

Congress of the United States
Washington, DC 20510

October 26, 2023

Hon. Merrick Garland
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: Illicit Finance Activities of Binance and Tether

Dear General Garland,

We write to you in light of shocking reports that unregulated, centralized crypto asset intermediaries based outside the United States have facilitated significant illicit finance activity over the last two years, including providing significant terrorism financing for Hamas' malevolent attack on Israel.

Based on this alarming information, and the horrifying, unjustified attack on Israel, we urge you and the Department of Justice to reach a charging decision on Binance that reflects their level of culpability and expeditiously conclude your investigations into the ongoing illicit activities involving Tether.

Crypto assets and distributed ledger technology have the potential to drive responsible innovation in U.S. financial markets, therefore we must be careful not to paint all crypto asset intermediaries as suspect when a small handful of bad actors use them for nefarious purposes. Many crypto asset intermediaries seek to comply with U.S. sanctions and money laundering laws, correctly viewing the regulations as necessary to unlock the promise of crypto assets and distributed ledger technology.

On October 10, 2023, the *Wall Street Journal* reported that Hamas, Palestinian Islamic Jihad and Hezbollah have received funding through crypto assets since August 2021,¹ though subsequent reports have highlighted that the level of funding reported in the article is likely not accurate.² However, we believe it is nonetheless imperative that the Department of Justice hold bad actors accountable if they are shown to facilitate illicit activity.

¹ Angus Berwick and Ian Talley, *Hamas Militants Behind Israel Attack Raised Millions in Crypto*, WALL ST. J., Oct. 10, 2023, <https://www.wsj.com/world/middle-east/militants-behind-israel-attack-raised-millions-in-crypto-b9134b7a>.

² Chainalysis, *Correcting the Record: Inaccurate Methodologies for Estimating Cryptocurrency's Role in Terrorism Financing*, Oct. 18, 2023, <https://www.chainalysis.com/blog/cryptocurrency-terrorism-financing-accuracy-check/>. See also Elliptic, *Setting the Record Straight on Crypto Crowdfunding by Hamas*, Oct. 25, 2023, <https://www.elliptic.co/blog/setting-the-record-straight-on-crypto-crowdfunding-by-hamas>.

Binance, notably, is an unregulated crypto asset exchange based in the Seychelles and Cayman Islands. Binance has historically been linked to illicit activity and is purportedly the subject of a current Department of Justice investigation.³ On October 16, 2023, the *Financial Times* reported that Israeli law enforcement authorities had ordered the closure of over 100 Binance accounts associated with Hamas since hostilities began on October 7, 2023.⁴ This comes on the heels of an earlier report in May 2023 that Israeli law enforcement had seized over 190 Binance accounts linked to Islamic terrorism between 2021-23.⁵

The fact that Hamas and other terrorist groups have been permitted by Binance to open accounts and conduct business, even after public reporting about the issue, clearly shows that Binance could be providing material support to entities engaged in terrorism under Federal law, or being willfully blind to the fact that it may be doing so.⁶ Binance is also knowingly facilitating violations of applicable sanctions laws⁷ and the *Bank Secrecy Act*⁸ by failing to carry out adequate customer due diligence and screenings when it is keenly aware the exchange is being used to finance terrorism. While some reports claim Binance is now cooperating with Israeli law enforcement,⁹ this is immaterial to criminal culpability because Binance is only doing so after knowingly allowing its exchange to be used by terrorist organizations, and only after they have been caught.

Tether, a payment stablecoin issuer based in the British Virgin Islands and Hong Kong, is also of significant concern. The *Financial Times* reported on October 16, 2023, that, at the direction of Israeli law enforcement, Tether had recently frozen 32 addresses controlled by Hamas and Russian-linked entities in Israel and Ukraine.¹⁰ It is well-known that Tether is knowingly facilitating violations of applicable sanctions laws¹¹ and the *Bank Secrecy Act*¹² by failing to conduct adequate customer due diligence and screenings despite being aware that its product is used to facilitate terrorism and other illicit activities. Tether has been previously fined by the Commodity Futures Trading Commission for false statements relating to the composition of its

³ Angus Berwick, Dan Levine and Tom Wilson, *Exclusive: U.S. Justice Department Is Split Over Charging Binance*, Reuters, Dec. 12, 2022, <https://www.reuters.com/markets/us/us-justice-dept-is-split-over-charging-binance-crypto-world-falters-sources-2022-12-12/>.

⁴ Scott Chipolina, *Israel Orders Freeze on Crypto Accounts in Bid to Block Funding for Hamas*, FINANCIAL TIMES, Oct. 16, 2023, <https://on.ft.com/3rOycps>.

⁵ Tom Wilson and Angus Berwick, *Exclusive: Israel Seizes Binance Crypto Accounts to 'Thwart' Islamic State, Document Shows*, Reuters, May 4, 2023, <https://www.reuters.com/world/middle-east/israel-seized-binance-crypto-accounts-thwart-islamic-state-document-shows-2023-05-04/>.

⁶ 18 U.S.C. § 2339A(b)(1).

⁷ See, e.g., 50 U.S.C. § 1055.

⁸ See, e.g., 31 U.S.C. § 5322.

⁹ Camomile Shumba and Sandali Handagama, *Hamas-Linked Crypto Accounts Frozen by Israeli Police, With Binance's Help: Report*, CoinDesk, Oct. 10, 2023, <https://www.coindesk.com/policy/2023/10/10/hamas-linked-crypto-accounts-frozen-by-israeli-police-with-binance-help-report/>.

¹⁰ Scott Chipolina, *Israel Orders Freeze on Crypto Accounts in Bid to Block Funding for Hamas*, FINANCIAL TIMES, Oct. 16, 2023, <https://on.ft.com/3rOycps>.

¹¹ See, e.g., 50 U.S.C. § 1055.

¹² 31 U.S.C. § 5322.

reserves¹³ and its executives are also reportedly under investigation for bank fraud in relation to fraudulently accessing U.S. banking services.¹⁴

We urge the Department of Justice to carefully evaluate the extent to which Binance and Tether are providing material support and resources to support terrorism through violations of applicable sanctions laws and the *Bank Secrecy Act*. To that end, we strongly support swift action by the Department of Justice against Binance and Tether to choke off sources of funding to the terrorists currently targeting Israel.

Sincerely,



Senator Cynthia M. Lummis
Senate Banking Committee



Representative French Hill
Chair, Subcommittee on Digital Assets
House Financial Services Committee

¹³ Commodity Futures Trading Comm'n, *CFTC Orders Tether and Bitfinex to Pay Fines Totaling \$42.5 Million*, Oct. 15, 2021, <https://www.cftc.gov/PressRoom/PressReleases/8450-21>.

¹⁴ Tom Schoenberg and Matt Robinson, *Tether Bank-Fraud Probe Gets Fresh Look by Justice Department*, Bloomberg, Oct. 31, 2022, <https://www.bloomberg.com/news/articles/2022-10-31/tether-bank-fraud-probe-gets-fresh-look-by-justice-department?leadSource=verify%20wall>.