BLOCKCHAIN ASSOCIATION

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December 13, 2020

Steven T. Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington, D.C. 20220

Dear Secretary Mnuchin:

On behalf of the members of the Blockchain Association, I am writing to express our concerns regarding reports[1] that the U.S. Treasury Department is considering issuing, without public or congressional input, a new rule to restrict the use of self-hosted wallets. Such a rule could cripple the burgeoning cryptocurrency and blockchain ecosystem in the United States just as our competitors, most notably China, invest heavily in this new technology to advance their own interests. Self-hosted wallets are a critical component of blockchain networks. Any regulation of this novel and complex technology should be crafted through a full, open, and democratic process.

Self-hosted wallets allow individuals to engage in peer-to-peer transactions over the internet, meaning that no other individuals or entities are parties to the transaction. Peer-to-peer transactions over the internet were impossible before the advent of the first cryptocurrency. This seemingly straightforward innovation has and will continue to have widespread, profound, and exciting implications for policymaking and society, especially as individuals increasingly conduct their lives "online." The ability to "cut out the middleman" in digital transactions creates a new paradigm for individuals, policymakers, and law enforcement alike because traditional digital financial transactions necessarily involve regulated intermediaries.

Some domestic and international regulators are concerned that individuals' ability to engage in digital transactions without the use of middlemen creates unacceptable money laundering and terrorist financing risks. Their concerns are understandable: illicit actors exploit the digital asset ecosystem, just as they exploit cash and the traditional financial system. As industry practitioners with a deep understanding of the risks and opportunities presented by blockchains and cryptocurrencies, we seek to have an open dialogue with regulators and law enforcement about how to address these concerns in an effective and reasonable way.

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[1] Congressman Warren Davidson (OH.), et. al. *Congressional Letter* (9 Dec. 2020). Available from: https://twitter.com/WarrenDavidson/status/1336804544320327683.

In essence, we believe that the regulation of a novel technology with applications across every major sector of the economy—not just financial services—demands an open debate and notice and comment period to be effective. The open competition of ideas is the foundation of sound government. We strongly believe that allowing individuals to transact on a peer-to-peer basis over the internet is a net positive for free societies and is therefore good policy. Here is why:

1. Implementing new restrictions on the ability for regulated financial institutions like cryptocurrency exchanges to interact with self-hosted wallets risks "bifurcating" the regulated and peer-to-peer ecosystems, thereby limiting law enforcement's existing "window" into illicit activity involving self-hosted wallets. When they are used for illicit purposes, whether by criminals or hostile nation-states, law enforcement's ability to tie information derived from transparent blockchains to real world activity and regulated institutions has to date served as the foundation of attribution and seizure. Thus, restricting the "cross-pollination" of the regulated and peer-to-peer ecosystems risks pushing out of reach illicit activity involving self-hosted wallets.

2. Cryptocurrencies have long suffered from the (thankfully) fast-fading misperception that they are primarily used for illicit purposes. However, the best available evidence suggests that the percentage of activity (as well as absolute dollar amount) in the traditional financial system that is illicit is *higher* than the percentage of activity in the digital asset ecosystem that is illicit. Moreover, as evidenced by a string of recent forfeitures, law enforcement has become adept at identifying and seizing ill-gotten digital assets. Thus, additional restrictions on individuals' ability to use self-hosted wallets would not only undermine law enforcement's existing ability to establish attribution and execute seizure in cases involving digital assets but also represent a disproportionate response to the risks posed by the illicit use of them.

3. As the economy and individuals' lives have become increasingly digital-first, the use of cash transactions has declined precipitously, driving the vast majority of transactions to online platforms. Because traditional digital financial transactions necessarily involve an exploitable intermediary, they are by definition not private. In the same way, restrictions on self-hosted wallets would lay the foundation for total surveillance of citizens' financial lives by eliminating a digital cash-like payment option, with potentially disastrous consequences for free societies.

4. Additional restrictions on self-hosted wallets would eliminate the unique features of digital assets that make them a catalyst for expanding financial inclusivity. Because anyone with an internet connection can create and use self-hosted wallets to transact with others, they are the critical feature of digital assets that could make basic financial services available to the billions of people currently without access to

these services. Critically, the digital divide must first be solved before this feature of self-hosted wallets can be fully leveraged.

5. Finally, additional restrictions on self-hosted wallets would indiscriminately apply payments regulation to a diverse and developing ecosystem with applications that extend far beyond the transmission of money. While payments using cryptocurrencies, one type of digital asset, is the use case of distributed ledgers that is currently the focus of regulators and policymakers, self-hosted wallets do not necessarily control digital assets that are used for payments. Just like a home safe, self-hosted wallets could be used to store cash-like assets in addition to other digital assets, including important documents and even immutable digital art. Importantly, with the digital asset and blockchain ecosystem still in its infancy, preemptively applying payments regulation to self-hosted wallets would inappropriately “pigeonhole” an innovative ecosystem that could bring to the market revolutionary products and services.

While one may not agree with these conclusions, restricting individuals’ ability to use self-hosted wallets, and by extension engage in digital peer-to-peer transactions, would have broad and long-lasting consequences for our society. With so much at stake, the Blockchain Association firmly believes that any policy intending to restrict individuals’ ability to use self-hosted wallets deserves public debate and congressional input.

Sincerely,

Kristin Smith
Executive Director

CC: Robert O’Brien, National Security Adviser
Kenneth Blanco, Director of the Financial Crimes Enforcement Network
William Barr, Attorney General
Christopher Wray, Director of the Federal Bureau of Investigation
Wilbur Ross, Secretary of Commerce
Larry Kudlow, Director of the National Economic Council
Gina Haspel, Director of the Central Intelligence Agency
John Ratcliffe, Director of National Intelligence
Russell Vought, Director of the Office of Management and Budget
Mark Meadows, White House Chief of Staff

Christopher Liddell, White House Deputy Chief of Staff for Policy Coordination
Kathy Kraninger, Director of the Consumer Financial Protection Bureau