



September 21, 2026

Via Email to Ethan.Goldstein@dfs.ny.gov

Mr. Ethan Goldstein
New York Department of Financial Services
One State Street Plaza
New York, NY 10004

**Re: Proposed New 23 NYCRR Part 202 Authorized Payment Stablecoin Issuers;
Comments of Attion Consulting LLC**

Dear Mr. Goldstein,

Attion Consulting LLC (“Attion”) appreciates the opportunity to comment on the New York State Department of Financial Services’ (the “Department”) Proposed New 23 NYCRR Part 202 Authorized Payment Stablecoin Issuers.¹

Attion is a strategic advisory firm focused on financial services institutions, with work centered on licensing strategy, regulatory frameworks, and operating model design for regulated financial platforms. Prior to founding Attion Consulting, I spent roughly two decades working on the design and growth of non-interest-bearing deposit franchises at commercial banks, including roles at Republic National Bank of New York and Signature Bank. My work included structuring middle market and institutional deposit relationships, including escrow, control account, and fiduciary arrangements, and operating within regulatory frameworks governing deposit pricing and incentive structures. I served as the first line of defense on Regulation W and, separately, Regulation Y compliance, and my responsibilities included review and approval of bundled pricing arrangements.

These perspectives inform the observations below regarding anti-tying considerations, customer disclosures, and affiliate transactions.

Prohibition on Tying

Proposed § 202.4(c) requires an authorized payment stablecoin issuer (APSI) to comply with the prohibition on tying in Section 4(a)(8) of the Guiding and Establishing National Innovation for U.S. Stablecoins Act (the “GENIUS Act”).² Attion supports the prohibition. However, additional guidance regarding its application would assist APSIs in designing products and customer relationships that comply with the statute.

¹ NYS Register, July 22, 2026, Vol. XLVIII Issue 29 at p. 8.

² GENIUS Act, Pub. L. No. 119-27, 139 Stat. 419 (2025).

In particular, Section 4(a)(8) prohibits an APSI from providing services on the condition that a customer obtain an "additional paid product or service" from the issuer or its subsidiaries. Payment stablecoin relationships may involve issuance, redemption, custody, wallet, transfer, and other account services. Guidance distinguishing features or services that are integral to the payment stablecoin relationship from an "additional" product or service would provide useful clarity to issuers.

Additional guidance regarding what constitutes a "paid" product or service would also be useful. For example, it is unclear whether the term is limited to products or services for which a customer pays an explicit fee, or whether minimum balance, minimum activity, compensating balance, or similar economic requirements may cause an otherwise fee-free product or service to be considered "paid."

Attion encourages the Department to coordinate with the Federal Reserve Board and other primary Federal payment stablecoin regulators to develop guidance addressing these distinctions. Clear standards would allow APSIs to develop integrated stablecoin products and services without inadvertently creating prohibited tying arrangements.

Prohibition on Tying for New York State-Chartered Banks with PPSI Subsidiaries

The Department has emphasized its continuing supervisory authority over New York-chartered IDIs that establish permitted payment stablecoin issuer (PPSI) subsidiaries in its comments³ on the FDIC's proposed rule *Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions*.⁴ As New York-chartered IDIs consider offering payment stablecoins through PPSI subsidiaries, additional guidance regarding the application of existing federal bank anti-tying requirements would be useful.

Section 106 of the Bank Holding Company Act Amendments of 1970⁵ and the exceptions contained in Regulation Y⁶ establish longstanding requirements governing the circumstances in which a bank may condition the availability or pricing of one product or service on a customer's obtaining another product or service. The treatment of payment stablecoins and their associated issuance, payment, settlement, and redemption functions under those exceptions, however, is unclear.

For example, an IDI and its PPSI subsidiary may wish to condition direct redemption of the payment stablecoin on the holder establishing or maintaining a deposit account with the parent IDI. IDIs may also seek to encourage adoption of a subsidiary PPSI's

³ N.Y. Dep't Fin. Servs., Comment Letter on Proposed Rule Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions (May 15, 2026), <https://www.fdic.gov/federal-register-publications/new-york-department-financial-services-kaitlin-asrow-rin-3064-ag20>.

⁴ Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions, 90 Fed. Reg. 59409 (Dec. 19, 2025) (to be codified at 12 C.F.R. Part 303).

⁵ Bank Holding Company Act Amendments of 1970, 12 U.S.C. § 1972(1).

⁶ Exceptions to Tying Restrictions, 12 C.F.R. § 225.7 (2026).

payment stablecoin through bundled product offerings or relationship pricing, such as offering a reduced rate on a loan product if payments are made using the subsidiary PPSI's payment stablecoin, or counting the market value of a customer's payment stablecoin holdings toward relationship balance requirements for other IDI products or services.

Attion asks the Department to encourage the Federal Reserve Board to provide guidance regarding the application of Section 106 and Regulation Y to these arrangements, including how payment stablecoins and their associated issuance, payment, settlement, and redemption functions should be treated under the traditional bank product exceptions, with appropriate consideration of the differing treatment of subsidiaries of state member and state nonmember IDIs.

Consumer Disclosures

Attion encourages the Department to establish safe harbors for payment stablecoin disclosures that emphasize clarity and brevity. Via a combination of iconography and short statements, an appropriate disclosure should state: (1) that the token is issued by a regulated issuer, (2) that the token is not FDIC insured, (3) the name of the issuer (or white-label provider, if applicable), (4) the identity of the primary regulator, and (5) a warning, if applicable, that transactions using the token are irreversible. The content and format of this disclosure should be harmonized across all primary payment stablecoin issuer regulators.

APSI should provide a fuller set of disclosures on their primary user interfaces and webpages. Attion urges caution in overloading customers with disclosure text and is particularly concerned about overemphasis on disclosures that a payment stablecoin is not "legal tender." Customers may misinterpret this term, which could create confusion about whether a payment stablecoin is valid consideration in transactions and commercial contracts.⁷

Insider and Affiliate Transactions

Attion generally supports the safeguards for insider and affiliate transactions in proposed § 202.10(f). The Department should clarify, however, that these requirements are not intended to restrict a parent company from providing capital, liquidity, operational, or other support to an APSI during periods of stress, provided such support can be provided in a safe and sound manner.

⁷ See generally Daniel Schwarcz, Brenda Cude, Kyle D. Logue, and German Marquez Alcala, Read But Not Understood? An Empirical Analysis of Consumer Comprehension in Homeowners Insurance, 112 Va. L. Rev. 727 (2026), available at https://scholarship.law.umn.edu/faculty_articles/1206; Tess Wilkinson-Ryan, The Perverse Consequences of Disclosing Standard Terms, 103 Cornell L. Rev. 117 (2017); Oren Bar-Gill & Kevin E. Davis, (Mis)perceptions of Law in Consumer Markets, 19 Am. L. & Econ. Rev. 245 (2017). Collectively, this literature suggests that legal disclosures and terminology do not invariably improve consumer understanding and, in some circumstances, may create consumer confusion.



In particular, the standard in § 202.10(f)(1)(ii)(b) should not be interpreted to preclude beneficial parent support merely because comparable support would not be offered to an unaffiliated entity.

Attion commends the Department for its continued leadership in promoting responsible financial innovation. Thank you for the opportunity to provide comments. Attion would be pleased to provide additional information or respond to any questions the Department may have regarding the observations offered in this letter.

Respectfully submitted,

/s/ Alyson L. Stone

Alyson L. Stone
Founder & Principal
Attion Consulting LLC