FIX THE BITLICENSE

The official response of Boost VC, Bitcoin Accelerator in coordination with Aaron Wright, Director of Tech Startup Clinic at Cardozo Law School, and Mickey Costa, founder of Atlas Card

Benjamin M. Lawsky
c/o Mr. Dana V. Syracuse
New York Department of Financial Services
One State Street
New York, NY 10004-1511

Dear Superintendent Lawsky & Mr. Dana V. Syracuse,

We, the undersigned, are a coalition of start-ups, venture capitalists, and other technologists who believe in the broad potential of virtual currencies, Bitcoin, and other blockchain technology.

We have reviewed the Department of Financial Services' proposed "BitLicense" regulations (DFS-29-14-00015-P, "Regulation of the conduct of virtual currency businesses"), and are aware that several letters requesting an extension of the 45-day comment period have been sent to your office. We write to echo these requests and to further request a meeting with either you or a member of your staff to outline the impact that the proposed "BitLicense" regulations will have on the growth and adoption of this powerful technology, not only in New York but around the globe. This is because we disagree with the thought process behind the creation of the "BitLicense" regulations; we feel that it will inhibit innovation, growth, and job creation. We feel that regulation is important to the Bitcoin ecosystem, but not in its current, suggested form.

The Rapid Adoption of Bitcoin Technology

Bitcoin adoption and venture capital investment has increased dramatically since the Department of Financial Services launched its inquiry into Bitcoin earlier this year. By the end of 2014, it is estimated that over 8 million people will own or conduct business using Bitcoin or other virtual currencies, a yearly increase of over 700%.[1] Every day more and more consumers are using bitcoin, as large retailers like Dell, Expedia, and Overstock.com agree to accept bitcoin for their services, with this trend growing at an exponential rate over the next several years. John Donahoe, the Chief Executive Officer of eBay, has stated that Bitcoin is the key to the future of online payments and anticipates that the virtual currency will play an "important role" in the e-commerce giant's online payment platform PayPal.[2] Apple also has adopted a Bitcoin-friendly policy permitting Bitcoin wallet apps appearing for download in the iOS App Store -- a policy which will spur increased consumer adoption.[3]

Venture capital investment has followed pace. In June 2013, there was a mere $17.1 million dollars invested in seven Bitcoin related startups.[4] As of July 2014, that number has swelled to over $240 million dollars for over 49 different companies -- a year-over-year increase of roughly 1,200%.[5] There are currently more than 400 companies overall in the Bitcoin space. The greatest number of venture capital based Bitcoin companies are in the United States, accounting for over 75% of the total dollars invested. Venture capital expenditures show no sign of stopping, and have accelerated over 28% on a quarter-by-quarter basis.[6]

The rapid adoption of -- and investment in -- Bitcoin technology reflects its wide ranging application and potential to fundamentally rewire how the world conducts business. Bitcoin technology is the result of over twenty years of complex, technological research. It provides, for the first time, a way for one Internet user to transfer a unique piece of digital property to another Internet user, such that the transfer is guaranteed to be safe and secure, everyone knows that the transfer has taken place, and nobody can challenge the legitimacy of the transfer.

The technology has the potential to serve as the backbone of a new "Internet of Value" which could have a greater economic and societal impact than the Internet itself. The "Internet of Value" will consist of a range of new products and businesses based on Bitcoin technology, which will not only consist of digital money, but also digital contracts, digital keys (to physical locks, or to online lockers), digital ownership of physical assets such as cars and houses, and a digital identity layer that could prevent the massive and increasingly common privacy leaks that have plagued the Internet.

Once adopted, the technology will impact how the entire world conducts business, by making money transfers -- and eventually property transfers -- nearly frictionless. Through the use of virtual currencies, it is entirely conceivable that in several years it will be as easy to transfer value and other property to someone in Africa as it is to transfer property to someone in New York. As a result, it is hardly surprising that prominent venture capitalists such as Marc Andreessen of Andreessen Horowitz and Albert Wenger of Union Square Ventures -- early investors in companies such as Facebook, Twitter, Pinterest, Etsy, and Tumblr -- have analogized the anticipated impact of Bitcoin technology to that of the personal computer in the 1970s and the Internet in the mid-1990s.[7] This sentiment has been confirmed by large US companies, such as IBM, which has indicated that Bitcoin technology could be as large as the Internet itself.[8]

If Bitcoin technology fulfills its perceived potential, it could power a new engine of growth in the United States, creating millions of new businesses and jobs. This impact is hard to understate. The technology could affect $3.4 trillion dollars of "trust based" services, including payment processing services, foreign exchange trading, wire transfer services, exchange trading, escrow services, title insurance, trust management, notary services, and collections.[9]

Bitcoin's technology is not just limited to the United States. Its impact will be felt globally, empowering billions of people in underdeveloped countries to plug into the world economy for the first time. The technology has the potential to create a new digital infrastructure that can provide people around the globe with a stable currency, worldwide banking functionality, and the ability to transact business using standardized digital contracts. Due to this innovation, Bitcoin technology could unleash trillions of dollars of "dead capital"[10] and help lift nations out of poverty.

The Proposed "BitLicense" Regulations

Given the broad potential of Bitcoin technology, we are deeply concerned with the Department of Financial Services' overreaching proposed "BitLicense" regulation. If strictly read, the proposed regulations would cover nearly every non-merchant or consumer use of Bitcoin technology. It would cover not only custodial services that store consumers' Bitcoin, but also a range of Bitcoin related startups, including: (i) exchanges; (ii) merchant payment processors; (iii) investment vehicles that hold virtual currencies; (iv) mining pools; (v) companies that do not have wallets; (vi) developers that program and release software for non-open source decentralized currencies; and (vii) market makers.

Covered services would be subjected to tens -- if not hundreds -- of thousands dollars in annual compliance and regulatory requirements, even if there is no evidence that the service was being used for money laundering or to effectuate consumer fraud. Equally concerning, the regulations would strip startups of the power to innovate, since they would be required to seek permission from the Department of Financial Services to implement new features or technology.

The proposed regulations thus create a hostile environment for new or financially unsupported startups seeking to use Bitcoin technology. The regulations will force companies to avoid New York customers and entirely avoid the New York market. High compliance costs and legal fears will force honest actors who are experimenting with virtual currencies underground, potentially creating hard to regulate, anonymous markets that will fuel the illicit activities that the BitLicense regulations seek, in part, to address.

We believe that such a result undercuts the New York Department of Financial Services' stated goals of establishing New York as an important virtual currency hub and promoting beneficial innovation.

Need for Additional Time and Meetings with Department of Financial Services

The undersigned seek to work with the Department of Financial Services to strike the right regulatory balance to ensure New York maintains its status as a hub for virtual currencies, while at the same time encouraging this technology's continued adoption. In order to achieve that goal, we respectfully request that Department of Financial Services extend the comment period until December 31, 2014, so that we can carefully consider the regulations and submit a thoughtful comment.

Our goal is to craft a revised version of the BitLicense regulations, which would build upon the current proposal to ensure that the regulations achieve:

1) Transparency, so that the Department of Financial Services and other governmental bodies address money laundering and other illicit activity in a way that aligns with the current federal regimen outlined by the Federal Financial Crimes Enforcement Network;

2) Consumer and Asset Protection, so that consumers do not needlessly lose valuable assets through the implementation of insufficient security measures or a failure to recognize the current risks associated with Bitcoin and other virtual currencies, without the need for arbitrary and ad hoc depository requirements;

3) A Safe Harbor, "On Ramp," or De Minimis Exception, so that startups who are custodians of small amounts of virtual currencies or who are not custodial in nature have the ability to continue to innovate and use virtual currency technology as part of their businesses; and

4) Clarity, so that the proposed BitLicense regulations eliminate regulatory ambiguity -- in terms such as "virtual currency business," "transmission," "storage," "secure," and "control" -- which will enable startups and investors to properly assess the risk of operating Bitcoin-related companies.

We recommend a meeting or forum between regulators and the Bitcoin community, including venture capitalists, entrepreneurs, startup accelerators, early adopters, and consumers.

We believe that that such improvements will result in regulations that can serve as a blueprint to other governmental bodies in the United States and around the world, cementing New York's and the United States' position as a leader in the next generation of Internet enabled technology.

We look forward to hearing from you about our request for an extension of time to submit a comment and look forward to meeting with the Department of Financial Services to discuss the need for these important changes to the BitLicense regulations.

Respectfully submitted,

VIEW THE 504 UNDERSIGNED, ATTACHED

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[1] Coindesk, State of Bitcoin Q2 2014, Presented at the July 10th, 2014 CoinSummit Conference in London.

[2] Matthew J. Belvedere, Bitcoin key to future of online payments: Ebay CEO, June 5, 2015, available at http://www.cnbc.com/id/101734293#.

[3] CNN, Apple welcomes back top Bitcoin wallet app, July 28, 2014, available at http://money.cnn.com/2014/07/28/technology/innovationnation/apple-bitcoin/

[4] Coindesk, State of Bitcoin Q2 2014, Presented at the July 10th, 2014 CoinSummit Conference in London.

[5] Id.

[6] Id.

[7] Marc Andreessen, Why Bitcoin Matter, available at http://blog.pmarca.com/2014/01/22/why-bitcoin-matters/; Albert Wegner, Bitcoin as a Protocol, available at https://www.usv.com/posts/bitcoin-as-protocol

[8] Finextra, Inverview of Richard Brown, IBM, Executive Architect for Banking and Financial Markets Industry Innovation, November 6, 2013, available at https://www.youtube.com/watch?v=VDO7TDMlxsY

[9] Wedbush, The Timing and Sizing the era of Bitcoin, available at https://equities.wedbush.com/clientsite/Research/ActionAlertFilePreview.asp?UUID=9192D81F-5C98-44C6-AA4A-8884B1DC78DD

[10] “Dead capital” is an economic term related to property which is informally held, but not legally recognized. The uncertainty of ownership decreases the value of the asset.