consumer protection.¹⁶

We have shown our commitment to transparency and trust by updating our product disclosures in a simple, clear, and regular manner — going beyond what is required under existing financial regulation. The USDC reserves are annually audited by a leading global accounting firm as part of Circle’s annual financial statement audit, and Circle has publicly provided monthly attestations of the size and composition of the USDC reserve, confirming that the reserve is at least as large as the amount of USDC in circulation. Most digital assets are natively transparent and auditable on-chain, a quality that can be a boon for regulators and users. Circle’s auditor performs a monthly examination of account balances (for the reserve) and on-chain totals (for the amount of USDC in circulation) to provide robust third-party assurance to the USDC ecosystem as to the accuracy of these statements.

The DFPI can encourage other digital asset products and services to take similar action by providing clear, simple rulemaking that would outline DFPI’s expectations for proper

¹⁶ See Appendix A. Circle, Payment Stablecoin Policy Principles, at: <https://www.circle.com/blog/payment-stablecoin-policy-principles>

market conduct. However, the DFPI should be cognizant of the burdens caused by compliance and complexity of new disclosures and the efficacy of different disclosure types. The DFPI should work to ensure that the barrier for new, lean businesses is low to ensure budding digital asset firms are not over-burdened and to promote California's competitive edge in attracting and keeping cutting-edge technology businesses within the state.

15. Financial Code section 90009, subdivision (f)(2) of the CCFPL authorizes the DFPI to “require any covered persons and service providers participating in consumer financial services markets to file . . . annual or special reports, or answers in writing to specific questions, as necessary for the department to fulfill its monitoring, assessment, and reporting responsibilities.” Are regulations needed to require the filing of reports in connection with the offering of crypto asset-related financial products and services?

While Circle believes in the importance of transparency to increase trust between firms, users, and regulators, the DFPI should only mandate the filing of reports if it has a clear purpose and is prepared to make good and full use of all information provided in the reports. The DFPI should strive to avoid causing any significant burden to digital asset firms that may deter businesses from operating and innovating in California.

B. Should the DFPI adopt rules requiring service providers to file reports related to the offering and provision of crypto asset-related financial products and services? If so, what should such reports contain, and which report responses should be made publicly available?

As a service provider, Circle encourages the DFPI to first seek information through voluntary reports; promoting a dialogue between the DFPI and digital asset businesses would help establish the basis for a positive and cooperative relationship. Circle has a track record of voluntarily engaging with policymakers at the state and federal level and proactively applying for licenses, including milestones such as obtaining the first BitLicense from New York state in 2015, and testimony by Circle CEO Jeremy Allaire and Chief Strategy Officer and Head of Global Policy Dante Disparte to Congress in 2013¹⁷

¹⁷ Senate Homeland Security and Governmental Affairs Committee, *Testimony of Jeremy Allaire Chairman and CEO, Circle Internet Financial Before the Senate Committee on Homeland Security and Governmental Affairs Hearing on 'Beyond Silk Road: Potential Risks, Threats and Promises of Virtual Currencies'*, at: <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Allaire-2013-11-18.pdf>

2019¹⁸, and 2021¹⁹. Circle has been, and continues to be, forthcoming with regulators and the DFPI should encourage a similar approach among other digital asset firms.

Should the DFPI decide to require reports from digital asset businesses, the state should implement safeguards to protect confidential business information from release to others. Reports to the state will likely contain sensitive and proprietary business information, and while such information could be useful to the DFPI, publicly releasing it could unfairly impact firms and damage DFPI's relationship with covered persons. The DFPI should establish a procedural rule limiting any disclosure of sensitive business information or at least due process rights with which respondents can file objections to such disclosure and request re-assessment.

Market Monitoring

16. The Executive Order directs the DFPI to conduct a market-monitoring inquiry to solicit voluntary information from companies and licensees about their cryptocurrency-related financial products and services to assist DFPI in carefully undertaking any future efforts, including formal rulemaking under the CCFPL. The DFPI invites input and comments on the market-monitoring inquiry, including in response to the following questions:

a. Which companies should the DFPI include in the inquiry?

In keeping with our commitment to transparency to consumers and regulators, and our desire to be meaningful contributors to industry discussions, Circle would be available to participate in the DFPI's market-monitoring inquiry, depending on the specific nature of the inquiry, and any of the state's future rulemaking efforts.

d. Should the DFPI publicly post its inquiry online and allow any company to voluntarily respond?

¹⁸ CoinDesk, *Circle CEO Allaire to Congress: Treat Crypto as a New Asset Class*, <https://www.coindesk.com/markets/2019/07/29/circle-ceo-allaire-to-congress-treat-crypto-as-a-new-asset-class/>

¹⁹ Circle, *Circle CEO to Congress: U.S. At 'Pivotal' Moment On Digital Assets*, at: <https://www.circle.com/blog/circle-ceo-to-congress-u.s.-at-pivotal-moment-on-digital-assets>; Circle, *Circle CSO to Senate: U.S. Is Winning the Digital Currency Space Race*, at: <https://www.circle.com/blog/written-statement-of-dante-disparte-before-the-united-states-senate-committee-on-banking-housing-and-urban-affairs>

Circle encourages the DFPI to publicly post its inquiry online for public comment. Additionally, the DFPI could foster an even deeper and more meaningful discussion with digital asset firms through a verbal, private discussion with digital asset companies.



Appendix A: Payment Stablecoin Policy Principles

In the face of continued rapid growth as well as a broad crypto market correction, the time is now for U.S. policymakers to act. Delivering a bill to the White House that simultaneously addresses the clear risks that have emerged with stablecoins, while establishing clear rules of the road such that the U.S. dollar continues to be the leading digital currency of the internet can advance U.S. leadership and economic competitiveness.

In many ways, the broad crypto market correction vindicates policymakers and regulators who have been sounding alarm bells about excess risk and correlation with emerging crypto asset markets - even if fast growing algorithmic stablecoins were largely overlooked, despite warnings. Since 2019, much of this focus and concern has been placed on stablecoins, which is a catchall term denoting many variants of asset referenced cryptographic tokens purporting to afford economic stability, thus being usable as an efficient medium of exchange. At the same time, the crypto correction, amid broader economic turmoil and risk-off behavior in capital markets, also vindicates companies that have prioritized a regulation first approach, and worked to build deeper levels of trust, transparency and accountability when compared to other market actors.

For the past two decades, electronic money, payments and broader fintech innovations have been regulated in the U.S. under Money Services Business and Money Transmission statutes. This is an approach the U.S. Department of the Treasury has embraced for crypto assets nearly ten years ago with the introduction of FinCEN's guidance for firms acting as a bridge between the existing banking system and digital assets. With digital currencies now being adopted globally as an internet-native medium of exchange, competition for the currency of the internet has now been amplified as a geopolitical and geoeconomic issue. Some are framing this as a digital currency space race, while others are arguing that the U.S. has the opportunity to lead the way, leveling the playing field amid intense international competition. As the Biden Administration's Executive Order works its way through a whole-of-government review, there is no greater testament to national unity of purpose than for Congress to act in a pro-innovation, bipartisan way on the President's Working Group on Financial Markets' (PWG) call to action on stablecoin policy.



In this spirit, the following policy principles reflect Circle’s real-world experience operating the world’s leading regulated dollar digital currency, USD Coin (USDC), which stands at more than \$54 billion in circulation. USDC has safely powered more than \$5 trillion in on-chain transactions and is available through a global network of thousands of digital wallets, exchanges and other products and services in more than 190 countries, lowering the fundamental cost of payments and financial services and establishing dollar payments utility as a native feature of the internet.

Circle’s Policy Principles

1. To the right of lawful and consistent with democratic values, the use of money should be free, irrespective of its form factor.
2. A dollar digital currency (or payment stablecoin or digital cash) is a digital bearer instrument entitling the holder to redemption at par for one U.S. dollar, even in the event of the issuer's bankruptcy.
3. The presumption and preservation of privacy should be enshrined as a design principle in the issuance and circulation of dollar digital currencies.
4. Transparency, accountability and harmonized risk disclosures are essential preconditions of market trust and consumer protection.
5. The preservation of bank and non-bank dollar digital currency issuance promotes competition, a level playing field, and rules-based upgrades in the financial system. Bank-like risks should be addressed with scale-appropriate bank grade levels, including asset liability management, operational and enterprise risk management considerations.
6. Dollar digital currency innovations are about optionality in the payments and banking system and not substitution. As such, their harmonized regulation and promotion should expand new forms of financial access through composable and programmable digital currency innovations, while promoting safe integration with existing systems of electronic money and financial markets infrastructure.
7. The promotion of interoperability, fungibility and universal exchange of comparably regulated and reserved dollar digital currencies among and between regulated intermediaries promotes competition, lowers barriers to entry and increases market choice. Stablecoin statutes should promote the development of supervisory, risk and operational frameworks for multiple issuers of the same stablecoin standard.
8. The promotion of financial equity, inclusion and broader societal participation in lower cost payments, device-centric banking and trusted, always-on financial services can be a net benefit for historically marginalized communities. This must include a digital corollary to the Community Reinvestment Act (CRA), widening the

net of participation to include community banks, minority depository institutions (MDIs) and credit unions in deposit taking, asset management and digital transformation efforts.

9. The protection, application and collective defense of all applicable and appropriate financial integrity norms, including anti-money laundering (AML), countering the financing of terrorism (CFT), sanctions requirements and, know your customer (KYC) standards, should be universally applied. This should be done in ways that advance national and global security, while upholding democratic values and embracing new innovations in digital identity and credential verification that simultaneously preserve privacy while enhancing financial integrity.
10. The application of safety, soundness and risk-adjusted prudential standards should be adopted, including in the strict adherence to cash and dollar-backed asset composition, maturity, weighting, liquidity and custody, including where appropriate, the promotion of direct custody at the Federal Reserve.
11. Dollar digital currencies should be intermediated and responsive to monetary policy and its transmission, which is a sovereign activity that is conveyed through the intermediated, well-regulated and rules-based financial system designed to preserve global trust in the U.S. dollar. This includes applicable financial stability objectives, which should preclude dollar digital currency issuers from formulating monetary policy or calibration frameworks that may be in conflict with central banking and prudential regulatory norms.
12. Dollar digital currencies provide different functionality from and can co-exist with central bank digital currencies (CBDCs). Policymaking should ensure an even playing field, robust competition and scalability, with careful consideration of technological and operational risk, while preserving the two-tier banking and payment system.
13. As a digital bearer instrument, dollar digital currencies should at all times remain backed 1:1 by equivalent dollar-backed high quality liquid assets (HQLAs) in the care, custody and control of well-regulated financial institutions and banks in a bankruptcy remote manner.
14. Dollar digital currencies should promote responsible financial services innovation and trusted forms of always-on banking and payments through the use of open, internet-scale, constantly upgradable financial markets infrastructure. This combats technological obsolescence in financial infrastructure, improves cyber resilience and security and promotes domestic and global competitiveness through payment system optionality.

15. Harmonizing national regulatory and policy frameworks for dollar digital currencies advances U.S. economic competitiveness, job creation and payment system optionality, while averting a harmful domestic “fintech constitutional crisis,” and global regulatory arbitrage. With the passage of Europe’s Markets in Crypto-Assets Framework (MiCA), which will be to crypto-assets what GDPR was to privacy, U.S. leadership is needed to avoid trans-Atlantic or global misalignment, while harmonizing standards for stablecoins.
16. The promotion, development and standardization of digital identity and credential verification standards are critical companion solutions for more inclusive, privacy-preserving dollar digital currency innovations that advance in lockstep with financial integrity.
17. Public private partnerships that employ dollar digital currencies, open financial markets infrastructure, digital wallets, decentralized identity standards and related services can advance policy through practice and the provision of digital public goods - while upgrading national, open technological infrastructure.
18. The promotion of fair market practices and the adoption of a “stablecoin Glass-Steagall Act” can help to guard against manipulative market conduct and concentration that could erode trust, trigger systemic risks and imperil market participants and consumers to financial loss.
19. Dollar digital currencies should be treated as cash or cash-equivalents under U.S. and globally accepted accounting principles to promote clarity for market participants and consistency across international standard setting bodies. Such standardization will give households, firms and financial institutions confidence in integrating and using dollar digital currencies in everyday transactions.