

Congress of the United States
Washington, DC 20515

December 9, 2020

The Honorable Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20500

Dear Secretary Mnuchin,

We write to you to express our concern regarding reports that the Treasury Department is considering issuing regulations that would restrict the use of self-hosted wallets. We request that the Department consult with Congress and industry stakeholders before taking any decisive action.

If such a proposal requires a company to determine the owner of a self-hosted wallet, with which the company's users wish to transact, then Americans' utilization of digital asset transactions would be placed at a significant disadvantage to our global competitors. It would hinder American leadership and preclude meaningful participation in the technological innovation currently underway throughout the global financial system.

Further, such a regulation could actually undermine the Treasury Department from stopping illicit actors from exploiting the financial system, both within the traditional banking system and the digital asset ecosystem. The contemplated regulation would not meaningfully support law enforcement, while it would raise privacy concerns and place impractical regulatory burdens on digital asset users and companies.

Self-hosted wallets enable owners to manage and protect their cryptographic private keys without the use of a third-party intermediary. As such, they represent a foundational component of innovative distributed ledger technology—a subset of which is commonly known as blockchain—that enables two parties to exchange value on a peer-to-peer basis over the internet. In this sense, use of a self-hosted wallet is effectively a digital cash transaction where trust is established directly between the sender and the recipient, independent of any third-party.

Eliminating the middleman through the use of self-hosted wallets means that consumers can maintain privacy and transact freely, which is critically important as individuals increasingly conduct their financial lives digitally. Such freedom stands in stark contrast to China's digital yuan, where citizens' transactions are surveilled and transactions involving disfavored individuals or activities can be censored. Additionally, the permissionless nature of digital assets—inherent with self-hosted wallets—has the potential to expand banking services to the unbanked and underbanked. Given the importance of such innovation, we believe that any regulatory proposal should carefully consider how to best meet law enforcement needs, while also ensuring that adoption of this innovative technology is not stymied.

While law enforcement officials may understandably suspect that private transactions between two parties may be exploited for illicit purposes, the reality is that this same vulnerability exists with cash. It should also be noted that multiple reports have shown that digital assets are not widely used by illicit actors. While policymakers may point to the “anonymity” of digital assets, these assets are more properly characterized as “pseudo-anonymous,” or private, with an open and transparent digital ledger that can be analyzed; it is not “secret.”

Further, many people already have self-hosted wallets, as they are currently legal, lawfully used, and being rapidly adopted. A regulation, such as is being reported, could effectively make these individuals criminals. What would happen with their assets?

With respect to AML/KYC requirements, there should be regulatory parity between the traditional financial system and the digital asset ecosystem. Most Americans accept that a company, which takes on risk by taking custody of assets, should be subject to certain regulatory requirements to prevent money laundering. Yet, so too would these Americans be troubled by the idea that in a hypothetical world of microchipped cash, the government should mandate their banks to block cash purchases from their physical wallet until the bank has identified the person or business with whom they are transacting. Rather than restrict, we are hopeful that protecting legal, private, peer-to-peer transactions would guide any proposals from the Department related to the digital asset space.

Department consultation with Congress and outside industry stakeholders is vital to appropriately address this matter. Such collaboration and transparency amongst policymakers will ensure that law enforcement needs can be properly balanced with the need to ensure an environment where individuals are empowered to transact freely with others in the digital space. As part of this consultation with Congress, we request that the Department provide details regarding any proposal currently under consideration and an explanation as to its rationale. Thank you for your attention to this matter.

Sincerely,



Warren Davidson
Member of Congress



Tom Emmer
Member of Congress



Ted Budd
Member of Congress



Scott Perry
Member of Congress