CHAMBER OF DIGITAL COMMERCE

March 2, 2021

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Vice President Kamala D. Harris
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Via email

Re: Letter to the Biden-Harris Administration regarding Chamber of Digital Commerce Policy Priorities to Promote Blockchain Technology in the United States

Dear President Biden and Vice President Harris:

Blockchain technology is an innovation that is fundamentally transforming the way in which consumers and businesses financially interact and transact. Emerging blockchain technologies are already transforming the global economy. If the United States is to establish itself as a leader in this nascent space, our national policies must encourage investment and innovation for these global tools.

This letter sets out the fundamental policy requirements necessary to establish the United States as a global leader.

The Chamber is the world's largest blockchain trade association. Our mission is to promote the acceptance and use of digital assets and blockchain technology, and we are supported by a diverse membership that represents the blockchain industry globally. Through education, advocacy, and close coordination with policymakers, regulatory agencies, and industry across various jurisdictions, our goal is to develop a pro-growth legal environment that fosters innovation, job creation, and investment. We represent the world's leading innovators, operators, and investors in the blockchain ecosystem, including leading edge startups, software companies, global IT consultancies, financial institutions, insurance companies, law firms, and investment firms.

I. The Top Policy Priorities for Blockchain Technology

We urge the Biden-Harris Administration to incorporate the items below in its plans to accomplish a number of objectives, such as maintaining the United States' lead in technological preeminence, increasing access to the economy in a manner that is fair and equitable, and attracting to the United States innovators who moved overseas due to lack of a clear regulatory environment. The following policy priorities are key to achieving these national goals:

1) Establish a national action plan for blockchain;
2) Increase regulatory clarity for digital tokens;
3) Promote tax policy for virtual currency that supports informed compliance; and
4) Use blockchain technology to enhance anti-money laundering and sanctions compliance, and encourage responsible industry growth.

How the Biden-Harris Administration Can Support Blockchain Technology

Through the Executive Office of the President

1) **Establish a National Action Plan for Blockchain** through an Executive Order, or other means, to develop and implement a national strategy for blockchain technology. A national strategy for blockchain would:
    - Encourage development of a robust private sector;
    - Adopt a light touch regulatory approach to encourage Investment and Innovation in blockchain, while bringing enforcement actions against clear violations of law;
    - Establish clear policy and regulation prior to bringing enforcement actions;
    - Implement regulations that focus on the function performed rather than the technology in a manner that is clear, predictable, and developed with future innovations in mind;
    - Prevent regulatory inconsistencies that create confusion for industry and government;
    - Study and understand the unique attributes of blockchain technology and digital tokens; and

- Investigate the development and implementation of a U.S. central bank-issued digital currency ("CBDC").
    - A CBDC could facilitate advances in retail, wholesale, and international payments in the private sector, as well as encourage use of blockchain and distributed ledger technology ("DLT") in traditional capital markets and finance.
    - These benefits can best be achieved by ensuring that a U.S. CBDC is tailored to the current two-tier banking system and role of correspondent banks in the international markets.
    - Further, the features of a U.S. CBDC should be designed to strengthen the U.S. dollar and maintain, or even expand, its role as the reserve currency for global transactions. We note the importance of supporting greater financial inclusion but also acknowledge that this potential benefit of a U.S. CBDC should be analyzed more carefully to ensure this objective will actually be met.

A National Action Plan for Blockchain would include the establishment of an **Office for Blockchain Technology** through an Executive Order, or other means, to create a national Office for the promotion and implementation of blockchain technology within the Department of Commerce. This Office would be responsible for:

- Researching and developing blockchain solutions for government services, including cybersecurity, supply chain management and logistics, digital identity, and CBDC;
- Coordinating the adoption and implementation of blockchain solutions through pilot projects within government agencies and implementing regulatory sandboxes to allow the private sector to develop blockchain solutions;
- Establishing information-sharing agreements between agencies to reduce duplicative efforts that waste resources;
- Convening a summit of key business, academic, and policy leaders in blockchain technology to coordinate a strategy to enable the United States to be a leader in this technology; and
- Working with the Executive Office of the President to issue strong statements in support of blockchain technology, potentially through an Executive Order, similar to the Clinton-Gore statement on allowing the Internet to flourish.

Through Agency Priorities and Regulatory Coordination

2) Use blockchain technology to enhance anti-money laundering and sanctions compliance, while encouraging responsible growth of the blockchain ecosystem.

- **The recent notice of proposed rulemaking ("NPRM") targeting self-managed wallets will negatively impact the development of the entire ecosystem. This NPRM originally provided extraordinarily short response times – 15 calendar days spanning several federal holidays – which were woefully insufficient given the importance of the compliance and privacy issues implicated. These attempts at "midnight rulemaking" by the prior Administration must be reconsidered with meaningful engagement with industry to ensure appropriate outcomes for all stakeholders.**
- The ability to trace blockchain transactions back through time is a technological advancement and has already provided a boon to law enforcement and its efforts to detect and prosecute criminals. Specifically with respect to Bank Secrecy Act ("BSA") and Office of Foreign Assets Control ("OFAC") compliance obligations, blockchain can support Know Your Customer ("KYC") management in ways that ensure the identity and characteristics of the customer are well-established on a blockchain.
- Further, blockchain-enabled KYC, customer due diligence ("CDD"), and transaction monitoring can enhance the Section 314 information sharing process – both under Section 314(a) as well as 314(b) (communications between institutions and law enforcement as well as among institutions, respectively) to ensure accurate, comprehensive data. It can also strengthen (real-time) auditability of financial transactions between counterparties; facilitate lookbacks given the transparency and immutability of the ledger; and facilitate practical, technology-enabled KYC/CDD efforts, ongoing transaction monitoring, transaction tracking, and auditability/reporting.

3) Increase regulatory clarity and certainty for digital tokens.

- **Through the U.S. Securities and Exchange Commission, provide greater clarity for innovators regarding the use of digital tokens.** Many participants in the blockchain industry have developed tokens to enable use of their systems or relied on token sales to fund the development or operation of their blockchain projects. Some of these tokens are widely understood not to be securities under federal securities laws, as is the case with bitcoin and ether. In other instances, however, if the token or method of distribution meet certain criteria, the Commission has found certain tokens to be securities and brought enforcement actions against issuers for violation of securities laws. Innovators need a principles-based approach that is predictable rather than guidance via enforcement actions which has the effect of chilling innovation and leads to projects moving overseas where guidelines are clearer.

- **Through the U.S. Securities and Exchange Commission, provide guidance on digital securities issuance, custody of digital assets, and virtual currency exchange-traded products.** Securities that are tokenized and issued through a blockchain have enormous potential for transforming our financial markets, potentially leading to increased participation and greater financial inclusion, but lack of guidance on how this technology and its applications may be leveraged is preventing the industry from moving towards this important objective. Without a clear signal from the U.S. Securities and Exchange Commission on the application of blockchain technology for digital securities issuance and custody of digital assets, including who may act as a qualified custodian, severely inhibits the industry from growing. The Commission has also deferred or rejected every application for a virtual currency exchange-traded product without offering a path forward.

- **Through the Office of the Comptroller of the Currency, promote digital banking activities.** Banks and bank affiliates currently have authority to engage in a broad range of digital activities involving blockchain technology. However, some confirmation and clarification regarding existing regulations, with accompanying updates to supervisory approaches, may further promote the appropriate adoption of DLT and other technologies. This, in turn, will facilitate banks and their partners providing banking services more efficiently and to a wider range of customers.

4) Promote tax policy for virtual currency that supports informed compliance.

- **Develop guidance through the Internal Revenue Service for virtual currency that is principles-based and promotes taxpayer compliance.** Comprehensive guidance addressing the tax treatment of virtual currencies and digital securities is sorely needed. This guidance should delve into the cascading considerations of the various types of treatment of “property” under the tax code. The industry also needs a proactive approach in which the Service offers guidance for taxpayer compliance as opposed to letters such as 6173 that have been criticized by the Service's Taxpayer Advocate as violating the Taxpayer Bill of Rights.

The evolution of payments and the way in which we interact with this technology have been on policy makers' radars for some time, and we have engaged with both U.S. and multilateral policy makers in educating and advocating on issues, including central bank-issued digital currencies, so-called stablecoins, and self-hosted wallets. This work must continue, ideally through a coordinated approach, to ensure that we understand how these technologies work and do not inhibit the growth and adoption of these innovative tools for financial access.

II. Why Are Blockchain and DLT so Important?

Blockchain and DLT offer immense possibilities for business, government, and consumers, including the opportunity for extraordinary economic growth and a safer and more secure Internet. Their ability to improve processes, increase cost-efficiency, and promote transparency in numerous industries is reforming the ways in which companies conduct business and governments operate. Major industrialized nations are already making significant advances in promoting and adopting blockchain technology, making a hard run to be the leaders and to obtain the economic value of this rapidly growing and quickly evolving industry. The United States is at risk of falling behind.

While the U.S. led in the development of the Internet, it does not automatically follow that America will maintain its preeminence in the blockchain sector. China, Russia, and the European Union, among many others, are investing in developing blockchain technology, enticing innovators to relocate overseas, and providing companies with the ability to develop their products in a predicable legal environment, where the laws are clear and governments are encouraging innovation.

Until now, the U.S. approach to blockchain innovation has been siloed and inconsistent. The major federal agency players are singularly focused on regulation and enforcement without the counterbalance of developing a coordinated strategy to support evolution of this transformative technology for government, business, and consumers. Policymakers have not focused on blockchain development, missing an important opportunity to restore the United States' preeminence in technological development. The Biden-Harris Administration must take up this issue in a coordinated effort to ensure the benefits of these emerging technologies are understood by and reach all Americans, including job creation, access to capital for small businesses, public health management, transparency and democracy through mobile voting, faster delivery of government benefits, combatting the spread of misinformation, and establishing and maintaining a digital infrastructure that is reliable, accurate, flexible, and secure.

Blockchain technology is well-suited to support the Biden-Harris Administration's immediate priority of getting its arms around the COVID-19 pandemic and ensuring Americans receive stimulus relief and other aid as quickly as possible. Blockchain technology can aid both of these objectives in the following ways:

1) **Contact Tracing and Supply Chain Management.** With new COVID strains, spikes in reported cases, and efforts to better distribute and track vaccine distributions, U.S. government use of blockchain technology in contact tracing applications can both mitigate outbreaks and serve as a crucial tool for public health agencies. The data would be stored in a tamper-resistant manner and would allow information to be accessed easily and quickly. Last year, a bipartisan group of Members of Congress sent a letter to President Trump and his Cabinet, detailing how blockchain could be used to combat the spread of COVID-19. Blockchain technology can also be used in supply chains to track pharmaceuticals, personal protective equipment, and other critical goods so that our healthcare workers on the frontlines are protected and prepared against COVID-19. This approach would further help to establish a true national pandemic response roadmap for future crises.

2) **Distributing Stimulus Relief.** Blockchain technology can be used to distribute and track the distribution of funds, including stimulus relief, reducing the amount of time required for Americans to receive funds from weeks to minutes. Members of Congress wrote a letter to Secretary Mnuchin in April to discuss how public-private partnerships with blockchain companies could streamline the stimulus disbursement process when the United States government lacks the critical digital payments infrastructure required to accomplish such an objective.

We are encouraged by the Made in All of America plan to invest $300 billion into research and development, including in emerging technologies. Blockchain technology must be included in this effort so that the United States can maintain its competitive advantage in the emerging technologies sector. However, funding alone is not enough to realize blockchain technology's potential. For this industry to flourish and thrive in the United States, the Biden-Harris Administration must also support this technology through carefully considered public policy.

One such way to accomplish this objective is through establishing funding for pilot programs and incentives for the use of blockchain technology in government services.

Exploring the use of blockchain technology for supply chain management, cyber and data security, recordkeeping, energy grid management, customs clearance, and mobile voting are just a few ways in which blockchain technology can help with the Biden-Harris Administration's objectives to protect against interference from bad actors and rogue states, support clean energy initiatives, and expand voters' ability to participate in elections in a transparent and secure manner. The private sector was a leader in developing the Internet in the 1990s and 2000s and should continue to be a leader in technology innovation today. The United States was built on entrepreneurship and innovation, and we should encourage and support these qualities as we head into the next generation of technological development.

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We look forward to working with the Biden-Harris Administration to encourage the development of this growing industry so that the United States can realize the benefits that blockchain technology offers.

Very Truly Yours,

Perianne Boring
Founder and President

Amy Davine Kim
Chief Policy Officer

cc:
The Honorable Brian Deese, Director of the National Economic Council
The Honorable Susan Rice, Director, Domestic Policy Council
The Honorable Janet Yellen, Secretary, U.S. Department of the Treasury