BitLicense FAQs

1) Who needs a BitLicense?

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- A person (whether an individual or a company) that engages in Virtual Currency Business Activity requires a BitLicense. Under 23 NYCRR 200.2(q), Virtual Currency Business Activity can fall into one of five types of activities involving New York or New Yorkers:
- receiving Virtual Currency for transmission or transmitting Virtual Currency;
- storing, holding, or maintaining custody or control of Virtual Currency on behalf of others;
- buying and selling Virtual Currency as a customer business;
- performing exchange services as a customer business; or
- controlling, administering, or issuing a Virtual Currency.

2) I am a consumer who wants to invest in a Virtual Currency like Bitcoin. Do I need a BitLicense?

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- No. A consumer who uses Virtual Currency solely for investment purposes does not require a BitLicense. 23 NYCRR 200.3(c).

3) Does my store need a BitLicense to accept Virtual Currency as payment for goods or services?

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- No. Merchants and consumers that use Virtual Currency solely for the purchase or sale of goods or services are exempt from the licensing requirement. 23 NYCRR 200.3(c).

4) Are charitable organizations exempt from the BitLicense requirements?

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o   No. Charitable organizations are not exempt.

5) Does a charitable organization need a BitLicense merely to accept donations of Virtual Currency?

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o   No. Merely accepting donations of Virtual Currency does not require a BitLicense.

6) I am interested in mining Virtual Currency by myself or through a company I want to form. Does this require a BitLicense?

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o   In itself, Virtual Currency mining does not require a BitLicense. However, other Virtual Currency-related activities in which a miner engages may require a BitLicense.

7) Do I need a BitLicense to sell the coins that I have mined for my own account?

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o   Merely selling the coins you have mined, in a private, non-commercial transaction, does not require a BitLicense. However, other Virtual Currency-related activities that a miner engages in may require a BitLicense.

8) I write code and build tools for the Virtual Currency space. Do I need a BitLicense for this?

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o   Under the regulation, the development and dissemination of software (as a purely technical service) in and of itself does not require a BitLicense. 23 NYCRR 200.2(q). The use of your product or service, however, may involve licensable Virtual Currency Business Activity.

As an example, writing software that allows customers to self-custody Virtual Currency in a wallet would not, in and of itself, require a BitLicense. However, building a wallet service in which you kept custody of other people's funds on their behalf likely would require a BitLicense.

9) I am a financial advisor and want to give my clients advice on buying or selling Virtual Currency. Do I need a BitLicense?

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○ No. Merely providing advice on buying or selling Virtual Currency does not require a BitLicense.

10) Will my company need any New York license other than a BitLicense?

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○ In some cases, it may. The BitLicense allows a company to conduct Virtual Currency Business Activity involving New York or a New York Resident, but it does not replace any other licenses required under New York law. For example, many BitLicensees engage in the transmission of fiat currency (*e.g.*, U.S. dollars), which requires them to hold a money transmission license under New York Banking Law Article 13-B.

11) If my company is registered with FinCEN, does it still need a BitLicense in order to engage in Virtual Currency Business Activity?

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○ Yes. The fact that a company is registered with FinCEN does not affect whether the company requires a BitLicense.

12) Are there any alternatives to getting a BitLicense?

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o Yes. A business that is chartered under the New York Banking Law (for example, a New York State limited purpose trust company or a New York State bank) can engage in Virtual Currency Business Activity without a BitLicense if it has received the Superintendent's approval to do so. Further information about limited purpose trust companies can be found here.

13) How does a New York state limited purpose trust company charter differ from a BitLicense?

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o While these forms of authorization are similar in many respects, a New York state limited purpose trust company charter may provide some additional benefits. For example, a limited purpose trust company can exercise fiduciary powers, while a BitLicensee cannot. 23 NYCRR 200.3(a). In addition, a limited purpose trust company can engage in money transmission in New York without obtaining a separate New York money transmitter license.

14) How do I submit a BitLicense application to DFS?

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o BitLicense applications are submitted through the Nationwide Multistate Licensing System, or NMLS. Please see the application instructions at the NMLS website, on the "NY Virtual Currency Business Activity License New Application Checklist (Company)."

15) How long will the application process take?

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o Completion times vary, but DFS has observed that most delays are a result of submitting an application with one or more elements missing. DFS has published guidance for applicants on the specific documents and information required for an application to be ready for substantive review. DFS will not begin its substantive review of an application until it is informationally complete – all documents and information must have been submitted or provided and must appear to be responsive and comprehensive in terms of organization, clarity, level of detail, and tailoring based on the applicant's specific business and operations.

16) What are the capital requirements for a BitLicensee?

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o   The BitLicense regulation lays out the requirements for capitalization. See 23 NYCRR 200.8. The capitalization determination may vary depending on business model and risk.

17) Is there a surety bond or similar requirement?

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o   Yes. There is a requirement to either obtain a surety bond, or to fund an account, for the protection of the BitLicensee's customers. 23 NYCRR 200.9(a). Generally, the minimum amount of this bond or account is $500,000, although that figure can increase based upon the specifics of the BitLicensee's business model.

18) Which coins can a BitLicensee adopt or list for offering or usage?

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o   A BitLicensee may offer or use any of the following coins:

o   Coins that DFS has specifically approved for the BitLicensee;

o   Coins for which the BitLicensee has self-certified to DFS that their use is in compliance with the BitLicensee's DFS-approved coin listing policy; and

o   Coins that are on the DFS Greenlist, which can be found here [link forthcoming].

19) How does the Greenlisting Process Work?

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o   DFS recently published final guidance regarding coin-listing, including the process for Greenlisting coins.

20) Are "stablecoins" considered Virtual Currencies under the BitLicense regulation?

o   While the answer will depend on the specifics of the coin, many coins that are commonly referred to as "stablecoins" are considered to be Virtual Currencies under 23 NYCRR Part 200, and therefore their use would require licensure and self-certification, Greenlisting, or specific DFS approval with respect to any Virtual Currency Business Activity.

21) Is an out-of-state business required to obtain a BitLicense to engage in Virtual Currency Business Activity in New York State or with New York State residents?

o   Yes. A business must obtain a BitLicense if it engages in Virtual Currency Business Activity involving New York State or any person that resides, is located, has a place of business, or is conducting business in New York State.