



Congress of the United States
House of Representatives
Washington, DC 20515

November 10th, 2020

The Honorable Brian Brooks
Acting Comptroller of the Currency
400 7th Street S.W.
Washington, D.C. 20219

Dear Acting-Comptroller Brooks,

We write to raise concerns regarding the Office of the Comptroller of the Currency's ("OCC") recent unilateral actions in the digital activities space. In just the past few months, the OCC has released interpretive letters on cryptocurrency custody and stablecoins and announced plans to start offering special purpose 'payments' charters. Given the limited statutory authority of the IOCC, we urge the Comptroller to seriously reconsider the implications of a unilateral approach and instead invite the OCC to collaborate with other regulators and Congress on these issues.

The OCC's recent Advanced Notice of Proposed Rulemaking on digital activities highlighted that up to 8% of Americans currently use crypto-related financial services and that this is a growing trend for millennials. While responding to this growth is important, it's also important to understand the context in which this is taking place. According to the most recent FDIC survey conducted in 2017, 6.5% of Americans are unbanked and 18.7% of Americans are underbanked.^[1] Further, during and after the height of the financial crisis between 2008 and 2018, 18 African American-owned banks, 18 Hispanic American-owned banks, 26 Asian American-owned banks, 3 Native American-owned banks and one multi-cultural bank have closed or merged with other banks. These 66 minority bank closures represent 30% of all minority banks^[2]. We believe there is an imminent danger that, while seeking to serve those 'already-banked' with better payments options, we may be overlooking opportunities for assisting the unbanked and underbanked to participate in the economy and the banking system.

Small and minority-owned financial institutions continue to face a deposit crisis and the Covid-19 pandemic has only exacerbated this problem. For some of these banks, the ability to hold crypto-asset deposits could create beneficial outcomes. Further, the movement toward digital

1 Apaam , Gerald, et al. Federal Deposit Insurance Corporation, 2017, pp. 23–23, FDIC National Survey of Unbanked and Underbanked Households.

2 Lee, The Independent Community Bankers of America. "Minority Banks: ICBA Industry Issues." www.icba.org/advocacy/our-positions-a-z/minority-banks.

banking activities has the potential to increase access to banking services. However, these potential gains stand to be lost, and significant consumer harm to be caused, if these new activities aren't properly regulated. It is in the best interest of both banks and consumers for our regulators to collaborate and move forward responsibly.

We also question whether this is an appropriate priority for the OCC in the midst of this pandemic. Arguably, the immediate needs of millions of at-risk individuals who have not yet received an economic stimulus check and/or cannot deposit their funds in a bank, deserve greater attention than an effort to increase access to financial services to the "banked community" via mobile phones. Our concern regarding the OCC's excessive focus on crypto assets and crypto-related financial services is shared by the American Bankers Association and other trade groups who have expressed similar reservations that such services move too far away from the core business of banking.

The OCC plays an important role in providing stable forms of currency. However, the decisions of your agency have the potential to adversely affect banking and financial activities well beyond your jurisdiction. In particular, decisions regarding the classification and regulation of "crypto assets" and crypto-related payments services may have secondary effects on the entire hierarchy of financial assets denominated in U.S. dollars, as well as the more traditional means by which retail and wholesale payments are made in the United States and abroad.

Whether issuing a charter or interpreting guidance, the decisions you are making will have broad implications for the future of banking. As such, these decisions are best made in collaboration with your fellow regulators and with Congress to ensure we avoid potential harms to institutional safety and soundness and equity and inclusion. To better understand OCC's continuing efforts on this issue, we respectfully request that you provide answers to the following questions by December 10th, 2020:

- With the permission granted to banks to now use bank deposits as reserves against stablecoins, will these reserves be segregated from calculating the capital requirements of banks such as JPMorgan Chase and Wells Fargo or will they be able to lend against these deposits?
- What consumer protections will the OCC impose on the stablecoin providers themselves?
- Considering a stablecoin issuer will likely be willing to move large amounts of reserves between different banks, will stablecoin reserves be treated as brokered deposits, subject to applicable restrictions on banks accepting them?
- Considering mass redemptions of a stablecoin backed by reserve accounts would result in a mass withdraw of those reserves, what measures will banks and FSAs have to take to ensure that a "run" on a stablecoin does not result, in effect, in a run on deposits.
- If stablecoins are increased as a result of your interpretive letter, will this increase the Digital Divide or negatively impact your Project Reach? Do other agencies and considerations factor into your decision in terms of internet access to stablecoins?
- How do you plan to protect the notion of the dollar itself, in that this will be private money used for payments digitally, and therefore subject to potential losses should the stablecoin provider go out of business? Is it the bank's, the stablecoin provider's, or the

OCC's responsibility to ensure that enough deposits are held at these institutions to protect the consumer?

- To what extent have you collaborated with your fellow regulators on your decisions? What implications for regulation outside of your sole-jurisdiction do you anticipate as a result of your interpretive letter?
- Since the Federal Reserve Bank has strategically used its control of the money supply in times of stress to address inflation, what is the OCC's assessment of the likely impact of diluting the FRB's authority and effectively transferring the control of our money supply to stablecoin providers?

Thank you for your consideration. We look forward to your response.

Sincerely,



RASHIDA TLAIB
Member of Congress



STEPHEN F. LYNCH
Chairman
Subcommittee on Fintech on
Financial Services



DEB HAALAND
Member of Congress



AYANNA PRESSLEY
Member of Congress



JESÚS G. "CHUY" GARCÍA
Member of Congress



BARBARA LEE
Member of Congress

cc:

The Honorable Steve Mnuchin
Secretary of the Treasury Department of the Treasury
1500 Pennsylvania Ave.
NW Washington, DC 20220