SPEECH

Remarks at the Crypto Task Force Roundtable on Financial Surveillance and Privacy

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Good afternoon, and thank you to the Crypto Task Force for organizing today's event. This roundtable focuses on a topic of fundamental concern to Americans: financial surveillance and privacy. American history reflects a deep skepticism with regard to government intrusion into the private lives of individuals. Our founders sought to protect this interest in liberty by enacting the Fourth Amendment to the U.S. Constitution, which safeguards "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures."[1]

However, as Justice Antonin Scalia noted in the 2001 majority opinion in *Kyllo vs. United States*, "[i]t would be foolish to contend that the degree of privacy secured to citizens by the Fourth Amendment has been entirely unaffected by the advance of technology."[2] The question, he continued, is "what limits there are upon this power of technology to shrink the realm of guaranteed privacy."[3]

Technological advances promote financial market efficiency by decreasing transaction speed and increasing personal convenience. Today, individuals can

transmit funds to family members and friends via mobile phones, while also employing such technologies for more complex financial transactions, such as protocol staking in crypto assets or storing value in such assets. In addition to offering speed and convenience-related advantages, such technologies can reduce the need for intermediaries. These attributes raise questions insofar as how the Bank Secrecy Act should be applied or revised.

Surveillance, by governmental and private entities, raises fundamental questions about the nature of individual privacy — as it should. Indiscriminate collection of vast amounts of personal data is inconsistent with a framework that values privacy and financial independence. The sheer scale of individual personal data that can be gathered and aggregated creates a tantalizing opportunity for abuse. This data can reveal sensitive information about financial and personal habits and individual preferences.

The rise of new financial technologies means that we must continuously evaluate how to protect privacy and individual freedom for innocent Americans, especially when there always will be criminals and bad actors that use such technologies to harm others. How does the government balance the need to protect society against those persons, while preserving privacy, freedom, and liberty for others? Furthermore, to what extent can financial technologies be used to increase individual privacy? Can tools such as zero-knowledge proofs provide verification tools while enhancing privacy rights?[4]

We must strive to promote a financial system that is both innovative and respectful of privacy and individual rights. Effective regulation can strengthen financial markets, promote economic stability by isolating wrongdoing, and protect consumers, while permitting the development of innovation that creates desired services and cost efficiency. However, we should be mindful of not permitting a regulatory framework that creates an omnipotent financial surveillance system that instills the fear of constant monitoring in every American.

Thank you.

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[1] U.S. Const. amend. IV.

[2] Kyllo v. United States (2001) 533 U.S. 27, at 33.

[3] *Id.* at 34.

[4] For background, *see* Kenneth A. Bamberger, Ron Canetti, Shafi Goldwasser & Evan J. Zimmerman, *Verification Dilemmas in Law and the Promise of Zero-Knowledge Proofs*, 37 Berkeley Tech. L. J. 1 (2022).

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