



October 20, 2014

Mr. Dana V. Syracuse
Office of General Counsel
New York State Department of Financial Services
One State Street
New York, NY 10004

Re: Notice of Proposed Rulemaking for the Regulation of the Conduct of Virtual Currency Businesses I.D. No. DFS-29-14-00015-P

Dear Mr. Syracuse:

Amazon.com, Inc. ("Amazon") respectfully submits the following comments to the Notice of Proposed Rulemaking, I.D. No. DFS-29-14-00015-P ("Notice") issued by the New York State Department of Financial Services ("DFS"). Amazon appreciates the opportunity to comment upon the issues raised in the Notice.

The Notice would establish a regulatory licensing framework for virtual currency businesses engaged in certain types of activities involving New York or a New York resident. The Notice broadly defines "virtual currency."¹ It also contains two narrow exceptions for virtual currency used solely within online gaming platforms and virtual currency used exclusively as part of a customer affinity or rewards program that can only be applied towards purchases from the issuer or designated merchants and cannot be converted into or redeemed for fiat currency.²

Amazon recognizes the challenges faced by the DFS in issuing rules to regulate virtual currency in order to protect New York consumers and users and to ensure the safety and soundness of New York-licensed providers of virtual currency products and services. We are specifically concerned, however, that the broad definition of "virtual currency" may inadvertently result in certain products being captured and that the exceptions to this definition are too narrow to carve out such products. For the reasons discussed below, Amazon respectfully requests that the DFS expressly clarify that the following products are excluded

¹ "Virtual currency" would be defined in 23 N.Y.C.R.R. § 200.2(m) as follows: "*Virtual Currency* means 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. Virtual Currency shall be broadly construed to include digital units of exchange that (i) have a centralized repository or administrator; (ii) are decentralized and have no centralized repository or administrator; or (iii) may be created or obtained by computing or manufacturing effort."

² See proposed 23 N.Y.C.R.R. § 200.2(m).

from the definition of "virtual currency" in its final rulemaking: (1) "closed-loop"³ digital payment methods; and (2) prepaid access, stored value cards, or prepaid cards denominated in fiat currency. Clarifying that these products are excluded from the virtual currency regulations will ensure that consumers continue to have access to these popular payment methods, which do not pose the same money laundering or financial stability issues that cryptocurrencies and anonymous, tradeable virtual currencies pose to consumers and the financial system.

A. Closed-Loop Digital Payment Methods

Although the proposed definition of "virtual currency" excludes digital units that can be applied solely as payment for purchases with the issuer and/or other designated merchants, this closed-loop exclusion appears to be limited to digital units that are "used exclusively as part of a customer affinity or rewards program."⁴ Merchants and their affiliates may choose to issue digital units that can be applied solely as payment for purchases with the issuer and/or other designated merchants (including affiliates of the issuer) that are not necessarily issued exclusively as part of a customer affinity or rewards program. For example, Amazon Coins and Google Play credits are digital units that can be purchased by customers to be used exclusively within the Amazon Appstore or Google Play app store, respectively. Amazon Coins and Google Play credits are not "used exclusively as part of a customer affinity or rewards program," but otherwise meet the remaining attributes of the proposed exclusion (*i.e.*, "can be applied solely as payment for purchases with the issuer and/or other designated merchants, but cannot be converted into, or redeemed for, Fiat Currency").

Closed-loop digital payment methods like Amazon Coins or Google Play credits are not virtual currency that the Notice intends to regulate. Other, similar regulatory frameworks contain exclusions for closed-loop products, and the applicability of such exclusions do not require the closed-loop product to be used exclusively as part of a customer affinity or rewards program.⁵ Similar regulatory frameworks may also contain a separate express exclusion to cover

³ The term "closed-loop" is typically used to describe a product, such as a prepaid card or digital currency that is issued by a single merchant or an affiliate of the merchant that is only accepted or honored by the issuer or its affiliates as payment for goods or services.

⁴ See proposed 23 N.Y.C.R.R. § 200.2(m).

⁵ For example, New York's money transmission statute and many other state money transmission statutes exclude from the definition of "payment instrument" and/or "stored value" instruments that are redeemable by the issuer and/or its affiliates for the purchase of goods or services. See, e.g., N.Y. Bank. Law § 640(5); Cal. Fin. Code §§ 2003(q), (v); Tex. Fin. Code § 151.301(b)(6); Rev. Code Wash. §§ 19.230.010(6), (18). The Financial Crimes Enforcement Network's regulations relating to prepaid access also contains an exclusion for closed-loop products that does not require the closed-loop products to be used exclusively as part of a customer affinity or rewards program. 31 C.F.R. § 1010.100(kkk) (defining "*Closed loop prepaid access*" as "[p]repaid access to funds or the value of funds that can be used only for goods or services in transactions involving a defined merchant or location (or set of locations), such as a specific retailer or retail chain, a college campus, or a subway system.").

rewards, incentive, or loyalty programs.⁶ Amazon urges the DFS to clarify in its final rulemaking that the definition of "virtual currency" does not include digital units that can be applied solely as payment for purchases with the issuer and/or other designated merchants, but cannot be converted into, or redeemed for, fiat currency. In the absence of this clarification, issuers of closed-system payment methods might choose to discontinue them since complying with the full licensing regime would likely make these programs too expensive to continue to offer and cumbersome for customers to use.

B. Prepaid Access, Stored Value Cards, or Prepaid Cards

The broad definition of "virtual currency" may also inadvertently capture prepaid access products, stored value cards, or prepaid cards that are denominated in fiat currency and addressed under New York's Transmitters of Money statute (N.Y. Bank. Law, Article XIII-B).⁷ To avoid any confusion, we believe it would provide clarity if the DFS expressly specified in the final rules that the definition of virtual currency does not include prepaid access products, stored value cards, or prepaid cards denominated in fiat currency. This will ensure that prepaid access products remain subject to one regulatory regime and that providers of these products can continue to rely on the interpretations and guidance provided by DFS regarding the status of these products under New York law.

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Thank you for your consideration of these comments. We would also be pleased to meet with the DFS to discuss these issues. If you have any questions, please feel free to contact me at [REDACTED]

Sincerely,



Cameron Cohen
Associate General Counsel, Payments, Amazon.com, Inc.

⁶ See, e.g., La. Rev. Stat. § 6:1032(20); Tex. Fin. Code § 151.301(8).

⁷ These products are currently analyzed under the definition of "payment instrument" in New York's Transmitters of Money statute. See N.Y. Bank. Law § 640(5).