



March 26, 2015

New York State Department of Financial Services ("NYDFS")
Office of the General Counsel
One State Street
New York, NY 10004-1511

RE: Comments on Proposed Revised Rulemaking regarding Regulation of the Conduct of Virtual Currency Business, I.D. No. DFS-29-14-00015-RP

Ladies and Gentlemen:

This comment letter is submitted on behalf of Cross River Bank ("CRB") in response to the NYDFS's proposed regulations relating to the conduct of business involving Virtual Currency reflected in the notice appearing at page 17 of the New York State Register's February 25, 2015 edition ("Proposed Regs").

By way of background, CRB was chartered in New Jersey in June 2008 and is a member of the FDIC. An important aspect of CRB's core operating plan is recognizing and understanding emerging areas of business, which includes identifying and appropriately responding to potential operational, compliance, legal, regulatory and similar risks. We at CRB believe that banking services should be available to all companies that operate ethically within applicable laws and regulations in the marketplace, and to guide new entrants through this process. CRB is now in the process of conducting a comprehensive study of all aspects of the virtual currency space to determine all risks and develop policies and procedures to successfully minimize and manage those risks.

We believe that the potential of virtual currency as a payment and information management system has yet to be tapped. The laws and regulations being developed must be carefully considered in order to meet the needs of the consumer while preserving the integrity and protection of consumer data, while permitting the virtual currency space to express its developmental creativity and live up to its potential.

We commend the efforts of the NYDFS through its thoughtful proposal and for the opportunity to comment on the Proposed Regs. The basis of the Proposed Regs are consistent with our belief that the ultimate goal of a regulatory scheme for virtual currency activity should be the protection of the

consumer, prevention of improper/illegal activities, payment system stability and consistency, and, the imposition of industry laws and regulations that are as minimally invasive as possible.

We have a few comments on the general impact of the Proposed Regs, as well as a few suggestions regarding how to avoid over-regulation and eliminate potential barriers to entry into the virtual currency activity marketplace and create market efficiency.

A. SCOPE OF REQUIRED LICENSURE

Section 200.3 only exempts from licensure "Persons that are chartered under the New York Banking Law and are approved by the superintendent to engage in Virtual Currency Business Activity." CRB believes that the limited exemption for banks from licensure is inconsistent with New York Banking Law Section 12-a, which extends the powers of a federally chartered bank to out-of-state chartered banks regarding any right, power, privilege or benefit, any activity or any loan, investment or transaction" as well as being inconsistent with the New York Transmitter of Money Statute 2010 New York Code-Banking Article-13-B Section 641-License which specifically exempts banks from licensure as a money transmitter. CRB believes that state and federally chartered banks and other regulated depository institutions must remain exempt from the licensure requirements of any proposed state virtual currency licensing regulation in regard to their virtual currency activities since they are already highly regulated and their virtual currency activities would be reviewed during their current regulatory examination process.

B. REGULATION OF DE-CENTRALIZED VIRTUAL CURRENCY AND ITS OPERATING SYSTEM

Section 200.2 requires that an issuer of virtual currency be licensed in order to conduct virtual currency activity. Today, Bitcoin constitutes about 90% of the market capitalization of all of the virtual currency in circulation or use worldwide. Bitcoin operates as a de-centralized virtual currency with new Bitcoins issued via an algorithm that set the number of Bitcoins to be issued at 21 million with transactions recorded on a Block chain which is operated by volunteer miners who could be rewarded for their efforts by being awarded Bitcoins. The Proposed Regs neither provide for the registration of a de-centralized virtual currency such as Bitcoins where the issuer is unknown and operated by a system of individuals with no central reporting, nor how a regulator should react in the event a de-centralized virtual currency system not operate as advertised. Since one of the purposes of the Proposed Regs is to provide for consumer protection, making sure that the system operates on a continuous basis without manipulation and with appropriate disclosure is tantamount for any regulatory proposal. The future of Bitcoin and the use of virtual currency in general could be threatened or compromised should the Bitcoin miners collectively decide to discontinue maintenance of the Block chain or if the algorithm issues more than the 21 million coins which has always been represented to be the maximum number allowed. Although no regulatory scheme could account for every potential problem that could arise, we believe that a proposed regulatory scheme must be designed to address easily foreseeable issues. We do not believe that the Proposed Regs address the potential issues that could arise with Bitcoins that could threaten its stability and cause a lack of confidence. For virtual currency to succeed as a technology, a payment system and beyond, the marketplace must have confidence that it will operate

continuously without interruption as advertised in an efficient, honest and ethical manner. We believe that the regulation of the use of virtual currency should be unbundled from the oversight required for its operating technology including the Block chain. In regard to the regulation of the use of all virtual currencies, anti-money laundering/bank secrecy requirements should apply to all transactions. The merits of the technology and the innovation around it should not be penalized by the stigma around the actual currency and the uncertainty around its regulation. As such, the NYSDFS could get more comfortable with the testing of the technology, for example in a closed loop exchange format, and in parallel address the regulation of the currency. In addition, as a further control when Bitcoins or other virtual currencies are exchanged for fiat currency or vice versa, counterparties to the transaction should be required to return an acknowledgement that the transaction had successfully been completed by having received the benefit of their bargain. The technology/operating systems behind any virtual currency, such as the Bitcoin Block chain and the Ripple Protocol for the XRP should be permitted to develop independently from the regulation of the virtual currency itself which is necessary for consumer protection, the prevention of virtual currency being used for improper purposes and providing for an open and free marketplace. Banks such as CRB could play a vital role in developing and monitoring the technology behind virtual currency since we believe that financial institutions will be using it for information management, recording vital documents such as titles and security interests and providing counterparty guarantees such as letters of credit. Furthermore, since banks stand at the forefront of payment and information system operations and technology these vital capacities can be leveraged to aid the development virtual currency technology as well as to assist in their continuous and uninterrupted use.

C. ANTI-MONEY LAUNDERING REQUIREMENTS OF THE PROPOSED REGS

On March 18, 2013, the Financial Crimes Enforcement Network (FinCEN) issued guidance ("the Guidance"), to clarify the regulatory requirements for various activities and participants in virtual currency activity such as creating, obtaining, distribution, exchanging, accepting, or transmitting virtual currencies. FinCEN administers the Bank Secrecy Act ("BSA") and the Guidance extends the anti-money laundering obligations of the BSA to administrators, issuers and exchangers of virtual currency by classifying them as money transmitters engaging in a money services business ("MSB"). MSBs have been subject to the requirements of the BSA since December 31, 1999. We believe that anti-money laundering requirements of the existing federal law are adequate to prevent virtual currency activities from being used for these improper purposes. In addition, the anti-money laundering provisions contained in Section 200.15 of the Proposed Regs provide unnecessary duplication of compliance and reporting obligations which would hamper the operations of existing virtual currency activity companies and provide an unreasonable barrier to entry into the marketplace in the future.

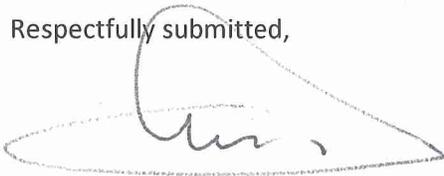
D. OVER-REGULATION OF A NEW INDUSTRY

CRB believes that the virtual currency activity industry must be regulated, however, we do not believe in over-regulation that prohibits an activity from reaching its growth potential or provides obstacles to entry into the marketplace for new participants or new ideas. To para-phrase a popular saying, the power to regulate or over-regulate is the power to destroy which we believe must be avoided. CRB

believes that the activities of companies engaging in virtual currency activities are concurrently engaging in activities covered under the New York Transmitters of Money Statute, 2010 New York Code-Banking Article 13-B-(640-652-B). Thus, a virtual currency activity company would have to apply for two licenses, comply with two regulatory schemes, file two sets of reports and undergo two regulatory examinations. This over-regulation of a new industry with significant potential could be avoided by merely amending the Transmitters of Money Statute to include virtual currency activities. In addition, the outstanding consumer protection provisions contained in Sections 200.18-Advertising and Marketing, Section 200.19-Consumer Protection and Section 200.20-Complaints could be incorporated into the Transmitters of Money Statute. By amending New York's current Transmitters of Money statute, over-regulation would be avoided along with the need for virtual currency activity companies to apply for two licenses, file two sets of reports and undergo two examinations as well as save the NYDFS the additional costs associated with maintaining additional licenses.

In summation, CRB believes that virtual currency activities should be regulated, however, we do not believe in over-regulation or the presentation of unreasonable barriers to entry into the marketplace. Any regulatory scheme for virtual currency activity should provide for enhanced consumer protection, the elimination of its use for improper or illegal activity, the uninterrupted continual use of virtual currencies and the integrity of their operating systems free from manipulation and improper interference. The confidence necessary to maintain virtual currency as a holder of value and as a viable payment-information management system can only be obtained through the establishment of a thoughtfully developed and creative regulatory scheme. CRB appreciates the difficulty of developing a regulatory scheme for a new financial and payment-information management system whose use potential is still unclear, however, we respectfully request that the NYDFS consider the points stated above when developing any final rule. CRB remains committed to providing banking services to all companies that operate ethically within applicable laws and regulations including virtual currency activity companies. CRB stands prepared to meet with the NYDFS to discuss any questions or concerns regarding this comment letter and assist in any way possible in developing a viable regulatory scheme for virtual currency activities.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gilles Gade", is written over a large, light-colored oval scribble.

Gilles Gade
Chairman, President & CEO