



TESTIMONY OF

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BEFORE THE

United States House of Representatives Committee on Financial Services

Subcommittee on Oversight and Investigations

“America on “FIRE”: Will the Crypto Frenzy Lead to Financial Independence and Early Retirement or Financial Ruin?”

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Thank you for the invitation to speak with you today. My name is Peter Van Valkenburgh. I’m the Director of Research at Coin Center, an independent nonprofit focused on cryptocurrency public policy.¹

The Bitcoin network has been processing transactions for longer than Uber has been offering rides.² Bitcoin and other cryptocurrencies have enabled 3.1 billion transactions in the last 10 years, securing over 2 Trillion dollars in value.³

¹ Coin Center is an independent nonprofit research and advocacy center focused on the public policy issues facing cryptocurrency technologies such as Bitcoin. Our mission is to build a better understanding of these technologies and to promote a regulatory climate that preserves the freedom to innovate using open blockchain technologies. We do this by producing and publishing policy research from respected academics and experts, educating policymakers and the media about blockchain technology, and by engaging in advocacy for sound public policy.

² Uber was founded in March of 2009. Bitcoin’s white paper describing the technology was released in October of 2008 and the peer-to-peer network began processing transactions in January of 2009. See: Bitcoin Genesis Block, Block 0, January 3, 2009, 12:15 CST, available at: <https://www.blockchain.com/btc/block/00000000019d6689c085ae165831e934ff763ae46a2a6c172b3f1b60a8ce26f>.

³ Matt Cutler, “When One Billion Ethereum Transactions?” *blocknative*, February 24, 2020, https://blog.blocknative.com/blog/one-billion-transactions?hs_preview=uvqGqHNh-25763534560.

If cryptocurrencies were unregulated to this day, wouldn't that be an incredible failure of our regulatory system? As I'll outline, it's not a failure because over the last 10 years, cryptocurrencies have been regulated.

Some of that regulation comes from the technology itself: the scarcity of bitcoin, a total supply of only 21 million, is not preserved by the good will and honesty of the participants, nor by oversight from a corporate board of directors, nor by a law or regulation. It's secured by a transparent, peer-to-peer accounting technology—a public blockchain—that makes fraud trivially cheap to detect and absurdly expensive to commit.⁴

But much regulation has also come from the federal and state governments.⁵ The on ramps and off ramps, the places where people buy and sell bitcoins for dollars and safekeep them, are heavily regulated.

⁴ *See, generally*: Peter Van Valkenburgh, “Open Matters: Why Permissionless Blockchains are Essential to the Future of the Internet,” *Coin Center*, December 2016, <https://www.coincenter.org/open-matters-why-permissionless-blockchains-are-essential-to-the-future-of-the-internet/>.

⁵ *See, generally*: Jerry Brito, “Is bitcoin regulated?” *Coin Center*, January 13, 2015, <https://www.coincenter.org/education/blockchain-101/is-bitcoin-regulated/>.

They are state licensed money transmitters⁶ or else they are chartered banks or trust companies.⁷ Before offering any services to Americans they must prove minimum capital requirements, post bonds, and open their doors to yearly examinations.⁸

They are also classified as Financial Institutions under the Bank Secrecy Act⁹: they must register with FinCEN, know their customers, and share the details of suspicious activity with law enforcement.¹⁰

⁶ See, generally: Marco Santorini, “What is Money Transmission and Why Does it Matter?” *Coin Center*, April 7, 2015, <https://www.coincenter.org/education/policy-and-regulation/money-transmission/>; See also, e.g. Coinbase license list, accessed June 28, 2021, <https://www.coinbase.com/legal/licenses>.

⁷ See, e.g.: “Square Receives Conditional FDIC Approval for Industrial Loan Charter Application for Deposit Insurance,” Square Blog, March 18, 2020, <https://squareup.com/us/en/press/ilc-update>; “Kraken Wins Bank Charter Approval,” Kraken Blog, September 16, 2020, <https://blog.kraken.com/post/6241/kraken-wyoming-first-digital-asset-bank/>; Richard Loconte, “DFS AUTHORIZES GEMINI TRUST COMPANY TO PROVIDE ADDITIONAL VIRTUAL CURRENCY PRODUCTS AND SERVICES,” *New York Department of Financial Services*, Press Release, May 14, 2018, https://www.dfs.ny.gov/reports_and_publications/press_releases/pr1805141.

⁸ Each of these regulatory forms has different specific requirements for prudential standards. Coin Center supports the creation of a national alternative to the differing standards found in state-by-state licensing. See: Peter Van Valkenburgh, “The Need for a Federal Alternative to State Money Transmission Licensing,” *Coin Center*, January 2018, <https://www.coincenter.org/the-need-for-a-federal-alternative-to-state-money-transmission-licensing/>. Additionally, Coin Center supports efforts from the OCC to create consumer protection standards for federally chartered fintech banks including those that deal in cryptocurrencies. See: Peter Van Valkenburgh, “Comments to the Office of the Comptroller of the Currency on Exploring Special Purpose National Bank Charters for Fintech Companies,” *Coin Center*, April 13, 2017, <https://www.coincenter.org/comments-to-the-office-of-the-comptroller-of-the-currency-on-exploring-special-purpose-national-bank-charters-for-fintech-companies/>.

⁹ “Application of FinCEN’s Regulations to Persons Administering, Exchanging, or Using Virtual Currencies,” *Financial Crimes Enforcement Network*, FIN-2013-G001, March 18, 2013, <https://www.fincen.gov/sites/default/files/shared/FIN-2013-G001.pdf>; and “Application of FinCEN’s Regulations to Certain Business Models Involving Convertible Virtual Currencies,” *Financial Crimes Enforcement Network*, FIN-2019-G001, May 9, 2019, <https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf>.

¹⁰ Requirements for cryptocurrency exchanges are the same as those for typical money services businesses. Those requirements are described in the implementing regulations of the Bank Secrecy Act, 31 U.S.C. § 5312.

Cryptocurrencies like bitcoin and ethereum are commodities¹¹ but many crypto assets meet the flexible definition of an “investment contract,” a type of security, which means their issuance and their trading are regulated by the SEC.¹² Cryptocurrency derivatives are regulated by the CFTC.¹³

Finally, anyone who markets a cryptocurrency service or tool that is deceptively advertised or fraudulent is liable under various laws enforced by the CFPB, the FTC, the SEC, the CFTC, and state attorneys general.¹⁴

And the results of all this regulation speak for themselves, in 2020 only 0.34% of all cryptocurrency transaction volume involved a criminal sender or recipient.¹⁵ Despite several high profile hacks of overseas exchanges, no major American exchange has suffered a

¹¹ Neeraj Agrawal, “SEC Chairman Clayton: Bitcoin is not a security,” *Coin Center*, April 27, 2018, <https://www.coincenter.org/sec-chairman-clayton-bitcoin-is-not-a-security/>; William Hinman, “Digital Asset Transactions: When Howey Met Gary (Plastic),” *Remarks at the Yahoo Finance All Markets Summit: Crypto*, San Francisco, CA, June 14, 2018, <https://www.sec.gov/news/speech/speech-hinman-061418>; “CFTC Statement on Self-Certification of Bitcoin Products by CME, CFE and Cantor Exchange,” *Commodity Futures Trading Commission*, December 1, 2017, <https://www.cftc.gov/PressRoom/PressReleases/7654-17>.

¹² *See, generally*: Peter Van Valkenburgh, “Framework for Securities Regulation of Cryptocurrencies,” *Coin Center*, August 2018, <https://www.coincenter.org/framework-for-securities-regulation-of-cryptocurrencies/>.

¹³ “CFTC Statement on Self-Certification of Bitcoin Products by CME, CFE and Cantor Exchange,” *Commodity Futures Trading Commission*, December 1, 2017, <https://www.cftc.gov/PressRoom/PressReleases/7654-17>.

¹⁴ *See, generally*: “Unfair, Deceptive, or Abusive Acts or Practices,” Consumer Financial Protection Board Consumer Laws and Regulations, https://files.consumerfinance.gov/f/documents/102012_cfpb_unfair-deceptive-abusive-acts-practices-ud aaps_procedures.pdf; and “A Brief Overview of the Federal Trade Commission’s Investigative, Law Enforcement, and Rulemaking Authority,” Federal Trade Commission, May 2021, <https://www.ftc.gov/about-ftc/what-we-do/enforcement-authority> (regarding “unfair or deceptive acts or practices”); *and see, e.g.*, “SEC Charges Three Individuals in Digital Asset Fraud,” *Securities and Exchange Commission*, Press Release, February 1, 2021, <https://www.sec.gov/news/press-release/2021-22>, “Operators of Bitcoin Mining Operation Butterfly Labs Agree to Settle FTC Charges They Deceived Consumers” *Federal Trade Commission*, Press Release, February 18, 2016, <https://www.ftc.gov/news-events/press-releases/2016/02/operators-bitcoin-mining-operation-butterfly-labs-agree-settle>.

¹⁵ “Crypto Crime Summarized: Scams and Darknet Markets Dominated 2020 by Revenue, But Ransomware Is the Bigger Story,” *Chainalysis Blog*, January 19, 2021, <https://blog.chainalysis.com/reports/2021-crypto-crime-report-intro-ransomware-scams-darknet-markets>.

substantial hack or loss of customer funds. Operators of money laundering overseas exchanges have been arrested.¹⁶ Sales of unregistered tokenized securities have been targeted by SEC enforcement.¹⁷ And criminal ransomware rings have had their servers seized and their ransoms recovered.¹⁸

All of this has happened by sensibly applying existing laws to the cryptocurrency space. We don't need new regulations.¹⁹ And all of this has also happened while preserving the fundamental value of cryptocurrencies as open access platforms for financial services and innovation.²⁰

Unlike any other electronic transactions technology an open blockchain network is accessible to people that banks and tech companies ignore rather than serve.²¹ Unlike any other transaction processing network an open blockchain network has public standards for integration and compatibility so that anyone who'd like to build a transactions focused business or invent a new transactions dependent technology can connect and immediately offer their new idea to the world.²²

¹⁶ See, e.g.: “Russian National And Bitcoin Exchange Charged In 21-Count Indictment For Operating Alleged International Money Laundering Scheme And Allegedly Laundering Funds From Hack Of Mt. Gox,” *Department of Justice*, Press Release, July 26, 2017, <https://www.justice.gov/usao-ndca/pr/russian-national-and-bitcoin-exchange-charged-21-count-indictment-operating-alleged>.

¹⁷ See, e.g.: *In the Matter of Munchee, Inc.*, Securities and Exchange Commission, Securities Act of 1933 Release No. 10445, Administrative Proceeding File No. 3-18304, December 11, 2017, <https://www.sec.gov/litigation/admin/2017/33-10445.pdf>.

¹⁸ See, e.g.: “Department of Justice Seizes \$2.3 Million in Cryptocurrency Paid to the Ransomware Extortionists Darkside,” *Department of Justice*, Press Release, June 7, 2021, <https://www.justice.gov/opa/pr/department-justice-seizes-23-million-cryptocurrency-paid-ransomware-extortionists-darkside>.

¹⁹ Jerry Brito and Peter Van Valkenburgh, “Comments to the Financial Crimes Enforcement Network on Requirements for Certain Transactions Involving Convertible Virtual Currency or Digital Assets,” *Coin Center*, December 22, 2020, <https://www.coincenter.org/comments-to-the-financial-crimes-enforcement-network-on-requirements-for-certain-transactions-involving-convertible-virtualcurrency-or-digital-assets/>.

²⁰ See, generally: Jerry Brito, “Is bitcoin regulated?” *Coin Center*, January 13, 2015, <https://www.coincenter.org/education/blockchain-101/is-bitcoin-regulated/>.

²¹ *Id.*

²² *Id.*

With the rise of central bank digital currencies from authoritarian nations happening in tandem with the rise of Bitcoin,²³ we are at a decision point as an advanced, technological, open society. Are we willing to accept some risks if it means we can eliminate the choke-points to economic participation that further inequality and stifle innovation?²⁴ Or would we prefer to strengthen those choke-points and outlaw alternatives in the hopes that a powerful elite will smartly choose who should and should not have access to powerful tools and volatile markets.

For every transaction we want blocked there's a transaction that we should celebrate for being unstoppable. Yes, there are criminals making payments on the Bitcoin network because banks won't bank them. There are also pro-democracy activists in Belarus and anti-police-violence protesters in Nigeria taking donations on the Bitcoin network because local banks won't bank them.²⁵ Nonprofits BYSOL in Belarus and Feminist Coalition in Nigeria raised millions of dollars in Bitcoin donations last year.²⁶ Donations they were forbidden from accepting by a corrupt or otherwise uncaring banking sector in their respective countries.

²³ James T. Areddy, "China Creates Its Own Digital Currency, a First for Major Economy," *Wall Street Journal*, April 5, 2021, <https://www.wsj.com/articles/china-creates-its-own-digital-currency-a-first-for-major-economy-11617634118>.

²⁴ Foundationally, an open society is buttressed by the availability of payments technologies, like cash, that do not allow for pre-screening and prior restraint against economic activity. As cash usage and availability declines we will need to rely on new tools for "electronic cash" as a guarantor of our freedom and privacy. *See, generally*: Jerry Brito, "The Case for Electronic Cash," *Coin Center*, February 2019, <https://www.coincenter.org/the-case-for-electronic-cash/>.

²⁵ *See, generally*: Alex Tapscott, "Bitcoin offers freedom from political repression—and that's a key to its future," *Fortune*, February 18, 2021, <https://fortune.com/2021/02/18/bitcoin-censorship-political-repression-deplatforming-china-belarus-russia-nigeria-crypto/>.

²⁶ Anna Baydakova, "Belarus Nonprofit Helps Protestors With Bitcoin Grants," *CoinDesk*, September 9, 2020, <https://www.coindesk.com/belarus-dissidents-bitcoin/>; Yomi Kazeem, "How bitcoin powered the largest Nigerian protests in a generation," *Quartz Africa*, October 26, 2020, <https://qz.com/africa/1922466/how-bitcoin-powered-nigerias-endsars-protests/>.

For every decentralized app that's trying to scam investors there's another that's testing out ways to disburse universal basic income,²⁷ or remove the corporate control over social networking,²⁸ or eliminate the hacking risk inherent in centralized identity solutions.²⁹

In America we don't always agree. But no matter what we are tolerant and expect everyone to have the opportunity to stand up and fight for their vision of the good. Crypto innovation embodies that struggle. It's rough around the edges but holds some values above all: every node is an equal, no one's voice should be censored, and work rather than privilege is what counts in consensus.

Thank you and I look forward to your questions.

²⁷ See, e.g.: Jimmy Ragosa, Santiago Siri, Federico Ast, Clement Lesaege, "Introducing UBI: Universal Basic Income for Humans," *Kleros Blog*, March 12, 2021, <https://blog.kleros.io/introducing-ubi-universal-basic-income-for-humans/>.

²⁸ See, e.g.: Status Mission Statement, accessed June 28, 2021, <https://status.im/about/>.

²⁹ Pamela Dingle, "ION – We Have Liftoff!" *Microsoft Tech Community Blog*, March 25, 2021, <https://techcommunity.microsoft.com/t5/identity-standards-blog/ion-we-have-liftoff/ba-p/1441555>.

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In accordance with Rule XI, clause 2(g)(5)* of the *Rules of the House of Representatives*, witnesses are asked to disclose the following information. Please complete this form electronically by filling in the provided blanks.

Committee: _____

Subcommittee: Subcommittee on Oversight and Investigations

Hearing Date: June 30, 2021

Hearing Title :

“America on “FIRE”: Will the Crypto Frenzy Lead to Financial Independence and Early Retirement or Financial Ruin?”

Witness Name: Peter Van Valkenburgh

Position/Title: Director of Research

Witness Type: Governmental Non-governmental

Are you representing yourself or an organization? Self Organization

If you are representing an organization, please list what entity or entities you are representing:

Coin Center

FOR WITNESSES APPEARING IN A NON-GOVERNMENTAL CAPACITY

Please complete the following fields. If necessary, attach additional sheet(s) to provide more information.

Are you a fiduciary—including, but not limited to, a director, officer, advisor, or resident agent—of any organization or entity that has an interest in the subject matter of the hearing? If so, please list the name of the organization(s) or entities.

No

Please list any federal grants or contracts (including subgrants or subcontracts) related to the hearing's subject matter that you, the organization(s) you represent, or entities for which you serve as a fiduciary have received in the past thirty-six months from the date of the hearing. Include the source and amount of each grant or contract.

None

Please list any contracts, grants, or payments originating with a foreign government and related to the hearing's subject that you, the organization(s) you represent, or entities for which you serve as a fiduciary have received in the past thirty-six months from the date of the hearing. Include the amount and country of origin of each contract or payment.

None

Please complete the following fields. If necessary, attach additional sheet(s) to provide more information.

- I have attached a written statement of proposed testimony.
- I have attached my curriculum vitae or biography.

* Rule XI, clause 2(g)(5), of the U.S. House of Representatives provides:

(5)(A) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof.

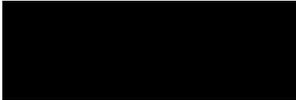
(B) In the case of a witness appearing in a non-governmental capacity, a written statement of proposed testimony shall include— (i) a curriculum vitae; (ii) a disclosure of any Federal grants or contracts, or contracts, grants, or payments originating with a foreign government, received during the past 36 months by the witness or by an entity represented by the witness and related to the subject matter of the hearing; and (iii) a disclosure of whether the witness is a fiduciary (including, but not limited to, a director, officer, advisor, or resident agent) of any organization or entity that has an interest in the subject matter of the hearing.

(C) The disclosure referred to in subdivision (B)(iii) shall include— (i) the amount and source of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) related to the subject matter of the hearing; and (ii) the amount and country of origin of any payment or contract related to the subject matter of the hearing originating with a foreign government.

(D) Such statements, with appropriate redactions to protect the privacy or security of the witness, shall be made publicly available in electronic form 24 hours before the witness appears to the extent practicable, but not later than one day after the witness appears.

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Knowingly providing material false information to this committee/subcommittee, or knowingly concealing material information from this committee/subcommittee, is a crime (18 U.S.C. § 1001). This form will be made part of the hearing record.



Witness signature

6/29/2021

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