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Ladies and Gentlemen:

I am a New York lawyer and advisor and bitcoin industry developer who works with several startup companies and entrepreneurs. I submit herewith my initial comments on the proposed virtual currency regulations first released by the Department on July 24, 2014. These comments are not exhaustive, and further comments may be forthcoming.

It is feared that New York State's proposed regulations on virtual currency (most commonly referred to as Bitcoin) may drive new virtual currency founders out of the state and soon make it hard for any New Yorker to buy or sell Bitcoin. These consequences may not be the stated intent of the proposed regulations, but they may be their effect. While some commentators have tried to dismiss these concerns as exaggerated or hysterical, a careful evaluation of the proposed regulations reveals three legitimate "macro" concerns which support such strong concerns and justify the alarm with which many industry participants have reacted to the regulations as first proposed.

The first concern arises from the burdens on industry participants which do not have the great financial resources of major international financial institutions. There is the fear that this regulatory scheme will lead to eventual domination of an emerging field by large multinationals (which as licensed banks are exempt from the regulations), who may eventually end up hiring the very same regulators in the symbiotic revolving door between big business and big government. There are concerns within the industry that the regulations are either designed to or likely will force smaller players out of the industry or at least out of the New York market in favor of established financial institutions, which not coincidentally are the same institutions most likely to be potential future employers of today's regulators, legislators, lobbyists and other "players" in the government.

Some of the proposed virtual currency regulations mirror existing state requirements for regular banks. It must be noted that your agency's own guidance for those considering forming a bank in the New York metropolitan area suggests that prospective banks have minimum capital of \$50 million net of startup costs. (See <http://www.dfs.ny.gov/banking/iac2b.htm>). The proposed regulations also impose requirements for written anti-money laundering, know-your-customer and cybersecurity policies as well as the requirements to report "suspicious" transactions. Bitcoin and virtual currency bitcoin businesses are largely internet dependent and as such their operations involve concerns about cybersecurity, both for the companies' internal operations and as regards the safety of any customer information or transaction information. However, the burden of these requirements is likely to be absolutely draconian in expense (both in time and money) in relation to the size of business

conducted. This raises serious questions as to whether the proposed regulations are appropriate for the virtual currency industry in general, and also whether they support the inference that the Department believes that companies should have capital and compliance abilities on the level of banks in order to engage in this industry within the State of New York.

I urge the Department to carefully consider whose interests are protected by any regulatory scheme which limits their choices of service providers or forms of payment to merchants, and encourages oligopolies in the name of "consumer protection."

The second concern arises from the broad definition of a "New York person." As currently drafted, the regulations will require anyone in the business of buying and selling virtual currency to a "New York person" to get a state-issued "bitlicense." (Note: I use that term for the ease of third parties who may read this comment and who commonly refer to the proposed regulations as imposing a "bitlicense.") However, the initial draft of the regulation has broadly defined this term. The unavoidable result of such broad scope is that the definition can be interpreted to reach all sorts of people and companies with minimal contact with the state. Residing part-time in New York, even for one day, could make that person subject to the rule as a customer, meaning businesses might not accept that person as a customer. This is no different from the practice in the heavily-regulated securities brokerage industry, where broker-dealers will only handle customer accounts for people living in certain states where the broker-dealer is licensed). And of course, any trust, corporation or other entity with any connection to New York, even a satellite office, becomes subject to the regulation whether it is engaged in the exchange business or other specified "virtual currency business activity."

One is entitled to candidly wonder whether the burden of these regulations makes it worth it for a bitcoin industry business to either stay in New York or accept business from "New York persons" which makes that business, no matter where it is located, subject to the New York regulation. Of course, it bears mentioning that the largest international financial institutions which already comply with equivalent requirements would gain a substantial competitive advantage if not a virtual government-sanctioned oligopoly.

There is a third "macro" concern arising from the regulation as proposed. As a "coin" or unit of virtual currency is really only a unit of data, units or bits of data are the same objects whether they are used as currency or as part of a database. The regulation as drafted fails to distinguish between the various uses of the Bitcoin technology and instead targets the technology itself. As currently written, the regulation threatens to govern Bitcoin in **any use including uses or applications having nothing to do with use as a currency or medium of exchange**. That is because Section 200.2(m) of the regulation defines "virtual currency" as:

"...any type of digital unit that is used as a medium of exchange or a **form of digitally stored value** or that is incorporated into payment system technology."

It seems the Department may have intended to regulate and limit the use of Bitcoin as a form of currency, but the regulation as presently proposed has a broader scope that covers Bitcoin as an object. If the regulation intends only to cover and regulate its use as a currency or form of medium of exchange, the regulation needs to be more narrowly drafted to clarify its true scope. I urge the Department to revise the regulation to clarify that the regulation would only cover the **use** of Bitcoin-based technologies as a currency or medium of exchange, but would not seek to regulate its use for other information technology applications.

This clarification is of crucial importance given that the modern post-industrial economy is information-centric. Any regulation imposing a regulatory cost on the transfer or maintenance of information is virtually guaranteed to impose a serious competitive disadvantage on New York State;

in fact, such a regulation would threaten New York City's very stature as a world center of international finance and commerce.

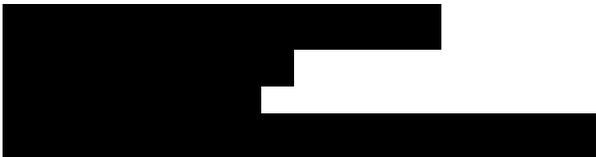
It has been my experience in talking with virtual currency industry participants that an inference as to an overall hostility towards small business and in particular towards an innovative technology has been drawn. If the Department did not intend such an inference, it is incumbent upon the Department to clarify the revised regulations and redraft them with an eye towards not making New York State prohibitively expensive for all but the largest financial institutions to participate in this emerging industry. As it stands now, the foreseeable consequence of the proposed regulations is that Bitcoin industry participants will move their operations to friendlier jurisdictions where they are able to compete on a fairer and more level playing field. However, another possible result is that some companies will refuse to do business with anyone situated in the State of New York. (Indeed, some companies have already threatened to take this approach.)

The regulations do not only cover doing business in New York. They affect anyone in the world doing business with someone living in New York State. They affect all New York residents and threaten to reduce New Yorkers' choices as consumers in virtually any field of product or service. They make New York State a frying pan, and New Yorkers hot potatoes, in an increasingly competitive and global world economy.

There is the danger that regulators and elected officials have simply overvalued and overrated the attractiveness of the New York market to entrepreneurs in an age where the flow of information, capital and people is increasingly unrestrained, and where neighboring jurisdictions are often able to offer friendlier climates in which to run businesses, own property and raise families. This is a reality which New York's government leaders should confront if they wish this State, and New York City in particular, to retain its current status as an international leader.

Sincerely

Eric Dixon, Esq.  
Eric Dixon LLC

A large black rectangular redaction box covering the signature and contact information of Eric Dixon.