

Via Federal E-rulemaking Portal



4 January 2021

The Honorable Steven T. Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Comment on Proposed Rulemaking: Requirements for Certain Transactions Involving Convertible Virtual Currency or Digital Assets

Docket No. FINCEN-2020-0020
RIN 1506-AB47

Dear Secretary Mnuchin:

Global Digital Finance (“GDF”), an industry membership body that promotes the adoption of best practices for cryptoassets and digital finance technologies through the development of conduct standards in a shared engagement forum with market participants, policymakers, and regulators, appreciates the opportunity to submit comments in response to the Financial Crimes Enforcement Network (“FinCEN”) proposal set out on 23 December 2020.^[1]

In line with our organising principles, which advocate for substantive and earnest engagement between industry and the public sector, we respectfully urge FinCEN, and the Department of the Treasury, to provide a more meaningful opportunity for industry engagement than the limited 12-day public comment period during the Christmas and New Year’s holidays. This limited window has severely and unreasonably constrained our members, peer industry associations, and other interested parties from conducting a deliberative review and preparing fulsome comments that address each of the two dozen questions set forth in the release.

The matter of self-hosted wallets has been at the forefront of the Financial Action Task Force (“FATF”) agenda this year, with substantial liaison with the private sector

¹ Requirements for Certain Transactions Involving Convertible Virtual Currency or Digital Assets, 85 FR 83840 (Dec. 23, 2020), for banks and money service businesses to submit reports, keep records, and verify the identity of customers in relation to transactions involving convertible virtual currency or digital assets with legal tender status held in unhosted wallets or held in wallets hosted in a jurisdiction identified by FinCEN.

through FATF's Virtual Asset Contact Group ("VACG"). GDF has been pleased to contribute to VACG efforts to ensure the impact and shape of any proposals are right-fit. In particular, our members may have concerns around making required changes to systems in a uniform way, increased customer friction, data privacy and security, and compliance reporting overheads that might be prohibitively expensive without first having a sufficient and reasonable opportunity to consult with FinCEN on the most practical implementation to achieve desired objectives. The unilateral nature of FinCEN's proposal against the current global backdrop may also be of concern in creating greater regulatory divergence and subsequently regulatory arbitrage.

We recognise that virtual currency markets are rapidly evolving and maturing. Digital assets – and how they are traded, reported, and held – raise questions with respect to global legal and regulatory obligations.

The proposal addresses novel and complex issues that merit additional deliberation and discussion. An abbreviated public comment period process makes it more difficult for commenters to provide a sufficiently in-depth review, running the risk that FinCEN could adopt final regulations that may produce unintended consequences around the world, particularly given the leading role the U.S. plays in global regulatory policy development.

We look forward to being part of a productive dialogue among FinCEN, FATF, VACG, and the private sector to ensure policy continues to foster responsible innovation in these quickly changing markets.

Yours faithfully,

The GDF Board