

Testimony of Nathan McCauley
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Before the Senate Banking Committee
“Investigating the Real Impacts of Debanking in America”
February 5, 2025

Thank you, Chairman, Ranking Member, and distinguished members of this Committee for having me as a witness today on the important issue of debanking and ensuring fair access to banking.

I am Nathan McCauley, the CEO and Co-founder of Anchorage Digital, an institutional crypto platform that is home to the nation’s first and only federally chartered crypto bank. I grew up in a small town in the Midwest called Economy, Indiana, with a population of about 150 people. Though I came from what many call “flyover country” and one of my first jobs was grilling burgers at McDonalds—I had big dreams. I wanted to be a computer engineer and entrepreneur. Early in my career, I worked on cryptography and as a security engineer. In 2017, after being asked for years by friends to help them manage the private keys to their crypto wallets, my co-founder and I decided to start a company to offer a safe way for institutions to custody their crypto at scale.

That company is Anchorage Digital, which has offices in South Dakota, New York, Portugal and Singapore and 400 employees around the globe, including 282 employees across 37 different US states. As a remote first company, our employees are distributed throughout the United States providing great jobs in big cities but also small towns.

Under the terms of our national bank charter, granted to us by the Office of the Comptroller of the Currency (the OCC) in January 2021, Anchorage Digital Bank safeguards digital assets, or more specifically the cryptographic keys to access digital assets. We have over a thousand institutional clients, including crypto-native companies, public and private funds, wealth and asset managers, and sovereign wealth funds. Anchorage Digital also provides these institutions access to other services such as staking, on-chain governance, settlement, and over-the-counter trading. We are proof that crypto companies can operate safely and soundly within the regulatory perimeter, and we are proud of the role we play as a bridge between the traditional financial system and the emerging crypto economy.

I am grateful for the opportunity today to tell our story: how we sought out the highest level of regulatory scrutiny and certainty by becoming a national bank, how we built a best-in-class compliance program, and how we were nevertheless debanked, and

denied access to banking services that our company depended on—the ramifications of which we are still dealing with to this day.

What It Means to Be a Federally Regulated Crypto Bank

For those who are not familiar, I want to briefly explain what it means to be a federally regulated crypto bank. We are subject to multiple on-site examinations by the OCC each year, including in-depth reviews of our documents and processes to ensure that we operate in a safe and sound manner and comply with applicable laws and regulations. Our examiners assess how we manage numerous categories of risk including credit risk, liquidity risk, price risk, operational risk, compliance risk, strategic risk, and reputational risk. Finally, we are held to the same asset management, BSA/AML and OFAC compliance, IT, security, and other standards as any other federally-regulated bank. In fact, we have the ability to go beyond what traditional banks do in terms of transaction monitoring. We monitor the flow of funds not only within our bank, but funds that were once in the bank, and identify suspicious activity to an extent not possible in the traditional financial system. This has led to us assisting law enforcement in their efforts to catch and or sanction persons conducting illegal activities, well after these funds have left the bank.

Meeting the requirements of a federal bank charter is a significant undertaking. Yet we sought one because we believe that Anchorage Digital, our clients, and the industry benefit from the OCC's extensive supervisory experience and expertise, and that our business is a model for how existing laws and regulations can be adapted to the unique benefits and risks of new technologies.

How We Were Debanked

Despite being a federally regulated bank ourselves, subject to the same liquidity, capital, and risk management expectations of other federally chartered banks, we were debanked. I will describe here briefly what that experience looked like for our company - an experience that we believe was shared by many in our industry and perhaps in other industries, as well.

For over two years, we had been doing business with our bank. We were a valuable client to them: we held a corporate bank account there, and they held our client fees from custody and other services, along with general corporate funds used for day-to-day business expenses such as payroll and administrative expenses. The relationship was so positive that we were in active discussions to expand our partnership. Not once in our two and a half year relationship had they raised any issues.

We were a highly-regulated, well-capitalized, well-run business - in many ways the ideal bank client.

One day in June 2023, we received an urgent email from the bank informing us that they needed to speak with us that day. On the call, we were told that our account would be closed in thirty days because they were not comfortable with our crypto clients' transactions. We attempted to explain the source of all payments from our crypto clients were fully documented as a part of our robust KYC, AML, sanctions compliance, and other internal transaction monitoring and attribution processes, and that we would be willing to provide more information to their risk management team. They were uninterested. They refused to engage in further discussions, provide any additional explanation, or offer any chance to appeal the decision.

Alongside this experience, we found ourselves shut out of the banking system at other touchpoints. After the closure of some of the few banks that were willing to serve crypto clients in March of 2023, we were forced to find a new banks to hold clients' cash funds in custody for trading purposes, as well as an account to hold segregated regulatory capital, both required to be held at an FDIC-insured bank under the terms of our bank charter. Again, we should have been a desirable, low-risk client for a bank. Yet over the course of a seven month period we spoke to over forty banks and were rejected by all of them. Many did not even cite a reason; others just vaguely told us it was not within their risk appetite to work with crypto clients.

While Anchorage Digital was eventually able to find banks willing to partner with us, the impact of being nearly shut out of the banking system was devastating. It was extremely disruptive to our business and our clients, and contributed to the difficult decision we made in 2023 to lay off 20% of our workforce, including 70 US employees. To this day, our clients lack the ability to send wire transfers to third parties, a basic banking service we previously had access to. Furthermore, it abruptly ended opportunities to provide subcustody to other national banks we were actively exploring partnerships with.

So why did this happen? I believe that regulators pressured banks to cut off services to the crypto industry. Why do I think this? Two things: a series of anti-crypto regulatory actions between 2021 to 2023, and my own lived experience.

First, in January 2021, the OCC put a hold on its Fair Access Rule, which may have prevented discrimination against disfavored industries such as crypto. Then in November 2021, the OCC issued Interpretive Letter 1179, requiring banks to seek permission from the OCC before engaging in legal crypto banking activities. Shortly

thereafter, in April 2022, the FDIC required banks under its supervision to flag any current or potential business with crypto, and warned of the risks of conducting business with such entities. Also that month, the SEC issued SAB 121, which effectively prevented any public bank from providing custody of digital assets at scale. Finally, in what I believe was the nail in the coffin that led to the en masse debanking of the crypto industry, the Federal Reserve, FDIC, and OCC issued a joint statement in January 2023 warning banks against serving crypto clients or engaging in crypto activities of their own. The implied threat of enforcement action was clear, leaving many banks with no choice but to cut off crypto clients completely.

Second, my lived experience. Outside of what happened to our company, I am an investor in four crypto companies that struggled to obtain and keep their bank accounts during this time, forcing some of them to shut down. Further, I have at least two employees that have been debanked because of what they believe is their association with the crypto industry. Finally, I have spoken to dozens of crypto leaders that have been debanked personally or had their crypto companies debanked.

I want to remind this Committee and the public that none of the actions by the regulators described above were authorized by Congress or subjected to agency rulemaking, both of which would have allowed for the public to weigh in and offered transparency and accountability. The entire process was opaque, unfair, and amounted to a de facto ban on crypto by choking it off from the federal banking system, something any industry needs to survive.

Moving Forward

Congress is right to investigate what happened, to protect and promote fair and open access to banking services for all law-abiding citizens and companies, as the President's executive order on digital assets recently stated.

Debanking is about more than just the inconvenience and disruption to our business and many others in the crypto industry. It is about the broader issue of ensuring fair access to the financial system and fostering the growth of an industry that could benefit Americans in terms of jobs, technological innovation, and financial inclusion. It is a threat to American values to create such arbitrary barriers against new technology and innovation which undermines our economic competitiveness as a country.

I am encouraged by this committee's efforts to investigate and put an end to the practice of debanking, including special attention to the debanking of crypto firms. In

addition to holding hearings such as this one, I urge Congress to consider legislation similar to what has been passed at the state level to ensure fair access to financial services. Furthermore, the new Administration should consider rescinding the January 2023 joint banking regulators' statement and the OCC's interpretive letter 1179, which imposed an arbitrary pre-clearance requirement for banks wishing to engage in certain crypto activities.

Thank you for the opportunity to appear today and I look forward to answering your questions.