

April 4, 2023

Madam Chair, Senator Brakey, and the Honorable Members of the Committee:

Thank you for the invitation to offer this testimony to the Financial Services Committee in regards to LD 990, which would authorize certain financial institutions in Maine to accept virtual currency deposits while maintaining 100% in reserves.

My name is John Deaton and I'm an attorney who is currently representing tens of thousands of digital asset holders from Maine and the other 50 states as well as scores of countries around the world, who have been harmed by a federal government that has refused to set clear rules or move legislation as you are considering doing today.

Allowing special-purpose financial institutions to custody digital assets with 100% reserves for customers is an important step that other states like Wyoming have taken. It is the first of many steps for providing clear regulatory guidance on digital assets within your state's sovereign powers to regulate commerce. It will raise questions about custody of digital assets, consumer protections, how you will classify digital assets, and how their use in Maine will align with your state's commercial code. We are currently in the midst of a banking crisis in the United States. We have witnessed the bail-out of Silicon Valley Bank, the seizure of Signature Bank (requiring the new purchaser to divest itself of deposits from crypto companies), and a coordinated effort by federal agencies to un-bank crypto companies. Allowing certain financial institutions to custody crypto with a 100% reserve will actually afford more protection to Maine residents than exist in the current fractional reserve banking system.

As a lawyer and as a digital asset holder myself, let me help make a few important things very clear. Digital assets are simply lines of computer code that provide some use or purpose to the user based on the platform that the code is native to. They are not scary or sinister. They have usefulness based on what they were designed to do. Many might have no useful purpose, while many others have great utility and can offer cost-saving and efficiencies to our economy that can be a great benefit to the people of Maine and the rest of this country. A token itself is not a security and should not be regulated as one. Over 70 years of federal case law, in my view, proves that, so please don't fear the technology as it poses no threat to anyone. How some people might package and sell it is a different matter that can be covered by other laws, but that has nothing to do with the computer code that makes up the asset. So, depositing it in a special

purpose financial institution is a perfectly reasonable act that should be allowed in the state of Maine.

I must also share a warning to you. I mentioned I represent tens of thousands of digital asset holders currently embattled with the federal agency that is supposed to be defending their interests – the U.S. Securities and Exchange Commission. The actions of that agency and others in the federal government in recent times is actively threatening not only digital asset holders like my clients, but they are threatening your right and ability as a state to pass legislation like this.

I'd like your consent, Mr. Chairman, to share a legal memorandum by the respected Washington, D.C., law firm Cooper & Kirk which details the various ways in which federal banking regulators are illegally trying to financially suffocate legal U.S. businesses who have violated no laws or regulations in their use of digital assets. It is being called Operation Choke Point 2.0, and this law firm has relevant experience and important evidence to share with this committee in this memo. It explains how federal regulators are seeking to undermine Maine and the private sector in this state through these actions against anyone who uses this technology in their business.

Furthermore, Mr. Chairman, I request your consent to share a legal brief I filed with the U.S. District Court for the Southern District of New York in the case of SEC v. Ripple Labs, a landmark case which may set a sweeping precedent on how digital assets can and cannot be regulated by the SEC under the 1933 Securities Act and subsequent case law. I filed this amicus brief on behalf of over 75,000 holders of the XRP virtual currency who were grievously harmed by the SEC's lawsuit against Ripple in December 2020. The details of the critical legal points for this committee's information are all in this document so I won't take up time explaining them. I will just say that like the federal banking regulators, the SEC is operating far outside what Congress authorized it to do nearly a century ago in suing legally operating companies like Ripple. In the process, it harmed my clients and thousands of others with this lawsuit and others like it. I have also spoken to Members of Congress to urge them to do what you are doing here today, to move on legislation and end the lack of regulatory clarity that lets power-hungry regulators like the SEC to overreach and abuse law-abiding companies and asset holders.

As much as I commend you for LD 990 and other such bills that will hopefully follow, anything that you do as a legislature will become meaningless if the federal government succeeds at its legal strategies like through federal lawsuits such as the Ripple case, or other acts of gross overreach designed to wipe out blockchain technology and its legal use in the United States.

I not only strongly urge you to adopt this legislation, but I also urge you to consider your own political and legal actions to defend your right and ability as the State of Maine to adopt this legislation and provide such legal ground for the use of digital assets. This could include amicus

filings in federal cases that appear destined to follow soon against American companies, as well as public and political communications to federal authorities to stop their declared war on crypto in America.

I am eager to offer my assistance to you as political leaders as well as an institution to explore your options for pushing back against this federal overreach and abuse. I appreciate your attention and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Deaton". The signature is stylized with a large, sweeping "J" and "D".

John E. Deaton