



Via electronic transmission

February 20, 2025

David Sacks
Special Advisor for Artificial Intelligence and Crypto
Chair, President's Working Group on Digital Asset Markets
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. Sacks:

Congratulations on your recent appointment as Special Advisor for Artificial Intelligence and Crypto and for being named Chair of the newly established President's Working Group on Digital Asset Markets. We strongly support the President's goals for the PWG, and we stand ready to assist you as you proceed with the workplan outlined by the President in his January 23rd Executive Order.¹

We write today with two initial suggestions for your consideration. First, we wish to identify guidance and policies that affect digital assets that we believe require rescission or substantial revision, consistent with the E.O.'s mandate for the PWG. These include policy statements and guidance documents issued by the federal banking agencies that have significant implications for U.S. banks' ability to engage in digital asset-related activity and otherwise support the digital asset sector, including by engaging with crypto firms on a variety of basic banking activities and services.² In a subsequent submission, we will provide more detailed input for your consideration on additional regulatory actions and legislative proposals that we believe would further advance the policies articulated in the E.O.

Second, we note that the federal banking agencies – namely, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency – are not identified as members of the PWG. But, given that banks' involvement in digital asset related activities is critical to helping the United States cement its leadership position in the global digital assets ecosystem, we urge you to reconsider their involvement. We believe these agencies' participation in the PWG – and any other digital-asset and crypto-related work undertaken by the Administration – is imperative to help the PWG develop a comprehensive digital assets framework for all market participants and advance one

¹ A description of the associations is included in Annex A.

² The federal banking agencies have generally used the term "cryptoassets" to refer to digital assets.

of the Administration’s priorities to “support the responsible growth and use of digital assets, blockchain technology, and related technologies *across all sectors of the economy*.”³

I. The Federal Banking Agencies’ Policies and Guidance that Affect the Digital Asset Sector Should Be Rescinded or Substantially Revised.

Specific policies and guidance issued by the federal banking agencies that “affect the digital asset sector” have made it exceedingly difficult for banks to engage in digital asset related activities,⁴ despite the clear legal authority of banks to do.⁵

These policies and guidance should be rescinded or substantially revised. They are:

Issued by the FRB	Issued by the OCC	Issued by the FDIC	Issued Jointly by the FRB, OCC, and FDIC
<ul style="list-style-type: none"> • SR 22-6, “Engagement in Crypto-Asset-Related Activities by Federal Reserve Supervised Banks” • Policy Statement on Section 9(13) of the Federal Reserve Act • SR 23-7, “Creation of a Novel Activities Supervision Program” • SR 23-8, “Supervisory Nonobjection Process for State Member Banks Seeking to Engage in Certain Activities Involving Dollar Tokens” 	<ul style="list-style-type: none"> • Interpretive Letter #1179, “Chief Counsel’s Interpretation Clarifying: (1) Authority of a Bank to Engage in Certain Cryptocurrency Activities; and (2) Authority of the OCC to Charter a National Trust Bank” 	<ul style="list-style-type: none"> • FIL-16-2022, “Notification of Engaging in Crypto-Related Activities” 	<ul style="list-style-type: none"> • Joint Statement on Crypto-Asset Risks to Banks • Joint Statement on Liquidity Risks to Banks Resulting from Crypto-Asset Market Vulnerabilities

Rescission or substantial revision of this guidance is only the first—but not the last—necessary step toward promotion of U.S. leadership in the digital assets and financial technology ecosystems. In

³ Executive Order re: “Strengthening American Leadership in Digital Financial Technology” (emphasis added).

⁴ In the attached Annex B, we provide a brief history of how these harmful policies and guidance developed and describe their negative effect on the development of the digital asset industry.

⁵ “Bank Issuance of Stablecoins and Related Services: Legal Authority and Policy Considerations,” The Clearing House Association L.L.C. (November 2022) ([link](#)).

addition to rescission or substantial revision, the federal banking agencies must provide clarity that banks can perform a range of digital asset-related activities safely and soundly and support the digital asset sector in a meaningful way.⁶ The FRB also must provide clarity about the ability of banks' parent companies and other affiliates to engage in digital asset related activities. One option may be for the federal banking agencies to re-initiate the "crypto sprint" that they promised to undertake in 2021 but never did. As noted previously, the federal banking agencies at that time promised that they would provide greater clarity on whether certain activities related to crypto-assets conducted by banking organizations are legally permissible, and expectations for safety and soundness, consumer protection, and compliance with existing laws and regulations related to: crypto-asset safekeeping and traditional custody services; ancillary custody services; facilitation of customer purchases and sales of crypto-assets; loans collateralized by crypto-assets; issuance and distribution of stablecoins; and activities involving the holding of crypto-assets on balance sheet. Furthermore, the federal banking agencies will want to ensure that any capital standards – and any proposed revisions to liquidity standards – for "cryptoassets" and related activities are based on robust empirical analysis and informed by public comment.⁷

We will provide detailed recommendations to the PWG in the near future regarding the banking agencies' policies and guidance as well as regulatory and legislative proposals that will help ensure that banks are able to engage in digital assets activities to help advance the goals of the E.O.

II. The Federal Banking Agencies Should Be Included in the PWG.

It is critically important that the federal banking agencies be included in the PWG. Banks are an essential component of the financial and payments systems, and it is vital that their ability to engage in digital asset activities is not hindered by the federal banking agencies. Participation of the federal banking agencies in the PWG will help ensure that the goals of the E.O. are met.

As discussed above, the federal banking agencies' policies and guidance issued over the last few years regarding digital assets activities has hindered banks' ability to engage in those activities, and, in turn, the competitiveness of the United States financial system, as non-U.S. firms are not subject to similar requirements.⁸ Simply put, the United States will not be able to achieve a leadership position in digital assets and financial technology under the *status quo*. We previously articulated similar concerns when the Securities and Exchange Commission issued SAB 121 in 2022, the recent rescission of which

⁶ We note that these recommendations are consistent with the February 3, 2025, letter from Coinbase Global, Inc. to the OCC, the FRB, and the FDIC ([link](#)).

⁷ We use the term "cryptoassets" in connection with any possible capital standard to be consistent with the Basel Committee's use of the term "cryptoassets" in connection with its publication of "Prudential treatment of cryptoasset exposures" ([link](#)) and its related guidance regarding "Disclosure of cryptoasset exposures" ([link](#)). The Basel Committee defines "cryptoassets" as "private digital assets that depend primarily on cryptography and distributed ledger or similar technology."⁸ See Paige Pidano Paridon and Joshua Smith, *Distributed Ledger Technology: A Case Study of The Regulatory Approach to Banks' Use of New Technology*, Bank Policy Institute (Feb. 1, 2024) ([link](#)); Paige Pidano Paridon and Joshua Smith, *Distributed Ledger Technology: Enhancing the Current Regulatory Approach*, Bank Policy Institute (Feb. 9, 2024) ([link](#)).

⁸ See Paige Pidano Paridon and Joshua Smith, *Distributed Ledger Technology: A Case Study of The Regulatory Approach to Banks' Use of New Technology*, Bank Policy Institute (Feb. 1, 2024) ([link](#)); Paige Pidano Paridon and Joshua Smith, *Distributed Ledger Technology: Enhancing the Current Regulatory Approach*, Bank Policy Institute (Feb. 9, 2024) ([link](#)).

will help enable U.S. banks' to engage in the safeguarding of digital assets.⁹ However, additional action by the federal banking agencies is needed to further advance banks' ability to participate in the digital assets ecosystem, which will help the United States solidify its global leadership position.

Acting FDIC Chairman Travis Hill recently acknowledged that the FDIC's "approach to crypto assets and blockchain . . . 'has contributed to a general perception that the agency was closed for business if institutions are interested in anything related to blockchain or distributed ledger technology'" and that the FDIC was "evaluating [its] supervisory approach to crypto-related activities" and working towards "providing a pathway for institutions to engage in crypto- and blockchain-related activities while still adhering to safety and soundness principles."¹⁰ The Acting Chairman also expressed his interest in working with the PWG.¹¹

Therefore, we respectfully request that you exercise your authority to invite representatives from the federal banking agencies to participate in the PWG and any other digital-asset and crypto-related work undertaken by the Administration to ensure that the goals of the E.O. are met. In addition, while the United States Department of the Treasury is a member of the PWG, we believe it is also important that FinCEN and OFAC, departments within Treasury, participate given that policies they administer have a major impact on financial services, and we suspect that adjustments to those policies will be required in order to advance the U.S. digital asset industry.

* * *

We would appreciate the opportunity to meet with you and the PWG to discuss our views in greater detail. Please contact Paige Pidano Paridon of BPI at (703) 887-5229 or (paige.paridon@bpi.com) to schedule a meeting.

With very best regards,

Bank Policy Institute
 American Bankers Association
 Americas Focus Committee of the Association of Global Custodians
 Financial Services Forum
 Securities Industry and Financial Markets Association
 The Clearing House

⁹ SEC Staff Accounting Bulletin No. 121 (March 31, 2022) ([link](#)). See letter from ABA, BPI, and SIFMA re: SAB 121 to the Office of the Chief Accountant of the SEC, the OCC, the FDIC, the Federal Reserve Board, and the Department of the Treasury (June 23, 2022) ([link](#)); see also letter from BPI, ABA, FSF, and SIFMA to the SEC re: SAB 121 (Feb. 14, 2024) ([link](#)).

¹⁰ Statement of FDIC Acting Chairman Travis Hill, "FDIC Releases Documents Related to Supervision of Crypto-Related Activities" (Feb. 5, 2025) ([link](#)).

¹¹ *Id.*

Annex A

The **American Bankers Association** is the voice of the nation's \$24.2 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2.1 million people, safeguard \$19.1 trillion in deposits and extend \$12.6 trillion in loans.

Established in 1996, the **Association of Global Custodians** is a group of 12 financial institutions that provide securities safekeeping services and asset-servicing functions to primarily institutional cross-border investors worldwide. As a non-partisan advocacy organization, the Association represents members' common interests on regulatory and market structure matters through comment letters, white papers and interaction with legislative and regulatory authorities and financial industry organizations. The member banks are competitors, and the Association does not involve itself in member commercial activities or take positions concerning how members should conduct their custody and related businesses. The Americas Focus Committee operates as an overarching full committee to address all Association matters involving regulatory/market structure issues arising in North or Latin America.

The **Bank Policy Institute** is a nonpartisan public policy, research and advocacy group that represents universal banks, regional banks, and the major foreign banks doing business in the United States. The Institute produces academic research and analysis on regulatory and monetary policy topics, analyzes and comments on proposed regulations, and represents the financial services industry with respect to cybersecurity, fraud, and other information security issues.

The Clearing House Association L.L.C., the country's oldest banking trade association, is a nonpartisan organization that provides informed advocacy and thought leadership on critical payments-related issues. Its sister company, The Clearing House Payments Company L.L.C., owns and operates core payments system infrastructure in the U.S., clearing and settling more than \$2 trillion each business day.

The **Financial Services Forum** is an economic policy and advocacy organization whose members are the eight largest and most diversified financial institutions headquartered in the United States. Forum member institutions are a leading source of lending and investment in the United States and serve millions of consumers, businesses, investors, and communities throughout the country. The Forum promotes policies that support savings and investment, financial inclusion, deep and liquid capital markets, a competitive global marketplace, and a sound financial system.

SIFMA is the leading trade association for broker-dealers, investment banks, and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate on legislation, regulation, and business policy affecting retail and institutional investors, equity and fixed income markets, and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association.

Annex B

A. Background

In 2021, the federal banking agencies issued a “Joint Statement on Crypto-Asset Policy Sprint Initiative and Next Steps,” which stated that, throughout 2022, the agencies planned to provide “greater clarity on whether certain activities related to crypto-assets conducted by banks are legally permissible, and expectations for safety and soundness” for activities such as crypto-asset safekeeping and traditional custody services, ancillary custody services, facilitation of customer purchases and sales of crypto-assets, loans collateralized by crypto-assets, issuance and distribution of stablecoins, and activities involving the holding of crypto-assets on balance sheet.¹² The federal banking agencies did not fulfill those promises and instead pivoted to imposing heightened supervisory expectations on banks, which have materially limited banks’ ability to use distributed ledger technology (“DLT”) to provide digital assets-related products and services.¹³

Furthermore, the heightened supervisory expectations were imposed *after* the OCC had already issued three Interpretive Letters (“ILs”) in 2020 and 2021 under former Comptroller Brian Brooks, which confirmed that certain DLT-based activities were permissible bank activities.¹⁴ However, in November 2021, under new leadership, the OCC then issued a fourth IL, IL 1179, in which the OCC (1) confirmed that the activities described in the prior three ILs were permissible; but (2) *added—for the first time—a written non-objection requirement*.¹⁵ Specifically, the letter provides that national banks and Federal savings associations “should notify [their] supervisory office, in writing,” of the proposed activities and “should not engage in the activities until it receives written notification of the supervisory office’s non-objection.” This added procedural hurdle has, in practice, served as a substantial barrier to national banks’ ability to engage in digital asset-related activities.

¹² FRB, FDIC, OCC, “Joint Statement on Crypto-Asset Policy Sprint Initiative and Next Steps,” (Nov. 23, 2021) ([link](#)).

¹³ See *Interpretive Letter 1170*, OCC (July 22, 2020) ([link](#)); *Interpretive Letter 1172*, OCC (Sept. 21, 2020) ([link](#)); *Interpretive Letter 1174*, OCC (Jan. 4, 2021) ([link](#)); *Interpretive Letter 1179* (Nov. 18, 2021), OCC ([link](#)). In these letters, the OCC explained that “cryptocurrencies are enabled by two technologies: cryptography and distributed ledger technology.”

¹⁴ These interpretive letters acknowledged that it is legally permissible for national banks to provide cryptocurrency custody services, hold stablecoin reserves, participate as nodes in distributed ledgers and use stablecoins. All three ILs concluded that such activities were permissible if conducted in a safe and sound matter (although we note that whether the bank engages in an activity safely and soundly is a separate question from whether the activity is permissible; indeed, any safety and soundness concerns should be handled in the ordinary supervisory process). As the OCC recognized, the use of blockchain itself does not change the underlying real-world instrument nor the legal framework around it. See *Interpretive Letter 1170* (July 22, 2020) ([link](#)); *Interpretive Letter 1172* (Sept. 21, 2020) ([link](#)); *Interpretive Letter 1174* (Jan. 4, 2021) ([link](#)); *Interpretive Letter 1179* (Nov. 18, 2021) ([link](#)). The OCC observed that over “time, banks’ financial intermediation activities have evolved and adapted in response to changing economic conditions and customer needs,” and independent node verification networks such as DLT “represent new technological means of carrying out bank-permissible payment activities.” *Interpretive Letter 1174*, OCC (Jan. 4, 2021), 3-4 ([link](#)).

¹⁵ IL 1179 at 1. The letter asserts that it was merely clarifying that the crypto activities discussed in the three prior letters “are legally permissible for a bank to engage in, *provided* the bank can demonstrate, to the satisfaction of its supervisory office, that it has controls in place to conduct the activity in a safe and sound manner.”

In April 2022, the FDIC issued guidance asserting that “FDIC-supervised institutions that intend to engage in, or that are currently engaged in, any activities involving or related to crypto assets (also referred to as ‘digital assets’) should notify the FDIC” and the “FDIC will review the information and provide relevant supervisory feedback.”¹⁶ While this guidance does not explicitly state that receiving a non-objection from the FDIC is *required* to move forward, in practice, the requirement to notify the FDIC and receive supervisory feedback has effectively functioned as just that.

In August 2022, the FRB issued similar guidance asserting that FRB supervised banking organizations “should notify” their FRB supervisors “prior to engaging in any crypto-asset-related activity” and “Federal Reserve supervisory staff will provide relevant supervisory feedback, as appropriate, in a timely manner.”¹⁷ Again, although this guidance does not explicitly require a non-objection, in practice it has operated as a requirement.

Thereafter, in January 2023, the federal banking agencies jointly issued guidance entitled “Joint Statement on Crypto-Asset Risks to Banking Organizations” warning of the risks presented by “crypto related activities.”¹⁸ In the statement, the agencies expressed skepticism that crypto-asset-related activities can be conducted in a safe and sound manner. Thus, while the crypto-asset activities addressed by OCC Interpretive Letters 1170, 1172 and 1174 may be *legally permissible* for banks in the abstract, the agencies’ view that those activities are “highly likely to be inconsistent with safe and sound banking practices” suggests that banks are unlikely to obtain the agencies’ sign-off to engage in them.¹⁹ Because of the policy statement’s scope, it also has had a chilling effect on banks’ ability to engage with crypto firms on a variety of basic banking activities and services.

A month later, in February 2023, the federal banking agencies issued another joint statement, this time on liquidity risks to banks resulting from crypto-asset market vulnerabilities.²⁰ That same month, the FRB issued a Policy Statement on Section 9(13) of the Federal Reserve Act (“Policy Statement”) that, among other things, required state banks that are members of the Federal Reserve System to obtain a written non-objection before engaging in certain digital asset activities that are otherwise permissible.

Then, in August 2023, the FRB took two more actions: First, the FRB issued Supervisory Letter SR 23-7, which establishes a “Novel Activities Supervision Program” (NASP) that focuses on “novel activities related to crypto-assets, distributed ledger technology (DLT), and complex, technology-driven

¹⁶ FDIC FIL-16-2022, “Notification of Engaging in Crypto-Related Activities” (April 7, 2022) ([link](#)).

¹⁷ FRB, SR 22-6 / CA 22-6: “Engagement in Crypto-Asset-Related Activities by Federal Reserve-Supervised Banking Organizations” (Aug. 16, 2022) ([link](#)).

¹⁸ FRB, FDIC and OCC, Joint Statement on Crypto-Asset Risks to Banking Organizations (Jan. 3, 2023) ([link](#)).

¹⁹ The agencies also have “significant safety and soundness concerns with business models that are concentrated in crypto-asset-related activities or have concentrated exposures to the crypto-asset sector.” *Id.*

²⁰ See FRB, FDIC and OCC, Joint Statement on Liquidity Risks to Banks Resulting from Crypto-Asset Market Vulnerabilities (Feb. 23, 2023) ([link](#)). The guidance focused on funding risks to banks from holding deposits that are associated with crypto-asset-related entities, whether deposits for the benefit of end customers of crypto entities or deposits that constitute stablecoin reserves. The agencies noted the importance of effective risk management to mitigate any such liquidity risks and reminded banks of their need to comply with brokered deposit rules and reporting requirements.

partnerships with nonbanks to deliver financial services to customers.”²¹ According to the FRB, the program is risk-focused and intended to complement existing supervisory processes and strengthen the oversight of novel activities conducted by supervised banking organizations.²² Therefore, NASP adds an additional layer of oversight to banks subject to FRB supervision that are seeking to engage in digital assets-related activities. Second, the FRB issued SR 23-8, which establishes a “supervisory nonobjection process for State member banks seeking to engage in certain activities involving tokens denominated in national currencies and issued using distributed ledger technology or similar technologies to facilitate payments (dollar tokens).”²³

Thus, a U.S. bank that wishes to engage in digital assets-related activities must, at a minimum, provide advance notice to its federal supervisor(s) and await supervisory feedback (in the case of FDIC-supervised banks), and/or obtain a written non-objection from its federal supervisor (in the case of OCC and FRB-supervised banks) before proceeding. In the case of FRB-supervised entities, even if a banking organization obtains a non-objection, it becomes subject to additional layers of supervision through the FRB’s NASP. Thus, the totality of the actions taken by the federal banking agencies under the prior administration have made it exceedingly difficult for U.S. banks to engage in digital asset-related activity in any meaningful way when compared to their international peers, which are actively offering digital asset-related products and services.

B. The Status Quo Has Hindered the United States’ Ability to Achieve a Leadership Position in the Digital Assets Ecosystem.

When considering the non-objection requirements the federal banking agencies have established, it is important to highlight that it is *not* the agencies’ standard practice to subject U.S. banks to both dedicated supervisory programs *and* requirements to obtain a formal non-objection to engage in permissible activities. For example, a banking organization does not need to obtain a written non-objection before custodying stocks or bonds on behalf a client in a non-fiduciary capacity, or to launch new deposit products or correspondent banking activities. Nor does a banking organization need to obtain a non-objection simply because it has implemented a new system based on a new technological design. However, that same banking organization must obtain a written non-objection if it seeks to custody a different type of asset (i.e., a digital asset) for the same client, to tokenize deposits, or to serve as a correspondent for a crypto firm, or even simply to process traditional securities and cash on a new and more efficient system—all because a new technology, DLT, is used in some way.

Moreover, the federal banking agencies have not demonstrated that the non-objection requirements have materially benefited banks’ safety and soundness, or that of the financial system more broadly. Banks have sophisticated risk management functions and identify and manage risks continuously in the ordinary course. Furthermore, banks are in constant communication with their federal supervisors about their business plans and activities. The federal banking agencies have not shown that requiring additional steps, such as obtaining a written non-objection or, in the case of the

²¹ FRB SR 23-7, “Creation of Novel Activities Supervision Program” (Aug. 8, 2023) ([link](#)).

²² *Id.*

²³ SR 23-8 uses the term “dollar token” rather than “stablecoin.” The Supervisory Letter provides that a state member bank seeking to issue, hold or transact in dollar tokens “is required to demonstrate, to the satisfaction of Federal Reserve supervisors, that the bank has controls in place to conduct the activity in a safe and sound manner.”

FRB, adding even more examiners to oversee banks' operations, has provided additional benefits that outweigh the burdens. Indeed, as noted previously, Acting FDIC Chairman Travis Hill recently criticized the FDIC's existing approach to cryptoassets and blockchain.²⁴

Finally, the non-objection process is a drain on resources and inefficient for all involved: banks that must procure the non-objection (for example, by providing a written submission and, in some cases, responding to numerous rounds of additional questions from supervisory teams) *and* the federal supervisory teams that must review the submissions, request additional information, and ultimately issue the non-objections. The resources expended on this process are substantial given the federal banking agencies' expansive views of the activities that require a non-objection. The non-objection process thus often leads to multiple requests sitting in a queue for supervisory review. At best, the non-objection process can take many months to complete. At worst, banks may never receive a clear answer.²⁵ It is virtually impossible for U.S. banks to win business from international competitors when U.S. banks are continuously awaiting regulatory approval that may never materialize.

²⁴ Statement of FDIC Acting Chairman Travis Hill (Feb. 5, 2025).

²⁵ The confusing process the agencies have established for banks to obtain supervisory feedback or non-objection before engaging in digital assets activities has not gone unrecognized. In October 2023, the Federal Deposit Insurance Corporation's Inspector General faulted the agency for failing to provide "effective guidance" to banks regarding the use of new technology and asset classes related to "crypto" and concluded that the agency had no clear process or timelines to provide supervisory feedback. See *FDIC Strategies Related to Crypto-Asset Risks*, FDIC Office of Inspector General (Oct. 2023) ([link](#)). The Report cites to the definition of "crypto-related activities" in FDIC FIL-16-2022, which provides that the term "crypto-related activities" includes "acting as crypto-asset custodians; maintaining stablecoin reserves; issuing crypto and other digital assets; acting as market makers or exchange or redemption agents; participating in blockchain- and distributed ledger-based settlement or payment systems, including performing node functions; as well as related activities such as finder activities and lending." The Report found that the FDIC had not established an expected timeframe for reviewing information and responding to the supervised institutions that received letters to "pause" their crypto-related activities or described what constituted the end of the review process. The OIG concluded that the FDIC's lack of clear procedures causes uncertainty for supervised institutions and recommended that the FDIC establish a plan with timeframes for assessing risks pertaining to crypto-related activities and update and clarify the supervisory feedback process related to its review of supervised institutions' crypto-related activities.