New York Regulators Considering Bitcoin Financing Regulations

Amelia Hamilton

May 12, 2015

New York State financial regulators are crafting a framework for placing cryptocurrency processing companies under government supervision.

Under the new policy, companies transmitting bitcoin payments on behalf of customers would be required to obtain government licenses and operate under traditional government financial regulations.

‘Worst of All Possible Worlds’

Cato Institute Senior Fellow Jim Harper says the plan to place cryptocurrency processors under state financial oversight is ill-advised.

“Even giving the New York Department of Financial Services the benefit of the doubt, they’re not following the law they’re supposed to follow in promulgating the regulations, and that’s the administrative state run amok,” Harper said. “DFS doesn’t understand bitcoin all that well. On top of that, they aren’t willing to share information about what they’re trying to achieve.

“It’s the worst of all possible worlds,” Harper said.

Harper says implementing the financial regulations, officially called the BitLicense Regulatory Framework, will cause New York to lose standing in the international financial world.

“One of the outcomes is going to be that bitcoin companies decline to serve New York customers,” Harper said. “It’s a big world out there. New York is a big financial capital, and it’s an important financial capital, but bitcoin companies see themselves as global, so losing the New York market is not going to be all that important [to them].”

Routing Around Regulations

In the long run, bitcoin companies will gravitate toward global financial centers with more forward-looking policies, Harper says.

“London is seeking to become a bitcoin-friendly area, and they have explicitly contrasted what they’re doing with what New York is doing, [and] it may be that London is the center of financial services for the future,” Harper said.

“It’s an example of regulation without reason,” Harper said. “New York doesn’t know why they’re doing this. They are doing it [solely] to regulate.”

‘Kind of a Red Flag’

Jerry Brito, executive director of the Coin Center, a nonprofit research and advocacy center focusing on public policy issues facing cryptocurrency, says he’s wary of the proposed regulations.

“On the one hand, I’m glad that they’re taking bitcoin seriously, that they understand this is technology that’s new and different and that they want to take these unique attributes into consideration,” said Brito. “On the other hand, it’s kind of a red flag whenever you see a technology-specific regulation.

“The definition of what’s covered could be a lot tighter, and if it’s not tighter, it’s inviting misinterpretations,” Brito said.

Brito says BitLicense has other problems that concern him, including heavy reporting requirements.

No Lower Limit

“At the federal level, if you are a business, you have to report suspicious activities on transactions over $2,000,” said Brito. “In New York, there is no lower balance in the BitLicense. If you see suspicious activity that is 25 cents, you still have to report that.

“There is a requirement in the BitLicense that, if you are a licensee and you want to introduce a new product or modify an existing product or service, you first have to get permission from the department before you do that, and that’s problematic,” Brito said.