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April 8, 2025

The Honorable John Thune
United States Senate
Senate Majority Leader
511 Hart Senate Office Building
Washington, DC 20510

The Honorable Charles Schumer
United States Senate
Senate Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Mike Johnson
United States House of Representatives
Speaker of the House
521 Cannon House Office Building
Washington, DC 20515

The Honorable Hakeem Jeffries
United States House of Representatives
House Minority Leader
2267 Rayburn House Office Building
Washington, DC 20515

Re: Digital Asset Regulation to Maintain American Economic Dominance, Defend
America's Interests and Protect America's Citizens

Dear Senators Thune and Schumer and Speaker Johnson and Representative Jeffries:

We applaud Congress' efforts to create common sense federal regulation for digital assets. Market participants have made bold claims about the promise of digital assets.¹ Others have questioned whether the industry has demonstrated progress in achieving these objectives.² As a regulator and law enforcement agency, our office is agnostic in that debate. Regardless of any potential benefits that innovation in this industry may offer, digital assets create unique risks that must be managed to serve America's national interests. We write to identify various of these risks and suggest tenets of regulation to guard against them.

Without appropriate safeguards, the unchecked proliferation of digital assets i) undermines U.S. dollar dominance, ii) weakens national security as digital assets may be used to anonymously finance criminal operations and fund adversarial regimes, iii) undermines the stability of financial markets, iv) subjects investors to price manipulation and rigged markets, v) facilitates fraud that drains billions of dollars from hardworking Americans, and vi) extracts assets and investment from the American economy.

To combat these serious risks, we urge Congress' digital asset legislation to incorporate the following common-sense principles: i) onshoring stablecoins to protect the U.S. dollar and the treasuries market, ii) requiring platforms to only conduct business with anti-money laundering compliant platforms, iii) providing for the registration of issuers and intermediaries to ensure accountability, transparency and basic protections to the public, iv) protecting against conflicts of interest, v) promoting price transparency, vi) requiring platforms and intermediaries to actively identify and prevent fraud and scams, and vii) disallowing digital assets in retirement accounts.

We discuss the serious risks posed by cryptocurrency, and commonsense steps that Congress can take to minimize them, below.

I. The Unchecked Proliferation of Digital Assets Undermines America's National Interests

A. Widespread adoption of Bitcoin could undermine U.S. dollar dominance.

A strong dollar is in America's national interest. It means there is demand for and confidence in U.S. institutions and the U.S. economy. America should defend the prime position of the U.S. dollar for global transactions—a position that Bitcoin, which can instantly transfer value globally, threatens. As the Government Accountability Office has stated: "Increased use and acceptance of digital assets in the future could contribute to the reduced dominance of the U.S. dollar in international financial markets, potentially eroding the strength of U.S. sanctions and limit their effectiveness in supporting U.S. policy goals."³

¹ *Econ. Rep. of the President together with Ann. Rep. of the Council of Econ. Advisers*, THE WHITE HOUSE 242–46 (2023), <https://bidenwhitehouse.archives.gov/wp-content/uploads/2023/03/ERP-2023.pdf>.

² *See id.* at 238, 246–68.

³ *Report to the Select Committee on Intelligence, U.S. Senate*, U.S. GOV'T ACCOUNTABILITY OFF. 30 (2023), <https://www.gao.gov/assets/d24106178.pdf>.

Displacement of the dollar's dominance by Bitcoin or any other currency will weaken the U.S. dollar and with it the ability for America to enforce its interests globally and to finance a robust economy.

B. Use of cryptocurrencies in illicit finance undermines national security and funds adversarial regimes.

Much of the cryptocurrency industry, by design, has opaque ownership structures and a lack of centralized control, making it attractive as a medium of exchange for illicit finance by adversarial state actors like North Korea,⁴ China,⁵ Russia,⁶ Venezuela,⁷ and Iran,⁸ terrorist groups like Hamas⁹ and Isis,¹⁰ and global drug and crime cartels.¹¹ North Korea has stolen more than \$6 billion in crypto to fund its nuclear program,¹² making it the third largest holder of Bitcoin.¹³ In February, North Korea achieved its largest heist yet—stealing \$1.5 billion from the cryptocurrency platform Bybit.¹⁴ This is on top of an estimated \$800 million in cryptocurrency the rogue state stole last year.¹⁵ Russia is using cryptocurrency in its oil trade with China and India to evade sanctions,

⁴ Sunha Bae, *Deterrence Under Pressure: Sustaining U.S.–ROK Cyber Cooperation Against North Korea*, CTR. FOR STRATEGIC & INT'L STUD. (Apr. 1, 2025), <https://www.csis.org/analysis/deterrence-under-pressure-sustaining-us-rok-cyber-cooperation-against-north-korea>.

⁵ U.S. GOV'T ACCOUNTABILITY OFF., *supra* note 3, at 1, 31.

⁶ *Treasury Designates Russian Companies Supporting Sanctions Evasion Through Virtual Asset Services and Technology Procurement*, U.S. DEP'T OF TREASURY (Mar. 25, 2024), <https://www.federalreserve.gov/econres/notes/feds-notes/sizing-hedge-funds-treasury-market-activities-and-holdings-20211006.html>.

⁷ *Five Russian Nationals and Two Oil Traders Charged in Global Sanctions Evasion and Money Laundering Scheme*, U.S. ATT'Y'S OFF., E. DIST. OF N.Y. (Oct. 19, 2022), <https://www.justice.gov/usao-edny/pr/five-russian-nationals-and-two-oil-traders-charged-global-sanctions-evasion-and-money>.

⁸ *Iranians Flock to Crypto Amidst Geopolitical Tension; International Sanctions Actions Disrupt Russia's War Machine*, CHAINALYSIS (Feb. 19, 2025), <https://www.chainalysis.com/blog/crypto-crime-sanctions-2025/>.

⁹ Rena S. Miller, Liana W. Rosen & Paul Tierno, *Terrorist Financing: Hamas and Cryptocurrency Fundraising*, CONG. RSCH. SERV. (Dec. 9, 2024), <https://www.congress.gov/crs-product/IF12537>.

¹⁰ <https://thesoufancenter.org/intelbrief-2024-october-16/>.

¹¹ *Fifteen Defendants Charged in Operation Targeting Conversion of Bulk U.S. Cash Proceeds from Drug Sales into Cryptocurrency for Mexican Cartels*, U.S. ATT'Y'S OFFICE, S. DIST. OF FLA. (Nov. 20, 2024), <https://www.justice.gov/usao-sdfl/pr/fifteen-defendants-charged-operation-targeting-conversion-bulk-us-cash-proceeds-drug>.

¹² Patricia Kowsmann & Timothy W. Martin, *How North Korea Cheated Its Way to Crypto Billions*, WALL STREET J. (Apr. 3, 2025), https://www.wsj.com/world/asia/north-korea-cryptocurrency-580d7d3f?mod=saved_content.

¹³ Yoon Min-Sik, *North Korea's Bitcoin Reserve Thought to be 3rd Largest in World: Report*, THE KOREA HERALD (Mar. 18, 2025), <https://www.koreaherald.com/article/10443993>.

¹⁴ *North Korea Responsible for \$1.5 Billion Bybit*, FED. BUR. OF INVESTIGATION (Feb. 26, 2025), <https://www.ic3.gov/PSA/2025/PSA250226#:~:text=The%20Federal%20Bureau%20of%20Investigation,or%20about%20February%2021%2C%202025>.

¹⁵ *2025 Crypto Crime Report*, TRM LABS 19 (2025), https://cdn.prod.website-files.com/6082dc5b670562507b3587b4/67a66929a076faf602d64b4c_TRM%202025%20Crypto%20Crime%20Report.pdf.

following Venezuela’s move to do the same in 2024.¹⁶ Indeed, enemy state actors, terrorists and organized crime use cryptocurrency to move at least \$50 billion annually in illicit money—and avoid sanctions.¹⁷ As much as one third of worldwide illicit cryptocurrency revenues in 2024 were dedicated to evading sanctions.¹⁸

C. Cryptocurrency threatens financial markets stability as it becomes more connected to the banking system, bringing with it greater volatility and risk.

Exposure to risky cryptocurrency companies and venture capitalist firms were the key drivers behind the regional banking crisis in 2023, leading to the failures and near failures of Silvergate, Silicon Valley Bank, Signature Bank, First Republic, Pacific West Bank and Western Alliance Bank,¹⁹ which cost Americans more than \$40 billion in bailouts.²⁰ Indeed, the Federal Deposit Insurance Corporation determined that a principal cause of the failure of New York’s Signature Bank (at the time the third largest bank failure in U.S. history) was that the institution “failed to understand the risk of its association with, and reliance on, cryptocurrency industry deposits or its vulnerability to contagion from cryptocurrency industry turmoil that occurred in late 2022 and into 2023.”²¹

This disruption to the financial system was starkly demonstrated in a single week in March 2023 when cryptocurrency prices took a sharp hit, and banks were forced to increase their borrowing from the Federal Reserve Board’s Discount Window from \$5 billion to a whopping \$153 billion.²² Good governance requires segregating traditional banking systems from highly volatile and unpredictable cryptocurrency assets in order to maintain financial stability.²³

¹⁶ Anna Hirtenstein & Chen Aizhu, *Russia leans on Cryptocurrencies for Oil Trade, Sources Say*, REUTERS (Mar. 14, 2025), <https://www.reuters.com/business/energy/russia-leans-cryptocurrencies-oil-trade-sources-say-2025-03-14/>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Kyle Campbell, *Crypto and VC firms led to SVB's Failure, Researchers Say*, AMERICAN BANKER (Mar. 10, 2025), <https://www.americanbanker.com/news/new-paper-hangs-march-2023-failures-on-business-model-risks> (citing Steven Kelly & Jonathan Rose, *Rushing to Judgement and Banking Crisis of 2023*, FED. RSRV. BANK OF CHI. (Mar. 2025), <https://www.chicagofed.org/publications/working-papers/2025/2025-04>).

²⁰ *Report: Two Years After the 2023 Banking Crisis, Main Street is Still in Danger*, BETTER MARKETS (Mar. 4, 2025), <https://bettermarkets.org/newsroom/report-two-years-after-the-2023-banking-crisis-main-street-is-still-in-danger/>.

²¹ Chairman Martin J. Gruenberg, “*Oversight of Financial Regulators: Financial Stability, Supervision, and Consumer Protection in the Wake of Recent Bank Failures*”, FED. DEPOSIT INS. CORP. (May 18, 2023), <https://www.fdic.gov/news/speeches/2023/spmay1723.html>.

²² *Id.*

²³ Press Release, *INVESTOR ALERT: Attorney General James Warns New Yorkers About Cryptocurrency Investment Risks*, N.Y STATE OFF. OF THE ATT’Y GEN. (June 2, 2022), <https://ag.ny.gov/press-release/2022/investor-alert-attorney-general-james-warns-new-yorkers-about-cryptocurrency>; Press release; *Attorney General James Warns Investors About ‘Extreme Risk’ When Investing in Cryptocurrency, Issues Additional Warning to Those Facilitating Trading of Virtual Currencies*, N.Y STATE OFF. OF THE ATT’Y GEN. (Mar. 1, 2021), <https://ag.ny.gov/press-release/2021/attorney-general-james-warns-investors-about-extreme-risk-when-investing>.

D. Cryptocurrency is not a free market. Prices are easily rigged and manipulated.

Cryptocurrency markets—where digital assets are bought and sold—are black boxes rife with manipulation and often filled with toxic trading.²⁴ It may be impossible to know the true “price” of Bitcoin, as its price is “largely determined by totally unregulated venues where price manipulation is the order of the day.”²⁵ Anonymous trading, speculation and unregulated markets, particularly in derivatives, dominate as much as 60% of Bitcoin price discovery—or lack thereof.²⁶ American investors cannot tell whether the prices they see are the product of true supply and demand or the product of market manipulation.²⁷ Some may also be surprised by the fact that prices displayed in U.S. markets, such as those aggregated by the popular site coinmarketcap.com, are calculated using black box algorithms—not from any transparent blockchain.²⁸ Rigged markets are not free markets.

E. Cryptocurrency fraudsters bilk billions from hardworking Americans every year.

Cryptocurrency frauds have skyrocketed as the use of cryptocurrency has grown more widespread, costing an estimated \$12 billion from hardworking Americans in 2024.²⁹ Without systemic action, cryptocurrency frauds will only continue to grow unabated, ranging from romance scams,³⁰ to job

²⁴ Press Release, *Samuel Bankman-Fried Sentenced to 25 Years for His Orchestration of Multiple Fraudulent Schemes*, U.S. DEP’T. OF JUST. (Mar. 28, 2024), <https://www.justice.gov/archives/opa/pr/samuel-bankman-fried-sentenced-25-years-his-orchestration-multiple-fraudulent-schemes>; Press Release, *SEC Charges Samuel Bankman-Fried with Defrauding Investors in Crypto Asset Trading Platform FTX*, SEC. & EXCH. COMM’N. (Dec. 13, 2022), <https://www.sec.gov/newsroom/press-releases/2022-219>.

²⁵ Carol Alexander & Daniel Heck, *Price Discovery in Bitcoin: The Impact of Unregulated Markets*, 50 J. OF FIN. STABILITY 2 (Oct. 2020), <https://www.sciencedirect.com/science/article/abs/pii/S1572308920300759>.

²⁶ *Id.*

²⁷ *Market Manipulation: Suspected Wash Trading on Select Blockchains May Account for Up To \$2.57 Billion in Trading Volume*, CHAINALYSIS (Jan. 29, 2025), <https://www.chainalysis.com/blog/crypto-market-manipulation-wash-trading-pump-and-dump-2025/>.

²⁸ *Price (Market Pair, Cryptoasset)*, COINMARKETCAP (2024), <https://support.coinmarketcap.com/hc/en-us/articles/360043395752-Price-Market-Pair-Cryptoasset>.

²⁹ *Crypto Scam Revenue 2024: Pig Butchering Grows Nearly 40% YoY as Fraud Industry Leverages AI and Increases in Sophistication*, CHAINALYSIS (Feb. 13, 2025), <https://www.chainalysis.com/blog/2024-pig-butchering-scam-revenue-grows-yoy/#:~:text=The%20Chainalysis%20Crypto%20Crime%20Report&text=In%202024%2C%20cryptocurrency%20scams%20received,scams%20in%20the%20coming%20months>.

³⁰ *True Love, or Total Fraud? How Romance Scams Lure Troops, Vets, and Survivors*, MIL. OFFICERS ASSOC. OF AM. (Feb. 12, 2025), <https://www.moaa.org/content/publications-and-media/news-articles/2025-news-articles/recommended-reads/true-love.-or-total-fraud-how-romance-scams-lure-troops.-vets.-and-survivors/#:~:text=%E2%80%9CRomance%20scams%20are%20an%20epidemic,others%2C%E2%80%9D%20says%20John%20M.>; Press Release, *Attorney General James Warns New Yorkers of Online Romance Scams*, N.Y. STATE OFF. OF THE ATT’Y GEN. (June 6, 2024), <https://ag.ny.gov/press-release/2024/attorney-general-james-warns-new-yorkers-online-romance-scams>.

schemes,³¹ to affinity fraud, including religions scams,³² to investment frauds.³³ As the Federal Trade Commission has explained, cryptocurrency has several features making it attractive to scammers (including the lack of a centralized authority who can flag and stop fraud or reverse fraudulent transfers) which may be why reported losses due to cryptocurrency fraud ballooned sixty times between 2018 and 2021.³⁴ In a few short years, cryptocurrency scams now account for 10% of all financial frauds by count and a whopping 50% of all losses in financial frauds, reflecting not only their pervasiveness but also the extreme difficulty of recovering stolen cryptocurrency.³⁵

Cryptocurrency fraud has had a real impact in New York. About 26,000 New Yorkers deposited and lost \$440 million on the Celsius trading platform.³⁶ Its founder and CEO pled guilty to two federal criminal charges in December 2024 and continues to face a lawsuit from my office for the harm he caused. That includes harm to one New York resident who mortgaged two properties to invest with Celsius, a father of three who lost his life savings of more than \$375,000, and a disabled veteran who lost his investment of \$36,000, which had taken him nearly a decade to save.

Cryptocurrency fraud also impacted the thousands of investors who lost \$900 million to a product called Gemini Earn that was issued by a New York company. Due to work by my office, those investors were made whole.³⁷ But not everyone has been as lucky. A 34-year-old piano teacher from West Hempstead, New York invested \$30,000 in the Luna/Terra stablecoin project. He did his research and felt comfortable because Luna/Terra was endorsed by “well-known, respected hedge fund guys.”³⁸ But the project failed because it was not stable—as the name suggested. Rather than being backed one-to-one with fiat currency or high-quality liquid assets, it was supported only by an algorithm and the false promises of those in South Korea who stood to profit

³¹ Press Release, *Attorney General James Stops Text Message Scam Targeting Vulnerable New Yorkers Looking for Remote Job Opportunities*, N.Y STATE OFF. OF THE ATT’Y GEN. (Jan. 9, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-stops-text-message-scam-targeting-vulnerable-new-yorkers>.

³² Press Release, *Attorney General James Sues Cryptocurrency Companies NovaTechFx and AWS Mining for Defrauding Investors of More Than \$1 Billion*, N.Y STATE OFF. OF THE ATT’Y GEN. (June 6, 2024), <https://ag.ny.gov/press-release/2024/attorney-general-james-sues-cryptocurrency-companies-novatechfx-and-aws-mining>.

³³ Press Release, *Attorney General James Shuts Down Virtual Currency Trading Platform and Stops Cryptocurrency CEO From Continuing Fraudulent Conduct*, N.Y STATE OFF. OF THE ATT’Y GEN. (Sept. 13, 2021), <https://ag.ny.gov/press-release/2021/attorney-general-james-shuts-down-virtual-currency-trading-platform-and-stops>.

³⁴ *Reports show scammers cashing in on crypto craze*, FED. TRADE COMM’N. (June 3, 2022), <https://www.ftc.gov/news-events/data-visualizations/data-spotlight/2022/06/reports-show-scammers-cashing-crypto-craze>.

³⁵ *Federal Bureau of Investigation Cryptocurrency Fraud Report 2023*, FED. BUREAU OF INVESTIGATION (2023), https://www.ic3.gov/annualreport/reports/2023_ic3cryptocurrencyreport.pdf.

³⁶ *People by James v. Mashinsky*, 79 Misc.3d 1237(A), 2023 N.Y. Slip Op. 50826(U) (Sup. Ct., NY Cnty 2023).

³⁷ Press Release, *Attorney General James Secures Settlement Worth \$2 Billion from Crypto Firm Genesis Global Capital for Defrauded Victims*, N.Y STATE OFF. OF THE ATT’Y GEN. (May 20, 2024) <https://ag.ny.gov/press-release/2024/attorney-general-james-secures-settlement-worth-2-billion-crypto-firm-genesis>.

³⁸ Vicky Ge Huang, *Galaxy Digital Settles with NYAG for \$200 Million Over Luna Ties*, WALL STREET J. (Mar. 28, 2025), <https://www.wsj.com/livecoverage/stock-market-today-dow-nasdaq-sp500-03-28-2025/card/galaxy-digital-settles-with-nyag-for-200-million-over-luna-ties-vRcsDbS6iNSeqzkeCK2j>.

from this New York retail investor buying their coins. The piano teacher's investment was wiped out. And the South Korean founder of Luna/Terra is now awaiting federal criminal charges.³⁹

F. Cryptocurrency undermines long-term investment in the American economy.

Many in the cryptocurrency industry have called on Americans to “unbank” themselves⁴⁰ and put their savings in cryptocurrency which many falsely claim is safer than placing their savings in banks. This results in those dollars being shifted away from American banking institutions that reinvest those dollars back into American communities, American businesses, and American neighborhoods. Proliferation of stablecoins not backed by the U.S. dollar enables transactions that require dollar pricing without generating increased demand for real U.S. dollars. Importantly, this also means a migration of deposits away from insured deposits, which means less flexibility for federal regulators to control against runs on the financial system and the possibility that consumers will have their savings wiped out when runs occur. This is bad for America, Americans, and the economy.

Despite the cryptocurrency industry's \$3 trillion global market capitalization, the industry has created few stable middle-class jobs in the parts of our country where we need them the most. Even during the 2022 cryptocurrency market peak, less than 0.15% of all job postings related to cryptocurrency.⁴¹ Due to the global nature of cryptocurrency, many jobs are offshore. At the same time, Chinese Bitcoin mine owners funnel profits offshore.⁴² American dollars should be invested in American industry, such as agriculture, infrastructure and security, and energy independence, for America's long-term prosperity—and not to the benefit of global assets that enrich foreign adversaries.

II. Common Sense Digital Asset Regulation would Maintain American Economic Dominance, Defend America's Interests and Protect America's Citizens

Entities producing novel services or software should have room to build, develop and experiment. But the benefits of innovation cannot compromise our national security, dominance, or safety. We have learned this before: One of the principal causes of the 2008 Great Recession was the deregulation of derivatives, which led to systemic risks and banking failures from credit default

³⁹ Press Release, *Do Kwon Extradited To The United States From Montenegro To Face Charges Relating To Fraud Resulting In \$40 Billion In Losses*, U.S. ATT'Y'S OFF., S. DIST. OF N.Y. (Jan. 2, 2025), <https://www.justice.gov/usao-sdny/pr/do-kwon-extradited-united-states-montenegro-face-charges-relating-fraud-resulting-40>.

⁴⁰ Press Release, *Attorney General James Sues Former CEO of Celsius Cryptocurrency Platform for Defrauding Investors*, N.Y. STATE OFF. OF THE ATT'Y GEN. (Jan. 5, 2023), <https://ag.ny.gov/press-release/2023/attorney-general-james-sues-former-ceo-celsius-cryptocurrency-platform-defrauding>; *Bitcoin is Safer than Your Bank*, BITCOIN NEWS (MAR. 6, 2025), <https://bitcoinnews.com/opinion/bitcoin-financial-freedom-safer-than-banks/>.

⁴¹ *Crypto crashes and job slashes: Lessons for local leaders on building an innovation ecosystem*, BROOKINGS INST. (July 6, 2023), <https://www.brookings.edu/articles/crypto-crashes-and-job-slashes-lessons-for-local-leaders-on-building-an-innovation-ecosystem/>.

⁴² Michael Forsythe & Gabriel J.X. Dance, *This N.Y.U. Student Owns a \$6 Million Crypto Mine. His Secret Is Out*, N.Y. TIMES (Dec. 29, 2023), <https://www.nytimes.com/2023/12/25/technology/bitrush-bitcoin-cryptocurrency-china.html>; Gabriel J.X. Dance & Michael Forsythe, *Across U.S., Chinese Bitcoin Mine Draws National Security*, N.Y. TIMES (Oct. 18, 2023), <https://www.nytimes.com/2023/10/13/us/bitcoin-mines-china-united-states.html>.

swap speculation.⁴³ Given the greater volatility and unique risks that cryptocurrency poses, the industry should compete on a playing field that protects our country and secures our borders while incentivizing efficient allocation of capital for the real economy.

A. Strengthen National Security

1. Onshore stablecoins to protect the U.S. dollar and the treasuries market

The U.S. should require stablecoins to be backed by the U.S. dollar or treasuries on a one-to-one basis and be issued by companies that have an American presence and are regulated under U.S. laws and subject to federal and/or state oversight. Those dollars and treasuries should be deposited in banks and institutions under U.S. supervision. So-called stablecoins not backed one-to-one by U.S. dollars create market confusion for investors who may not otherwise be aware that no actual dollars exist behind the tokens.⁴⁴

Currently, Tether (the largest stablecoin issuer) has relocated its headquarters to El Salvador. My office was the first regulator to hold Tether to account for misrepresenting its reserves and hiding \$850 million of losses.⁴⁵ Today, Tether holds at least \$94.5 billion in U.S. treasury bills, equaling 55% of the average daily trading volume of treasury bills.⁴⁶ Stablecoin redemptions, which can cascade during cryptocurrency market meltdowns, can spark run on the bank scenarios for the underlying cash and treasuries reserves,⁴⁷ potentially necessitating sell-offs in the treasury markets.

⁴³ *Why Re-regulating Directives can Prevent Another Disaster*, HARV. L. SCH. FORUM ON CORP. GOVERNANCE (July 21, 2009), <https://corpgov.law.harvard.edu/2009/07/21/how-deregulating-derivatives-led-to-disaster/#:~:text=Perhaps%20the%20most%20important%20of,banking%20system%20to%20its%20knees.>

⁴⁴ TerraUSD, a non-dollar backed, stablecoin collapsed in May 2022, causing a \$20 billion wipeout, triggering a wave of redemptions in other stablecoins, including those that are presumably backed by U.S. dollars, such as Tether and USDC. *Stable Coins have been Unstable, Why?*, MOODY'S (Oct. 18, 2023), [https://www.moodys.com/web/en/us/about/insights/data-stories/stablecoins-instability.html#:~:text=USD%20Coin%20\(USDC\)%2C%20the.Silicon%20Valley%20Bank%20\(SVB\).](https://www.moodys.com/web/en/us/about/insights/data-stories/stablecoins-instability.html#:~:text=USD%20Coin%20(USDC)%2C%20the.Silicon%20Valley%20Bank%20(SVB).)

⁴⁵ Press release, *Attorney General James Ends Virtual Currency Trading Platform Bitfinex's Illegal Activities in New York*, N.Y. STATE OFF. OF THE ATT'Y GEN. (Feb. 23, 2021), <https://ag.ny.gov/press-release/2021/attorney-general-james-ends-virtual-currency-trading-platform-bitfinexs-illegal>.

⁴⁶ Calculating the average secondary market trading volume of T-Bills in January and February 2025 for both ATS and interdealer volume and dealer to customer volume, using data from FINRA's TRACE system available here: TREASURY DATA AGGREGATE STATISTICS, <https://www.finra.org/finra-data/browse-catalog/about-treasury/daily-data>. (last visited April 7, 2025).

⁴⁷ Even USDC, which is backed by dollars, fell below \$0.87, due to its \$3.3 billion exposure to Silicon Valley Bank, which collapsed. Attempts to transfer reserve dollars from Silicon Valley Bank to service USDC redemptions were initially delayed during the banking crisis of March 2023. See Vicky Ge Huang, Hannah Miao, & Caitlin Ostroff, *Circle's USDC Stablecoin Breaks Peg With \$3.3 Billion Stuck at Silicon Valley Bank*, WALL STREET J. (Mar. 11, 2023), <https://www.wsj.com/articles/crypto-investors-cash-out-2-billion-in-usd-coin-after-bank-collapse-1338a80f>; see also Arjun Kharpal, *Tech Stablecoin USDC nearly regains \$1 peg after Circle says \$3.3 billion held with SVB will be available*, CNBC (Mar. 13, 2023, 7:11 AM), <https://www.cnbc.com/2023/03/13/usdc-nearly-regains-1-peg-after-circle-says-svb-deposit-is-available.html>; see also Cy Watsky, et al., *Primary and Secondary Markets for Stable Coin*, BD. OF GOVERNORS OF THE FED. RESERVE SYS. (Feb. 23, 2024), <https://www.federalreserve.gov/econres/notes/feds-notes/primary-and-secondary-markets-for-stablecoins-20240223.html>

Instability in the treasury markets could increase the interest rate that consumers pay for mortgages, auto loans, student loans and credit card debt.

Due to these risks of contagion from volatile cryptocurrency markets to traditional markets, stablecoin issuers should not become shadow banks subject to less stringent requirements, while socializing losses on our banking system that are ultimately paid by taxpayers.⁴⁸ Regulators with supervision over stablecoin issuers must ensure that redemption requests do not create runs on the bank by requiring diversification of institutions where stablecoin deposits are held, diversification of deposit bases, and increased capital requirements.

2. Stop cryptocurrency-based illicit finance

Effective legislation must require cryptocurrency platforms to expressly comply with anti-money laundering laws, know your customer (“KYC”) regulations and cyber security protocols⁴⁹ to prevent the use of cryptocurrency to finance terrorism, adversarial regimes, and crime. Cryptocurrency that cannot be fully traced, such as those going through money laundering mixers, must not be allowed to be converted, directly or indirectly, to U.S. dollars.

In the U.S. national market system, fraud and money laundering is detectable because participating institutions must collect KYC information. Exchanges—and even “dark pools”—are required to know the identities of their member broker-dealers and trading firms. Broker-dealers are in turn required to know their customers. These rules create a closed loop of regulated institutions over which regulators have investigative authority—allowing them to identify patterns of anomalous behaviors and ultimately find those who engage in fraud, manipulation, and illegality.

Sound cryptocurrency regulations must leverage existing anti-terrorism and money laundering laws to create a closed loop of compliance and disrupt cryptocurrency use as a tool to finance illicit purposes contrary to America’s interests and security.

B. Ensure Financial Stability and Reduce Systemic Risks

1. Reasonable registration and transparency requirements for cryptocurrency platforms and intermediaries

Many cryptocurrency tokens are created by entities who are anonymous, outside the jurisdiction of the United States, or both. This makes the role of platforms that list and trade these tokens all the more important. Given the critical role that these intermediaries play, it is vital that the platforms and intermediaries register in such a way as to protect both their customers and our

⁴⁸ *Will USDC’s Blackrock Money Fund Create a Back-door CBDC, Give USDC an Account at the Fed or Both?*, BANK POL’Y INST. (Jan. 4, 2023), <https://bpi.com/will-usdcs-blackrock-money-fund-create-a-back-door-cbdc-give-usdc-an-account-at-the-fed-or-both/>.

⁴⁹ We would recommend the cybersecurity protocols adopted by the New York Department of Finance available at *New York State Department of Financial Services Second Amendment to 23 NYCRR 500*, N.Y. STATE DEP’T OF FIN. (Oct. 16, 2023), https://www.dfs.ny.gov/system/files/documents/2023/10/rf_fs_2amend23NYCRR500_text_20231101.pdf.

country. Platforms, in turn, must publish listing standards setting minimum qualifications and ensure that the issuers who list tokens register with the platforms and comply with such standards.

Registration, whether with an existing government agency (such as the SEC or CFTC and/or state regulators), self-regulatory organization (like as FINRA or the NFA), or another existing or newly created entity with similar authority would provide many important protections by helping to ensure that tokens and the platforms they trade on maintain financial stability, adhere to basic industry standards, and operate with integrity and transparency. Registration will help make sure that platforms and tokens are sufficiently capitalized and financially stable; that they adhere to know your customer and anti-money laundering requirements; that they implement best practice cybersecurity policies and controls to protect customer funds; and that they adopt policies to protect their customers against unethical and unlawful behavior. By implementing reasonable registration requirements for cryptocurrency tokens and platforms, Congress can promote accountability, transparency, and basic protections for the public.

Notably, registration is an important tool in identifying fraud and other criminal activity. In 2021, our office filed a failure to register claim against Coinseed, a cryptocurrency mobile app. After doing so, we received over 200 complaints from the public and uncovered massive fraud involving the wholesale theft of customer assets. We ultimately shut Coinseed down, secured a receiver and obtained a multimillion-dollar judgment.⁵⁰ Similarly, we brought a failure to register case against KuCoin,⁵¹ which led to the Department of Justice securing a guilty plea against the company for flouting U.S. anti-money laundering laws.

2. Require the industry to protect Americans from fraud and scams

Honest hardworking Americans are losing billions of dollars to cryptocurrency scams—often run by anonymous foreign fraudsters. These scams are made possible by even legitimate platforms and intermediaries who often serve as gateways for victims to turn their cash into cryptocurrency and—unbeknownst to them—send away overseas. Meanwhile, a virtual sea of unregistered platforms allows scam tokens to be listed and traded. Unlike broker-dealers and securities exchanges, that are required to protect their customers from manipulation and fraud, unregistered platforms honor no such requirements and instead can profit from the transaction fees earned trading scam tokens, while leaving their customers holding the bag to suffer the losses. There is often no recourse for victims of cryptocurrency frauds as the money moves across the globe instantly and irretrievably.

Congress should protect American investors by establishing common-sense regulations requiring platforms and intermediaries to conduct reasonable due diligence before listing tokens, to limit conflicts of interest, to establish policies and procedures to protect their customers against fraud and market manipulation, and to hold platforms and intermediaries accountable for allowing fraud and scams to flourish while industry profits at the expense of innocent Americans.

⁵⁰ N.Y STATE OFF. OF THE ATT'Y GEN., *supra* note 38.

⁵¹ Press Release, *Attorney General James Secures More Than \$22 Million from Cryptocurrency Platform for Operating Illegally*, N.Y STATE OFF. OF THE ATT'Y GEN. (Dec. 12, 2023), <https://ag.ny.gov/press-release/2023/attorney-general-james-secures-more-22-million-cryptocurrency-platform-operating>.

C. Combat Conflicts of Interest

The current framework of securities and futures markets regulation is generally structured around the use of intermediaries. These intermediaries perform many important functions, such as bringing together savers and borrowers; matching investors with companies in which to invest; processing transactions; obtaining best execution for customers; extending credit; managing the custody of assets; and guaranteeing performance of contracts. The cryptocurrency industry, however, has often consolidated these functions vertically in ways that pose risks to consumers. In some cases, cryptocurrency platforms act as an issuer of their own cryptocurrency and trade cryptocurrency they created and control on their own trading platform. They also may borrow customers' cryptocurrency, hold customers' cryptocurrency, mingle customers' cryptocurrency together with their own cryptocurrency, and provide investment advice on the best use of cryptocurrency. This can create numerous conflicts of interest. Currently, for example, platforms trading their customer's orders may trade ahead (front run) the customer and drive up the price—making a profit at their client's expense.

We have known for decades that this kind of vertical integration is rife with conflicts of interest and is harmful for investors. In the securities markets, these conflicts are managed through the registration of securities firms and the regulation of the activities in which they engage. Most cryptocurrency firms, however, do not register with regulators and are subject to no requirements to minimize their conflicts of interest. This lack of registration also leads to a lack of transparency—as regulators are not able to verify cryptocurrency firms' assets and financial condition or ascertain how they conduct business with customers.

In this environment, it cannot be a surprise when FTX, a now defunct cryptocurrency platform, used customers' assets without consent to prop up its own struggling sister company, a hedge fund called Alameda. FTX also issued its own cryptocurrency and then used that same cryptocurrency to inflate its assets on its own books to use as collateral for loans. Ultimately FTX went bankrupt when it could not honor its customers' withdrawals and several of its executives have been convicted and sentenced to extensive prison sentences. These are the very conflicts of interests that our office warned of back in 2018 with our Virtual Markets Integrity Initiative Report.⁵² Thankfully, New York State's Department of Financial Services did not approve FTX's application to operate in our state minimizing the fallout for New Yorkers.

Given the crucial market functions played by financial intermediaries such as broker-dealers, platforms and clearing agencies, it is critical that they be required to minimize conflicts of interest. In addition to mandating the disclosure of potential conflicts, we can reduce the risk of compromise and systemic failures by requiring that different financial functions, such as clearing versus brokering, are operated by distinct parties. And, even within the same institution, we can require that certain functions (like proprietary vs. customer trading) be walled off from one another and be subject to comprehensive supervision that can assess risks across business lines. Given the

⁵² N.Y. STATE OFF. OF THE ATT'Y GEN., VIRTUAL MARKETS INTEGRITY INITIATIVE REPORT § 3 (2018), <https://virtualmarkets.ag.ny.gov/#section3>.

risks that cryptocurrency poses (both to its customers and to America’s national security and financial stability), cryptocurrency intermediaries should be required to comply with standards similar to those required of other financial intermediaries.

D. Require Price Transparency

As discussed above, there is no price transparency in the cryptocurrency markets. This contrasts with securities markets where the national market system enforces price integrity across institutions by requiring that trades occur within a “national best bid and offer” (or “NBBO”). While cryptocurrency firms may specialize in information, platforms often do not believe there are rules governing the prices they quote.⁵³ Further, because of the global nature of cryptocurrency, prices on certain centralized platforms where KYC information is collected are influenced by prices on anonymous decentralized platforms and other centralized exchanges without adequate KYC. These platforms do not know who is submitting orders and the extent to which prices are the product of wash trading⁵⁴ and other manipulation. Accordingly, effective cryptocurrency legislation should include requirements that investor orders be filled within an NBBO price range that is the product of reliable order information provided by firms that know who placed those orders.

E. Protect America’s Retirees

Digital assets are uniquely unsuitable for retirement savings due to their high volatility. The underlying value of cryptocurrency is unpredictable and not determined by true price discovery because they have no intrinsic value on which their prices are based.⁵⁵ Cryptocurrency generally does not provide investors with an ownership or equity interest in a company (like stocks), nor do they represent a creditor’s ownership of a debt obligation (like bonds). As a result, cryptocurrency prices swing wildly and crash without warning. Bitcoin, for example, peaked at \$64,400 on November 12, 2021, and traded as low as \$16,346 just a year later. More recently, its seen prices as low as \$68,317 on November 5, 2024 and as high as \$106,490 on December 17, 2024. Such erratic highs and unpredictable lows—and lack of intrinsic value—are incompatible with the stability required for American retirement savings accounts.

Moreover, unlike traditional exchange-traded funds (ETF) backed by stocks and bonds, cryptocurrency held to back cryptocurrency ETFs are at risk of permanent theft, with the FBI

⁵³ *Statement on Potentially Unlawful Online Platforms for Trading Digital Assets*, U.S. SEC. & EXCH. COMM’N (Mar. 7, 2018), <https://www.sec.gov/newsroom/speeches-statements/enforcement-tm-statement-potentially-unlawful-online-platforms-trading-digital-assets>.

⁵⁴ [Lin William Cong, Xi Li, Ke Tang & Yang Yang](#), *Crypto Wash Trading*, (Nat’l Bureau of Econ. Rsch., Working Paper No. 30783, 2022), https://www.nber.org/system/files/working_papers/w30783/w30783.pdf.

⁵⁵ See Pablo D. Azar et al., *Economic Policy Review*, FED. RSRV. BANK OF N.Y. (2024), https://www.newyorkfed.org/medialibrary/media/research/epr/2024/EPR_2024_digital-assets_azar.pdf.

warning that North Korea has conducted surveillance on companies associated with cryptocurrency ETFs,⁵⁶ which are a popular choice for retirement funds.⁵⁷

As Congress takes the mantle to propose legislation governing the cryptocurrency industry, we hope it also takes action to mitigate the risks posed by the industry to America's national security, financial stability, and citizens. The regulatory principles set forth above have withstood the test of time and American experience and we hope that you will incorporate them into this next chapter of digital asset regulation. The People of the State of New York thank you for your efforts to ensure that cryptocurrency is regulated in such a way to protect America's interests and ensure that our financial system remains the greatest in the world.

Sincerely,



Letitia James
Attorney General of New York

CC:

Senate Agriculture, Nutrition, and Forestry Committee
Senate Armed Services Committee
Senate Banking, Housing, and Urban Affairs Committee
Senate Commerce, Science, and Transportation Committee
Senate Energy and Natural Resources Committee
Senate Environment and Public Works Committee
Senate Finance Committee
Senate Foreign Relations Committee
Senate Homeland Security and Governmental Affairs Committee
Senate Joint Economic Committee
Senate Select Committee on Intelligence
Senate Special Committee on Aging
Senate Veterans' Affairs Committee
House Agriculture Committee

⁵⁶ *North Korea Aggressively Targeting Crypto Industry with Well-Disguised Social Engineering Attacks*, FED. BUREAU OF INVESTIGATION (Sept. 3, 2024), <https://web.archive.org/web/20241009212432/https://www.ic3.gov/Media/Y2024/PSA240903>.

⁵⁷ Vicky Ge Huang, *Spot Bitcoin ETFs Attract \$37 Billion in First Year of Trading*, WALL STREET J. (Jan. 10, 2025), https://www.wsj.com/livecoverage/jobs-report-stock-market-today-dow-nasdaq-sp500-01-10-2025/card/spot-bitcoin-etfs-attract-37-billion-in-first-year-of-trading-itZR5dTOWg2u2kS9H7H1?mod=article_inline.

House Armed Services Committee

House Energy and Commerce Committee

House Financial Services Committee

House Foreign Affairs Committee

House Homeland Security Committee

House Natural Resources Committee

House Science, Space, and Technology Committee

House Veterans' Affairs Committee

House Permanent Select Committee on Intelligence

House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party

House Joint Economic Committee