



Mr. David J. Cotney, Chairman
Emerging Payments Task Force
Conference of State Bank Supervisors
1129 20th Street, NW
Washington, DC 20036

Dear Chairman Cotney;

We thank the CSBS for the opportunity to offer comments and participate in the development of the laws and regulations that will be considered for virtual currency activity.

The laws and regulations being developed must be carefully considered in order to meet the needs of the consumer while preserving the integrity and protection of consumer data, and while permitting the virtual currency space to express its developmental creativity and live up to its potential.

We commend the initial efforts of the CSBS through their release of the Model State Consumer and Investor Guidance on Virtual Currency issued on April 23, 2014 and the CSBS Policy on State Virtual Regulation on December 16, 2014. Both CSBS documents are consistent with our belief that the ultimate goal should be the protection of the consumer, prevention of improper activities, payment system stability and consistent, and, as minimal as possible industry laws and regulations.

By way of background, CRB was chartered in New Jersey in June 2008 and is a member of the FDIC. An important aspect of CRB's core modus operandi is recognizing and understanding emerging areas of business, which includes identifying and appropriately responding to potential operational, compliance, legal, regulatory and similar risks. We at CRB believe that banking services should be available to all companies that operate ethically within applicable laws and regulations in the marketplace, and to guide new entrants through this process. As discussed in Section 16 of the attached Responses to the Questions for Public Comment, CRB is now in the process of conducting a comprehensive study of all aspects of the virtual currency space to determine all risks and develop policies and procedures to successfully minimize and manage those risks.

We believe that the potential of virtual currency as a payment and information management system has yet to be tapped. Thus, it is our intention to become an integral part of the discussion on the virtual currency industry regulatory framework.

Should you have any questions or require additional information, please do not hesitate to contact me at 201-808-7000.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Gilles Gade", enclosed within a blue oval scribble.

Gilles Gade
President and CEO

QUESTIONS FOR PUBLIC COMMENT-RESPONSES SUBMITTED BY CROSS RIVER BANK (CRB)

1. Policy Implementation – Entities engaged in virtual currency activities might not be engaged in traditional money transmitter activities involving only fiat, government-backed currencies. Similarly, traditional money transmitters might not be engaged in virtual currency activities.
 - a. Within the umbrella of state money transmitter regimes, how can state regulators appropriately tailor licensing and supervision to each set of licensees?
 - b. In order to properly tailor licensing and regulatory regimes to virtual currency activities, should states consider a virtual currency-specific “amendment” or “endorsement” to a traditional money transmitter license?

1. POLICY IMPLIMENTATION-CRB RESPONSE

Currently 47 states regulate money transmitters (with the exception of South Carolina, Montana and New Mexico which only regulates the issuance of payment instruments such as money orders), requiring that a state license first be obtained in order to conduct business in that state. In addition, the Department of the Treasury Financial Crimes Enforcement Network (FinCEN) regulates money transmitters and other Money Service Businesses (MSB) by requiring them to develop and adopt a written anti-money laundering policy, file Suspicious Activity Reports (SAR) and Currency Transaction Reports (CTR) and have a compliance officer on staff. All of the state MSB statutes impose substantial regulatory burdens including an involved application process, record keeping and reporting, regulatory examination and minimum capitalization requirements. Since two states do not have MSB statutes, the umbrella of state money transmitter regimes does not totally regulate MSB activity nationwide. On March 18, 2013 FinCEN issued Guidance regarding persons administering, exchanging, or using virtual currencies. The FinCEN Guidance applies to any virtual currency that has an equivalent value in real currency, or acts as a substitute for real currency. The compliance requirements imposed by FinCEN are applicable to any money transmitter operating anywhere in the United States.

The scope of coverage for virtual currency transaction activity must be consistent across any regulatory framework. The current network of state MSB licensing statutes does not cover virtual currency activity. Two states (Texas and Kansas) that have considered the question as to whether their current MSB licensing statutes applied to virtual currency activity concluded that virtual currency by itself was not considered to be covered by the statute since virtual currency did not satisfy the statutory definition of money and the MSB statute would only apply if a virtual currency transaction included the involvement of sovereign currency. The FinCEN Guidance would be applicable to transactions involving only virtual currency such as exchanging one virtual currency for another virtual currency. We are not aware of any state regulatory agency considering the scope of coverage for virtual currency business models under other regulatory apparatus such as securities or taxation. The United States Internal Revenue Service considers virtual currency to be “property” and not money. We believe that the issues involving virtual currency could go beyond their impact in the payment processing arena. For example, the New York

Department of Financial Services proposed Bitlicense Regulatory Framework for Virtual Currency Firms includes transmitting virtual currency but also storing or maintaining custody of virtual currency on behalf of customers, performing conversion services buying and selling virtual currency as a business and administering and/or issuing a virtual currency. We recommend that the CSBS either be more specific in defining “a regulatory structure for virtual currency activities” or limit its recommendations to the applicability of virtual currency to payment systems.

- (a) Licensees operating within the umbrella of state money transmitter regimes have already undergone the licensing process and are used to operating in a regulated environment. Including any virtual currency transmission or similar activity in a state’s MSB statute would preclude the need for establishing a separate regulatory scheme for virtual currency transmission activity and forcing current state licensed MSBs from applying for a separate virtual currency activity license and undergoing another regulatory examination. State MSB licensing statutes should be amended to include the transmission of virtual currency whether or not the transaction includes sovereign currency. We recommend that the definition of virtual currency transmission be consistent throughout the states since the transmission of virtual currency would not be conducted solely on a local basis and follow that used by FinCEN in its March 2013 Guidance. Thus, should a state licensed MSB’s activities include the transmission of virtual currency; its current regulator would include virtual currency transmission activity in any regulatory examination. Of course should a licensed MSB engage in other virtual currency activity beyond transmission such as issuing a virtual currency, they would be subject to any statutory requirements of licensure enacted for that activity.
- (b) We believe that an amendment to current state money transmission statutes would be adequate to regulate virtual currency activities involving money transmission. Tailoring a specific amendment for the license of each money transmitter engaged in virtual currency activity would result in patchwork of regulatory requirements when the marketplace would be best served by consistent regulation applicable to all state licensed MSBs who transmit virtual currency in a manner similar to how they transmit sovereign currency. In addition, the FinCEN 2013 Guidance provides a form of national virtual currency regulation related to AML/BSA compliance. Finally, state and federally chartered banks and other regulated depository institutions must remain exempt from compliance with any proposed state virtual currency licensing regulation in regard to their Virtual Currency activities since they are already highly regulated and their virtual currency activities would be reviewed during the current regulatory examination process.

2. Licensing Process

- a. Though states largely have the same licensing requirements, there is not a common implementation process. Please comment on the functionality of the NMLS or other licensing systems.

- b. Would a common application and guide to licensure enhance the efficiency of the licensing system?
- c. Obtaining required criminal background checks has been flagged as an administrative challenge in the licensing process. What procedures can states uniformly adopt to facilitate obtaining criminal background checks as part of the licensing process?
- d. Credentialing business entity key personnel can be a hands-on process, but has proved indispensable for financial services licensing. Are there alternative means of credentialing that may facilitate the process?

2. LICENSING PROCESS-CRB RESPONSE

(a) The use of virtual currency in the monetary payment system has been and will continue to be Internet based. An Internet based system operates without borders throughout the United States as true interstate commerce. Thus, a national licensing scheme such as the Nationwide Mortgage Licensing System and Registry, (“NMLS”), would standardize the nature of the covered activities, the requirements for licensure, the licensing process and any operating rules and regulations. The use of a national licensing scheme would eliminate the requirement of having to be licensed on a state by state basis which would aid in making entry into the market easier for new participants. The goal of this process should be to ease the compliance burden with standard procedures and regulations, required reporting and examination process. Having as least restrictive a regulatory scheme as possible while still maintaining market integrity and high levels of consumer protection would encourage new market participants to operate within the system.

(b) We believe that the licensing and regulatory process would be best served by a streamlined, uniform process. In that regard a common application and guide to licensure would enhance the efficacy of the licensing system.

(c) We believe that the threshold issues regarding criminal background checks are for whom the criminal background check should be obtained and how should they be used to determine eligibility for licensure. In the event the applicant is a start-up with four principals, the issue of who must submit to a criminal background would be relatively simple. In the case where the applicant is a publicly traded-exchange listed corporation, they are exempt from licensure under most state licensing laws and this exemption should be no different regarding virtual currency activity regulation. Where the corporation is not publicly traded-exchange listed, is a check on the corporation itself adequate or should criminal background checks be required of senior management involved in the virtual currency activity. This question is not as simple as requiring a criminal background check for an individual seeking a license to practice law or medicine. One approach could be to require criminal background checks when the licensing body has reason not to believe the information provided on the application or has adverse information regarding the company or its officers. The more conservative policy would be to require criminal background checks are performed for all decision makers of a non-publicly trades-exchange

listed company when considering an application for licensure. We favor the more conservative approach due to the fact that the virtual currency industry is in its infancy, its potential for serious abuse and the need for consumer protection.

(d) The use of virtual currency in the financial services arena is in its nascent stages. In addition, with the exception of the FinCEN March 2013 Guidance; there are no laws or regulations directly impacting virtual currency. The New York Department of Financial Services has issued virtual currency licensing regulations. To date there are no professional credentials or designation for virtual currency executives or personnel. To consider the subject of credentialing business entity key personnel would be premature and create additional barriers to entry into the field of virtual currency. We recommend that the issue of credentialing be considered at a later date when the field of virtual currency has had time to mature. Any attempt to over-regulate virtual currency activity at this time would stifle creativity at a time when the field is most ripe for development.

3. Training and Education – Educating regulators about virtual currency business activities and business models is an important part of building a responsive and robust regulatory structure.
 - a. What education may be necessary for state regulators to aid in the licensing process?
 - b. What resources are available to explain technology and business models across the virtual currency industry?

3. TRAINING AND EDUCATION-CRB RESPONSE

(a) Obviously a regulator must have substantial knowledge of the product or activity being regulated. State regulators will need to know the basics as to how each type of currency operates including how it is created, managed, its use in financial services and how it is valued. The business models of companies operating in the virtual currency space should also be studied. We anticipate that new virtual currencies will continue to enter the market along with new issuers and support services for virtual currencies including exchanges. With each new entry into the virtual currency space additional bodies of information will appear that regulators must become familiar. We believe that each new virtual currency, virtual currency issuer, virtual currency support company/exchange that becomes active regulators will have to study each one individually in order to examine their operations. The body of knowledge necessary for a regulator will continue to develop as the field of virtual currency activity grows so the education process will be ongoing.

(b) Currently there appears to be no one compilation of materials regarding the technology and business models across the virtual currency industry. Materials are available via Internet search, on the websites of industry service providers such as virtual currency issuers and exchanges as well as from industry/trade association groups and organizations. We believe that compiling a representative sample

of the available materials into one package would not be difficult but would have to be updated on a continuous basis as new virtual currencies and systems enter the marketplace. In addition, a compilation of regulations affecting virtual currency should be maintained and updated when new regulations are enacted along with court decisions either involving or impacting virtual currency.

4. Technological Innovations – What changes and innovations have been seen and/or can be anticipated in the technological aspects of virtual currencies and the resulting marketplace?

4. TECHNOLOGICAL INNOVATIONS-CRB RESPONSE

We believe that the entire field of virtual currency activity is a technological innovation that has the potential of changing the use and delivery of financial services. We believe that innovation in the virtual currency arena must be encouraged and barriers to entry reduced as much as possible while still maintaining a strong regulatory environment necessary to ensure the sanctity of the virtual currency system and the protection of the consumer. One major innovation that has the potential of greatly impacting the delivery of financial services is the use of the Block chain system of recording Bitcoin transactions. The Block chain system guarantees that all transactions are recorded and made public which permits a type of system wide self-regulation by virtue of the complete transparency it provides. At this point it is impossible to predict what innovations in the virtual currency space will be developed but we believe one thing is certain that whatever the regulatory environment for virtual currency that will be developed must not stifle innovation, creativity and the ability to enter the marketplace.

5. Denomination of Capital, Permissible Investments, and Bond Coverage – Capital, permissible investments, and surety bond requirements exist to create financial security in the event of failed transactions or a failed business. For financial services companies dealing in virtual currencies, should these safety funds be denominated in the applicable virtual currency or in dollars?

5. DENOMINATION OF CAPITAL, PERMISSIBLE INVESTMENTS AND BOND COVERAGE-CRB RESPONSE

We believe that in order to maintain as much stability as possible in the virtual currency space at this point due to the extreme volatility of the virtual currencies themselves, all safety funds should be denominated in dollars. As the virtual currency space matures and the virtual currencies maintain relative stability, then the denomination of the safety funds should not matter and they could be pegged to the virtual currency.

6. Distressed or Failed Companies – Certain requirements in the Draft Framework are designed to provide regulators with tools for dealing with distressed or failed companies. Please comment on the practical issues and challenges facing regulators in the case of a distressed or failed company. What other tools should regulators have for resolving a failed virtual currency company, minimizing consumer harm and market impact?

6. DISTRESSED OR FAILED COMPANIES-CRB RESPONSE

The threshold question to consider is why regulators should have additional “tools” available for resolving a failed virtual currency company over and above what is available for any other failed company. Why is a failed virtual currency company any different than any other failed company and entitled to additional protection? The marketplace presents risks for all who enter and entrants must go in with that understanding. We believe that adequate tools currently exist for dealing with distressed or failed companies. The current bankruptcy process would permit either an orderly dissolution or reorganization of a failed virtual currency company and for creditors and harmed consumers to share in the remaining assets of the company. The criminal laws are in place to deal with any virtual currency company or company executive who commits a crime. Consumers have the same protections available for their interactions with virtual currency companies as they would with any other company. Why should a consumer who freely enters into a transaction with a virtual currency company be entitled to any additional protections over and above what is already in place and available to any injured consumer. The marketplace should present a level playing field for virtual currency companies and consumers who use their services and not have any additional protections against failure than are available to any other business or consumer. With the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Congress and President Obama sought to remedy the negative effect of banks failing with the consequence of a perceived “taxpayer bailout” albeit many of these banks paid money back with interest. Part of running a business is risk, the risk of success and failure that owners, senior management and employees must bear. In the event of failure, a small business owner does not receive a bailout and neither should a failed virtual currency company. Cross River Bank believes the aforementioned mechanisms are in place to accommodate an orderly liquidation of a company’s assets and liabilities which protect the consumer.

7. Consumer Protections – What consumer remedies should policy makers consider for virtual currency financial activities and transactions?

7. CONSUMER PROTECTIONS-CRB RESPONSE

We at Cross River Bank believe that maintaining the highest levels of consumer protection is a best business practice and is essential for the operation of a successful financial institution. Therefore, consumer protection and outstanding customer service form two of the essential cornerstones of our

business. The consumer has a right to be informed and protected when doing business with a company. All of the federal and state consumer financial protection laws and regulations strive to give the consumer the necessary information to make their decisions and conducting business in the virtual currency space should be no different than engaging in any other consumer financial service. Thus, specific protection and disclosure requirements should be adopted for virtual currency activities. We believe that disclosure requirements tailored for virtual currency activities are needed in this nascent industry. We believe that the consumer protection provisions contained in the New York State Department of Financial Services Proposed Rules and Regulations for Virtual Currencies, Section 200.19 (NYSFSPR) presents a good model either for other governmental regulations or industry best practices. The NYSFSPR would require two sets of disclosures as part of establishing a relationship with a customer and prior to entering into an initial transaction. The first set of disclosures would inform the consumer of all material risks associated with its products, services, and activities and Virtual Currency generally. The second set of disclosures would inform the consumer of all relevant general terms and conditions associated with its products, services, and activities and Virtual Currency generally. Additional disclosures regarding the specifics of an individual transaction would have to be given prior to each transaction and a receipt following the completion of any transaction. In addition, a booklet concerning over-all information about Virtual Currency, similar to one given to applicants for a mortgage, should be given to all consumers when they apply to open any Virtual Currency account.

8. State Insurance or Trust Funds – Some states have laws that create a trust or insurance fund for the benefit of instrument holders (i.e., holders of checks, money orders, drafts, etc.) in the event that a licensed money transmitter defaults on its obligation or is otherwise unable to make payment on the instrument. Is it appropriate to allow holders of instruments denominated in virtual currency access to such insurance or trust funds?

8. STATE INSURANCE OR TRUST FUNDS-CRB RESPONSE

We believe that an informed consumer who voluntarily participates in the use of or investment in Virtual Currency must do so at their own peril. However, we would not be adverse to the establishment of such a fund from which a consumer could seek compensation for losses caused by unlawful or inappropriate conduct on the part of a Virtual Currency issuer, holder or exchange.

9. BSA/AML – Fraud and illicit activities monitoring are increasingly technology based and proprietary, especially for virtually currency companies. Are state and federal exam procedures current with regards to new methods of detecting BSA/AML activity?

9. BSA/AML-CRB RESPONSE

We believe that current state and federal exam procedures are adequate to detect new methods of AML/BSA activities. All MSBs are required to be registered with FinCEN and have in place a written AML/BSA Policy. Virtual Currency companies such as issuers, exchanges and brokers are also required to register as MSBs with FinCEN. Thus, companies operating in the Virtual Currency Space must maintain specific policies and comply with all state and federal AML/BSA requirements. The current AML/BSA policies would be adequate to ensure compliance in the Virtual Currency space.

10. Customer Identification – The Draft Framework includes maintaining records on the identification of virtual currency owners. Credentialing consumers for identification purposes can be accomplished to varying degrees, from basic account information to verified personal identification. What is the appropriate level of identification?

10. CUSTOMER IDENTIFICATION-CRB RESPONSE

We believe that the necessary amount of customer identification that is needed for Virtual Currency activity should be no different than what is necessary today for the establishment of a banking relationship. The Virtual Currency customer must produce the necessary information to conduct an OFAC search, AML/BSA compliance and CIP as well as what is required under basic contract law. Why should the use of Virtual Currency require any additional customer identification that is currently needed to obtain and participate in providing financial services?

11. Regulatory Flexibility – The Draft Framework stresses regulatory flexibility to accommodate different activity levels and business models and to avoid inhibiting innovation.

- a. Given the rapidly evolving nature of virtual currencies, what should be the nature of any necessary flexibility?
- b. How can laws and regulations be written to strike a balance between setting clear rules of the road and providing regulatory flexibility?

11. REGULATORY FLEXIBILITY-CRB RESPONSE

We believe that the regulatory process must provide for customer protection, clear rules for marketplace providers creating as little a burden as possible for the preservation of the sanctity of the system itself while not limiting creativity in the marketplace and presenting as limited a barrier to entry

as possible. Regulators always retain the ability to recommend modifications to existing regulations when warranted by the marketplace. Thus, the current regulatory oversight system provides for the flexibility to make any necessary modifications when needed.

One area where regulatory flexibility would be needed to preserve the sanctity of the system could occur if the continuation of a vital part of the current operating framework became threatened. For example, the current use of the block chain to record Bit Coin could be threatened if the current group of volunteers overseeing it no longer provides the necessary services. In the event that there was no longer a block chain system to record transactions, the BitCoin Virtual Currency would no longer be viable. In order to maintain the sanctity of the system, the block chain would need to be preserved and it would appear that some type of regulatory intervention would be required. A flexible regulatory system would hopefully be able to provide the relief necessary in order to keep the block chain functioning which would then allow the BitCoin to operate as a Virtual Currency. It appears to us that the block chain is a necessary and vital part of this network and that any portion of a Virtual Currency system must permit regulatory intervention in order to prevent system failure. Such a system failure would threaten the viability of Virtual Currency as an element of financial services.

12. Reporting Requirements – Most states require money transmitter licensees to submit periodic reports of business activities.

- a. For licensed virtual currency companies, what types of information and data should be included in periodic reports?
- b. What technology solutions exist to mitigate regulatory reporting requirements?

12. REPORTING REQUIREMENTS-CRB RESPONSE

We believe that in connection with its Virtual Currency Activity a company should maintain and preserve in their original form or native format for a period of at least five years all of the items listed in proposed NYSFSPR Section 200.12 Books and Records which includes records for each transaction, a general ledger, bank statements and reconciliation records, customer statements, Board and Committee minutes, records demonstrating BSA/AML compliance, customer complaint resolution and all advertising and marketing materials. In regard to periodic reporting, we believe that a virtual currency company should provide on a quarterly basis all of the items listed in proposed NYSFSPR Section 200.14 Reports and Financial Disclosures which includes a statement of financial condition, cash flow statement, statement of net liquid assets, list of all off-balance sheet items, chart and description of accounts, financial projections and business plans, an annual audited financial statement and an annual assessment of compliance with applicable laws and regulations. In addition, we recommend that the reporting requirements also include a list of companies/agents that sell and/or exchange virtual

currency on behalf of a principal money transmitter and reports of large sales/purchases of virtual currency from a single individual.

13. Technological Solutions to Improve Supervision – State exams and reporting requirements reflect an institution at a point in time. Conversely, operational standards and internal compliance audits increasingly offer the opportunity for real time data collection, interacting with transmission data to ensure adequate funding, anti-money laundering compliance, fraud protection, and consumer protection. What technology solutions can regulators and licensees deploy to close information gaps in a manner that makes the supervisory process more efficient and “real time?”

13. TECHNOLOGICAL SOLUTIONS TO IMPROVE SUPERVISION-CRB RESPONSE

A regulatory examination is always a snapshot of performance based upon a period of time with a beginning and ending. Materials requested by a regulator always have a specified time frame. Since a regulator is entitled to examine all of a company's materials during an examination they now could look at materials and information on a real time basis since currently available management information systems are usually current and operate in real time, especially as it related to AML/BSA. The conduct of a virtual currency business would be no different and real time data should be available for a regulator to examine since its activities would be conducted almost entirely over the Internet. Virtual currency transactions made and recorded through a block chain type operating system would be viewable by anyone and regulators could leverage this public access during examinations. Of course the constantly evolving technology in information management systems will continue to improve the gathering of information needed by regulators and possibly permit a view of real time data during an examination. However, we oppose any real time financial reporting that would substantially increase costs and provide barriers to entry into the marketplace.

14. Cyber Risk Insurance. Companies have begun looking to insurance to help manage cyber risks, and there are a growing number of companies offering cyber liability insurance. What role should cyber risk insurance have in a licensed virtual currency entity's approach to managing cyber risks? Please discuss the potential costs and benefits for virtual currency companies securing cyber risk insurance.

14. CYBER RISK INSURANCE-CRB RESPONSE

Cyber risk insurance should have the same role in a virtual currency company that it would have in any company. All companies have the obligation to protect the privacy of their customers and protect the information necessary to operate their business. Cyber risk insurance provides a cushion against financial loss caused by a data security breach or other cyber related loss. Cyber risk insurance should not be used to mitigate any of the risks associated with either the use or investment in Virtual Currency.

15. Commercial Fund Transfer Liability – Article 4A of the Uniform Commercial Code establishes liability for wire transfers, relying on definitions strictly applicable to banks. Are provisions like those in Article 4A necessary for commercial transfers

denominated in virtual currencies? If so, is the Article 4A construct an appropriate model to be adapted in a manner that is not bank-centric?

15. COMMERCIAL FUND TRANSFER LIABILITY-CRB RESPONSE

We do not believe that Uniform Commercial Code Article 4A would be an appropriate model for adaptation in a system that is not bank-centric. The current operating model for using Virtual Currency is based on complete transparency where all transactions are recorded and available to everyone through the block chain. Once a virtual currency transaction is conducted there are no procedures for error correction. In order for an Article 4A construct to be effective, the entire virtual currency protocol would have to be modified which would conflict with the philosophy as to why virtual currency was developed in the first place. The risks associated with participation on the virtual currency arena must be clearly identified and assumed by system users.

16. Banking Services for Virtual Currency Companies – Banking arrangement information is necessary for evaluating the safety and soundness of a licensee. However, virtual currency businesses are not immediately understood by most banks that provide traditional money services accounts. What are the risks facing banks that consider banking virtual currency companies, and how can those risks be mitigated?

16. BANKING SERVICES FOR VIRTUAL CURRENCY COMPANIES-CRB RESPONSE

We at CRB believe that banking services should be available to all companies that operate within applicable laws and regulations in the marketplace. Prior to agreeing to providing banking services, the bank must understand the industry in question, all applicable laws and regulations, all risks and what policies and procedures the bank must have in place to control and limit all risks. When CRB considers providing banking services to an organization in either a line of business that is either new to CRB or emerging in the marketplace, we start with the preparation of a "White Paper" that discusses the industry or business method, all applicable laws and regulations, potential risks to the bank and how those risks could be successfully managed. Following the development and evaluation of the aforementioned background information, we then determine as to whether there is sufficient expertise within our staff to evaluate, manage and monitor the new proposed line of business. A financial analysis is then prepared and an evaluation of current capacity as well as any additional resources that will be needed for the conduct of the business line. The business is then thoroughly vetted by the CRB Control Group for legal, regulatory and risk issues and a due diligence memo is prepared along with a risk analysis when required by bank policy. After thorough consideration by senior management, the matter is then presented to the CRB Board of Directors who must approve the new client and/or business method prior to entering into any relationship.

The standard risks that banks must face when considering providing banking services for a virtual currency company include the legitimacy of the company, BSA/AML compliance, performance of unlawful activities, fraud, compliance with applicable laws and regulations and conducting ethical operations in the absence of laws and regulations. We believe that all of the risks associated with a virtual currency company could be properly managed and not impede a virtual currency company from receiving banking services. We at CRB look forward to becoming a primary banking services provider to the virtual currency industry.

17. Merchant-Acquirer Activities – Companies processing credit card payments between a buyer’s bank and a seller’s bank (Merchant-Acquirers) have historically been presumably exempt from money services businesses statutes because of their nexus to the highly regulated banking system. A company processing virtual currency payments for merchants who accept virtual currency as payment for goods and/or services may exchange virtual currency to dollars, which can then be transferred to the merchant’s bank account. Is this activity akin to the activities of traditional Merchant-Acquirers, or is it the exchange and subsequent transmission of value that is typically regulated by the states?

17. MERCHANT-ACQUIRER ACTIVITIES-CRB RESPONSE

We believe that the activities described would constitute MSB activities which would be regulated by both the states and FinCEN. This activity would not meet the elements necessary to qualify as a third party payment processor. The element of having nexus to the highly regulated banking system would be absent in most of these relationships and thus must be considered MSB activities.

18. Cost – State regulators are cognizant of the costs associated with licensure and ongoing compliance. What processes can be implemented to reduce these costs, including any shared services or technology-based reporting?

18. COSTS-CRB RESPONSE

We believe that the best way to control the costs associated with licensure and compliance would be to avoid over licensure and over regulation. The best way to avoid over licensure and over regulation would be to regulate virtual currency activities through the existing structure of state MSB laws and the 2013 FinCEN Guidance which extends BSA/AML compliance requirements to virtual currency activities. Virtual currency companies who are also considered MSB’s should only be required to have one license, follow one set of laws and regulations, maintain one set of records and undergo one examination on the state level. Should reasonable regulations be adopted to cover virtual currency activities with the current MSB regulatory structure, the costs of compliance and licensure would be greatly reduced, while protecting the consumer and marketplace and not limiting innovation, entry

into the marketplace or the growth of the nascent virtual currency space. Cross River Bank recommends that should states insist on a separate virtual currency license, they should allow a money transmitter to passport a virtual currency license issued in one state to the other states in order to avoid as much duplicate licensure and examination as possible.

19. Escheatment – How should virtual currency be treated under state escheatment laws?

19. ESCHEATMENT-CRB RESPONSE

We believe that virtual currency should be treated no differently than how currency and property is currently treated under the escheatment laws. We do not believe in over regulation or treating anything differently under the law without strong reason.