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July 16, 2021

Members of the Board
Federal Deposit Insurance Corporation
Attn: James P. Sheesley
Assistant Executive Secretary
550 17th Street N.W.
Washington, D.C. 20429

Via: Comments@fdic.gov

Re: Request for Information and Comment on Digital Assets (RIN 3064-ZA25)

Dear Members of the Board,

On behalf of more than 500,000 members and supporters of Public Citizen, we offer the following comments in response to the Request for Information and Comment on Digital Assets from the Federal Deposit Insurance Corp. (FDIC, agency).

Broadly, we believe that digital assets in the form of cryptocurrencies fail to constitute an efficient, available form of payment; represent a serious danger to investors; and harm the environment. We do support federal bank regulators exploring ways to streamline the payment systems, which might include federal sponsorship of a digital coin.

We welcome the FDIC 's invitation to comment on digital assets, of which cryptocurrencies are the most conspicuous elements. The agency invites comment on the following areas where banks, specifically FDIC-insured depositary institutions, might interact with cryptocurrency:

- Technology solutions, such as those involving closed and open payment systems, other token-based systems for banking activities other than payments (e.g., lending), and acting as nodes in networks (e.g., distributed ledgers).s
- Asset-based activities, such as investments, collateral, margin lending and liquidity facilities.

- Liability-based activities, such as deposit services and where deposits serve as digital asset reserves.
- Custodial activities, such as providing digital asset safekeeping and related services, such as secondary lending, as well as acting as a qualified custodian on behalf of investment advisors.

Below we highlight potential issues and opportunities that the agency should take into consideration as you investigate this important topic.

Payment System

The nation's financial payment system works for many Americans. Employees receive paychecks that are typically deposited, often electronically, into a bank account. These accounts can then be accessed for payments by way of checks, credit or debit cards, or through a withdrawal of cash. There are roughly $2 trillion in U.S. coins and notes now in circulation, although most of this circulates outside the United States. (The 60 percent estimated to circulate outside the United States is due to many reasons, including the fact that some countries use the US dollar as their own currency.)[1] But there is about $17 trillion in deposits where transactions take place as accounting ledger notations, with no physical transfer of any item, such as cash.[2] The payment system can be convenient for many. One can purchase an item with as little cost as a candy bar with a credit card. The vendor receives payment in a matter of days. The buyer pays off the credit purchases monthly, and, with auto-pay, the credit card balance can be remitted with no further action by the customer.

But the payment system also contains serious flaws. Many U.S. residents lack a bank account. More than six percent of American households, or some 33 million citizens are without a traditional bank account. Some do not trust banks, while others lack the funds that financial institutions require to open and maintain an account.[3]

Even for those lucky people with deposit accounts, the payment system is slow. Overdraft fees can be substantial. Checks and credit card payments can take two days or more to clear, meaning that vendors are without these funds during that time. It is also costly. Checks and particularly wire transfers can include substantial fees. Banks charge interchange fees for credit cards, a substantial burden for retailers.[4] And it is complex, with thousands of banks with idiosyncratic ledger systems communicating with one another and the Federal Reserve.

There are also deposit substitutes outside the traditional banking industry, such as money market mutual funds, and repurchase agreements between institutional investors. During the 2008 financial

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[1] *Monetary Base, Currency in Circulation*, FEDERAL RESERVE BANK OF ST LOUIS, (April, 2021) https://fred.stlouisfed.org/series/MBCURRCIR. J.P. Koning, *How Much U.S. Currency is Held Overseas?*, BULLIONSTAR (Jul. 3, 2019) https://www.bullionstar.com/blogs/jp-koning/how-much-u-s-currency-is-held-overseas/

[2] Deposits, *All Commercial Banks*, FEDERAL RESERVE BANK OF ST LOUIS, (June 4, 2021) https://fred.stlouisfed.org/series/DPSACBW027SBOG

[3] Mehrsa Baradaran, *How the Other Half Banks*, HARVARD UNIVERSITY PRESS (2015) https://www.hup.harvard.edu/catalog.php?isbn=9780674983960

[4] Aaron Klein, *A Few Small Banks Have Become Overdraft Giants*, BROOKINGS INST. (Mar. 1, 2021) https://www.brookings.edu/opinions/a-few-small-banks-have-become-overdraft-giants/

crisis, breakdowns in these two areas led the Federal Reserve to engage in a major bailout to sustain some stability just so large institutions could meet their payrolls. [5]

For some, digital assets or "crypto-currencies" promise a better payment system. With a digital asset kept on a decentralized ledger, the number of intermediaries would be reduced. Relatedly, there would be no intermediary assessing a fee on these transactions.

In the current landscape, this promise is proving illusory.

Most immediately, the prevailing crypto-currencies are gyrating wildly in price. Bitcoin, which is the largest such currency, changes value daily, sometimes by substantial percentages. During the three-month period ending in June 2021, Bitcoin traded as high as $60,000 per token and as low as $35,000.[6] A customer who believed that Bitcoin would rise in value would not rationally use one for a purchase on that day since they would be over-paying. They would only use the coin if they thought the price would fall. Conversely, a vendor who believed Bitcoin would fall would not accept the coin, since it would be an underpayment, and would only accept the token if they believed the price would rise. In other words, a gyrating price stifles the use of Bitcoin as a vehicle of market exchange.

Second, the promise of cost-free transactions has also proven illusory. The cost of transactions for Bitcoin are substantial and vary greatly. In the last year, they have reached $300 for each transaction.[7] Related to this, the same population that lacks a bank account, and who are most sensitive to financial fees, may also lack the technology assets to interact with digital currencies.

Third, the number of crypto-currencies is staggering, and growing. By one estimate, as of April 2021, there were more than 10,000 different cryptocurrencies.[8] That is a greater than the number of banks in the United States. One of these, namely Dogecoin, was created as a "joke," according to its founders.[9] The total dollar value of this universe is around $2 trillion, but that amount itself swings substantially. Bitcoin's total value is the largest, at about $700 billion. Ethereum is the second largest at about $288 billion. The 100th largest is Ravencoin, with a market capitalization of $640 million. The 200th largest is Travala.com, at $135 million.[10] With 10,000 separate crypto-currencies, it appears unfathomable how customers and vendors can agree on which one to use. A few retailers have experimented with accepting Bitcoin for payment, but many have stopped.[11]

Fourth, the claim that crypto-currency cannot be stolen has proven untrue. While it may not be as vulnerable to street theft as cash may be, or to cyber criminals hacking a bank account, a cyber-criminal might be able to hack into a personal computer where bitcoin codes are kept. Recently, a ransom paid

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[5] Mary Shapiro, *Perspectives on Money Market Mutual Fund Reform,* SECURITIES AND EXCHANGE COMMISSION (June 21, 2012) https://www.sec.gov/news/testimony/2012-ts062112mlshtm

[6] *Bitcoin,* COINDESK (website accessed June 11, 2021) https://www.coindesk.com/price/bitcoin

[7] *Bitcoin Average Cost Per Transaction,* YCHARTS (website accessed June 11, 2021) https://ycharts.com/indicators/bitcoin_average_cost_per_transaction

[8] *Understanding the Different Types of Cryptocurrencies,* SOFI LEARN (Jan. 15, 2021) https://www.sofi.com/learn/content/understanding-the-different-types-of-cryptocurrency/

[9] Avi Salzman, *Dogecoin Was Started as a Joke,* BARRONS (May 5, 2021) https://www.barrons.com/articles/dogecoin-started-as-a-joke-now-its-too-important-to-laugh-off-51620229273

[10] *All Cryptocurrencies,* COINMARKETCAP (website accessed June 11, 2021) https://coinmarketcap.com/all/views/all/

[11] Steve Fiorillo, *How to Use Bitcoin for Purchases,* THE STREET (April 18, 2018) https://www.thestreet.com/investing/what-can-you-buy-with-bitcoin-14556706

by Colonial Pipeline to hackers that took over their system (which led to a temporary decline in gasoline supplies on the East Coast), was recovered by the FBI. Reported the *Wall Street Journal*, "Crypto experts say it is at times easier to track than hard currencies such as U.S. dollars."[12]

Investments

To date, crypto currencies are viewed mainly as a speculative investment. As with their use in the payment system, we believe this arena is perilous and FDIC-insured institutions should not abet investment. Banks are and should be intermediaries between savers and users of capital. Workers can deposit their paychecks in banks, and those funds can be used to grant loans to individuals, in the form of mortgages or other loans, or to businesses for growth. Businesses that grow large enough might eventually tap the broader capital markets, such as through an initial public offering of stock. The investor in that stock is purchasing a share of the company, a claim on the future profits of that enterprise. The stock investor owns something real, a company that produces real goods and services. The 10,000 crypto-currencies, by contrast, are simply computer creations with no promise of income, no real assets, no services attached to them.

Many investment professionals share a similar view. Berkshire Hathaway CEO Warren Buffett recently called crypto-currency "rat poison squared." His associate Charlie Munger labelled trading in this market as "dementia."[13] Investor Mark Cuban said he'd prefer bananas to bitcoin, "Because at least as food, bananas have intrinsic value."[14] JPMorgan CEO Jamie Dimon said he'd fire any employee he found investing in Bitcoin. Other skeptics include Allianz economist Mohamad El-Erian, economist Paul Krugman, and Oaktree Capital Management founder Howard Marks. [15]

If crypto-currencies are not a viable substitute for the payment system, why should anyone consider them a viable investment? The sad reality is that about 46 million Americans now own Bitcoin alone.[16] Why do so many people invest in Bitcoin and other cryptocurrencies? We assume, as with a stock or other traditional asset, these speculators believe the price will rise and that they will profit. To date, that has been the case. Crypto-currency did not exist two decades ago and is now worth a collective $2 trillion, as previously noted. That's four times the market capitalization of JP Morgan.[17] Speculators who

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[12] James Uberti, *How the FBI Got Colonial Pipeline's Money Back*, WALL STREET JOURNAL (June 11, 2021) https://www.wsj.com/articles/how-the-fbi-got-colonial-pipelines-ransom-money-back-11623403981
[13] James Royal, *Warren Buffet Says to Avoid these Two Types of Hot Investments,* BANKRATE (May 6, 2019) https://www.bankrate.com/investing/warren-buffett-says-avoid-these-hot-investments/
[14] Taylor Locke, *Mark Cuban: Bitcoin Is 'More Religion Than Solution' And Won't Help In 'Doomsday Scenarios,* CNBC (Dec. 17, 2020) https://www.cnbc.com/2020/12/17/mark-cuban-bitcoin-is-a-store-of-value-that-is-more-religion.html
[15] Trisha Phillips, *Bill Gates and Other Powerful People Who Hate (or Love) Bitcoin,* SHOWBIZ CHEATSHEET (MAY 25, 2018)
https://www.cheatsheet.com/money-career/powerful-people-love-or-hate-bitcoin.html/
[16] *About 46 Million Americans Own Bitcoin,* NASDAQ (May 14, 2021) https://www.nasdaq.com/articles/about-46-million-americans-now-own-bitcoin-2021-05-14
[17] *JP Morgan,* YCHARTS (website accessed June 11, 2021) https://ycharts.com/companies/JPM/market_cap

purchased at lower prices are, indeed, sitting on a profit. Bitcoin sold for $1,000 in 2017, before peaking at $60,000 in 2021.[18] Would-be speculators saw these winnings and likely were attracted to the arena.

Bolstering the stories of success, mainstream institutions and public influencers are affirming the legitimacy of crypto-currencies as investments. Well known brokers, including large firms catering to small investors such as Schwab, now offer crypto-currencies. [19] Wells Fargo offers the product to is elite clients.[20] Crypto-currencies legitimized by large institutions naturally invites otherwise rational people to consider allocating at least some of their portfolio to this sector.

This is troubling because this collective $2 trillion is money that could otherwise be invested in real assets that would truly benefit the public. Currently in Congress, a bipartisan group of lawmakers are debating investment in the nation's infrastructure, and the dollar figures being discussed are less than that now tied up in crypto-currencies. Venture capitalists and other funders of entrepreneurs are always hungry for additional capital.

Meanwhile, investment scams involving cryptocurrencies abound. In a five month period ending March 2021, the Federal Trade Commission reported 7,000 cryptocurrency scams covering some $80 million in reported losses. That is 12 times the number of scams reported during the same period a year earlier, with a 1000 percent greater estimated loss.[21] Alexis Goldstein, financial policy director of the Open Markets Institute, reviewed some of these scams in testimony before the House Financial Services Subcommittee on Oversight and Investigations. For example, some malicious actors created digital coins that can be purchased but not sold. Others promise enormous returns that proved untrue. [22]

Cryptocurrencies also serve as a medium of payment for illicit activities, as noted in the Colonial Pipeline case above. One study found that "approximately one-quarter of Bitcoin users are involved in illegal activity" and that an estimated $76 billion in illegal activity per year involve bitcoin (46% of bitcoin transactions), "which is close to the scale of the U.S. and European markets for illegal drugs."[23]

As a steward of sound public policy, the FDIC should not abet the legitimization of crypto-currencies. As such, we urge the FDIC to oppose bank efforts to promote crypto-currencies with depository, investment or other services.

Energy and Climate Issues

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[18] James Royal, *Best online brokers for buying and selling cryptocurrency in June 2021,* BANKRATE *(June 1, 2021) https://www.bankrate.com/investing/best-online-brokers-cryptocurrency-trading/*

[19] James Royal, *Best online brokers for buying and selling cryptocurrency in June 2021,* BANKRATE *(June 1, 2021) https://www.bankrate.com/investing/best-online-brokers-cryptocurrency-trading/*

[20] *Wells Fargo: US Bank Set to Offer Crypto to Rich Clients*, BBC (May 19, 2021) https://www.bbc.com/news/business-57147386

[21] Emma Fletcher, *Cryptocurrency Buzz Drives Record Investment Scam Losses,* FEDERAL TRADE COMMISSION (May 17, 2021) https://www.ftc.gov/news-events/blogs/data-spotlight/2021/05/cryptocurrency-buzz-drives-record-investment-scam-losses

[22] Alexis Goldstein, *Testimony,* HOUSE FINANCIAL SERVICES COMMITTEE (June 20, 2021) https://financialservices.house.gov/uploadedfiles/hhrg-117-ba09-wstate-goldsteina-20210630-u1.pdf

[23] Sean Foley, et al, *Sex Drugs and Bitcoin*, THE REVIEW OF FINANCIAL ECONOMICS, (May 2019) https://academic.oup.com/rfs/article/32/5/1798/5427781

Counterintuitively, the promise of friction free commerce through cryptocurrency without the need of paper documents coursing by way of vans and other transport through physical roads has also proven illusory. In fact, many cryptocurrencies are major energy users. Many cryptocurrencies are created through "proof-of-work" mining that involves using computers to solve useless mathematical puzzles in exchange for newly minted cryptocurrency tokens. This mining absorbs considerable amounts of electricity. Bitcoin miners alone annually use an estimated 130 Terawatt-hours, which is about 0.6 percent of world electricity consumption, according to one estimate.[24] At a time of climate change crisis, tapping our energy supply for specious cryptocurrency should not be promoted.

Central Bank Digital Currency

At the same time, Public Citizen does support exploration of a Central Bank Digital Currency (CBDC). This federal digital coin, in one form dubbed a FedAccount, holds the promise to address some of the problems with the payment system reviewed above. Currently, depository institutions maintain accounts with the Federal Reserve. The FedAccount would be available to ordinary citizens.

Conceived by Lev Menand of Columbia Law School in June 2018, the CBDC would be a Federal Reserve account. It would be available to "any U.S. resident or business in digital wallets operated by the Fed, the Post Office, or one of the country's several thousand community banks," he explains.[25] "The digital wallets would charge no fees and have no minimum balances. They would come with debit cards, direct deposit, and bill pay. They would have customer service, privacy safeguards, and fraud protection—if for example one lost their password. And these accounts would earn interest at the same rate that the Fed pays to banks."

Lack of profitability for the banks represents one of the reasons that banks fail to service roughly six percent of the population. The FedAccount would be available regardless of any balance. The FedAccount would be streamlined with immediate clearing. There would be no fees. With such an account, delivery of federal payments such as Covid relief or other government benefits, would be immediate.

Important questions must be answered. For example, many bank account holders are subject to garnishments because of unpaid debt. Debt collectors would have a simple way to garnish funds through the CBDC. That also means the Federal Reserve would need to engage with debt collectors in addition to individual Federal Reserve account holders. There may be political issues. For example, the CARES Act might have more effectively delivered needed rescue funds to needy Americans via FedAccount system. However, some of the individuals who received relief may have been subject to garnishment, meaning the Federal Reserve would be in a position of deciding whether, in times of extraordinary need, it would protect or release these funds. A similar issue applies to overdrafts, which means the Federal Reserve may need to institute a policy to ensure financially vulnerable individuals are not being harmed by unaffordable fees.

[24] *Cambridge Bitcoin Electricity Consumption Index*, UNIVERSITY OF CAMBRIDGE, (website visited July 1, 2021) https://cbeci.org/

[25] Lev Menand, *Testimony,* U.S. SENATE BANKING COMMITTEE (June 9, 2021) https://www.banking.senate.gov/imo/media/doc/Menand%20Testimony%206-9-21.pdf

In conclusion, we applaud the FDIC for raising this issue. We believe crypto-currencies fail in their promise as a form of payment, are a dangerous investment and the FDIC should not legitimize their usage with federally regulated banks. Yet, the Federal Reserve itself providing a digital banking option that would be available to all Americans would be a most welcome solution to the pressing problem of unbanked individuals. We look forward to working with the agency on these issues moving forward.

For questions, please contact Bartlett Naylor at bnaylor@citizen.org.

Sincerely,

Public Citizen