

United States Senate

WASHINGTON, DC 20510-4805

December 14, 2023

Brian E. Nelson
Under Secretary for Terrorism and Financial Intelligence
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Mr. Nelson,

I write to join a growing number of Congressional colleagues deeply concerned about reports of designated foreign terrorist organizations (FTOs) financing terrorist activities with crypto assets.

On October 7, 2023, the world witnessed a shocking and unthinkable terror attack on Israel. As the world, the American people, and Congress have begun to try and understand how the attacks happened, the focal point has become how FTOs receive funding.

The attack on Israel, carried out by U.S.-designated FTOs Hamas, Palestinian Islamic Jihad and Hezbollah killed more than 1,200 people, including Americans, and reportedly was funded at least in part by crypto assets raised between August 2021 and June 2023¹. U.S. financial regulators, including the Commodity Futures Trade Commission (CFTC)² and the Department of Justice raised concerns about Hamas's cryptocurrency-based terrorism financing as early as 2020³.

Importantly, many providers and end users of illicit digital assets take advantage of foreign Convertible Virtual Currency mixing or "mixers" to conceal identifiable information about transactions. Mixers conceal this information by collecting a fee from owners to mix the "cryptocurrency of several users prior to delivery of the units to their ultimate destination."⁴ On October 19, 2023, the Financial Crimes Enforcement Network (FinCEN) determined that international mixers are a class of transactions of "primary money laundering concern" and proposed new regulations for enhanced transparency⁵.

While I know that the use of digital assets is only one of many illicit funding sources for FTOs, the ambiguity and lack of regulation regarding how cryptocurrency changes hands raises serious concerns that must be addressed.

¹ <https://www.wsj.com/world/middle-east/militants-behind-israel-attack-raised-millions-in-crypto-b9134b7a>

² *Commodity Futures Trading Commission v. Changpeng Zhao, Binance Holdings Limited, Binance Holdings (IE) Limited, Binance (Services) Holdings Limited, and Samuel Lim*, 33 (United States District Court for the Northern District of Illinois 2023).

³ <https://www.justice.gov/opa/pr/global-disruption-three-terror-finance-cyber-enabled-campaigns>

⁴ <https://www.justice.gov/archives/ag/page/file/1326061/download>

⁵ <https://www.fincen.gov/news/news-releases/fincen-proposes-new-regulation-enhance-transparency-convertible-virtual-currency>

In an effort to; 1) understand the scope of digital asset financing used by FTOs in the attack against Israel and 2) understand what actions may be necessary for Congress to take in order to combat these actions without unduly harming good digital asset actors domestically, I request answers to the following questions:

1. Has Treasury begun an independent and comprehensive investigation into the extent FTOs are reportedly avoiding sanctions through the use of digital assets, particularly actors funding Hamas and affiliated organizations?
 - a. If not, I request that Treasury conduct an investigation and create a report to be made available to Congress.
 - b. If sensitive information is included, I request a classified briefing for Members of Congress on the report and findings.
2. Has Treasury determined an estimate of the extent that FTOs are using mixers?
3. Can Treasury estimate how quickly foreign mixers can be stood up once another might be shut down or subjected to sanctions?
4. Given the evolving threat posed by FTOs as well as state actors utilizing digital assets and mixers to circumvent global sanctions, what steps is Treasury taking to address this illicit activity?

Thank you for your prompt attention to this important matter and I look forward to your response.

Sincerely,



Shelley Moore Capito
United States Senator