February 14, 2024

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Yellen:

We write to raise concerns surrounding the Treasury Department and Internal Revenue Service's (IRS) recently proposed rule regarding tax reporting requirements for digital asset brokers. We welcome transparency, efficiency, and fairness in our tax system; however, in their current form, these proposed rules may lead to unintended consequences that could harm both taxpayer privacy and the development of the digital asset industry in the United States. As drafted, the proposed rules sweep nearly all digital asset transactions into the new tax reporting framework without regard to the transaction's size or financial nature.

As you know, the Infrastructure Investment and Jobs Act included a provision requiring brokers to report digital asset transactions similar to current tax reporting requirements for financial assets, typically provided on IRS Form 1099-B, which served as the impetus for the release of the proposed rules on August 25, 2023.

The amount of data transactions that will be sent to the IRS as required under this proposed rule goes well beyond what they have historically received. By the IRS's own admission, they will receive an estimated 8 billion information returns with this rule's implementation.[1] To put that into perspective, in FY2022, the IRS received a total of 5.45 billion information returns.[2] The sheer volume of reportable transactions and the breadth of these rules will mean that the IRS will be spending vast sums of time and resources on the reporting of many transactions that have no taxable income and no impact on IRS revenue.

Many of the reportable transactions that will be required under the proposed rule involve tiny amounts or have *de minimis* tax consequences. This includes reportable transactions used to purchase goods and services that are not much different than a credit card transaction. Requiring billions of such transactions to be reported suggests to us that the proposed rule: 1) goes far beyond the scope of the congressional mandate to "more closely align" the rules for digital asset transactions with current broker reporting rules as outlined in the contemporaneous Senate colloquy[3] and summarized by the Treasury Department in your February 11, 2022 letter to six U.S. Senators[4], 2) will cause significant disparities with the existing broker reporting regime for non-digital asset transactions, and 3) will raise serious taxpayer privacy concerns.

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[1] https://www.taxnotes.com/featured-news/irs-prepping-least-8-billion-crypto-information-returns/2023/10/25/7hhdp

[2] https://www.irs.gov/pub/irs-pdf/p55b.pdf

[3] https://www.warner.senate.gov/public/index.cfm/2021/8/on-senate-floor-warner-portman-conduct-colloquy-clarifying-cryptocurrency-provision-in-infrastructure-investment-jobs-act

[4] See U.S. Treasury Response to U.S. Senators:
https://www.stradley.com/insights/publications/2022/02/-/media/e295168ea3714c528af55eb44cad7e30.ashx

Lastly, as currently drafted, the timeline for compliance is incredibly short. The proposed rules require gross proceeds reporting for digital assets transactions to be reported for the tax year starting January 1, 2025 – a mere 16 months after the release of the proposed rules and an even shorter timeline depending on when the proposed rule is finalized. Comparatively, traditional financial brokerages had five years to comply with all aspects of the current information reporting regime for securities. Given the complexity of this proposed rule and its implications for the digital asset ecosystem, we encourage you to take the above concerns into consideration while crafting a final rule and give stakeholders more time to be able to comply.

In sum, the proposed rule will impact a wide swath of U.S. financial institutions, digital asset businesses as well as many American taxpayers. Over 52 million Americans own or have transacted in digital assets.[5] As you craft a final rule, we encourage you to take a targeted and measured approach, and hope that our concerns above are addressed.

Sincerely,

Suzan K. DelBene
Member of Congress

Claudia Tenney
Member of Congress

Jimmy Panetta
Member of Congress

Linda T. Sánchez
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5 https://pro.morningconsult.com/trackers/cryptocurrency-adoption-and-perspectives#cryptocurrency-ownership

Lloyd Smucker
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Randy Feenstra
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cc: The Honorable Daniel Werfel, Internal Revenue Service, Commissioner