

July 10, 2025

Acting Comptroller Rodney E. Hood  
Office of the Comptroller of the Currency  
400 7th St. SW  
Washington, DC 20219

Dear Acting Comptroller Hood,

The Independent Community Bankers of America (ICBA)<sup>1</sup> has noted with interest the recent charter applications from entities in the digital asset space, with applicants seeking to establish full-service national banks or limited purpose national banks, such as trust banks. Applications of this sort pose unique challenges to not only bank chartering policy but also possibly to the safety and soundness of the financial system. Given these heightened risks, ICBA urges you and your staff to keep in mind the following key principles:

- Nonbank digital asset entrants to banking pose unique risks to the financial systems with regard to illicit activities, financial stability, and resolution issues.
- The OCC must ensure sufficient supervisory and regulatory safeguards are in place for all national banks and maintain longstanding legal limits on permissible activities for national trust banks.
- Applications should be thoroughly reviewed with adequate information and time made available for the public to meaningfully comment, and applications must be denied if statutory requirements cannot be satisfied.
- Customers must be safeguarded from potential conflicts of interest that are likely to arise when digital asset market participants operate banks.
- Companies engaged in commercial activities should not be allowed to own full-service or limited purpose banks in violation of the longstanding U.S. policy of maintaining the separation of banking and commerce.

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<sup>1</sup> The Independent Community Bankers of America® has one mission: to create and promote an environment where community banks flourish. We power the potential of the nation's community banks through effective advocacy, education, and innovation. As local and trusted sources of credit, America's community banks leverage their relationship-based business model and innovative offerings to channel deposits into the neighborhoods they serve, creating jobs, fostering economic prosperity, and fueling their customers' financial goals and dreams. For more information, visit ICBA's website at [icba.org](https://icba.org).

Each of these principles is discussed further below. We look forward to engaging with you and your staff to strike the right balance between innovation and the critical need to protect both financial stability and consumers.

## **1. Nonbank digital asset entrants pose unique risks to consumers and financial stability**

ICBA has significant concerns over applicants seeking and obtaining loosely regulated novel charters that purport to offer banking services without corresponding oversight. The OCC must ensure that entities that obtain limited purpose bank charters do not end up having all the functional advantages and benefits of a full-service bank charter without commensurate supervision and regulation. We are especially concerned that national trust bank charters, which given the nature of their operations, frequently keep limited amounts of capital on hand and are subject to less rigorous requirements than full-service banks.<sup>2</sup> As such, granting firms limited purpose banking charters may pose a substantial risk to the banking system.

### *Financial stability risks*

Domestic and global regulators have repeatedly raised concerns about financial stability risks posed by digital assets, and there are growing concerns among policymakers about instability that could ensue if a larger stablecoin issuer cannot meet full redemption demands. While we recognize that Congress has taken steps to mitigate these risks with bills designed to ensure adequate backing and redemption requirements, digital assets may still present other significant threats to financial stability.

The Treasury Borrowing Advisory Committee (TBAC) recently published a report outlining the potential for more than \$6 trillion leaving local banks to flow into stablecoins (depending on various factors that could influence their growth, including the ability to offer interest).<sup>3</sup> This report should give the OCC pause when evaluating actions that expand the risks of contagion that could result from further integrating digital assets and crypto into banking system.<sup>4</sup>

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<sup>2</sup> See *generally* OCC, Bulletin 2007-21: Supervision of National Trust Banks: Revised Guidance: Capital and Liquidity (2007, revised March 2025), <https://www.occ.gov/news-issuances/bulletins/2007/bulletin-2007-21.html>; OCC, Final Rule - Receiverships for Uninsured National Banks, 81 FR 92594 (Dec. 20 2016), <https://www.govinfo.gov/content/pkg/FR-2016-12-20/pdf/2016-30666.pdf>.

<sup>3</sup> Treasury Borrowing Advisory Committee, Digital Money at 12 (April 30, 2025), <https://home.treasury.gov/system/files/221/TBACCharge2Q22025.pdf>.

<sup>4</sup> See, e.g. Reiners & Gazi, Wanted: A Prudential Framework for Crypto-Assets, 26 Arkansas L.Rev. at 311-312 (2023), <https://ssrn.com/abstract=4327091> ("The fact that FTX's failure was not a Lehman-type of event for the broader financial system is a little-celebrated policy success... Limited interconnections between the crypto ecosystem and the traditional financial system is the principal reason FTX's fallout was limited, but this outcome was not preordained. FTX and its high-profile CEO, Sam Bankman-Fried, actively lobbied for policies that would have entwined the crypto sector with the traditional financial system.... There was growing bipartisan momentum behind both proposals and they may have been implemented in short order had FTX not collapsed when it did. Thus, no small amount of luck played a role in limiting the FTX fallout.")

What the TBAC report fails to sufficiently underscore are the ripple effects across the wider banking sector should significant deposit outflows occur. If community banks become disintermediated, who or what will continue to provide loans to small businesses and farmers? Community banks use deposits to make 60% of the nation's small-business loans and 80% of banking industry agricultural lending, making it critical to mitigate the risk of retail deposits migrating out of community banks that have proven commitments to their communities and local credit. Community bankers offer service, care, and expertise that cannot be replicated by a smart contract on a decentralized network.

ICBA encourages the OCC to take all necessary steps to contain the systemic risk that crypto poses to traditional banking system and to protect consumers from the risks they may face in this environment, including exercising the agency's discretion to deny applications that fail to satisfy statutory requirements and/or pose a significant risk to the financial system.

### *Resolution risks*

The risk that digital asset-related national banks pose to financial stability is particularly significant in the resolution context. In spring 2023, volatility and fraud in the digital assets market helped cause or contribute to the failure of both Silvergate Capital Corporation, the bank holding company for Silvergate Bank, and Signature Bank.<sup>5</sup>

A 2023 FDIC report identified poor management by Signature Bank (SBNY) of its exposure to the digital assets market as a key driver of the bank's ultimate failure:

SBNY's board and management employed a strategy of rapid growth and expansion into the digital asset markets. The strategy exposed SBNY to greater susceptibility to liquidity, reputation, and regulatory risk due to the uncertainty and volatility of the digital asset space. The growth fueled by its pursuit of digital marketplace players exposed SBNY to bank runs and contagion, particularly in regard to crypto-related entities such as FTX, Alameda, and Silvergate. Pursuit of this strategy also increased the volatility and susceptibility of SBNY's more traditional depositor sources to event shocks and depositor runs. Management was not sufficiently prepared to ameliorate the risks posed by its concentration of deposits and lending relationships in the digital assets

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<sup>5</sup> GAO, Blockchain in Finance - Legislative and Regulatory Actions Are Needed to Ensure Comprehensive Oversight of Crypto Assets at 19 (June 2023), <https://www.gao.gov/assets/830/827878.pdf> ("In March 2023, Silvergate Capital Corporation, the bank holding company for Silvergate Bank which had significant exposure to FTX deposits, announced the bank would be voluntarily liquidated following the withdrawal of almost 70 percent of its deposits. Similarly, in March 2023, Signature Bank, which had significant exposure to the digital asset industry, failed after large deposit withdrawals... [C]oncerns exist that widespread use of stablecoins could pose risks to financial stability.")

marketplace and seemed unaware of the potential damage it could inflict on its more traditional depositor customers.<sup>6</sup>

While the failure of an insured digital asset-related bank would pose unique challenges to the FDIC, the resolution framework for insured depository institutions exists and has been well-tested by the FDIC. In contrast, as the OCC discussed in its final rule implementing a resolution framework, a national trust bank that is uninsured would be resolved by the OCC – an unprecedented situation since the advent of the FDIC in 1933.<sup>7</sup> While the OCC’s resolution rule characterized national trust banks as more likely to decline slowly and therefore allow the agency and the institution an opportunity to remedy issues or resolve the institution prior to a receivership becoming necessary,<sup>8</sup> digital asset and fintech firms do not have national trust banks’ track record for remaining solvent and avoiding receivership. As seen in the events of spring 2023, issues in the digital assets ecosystem can pose contagion risks across the banking and broader financial system, and at a rapid speed.

When considering an application posing such risks, the OCC must consider whether necessary safeguards are in place to mitigate receivership concerns, such as imposing capital support agreements and similar obligations.

### *Illicit Activities Risks*

Several of the nonbank applicants intend to offer and engage in digital asset activity, including cryptocurrency. Cryptocurrencies have a history replete with volatile price swings, hacks, and exploits. Most notably, the cryptocurrency ecosystem is fraught with significant risks related to fraud, money laundering, and cybercrime. Past digital asset-related entrants to the banking sector have struggled to adequately control for and manage these risks in a manner that satisfies their responsibilities as participants in the banking sector.<sup>9</sup>

In particular, ICBA and community bankers are alarmed by the surge of cryptocurrency fraud. Last year, the Federal Bureau of Investigation received nearly 150,000 crypto fraud complaints

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<sup>6</sup> FDIC, FDIC’s Supervision of Signature Bank at 12 (April 28, 2023), <https://www.fdic.gov/news/press-releases/2023/pr23033a.pdf>.

<sup>7</sup> OCC, Final Rule - Receiverships for Uninsured National Banks, 12 CFR Part 51, 81 FR 92594, 92595 (Dec. 20 2016), <https://www.govinfo.gov/content/pkg/FR-2016-12-20/pdf/2016-30666.pdf> (“Based on the statutory history of the NBA and FIRREA, it is likely that the Federal Deposit Insurance Act (FDIA) would not apply to an OCC receivership of an uninsured bank conducted by the OCC, and that such a receivership would be governed exclusively by the NBA, the common law of receivers, and cases applying the statutes and common law to national bank receiverships.”).

<sup>8</sup> *Id.* (“National trust banks face very different types of risks because of the fundamentally different business model of national trust banks compared to commercial and consumer banks and savings associations...While any of these risks can result in the precipitous failure of a bank or savings association, from a historical perspective, trust banks have been more likely to decline into a weakened condition, allowing the OCC and the institution the time needed to find other solutions for rehabilitating the institution or to successfully resolve the institution without the need to appoint a receiver.”)

<sup>9</sup> See, e.g., OCC, Consent Order In the Matter of Anchorage Digital Bank, NA (April 21, 2022), <https://www.occ.gov/static/enforcement-actions/ea2022-010.pdf>.

totaling \$9.3 billion, a 66% jump over the previous year.<sup>10</sup> All the primary sub-categories (cryptocurrency investment scams, cryptocurrency ATM scams, and extortion/sextortion) experienced double-digit increases. Unfortunately, the true toll is much higher since many victims do not report their losses to authorities. The Financial Action Task Force estimated that crypto illicit finance losses reached as high as \$51 billion worldwide in 2024.<sup>11</sup>

ICBA and community bankers remain deeply concerned about the extraordinary threat posed by North Korean hackers. The United Nations Panel of Experts detailed investigations into 58 cyberattacks committed by North Korean agents against crypto companies between 2017 and 2023, which brought in more than \$3 billion that is used to help expand its weapons of mass destruction program.<sup>12</sup> Earlier this year, TraderTraitor actors affiliated with the Kim regime conducted the largest theft in history by stealing nearly \$1.5 billion from the cryptocurrency exchange ByBit.<sup>13</sup> To date, less than 4% of those stolen assets have been recovered.<sup>14</sup>

This malicious cyber activity is not simply another risk for institutions to manage—it is a grave threat to U.S. national security that demands the full attention of prudential regulators, law enforcement, and national security organizations. This includes strict enforcement of regulations related to the Bank Secrecy Act (BSA) and anti-money laundering and countering the financing of terrorism (AML/CTF), as well as Office of Foreign Asset Control (OFAC) requirements for digital-asset institutions that seek to engage directly in the banking sector.

## **2. Ensure sufficient supervisory and regulatory safeguards are in place, and maintain longstanding legal limits on permissible activities for national trust banks**

### *Maintain long-standing limited scope of permissible activities*

ICBA is particularly alarmed by the potential for new limited purpose national charters to exceed the long-standing boundaries of the trust charter. Over the long history of the national trust bank charter, these institutions have been limited to fiduciary and custodial activities.<sup>15</sup>

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<sup>10</sup> Internet Crime Complaint Center, Federal Bureau of Investigation: Internet Crime Report 2024 at 36 (April 23, 2025), [https://www.ic3.gov/AnnualReport/Reports/2024\\_IC3Report.pdf](https://www.ic3.gov/AnnualReport/Reports/2024_IC3Report.pdf).

<sup>11</sup> Financial Action Task Force, Targeted Update on Implementation of the FATF Standards on Virtual Assets/VASPs at 20 (2025), <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/2025-Targeted-Update-VA-VASPs.pdf.coredownload.pdf>.

<sup>12</sup> Letter from Panel of Experts established pursuant to resolution 1871 to UN Security Council, S/2024/215, at 4, 60 (March 7, 2024), <https://docs.un.org/en/S/2024/215>.

<sup>13</sup> FBI, Alert No. I-022625-PSA: North Korea Responsible for \$1.5 Billion Bybit Hack (Feb. 26, 2025), <https://www.ic3.gov/psa/2025/psa250226>.

<sup>14</sup> Financial Action Task Force, *supra* n.10, at 19.

<sup>15</sup> OCC, *supra* n.6. (“National trust banks typically have few assets on the balance sheet, usually composed of cash on deposit with an insured depository institution, investment securities, premises and equipment, and intangible assets. These banks exercise fiduciary and custody powers, do not make loans, do not rely on deposit funding, and consequently have simple liquidity management programs.”)

This is the very reason such institutions are subject to capital and liquidity requirements that are laxer than those applicable to full-service banks.

While an interpretation issued in recent years suggests that trust banks may pursue activities beyond this narrow scope, such a determination is contrary to legislative intent and directly contravenes well-established precedent.<sup>16</sup> In particular, national trust banks should remain limited to the operations of a trust company and activities related or incidental thereto, and be prohibited from engaging in activities that would cause it to be a “bank” as defined in section 2(c) of the Bank Holding Company Act. To the extent that an applicant seeks to charter a national trust bank and engage in activities beyond the traditional fiduciary activities permitted under such charters, the application should be treated as a national bank charter subject to relevant regulatory and supervisory framework.

### *Recommended supervisory requirements to ensure safety and soundness*

All national banks, whether full-service or limited purpose, must be subject to a consistent regulatory framework, and ICBA urges the OCC to give careful consideration to applications to ensure novel entities do not enjoy lax regulation that is not afforded to community banks.

Given the unique risk profile of digital-asset related institutions, the OCC must put into place requirements to ensure that such entities operate in a safe and sound manner if they are granted a banking charter. All digital asset-related applicants should be subject to conditions that would bolster safety and soundness, including but not limited to:

- Routine audits and examination by the OCC and any other appropriate supervisor, as well as ongoing supervision by the OCC,
- Comprehensive oversight of the institution’s parent company, such as consolidated supervision by the Federal Reserve,
- Robust information technology and security risk management control framework,
- Strict BSA, AML/CFT, and OFAC compliance programs; compliance with FinCEN reporting including suspicious wallet activity; and blocking of known entities engaged in ransomware attacks, trafficking, money laundering, or other illicit activities,

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<sup>16</sup> See, e.g., Townsley, *Banking on Trust Companies: A Critique of OCC Interpretive Letter 1176*, 40 *Banking & Financial Services Policy Report* at 2 (March 2021) (“[N]ational trust companies cannot lawfully [carry on the business of banking under the National Bank Act]... and thus the OCC lacks the authority to charter national trust companies that would engage in activities that could only be engaged in through the exercise of such banking powers. Rather, based on the legislative background against which Section 27(a) was enacted and the manner in which it has been construed by courts, it must be concluded that national trust companies are limited to exercising the fiduciary powers permitted under Section 92a because the purpose for which they are chartered is to carry on the trust business... [N]ational trust companies are limited to engaging in activities that are “fiduciary” within the meaning of Section 92a and cannot exercise nonfiduciary powers, including banking powers, pursuant to the authority granted in Section 92a.”)

- Clearly defined and adequate capital and liquidity requirements, capital assurance and liquidity maintenance agreements, and capital and liquidity support agreement from parent entities,
- Limitations on deviations from approved business plans,
- Sufficient policies and safeguards regarding corporate governance, audit, and compliance given the risks involved in custodial activities,
- Anti-tying provisions and any appropriate restrictions on transactions with affiliates and others, and
- Written determination of supervisory non-objection to senior executive officers or board members.

Novel participants in the banking system must also be held to the same consumer protection standards as traditional banks, including but not limited to prohibitions against unfair, deceptive, or abusive acts or practices; requirements to make explicit the insured status of the institution and any products or services offered; and providing adequate notice to customers clear where payment protections for unauthorized transactions apply and where customers operate without such critical protections.

### **3. Applications should be thoroughly reviewed and must be denied if statutory requirements cannot be satisfied**

Given the unique risks and challenges inherent in applications involving novel uses of existing charters, the OCC should provide more transparency to the public about such applications as well as additional time for public review and comment. Frequently, the public portion of an application provides extremely limited information about a proposed institution's risks and operations, which prevents interested stakeholders from having a meaningful opportunity to evaluate the business models and operations proposed by novel applicants.<sup>17</sup>

If the OCC determined after careful review that an application does not satisfy statutory requirements and/or poses undue risk to the safety and soundness of the financial system, the agency must exercise its statutory duty to deny applications.

### **4. Digital asset-related entrants could subject consumers to significant potential conflicts of interest**

The move by digital asset market participants to enter the banking system may give rise to significant conflicts of interest. Should an applicant act to facilitate digital asset transactions as well as operate a national bank, then the institution would function as both custodian and market participant. This could create dangerous incentives for such institutions to prioritize proprietary interests over those of their clients, a risk that is particularly notable in the digital

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<sup>17</sup> ICBA is also aware of a recent change in OCC practice to disallow public input on proposed conversions from a state trust charter to a national trust charter.

asset market where transparency and oversight remain limited. Such conflicts of interest likely violate the responsibilities and duties of a fiduciary and run afoul of consumer protection laws.

**5. Companies engaged in commercial activities should not be allowed to own full-service or limited purpose banks in violation of the longstanding U.S. policy of maintaining the separation of banking and commerce**

Finally, the ICBA notes that the long-standing policy prohibiting affiliations or combinations between banks and non-financial commercial firms has served our nation well and was reaffirmed by the Gramm-Leach-Bliley Act (GLBA). Allowing retail or technology companies to own banks violates the U.S. policy of maintaining the separation of banking and commerce, jeopardizes the impartial allocation of credit, creates conflicts of interest, a dangerous concentration of commercial and economic power, and unwisely extends the federal safety net to commercial interests. ICBA urges the OCC to keep these long-standing norms and practices in mind when considering applications from commercial parents.

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Financial services innovation benefits the economy and creates opportunities for small businesses and consumers, but can also pose new issues and risks, and changes in policy, even or perhaps especially those intended to facilitate innovation, must be made carefully. ICBA urges you and your staff to keep in mind the principles discussed above and welcomes the opportunity for further engagement.

Please contact the undersigned at [Brian.Laverdure@ICBA.org](mailto:Brian.Laverdure@ICBA.org) or [Amy.Ledig@ICBA.org](mailto:Amy.Ledig@ICBA.org) to discuss these issues.

Sincerely,

/s/

Brian Laverdure  
SVP, Digital Asset & Innovation Policy

/s/

Amy Ledig  
VP, Capital, Accounting & Finance Policy

cc:

Secretary of the Treasury Scott Bessent  
OCC Acting Principal Deputy Chief Counsel Stuart Feldstein  
OCC Deputy Comptroller for Licensing Stephen Lybarger