

16 January 2025

Hon. Marty Gruenberg
Chair, Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Document Preservation

Chair Gruenberg,

I have been contacted by Federal Deposit Insurance Corporation (FDIC) whistleblowers who allege that destruction of materials is occurring with respect to the digital asset activities of your agency. I have also been informed by whistleblowers that staff access to these materials is being closely monitored by management to prevent them from being supplied to the Senate before they can be destroyed, and that certain staff have been threatened with legal action to prevent them from speaking out.

This is illegal and unacceptable. You must ensure your staff cease and desist destruction of all materials and end all retaliatory actions immediately.

Please preserve all existing materials, including documents, communications, electronic information and metadata, relating to the FDIC's digital asset activities since January 1, 2022 that may be responsive to the Senate Banking Committee's oversight prerogatives in the coming months.

As used above, "digital asset activities" includes all materials relating to:

- (1) Supervision and resolution of Signature Bank;
- (2) Supervision and liquidation of Silvergate Bank;
- (3) Supervision of all insured depository institutions which have provided or sought to provide services to the digital asset industry;
- (4) Coordination and communications with other Federal and State banking agencies relating to digital assets;
- (5) Development of rules, guidance and policies relating to digital assets by both the FDIC and in coordination with other Federal banking agencies;
- (6) Records relating to deposit insurance applications relating to digital assets;
- (7) Pending and executed enforcement actions relating to digital assets; and
- (8) Assertions of attorney-client privilege and the classification of documents that could be responsive under the Freedom of Information Act.

All materials whatsoever containing the term "crypto," "crypto asset," "crypto-asset," "cryptocurrency," "virtual currency," "virtual asset," "bitcoin," "ethereum" and "digital asset" should be considered to be within the meaning of the term "digital asset" for these purposes.

Classification by the FDIC or another Federal banking agency of these materials as confidential supervisory information or other assertions of privilege whatsoever or claims of non-preservation for failure to qualify as "records" by the FDIC are immaterial to the Senate's Article I oversight powers and must be preserved.

For purposes of this letter, “preserve” means securing and maintaining the integrity of all relevant materials, documents, communications, and other information, including electronic information and metadata, by taking all reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, mutation or negligent or reckless handling that could render the information incomplete or inaccessible.

If it is uncovered that you or your staff have knowingly destroyed materials or sought to obstruct the oversight functions of the Senate, I will make swift criminal referrals¹ to the U.S. Department of Justice.

Respectfully,

A handwritten signature in blue ink, reading "Cynthia M. Lummis". The signature is fluid and cursive, with the first name "Cynthia" and last name "Lummis" clearly legible.

Senator Cynthia M. Lummis

cc: Harrel M. Pettway, General Counsel
Jennifer L. Fain, Inspector General

¹ See, e.g., 18 U.S.C. § 1505 (obstruction of inquiries by Congress); 18 U.S.C. § 1512(c) (destruction of documents); 18 U.S.C. § 371 (conspiracy to defraud the lawful functions of the United States).