

xNY.io

New York, New York 10001

March 13, 2021

BY ELECTRONIC MAIL

New York State Department of Financial Services

Honorable Superintendent Ms. Linda Lacewell

Innovation@dfs.ny.gov

Re: [Bank.org](#) Shelf Charter

Dear Madam Superintendent:

[xNY.io](#) and [Bank.org](#) must innovate beyond market manipulation and cross-border computer crimes that present serious risks, both to consumers and to the safety and soundness of financial services institutions. As the cryptocurrency markets continue to evolve, the New York Department of Financial Services (NY-DFS) has directed virtual currency companies like [xNY.io](#) to take the necessary steps to guard against fraud and to be extra vigilant about manipulation.

Today's memo aims to innovate the market and can only evolve with your strong regulatory supervision. [xNY.io](#)'s recent [Tech Sprint Submission](#), "A Design Mechanism to Report Digital Regulatory Computer Crimes," was filed with your esteemed office on March 2, 2021. [xNY.io](#) has discussed the matter of marketplace manipulation with the NY-DFS innovation team. We have both agreed marketplace manipulation is an issue and specifically affects [xNY.io](#) and [Bank.org](#)'s bottom line.

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Our mutual moods seemed aligned on innovation. However, there is an air of dienfranchiemt.

Madam Superintendent, recently I published an [Open Letter to Bloomberg on Modern BitLicense Logic](#). Some BitLicensees candidly offer feedback regarding New York State borders. There seems to be some confusion concerning the BitLicense's jurisdictional reach and given that [xNY.io](#) and [Bank.org](#)'s business falls under DFS surveillance and the USA PATRIOT Act, Congress amended the definition of "protected computer" to make clear that this term includes computers outside of the United States so long as they affect "interstate or foreign commerce or communication of the United States." 18 U.S.C. § 1030(e)(2)(B) (2001).

This change addresses situations where an attacker within the United States attacks a computer system located abroad and situations in which individuals in foreign countries route communications through the United States as they hack from one foreign country to another. Both situations can therefore be violations of section 1030. As such, it would seem that BitLicensees are subject to New York Law while operating outside of New York (including [Human Rights Law](#)).

The utility of virtual currency is cross-border. New York is not a walled garden for bad actors to camp while profiting off of the back of [xNY.io](#) and [Bank.org](#) wrongfully across global markets. The textbook definition of marketplace manipulation has been discussed with the patient Ms. Seema Shah, a DFS innovation leader whom we look forward to consulting with over days and weeks to come.

Meanwhile, it is our observation that the Bitcoin Blockchain has been targeted by New York firms licenced by your office, such as Ripple and Goldman Sachs. In Africa, we experienced how these various actions affected the integrity of our global enterprise.

- The Supreme Court placed emphasis on the central role of deception to the concept of fraud—"the words 'to defraud' . . . primarily mean to cheat, . . . usually signify the deprivation of something of value by trick, deceit, chicane, or overreaching, and . . . do not extend to theft by violence, or to robbery or

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burglary.” Id. at 627 (construing *Hammerschmidt v. United States*, 265 U.S. 182 (1924)).

- [xNY.io](#) - CryptoBank is painfully aware of a “Crypto Bank” loophole between New York, Europe and Africa. We submitted a [Declaration for the Superintendent's review on the matter](#) of this loophole as it relates to Human Rights from our graduate research as a New Yorker traveling abroad.

New York banks are not immune to Civil and Human Rights abroad, specifically if these violations are using computers against other New Yorkers’ enterprises (aka the aforementioned xNY.io - CryptoBank loophole concern).

[xNY.io and Bank.org followed DFS direction:](#)

1. Immediately upon discovering any wrongdoing, a virtual currency entity must submit to DFS a report stating all pertinent details known at the time of the report. Virtual currency entities must also submit to DFS, as soon as practicable, a further report or reports of any material developments relating to the originally reported events, along with (we have been actively reporting the matter to DFS, only greeted with silence and Tech Sprint denial...)
2. A statement of the actions taken or proposed to be taken with respect to such developments, and
3. A statement of changes, if any, in the virtual currency entity’s operations that have been put in place or are planned in order to avoid repetition of being affected by similar circumstances.

Specific to points two and three above: This memorandum is to properly disclose xNY.io’s agreement and purchase of Bank.org with further intent to seek Shelf Charter approval from your office.

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Bank.org - Shelf Charter

Poverty has no borders, and neither does excellence. xNY.io's campaign for "[Modern BitLicense Logic](#)" will forever be grateful for the borders of New York State. Meanwhile, Bank.org's Shelf Charter is a global concern and DFS should understand our modern, logical international intentions:

- The purpose of the Department of Financial Services Shelf Charter is to enable parties that currently do not have a bank charter to participate in bidding for failed or failing banks that are being sold by the FDIC.
- Prior to the preparation of a formal application, an outline of the proposed business plan should be submitted to the Department of Financial Services. At minimum, the outline should include the rationale for organizing the proposed institution.

Bank fraud is a serious problem for such a developed country as the United States, whose bank regulators have drawn attention to the increase of these crimes. Having discovered that an unregulated virtual currency sphere (such as in Africa, or other developing markets) is [very popular among virtual currency fraudsters](#), the New York State Department of Financial Services concluded that this kind of regulatory fraud was threatening US national security.

[xNY.io](#) and [Bank.org](#) are interdependent solutions of cutting edge innovation, and we seek to begin dialogue with your office for hopeful 2021 Shelf Carter approval. Our goal was to work through Market Manipulation during the Tech Sprint, however, we were denied participation.

- The basic problem with [New York Bank Innovation is monopoly power](#), and policy should address that issue directly. If the problem is a lack of transparency

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and accountability in government activities, one should find ways to open up the public sector to oversight from outsiders. If the problem is an opaque and confusing regulatory structure, rules should be simplified and clarified.

- As elegantly as possible, [xNY.io](#) and Bank.org must strive to innovate beyond a Laissez-faire attitude concerning the systems and processes in which transactions between our peers are now free from (or, almost free from) any form of economic/regulatory interventions such as the BitLicense lacking cross-border regulatory logic concern.
- Madam Superintendent, bank innovation from the great state of New York touches people on all continents on Earth, and it seems that if given the opportunity, DFS would want to solve any market manipulation matters through technology.
 - [xNY.io](#) underscores the need for reporting innovation specific to virtual currency marketplace manipulation and/or other crypto cross-border regulatory arbitrage frameworks directed out of New York, affecting over 1 billion people.
 - Bank of New York's (BNY Mellon) [controversies and legal issues history](#) should not be confused with [xNY.io](#)'s future, or even in competition with our marketplace entrance.
 - Libra/Diem/Robinhood/XRP all fail to match [xNY.io](#) and [Bank.org](#) global innovation, considering the firms' historical relationships with computer crimes (cross-border).
 - [xNY.io](#) intends to offer several products and services, including: a **tokenized, programmable virtual currencies called xNY, xBB and xLG**; Bank.org's hopeful charter will provide global custody services for assets; API-based online banking services where customer deposits must be 100% backed by reserves; and prime services for digital assets.

[xNY.io](#) and [Bank.org](#) will operate under the themes of a [Universal Declaration on Virtual Currency and Human Rights](#).

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Innovating rather than litigating, we hope to begin immediate discussion on [Bank.org](#)'s earning your Shelf Charter approval as the most sophisticated solution to innovate and dawn a new legacy of the modern version of the World's Best Bank. Personally, I am concerned that DFS has potentially ignored [xNY.io](#)'s interests ensured through interpretations of specific provisions in the existing national and supra-national legal framework (civil law, securities law, bankruptcy law, international human rights law and civil rights law).

As [Bank.org](#) begins to be re-developed for launch as an international bank, Madam Superintendent it is our business to now lead New York in the global virtual currency industry with [xNY.io](#) and to further clarify the rights of the public and obligations of Bank.org's future customers across global economies and corresponding currencies.

[xNY.io](#) and [Bank.org](#) choose to register corresponding operations out of New York State rather than Delaware or elsewhere out of passion for this great State and desire to contribute meaningfully to State tax revenue(s). This can be achieved through subtle action on "conditional approvals" that are well earned from DFS review, demonstrating historic cross border innovation and a new, pure DFS association.

As a matter of [New York Civil and Human Rights](#) regulation we hope you share our enthusiasm for xNY.io and Bank.org pioneering and preserving a technology-neutral, principle-based, non-discriminatory framework for the next generation of modern New York virtual currency public policy, naturally supporting innovation within the limits imposed by overriding international public interests.

- Kindly note that we have a pending Freedom of Information Law (FOIL) request due response related to [xNY.io](#)'s Tech Sprint submission covering COMPUTER CRIMES and the BitLicense.
 - It was upsetting to be denied participation due to other firms' felony association(s) and wrongdoing to settle criminal and civil investigations with the Justice Department.

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- [Bank.org's](#) Shelf Charter helps push the arch of innovation forward as an example of best practices, unlike Wells Fargo who was admitted to the Tech Sprint at the denial and will concerning [xNY.io's](#) purity.
 - The two week sprint, from our clearly communicated perspective was to foster community building and relationships with our peers, and denied for unjust cause.
- **Madam Superintendent, I am sensitive about the Tech Sprint and treatment by DFS thinking millions of our customers globally...**
 - I can wear these shoes as a ethnic minority scholar living in Chelsea, Manhattan, 2020-2021 affording being grateful for New York State's Pandemic Unemployment Insurance and SNAP benefits.
 - DFS surveillance must provide the Superintendent's office outline of clear examples of my personal banking relationships at Wesern Union? Young people around the world experience daily what I have been so fortunate to experience and overcome under the great leadership of the DFS Superintendent.

[xNY.io](#) and [Bank.org](#) innovation intentions use our example as a matter of poverty transformed into a modern global Banking enterprise through agile innovation (and, only possible by partnership with your office). xNY.io and Bank.org expect to be a New York success story, at the very least, if not one of the World's Best Banks.

Madam Superintendent, raising capital to fund this historic, innovative operation is of no serious concern. Rather, the key to success is DFS approval and collaboration concerning agile innovation. The Shelf Charter's utility overwhelmingly fits Bank.org's case.

- Let's be honest with each other: All the money in the world will not solve anything without DFS collaboration concerning radical innovation.

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For the reasons above and known generally, xNY.io and Bank.org are now seeking DFS' ACCELERATED review and collaboration for Shelf Charter status. We hope you share our enthusiasm and willingness of granting 2021 Shelf Charter approval, for all people everywhere.

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We look forward to our long term innovation relationship under your historic regulatory oversight.

Respectfully yours with anticipation,



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