

Notice of Virtual Currency Business Activity License Application Procedures

This Notice is addressed to Virtual Currency Business Activity License applicants and prospective applicants.

During its frequent interactions with the virtual currency business community, the New York State Department of Financial Services (DFS) has heard concerns among BitLicense applicants regarding the duration of, and level of transparency in, the BitLicense application review process. In DFS's experience, an underlying cause for these concerns is that BitLicense applications are often submitted without all the necessary documents and information. With the goals of increasing transparency and speed in the BitLicense application review process, DFS is announcing two practices regarding its review of BitLicense applications. This Notice explains these practices and their anticipated benefits.

Limiting Substantive Review to Applications Ready for Such Review

BitLicense applications are submitted through the Nationwide Multistate Licensing System & Registry (NMLS), using an online system through which various financial service license applications can be submitted for multiple states. Companies that apply for a BitLicense through the NMLS portal can find a checklist of requirements for a BitLicense application on the [NMLS website](#) (the "Checklist"). The Checklist walks prospective BitLicense applicants through the application process, and includes explanations describing DFS-specific requirements for the documents that need to be submitted: both the documents that are filled out or uploaded on NMLS, and the limited number of documents that must be sent to DFS directly. The NMLS checklist—which DFS has recently updated to ensure that it clearly reflects the information DFS requires of applicants—is an important tool for applicants to use as they navigate the

process. Applicants are also encouraged to contact DFS's virtual currency team at VCLicenseQuestions@dfs.ny.gov with any questions about particular items on the Checklist or other aspects of the application process.

The first DFS practice announced in this Notice is that DFS considers a BitLicense application to be ready for substantive review only when it includes all the documents required as part of the NMLS application process—as reflected in the Checklist—and each such document appears to be adequate on its face in terms of organization and level of detail. Applications that are not yet in this state will be deemed unready for substantive review until the missing items have been provided, and will generally not be reviewed, except for an initial intake process to determine whether substantive review is appropriate.¹⁴ If DFS has deemed an application ready for substantive review, and later discovers that any of the required items are missing or facially inadequate, the application will again be deemed as unsuitable for substantive review, and will generally not be reviewed further until all the missing items are provided. Similarly, if material issues emerge that may make in-depth application review inappropriate—such as the fact that a related company integral to the applicant's business model appears to need a BitLicense or money transmitter license but has not yet applied, or that the applicant's business plan has been modified in a way that renders previous submissions inaccurate—the application will generally not be reviewed further until those issues are fully addressed.

DFS believes the above-described practice will improve the processing of BitLicense applications in several ways. First, it will substantially expedite the review of applications that are considered ready for substantive review, because DFS will be able to focus its expert review resources on those applications. Second, it will result in more applications being ready for substantive review, because it should limit any incentive for applicants to submit partial applications and should enhance the incentive for them to provide applications containing all the necessary information and documents. Lastly, this policy will result in the more effective and efficient use of DFS's resources, because DFS staff will not spend time reviewing applications that are not yet ready for review, and may never be.

Limiting the Number of Deficiency Letters for a Given Set of Requirements

In general, once substantive review of an application begins, DFS staff will convey to the applicant in detailed deficiency letters (which may take the form of emails) information about any deficiencies in the application. These letters will include a return date by which a complete response is due. DFS staff is available during the response period to answer questions from the applicant. Under the second practice announced today, if all deficiencies involving a particular application requirement or set of requirements^[2] have not been fully and effectively addressed by the end of the response period for the third deficiency letter addressing the requirement(s), DFS may, without further notice, deny the application. DFS believes this policy will benefit the majority of applicants that diligently advance their applications once they are under substantive review, by allowing for a more effective use of DFS resources.

This Notice's discussion of the application process and related issues is offered as a general overview. It is not exhaustive and does not present all circumstances in which DFS may approve, deny, or otherwise address an application. Nothing in this Notice limits, or is intended to limit, any of DFS's powers or responsibilities under any applicable law or regulation.