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September 3, 2014

**VIA FEDERAL EXPRESS AND E-MAIL**

New York State Department of Financial Services  
Office of General Counsel  
One State Street  
New York, New York 10004

**Attn:** Dana V. Syracuse

**Re:** Proposed Regulatory Framework for Virtual Currency Businesses

Dear Mr. Syracuse:

We appreciate the opportunity to provide the Department of Financial Services (DFS) with comments regarding its proposed approach to regulate New York virtual currency businesses.

Sutherland Asbill & Brennan represents a broad base of insurers and reinsurers, both domestic and alien, each issuing a wide range of insurance and reinsurance products. Our clients work with insurance professionals and regulators throughout the United States.

We applaud the DFS's efforts at regulating this new industry. As the first state to issue proposed virtual currency regulations, New York continues to be a leader in the financial services sector. The regulations impose sensible anti-money laundering and cyber security safeguards, which we find appropriate.

Our concern is narrowly focused on one provision, Section 200.19(g) – Prevention of Fraud, specifically the phrase “victims of fraud shall be entitled to claim compensation from any trust account, bond, or insurance policy maintained by the Licensee.” As currently drafted, it is unclear what this provision seeks to accomplish. It could be read as requiring that all licenses maintain a certain level of insurance coverage, bond or trust accounts covering victims of fraud, or alternatively to note that any moneys recovered by an insured/licensee under an insurance contract or bond, or held in trust accounts by the licensee, would be available to defrauded consumers. It could also be read as creating a private right of action allowing a victim of fraud

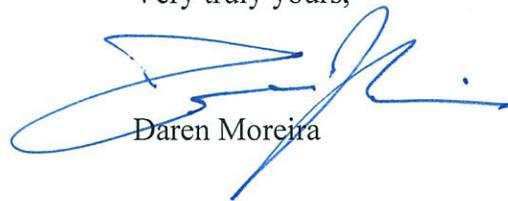
to directly access insurance policies, bonds and trust accounts maintained by a licensee, whether or not the policy of insurance, bond or trust account even covered such peril. Further clarification as to what the DFS's objective would be in implementing Section 200.19(g) would be helpful to consumers, insureds and insurers alike.

It would be highly unusual for DFS to create a private right of action which functions as a cut-through provision allowing defrauded consumers to seek recovery directly under an insurance policy, bond or trust account. It would be even more unusual to allow such a recovery where the existing insurance, bond or trust does not extend to coverage for consumer fraud. Doing so may even be inconsistent with the proposed regulations' enabling statutes and their legislative history.

For these reasons, we urge the DFS to clarify the intended meaning of Section 200.19(g), and whether it seeks to protect consumers by requiring that licensees maintain adequate insurance coverage, bonds and/or trust accounts to cover defrauded consumers.

We thank the DFS for the opportunity to provide input on this important matter and appreciate its attention to the concerns highlighted in this letter. If you have any questions, please do not hesitate to contact the undersigned at [REDACTED] or [REDACTED]

Very truly yours,



Daren Moreira