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**Remarks to the Harvard Law School and Program on International Financial Systems**

**Roundtable on Institutional Investors and Crypto Assets**

**“Don’t Chase”**

**October 11, 2022**

Thank you for inviting me to give today’s keynote address at this roundtable on institutional investors and crypto-assets. Dialogues like this amongst academics, government officials, and the private sector are critical, especially on uniquely challenging issues like crypto. I’m looking forward to the question and answer session after my brief remarks.

Growing up and into young adulthood, my father had two words of advice he repeated to me more often than I would care to admit: “Don’t chase.” The first time he said this, I was a teenager smitten with a girl on the swim team. Impatience on my part was not limited to matters of love, however. I would hear those words at the most difficult times—when I was emotionally vested in something that I really wanted and eager to take action. Like when my wife and I were putting in our first bid to purchase a starter home, a rowhouse on the outskirts of Capitol Hill. There were other buyers and we were debating the terms of an escalation clause. “Don’t chase,” my father repeated.

As policymakers, financial regulators, and traditional financial institutions grapple with crypto and debate whether and how to deal with it, that advice—“don’t chase”—seems wise to heed. A large segment of the crypto-asset industry continues to rely on hype and bootstrapping to

grow.<sup>1</sup> Promises of innovation and inclusion often mask crypto’s promotion of a gold rush vibe that exploits people’s fear of missing out on the next Google or Amazon.<sup>2</sup> (It doesn’t feel like chasing if you think you’re helping the little guy and helping society move into the future.)

But more often than not, it *is* chasing. The pathology of FOMO—fear of missing out—does not easily allow one to be neutral. In dozens of private conversations I’ve had with bankers, academics, regulators, and policymakers, they have admitted to me that they don’t really understand or trust crypto as it exists today and that they see lots of risk, but they feel pressure to get on board to avoid getting left behind or being perceived as an anti-innovation luddite. (I suspect some in the audience today may feel this way.) The tendency, then, is to adopt an *if-you-can’t-beat-them-then-join-them* mindset, which in a competitive marketplace can quickly turn into chasing shiny objects.

For financial regulators, not chasing means sticking to our guns and not lowering our standards when dealing with crypto. I will elaborate on this in a bit.

To not chase doesn’t mean, however, that we can stick our heads in the sand in the hope that change will go away. Blockchains and tokens are here and likely to stay. We, as regulators, have to be informed about the possibilities enabled by new technologies, dispassionate about their effects on incumbents, and open-minded to new ways of doing things. We cannot and should not default to the past because it is familiar and comforting. Rather, we need to learn and

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<sup>1</sup> BIS, “[Annual Economic Report](#)” Chapter III, The Future Monetary System, pgs. 83 - 85 (June 2022).

<sup>2</sup> Acting Comptroller Michael J. Hsu, “[Cryptocurrencies, Decentralized Finance, and Key Lessons from the 2008 Financial Crisis](#)” (September 21, 2021).

smartly adapt so that we can ensure safety, soundness, and fairness and encourage responsible innovation.<sup>3</sup>

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Terra’s collapse this spring and the subsequent crypto winter should have reset expectations and freed people from the fear of missing out. And in some quarters, it has. But in many policymaking and regulatory circles crypto continues to attract a disproportionate amount of attention and suck the oxygen out of the room. I will repeat my concern that many of us should be focused on other, more pressing things, including the role of non-crypto financial technologies in banking.<sup>4</sup> But I will stick to the theme of today’s roundtable and focus on crypto.

What does it mean to chase as a financial regulator?

Regulators often talk about “bringing crypto into the regulatory perimeter.” I have said as much on several occasions. There are two ways to interpret this statement. One is that crypto should be regulated and thus forced to change and conform to regulatory standards. The other is that regulation should adjust to crypto and accept the new technology and possibilities for what they are. The former is about taming, the latter about accommodation.

Last year, I heard many supervisors argue, “If we could just bring crypto inside the regulatory perimeter, at least we could see and regulate it.” I initially had some sympathy for this view. The growth of shadow banking in the early 2000s nominally took place outside of the bank regulatory perimeter but, in reality, was highly intertwined with the banking system and

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<sup>3</sup> OCC, News Release 2022-105, [OCC Releases Strategic Plan for Fiscal Years 2023-2027](#) (September 6, 2022).

<sup>4</sup> Acting Comptroller Michael J. Hsu, “[Safeguarding Trust in Banking: An Update](#)” (September 7, 2022); Acting Comptroller Michael J. Hsu, “[Modernizing the Financial Regulatory Perimeter](#)” (November 16, 2021).

nearly sunk it in the 2008 financial crisis. Instead of shielding the regulated banking system from the risks of structured finance and shadow banking, the approach of pushing those risks outside of the bank regulatory perimeter ended up simply masking the problem. We don't want to repeat that mistake. Such an argument is compelling—realpolitik and hard-boiled in its orientation—and one that I, myself, have made to colleagues and others from time to time.

Over the past year, however, it has become clearer to me that such an approach has a flaw in that it could lead to a winner's curse. Today, crypto participants (and fintechs generally) can choose from a menu of regulators and regulatory perimeters. Money transmission regulation is quite different from bank regulation, for instance, and state bank regulators differ from each other and from federal and foreign bank regulators. The line between well-adapted regulation and unduly accommodative regulation can be a blurry one. Just as winning an auction can be a sign that the bidder has overpaid, attracting crypto licensees and activities can be a sign that a regulator may have over-accommodated the industry.

Collaboration and coordination among financial regulators can serve as an effective mitigant to the risk of over-accommodation. Sharing information with peer agencies and seeking a common understanding of the risks and opportunities in the space can help ensure that regulatory standards remain high and the playing field stays level.<sup>5</sup> This is particularly important as long as crypto businesses are not subject to comprehensive supervision where a single authority has a line of sight into a firm's aggregate activities.<sup>6</sup>

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<sup>5</sup> FSOC, "[Report on Digital Asset Financial Stability Risks and Regulation](#)" (October 3, 2022). Refer to recommendation four, p. 116.

<sup>6</sup> FSOC, "[Report on Digital Asset Financial Stability Risks and Regulation](#)" (October 3, 2022). Refer to recommendation six, p. 117.

At the OCC, in addition to taking a careful and cautious approach to crypto activities by banks,<sup>7</sup> we have proactively sought to coordinate our monitoring and policy development efforts with the Federal Reserve System and FDIC, as well as with several state banking supervisors. Internationally, we have been active participants in the Basel Committee on Bank Supervision’s work toward establishing prudential standards for crypto-asset exposures, should it be determined permissible for U.S. banks to bring crypto-assets or other crypto-asset exposures onto their balance sheets.<sup>8</sup> We have also contributed to the recent Governors and Heads of Supervision statement that included discussion of risks associated with digital assets and are actively involved in efforts by the Financial Stability Board related to stablecoins and unbacked crypto.<sup>9</sup> In short, interagency and international collaboration and coordination sit at the heart of the OCC’s approach to crypto.

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While I am skeptical of crypto’s real world utility today and hyper-aware of the risks it poses to consumers and the financial system, I cannot say with certainty that crypto is useless and should go away. Even if I could, that is not my role. As a bank regulator, my job is to ensure that the banking system is safe, sound, and fair—not to pick winners and losers among emerging technologies.

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<sup>7</sup> Acting Comptroller Michael J. Hsu, “[Crypto: A Call to Reset and Recalibrate](#)” (May 24, 2022).

<sup>8</sup> Basel Committee on Banking Supervision, “[Consultative Document: Prudential Treatment of Cryptoasset Exposures](#)” (June 2021); Basel Committee on Banking Supervision, “[Second Consultation on the Prudential Treatment of Cryptoasset Exposures](#)” (June 2022).

<sup>9</sup> Bank for International Settlements, [Governors and Heads of Supervision reaffirm expectation to implement Basel III in full and as fast as possible; provide direction on future work on climate-related financial risks and cryptoassets](#) (September 13, 2022)

How do we, in the bank regulatory community, ensure safety and soundness, while encouraging responsible innovation, in the face of a high risk and rapidly changing technology? I believe we can do so by taking a careful and cautious approach and by developing guardrails and gates.

Last November, the OCC issued Interpretive Letter 1179.<sup>10</sup> National banks seeking to engage in any of the crypto-asset activities that we have determined are permissible must first obtain a supervisory non-objection. To receive a non-objection, an institution must demonstrate that it can conduct the proposed activity safely, soundly, and fairly. The FDIC and Federal Reserve have adopted a similar approach, helping to maintain a level playing field across the banking system.<sup>11</sup>

Based on our 1179 process, supervisory monitoring, and interagency discussions, I see three areas that need clarity about supervisory expectations in the near term: (1) liquidity risk management of deposits from crypto-asset companies, including stablecoin issuers, (2) finder activities, especially related to crypto trade facilitation, and (3) crypto custody. Interagency efforts are fairly advanced on the first two.

My guess is that some parts of the crypto industry will rush to hold this up as a forthcoming stamp of approval and sign of legitimacy from the federal banking agencies. I suggest they hold the champagne until they read the fine print of what we release.

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<sup>10</sup> OCC, [Interpretive Letter 1179](#) (November 18, 2021)

<sup>11</sup> [FDIC FIL-16-22 Notification of Engaging in Crypto-Related Activities](#) (April 7, 2022); [Federal Reserve SR 22-6 / CA 22-6: Engagement in Crypto-Asset-Related Activities by Federal Reserve-Supervised Banking Organizations](#) (August 16, 2022)

My father's advice rings heavy in my ears: Don't chase. We are guided by a laser focus on ensuring the safety and soundness of the banking system and on protecting consumers.

Guardrails and gates can help to achieve that. The more novel and riskier an activity, the tighter a bank's limits and controls need to be to meet supervisory expectations. The converse is also true. This means that banks seeking to engage in crypto activities may want to carefully consider the scope of what they want to do, start with what can be most readily risk managed, and impose gates, through limits and other controls, to prevent uncontrolled expansion and growth into higher risk activities.

There is a saying, "The better a car's brakes, the faster you can safely drive it." This applies in spades to crypto. Celsius, Three Arrows Capital, and Voyager Digital had poor brakes, but drove fast anyway. Eventually they crashed. The OCC is not going to allow that to happen in the national banking system. Banks interested in engaging in crypto will have to develop good brakes by fashioning strong guardrails and gates. Those able to do so will be positioned to grow and expand in the future.

## Conclusion

I have stated many times that I am a crypto skeptic. That does not mean that I am allergic to innovation and progress. Quite the contrary. My skepticism of crypto stems from a frustration that the most promising innovations have been crowded out by hype and a fixation on trading.

Programmability, composability, and tokenization hold promise. Blockchain development can be credited with bringing these ideas to the fore. As regulators, it will be important for us to understand how these ideas can be operationalized to solve real world

problems, the risks and how to mitigate them, and the adjustments needed to enable responsible innovation while ensuring safety, soundness, and fairness. Financial regulators throughout the United States and internationally will need to coordinate to ensure that high standards and a level playing field are maintained. The OCC is committed to all of these propositions.

My oldest son is now 16 and is starting to explore and wander down some of the paths that I did as a teenager. I suspect it is just a matter of time before I become my father and feel compelled to advise my son as my father advised me: “Don’t chase.”