



Mr. Don Graves

U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Delivered via regulations.gov

Re: Notice and Request for Comment on Developing a Framework on Competitiveness of Digital Asset Technologies

Dear Deputy Secretary Graves:

On behalf of the Chamber of Digital Commerce (“the Chamber”), we respectfully submit our comments on the International Trade Administration’s Request for Comment (“RFC”) on developing a framework on competitiveness on digital asset technologies.

The Chamber is the world’s first and largest blockchain trade association. Our mission is to promote the acceptance and use of digital assets and blockchain technology. We are supported by a diverse membership that represents the blockchain industry globally. Through education, advocacy, and close coordination with policymakers, regulatory agencies, and industry across various jurisdictions, our goal is to develop a responsible, pro-growth environment for digital assets highlighting all of the opportunities this emerging industry will present to the United States. Our members include the industry’s leading innovators, operators, advisory firms, and investors in the blockchain ecosystem.

We appreciate the opportunity to engage with you and your staff on these critical issues. We hope to continue the conversation and find ways we can work with you to help advance financial inclusion, consumer protection, social equity, and other worthwhile policy goals through a balanced policy approach to digital assets.

Very truly yours,

A handwritten signature in black ink that reads "Perianne Boring". The signature is written in a cursive, flowing style.

Perianne Boring
Founder and CEO

Competitiveness

(1) What are the features of U.S.-based digital asset businesses (e.g., administrators, operators, validators, and other key stakeholder roles in the function of digital assets as well as the exchanges, brokers, and custodians used to trade and store them) that currently underpin their competitiveness in a global market? Will these features support future competitiveness?

One of our primary goals for the blockchain industry is to raise global economic prosperity through the frictionless exchange of digital assets. Unfortunately, our existing financial system relies on outdated legacy infrastructure that requires multiple intermediaries to facilitate transactions. Blockchain technology allows for the peer-to-peer transmission of digital assets, which has the potential to enable a more inclusive financial system, with greater security and consumer protection. For the U.S. to remain competitive, we will need to provide a regulatory structure that allows these innovations to continue to flourish and mitigates the risks regulators currently associate with these different types of assets.

There are many different types of digital assets in the industry, each type growing quickly. That being said, for purposes of responding to this question, we focus on stablecoins, utility tokens, and non-fungible tokens (NFTs) - three of the fastest growing use-cases for digital assets.

Payments and U.S. Dollar backed stablecoins

Digital assets and stablecoins have the potential to help fight global poverty by making cross-border payments faster and more affordable. Today, a typical remittance fee can be as high as 10.9% per transaction,¹ and the World Bank estimates that “[g]lobally sending remittances costs an average of 6.38% of the amount sent.² In addition, international money transfers can take anywhere from 1 to 5 business days depending on the banks involved, the destination country, bank hours of operation, and currency conversions needed.³ In contrast, payments providers operating in South America and Africa using bitcoin and other open cryptocurrencies charge transaction commissions as low as 1%.⁴ Since analysts expect that the remittance market will grow by \$200 billion to over \$900 billion by 2026, lower fees will ensure that more funds go directly to individuals and their families.⁵ Domestically, the lack of a real-time, 24 hours a day payment system in the United States forms the basis for why Americans pay approximately \$26 billion in overdraft and high-cost check cashing fees each year.⁶

Under the United States’ existing legacy payment system, settlement can take anywhere from hours to days, leading individuals to use check cashers or payday lenders to receive real time access to funds. Meanwhile, in other countries around the globe, a real-time payment settlement

¹ “Bitcoin gains traction as a vehicle for sending remittances home to Mexico,” Mexico News Daily, May, 2021.

² “Remittance Prices Worldwide,” The World Bank, March 2021.

³ Cecilia Hendrix, “How long do international money transfers take?,” Western Union, April 5, 2021.

⁴ Andalusia Knoll Soloff, “The new wave of crypto users: migrant workers,” Rest of World, April 26, 2021.

⁵ Polly Jean Harrison, “Global Remittance Market is Expected to Grow by \$200 Billion by 2026,” The FinTech Times, June 29, 2021.

⁶ Aaron Klein, “The fastest way to address income inequality? Implement a real-time payment system,” Brookings Institution, January 2, 2019.

is very present. For example, the European Central Bank launched its instant payment system, TARGET Instant Payment Settlement (TIPS) on November 30, 2018. The system allows users across Europe to send and receive payments immediately irrespective of their location.⁷ The United Kingdom also has a robust instant payments system, which supports over 8 million transactions per day.⁸ The Bank of England uses Real-Time Gross Settlement (RTGS) Infrastructure to operate CHAPS, a sterling same-day payments system used to settle high-value wholesale payments as well as time-critical, lower-value payments.⁹ While the U.S. also has a RTGS system, it carries fewer than 1 million transactions per day and is used almost exclusively by financial institutions and large corporations.¹⁰ Further comparing the U.S. and U.K. systems, transfers between U.S. banks incur fees averaging from \$10 to \$35 for same day transactions, whereas the U.K. payments system is free, available at all times, and settles within seconds.¹¹ The U.S. lags even further behind India, where the number of real time payments, over 48 billion, was almost seven times greater than the combined real-time payments volume of the U.S., Canada, and the UK in 2021.¹² The Reserve Bank of India paved the way for India's lead by creating and encouraging supportive infrastructure such as QR codes for merchants and radio-frequency identification (RFID) tags for toll gates.¹³ India's rise to the top of the real-time payments market demonstrates the importance of clear regulatory guidance and industry support in this context.¹⁴

While we appreciate that the Federal Reserve is working towards its own real-time payments architecture here in the U.S. with FedNow, this has been a multi-year effort, expected to end in 2023. This delay in FedNow implementation or another effective US real-time payments infrastructure has forced the industry to find ways to accomplish the same goal. For example, Chamber-member Circle, issuer of USDC has been providing no cost cross-border transaction fees since 2017 with transaction settlement in near real time.

Unfortunately, efforts to use digital assets to improve payments systems in the U.S. are being impeded by a lack of clear regulatory guidance on how digital tokens should be classified – either as a payment instrument or as a security. We support a regulatory approach towards stablecoins that not only provides clarity, but also subjects these assets to a regulatory regime currently used for regulating payments instruments. If an appropriate regulatory framework is provided for stablecoins, we believe that new market intermediaries will emerge to provide services to expedite when and how working families receive payroll funds, send remittances, and pay bills in a much less expensive way than currently offered by existing intermediaries.

Utility tokens & data ownership

⁷ European Central Bank, “TIPS for instant payments: reshaping the market and our daily lives,” February, 2019.

⁸ Christian Catalini & Andrew Lilley, “Why is the United States Lagging Behind in Payments?,” July 27, 2021.

⁹ Bank of England, “Bank of England’s RTGS and CHAPS services: Service Description,” December, 2018.

¹⁰ Christian Catalini & Andrew Lilley, “Why is the United States Lagging Behind in Payments?,” July 27, 2021.

¹¹ Ibid.

¹² ACI Worldwide, “India Surges Ahead as the World's Leader in Real-Time Payments – Boosting Economic Growth,” April 26, 2022.

¹³ The Economist Intelligence Unit, “Going Digital - Payments in the post-Covid world,” 2021.

¹⁴ ACI Worldwide, “India Surges Ahead as the World's Leader in Real-Time Payments – Boosting Economic Growth,” April 26, 2022.

Digital assets provide solutions for many use cases beyond payments. While bitcoin is fundamentally a digital commodity that can be used as a payments instrument¹⁵ or store of value, research on similar digital assets around the globe shows that the dominant feature of digital assets is access to platform services.¹⁶ Many digital assets are utility tokens, which are purchased to be used for a consumptive purpose, offering holders the ability to access a network's services or participate in a community. These "utility tokens" can form the foundation of systems that track real assets or offer privacy-protecting technology services (e.g., credit rating and cloud storage). They are distinctly different from digital assets that meet the Securities and Exchange Commission's (SEC) definition of a security, which are purchased as an investment.¹⁷ Utility tokens have the potential to play an important role in granting consumers greater ownership of their own financial data.

Services built upon utility tokens and blockchain technology can give consumers more control over their data and reduce financial fraud.¹⁸ For example, several companies, like IBM, are leveraging blockchain technology to allow users to verify their digital identities online while maintaining control over sensitive personal data in health care, the auto industry, financial services, and elsewhere.¹⁹ These innovations provide competitive opportunities that align with the goals of President Biden's March 9 Executive Order. Outside of the U.S., open digital token offerings (i.e., where a portion of the tokens developed are available to the public), have lowered the costs of blockchain-based technology projects to raise funds. Notably, in the U.K. and Singapore, regulators have warned of the consumer protection risks associated with such token offerings, but at the same time have emphasized that the regulatory framework clearly permits the sale of digital assets as part of the launch of an open blockchain project.²⁰ In the U.S., however, a regulatory crackdown on open digital token offerings has forced entrepreneurs to rely upon traditional fundraising channels – such as venture capital. Women and minorities face especially challenging circumstances in raising capital. Data shows that in the first half of 2021, only 2% and 1.2% of venture capital dollars went to firms founded by women and black entrepreneurs, respectively.²¹ Allowing for digital token offerings in the U.S. could help expand greater access to early-stage technology projects, and potentially levels the playing field for women and minority entrepreneurs. Data shows that minorities are adopting digital tokens at a

¹⁵ In the Matter of: Coinflip, Inc., d/b/a Derivabit, and Francisco Riordan, CFTC Docket No. 15-29. 2015 WL 5535736, September 17, 2015.

¹⁶ Robert Greene and David Lee Kou Chen, "Singapore's Open Digital Token Offering Embrace: Context & Consequences," The Journal of the British Blockchain Association, June 28, 2019.

¹⁷ "Understanding Digital Tokens: Market Overviews and Guidelines for Policy Makers and Practitioners," Chamber of Digital Commerce, July 2018, 22.

¹⁸ "How Blockchain Could Disrupt Banking," CBI Insights, February 11, 2021.

¹⁹ IBM has developed a blockchain based platform that has been used by businesses, universities, and others to manage digital identities. "Blockchain for digital identity and credentials," IBM, last accessed November 3, 2021. Burst IQ has created a platform for personalized healthcare identities. Burst IQ, Company, accessed November 4, 2021. Ontology's decentralized identity application is being used in various leading consumer products including Mercedes-Benz vehicles. Ontology, "Over 1.5 Million Users Now Managing Their Digital Identity Using ONT ID, Ontology's Decentralized Identity Application," September 9, 2021.

²⁰ Robert Greene and David Lee Kou Chen, "Singapore's Open Digital Token Offering Embrace: Context & Consequences," The Journal of the British Blockchain Association, June 28, 2019.

²¹ Diane Wong, "Reflecting On Our Progress: One Year Since The Launch Of Diversity Spotlight," Crunchbase, August 16, 2021.

higher rate than other demographics,²² suggesting that minorities would be better served by a capital structure that utilizes digital assets.

NFTs

Another increasingly popular category of digital assets are NFTs, which can be thought of as a digital collectible. NFTs provide an excellent example of how digital assets can expand economic opportunity. Historically disadvantaged communities are increasingly selling NFTs on open blockchains, which has expanded economic opportunity. Just 1% of art auction spending over the last ten years related to works by black artists, half of which is attributable to a single individual.²³ However, between January 2020 and March 2021 alone, 58 black artists sold a combined 513 NFTs for a combined value of over \$700,000.²⁴ In addition, several organizations have formed to promote the work of black artists in the digital space.²⁵ Similar efforts are being made to expand inclusivity in art through NFTs for women,²⁶ transgender youth,²⁷ and other traditionally marginalized groups. Here again, regulatory clarity is critical – a lack of guidance from the SEC as to whether, and why, NFTs could be considered securities has the potential to stifle innovation and prevent NFTs from continuing to enable economic equity.

As described above, the current use cases of digital assets are already helping create a more inclusive and dynamic economy. Over time, this technology has the potential to transform the infrastructure underpinning much of our online economy. However, further growth in this area faces significant legal and regulatory headwinds. At a basic level, there is uncertainty about how digital assets fit within the traditional definitions of “security,” “commodity,” and “currency.” Apart from definitional issues, there is a lack of regulatory guidance about how financial intermediaries can interact with these assets while meeting obligations around custody, anti-money laundering (“AML”) and know your customer (“KYC”), tax, accounting and other existing regulatory requirements. With this disintermediating technology, regulatory uncertainty can also fall heavily on the end user. In particular, the lack of clarity around the tax treatment of digital assets creates a strong disincentive to participate in this new ecosystem.

(2) What obstacles do U.S. digital asset businesses face when competing globally? How have these obstacles changed over the past five years and are any anticipated to disappear? Are there clearly foreseeable new obstacles that they will face in the future? What steps could the U.S. government take to remove, minimize, or forestall any obstacles?

(3) How does the current U.S. regulatory landscape affect U.S. digital asset businesses' global competitiveness? Are there future regulatory shifts that could

²² According to a recent Harris Poll survey, 13% of whites, 18% of African Americans, and 20% of Hispanics own cryptocurrencies. Akayla Gardner, “Black Americans Are Embracing Stocks and Bitcoin to Make Up for Stolen Time,” Bloomberg, April 13, 2021.

²³ Charlotte Burns and Julia Halperin, For African American Artists, the Market Remains Woefully Unbalanced, Sotheby's.com, February 2019.

²⁴ Cuy Sheffield, “Why I'm Collecting Black Crypto Art,” Medium, Dec. 21, 2020 (citing One/Off data).

²⁵ One/Off, About, accessed November 3, 2021. Black NFT Art, About, accessed November 3, 2021.

²⁶ Marris Adikwu, “How Women Are Carving Out a Space in the NFT Market,” Vogue, March 2021.

²⁷ Dan Avery, “Transgender teen's crypto art series fetches \$2.16 million at Christie's,” NBC News, July 2021.

support greater global competitiveness of U.S. digital asset businesses? How does the U.S. regulatory landscape for digital assets compare to that in finance or other comparable sectors?

As with any new innovative technology, digital assets may pose opportunities and risks that are not well understood. However, a rational and balanced approach to policymaking and regulation can help ensure that the benefits of a new technology come to fruition while maintaining existing protections for consumers. Examples of successfully applying this approach include the development of the Internet, Voice Over Internet Protocol (“VOIP”), and other revolutionary technologies. Today, measured policymaking is necessary to fulfill the promise of DeFi and digital assets to create a financial system that is faster, cheaper, safer, and more inclusive. Regulating this innovative space will require addressing many of the same problems found in traditional finance, including consumer protection, fraud, money laundering and other financial crime, and overall financial stability. Policymakers and regulators can enforce existing rules to protect against bad actors, while providing adequate regulatory guidance, relief, or changes that enable positive innovation to flourish.

To achieve these ends, regulators should consider these policy recommendations:

- I. **Ensure regulatory coordination.** Disparate guidance from the SEC, Commodity Futures Trading Commission (CFTC), and other regulatory agencies has made it extremely challenging and costly for digital asset and DeFi projects to maintain compliance with applicable regulations as they develop. We believe establishing a joint CFTC-SEC working group composed of public and private stakeholders to undertake analysis of the current regulatory structure and recommendations about standards, best practices, and ways to improve the efficacy of these markets would be highly beneficial in beginning to resolve some of the regulatory fragmentation which exists today. We have been encouraged by recent legislative proposals, such as H.R. 1602, the Eliminate Barriers to Innovation Act, which would direct the SEC and CFTC to establish a digital asset working group to ensure collaboration between regulators and the private sector.
- II. **Clear regulatory framework.** Develop a clear regulatory framework that defines “digital assets” versus “digital asset securities”. To date, the SEC has failed to provide adequate guidance on the application of the “Howey Test” to digital assets. While it has provided some guidance,²⁸ when presented with other opportunities to further clarify its thinking, the SEC has refused to do so or has done so in a piecemeal fashion.²⁹ Worryingly, the SEC appears to be pursuing a pathway of providing clarity through enforcement cases and conclusory public statements. There are several proposals that would help address this definitional uncertainty. For example, the implementation of SEC Commissioner Peirce’s “Token Safe Harbor Proposal 2.0” (the “Token Safe Harbor Proposal”), or something similar, would be a constructive step that would facilitate

²⁸ Framework for “Investment Contract” Analysis of Digital Assets,” Securities and Exchange Commission, July 14, 2021.

²⁹ Commissioners Hester M. Peirce and Elad L. Roisman, “In the Matter of Coinschedule,” Securities and Exchange Commission, July 14, 2021. “We nevertheless are disappointed that the Commission’s settlement with Coinschedule did not explain which digital assets touted by Coinschedule were securities, an omission which is symptomatic of our reluctance to provide additional guidance about how to determine whether a token is being sold as part of a securities offering or which tokens are securities.”

innovation while maintaining standards and disclosure requirements for new products.³⁰ The Token Safe Harbor Proposal would provide a three-year period for blockchain developers to launch and mature their projects before being subject to full SEC regulation. The Safe Harbor Proposal also exempts from the definition of a security project that has reached network maturity.³¹ This proposal would allow developers to focus on growing their nascent projects, while still requiring regular disclosures to the SEC and a formal exit memo at the end of the three-year period.³²

- III. **Clarify how custody rules apply to digital assets.** The SEC, the Office of Comptroller of the Currency (“OCC”), and state regulators each have differing custodial requirements for digital assets. At the federal level, the SEC and OCC have taken helpful steps in the form of guidance from the OCC and limited no-action relief from the SEC.³³ At the state level, Wyoming passed a bill allowing for banks to provide custodial services for digital assets.³⁴ While such steps have been welcome, we hope that they portend more significant steps in the future. Providing continued clarity on how existing custody rules apply to digital assets, and allowing the traditional, regulated financial system to interact with digital assets, will provide a safer arena for consumers to navigate the digital asset ecosystem.
- IV. **Leverage digital assets and blockchain technology to bolster AML/KYC compliance.** Money laundering transactions involving cryptocurrencies are only a fraction of the total value of assets laundered. Moreover, the traceability feature of blockchain technology has proven to facilitate regulators in tracking down money launderers.³⁵ Technological developments are facilitating innovation with the potential to significantly enhance KYC compliance. These developments could allow for the establishment of a formal “digital KYC utility” that would verify customer identities across market participants, rather than the current approach of requiring entities serving end-users to obtain and verify the name, date of birth, physical address, and telephone number before onboarding a client.³⁶ Although the technology still needs to evolve for expanded and continuous use, digital KYC utility could enhance compliance with AML/KYC regulations and permit firms to more efficiently identify potential indicia of illegal behaviors.³⁷ More broadly, policymakers should encourage the development of portable digital identities. Portable digital identities allow consumers to access one system for identity verification and utilize the power of the blockchain to transport that identity and access services across

³⁰ Commissioner Hester M. Peirce, “Token Safe Harbor Proposal 2.0,” April 13, 2021.

³¹ Ibid. (Defining network maturity as when the network is either i) “[n]ot economically or operationally controlled and is not reasonably likely to be economically or operationally controlled or unilaterally changed by any single person, entity, or group of persons or entities under common control, except that networks for which the Initial Development Team owns more than 20% of Tokens or owns more than 20% of the means of determining network consensus cannot satisfy this condition”, or ii) “[f]unctional, as demonstrated by the holders’ use of Tokens for the transmission and storage of value on the network, the participation in an application running on the network, or otherwise in a manner consistent with the utility of the network”).

³² Ibid.

³³ “Interpretive Letter #1170,” Office of the Comptroller of the Currency, July 22, 2020. See also 17 C.F.R. pt. 240.

³⁴ Wyo. Stat. Ann. § 34-29-101 – § 34-29-105.

³⁵ Uberti, *supra* note 71.

³⁶ Letter from Perianne Boring, President, to Kenneth Blanco, FinCEN Director, Chamber of Digital Commerce, November 26, 2019.

³⁷ Ibid.

firms.³⁸ Not only will this drastically improve access to services for consumers, but it will also result in less opportunity for identity fraud.

- V. **Clarify tax guidance and accounting standards.** Over the past five years, the Internal Revenue Service (“IRS”) has significantly increased enforcement actions against taxpayers who transact in digital assets, despite the fact that it has not provided meaningful guidance around digital assets and tax rules since 2014. This disparity creates risk for taxpayers seeking to comply with the laws, wastes IRS audit resources, dampens commercial activity and economic recovery, and has stifled American innovation. In May 2021, the Chamber published a tax policy framework that could be utilized as a basis for legislation that identifies key areas where the IRS must issue more guidance for taxpayers on lending, information reporting, foreign bank account reporting, characterization of digital assets, and proof of stake protocols.³⁹ It also sent a letter to the IRS on the application of the Foreign Account Tax Compliance Act (“FATCA”) to digital assets.⁴⁰

In addition, the Chamber responded to the Financial Accounting Standards Board (FASB)’s Invitation to Comment on FASB’s Future Agenda consultation.⁴¹ As we state in that response, we believe that digital assets represent the next evolution in increasing efficiency of financial and non-financial transactions. Due to pervasive impact, exponential increase in market capitalization and adoption of digital assets, the accounting for digital assets is the most critical new financial reporting issue facing users and preparers of Generally Accepted Accounting Principles (GAAP) financial statements, and that setting clear accounting standards for companies that hold digital assets on balance sheets must be top priority for FASB. We were pleased to see FASB add standard setting for digital assets to their technical agenda in May 2022 and urge the Board to provide clear guidance and parity as they endeavor to bring fair market value accounting standards to digital assets.

(4) What are the primary challenges to U.S. technological leadership in the digital assets sector?

The complexity of digital assets and the technology that supports them poses a challenge to regulators who attempt to apply legacy regulatory frameworks for securities, commodities, currencies, or perhaps something else. Likewise, innovators are challenged to build viable business models without knowing which regulatory framework will apply. Having an uncertain regulatory environment is a significant impediment to investment and innovation in the blockchain and digital asset industries, scuttling projects before they begin or forcing them offshore to more established and clear regulatory systems.

³⁸ Husayn Kassi, “Portable Identity: giving us control of our digital lives,” *Forbes*, October 28, 2019.

³⁹ “Principles and Framework for Appropriate Digital Asset Tax Policy in the United States,” Chamber of Digital Commerce, May 14, 2021.

⁴⁰ Letter from Amy Davine Kim, Chief Policy Officer, to IRS Assistant Secretary Mazur, Commissioner Rettig, and Acting Chief Counsel PaulLetter from Amy Davine Kim, Chief Policy Officer, to the IRS, Chamber of Digital Commerce, May 14, 2021.

⁴¹ Letter from Perianne Boring, Founder and President, to Financial Accounting Standards Board, Chamber of Digital Commerce, November 26, 2019.

The U.S. financial regulatory model consists of multiple regulatory bodies, which can lead to slow approvals and uncertainty for innovators. Countries such as the United Kingdom have a single regulator tasked with the oversight of a majority of the financial services industry, giving innovators a clearer understanding of who regulates their businesses. We are supportive of the US regulatory system; however, lack of clarity and a clear regulator has hindered innovation, economic growth, and US competitiveness in this space to date.

Environmental Impact

(6) What, if any, is the future role of digital assets mining ^[2] in the U.S. digital assets sector? Can digital assets be compatible with a low-carbon economy that emphasizes renewable energy? If so, how? In what ways can the U.S. government and U.S. companies drive competitive, *sustainable* (for the environment and energy consumption) development of digital assets?

At the start of last year, over 50% of bitcoin computing power (hash rate) was located in China and 13% was in the U.S. By July 2021, China had banned bitcoin mining, and the U.S.’ share of the network’s hash rate had grown to 35%. Today, digital asset mining in the U.S. continues to grow.

Like the traditional financial industry,⁴² ensuring the functionality and integrity of digital assets results in energy use. However, digital asset mining brings with it unique benefits to the U.S. that should not be overlooked. Namely, it is creating jobs and helping to spur more sustainable energy practices. The digital asset mining industry is increasingly using renewable energy to power its operations. Today, for example, estimates of bitcoin mining companies’ use of renewable energy ranges from 39%⁴³ to as high as 58%.⁴⁴ For comparison, in 2020, renewable energy sources accounted for about 12% of total energy consumption in the United States.⁴⁵ Some of this can be attributed to the exodus of digital asset mining from China and into the U.S. resulting in a rapid increase of sustainable energy use. This increased reliance on renewable energy use is also due to miners helping reduce waste and inefficiencies in energy markets. Digital asset miners have sought out locations where energy is ‘stranded’ because it cannot reach an end user. Miners’ use of hydroelectric⁴⁶ and geothermal⁴⁷ power is an example of this. Bitcoin miners are also helping reduce waste and carbon emissions in fossil fuel industries as well. For example, bitcoin miners are traveling to oil fields to convert stray, unwanted natural gas into electricity used for bitcoin mining. This natural gas would otherwise be utilized by oil drillers who typically vent the gas into the atmosphere in the form of methane in a process called “flaring.”⁴⁸ Methane is a much

⁴² While bitcoin’s novel protocol sets it apart from traditional payment systems, policymakers should bear in mind that traditional payments systems have a carbon footprint as well. Banks, for instance, have branches, ATMs, offices, and computer systems, all of which contribute to their carbon footprint.

⁴³ “3rd Global Cryptoasset Benchmarking Study,” University of Cambridge Judge Business School, September 2020.

⁴⁴ “Bitcoin Mining Council Survey Confirms Sustainable Power Mix,” Bitcoin Mining Council, 2021.

⁴⁵ “How much of U.S. energy consumption and electricity generation comes from renewable energy sources?,” U.S. Energy Information Administration, last modified May 14, 2021.

⁴⁶ Kate Rooney, “An old Alcoa plant in Upstate New York is going to be converted into one of the world’s largest bitcoin mining centers,” CNBC, June 5, 2018.

⁴⁷ Ibid. See also Jamie Crawley, “El Salvador Mines First Bitcoin With Volcanic Energy,” Coindesk, October 2021.

⁴⁸ Laila Kearney, “Oil drillers and Bitcoin miners bond over natural gas,” Reuters, May 21, 2021.

more powerful greenhouse gas than carbon, and reducing the practice of flaring helps lessen the environmental impact of drilling.⁴⁹

Pressure from government and the private sector to reduce carbon emissions overall, will likely continue to propel miners to innovate and seek out renewable and lower carbon-intensive energy sources. Digital asset mining has also helped create new jobs in states across the country, including Washington, New York, North Carolina, Montana, Texas, and North Dakota.⁵⁰ In many cases, these mining companies have chosen to locate operations in areas devastated by deindustrialization and in rural communities, helping reinvigorate those local economies.⁵¹

Furthermore, it's in our national security interest to encourage digital asset mining in the U.S. Energy security is national security. Digital asset mining will accelerate the energy transition, enhance grid security, and combat climate change. As we continue to develop the digital economy, digital assets and blockchain technology are already becoming integrated with critical infrastructure. It's essential that blockchain infrastructure is hosted in the U.S.

With the appropriate policies, the United States has the chance to be a world leader in supporting an industry that will underpin the next evolution in financial services infrastructure while helping propel advances in sustainable energy.

(7) What impact, if any, will global deployment of central bank digital currencies (CBDC) have on the U.S. digital assets sector? To what extent would the design of a U.S. CBDC (e.g., disintermediated or intermediated, interoperable with other countries' CBDCs and other domestic and international financial services, etc.) impact the sector?

Depending on how it is deployed, a CBDC could have a major impact on the U.S. digital assets sector. If deployed incorrectly, and without proper protections, a U.S. CBDC would likely have adverse consequences on existing market participants due to the U.S.'s closely interconnected financial ecosystem. Additionally, if privacy protections are not put in place or if speed/latency isn't fast enough or scalable, potential CBDC users will stick to cash. Additionally, if cyber security isn't adequate and sufficient and the CBDC gets hacked, it will undermine consumer confidence in the CBDC, as well as undermining the financial system itself.

Besides the potential impact of a U.S. CBDC on existing market participants, many of our members operate at the cutting edge of finance and technology and would likely be impacted by a CBDC deployment. This includes digital asset exchanges, stablecoin providers, permissioned distributed ledger technology (DLT) network creators, and many others. Some of these entities may be vulnerable to changes in the U.S. payments ecosystem, particularly businesses that provide U.S. dollar-backed stablecoin services. Although the existence of businesses built around the issuance of stablecoins should not hinder work on developing a U.S. CBDC, we do believe

⁴⁹ "Bitcoin miners help US oil producers cut flaring," Argus, October 8, 2021.

⁵⁰ Taras Kulyk, "Mining Digital Assets Creates Opportunities For Institutional Investors And Communities Alike," Core Scientific, March 9, 2021.

⁵¹ Matthew De Saro, "Ponderay Newsprint Mill Reopens as Crypto Mining Operation," Beincrypto, last modified September 16, 2021. Kate Rooney, "An old Alcoa plant in Upstate New York is going to be converted into one of the world's largest bitcoin mining centers," CNBC, June 5, 2018.

that a U.S. CBDC should be designed to be complementary to other forms of digital money that have already been developed. When considering the success of current stablecoin issuers and innovations, it remains keenly important that the U.S. consider whether a retail-CBDC is needed at all before moving forward with such deployment.

Additionally, when researching the deployment of a U.S. CBDC, interoperability and international coordination must be taken into account. Ensuring CBDC's can flexibly interoperate with other digital assets is also important. If moving forward with a CBDC, the Fed must consult with the BIS, and other central banks to identify benefits and risks related to global CBDC interoperability. Global partners should then collaborate to adopt principles, protocols, and technology reviews to align coordination. Research and analysis should be led and coordinated by the U.S. government to ensure USD-reserve status.

Lastly, If the U.S. is to move forward with a CBDC, education must be a key component of the rollout. There will be a significant learning curve for a swath of new users to digital finance tools and lack of education could lead to greater economic wealth polarization. The Chamber of Digital Commerce stands ready to help the U.S. government provide education tools if needed.

(11) By what metrics should we measure the competitiveness of the U.S. digital assets sector in the global market? Are there existing measurements or data against these metrics?

The World Economic Forum, which has been measuring competitiveness among countries since 1979, defines it as “the set of institutions, policies and factors that determine the level of productivity of a country.” To date, the U.S. is home to the largest number of crypto investors, exchanges, trading platforms, crypto mining firms and investment funds.⁵² With the growth of the crypto industry in our country, the U.S. has an opportunity to encourage industry players and investors to stay in the U.S. rather than take their business to countries with more regulatory clarity and clearer boundaries of oversight.

Nevertheless, the current lack of regulatory clarity is hampering further growth and innovation and impacting US competitiveness. Other countries understand the crucial role these technologies are going to play in the digital economy and have facilitated regulatory environments that foster growth and innovation within their borders. The U.S. has an opportunity to keep jobs, innovation, and revenue within its borders and should not squander it.

Comparisons to ‘Traditional’ Financial Services and Financial Inclusion Considerations

(12) What factors and conditions, if any, that have driven and sustained the global leadership of U.S.-based legacy financial institutions will foster the same leadership for U.S. digital asset businesses? If there are no common factors, what factors and conditions will differentiate global competitiveness for U.S. digital asset businesses?

The digital asset industry presents distinct opportunities and challenges from the traditional US-based legacy systems. As US regulators understand digital assets and blockchain technologies, it is important to move away from the band-aid approach of trying to regulate these

⁵² Thomson Reuters, “Cryptocurrency Regulations by Country,” 2022.

new innovations prescribing existing solutions. The worst case scenario would be treating this industry like historical platforms without thinking about the ways digital assets differ in both use cases and technology.

While applying the legacy principles of transparency and resiliency to an emerging sector is appropriate, applying business models found in the traditional financial world has the potential to stifle development and damage the ability of the United States to maintain its stature as a jurisdiction of choice for financial system innovation. The Chamber has expressed this view in other contexts in light of recent U.S. legislative initiatives.⁵³

(13) Can digital assets improve international payments (including trade and remittances), and improve on access to trade finance? If so, how? How do digital assets compare to other initiatives in payments such as the Federal Reserve's FedNow?

Yes. According to the World Bank, remittances to low- and middle-income countries reached \$540 billion. El Salvador, the first country to make bitcoin legal tender, received nearly \$6 billion of that. Consequently, these remittances coincide with slow settlement times, unfavorable or unjust exchange rates, and onerous commissions and fees often levied by the issuing bank, the beneficiary bank, and a correspondent or intermediary bank in between.

Blockchain technology makes international payments and remittances near instantaneous and cost effective. Congressman Ritchie Torres (D-NY) stated in an op-ed that cryptocurrencies give “the lowest-income Americans, especially immigrants, more freedom to transfer their own money and send remittances to their loved ones abroad without the burden of long delays and high fees. The ability to move the dollar at the speed of the blockchain can be a game-changer if we, the policymakers and regulators, allow it to be.”⁵⁴

However, at this point digital assets are estimated to make up less than 1% of the volume of global cross-border remittances. Long-term success of transforming international payments through digital assets will likely depend on increased utility, improved educational resources, and less volatility following price-discovery of the nascent asset class. (See also Question 1 information on stablecoins).

One other area that digital assets can improve international payments can be seen firsthand with the war in the Ukraine. When the financial infrastructure was shut down, many in the Ukraine, including the government, turned to cryptocurrency for their financial well-being. Additionally, the government was ahead of the curve and put many of its files and infrastructure plans on blockchain, enabling them to easily access this information.⁵⁵

⁵³ See, e.g., Senate Banking Committee Ranking Member Pat Toomey's August 26, 2021, Request for Feedback on Clarifying Laws Around Cryptocurrency and Blockchain Technologies; Chamber Of Digital Commerce Response Letter to Senator Toomey, September 27, 2021. See also, Senator Toomey, December 14, 2021, Principles to Guide Future Legislation

⁵⁴ Ritchie Torres, “A Liberal Case for Cryptocurrency,” New York Daily News, March 17, 2022.

⁵⁵ Unchained Youtube/Podcast: “How Ukraine is Leveraging Crypto in its fight against Russia,” March 4, 2022.

(14) According to the FDIC's 2019 “How America Banks” survey, approximately 94.6 percent (124 million) of U.S. households had at least one bank or credit union account in 2019, while 5.4 percent (7.1 million) of households did not. Can digital assets play a role in increasing these and other underserved Americans' access to safe, affordable, and reliable financial services, and if so, how? What role can the Federal government and the digital assets sector play to ensure that underserved Americans can benefit from the increased commercial availability of digital assets?

Yes, digital assets can play a role in increasing Americans’ access to safe, affordable, and reliable financial services, and have already done so to date. However, we believe that there needs to be more of an industry and government focus on digital asset education. Individuals that do not know how to transact with digital assets or use digital wallets may fall behind if there is more widespread adoption and this may create comparable problems with the traditional financial ecosystem and result in even greater economic wealth polarization.

The Chamber of Digital Commerce strongly supports initiatives that expand access to the wider financial system for more Americans. While much needs to be learned about the specific resources that would benefit this population, this lack of access often results from being undocumented or otherwise not being in a socio-economic position to utilize tools such as smartphones with high-speed Internet access, which would be equal hindrances to use of digital assets. They also still face the challenge of obtaining appropriate identity documentation to satisfy current KYC requirements. Financial inclusion has the potential to be a powerful policy benefit for adoption of digital assets, but we encourage the Biden administration to delve more deeply into how digital assets, in addition to decentralized identity solutions, would specifically benefit those who make up the majority of the unbanked population in the United States, while considering existing, more traditional financial products that may be underutilized and why. (See also the comments above re: stablecoins and financial inclusion).

The Benefits and Risks of DeFi

Some of the most promising social benefits of digital assets have yet to be introduced. For example, DeFi could ultimately result in significant improvements in social equity and financial inclusion. ‘DeFi’ is a broad term that refers to decentralized finance alternatives to traditional services that are generally built on open source blockchains.

While instances of questionable activity, including fraud, in DeFi have increased in dollar terms, as a percentage of overall DeFi activity, this activity is relatively miniscule. In 2021, funds sent from illicit wallets to DeFi protocols represented less than 1% of the total \$150 billion market cap of DeFi.⁵⁶ The growth in legitimate DeFi activity illustrates a focused commitment by the industry to ensure consumer protection and adherence to a self established regulatory framework. It also highlights the readiness of consumers to embrace DeFi solutions that provide greater ownership of their own money and control over their financial future, while dramatically lowering the cost of financial services. As you also know, fraud is not unique to DeFi or to

⁵⁶ Money laundering conducted using DeFi in 2021 totaled \$900 million, according to Chainalysis. “2022 Crypto Crime Report,” Chainalysis, 2022, p. 12. In 2021, the total DeFi market cap was estimated to be \$150 billion. CoinGecko, “Yearly Report 2021,” January 21, 2022, p. 31.

digital assets. Wherever fraud exists, regulators must take all necessary steps necessary to combat it. Notably, many digital asset companies follow guidelines set out by regulators to partake in regulated markets. For example, OFAC’s “Sanctions Compliance Guidance for the Virtual Currency Industry” provides best practices such as geolocation and VPN detection to ensure they remain compliant with sanctions and help prevent sanctions evasion. As a result, virtual currency companies are aware of the need to fill these compliance gaps and implement the right technology accordingly.⁵⁷ Moreover, as the DeFi industry develops, more sophisticated surveillance and market intelligence tools will provide the ability to better monitor and combat fraudulent activity in DeFi markets. Lowering the cost and increasing the availability of basic financial services In the United States, approximately 46 million people, representing 18% of the adult population, are either unbanked or underbanked.⁵⁸

Technological Development

(16) What new security concerns does increased adoption of digital assets raise? How can the U.S. government collaborate with U.S. digital asset businesses to protect consumers' access to their assets, personal information, and other sensitive data?

As with any nascent technology, increased adoption brings increased risk of bad actors and malicious behavior. As we have already seen, bad actors are becoming more sophisticated in the digital sector and there is an opportunity for robust partnership between industry and government to minimize vulnerabilities, risk, and damage. Some suggestions for increased partnership include:

- Enhance U.S. Treasury efforts to sanction malicious virtual currency exchanges that facilitate ransomware crime, while providing greater regulatory clarity to industry good actors.
- Implement and foster information sharing on attacks across government sectors, international bodies, and industry.
- Establish tax credits to incentives businesses to use cybersecurity tools

Ransomware & Financial Crime

Although one increasingly discussed risk often associated with cryptocurrencies is ransomware, ransomware is not a new phenomenon. The first documented ransomware attack took place in 1989,⁵⁹ and in the early 2000s, far before the first bitcoin was mined, criminal organizations began to leverage ransomware.⁶⁰ Ransomware payments have taken many forms over the past few decades, including through wire transfers, prepaid debit cards, gift cards, cash payments, and

⁵⁷ Chamber member, GeoComply, provides the virtual currency industry, such as cryptocurrency exchanges, with services to accurately geofence sanctioned countries, monitor and block transactions coming from high-risk jurisdictions, and detect the manipulation of location data for virtual currency companies to remain jurisdictionally compliant. Digital Chamber of Commerce, Sanctions Resources, “How Virtual Currency Companies Can Raise the Compliance Bar,” GeoComply, 2022.

⁵⁸ “Economic Well-Being of US Households in 2020,” Board of Governors Federal Reserve System, May 2021, 45.

⁵⁹ Danny Palmer, “30 years of ransomware: How one bizarre attack laid the foundations for the malware taking over the world,” ZDNet, December 19, 2019.

⁶⁰ Fabio Palozza, “The Origin of Ransomware and Its Impact on Businesses,” Radware Blog, October 4, 2018.

other forms of value.⁶¹ Unfortunately, the use of cryptocurrency is the newest iteration of this scheme. The true scope of the problem of ransomware is unknown. Uniquely, however, the transparency of public blockchains makes it possible to track ransomware payments in cryptocurrency, as highlighted by the recent ransomware attack on Colonial Pipeline.

In that example, using blockchain analytics tools, the FBI was able to trace and track the flow of funds from the victim to the cybercriminals and then seize the funds.⁶² As one FBI field agent put it to the Wall Street Journal – “you can’t hide behind cryptocurrency.”⁶³

Other forms of ransomware payments such as wire transfers, debit cards, and cash are difficult—if not impossible—to measure, trace and recoup. We can, however, estimate that ransomware conducted via cryptocurrency demands represents a very small fraction of total financial crime.

The UN estimates that the amount of money laundered globally in one year is 2% to 5% of global GDP, or \$800 billion to \$2 trillion in current U.S. dollars.⁶⁴ By comparison, according to Chainalysis data,⁶⁵ cryptocurrency transactions sent from illicit addresses accounted for just 0.05% of all cryptocurrency transaction volume in 2021,⁶⁶ or 0.4% to 1% of money laundered globally.⁶⁷

Digital assets, including stablecoins, which are inherently built on transparent, neutral networks, offer law enforcement the ability to more efficiently identify and trace illicit activity. Moreover, because these networks are not leveraged, they are not “too big to fail.” By creating a policy environment whereby payments increasingly rely upon digital assets, we believe policymakers can increase the likelihood that those who commit financial crimes will get caught and reduce the money laundering risks that exist due to the not-uniform AML/KYC policies and controls available today. Ultimately, to combat ransomware, we encourage policymakers to take actions to bolster the United States’ cyber readiness, including through increased funding and information sharing, improving the government’s capability to analyze public blockchains, and by cracking down on bad actors (both government and non-government) globally.

Systemic Risk and Global Regulation

Notably, other international regulators and standard setting bodies have yet to determine that cryptocurrencies and other digital assets currently pose a systemic risk, including the Bank of

⁶¹ J.P. Koning, “Fighting Ransomware Doesn’t Require Banning Cryptocurrency,” American Institute for Economic Research, May 2021.

⁶² David Uberti, “How the FBI Got Colonial Pipeline’s Ransom Money Back,” The Wall Street Journal, June 2021.

⁶³ Ibid.

⁶⁴ “Money Laundering,” United Nations Office of Drug & Crime, accessed November 3, 2021.

⁶⁵ Ibid at 11.

⁶⁶ “2022 Crypto Crime Report,” Chainalysis, 2022, p. 10.

⁶⁷ Ibid at 11.

England's Deputy Governor⁶⁸ and the Financial Stability Board (FSB).⁶⁹ While the digital asset market is evolving quickly, and it is certainly appropriate to monitor risks, we believe that such a conclusion would be unwarranted in today's market. By size, cryptocurrencies' market capitalization of approximately \$2 trillion equals just 1.9% of the market for equities⁷⁰ and 1.6% of the market for bonds.⁷¹ To date, this market is largely dominated by retail investors,⁷² and traditional financial institutions have yet to embrace digital assets broadly.⁷³ This is due to many factors, but among the most significant is the regulatory uncertainty highlighted above.

Regulators are only beginning to understand the risks inherent to the digital asset markets. A rush to promulgate new regulations without thoughtful consideration could impede a promising technology and place the U.S. at a competitive disadvantage to other countries that are taking a more balanced approach to digital assets. Moreover, it is important to consider that the disintermediating nature of cryptocurrencies and decentralized finance (DeFi) could result in competitive pressure on large, incumbent financial institutions, thereby reducing allowances made for financial incumbents deemed too big to fail and improving financial stability.

(17) To what extent will interoperability between different digital asset networks be important in the future? What risks does a lack of interoperability pose? And what steps, if any, should be taken to encourage interoperability?

Interoperability is important for the long-term growth and innovation of blockchain technology. Agreement upon an interoperable network of digital asset blockchains can enable a wide range of new products and services and mitigate systemic risk.

The ability for blockchain networks to be used by different organizations, industries, and state actors to interact with one another will enable efficient data and value transfers, which will help eliminate current communication barriers created by segregated blockchains. This will allow future partners to leverage strengths and maximize innovation.

Additionally, interoperability will help limit risk. For example, most decentralized applications (dApps) and DeFi tools today operate on one blockchain. This construct has led to an overwhelming amount of security breaches and consumer attacks. Interoperability could lead to thousands of individual blockchains that communicate with one another through a decentralized main hub, limiting exposure to risk and making individual blockchains responsible for security protocols.

⁶⁸ Ryan Browne, "Cryptocurrencies don't yet pose a threat to financial stability, Bank of England's Cunliffe says," CNBC, July 14, 2021 (quoting Bank of England Deputy Governor Jon Cunliffe: "[t]he speculative boom in crypto is very noticeable but I don't think it's crossed the boundary into financial stability risk").

⁶⁹ In the first quarter of 2018, the FSB discussed potential financial stability implications from crypto-assets. The FSB agreed that crypto-assets do not pose a material risk to global financial stability at this time, but supported vigilant monitoring in light of the speed of developments and data gaps. "Crypto-assets: Report to the G20 on work by the FSB and standard-setting bodies," Financial Stability Board, July 16, 2018.

⁷⁰ "Capital Markets Fact Book," SIFMA, 2021, 43.

⁷¹ Ibid.

⁷² Caitlin McCabe, "Small Traders Pile Back Into Cryptocurrencies," The Wall Street Journal, April 14, 2021.

⁷³ Emily Graffeo, "78% of institutional investors are not planning on investing in cryptocurrencies," Markets Insider, March 3, 2021.