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Note to Clients

September 18, 2023

New York Department of Financial Services Updates Greenlist Guidance and Removes More Than 20 Coins from its Greenlist

Also Issues Proposed Updates to Guidance for Licensed Entities Regarding Listing and De-Listing of Virtual Currencies, Comments Due October 20, 2023

Overview

NY DFS Greenlist Updates

Entities holding a New York DFS BitLicense and New York-chartered limited purpose trusts engaged in virtual currency business activity (collectively, VC Entities) do not need DFS prior approval to list coins included on the DFS's Greenlist.

- In this context, DFS issued updated guidance on their [General Framework for Greenlisted Coins](#) (which clarifies that it may add to or remove from [the Greenlist](#) at any time, in its sole discretion) and removed several coins from the Greenlist including Ripple/XRP, Dogecoin, and Litecoin, amongst more than twenty others.
- The updated Greenlist includes only eight coins: Bitcoin (BTC), Ethereum (ETH), and a series of stablecoins issued by DFS licensed entities – Gemini Dollar (GUSD), GMO JPY (GYEN), GMO USD (ZUSD), Pax Gold PAXG), Pax Dollar (USDP), and PayPal Dollar (PYUSD).
- The DFS release indicates that in order to mitigate the potential for market disruption, VC Entities that currently list coins that are no longer included on the Greenlist are not required to immediately delist the removed coins.
- Instead, DFS will coordinate with all VC Entities as appropriate to ensure each VC Entity has an approved coin-delisting policy and associated procedures, as described below, prior to requiring the delisting of any coin.

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Proposed Updated Guidance on Listing and De-Listing Policies for VC Entities

Consistent with December 2020 DFS guidance, VC Entities may also create, and seek DFS approval of, a firm-specific self-certification policy for the listing of new coins beyond the Greenlist, subject to DFS guidance on those policies. [DFS issued a proposal](#) that would (1) update its guidance regarding the expectations on the coin-listing process for retail consumer-facing businesses, and (2) require VC entities to receive DFS approval of a coin delisting policy. Comments are invited and are due by October 20, 2023. Under the proposal:

- Prior to listing certain coin types, and notwithstanding the existence of a DFS approved self-certification policy, retail consumer-facing businesses would be required to submit to DFS a formal request for approval and a risk assessment for the coin.
 - The updated guidance, as proposed, would also require licensees to develop and submit to DFS for approval a coin-delisting policy that meets a series of DFS standards, notably including a governance process for making the de-listing decision, a detailed description of the de-listing process, a notifications timeline, and various customer support, documentation, monitoring, and impact analysis requirements (demonstrating the ability to discontinue support of a coin in a manner that is consistent with safety and soundness and with protection of customers and the general public).
 - The proposal indicates that VC entities must submit a coin-delisting policy to DFS for approval by January 31, 2024 and that VC Entities must meet with DFS by December 8, 2023 to discuss their draft coin-delisting policy.
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About us:

Miller Strategic Partners LLP is a law firm headquartered in New York City. We advise clients on trading and markets regulatory and commercial matters, investigations, and crisis management scenarios.

Key Contacts:

Ryne Miller, Partner (New York)
ryne@millerstrategic.co

William Schroeder, Partner (New York)
bill@millerstrategic.co

Web:
MillerStrategic.co

X / Twitter:
[@MSP_Law](https://twitter.com/MSP_Law)

Instagram:
[@MillerStrategicPartners](https://www.instagram.com/MillerStrategicPartners)

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