



Congress of the United States
House of Representatives

February 5, 2017

The Honorable Susan Brooks
Chairwoman
House Committee on Ethics
1015 Longworth HOB
Washington, D.C. 20015

The Honorable Ted Deutch
Ranking Member
House Committee on Ethics
1015 Longworth HOB
Washington, D.C. 20015

Dear Chairwoman Brooks and Ranking Member Deutch,

I am writing to respectfully urge the House Ethics Committee to provide additional guidance Members and staff on how to disclose virtual currency holdings.

As you may know, cryptocurrencies or virtual currencies are a digital representation of value but do not have legal tender status in the U.S. and functions as a medium for exchange.¹ There are now over 1,100 cryptocurrencies, with the most popular being Bitcoin. The Bitcoin market alone stands at \$237 billion. The increasing use of cryptocurrency as an alternative to traditional payments and investments necessitates Congress take appropriate action to maintain transparency and deter potential conflicts of interest that may interfere with representing the American people.

While not one federal agency regulates cryptocurrency, a few federal agencies have taken appropriate action in an effort to classify cryptocurrencies as it relates to those agencies' primary missions. The Internal Revenue Service (IRS) has issued guidance regarding virtual currency, determining that it is property for the purposes of federal income tax and therefore subject to income tax reporting rules.² The Commodities Futures Trading Commission (CFTC) CFTC has its authority implicated when virtual currencies are the subject of a derivatives contract or if there is fraud or manipulation in markets for virtual currency traded in interstate commerce.³ Additionally, the Securities and Exchange Commission (SEC) determined that there may be some virtual currencies or tokens that are securities and therefore subject to federal security laws. The SEC is focused on "initial coin offerings," that are used to raise capital to fund the development of a digital platform, use specific software or participate in a project. At times, initial sellers may lead buyers to expect a return on their investment or to participate in a share of the returns provided by the project.⁴

¹ IRS Notice 2014-21, <https://www.irs.gov/pub/irs-drop/n-14-21.pdf>

² *Ibid.*

³ The CFTC determined that bitcoin and other virtual currencies are commodities in 2015. See CFTC Docket No. 15-29, *In the Matter of Coinflip Inc., d/b/a Derivabit, and Francisco Riordan* (2015).

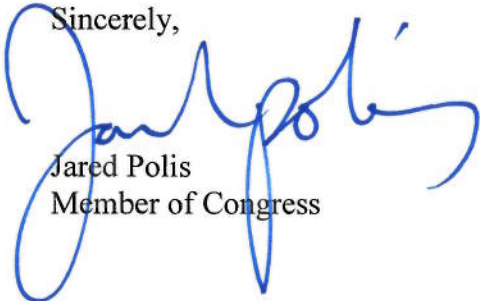
⁴ SEC Investor Bulletin: Initial Coin Offerings (2017), https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib_coinofferings

Members of Congress and covered employees are already required to report certain asset holdings over certain amounts, including reporting any commodities holdings over \$1,000.⁵, a Member or covered employee should report any virtual currency holding as they would report any other commodity, such as gold. Additionally, the Stop Trading on Congressional Knowledge (STOCK) Act, requires Members and covered employees to disclose in real time the purchase, sale or exchange transaction involving stocks, bonds and commodities futures, or other securities when the amount of the transaction in an asset exceeds \$1,000. Therefore, if a Member or covered employee engages in a transaction involving a virtual currency that exceeds \$1,000, including the purchase of a virtual currency as part of an ICO or a commodities future, they must provide an updated financial disclosure.

Because virtual currencies are a relatively new type of asset, it is critical that the House Ethics Committee provide additional guidance to Members of Congress and staff enabling them to accurately disclose and classify virtual currency holdings. It is clear that the existing disclosure laws and requirements adequately cover virtual currency. The Committee should look to the CFTC, SEC and IRS' guidance to help inform any future action the Committee may take in requiring the disclosure of virtual currency.

Financial disclosures are critical to maintaining public trust in elected officials and the integrity of Congress. I look forward to working with the Committee on this important issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jared Polis", is written over the typed name and title.

Jared Polis
Member of Congress

⁵ 5 U.S.C. §102(a)(5)(B)