New York Charters Virtual Currency Firm Ahead of Expected AML Rules
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By Colby Adams

New York gave a Bitcoin company the green light to operate under state regulations Thursday, in what may be the first in a series of charters intended to mitigate concerns about virtual currencies.

The New York State Department of Financial Services (NYDFS) said it had granted the charter to itBit Trust Company three months after commencing a review of the company’s anti-money laundering (AML), capitalization, consumer protection and cyber-security standards.

The charter is contingent upon ongoing state regulatory supervision of itBit and requires the firm to meet high compliance standards, undergo regulatory examinations and maintain enough capital to back up client deposits, itBit cofounder and chief executive officer Charles Cascarilla said in a statement.

“Our clients can rest assured knowing that their deposits are secure no matter the exigency. Further, our U.S customers will have the additional assurance that their dollars will be kept in FDIC-insured, onshore bank accounts,” he said.

With the charter, the firm will not need to apply for a so-called “BitLicense” under NYSDFS rules scheduled to be finalized later this month, an itBit spokeswoman said in an e-mail. The company will have to meet obligations laid out under the final BitLicense rules, however, according to a statement by the regulatory agency.

The charter also permits itBit to begin accepting clients in all 50 U.S. states, Cascarilla told CNBC. The company recently hired former Federal Deposit Insurance Corp. Chairperson Sheila Bair and former Sen. Bill Bradley (D-NJ) to supervise its U.S. operations, said Cascarilla.

The decision could prove to be a “game changer” in terms of how financial institutions view their ability to manage the compliance risks associated with virtual currency firms, according to Houman Shadab, professor of law and director of New York Law School’s Center for Business and Law.

“Given the choice, clients and investors often prefer dealing with regulated entities, and financial institutions are no different. Regulatory approval means that a bank can be fairly sure that their prospective business client has taken reasonable steps to secure the approval, and will take reasonable steps to keep it,” he said.
The company’s ultimately successful effort to secure a charter from New York, where regulatory supervision is considered stringent, also refutes the notion that financial companies, as a rule, seek to operate under the least onerous set of rules they can find, said Shadab.

The charter granted Thursday may portend little for other firms facing different levels of exposure to criminal abuse, according to Brian Stoeckert, managing director of San Francisco-based Stratis Advisory.

itBit’s relatively unique business strategy is designed to attract large, institutional clients rather than to process remittances for individual customers like a typical virtual currency exchange, said Stoeckert, a former enterprise risk management supervisor with OneWest Bank in Los Angeles.

The difference between the two business models carries over to compliance, as the corporate accounts that comprise itBit’s primary customer base generally require more know-your-customer onboarding processes and documentation but are usually easier to scrutinize to determine the purpose and source of funds, said Stoeckert, in an e-mail.

In part due to a series of high-profile prosecutions and warnings from federal investigators about criminal exploitation of virtual currency, the industry has historically struggled to find banking. Purportedly just one U.S. lender—Santa Clara, CA-based Silicon Valley Bank—maintains accounts for the firms.

On Tuesday, the Financial Crime Enforcement Network disclosed a $700,000 civil money penalty against San Francisco-based Ripple Labs, Inc. for failing to register as a money services business and report suspicious transactions. The penalty marked the first-ever regulatory action against a company in the sector.