Crypto
Council for
Innovation

March 9, 2023

Patrick McHenry
Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Maxine Waters
Ranking Member
House Committee on Financial Services
4340 O'Neill House Office Building
Washington, DC 20515

French Hill
Chairman
Subcommittee on Digital Assets,
Financial Technology and Inclusion
1533 Longworth House Office Building
Washington, DC 20515

Stephen Lynch
Ranking Member
Subcommittee on Digital Assets,
Financial Technology and Inclusion
2109 Rayburn House Office Building
Washington, DC 20515

Dear Chairman McHenry, Ranking Member Waters, Chairman Hill, and Ranking Member Lynch:

The Crypto Council for Innovation (CCI) appreciates the opportunity to contribute to the important discussion taking place during today's hearing. CCI is a global alliance of industry leaders with a mission to communicate the benefits of crypto/Web3 and demonstrate its transformational promise. CCI members include some of the leading global companies and investors operating in the industry. They span the crypto ecosystem and share the goal of encouraging the responsible global regulation of crypto to unlock economic potential, improve lives, foster financial inclusion, protect national security, and disrupt illicit activity. CCI and its members stand ready and willing to work with the House Financial Services Committee and its members to accomplish these goals and ensure that the most transformative innovations of this generation and the next are anchored in the United States.

Crypto is a broad term that covers a wide range of use cases and applications. The core shift it represents is from the current model of intermediated interactions to an ownership-based, user-centered digital economy. For a long time, we have relied on third parties to facilitate trust in many aspects of our lives, including transactions, identity provision, and governance. In many cases, these third parties have handsomely profited from intermediation. And in some cases, intermediaries have exacerbated inequalities,[1] sown distrust,[2] and restricted much-needed access for individuals.[3]

There is a pressing need for regulatory clarity around cryptocurrency and digital assets that promotes innovation and protects consumers. While digital asset prices have fallen and a number of individual crypto projects have collapsed in recent months, Americans' interest in this market and technology remains robust,[4] and spans demographics.[5] As of March 7, 2023, crypto still had a market cap of over $1 trillion USD.[6] The number of full-time developers in the crypto space grew 8% year-over-year in 2022, despite a 70% decline in prices.[7] However, while cryptocurrencies have been held and traded by American consumers for over a decade, U.S. federal prudential and financial market regulators have failed thus far to establish any clear regulatory framework for digital assets.

In early 2022, the Biden Administration provided an encouraging signal to the crypto marketplace when President Biden signed Executive Order (EO) 14067, on "Ensuring Responsible Development of Digital Assets."[8] Among the Administration's stated objectives in issuing this EO was "establishing a framework to drive U.S. competitiveness and leadership in, and leveraging of digital asset technologies" as well as directing the "U.S. Government to take concrete steps to study and support technological advances in the responsible development, design, and implementation of digital asset systems." However, in recent months and since the issuance of the EO, we have seen multiple federal financial agencies pursue a general approach of regulation by enforcement, which not only discourages innovation, but in many cases also fails to protect investors and consumers. For example, in recent years the Securities and Exchange Commission (SEC) has received a number of public petitions for rulemakings to provide greater clarity as to how existing rules apply to cryptocurrencies and digital asset service providers,[9] [10] proposals which have been echoed by current Commissioners.[11] However, rather than conducting a formal rulemaking process, the Commission has left investors and market

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[1] https://journals.sagepub.com/doi/pdf/10.1177/00027642211003162
[2] https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef22042en.pdf
[3] https://documents1.worldbank.org/curated/en/552411525105603327/pdf/The-decline-in-access-to-correspondent-banking-services-in-emerging-market%20s-trends-impacts-and-solutions-lessons-learned-from-eight-country-case-studies.pdf
[4] https://morningconsult.com/cryptocurrency-insights-hub/ and https://cryptoforinnovation.org/1-in-7-voters-own-crypto-with-support-across-party-lines/
[5] Purchasers of digital assets actually vary widely in terms of demographics: Average cryptocurrency buyer is under 40 (mean age is 38); ● 55% do not have a college degree; ● 44% of crypto traders are not white; ● 41% of traders are women; and 35% have household incomes of less than $60K annually. https://www.kansascityfed.org/research/payments-system-research-briefings/the-cryptic-nature-of-black-consumer-cryptocurrency-ownership/
[6] https://coinmarketcap.com/
[7] https://www.developerreport.com/developer-report
[8] https://www.whitehouse.gov/briefing-room/presidential-actions/2022/03/09/executive-order-on-ensuring-responsible-development-of-digital-assets/
[9] https://www.sec.gov/rules/petitions/2022/petn4-789.pdf
[10] https://www.sec.gov/rules/petitions/2022/petn4-782.pdf
[11] https://www.sec.gov/news/statement/peirce-statement-kraken-020923

participants to try to understand the applicability of SEC rules to digital assets by analyzing a growing number of enforcement actions.[12]

In recent weeks, federal prudential regulators have also spurred uncertainty among crypto market participants and the financial institutions from which they obtain banking services through the issuance of a series of new guidance documents.[13] On January 3, the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) issued a joint statement warning depository institutions of potential risks to their safety and soundness associated with providing banking services to digital asset service providers and other "crypto-asset sector participants".[14] While the regulators claim in their guidance that the institutions they regulate "are neither prohibited nor discouraged from providing banking services to customers of any specific class or type," they also go on to state that "the agencies have significant safety and soundness concerns with business models that are concentrated in crypto-asset-related activities or have concentrated exposures to the crypto-asset sector." As a result of this guidance, crypto industry market participants have begun to encounter increased challenges, in what was already a challenging environment, in obtaining access to basic and critical banking services, such as deposit accounts for employee payroll.

Additionally, the guidance issued by the agencies highlights concerns regarding "concentration risks for banking organizations with exposures to the crypto-asset sector." However, the effect of the agencies' guidance is counter to the ostensible objective. Rather than reducing concentration risk, by discouraging this activity, these regulatory signals will likely reduce the number of financial institutions willing to provide banking services to crypto-related clients even further, resulting in increased concentration risk. High concentration in any one sector – not just crypto – poses risks to an individual financial institution. To decrease these risks, regulators should encourage deposits to be dispersed at a large number of banks of all sizes.

As a result of many of the steps taken by federal financial regulators, the U.S. is becoming an increasingly challenging environment for innovation around crypto, digital assets, and blockchain technology to take place. In the event that digital asset companies cannot conduct their businesses in the United States – because of ongoing regulatory uncertainty, lack of access to the banking system, or both – they will have no choice but to shift their operations to other jurisdictions.

This outcome stands in stark contrast to many of the objectives of EO 14067. It also threatens the position of the United States as a leader in technological innovation and in the global financial system. Many foreign jurisdictions, including the European Union, Japan, United Kingdom, Singapore, Australia, and Hong Kong, have taken significant steps towards establishing new regulatory regimes

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[12] https://www.pionline.com/cryptocurrency/sec-ramped-cryptocurrency-enforcement-2022-report-shows

[13] https://www.reuters.com/business/finance/us-regulators-warn-banks-be-alert-crypto-related-liquidity-risks-2023-02-23/

[14] https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20230103a1.pdf

for the governance of digital asset markets.[15] As other countries seek to harness the benefits of digital assets, the risk of offshoring American innovation poses significant risks to both economic and national security. A cautionary parallel is happening contemporaneously with semiconductor manufacturing, which the United States is now desperately trying to bring back onshore for similar reasons. In addition, small businesses, and populations who have been historically excluded from financial services, stand to lose the most if the crypto industry moves offshore and their ability to deploy their assets as they deem fit is diminished.

The Crypto Council welcomes the efforts of the House Financial Services Committee to explore avenues to establish clear rules of the road that foster innovation, provide critical protections for consumers and our financial system, and preserve the technological cutting edge of the United States.

Sincerely,

Sheila Warren
Chief Executive Officer
Crypto Council for Innovation

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[15] https://www.banking.senate.gov/imo/media/doc/Jeng%20Testimony%202-14-23.pdf