



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

FROM: Benjamin M. Lawsky, Superintendent of Financial Services

DATE: August 12, 2013

RE: Notice of Inquiry on Virtual Currencies

New York has a long history of promoting technological innovation – both within the financial sector and across our economy.

As innovative products emerge, it is critical to take steps that allow new technologies and industries to flourish, while also working to ensure that consumers and our national security remain protected.

The emergence of Bitcoin and other virtual currencies has presented a number of unique opportunities and challenges. Building innovative platforms for conducting commerce can help improve the depth and breadth of our nation's financial system. However, we have also seen instances where 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.

If virtual currencies remain a virtual Wild West for narcotraffickers and other criminals, that would not only threaten our country's national security, but also the very existence of the virtual currency industry as a legitimate business enterprise.

Indeed, it is in the common interest of both the public and the virtual currency industry to bring virtual currencies out of the darkness and into the light of day through enhanced transparency. It is vital to put in place appropriate safeguards for consumers and law-abiding citizens.

As such, the Department of Financial Services (DFS) has launched an inquiry into the appropriate regulatory guidelines that it should put in place for virtual currencies. DFS has already conducted significant preliminary work regarding this inquiry, including making requests for information from virtual currency firms. Based on that initial work, we are concerned that – at a minimum – virtual currency exchangers may be engaging in money transmission as defined in New York law, which is an activity that is licensed and regulated by DFS.

Under current DFS regulations, firms engaging in money transmission are required to post collateral in order to better safeguard customer account funds. Additionally, they are required to undergo periodic safety and soundness examinations, as well as comply with applicable anti-money laundering laws. These guidelines for money transmitters help protect consumers and root out illegal activity.

However, DFS is also considering whether it should issue new regulatory guidelines specific to virtual currencies – rather than simply apply existing money transmission regulations. As such, we could also move forward with new guidelines that are tailored to the unique characteristics of virtual currencies.

We believe that – for a number of reasons – putting in place appropriate regulatory safeguards for virtual currencies will be beneficial to the long-term strength of the virtual currency industry.

First, safety and soundness requirements help build greater confidence among customers that the funds that they entrust to virtual currency companies will not get stuck in a digital black hole. Indeed, some consumers have expressed concerns about how quickly their virtual currency transactions are processed. Taking steps to ensure that these transactions – particularly redemptions – are processed promptly is vital to earning the faith and confidence of customers.

Second, serving as a money changer of choice for terrorists, drug smugglers, illegal weapons dealers, money launderers, and human traffickers could expose the virtual currency industry to extraordinarily serious criminal penalties. Taking steps to root out illegal activity is both a legal and business imperative for virtual currency firms.

Finally, both virtual currency companies – and the currencies themselves – have received significant interest from investors and venture capital firms. Similar to any other industry, greater transparency and accountability is critical to promoting sustained, long-term investment.

We look forward to working with the virtual currency industry and other stakeholders as our inquiry proceeds, and we move to put in place appropriate regulatory guardrails to protect consumers and our national security.