

January 13, 2025

The Honorable John Thune
Majority Leader
United States Senate

The Honorable Charles E. Schumer
Minority Leader
United States Senate

Re: Illicit Finance Protections Must Be Included in Digital Asset Legislation

Dear Majority Leader Thune and Minority Leader Schumer:

On behalf of a coalition of organizations committed to combating foreign corruption and kleptocracy, we write to urge you to ensure that digital asset market structure legislation under consideration by the Senate, including the Digital Asset Market Clarity Act (CLARITY Act) and Responsible Financial Innovation Act (RFIA), incorporates robust provisions to protect against money laundering, sanctions evasion, and other illicit finance risks.

Any durable digital asset legislation must include strong anti-money laundering (AML) and sanctions safeguards. The below recommendations would help achieve that goal, and help ensure that innovation in this space does not come at the expense of U.S. national security or financial integrity.

Digital assets risk becoming the new frontier for laundering the proceeds of corruption, including bribery and embezzlement. For example, the U.S. Department of Justice recently prosecuted a scheme in which a senior Venezuelan official and his associates converted millions in bribes and embezzled state funds into cryptocurrency before moving them through U.S. exchanges. Cases like this underscore how digital assets can be exploited to obscure the origins of illicit wealth and shield corrupt officials from accountability.

The discussion drafts of the Senate bills under consideration contain several vulnerabilities that can be addressed as follows:

- 1. Ensure Treasury has authority to apply AML obligations to decentralized finance (DeFi) when it functions like a financial institution.** As currently drafted, the RFIA would exempt decentralized crypto platforms from basic safeguards against money laundering and terrorist financing. But platforms that intermediate transactions, custody assets, or otherwise act as financial service providers must not escape oversight simply because they operate on distributed ledgers. Aligning the bill with the Market Structure Framework issued by Senate Democrats would help resolve this: the Framework calls for “require[ing] digital asset platforms to register with FinCEN as ‘financial institutions’ under the [BSA] and adopt [AML/combating

the financing of terrorism (CFT)] policies and procedures,” and for closing the broader regulatory gaps that undermine market integrity and financial stability.

2. **Close the Tornado Cash sanctions loophole.** Following the U.S. Court of Appeals for the Fifth Circuit’s *Van Loon* decision, the Office of Foreign Assets Control (OFAC) must have clear authority to designate immutable smart contracts when they are used for money laundering or sanctions evasion. Without this fix, mixers and anonymizing tools exploited by North Korean hackers and other actors—who have already laundered hundreds of millions of dollars to fund weapons programs—will remain out of reach of U.S. sanctions law. Clarifying OFAC’s authority over illicit tools like mixers would also directly support the Framework’s emphasis on preventing national security threats in digital markets.
3. **Establish a level playing field for stablecoin issuers.** All issuers should be required to implement reasonable ecosystem-wide monitoring, based on guidance issued by the Financial Crimes Enforcement Network (FinCEN), to help proactively identify and report suspicious activity to law enforcement, perhaps via zero-knowledge proofs or other commercially available tools. This will help ensure that stablecoins do not become the preferred vehicle for illicit finance or sanctions evasion. And robust, uniform monitoring for stablecoins would advance the Framework’s goal of ensuring systemic resilience and investor protections across all issuers.
4. **Avoid creating new loopholes through exemptions, liability shields, weak record-keeping standards, or jurisdictional gaps.** For example, the September 5 RFIA draft contains carve-outs that could invite regulatory arbitrage, includes liability protections that risk encouraging a check-the-box approach to compliance, and leaves vague requirements for record retention and law-enforcement access. It also gives insufficient attention to broader money-laundering and corruption typologies—such as the misuse of digital assets to hide proceeds of bribery, embezzlement, or state capture schemes. Further, the RFIA would allow crypto platforms to evade accountability simply by claiming they operate outside the United States. Any final legislation must make clear that digital platforms serving U.S. customers must comply with U.S. sanctions and AML/CFT requirements, even if nominally domiciled abroad. Without careful drafting, these provisions could undermine otherwise strong AML rules, leaving open pathways for kleptocrats and sanctioned actors to continue exploiting the U.S. financial system. Eliminating carve-outs and weak standards would fulfill the Framework’s warning against regulatory arbitrage that could erode AML safeguards.

Taken together, these reforms would not only close critical loopholes, but advance the priorities identified in the Market Structure Framework—promoting market integrity, investor protection, systemic resilience, and strong illicit-finance defenses. By grounding digital asset legislation in these principles, Congress can set a global standard for both innovation and financial security.

We appreciate your leadership in advancing digital asset legislation and stand ready to work with you and your staff to ensure that strong illicit finance safeguards are included in any final bill. If you have any questions or wish to discuss further, please don't hesitate to reach out to Scott Greytak, Deputy Executive Director for Transparency International U.S., at sgreytak@transparency.org.

Respectfully,

Transparency International U.S.
Free Russia Foundation
Nate Sibley, Kleptocracy Initiative, Hudson Institute
Financial Accountability and Corporate Transparency (FACT) Coalition

cc: Senate Committee on Banking, Housing, and Urban Affairs; Senate Committee on Agriculture, Nutrition, and Forestry