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October 21, 2014

KEVIN A. CAHILL  
Assemblymember 103<sup>rd</sup> District

CHAIR  
Assembly Insurance Committee

Benjamin M. Lawsky, Superintendent  
New York State Department of Financial Services  
One State Street  
New York, New York 10004

Dear Superintendent Lawsky,

I write regarding the Department of Financial Services' ("DFS") recently proposed virtual currency regulatory framework (*State Register* I.D. #DFS-29-14-00015-P). I fully recognize the Department's responsibility to issue rules that safeguard the consumers of our state against possible hazards associated with digital and localized economies. However, if promulgated without changes geared toward nonprofit entities, these regulations will have the inadvertent effect of making it extremely difficult for smaller scale, grassroots community development initiatives to succeed. Therefore, I respectfully ask that you give proper consideration to the comments submitted in a letter dated August 22, 2014, and authored by Hudson Valley Current, Inc. ("HV Current"), a nonprofit corporation within my Assembly District.

HV Current is actively working to strengthen the regional economies of the mid-Hudson Valley by providing local businesses and community members with a mutual credit network that uses a digital unit of exchange (called the Current), with which they can buy and sell a multitude of goods and services. Most importantly, there are several distinguishing characteristics that differentiate HV Current from crypto-currencies and for-profit entities, such as Bitcoin. HV Current is a nonprofit corporation, is geographically limited to Ulster and Dutchess counties, provides a clearinghouse for a mutual credit system (and is not a speculative commodity of any kind) and the Current is not convertible to any other form of currency.

The amendments offered by HV Current will help ensure that virtual currency regulations strongly protect individuals and businesses from risks involved with crypto-currencies but are not misapplied to unrelated projects that do not pose the same consequences. Otherwise, there is great reason to believe that endeavors such as HV Current will fail due to costly licensure applications, restrictive and expensive compliance measures, and apprehension on behalf of donors and volunteers because of uncertainty regarding the regulatory landscape. Thus, the following changes are suggested:

- The addition of defined categories that are exempted from regulation, including: nonprofit organizations, geographically limited projects, and non-convertible currencies;

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- The installation of an expeditious and affordable process that would enable a nonprofit corporation to apply to DFS for an exemption from these regulations; and/or
- The revision of Definition (m) to be amended as follows (new language is capitalized and bolded):

*(m) Virtual Currency means any type of digital unit **CONVERTIBLE TO FIAT CURRENCY** 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. Virtual Currency shall not be construed to include **DIGITAL UNITS ADMINISTERED BY NONPROFIT ORGANIZATIONS THAT ARE TRANSMITTED WITHIN A GEOGRAPHICALLY RESTRICTED REGION AND THAT CANNOT BE CONVERTED INTO, OR REDEEMED FOR, FIAT CURRENCY** NOR digital units that are used solely within online gaming platforms with no market or application outside of those gaming platforms, nor shall Virtual Currency be construed to include digital units that are used exclusively as part of a customer affinity or rewards program, and 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.*

I greatly appreciate your attention to this issue that could unintentionally harm a new and growing economic sector, charitable nonprofits, and community support organizations within our state. As always, please do not hesitate to contact me should I be of any more assistance or should you need additional information.

Sincerely,



Kevin A. Cahill  
Member of Assembly  
Assembly District 103

cc: Dana V. Syracuse, Office of General Counsel, NYS Dept. of Financial Services  
Carolyn Hansen, Esq., Counsel, HV Current  
Bob Dandrew, Director, Local Economies Project  
Janelle Orsi, Esq., Executive Director, Sustainable Economies Law Center

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