Superintendent Lawsky to Leave the NYDFS and Start Consulting Business; Cato Institute Cries Foul

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The Wall Street Journal reports that Benjamin Lawsky, the superintendent of the New York Department of Financial Services (NYDFS) who is expected to issue this month a new regulation for digital currency businesses called BitLicense, which has been widely criticized for being unnecessarily strict, will leave the NYDFS in June.

Lawsky said that he will form a consulting business that will include virtual currency advisory services. "[Lawsky] plans to advise companies on financial matters such as cybersecurity and digital currencies like bitcoin, a new sphere of regulation he helped spearhead in New York," reports the *New York Post*.

In a recent *Medium* post titled "How to Prevent New York from Becoming the Bitcoin Backwater of the U.S.," MIT Digital Currency Initiative lead Brian Forde issued a clear warning that the current BitLicense text has fundamental flaws. The Bitcoin policy think tank Coin Center expressed similar concerns.

The Wall Street Journal notes that Lawsky's rules, likely to be released next week, could hinder innovation among small tech startups with limited resources by imposing too-high compliance costs.

In particular, according to the MIT Digital Currency Initiative analysis, Bitcoin companies would be required to get both a money transmitter license and a BitLicense — even though the two licenses have substantial overlapping requirements. Furthermore, compliance with BitLicense would be required for operations that don't control customers' funds, and even for software development work.

The Cato Institute, a public policy research organization with a libertarian orientation, bluntly denounces Lawsky's move.

"[If] history is any guide, Ben Lawsky will be able to use the name he made attacking Bitcoin to wend his way into the Bitcoin business world," notes Cato Senior Fellow Jim Harper. "Because of the contacts he made as a regulator, he can hire himself out to Bitcoin companies wanting to signal to other regulators that they have the approval of the regulatory establishment."

According to Harper, Lawsky's office violated New York's Freedom of Information Law by refusing to release the research and analysis that it claimed to have done to validate the BitLicense regulation, and framed the regulatory discussion in a way that other regulators have felt obliged to copy.

Without speculating on whether Cato's concerns are applicable in this specific case, it is worth noting that it wouldn't be the first time that artificial, unnecessary strict restrictions and barriers to new businesses are put in place by regulators who hope to cash in later by helping struggling firms work around their own regulations.

In his commentary to the proposed BitLicense, Harper argues that poorly formed government regulation that impedes Bitcoin's adoption will thwart badly needed global economic progress.

"The 'BitLicense' proposal does not meet those high standards," says Harper. "The evidence that it will produce net benefits is weak, and the likelihood that it will have greater costs than benefits is high."

The Cato Institute suggests that the Bitcoin community should refuse to do business with firms that hire Lawsky as a consultant or adviser, and hold regulators to account even after they've left office to make sure that regulators don't thwart financial innovation hoping to profit after they leave office.