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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

August 16, 2022

The Honorable Martin Gruenberg
Director and Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Dear Director Gruenberg:

It has come to my attention that the Federal Deposit Insurance Corporation (FDIC) may be improperly taking action to deter banks from doing business with lawful cryptocurrency-related (crypto-related) companies. My office has received information from affected parties and protected whistleblower communications alleging the FDIC is taking such actions, even though the FDIC has not determined that these companies are providing services that are unlawful or impermissible, or that it is unlawful or impermissible for FDIC-supervised banks to do business with these companies. Given the FDIC's involvement under your leadership in the Obama administration's notorious Operation Choke Point, which sought to coerce banks into denying services to legal yet politically disfavored businesses, it is important to better understand the actions the FDIC is now taking and the legal basis for them.

According to whistleblower communications that we have corroborated, personnel in the FDIC's Washington, D.C. headquarters are urging FDIC regional offices to send letters to multiple banks requesting that they refrain from expanding relationships with crypto-related companies, without providing any legal basis for sending such letters. FDIC's headquarters reportedly gave regional offices draft letters to send to banks. As I understand it, in one or more of these cases, a bank planned to give customers access to a crypto-related company's trading platform via the bank's mobile or internet banking app. Bank customers would have received clear disclosures that neither the crypto-related company nor the digital assets themselves are FDIC-insured, and any trading by the bank's customers would take place via the crypto-related company's platform. This arrangement appears similar to the common practice of banks partnering with third-parties so customers can access services like stock trading platforms.

Whistleblower reports have also alleged that the FDIC may be abusing its supervisory powers to deter banks from extending credit to crypto-related companies. According to these reports, FDIC headquarters employees have contacted FDIC regional office bank examination staff to question their review of a loan made by a bank to a crypto-related company and to urge them to downgrade their classification of the loan. It is my understanding that it is highly atypical for FDIC headquarters personnel to be involved in reviewing an individual loan. If reports are true

that there was nothing unusual about this loan (other than that it was to a crypto-related company) and that the loan amount was too small to affect the bank's supervisory rating even if it had to write off the entire loan, this episode raises important questions. FDIC regional office staff reportedly interpreted the involvement of FDIC headquarters in this matter as an effort to change how loans to crypto-related companies are generally classified and to deter banks from extending such loans in the future.

In an effort to better understand the FDIC's actions concerning banks' relationships with crypto-related companies and its legal basis for them, please provide written answers to the following questions and the documents requested by no later than August 30, 2022:

1. Since you became Acting FDIC Chairman on February 5, 2022, has any FDIC official or employee instructed, requested, or suggested that FDIC regional offices ask banks to refrain from doing business with crypto-related companies and/or refrain from expanding their relationships with such companies? If so, please explain why and identify the regional offices that were contacted.
2. Since you became Acting FDIC Chairman on February 5, 2022, has any FDIC official or employee provided FDIC regional offices with letters to send banks asking them to refrain from doing business with crypto-related companies and/or refrain from expanding their relationships with such companies? If so, please provide copies of these letters and identify the regional offices that received them.
3. On or about June 6, 2022, did any FDIC official or employee send any communications to any FDIC regional offices instructing them to ask banks to refrain from expanding their relationships with any crypto-related companies and/or to refrain from entering into such relationships? If so, please explain why and identify the regional offices that were contacted.
4. On or about June 6, 2022, did any FDIC official or employee send to any FDIC regional offices a memorandum regarding procedures for reviewing notifications of engagement in crypto-related activities? If so, please provide a copy of this memorandum and identify the regional offices that were contacted.
5. Has the FDIC legal division given an opinion on the legality of the FDIC asking banks to end, pause, or limit their relationships with crypto-related companies and/or to refrain from entering into such relationships? If so, please provide a copy of any such legal opinion. If not, why not?
6. Since you became Acting FDIC Chairman on February 5, 2022, has any FDIC official or employee instructed, requested, or suggested that any FDIC regional office personnel should review an individual loan between a bank and a crypto-related company and downgrade the loan's classification? If so, please describe and provide an explanation for every such instance.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Pat Toomey". The signature is written in a cursive style with a large, sweeping initial "P" that loops over the rest of the name.

Pat Toomey
Ranking Member

cc: The Honorable Sherrod Brown, Chairman, Senate Committee on Banking, Housing, and
Urban Affairs
The Honorable Jay N. Lerner, Inspector General, Federal Deposit Insurance Corporation