ALERTS

Virtual Currency Regulation: Summary and Analysis of the New York State Department of Financial Services Proposal

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The New York State Department of Financial Services ("NYDFS"), the New York state regulator for the financial services and insurance industries, recently proposed a framework for regulating virtual currency activities involving New York State (the "Proposed Rules"). The Proposed Rules require any business that engages in a "Virtual Currency Business Activity" to become licensed by the NYDFS (a "VC Licensee") and require a VC Licensee, among other things, to adopt consumer protection, anti-money laundering ("AML") and cybersecurity policies, procedures and requirements. The Proposed Rules were published in the *New York State Register* on July 23, 2014 and provide for a 45-day public comment period. Unless the NYDFS extends the comment period, comments on the Proposed Rules must be submitted to the NYDFS by or on Sept. 8, 2014. The final rules will be reissued by the NYDFS following its review of the public comments.

Virtual currency is generally understood to be a type of digital money or asset, a medium of exchange of value, a unit of account or a store of value that functions without the involvement of any governmental or central authority. The rules governing the creation, ownership and transfer of decentralized virtual currency are decided upon by its collective users. Its transfer is near-instantaneous, incurs minimal transaction costs and requires no intermediary. Although various federal and state regulators have officially acknowledged the existence of virtual currencies, only a few have addressed how they may be regulated. Only the NYDFS has

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issued a proposal relating specifically to the establishment of a separate framework for regulating virtual currencies. This *Alert* includes notable observations about and a summary of key aspects of this first-of-its-kind proposal.

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