

Developments in Oversight of Virtual Currency Businesses

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Virtual currency businesses saw increased oversight by U.S. regulators in 2015, and continued interest by federal and state authorities is expected as regulation evolves. Two recent developments in this arena are particularly noteworthy.

In May 2015, the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) took its first civil enforcement action against a virtual currency exchanger when it assessed a \$700,000 penalty against Ripple Labs Inc. and its wholly owned subsidiary, XRP II, LLC. FinCEN's assessment stemmed from Ripple Labs' acting as a money service business and settling its virtual currency without registering with FinCEN, and failing to implement and maintain an adequate anti-money laundering (AML) program. In the action, FinCEN pointed to guidance it issued in March 2013 clarifying that Bank Secrecy Act requirements apply to certain virtual currency businesses.

In June 2015, the New York State Department of Financial Services (NYDFS) unveiled its long-awaited virtual currency licensing regime, the "BitLicense." The BitLicense framework, which NYDFS called "the first comprehensive framework for regulating digital currency firms," is intended by NYDFS to protect consumers and reduce the risk that virtual currency businesses will be used for illicit activities, particularly money laundering. In establishing this regime, NYDFS' regulations impose specific AML and cybersecurity requirements, among others. NYDFS approved its first BitLicense in September 2015; as of October 2015, it had received 25 applications.

Virtual currency businesses can expect continued interest by federal and state regulators in 2016 as the use of, and investment in, virtual currency grows.