

January 26, 2022

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Yellen:

We write regarding the reporting requirements included in the *Infrastructure Investment and Jobs Act*. Section 80603 imposed reporting requirements on digital asset market participants that are incompatible with the technology's operation and the privacy rights of users. As the Department develops rules and guidance for compliance with this Section, we believe that additional clarity is necessary for certain market participants.¹ We ask that you look to the bipartisan bill, *H.R. 6006*, the *Keep Innovation in America Act*, to ensure that any future guidance provides the necessary clarity to the digital asset ecosystem.

Specifically, Section 80603 is ambiguous such that it affords the Department of Treasury the ability to interpret who within the digital asset ecosystem qualifies as a "broker." This subjective interpretation has the potential to reach those beyond the intent of Congress. To help constrain a potentially expansive reading of the "broker" definition, we would point you to the definition of "broker" proposed in *H.R. 6006*. This definition clearly avoids placing unworkable customer reporting obligations on persons who do not, in actuality, have customers (e.g. miners, stakers, protocol nodes, payment channel nodes, developers of protocol or decentralized application software, or similar non-custodial entities).

Additionally, the Act provided the Secretary with broad authority to define a digital asset. We would point you to the definition of a digital asset set forth in *H.R. 6006* to ensure the parameters of the definition are clear. It is also crucial that Treasury narrowly specify the information that is intended to be captured by a "broker" when transferring a digital asset to an account maintained by a non-broker. Separately, the addition of "any digital asset" to the definition of cash for purposes of Section 6050I of the Internal Revenue Code should be carefully examined prior to its implementation to ensure unintended consequences are mitigated. Over hasty application of these requirements risks the creation of an unlevel playing field for transactions in digital assets and those required to provide them.

As nascent financial technologies develop, we must ensure requirements imposed on the digital asset ecosystem are both crafted and implemented in such a way to ensure the United States remains at the forefront of financial innovation. We believe consistent information reporting on digital asset transactions is necessary. However, it should not prevent these technologies and the ecosystem from continuing to flourish due to unclear regulations that only create uncertainty.

¹ Allyson Versprille, *Crypto Firms Brace for New Tax-Reporting Rules to IRS*, Bloomberg (Jan. 7, 2022), available at <https://www.bloomberg.com/news/articles/2022-01-07/crypto-firms-brace-for-new-rules-forcing-broad-reporting-to-irs?sref=qvWfRb7l>.

We look forward to continuing our discussion on your efforts to provide additional clarity on the scope of these requirements. Thank you for your attention to this important matter.

Sincerely,



Patrick McHenry



Kevin Brady



Tom Emmer



Warren Davidson



Anthony Gonzalez



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Tim Ryan



Ro Khanna



Eric Swalwell



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cc: Lily Batchelder, Assistant Secretary for Tax Policy