



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

FROM: Benjamin M. Lawsky, Superintendent of Financial Services

DATE: November 14, 2013

RE: Notice of Intent to Hold Hearing on Virtual Currencies, Including Potential NYDFS Issuance of a 'BitLicense'

In August 2013, the New York State Department of Financial Services (NYDFS) issued a public notice that it has launched an inquiry into the appropriate regulatory guidelines for virtual currencies.¹ In that notice, we wrote that it is important for regulators to balance both allowing new technologies and industries to flourish, while also working to ensure that consumers and our country's national security remain protected.

NYDFS launched its inquiry in part because of evidence that the cloak of anonymity provided by virtual currencies has helped support dangerous criminal activity, such as drug smuggling, money laundering, gun running, and child pornography. Indeed, the same week that NYDFS issued its public notice, a national magazine published an interview with an alleged key figure in the black market drug website "Silk Road," who cited the virtual currency Bitcoin as a key ingredient in the site's efforts to commit illegal acts.² Law enforcement authorities have subsequently taken action in the Silk Road case.

Virtual currencies may have a number of legitimate commercial purposes, including the facilitation of financial transactions. That said, NYDFS also believes that it is in the long-term interest of the virtual currency industry to put in place appropriate guardrails that protect consumers, root out illegal activity, and safeguard our national security. Failing to do so would not only threaten the virtual currency industry as a legitimate business enterprise, but could also potentially expose virtual currency firms to extraordinarily serious criminal penalties.

As the next step in our inquiry, we are providing notice that NYDFS intends to hold a public hearing on virtual currency regulation in New York City in the coming months at a time and location to be determined. We will announce logistical details for the hearing in the near future.

¹ Notice of Inquiry on Virtual Currencies," NYDFS, August 12, 2013, see: <http://www.dfs.ny.gov/about/press2013/memo1308121.pdf>

² "Meet The Dread Pirate Roberts, The Man Behind Booming Black Market Drug Website Silk Road," Forbes, Andy Greenberg, August 14, 2013, see: <http://www.forbes.com/sites/andygreenberg/2013/08/14/meet-the-dread-pirate-roberts-the-man-behind-booming-black-market-drug-website-silk-road/>

This upcoming public hearing is part of an ongoing fact-finding effort informing NYDFS's determination regarding the appropriate regulatory guidelines for virtual currencies. As part of its August 2013 notice, NYDFS stated that it was concerned that certain virtual currency firms may be engaging in money transmission, which is an activity that is licensed and regulated by our Department. However, we also said that we were considering whether to issue new regulatory guidelines tailored specifically to the unique characteristics of virtual currencies.

Our public hearing will review the interconnection between money transmission regulations and virtual currencies. Additionally, the hearing is also expected to consider the possibility and feasibility of NYDFS issuing a 'BitLicense'³ specific to virtual currency transactions and activities, which would include anti-money laundering and consumer protection requirements for licensed entities. Among the issues related to the potential issuance of a BitLicense that we are considering include but are not limited to the following:

- What specific types of virtual currency transactions and activities should require a BitLicense?
- Should entities that are issued a BitLicense be required to follow specifically tailored anti-money laundering guidelines?
- Should entities that are issued a BitLicense be required to follow specifically tailored consumer protection guidelines?
- Should entities that are issued a BitLicense be required to follow specifically tailored regulatory examination requirements?

To be clear, NYDFS has not made a determination at this point about the necessary regulatory guidelines for virtual currencies. Our Department is currently engaged in a broad-based inquiry on virtual currency. The virtual currency industry represents a new frontier in electronic commerce, and it is important that regulators obtain the necessary information – through a rigorous, deliberate fact-finding effort – to set appropriate guardrails for this industry.

Indeed, it is not clear at this point whether virtual currencies will become a long-term, prevalent fixtures of the electronic commerce world. But given the increased demand from consumers and investors, as well as demonstrated concerns regarding money laundering, regulators would be remiss if they turned a blind eye to virtual currencies. We have a responsibility to take a hard look at these issues.

We look forward to continuing to work with the virtual currency industry as our inquiry proceeds.

³ For the avoidance of doubt, a potential "BitLicense" could apply to firms involved with all virtual currencies, not just Bitcoin.