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14 UNITED STATES DISTRICT COURT FOR THE
15 CENTRAL DISTRICT OF CALIFORNIA

16 IN THE MATTER OF THE TAX,)
17 LIABILITIES OF:)
18 JOHN DOES, United States person(s),)
19 who directly or indirectly had authority)
20 over any combination of accounts held)
21 with OX Labs Inc., d/b/a SFOX,)
22 SFOX Inc., sfox.com, or its predecessors,)
23 subsidiaries, divisions, or affiliates)
24 (collectively, "SFOX"), with at least the)
equivalent of \$20,000 in value of)
transactions (regardless of type) in)
cryptocurrency in any one year, for the)
period January 1, 2016 through)
December 31, 2021)

Case No.

**DECLARATION OF SENG
TCHONG LEE IN SUPPORT OF
EX PARTE PETITION FOR
LEAVE TO SERVE "JOHN
DOE" SUMMONS**

25 I, Seng Tchong Lee, pursuant to 28 U.S.C. § 1746, declare as follows:

26 1. I am a duly commissioned Internal Revenue Agent ("Revenue Agent")
27 assigned as a Senior Revenue Agent in the Internal Revenue Service's ("IRS's") Offshore
28

1 Compliance Initiative (“OCI”). OCI develops projects, methodologies, and techniques
2 for identifying United States taxpayers who are involved in abusive transactions and
3 financial arrangements for tax-avoidance purposes. Although OCI’s work typically
4 involves offshore abusive transactions and financial arrangements, the virtual currency
5 issues I have been working on are not limited to offshore activities.
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7
8 2. I have been a Revenue Agent since 2006 and have specialized in offshore
9 investigations since 2011. As a Revenue Agent, I have received training in tax law and
10 audit techniques and have received specialized training in abusive offshore tax issues. I
11 also have experience investigating offshore tax matters. I have been assigned to the
12 Virtual Currency Campaign, which addresses tax noncompliance related to the use of
13 virtual currency since October 2019. My post of duty is in San Francisco, California.
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16 **I. BACKGROUND**

17 3. The IRS is conducting an investigation to determine the identity and correct
18 federal income tax liability of U.S. persons who conducted transactions in cryptocurrency
19 for the years ending on December 31, 2016, 2017, 2018, 2019, 2020, and 2021.
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21 4. As the organization responsible for enforcing and administering the internal
22 revenue laws of the United States, the IRS, in recent years, has become aware of
23 significant tax compliance issues relating to the use of virtual currencies, including
24 cryptocurrencies, as detailed below.
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1 **A. Tax Compliance Concerns Associated with the Use of Virtual**
2 **Currencies and the IRS’s Compliance Initiative**

3 5. In 2013, at the request of the Senate Finance Committee, the Government
4 Accountability Office (“GAO”) completed a study of the use of virtual currency.
5 Through interviews with industry representatives, tax professionals, IRS officials, and
6 academics, GAO identified several tax compliance risks associated with virtual
7 currencies, ranging from lack of knowledge of tax requirements and uncertainty over how
8 to report virtual currency transactions to deliberate underreporting of income and tax
9 evasion. See U.S. Gov’t Accountability Office, GAO-13-516, *Virtual Economies and*
10 *Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks* (May 2013)
11 <https://www.gao.gov/products/GAO-13-516> [<https://perma.cc/H83E-BFSD>].
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15 6. In September 2016, the Treasury Inspector General for Tax Administration
16 (“TIGTA”) issued a report explaining that taxpayers’ use of virtual currencies, including
17 cryptocurrencies, had expanded significantly in recent years. See Treasury Inspector
18 General for Tax Administration, Ref. No. 2016-30-083, *As the Use of Virtual Currencies*
19 *in Taxable Transactions Becomes More Common, Additional Actions Are Needed to*
20 *Ensure Taxpayer Compliance*, (Sept. 21, 2016) (“TIGTA Report”)
21 <https://www.treasury.gov/tigta/auditreports/2016reports/201630083fr.pdf>
22 [<https://perma.cc/5BW9-YXWT>]. The report reflects TIGTA’s determination that while
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28 there are legitimate reasons to use virtual currency – including lower transaction fees and
faster transfers of funds compared to traditional currencies – “some virtual currencies are

1 also popular because the identity of the parties involved is generally anonymous, leading
2 to a greater possibility of their use in illegal transactions.” *Id.* at 1.

3
4 7. Since 2005, the IRS’s Electronic Payment Systems Initiative (“EPSI”) has
5 focused on developing projects, methodologies, and techniques for identifying U.S.
6 taxpayers who use electronic funds transfer and payment systems for tax avoidance
7 purposes. In September 2013, OCI expanded the scope of the EPSI to address U.S.
8 taxpayers who use virtual currencies for tax avoidance purposes, recognizing that some
9 U.S. taxpayers use such currencies to expatriate and repatriate funds to and from offshore
10 accounts.
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12
13 8. In furtherance of the EPSI, the IRS is conducting an investigation to identify
14 tax noncompliance related to the use of virtual currency. In December 2013, the IRS
15 established a Virtual Currency Issue Team (“VCIT”). The VCIT was established to study
16 the issue and then consider the compliance impact related to virtual currencies. It
17 developed a three-pronged approach involving first learning about virtual currency, next
18 educating the examination workforce regarding the issue, and then developing
19 examination techniques to identify and address issues during an examination. This “John
20 Doe” summons is one of the tools being used in the investigation.
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24 9. In 2015, TIGTA formally initiated a review of the IRS’s compliance strategy
25 for addressing the reporting of revenue and expenses occurring through the use of virtual
26 currencies and other alternative payment methods. The IRS shared information with
27 TIGTA regarding the VCIT and EPSI and advised TIGTA that it was working to further
28

1 its virtual currency investigation. In September 2016, TIGTA issued its report and
2 recommended that the IRS develop a coordinated virtual currency strategy, provide
3 updated guidance, and revise third-party information reporting documents. *See* TIGTA
4 Report at 8-16. The IRS agreed with TIGTA's recommendations to develop a virtual
5 currency strategy and that additional guidance on documentation requirements and tax
6 treatment would be helpful.
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9 10. On November 30, 2016, the U.S. District Court for the Northern District of
10 California authorized the IRS to issue a John Doe summons to Coinbase, Inc., a U.S.-
11 based digital currency exchange, to identify U.S. persons who, at any time during the
12 period from January 1, 2013, through December 31, 2015, conducted transactions in a
13 convertible virtual currency as defined in IRS Notice 2014-21. *See United States v. John*
14 *Doe*, No. 3:16-cv-06658-JSC, ECF No. 7 (N.D. Cal. Nov. 30, 2016); IRS Notice 2014-
15 21, 2014-16 I.R.B. 938, 2014 WL 1224474 (Mar. 26, 2014), [https://www.irs.gov/pub/irs-](https://www.irs.gov/pub/irs-drop/n-14-21.pdf)
16 [drop/n-14-21.pdf](https://www.irs.gov/pub/irs-drop/n-14-21.pdf) [<https://perma.cc/8AKY-6M2Q>]. Coinbase was served with the
17 summons on December 8, 2016 but did not initially comply with the summons.
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21 11. On March 16, 2017, the government filed a petition to enforce the John Doe
22 summons to Coinbase in the Northern District of California. On November 29, 2017, the
23 court granted the petition to enforce a narrowed John Doe summons. *See* Judgment,
24 *United States v. Coinbase, Inc.*, No. 17-cv-01431-JSC, ECF No. 77 (N.D. Cal. Nov. 29,
25 2017). Coinbase was ordered to produce documents for accounts with at least the
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1 equivalent of \$20,000 in any one transaction type (buy, sell, send, or receive) in any one
2 year for the 2013 through 2015 tax years. *Id.*

3
4 12. Coinbase advised impacted account holders that it was required to disclose
5 the information described in the enforcement order. Coinbase stated on its webpage that,
6 “[o]n February 23rd, 2018, Coinbase notified a group of approximately 13,000 customers
7 concerning a summons from the IRS regarding their Coinbase accounts.” Coinbase,
8 [https://help.coinbase.com/en/coinbase/taxes-reports-and-financial-services/taxes/irs-](https://help.coinbase.com/en/coinbase/taxes-reports-and-financial-services/taxes/irs-notification)
9 [notification](https://help.coinbase.com/en/coinbase/taxes-reports-and-financial-services/taxes/irs-notification) (Sept. 21, 2020, 4:17 PM) [<https://perma.cc/GL68-BSLM>].
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12 13. On July 2, 2018, the IRS announced the Virtual Currency Compliance
13 campaign directed at addressing “noncompliance related to the use of virtual currency
14 through multiple treatment streams including outreach and examinations.” *See* IRS,
15 Press Release, *IRS Announces the Identification and Selection of Five Large Business*
16 *and International Compliance Campaigns* (July 2, 2018),
17 [https://www.irs.gov/businesses/irs-announces-the-identification-and-selection-of-five-](https://www.irs.gov/businesses/irs-announces-the-identification-and-selection-of-five-large-business-and-international-compliance-campaigns)
18 [large-business-and-international-compliance-campaigns](https://www.irs.gov/businesses/irs-announces-the-identification-and-selection-of-five-large-business-and-international-compliance-campaigns) [[https://perma.cc/KU4F-](https://perma.cc/KU4F-VKMQ)
19 [VKMQ](https://perma.cc/KU4F-VKMQ)]; IRS, *Large Business and International Active Campaigns*, IRS.gov,
20 <https://www.irs.gov/businesses/corporations/lbi-active-campaigns#virtual-currency>
21 [<https://perma.cc/G4BZ-8YVV>].
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25 14. Then, on July 26, 2019, the IRS announced that it had begun sending letters
26 to virtual currency owners, advising them to pay back taxes and file amended returns.
27
28 *See* IRS, Press Release, *IRS Has Begun Sending Letters to Virtual Currency Owners*

1 *Advising Them to Pay Back Taxes, File Amended Returns; Part of Agency's Larger*
2 *Efforts* (July 26, 2019), [https://www.irs.gov/newsroom/irs-has-begun-sending-letters-to-](https://www.irs.gov/newsroom/irs-has-begun-sending-letters-to-virtual-currency-owners-advising-them-to-pay-back-taxes-file-amended-returns-part-of-agencys-larger-efforts)
3 [virtual-currency-owners-advising-them-to-pay-back-taxes-file-amended-returns-part-of-](https://www.irs.gov/newsroom/irs-has-begun-sending-letters-to-virtual-currency-owners-advising-them-to-pay-back-taxes-file-amended-returns-part-of-agencys-larger-efforts)
4 [agencys-larger-efforts](https://www.irs.gov/newsroom/irs-has-begun-sending-letters-to-virtual-currency-owners-advising-them-to-pay-back-taxes-file-amended-returns-part-of-agencys-larger-efforts) [<https://perma.cc/GV9F-XWG5>]. By the end of August 2019, the
5 IRS had sent more than 10,000 letters to taxpayers who owned virtual currency.
6 Following issuance of the letters, additional taxpayers filed amended returns reporting
7 virtual currency transactions that were not previously reported.
8

9
10 15. More recently, the IRS has sought and received leave to serve two additional
11 John Doe summonses for cryptocurrency related information. *See* Order, *United States v.*
12 *John Does*, No. 21mc91201-RGS, ECF No. 5 (D. Mass. Apr. 1, 2021); Order Granting
13 Narrowed Petition, *United States v. John Does*, No. 21-cv-02201-JCS, ECF No. 9 (N.D.
14 Cal. May 5, 2021). The first such John Doe summons was issued to Circle Internet
15 Financial, Inc., which offers digital currency exchange services, on April 9, 2021. The
16 second was issued to Payward Ventures Inc. d/b/a Kraken, a digital currency exchange,
17 on May 11, 2021. The United States and both summoned parties are in the process of
18 negotiating compliance.
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22 **B. Cryptocurrency**

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24 16. Cryptocurrency is a particular type of virtual currency as the IRS has defined
25 that term in Notice 2014-21. Cryptocurrency can be further divided into two general
26 categories—crypto-coins and crypto-tokens—although the two are often referred to
27 generally as cryptocurrency.
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1 17. As of January 7, 2022, cryptocurrency tracking website
2 www.coinmarketcap.com indicated that more than 16,520 separate cryptocurrencies
3 existed. The most widely known cryptocurrency, and largest by capitalization, is Bitcoin.
4 Given Bitcoin's prominence in the cryptocurrency ecosystem, other cryptocurrencies are
5 often generically referred to as alternative coins or "altcoins" for short. A few examples
6 of altcoins are Ethereum ("ether" or "ETH"), Litecoin ("LTC"), Ripple ("XRP"), and
7 Stellar ("XLM").
8

9
10 18. In general, cryptocurrency is based on distributed-ledger (blockchain)¹
11 technology.² In a distributed ledger technology system, a user creates a cryptocurrency
12 wallet to engage in cryptocurrency transactions. A wallet is a computer file that contains
13 information (software and protocols) used in transferring units of a cryptocurrency.
14 When the wallet is downloaded or purchased, the user prompts software in the wallet to
15 generate a private key. The private key is then used to generate a public key, which, in
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19 ¹ While distributed ledger technology is commonly referred to as a "blockchain,"
20 this is not entirely accurate. There are some types of distributed ledgers that do not use
21 "blocks." See, e.g., IOTA, *What Is IOTA*, <https://www.iota.org/get-started/what-is-iota>
22 [<https://perma.cc/PN63-XNKZ>] (discussing IOTA distributed ledger's use of a "tangle"
chain rather than conventional "block" chain).

23 ² See Financial Action Task Force Report, *Virtual Currencies Key Definitions and*
24 *Potential AML/CFT Risks*, (June 2014), [http://www.fatf-](http://www.fatf-gafi.org/publications/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html)
25 [gafi.org/publications/methodsandtrends/documents/virtual-currency-definitions-aml-cft-](http://www.fatf-gafi.org/publications/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html)
26 [risk.html](http://www.fatf-gafi.org/publications/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html) [<https://perma.cc/3W7X-R6TD>]; see also generally Bitcoin,
27 [https://en.bitcoin.it/wiki/Main_Page] [<https://perma.cc/DZ44-XBZV>].
28

1 turn, is used to generate an address. The private key, public key, and address are linked,
2 but the particular encryption protocols employed to create the public key and address are
3 only one-way, which prevents the reverse engineering of the private key from the address
4 or public key. See Mark, *Blockchain Public Key & Private Key: A Detailed Guide*,
5 Mycryptopedia (Sept. 22, 2017), [https://www.mycryptopedia.com/public-key-private-](https://www.mycryptopedia.com/public-key-private-key-explained/)
6 [key-explained/](https://www.mycryptopedia.com/public-key-private-key-explained/) <https://perma.cc/QQE2-PG6F>; see also David W. Perkins, Cong.
7 Research Serv., No. IF10824, *Financial Innovation: “Cryptocurrencies,”* (Feb. 2018),
8 <https://crsreports.congress.gov/product/pdf/IF/IF10824> [<https://perma.cc/6JAD-VSM7>].
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12 19. A wallet may hold any number of private/public key pairs. Addresses and
13 public keys are shared with other users in order to conduct cryptocurrency transactions.
14 Private keys, which are used as the last piece in forming the digital signature to conduct a
15 transaction, generally are not shared. Sharing a private key would permit another
16 individual to engage in transactions on the original user’s behalf. See Coinbase, *Is a*
17 *Crypto Address Linked to My Coinbase Account Safe to Display Publicly?*,
18 [https://support.coinbase.com/customer/en/portal/articles/2275614-is-a-wallet-address-](https://support.coinbase.com/customer/en/portal/articles/2275614-is-a-wallet-address-safe-to-display-publicly-?b_id=13521)
19 [safe-to-display-publicly-?b_id=13521](https://support.coinbase.com/customer/en/portal/articles/2275614-is-a-wallet-address-safe-to-display-publicly-?b_id=13521) [<https://perma.cc/N8E7-5NFU>].
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22
23 20. The method described above for transacting in cryptocurrency is generally
24 the same regardless of whether it is a crypto-coin or crypto-token. There is a difference,
25 however, in how those two assets are created and how transactions for each are validated
26 and tracked.
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1 21. Crypto-coins are created as a component of the distributed ledger itself. As
2 such, when a crypto-coin transaction is entered, it is transmitted to a network of
3 computers, referred to as nodes, which use computer algorithms to confirm the
4 transaction. Once a transaction is confirmed, that transaction is then recorded in a
5 “block”—one of many linked records of data that make up the distributed ledger’s
6 blockchain (assuming the crypto-coin uses a blockchain-type distributed ledger). *See*
7 Kevin Voigt & Andy Rosen, *What Is Blockchain? The Technology Behind*
8 *Cryptocurrency, Explained*, NerdWallet (Nov. 4, 2021),
9 [https://www.nerdwallet.com/article/investing/blockchain?trk_location=ssrp&trk_query=](https://www.nerdwallet.com/article/investing/blockchain?trk_location=ssrp&trk_query=what%20is%20blockchain&trk_page=1&trk_position=1)
10 [what%20is%20blockchain&trk_page=1&trk_position=1](https://www.nerdwallet.com/article/investing/blockchain?trk_location=ssrp&trk_query=what%20is%20blockchain&trk_page=1&trk_position=1) [<https://perma.cc/3DCF-U5BK>].
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14 22. Generally, all transactions on a crypto-coin blockchain can be viewed by the
15 public on any computer connected to the Internet.³ However, the blockchain
16 transactional history generally only reveals the date, time, units, address, wallet ID (to
17 which the address belongs to), and transaction ID associated with a transaction. The
18 blockchain does not identify the actual identities of the address and wallet owners.
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21 23. Separately, crypto-tokens are not an inherent part of a distributed ledger.
22 Tokens, rather, are created through particular computer scripts or programs such as smart
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24

25 ³ Not all crypto-coins operate this way. Some are designed specifically to protect
26 all transactional information or at least to provide users the option to do so. *See e.g.*,
27 Monero, *What is Monero (XMR)?*, [https://web.getmonero.org/get-started/what-is-](https://web.getmonero.org/get-started/what-is-monero/)
28 [monero/](https://web.getmonero.org/get-started/what-is-monero/) [<https://perma.cc/46KZ-NDJ4>]; Dash, *Features—PrivateSend*,
<https://docs.dash.org/en/stable/introduction/features.html#privatesend>
[\[https://perma.cc/T6X7-5GH4\]](https://perma.cc/T6X7-5GH4).

1 contracts or decentralized applications (“DApps”) that are hosted or built off of a
2 distributed ledger. For example, the Ethereum blockchain is a distributed ledger platform
3 that uses the crypto-coin Ether. *See generally* Ethereum, *Community Guides and*
4 *Resources*, <https://ethereum.org/learn/> [<https://perma.cc/MN7S-9ZW8>]. The Ethereum
5 blockchain, however, is also designed to host crypto-tokens created through smart
6 contracts or DApps built off of the Ethereum blockchain. *Id.* The smart contracts often
7 provide the token owner with ownership of assets. Thus, while tokens are not currency,
8 they represent other real-world items of value.
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12 24. As with crypto-coins, crypto-tokens can be transferred using a
13 cryptocurrency wallet.

14
15 25. The peer-to-peer nature of cryptocurrencies, compounded by the pseudo-
16 anonymous nature of the publicly-available-transactional information, makes the
17 examination of an individual’s cryptocurrency transactions for tax purposes—
18 particularly, the receipt of income or investment gains—more difficult than examinations
19 involving traditional transactions conducted through regular banking or financial
20 institutions.
21

22
23 26. In order to buy cryptocurrency (coins or tokens), a user must transfer
24 traditional (fiat) currency to someone who already has cryptocurrency and wishes to
25 exchange it for traditional currency. This exchange can occur directly with anyone
26 holding cryptocurrency, but also can be handled through businesses known as digital
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1 currency exchanges. Such businesses trade between cryptocurrencies and traditional
2 currencies or sometimes just between different cryptocurrencies (coins and/or tokens).
3

4 27. A digital currency exchange functions much like a traditional currency
5 exchange, except it deals with the conversion of cryptocurrency for traditional currency
6 or vice versa, as well as the exchange of one cryptocurrency for another cryptocurrency.
7
8 Digital currency exchanges may also provide wallet services. These hosted wallet
9 services allow a user to quickly authorize cryptocurrency transactions with another user
10 through a user account held at the exchange. Hosted wallet accounts are accessible
11 through a computer or mobile device like a smartphone. *See generally* Edward V.
12 Murphy, et al., Cong. Research Serv., R43339, *Bitcoin: Questions, Answers, and Analysis*
13 *of Legal Issues* (Dec. 2015). <https://crsreports.congress.gov/product/pdf/R/R43339>
14 [\[https://perma.cc/V5QH-VFWW\]](https://perma.cc/V5QH-VFWW).
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17 28. Another way to trade cryptocurrencies is through the use of over-the-counter
18 (“OTC”) brokers. An OTC broker handles the trading and management of the user’s
19 cryptocurrency assets for a fee. *See* Kevin Kelly, *Bitcoin OTC Brokers: What Are They,*
20 *How Do They Work, and Should You Use Them, Bitcoin Market Journal* (Aug. 20, 2020),
21 <https://www.bitcoinmarketjournal.com/bitcoin-otc-brokers/> [\[https://perma.cc/83MP-](https://perma.cc/83MP-NQME)
22 [NQME\]](https://perma.cc/83MP-NQME).
23
24

25 29. To avoid the operational hassle and risk of keeping accounts at multiple
26 digital currency exchanges and OTC brokers, users may opt to buy and sell
27 cryptocurrency through a cryptocurrency prime dealer (such as SFOX discussed below).
28

1 Such businesses will integrate with multiple digital currency exchanges and OTC brokers
2 and act as the single counterparty for the user. In other words, the user sells to and buys
3 from the cryptocurrency prime dealer directly. The cryptocurrency prime dealer
4 functions in a similar way to prime brokers in traditional markets. *See* SFOX, *What’s a*
5 *Cryptocurrency Prime Brokerage*, (Feb. 7, 2020), [https://www.sfox.com/blog/whats-a-](https://www.sfox.com/blog/whats-a-cryptocurrency-prime-brokerage/)
6 [cryptocurrency-prime-brokerage/](https://www.sfox.com/blog/whats-a-cryptocurrency-prime-brokerage/) [<https://perma.cc/R222-7FG6>].
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9 30. Cryptocurrency prime dealers are generally regulated as “money
10 transmitters” (a type of money services business) under Title 31 of the United States
11 Code. *See generally* Financial Crimes Enforcement Network (“FinCEN”), Guidance No.
12 FIN-2013-G001, Application of FinCEN's Regulations to Persons Administering,
13 Exchanging, or Using Virtual Currencies (Mar. 18, 2013),
14 <https://www.fincen.gov/sites/default/files/shared/FIN-2013-G001.pdf>
15 [<https://perma.cc/E9C8-YH3C>]; FinCEN Guidance No. FIN-2019-G001, Application of
16 FinCEN’s Regulations to Certain Business Models Involving Convertible Virtual
17 Currencies (May 9, 2019), [https://www.fincen.gov/sites/default/files/2019-](https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf)
18 [05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf](https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf) [[https://perma.cc/6BVK-](https://perma.cc/6BVK-AJVP)
19 [AJVP](https://perma.cc/6BVK-AJVP)].
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24 31. As a money transmitter, cryptocurrency prime dealers are required to obtain
25 and maintain certain customer identification information and transactional data for the
26 purpose of combating illicit activity such as money laundering, tax evasion, and terrorism
27 financing. *See* 31 U.S.C. § 5311; 31 C.F.R. §§ 1010.100(ff)(5), 1022.210; FinCEN
28

1 Advisory No. FIN-2019-A003, Advisory on Illicit Activity Involving Convertible Virtual
2 Currency (May 9, 2019), [https://www.fincen.gov/sites/default/files/advisory/2019-05-](https://www.fincen.gov/sites/default/files/advisory/2019-05-10/FinCEN%20Advisory%20CVC%20FINAL%20508.pdf)
3 [10/FinCEN%20Advisory%20CVC%20FINAL%20508.pdf](https://www.fincen.gov/sites/default/files/advisory/2019-05-10/FinCEN%20Advisory%20CVC%20FINAL%20508.pdf) [[https://perma.cc/3MCL-](https://perma.cc/3MCL-5YQ9)
4 [5YQ9](https://perma.cc/3MCL-5YQ9)].
5

6 32. With respect to virtual currencies, cryptocurrency prime dealers (such as
7 SFOX), can provide valuable information about individual customers' cryptocurrency
8 transactions that could be used in conjunction with other publicly available blockchain
9 information to adequately examine whether the customers have complied with internal
10 revenue laws.
11

12
13 33. As detailed below, the IRS is seeking to issue a John Doe summons to
14 SFOX in order to obtain customer and transactional information belonging to members of
15 the John Doe class that can be used to conduct examinations of persons who may not
16 have complied with the internal revenue laws.
17

18 **C. Taxation of Virtual Currency**

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20 34. Virtual currency, including cryptocurrency, is treated as property for tax
21 purposes. *See generally* IRS Notice 2014-21. The following examples provide an
22 overview of how tax principles applicable to transactions in property apply to
23 transactions in virtual currency:
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- 25 • Wages, salary, or other income paid to an employee with virtual currency
26 is reportable by the employee as ordinary income and subject to
27 employment taxes paid by the employer.
28

- 1 • Virtual currency received by a self-employed individual in exchange for
2 goods or services is reportable as ordinary income and is subject to self-
3 employment tax. This would include a person who “mines” virtual
4 currency as a trade or business.
- 5 • Virtual currency received in exchange for goods or services by a business
6 is reportable as ordinary income.
- 7 • Gain or loss on the exchange of virtual currency for other property is
8 generally reportable as a capital gain if the virtual currency was held as a
9 capital asset and as ordinary income or loss if it is property held for sale
10 to customers in a trade or business.⁴
- 11 • Gain on the sale of property held as a capital asset in exchange for virtual
12 currency is reportable as a capital gain.
- 13 • Payments made in virtual currency are subject to information reporting
14 requirements to the same extent as payments made in fiat currency or
15 instruments denominated in fiat currency.

14 *Id.*

15 35. Users of cryptocurrency prime dealers, such as SFOX, may engage in
16 taxable transactions through the receipt of cryptocurrency into their accounts as payment
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19 ⁴ Upon the sale or exchange of virtual currency, a taxpayer must recognize any
20 capital gain or loss on the sale, subject to any limitations on the deductibility of capital
21 losses. *See IRS Frequently Asked Questions on Virtual Currency Transactions*, Q 4,
22 [https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-](https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-virtual-currency-transactions)
23 [virtual-currency-transactions](https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-virtual-currency-transactions) [<https://perma.cc/3N6B-TYSN>]. Capital gains or losses
24 from the disposition of virtual currency must be reported in accordance with IRS forms
25 and instructions, including on Schedule D, Capital Gains and Losses, and Form 8949,
26 Sales and Other Dispositions of Capital Assets. *See IRS Frequently Asked Questions on*
27 *Virtual Currency Transactions*, Q 43, [https://www.irs.gov/individuals/international-](https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-virtual-currency-transactions)
28 [taxpayers/frequently-asked-questions-on-virtual-currency-transactions](https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-virtual-currency-transactions)
[\[https://perma.cc/BBZ5-LTB6\]](https://perma.cc/BBZ5-LTB6); *see also* 26 U.S.C. §§ 1(h); 1211(b); 1222(6)-(7), (10)-
(11). Schedule D and Form 8949 each require taxpayers to report capital gains and
losses. *See generally* Form 8949; Instructions for Form 8949; Schedule D, Instructions
for Schedule D.

1 for goods or services, or through the buying and selling of cryptocurrency through their
2 accounts.

3
4 36. As discussed above, in 2014 the IRS notified taxpayers that virtual currency
5 is treated as property for tax purposes. *See generally* IRS Notice 2014-21. Beginning in
6 the 2019 tax year, the IRS updated its Form 1040, U.S. Individual Income Tax Return, to
7 incorporate a question about virtual currency. On the updated Schedule 1 (Additional
8 Income and Adjustments to Income) the IRS asked, “At any time during 2019, did you
9 receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual
10 currency?” For tax year 2020, the question was moved from Schedule 1 to the first page
11 of Form 1040 itself. This question was added to the Form 1040 to ensure that taxpayers
12 were aware that transacting in virtual currency may have tax implications that should be
13 reported on their tax returns.
14
15
16

17 **D. The IRS’s Experience with Tax Noncompliance**

18
19 37. As noted above, both GAO and TIGTA have raised concerns about tax
20 compliance issues relating to virtual currency. And, as discussed above, the IRS has
21 initiated specific programs and campaigns to address compliance issues through both
22 taxpayer education and enforcement.
23

24 38. A taxpayer’s gain or loss upon the disposition of virtual currency will
25 generally be the difference between adjusted basis in the virtual currency and the amount
26 received in exchange for the virtual currency, which should be reported on the tax return.
27

28 *See* 26 U.S.C. § 1001; IRS *Frequently Asked Questions on Virtual Currency*

1 *Transactions, supra*, Q7. Basis, for virtual currency purposes, is generally determined by
2 the cost or amount spent to acquire cryptocurrency, adjusted for fees, commissions, and
3 other acquisitions costs. *See* 26 U.S.C. § 1012; IRS *Frequently Asked Questions on*
4 *Virtual Currency Transactions, supra*, Q8. When reporting gains and losses from the
5 sale of cryptocurrency, a taxpayer may use different methods for calculating that gain or
6 loss. A taxpayer may use the specific identification method (which pairs the sale of a
7 specific unit of cryptocurrency against a specific acquisition) or the so-called “first-in-
8 first-out” accounting method (which simply pairs the sale of a unit of cryptocurrency
9 against the oldest-acquired unit chronologically).
10
11
12

13 39. Although these approaches provide taxpayers with flexibility in how they
14 calculate gains or losses on the sale of cryptocurrency units, they do not allow the IRS to
15 make a “taxable gain” determination by simply reviewing an account holder’s transaction
16 information in isolation. Instead, the IRS must first positively identify an account holder
17 and then determine whether that individual filed a tax return for the relevant tax year,
18 whether that return reported cryptocurrency transactions, and, if so, whether what was
19 reported, or the approach taken in reporting the information, complies with the internal
20 revenue laws.
21
22
23

24 40. The IRS has conducted multiple examinations involving taxpayers with
25 transactions occurring at multiple separate cryptocurrency exchanges. Taxpayers are not
26 required to report on their tax returns the names of the exchanges on which taxable
27 transactions occurred.
28

1 41. One key to determining whether there has been tax compliance is
2 establishing, without question, the identity of the account holder within the IRS's own
3 computer systems. This means linking a particular account holder to a particular name
4 and taxpayer identification number within the IRS's internal databases. This is because
5 the IRS cannot begin an examination of a taxpayer without first positively identifying
6 that taxpayer. To do so, the IRS employs several methods, including matching
7 identifying information from external sources with IRS internal sources and databases.
8

9
10 42. Basic information such as name, address, date of birth, and taxpayer ID
11 number goes a long way to establish the identity of a taxpayer but, in my experience as a
12 Senior Revenue Agent (particularly working in the offshore and electronic payments
13 systems area), that information is not always enough. It is not uncommon for taxpayers
14 to use aliases, false addresses or post office boxes, fictitious entity names, or other means
15 to disguise their true identities. That makes basic information such as name, address,
16 date of birth, and taxpayer ID number insufficient. Also, that basic information is not
17 always available because certain pieces are sometimes missing (such as date of birth
18 where an entity name is used), incomplete, or have been falsified.
19

20
21 43. Moreover, some taxpayers deliberately use cryptocurrencies to evade taxes.
22 Certain taxpayers have openly acknowledged their plans to violate internal revenue laws
23 by intentionally not reporting income from the use of cryptocurrency. *See* Sean
24 Williams, *36% of Bitcoin Investors Plan to Commit Tax Fraud This Year*, The Motley
25 Fool (Jan. 7, 2018), <https://www.fool.com/taxes/2018/01/07/36-of-bitcoin-investors-plan->
26
27
28

1 [to-commit-tax-fraud-t.aspx](#) [<https://perma.cc/4K92-R3XJ>] (referencing a cryptocurrency
2 user poll conducted by LendEDU); Jeff Gitlen, *Investing in Bitcoin: Survey & Report*
3 (Jan. 15, 2021), <https://www.lendedu.com/blog/investing-in-bitcoin>
4 [<https://perma.cc/4QWZ-AUNM>] (detailing user poll results).
5

6 44. Since transactions can be difficult to trace and many cryptocurrencies
7 inherently have a pseudo-anonymous aspect, taxpayers may use them to hide taxable
8 income. This is illustrated by the actions of the taxpayers described in paragraphs 93 to
9 102, below. Each of the taxpayers described in this section held cryptocurrency and
10 conducted transactions through SFOX, that were not reported on their federal income tax
11 returns.
12
13

14 45. In the IRS's experience, tax noncompliance is more likely to occur when
15 there is no third-party information reporting. That is, taxpayers are less likely to report
16 and pay taxes on income that is not independently reported to the IRS by a third party
17 such as an employer or financial institution. IRS "tax gap" studies consistently show that
18 tax compliance is far higher when reported income amounts are subject to information
19 reporting by third parties. The most recent such study, published on September 26, 2019,
20 based on 2011-2013 data, concluded that the overall rate of underreporting of income that
21 was not subject to third-party information reporting was 55 percent, compared to 5
22 percent for amounts subject to substantial information reporting but no withholding, and
23 1 percent for amounts subject to substantial information reporting and withholding. *See*
24 Barry W. Johnson & Peter J. Rose, IRS Publication No. 1415, *Federal Tax Compliance*
25
26
27
28

1 *Research: Tax Gap Estimates for Tax Years 2011-2013*, (Sept. 2019),

2 <http://www.irs.gov/pub/irs-pdf/p1415.pdf> [<https://perma.cc/2XM5-PDNH>]. Where there
3
4 is no third-party information reporting of cryptocurrency transactions for tax purposes, as
5 is the case with SFOX and other cryptocurrency prime brokers, the likelihood of
6 underreporting is significant.

7
8 46. During the IRS's summons enforcement litigation against Coinbase, the IRS
9 determined that for 2013-2015, only 800 to 900 taxpayers per year filed tax returns with a
10 property description related to Bitcoin or virtual currency despite the fact that Coinbase
11 alone had serviced more than 5.9 million customers and handled more than \$6 billion in
12 transactions during that time. *See United States v. Coinbase, Inc.*, 120 A.F.T.R.2d 2017-
13 6671, 2017 WL 5890052, at *4 (N.D. Cal. Nov. 28, 2017).

14
15
16 47. The IRS has recently determined that since *Coinbase* the number of
17 taxpayers who file tax returns with a property description related to Bitcoin or virtual
18 currency has increased somewhat. Using the same parameters as its earlier study, the IRS
19 found that the number of taxpayers who filed a return reporting Bitcoin or virtual
20 currency increased over time: 4,202 taxpayers in 2016, 87,939 in 2017, 94,580 in 2018,
21 and 102,796 in 2019. While these numbers reflect an increase in reporting, they still fall
22 far short of what would be expected given the number of annual users, transactions, and
23 value that the virtual currency exchanges publicize.

24
25
26 48. Since Coinbase complied with the John Doe summons, the IRS has
27 continued to reach out to taxpayers regarding their reporting requirements, conduct
28

1 examinations, and make referrals to its Criminal Investigation Division. These
2 compliance efforts are ongoing and remain a priority. The IRS has also received
3 submissions through its voluntary disclosure practice reporting additional taxes or
4 changes in tax attributes relating to failures to report income from virtual currency
5 transactions.
6

7
8 49. Since sending more than 10,000 Virtual Currency Compliance campaign
9 letters to taxpayers in July and August 2019, the IRS has received amended returns
10 reporting virtual currency transactions for tax years 2013 through 2019. As a result of the
11 letters, the IRS has made more than \$17.6 million in assessments to date. These
12 assessments are the result of taxpayers filing amended returns that contain previously
13 unreported virtual currency transactions. Separately, the IRS has contacted taxpayers
14 who have not filed returns reporting virtual currency by sending them notices related to
15 virtual currency. Those notices have resulted in more than \$92 million in assessments.
16
17 The IRS anticipates that such assessments will increase as it continues to pursue civil and
18 criminal investigations.
19
20

21 50. More recently based on internal and external data available to the IRS,
22 letters were sent to taxpayers who conducted transactions with foreign virtual currency
23 exchanges and may have failed to properly report such transactions and their associated
24 income.
25
26
27
28

1 51. But despite these successes, the IRS has also run into several problems when
2 trying to positively identify Coinbase account holders after Coinbase provided
3 information in response to the IRS’s John Doe summons.
4

5 52. The information provided by Coinbase lacked taxpayer ID numbers for
6 approximately 10% of the users (over 1,300 taxpayers). There were also over 150
7 instances in which the account data did not include a name and approximately 170
8 instances where the listed name was a pseudonym. Further, there were over 500
9 instances where no date of birth was provided and roughly 1,000 instances where no
10 physical address was provided.
11
12

13 53. The IRS has worked with Coinbase to attempt to obtain the missing
14 information. Coinbase was able to provide some of the missing names, missing
15 addresses, and missing dates of birth, but none of the missing taxpayer ID numbers.
16

17 54. During discussions with Coinbase, it explained that some of the account
18 information may be missing because it had not necessarily been collected for some of the
19 oldest accounts. In these situations, basic identity information such as name, taxpayer ID
20 number, date of birth, and physical address was insufficient to positively identify the
21 actual taxpayer account holder.
22
23

24 55. The failure in these instances was almost entirely because the account
25 information provided by Coinbase lacked taxpayer ID numbers. Where there was no
26 taxpayer ID number and other information was also missing, it was nearly impossible for
27 the IRS to positively identify the relevant taxpayer.
28

1 56. Since Coinbase completed its production of information to the IRS in
2 August 2018, the IRS has spent a significant amount of time and resources to identify
3 approximately 535 additional taxpayers from this data, but more than 750 individual
4 Coinbase account holders are still unknown to the IRS. The IRS continues to work on
5 identifying additional account holders.
6

7
8 57. The transaction information with respect to the more than 750 still
9 unidentified taxpayers reveals that those taxpayers realized more than \$100 million in
10 gross proceeds from the sale of cryptocurrency during the years covered by the Coinbase
11 John Doe summons which the IRS has been unable to link to any identifiable taxpayers.
12

13 58. The court's partial enforcement of the summons in *Coinbase*, which required
14 Coinbase to provide only basic information such as users' names, dates of birth, taxpayer
15 ID numbers, and physical addresses, prevented the IRS from asking Coinbase what
16 additional identifying information its records contained that could help the IRS positively
17 identify the unidentifiable users, such as telephone numbers or email addresses. Given
18 the relevant statute of limitations, the IRS has been evaluating what options it has to
19 pursue these taxpayers.
20

21
22 59. As detailed below in paragraphs 93-102, in my experience as a Senior
23 Revenue Agent and supported by further information available to the IRS, the IRS has a
24 reasonable basis for believing there are U.S. taxpayers with accounts at SFOX who are
25 not in compliance with internal revenue laws because they are not correctly reporting
26
27
28

1 certain items or are simply failing to report any income or tax relating to cryptocurrency
2 transactions.

3 4 **II. SFOX**

5 **A. Organization and Structure**

6 60. Ox Labs Inc. (“Ox Labs”) is a California corporation incorporated in May
7 2014. Its headquarters are at 8939 S. Sepulveda Boulevard, Suite 102, Los Angeles,
8 California, 90045. *See Ox Labs Inc.*, SEC Edgar Filing Tracker,
9 <https://sec.report/CIK/0001750042> [<https://perma.cc/LMG4-MG8H>].
10

11 61. Ox Labs is the parent company for a subsidiary, SFOX Inc., d/b/a “SFOX,”
12 a Texas corporation with its headquarters at 8939 S. Sepulveda Boulevard, Suite 102, Los
13 Angeles, California 90045. *See SFOX Inc.*, Bloomberg, [https://www.bloomberg.com/](https://www.bloomberg.com/profile/company/1645614D:US)
14 [profile/company/1645614D:US](https://www.bloomberg.com/profile/company/1645614D:US) [<https://perma.cc/Q9F2-EDLM>].
15
16

17 62. SFOX was founded in 2015 by Akbar Thobhani and George Melika, who
18 are currently the company’s developers. *See About SFOX*, SFOX,
19 <https://www.sfox.com/about/> [<https://perma.cc/8VFG-XL2K>].
20

21 63. SFOX is a cryptocurrency prime dealer and trading platform that connects
22 exchanges, OTC brokers, and liquidity providers globally. *See id.* In its blog called
23 *SFOX Edge*, SFOX states that it offers users access to “liquidity for digital assets through
24 a[n] institutional-grade blockchain trading platform [that includes] cross market
25 execution, advanced algorithmic order types, global market data analysis, and blockchain
26 infrastructure support.” SFOX, *Move Over, Mutual Funds: SFOX’s Separately Managed*
27
28

1 *Accounts Solution Enables Personalized Crypto Portfolio Management*, (Jan. 16, 2020),
2 [https://www.sfox.com/blog/move-over-mutual-funds-sfoxs-separately-managed-](https://www.sfox.com/blog/move-over-mutual-funds-sfoxs-separately-managed-accounts-solution-enables-personalized-crypto-portfolio-management/)
3 [accounts-solution-enables-personalized-crypto-portfolio-management/](https://www.sfox.com/blog/move-over-mutual-funds-sfoxs-separately-managed-accounts-solution-enables-personalized-crypto-portfolio-management/)
4 [\[https://perma.cc/5WBE-D64Z\]](https://perma.cc/5WBE-D64Z).

6 64. According to its Terms of Service agreement, SFOX provides its users
7
8 (customers) with the following services:

9 Through your SFOX account (“SFOX Account”) and the SFOX Site you are
10 able to buy and sell cryptocurrency and have access to trading algorithms, in
11 addition to certain other services that may be provided by SFOX from time to
12 time, including, among other things, account management tools, general news
13 and information, trading alerts, market data including price and analytics, and
14 educational information (collectively, the “Services”). When using the
15 Services to buy or sell cryptocurrency through your SFOX Account, you are
16 directly buying from, and directly selling to, SFOX. SFOX does not offer
17 exchange or clearance services. SFOX and its affiliates may transact through
18 their own accounts through the Services, for purposes including, but not
19 limited to, treasury management and to effect purchases and sales of
20 cryptocurrency by SFOX and its affiliates.

18 SFOX, *Terms of Service* § 1.1 (last updated Nov. 13, 2021), (“SFOX Terms of Service”)
19 <https://www.sfox.com/terms/> [\[https://perma.cc/R94Y-TK3S\]](https://perma.cc/R94Y-TK3S).

21 65. The Terms of Service agreement includes “SFOX, Pte. Ltd.,” a Singapore
22 entity for Singapore residents and “SFOX BVI” for users that do not reside in the United
23 States or Singapore. *See id.* SFOX, Pte. Ltd. was incorporated in Singapore on January
24 20, 2020. *SFOX PTE. LTD.*, SGP Business,
25 <https://www.sgpbusiness.com/company/Sfox-Pte-Ltd> [\[https://perma.cc/88AG-2MS9\]](https://perma.cc/88AG-2MS9). It
26
27 is unclear when or if SFOX BVI was incorporated, but the Terms of Service agreement
28

1 details that customers of SFOX BVI are governed by the laws of the British Virgin
2 Islands. *See* SFOX Terms of Service § 5.8.

3
4 66. SFOX operates an advanced trading platform for trading professionals,
5 investors, and institutions to exchange cryptocurrency. SFOX users can open accounts to
6 buy and sell cryptocurrencies, review industry analytics and reports, monitor market
7 prices and conditions, and more. *See* Complaint for Conversion and Unjust Enrichment,
8 *Ox Labs Inc. v. Bitpay, Inc.*, No. 2:18-cv-05934-MWF-KS, ECF No. 1 (C.D. Cal. filed
9 July 6, 2018). SFOX operates through the website www.sfox.com.

10
11
12 67. SFOX offers four trading platforms. SFOX Pro is a platform for trading
13 professionals and institutions to buy, sell, manage, and secure cryptocurrency globally
14 with SFOX's advertised low fees, algorithmic trades, and advanced risk management.
15 *See* SFOX, *SFOX Pro*, <https://www.sfox.com/pro/> [<https://perma.cc/VW58-HHAR>].
16 SFOX Flash is a commission-free cryptocurrency trading platform that SFOX advertises
17 as offering powerful trading using advanced technology to get the best price, instant
18 trades, price and fee disclosures, and the ability to send, receive, deposit, and withdraw
19 cryptocurrency and fiat currency. *See* SFOX, *SFOX Flash*, <https://www.sfox.com/flash/>
20 [<https://perma.cc/6WC9-6BW7>]. SFOX Separately Managed Account Solution ("SFOX
21 SMA") is a platform that provides customized investment portfolio management to
22 wealth managers and investors to manage and trade on behalf of clients. *See* SFOX,
23 *SFOX SMA*, <https://www.sfox.com/sma/> [<https://perma.cc/XEQ4-G44K>]. SFOX Dark
24 Pool is a platform to trade large orders privately at competitive values in real-time. *See*
25
26
27
28

1 SFOX, *SFOX Dark Pool*, <https://www.sfox.com/darkpool/> [[https://perma.cc/33CU-](https://perma.cc/33CU-WGKK)
2 [WGKK](https://perma.cc/33CU-WGKK)].

3
4 68. SFOX has over 175,000 registered users who have undertaken more than
5 \$12 billion in transactions since 2015. *See* SFOX, *SFOX Pro*,
6 <https://www.sfox.com/about/>, <https://www.sfox.com/pro/>. A Forbes article dated August
7
8 16, 2018 states,

9 Sfox aims to provide a single point of access for institutional investors, like
10 crypto hedge funds and family offices, that move large amounts of money. Its
11 platform plugs into digital currency exchanges and OTC desks . . . and tries
12 to get the lowest price for buyers (and the highest price for sellers). It does
13 that by using a ‘smart router’ that scans the different trading venues for prices
14 and tries to lock in the best deals To make money, Sfox charges
15 transaction fees, which range from 0.25% to 0.75%, depending on the type of
16 order. Over the past 12 months, it processed \$5.4 billion in trades and brought
17 in an estimated \$15 million in revenue.

18 *See* Jeff Kauflin, *Startup Raises \$23 Million to Make Crypto Trades Faster and*
19 *Stealthier*, Forbes (Aug. 16, 2018),

20 [https://www.forbes.com/sites/jeffkauflin/2018/08/16/startup-raises-23-million-to-](https://www.forbes.com/sites/jeffkauflin/2018/08/16/startup-raises-23-million-to-make-crypto-trades-faster-and-stealthier/)
21 [make-crypto-trades-faster-and-stealthier/](https://www.forbes.com/sites/jeffkauflin/2018/08/16/startup-raises-23-million-to-make-crypto-trades-faster-and-stealthier/) [<https://perma.cc/UNZ9-J8YB>].

22 69. Although SFOX is headquartered in the United States, it operates globally,
23 and its Terms of Service state that it “may restrict or prohibit use of all or a portion of
24 [its] Services from certain countries, states, territories, or jurisdictions,” including any
25 country to which the United States has embargoed goods or services. *See* SFOX Terms
26 of Service § 1.2.
27
28

1 70. SFOX users (who can be individuals or entities) enter into a legal agreement
2 with SFOX. SFOX's Terms of Service state:

3
4 By signing up to use an account through sfox.com or any associated websites,
5 APIs,⁵ or mobile applications (the "SFOX Site") or by using the SFOX Site,
6 you agree that you have read, understood, and accept all of the terms and
7 conditions contained in this Agreement. If you do not agree to any part of the
8 Agreement, you may not use the SFOX Site or the Services (as defined
9 below).

10 71. SFOX registered with FinCEN on January 31, 2018, as a money services
11 business ("MSB") as required by 31 C.F.R. § 1022.380. *See Exhibit 1.* As an MSB,
12 SFOX is required by the Bank Secrecy Act to conduct basic customer risk assessments to
13 determine the level of risk associated with the account and whether further due diligence
14 is necessary. *See* 31 U.S.C. § 5311; 31 C.F.R §§ 1010.100(ff)(5), 1022.210; FinCEN
15 Advisory No. FIN-2019-A003.

16 72. Each MSB is required to retain the records described below with respect to
17 any transmittal of funds in the amount of \$3,000 or more. *See* 31 C.F.R §§
18 1010.100(ff)(5), 1010.410(e), 1022.210. Such records are required to be retained by the
19 MSB for 5 years. *Id.* §1010.430(d).

20
21
22 73. If the sender of the funds is an established customer of the MSB, the MSB
23 must retain the following information:

- 24
- 25 • Name and address of the transmitter;
- 26

27 ⁵ An application programming interface ("API") connects computers or computer
28 programs to one another. *See* Wikipedia, *API*, <https://en.wikipedia.org/wiki/API>
[\[https://perma.cc/39KR-6GDD\]](https://perma.cc/39KR-6GDD).

- 1 • Amount of the transmittal order;
- 2 • Execution date of the transmittal order;
- 3 • Any payment instructions received from the transmitter;
- 4 • The identity of the recipient's financial institution;
- 5 • As many of the following items as are received with the transmittal
- 6 order:
 - 7 (i) name and address of the recipient, (ii) the account number of
 - 8 the recipient, and (iii) any other specific identifier of the recipient;
 - 9 and
- 10 • Any form relating to the transmittal of funds that is completed or
- 11 signed by the person placing the transmittal order.

12 *Id.* § 1010.410(e)(1)(i).

13 74. If the sender of the funds is not an established customer of the MSB, the
14 MSB must retain all the information specified in the preceding paragraph, plus:

- 16 • The type and number of the identification documents reviewed to
- 17 verify the transmitter's identity, such as a driver's license, social
- 18 security number or other tax identification number, or a passport or
- 19 alien identification number; and
- 20 • A copy or record of the transmitter's method of payment.

21 *Id.* § 1010.410(e)(2).

22 75. If the recipient of the funds is an established customer of the MSB, the MSB
23 must retain an original, microfilm, other copy, or electronic record of the transmittal
24 order. *Id.* § 1010.410(e)(1)(iii).

25 76. If the recipient of the funds is not an established customer of the MSB, the
26 MSB must retain the following information, in addition to the information described in
27 paragraphs 74 and 75 above:
28

- 1 • An original, microfilm, other copy, or electronic record of the
2 transmittal order;
- 3 • If the MSB knows that the person receiving the proceeds is not the
4 ultimate recipient, the ultimate recipient’s name, address, and
5 taxpayer identification number, alien identification number, or
6 passport number (along with the country of issuance); and
- 7 • If the proceeds are delivered other than in person, a copy of the check
8 or other instrument used to pay the transmittal, or the information
9 contained on the check or other instrument, as well as the name and
10 address of the person to whom it was sent.

11 *Id.* § 1010.410(e)(3).

12 77. In addition, each MSB must develop, implement, and maintain an effective
13 anti-money laundering program. *Id.* § 1022.210(a). At a minimum, the program must
14 include provisions for verifying customer identification, filing reports, creating and
15 retaining records, and responding to law enforcement requests. *Id.* § 1022.210(d)(1)(i).

16 **B. Business Operations**

17 78. SFOX has described itself as a prime dealer with cryptocurrency services
18 that gives its users a “better way to trade digital currencies [so that the users can get] the
19 best price and deepest liquidity with a single point of access to global cryptocurrency
20 markets.” SFOX, <http://web.archive.org/web/20200412053528/https://www.sfox.com/>
21 [\[https://perma.cc/4GTT-GCLP\]](https://perma.cc/4GTT-GCLP).

22 79. SFOX users include retail customers, high net-worth individuals, family
23 offices, funds, and sophisticated traders. *See Untold Stories with Charlie Shrem, SFOX*
24 *Exec Danny Kim Describes Bitcoin OTC, Custody, and How Institutions Will Enter*
25 *Crypto*, at 29:45, YouTube (Oct. 22, 2019),
26
27
28

1 <https://www.youtube.com/watch?v=VKEyCWR->
2 [r4E&list=PLvER9nHSRN3xyQdrUAXKIGz_hxeLI-kzy&index=28&t=0s](https://www.youtube.com/watch?v=VKEyCWR-r4E&list=PLvER9nHSRN3xyQdrUAXKIGz_hxeLI-kzy&index=28&t=0s) (“Untold
3 Stories”) [<https://perma.cc/589P-6MYW>].
4

5 80. As of August 4, 2021, cryptocurrencies traded on SFOX include Bitcoin
6 (“BTC”), ETH, LTC, Bitcoin Cash (“BCH”), Ethereum Classic (“ETC”), Bitcoin SV
7 (“BSV”), Ravencoin (“RVN”), Basic Attention Token (“BAT”), Chainlink (“LINK”),
8 Paxos Standard (“PAX”), Binance USD (“BUSD”), PAX Gold (“PAXG”), Compound
9 (“COMP”), Dai (“DAI”), USD Coin (“USDC”), Dogecoin (“DOGE”), Tether (“USDT”),
10 and Ox (“ZRX”). *See Available Cryptocurrency Markets on SFOX*, SFOX,
11 <https://www.sfox.com/cryptocurrency-markets/> [<https://perma.cc/8NS8-59MW>].
12
13

14 81. Among the cryptocurrency exchanges accessible on SFOX are Gemini,
15 Bitstamp, itBit Trust Company LLC, Kraken, and Bitfinex. *See SFOX*,
16 <http://web.archive.org/web/20200412053528/https://www.sfox.com/>
17 [<https://perma.cc/4GTT-GCLP>] (containing graphic showing SFOX’s connection to these
18 exchanges).
19
20

21 82. SFOX performs the processes described in paragraphs 72 to 77 above as the
22 direct counterparty to the SFOX user. *See Untold Stories* at 12:41.
23

24 <https://www.youtube.com/watch?v=VKEyCWR->
25 [r4E&list=PLvER9nHSRN3xyQdrUAXKIGz_hxeLI-kzy&index=28&t=0s](https://www.youtube.com/watch?v=VKEyCWR-r4E&list=PLvER9nHSRN3xyQdrUAXKIGz_hxeLI-kzy&index=28&t=0s)
26 [<https://perma.cc/589P-6MYW>].
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1 83. To use SFOX, a user creates an account by accessing SFOX’s website at
2 www.sfox.com and clicking the “Try SFOX” button in the upper-right corner. From
3 there, the user is asked to provide a name, an email address, a phone number, a date of
4 birth (if an individual), to create a password, and to agree to SFOX’s Terms of Service.
5 *See* SFOX, *Sign Up*, <https://trade.sfox.com/signup> [<https://perma.cc/4NZ5-XYVS>]. For a
6 business account, a user must provide all the same information required for a personal
7 account, excluding the date of birth, as well as the business name. *See Sign Up –*
8 *Business*, SFOX, <https://trade.sfox.com/signup?type=business> [<https://perma.cc/LNK4->
9 [LXBD](https://perma.cc/LNK4-LXBD)].
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13 84. To be eligible to register for a SFOX account and use SFOX services, a user
14 must be at least 18 years old and meet the requirements listed in section 1.2. (Eligibility)
15 of its Terms of Service. By accessing or using SFOX services, users consent to “the
16 processing and transfer of information in and to the applicable countries.” SFOX Terms
17 of Service § 2.2.
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20 85. In addition, Section 2.3. (Fraud Prevention and Identity Verification) of the
21 Terms of Service details that users “may be required to provide SFOX with certain
22 personal information, including, but not limited to, your name, address, telephone
23 number, e-mail address, date of birth, taxpayer identification number, government
24 identification number, and information regarding your bank account (e.g., financial
25 institution, account type, routing number, and account number).” The user agrees to
26 update SFOX if any of the information changes. The user also authorizes SFOX to make
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28

1 inquiries to verify the user’s identity and to query account information associated with
2 the user’s linked bank account. The user further authorizes their wireless operator to
3 disclose their “mobile number, name, address, email, network status, customer type,
4 customer role, billing type, mobile device identifiers (IMSI and IMEI) and other
5 subscriber details.” *Id.*
6

7
8 86. SFOX’s Privacy Policy states: “The types of information we may collect
9 include your name, email address, postal address, phone number, fax number, credit card
10 information, bank information, identity information, Social Security number, date of
11 birth, crypto currency address and any other information you choose to provide.” In
12 addition, when a user accesses or uses SFOX services, SFOX will automatically collect
13 “log information” (such as the type of browser the user employs, access times, pages
14 viewed, and the user’s internet protocol (“IP”) address), device information, transaction
15 information, location information, and information collected by cookies or other tracking
16 technologies. SFOX may also collect information from third parties, including identity
17 verification services, credit bureaus, mailing list providers, and publicly available
18 sources. *See* SFOX, *SFOX Privacy Policy*, <https://www.sfox.com/privacy/>
19
20
21
22 [\[https://perma.cc/76AS-EGPK\]](https://perma.cc/76AS-EGPK).
23

24 87. SFOX users may sell cryptocurrency by linking a valid payment method. A
25 user authorizes SFOX to debit its SFOX account(s) and initiate payment to the payment
26 method(s) in settlement of the user’s sell transactions with the applicable trading fee,
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1 which will vary depending on the algorithm selected to execute the transaction. *See*
2 SFOX Terms of Service § 3.2.

3
4 88. SFOX users may purchase cryptocurrency by linking a valid payment
5 method or depositing cryptocurrency. A user authorizes SFOX to initiate debits from its
6 selected payment method(s) or cryptocurrency balance in the settlement of the purchases
7 with the applicable trading fee, which will vary depending on the algorithm selected to
8 execute the transaction. Users may have their funds debited before the cryptocurrency is
9 delivered to the SFOX account. *See id* § 3.1. Users grant SFOX “a lien on and security
10 interest in and to the balances in [the user’s] account.” *Id.*

11
12
13 89. SFOX’s Terms of Service state that it “does not engage in or provide money
14 transmission or money transfer or payment services.” *Id.* § 1.9. All payments from
15 SFOX’s services are processed and disbursed by regulated financial institutions. *See id.*

16
17 90. In addition, Section 3.5 (Taxes) of the Terms of Service agreement states
18
19 It is your sole responsibility to determine whether, and to what extent, any
20 taxes apply to any transactions you conduct through the Services, and to
21 withhold, collect, report and remit the correct amounts of taxes to the
22 appropriate tax authorities. SFOX does not deduct any amount for taxes when
23 you enter into a transaction, and you are solely responsible for all tax returns
24 and payments required to be filed with or made to any federal, state, or local
25 tax authority in any nation with respect to any such transaction.

26
27 91. SFOX’s blog, consists of articles on various SFOX-related topics and other
28 general virtual currency information. *See SFOX Edge*, <https://www.sfox.com/blog/>
[\[https://perma.cc/A263-XA8T\]](https://perma.cc/A263-XA8T). In at least two blog posts, SFOX described its wallet
services. Specifically, the blog explains that “SFOX provides an institutional and

1 professional wallet for LTC, as well as other leading cryptocurrencies. SFOX’s wallet
2 features multi-user functionality, 2FA/U2F⁶ support, and unified reporting.” **Exhibit 2**
3 (emphasis omitted). The blog further asserts that “SFOX provides an institutional-grade
4 wallet for Bitcoin SV, along with other digital assets.” **Exhibit 3**. SFOX also advertises
5 wallet services on its website homepage and directs users to its SFOX Pro platform to
6 learn more about SFOX’s cryptocurrency wallet and custody technology. *See* SFOX,
7 <http://web.archive.org/web/20200412053528/https://www.sfox.com/>
8 [\[https://perma.cc/4GTT-GCLP\]](https://perma.cc/4GTT-GCLP).

12 C. Tax Compliance Concerns Related to SFOX Users

13 92. Information available to the IRS indicates that there were at least ten persons
14 that engaged in transactions involving SFOX and failed to comply with their tax
15 reporting obligations for such transactions. The transaction amounts ranged from
16 approximately \$5,000.00 to \$1 million.

18 93. Taxpayer 1 is a U.S. citizen. From 2016 through 2018, Taxpayer 1,
19 personally and through a wholly owned limited liability company (“LLC 1”), was
20 allegedly involved in the Bitconnect Ponzi scheme.⁷ As part of the alleged scheme, bank
21

23
24 ⁶ Universal 2nd Factor (“U2F”) is a security technology standard that aims to
25 strengthen and simplify two-factor authentication (“2FA”). *See* Wikipedia, *Universal 2nd*
26 *Factor*, https://en.wikipedia.org/wiki/Universal_2nd_Factor [<https://perma.cc/PRY6-7MQ3>].

27 ⁷ Bitconnect operated a cryptocurrency lending and exchange program. It grew to
28 hold a market capitalization of over \$2.5 billion, and it guaranteed investors up to a ten
percent total return per month, following a tiered-investment system based on the
investor’s initial deposit. *See* FBI, Press Release, *Seeking Potential Victims in Bitconnect*

1 accounts held in the name of Taxpayer 1 and LLC 1 were used to receive and transfer
2 funds. Taxpayer 1 and LLC 1 received approximately \$1 million from various third
3 party-merchants, digital currency exchanges, and SFOX. Taxpayer 1 reported income on
4 a 2016 tax return stemming primarily from IRS Form W-2 wages and reported income on
5 2017 and 2018 tax returns stemming primarily from Form W-2 wages and from LLC 1,
6 which was reported on Schedule C (Profit or Loss from Business). Although Taxpayer 1
7 reported approximate Schedule C gross receipts of \$0, \$650,000, and \$125,000 in 2016,
8 2017, and 2018, respectively, those reported amounts are significantly less than the
9 approximately \$1 million of known deposits during the same period. Furthermore,
10 Taxpayer 1 did not report any gain or loss from virtual currency transactions on a
11 Schedule C or any other schedule or form on the 2016, 2017, or 2018 tax returns. As
12 described in Section I.C., above, the sale or exchange of cryptocurrency and the receipt of
13 cryptocurrency as compensation are taxable events. Based on my experience as a Senior
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20 *Investigation*, (Feb. 20, 2019), [https://www.fbi.gov/contact-us/field-](https://www.fbi.gov/contact-us/field-offices/cleveland/news/press-releases/seeking-potential-victims-in-bitconnect-investigation)
21 [offices/cleveland/news/press-releases/seeking-potential-victims-in-bitconnect-](https://www.fbi.gov/contact-us/field-offices/cleveland/news/press-releases/seeking-potential-victims-in-bitconnect-investigation)
22 [investigation](https://www.fbi.gov/contact-us/field-offices/cleveland/news/press-releases/seeking-potential-victims-in-bitconnect-investigation) [<https://perma.cc/C2AC-ASKV>]. According to information available to the
23 IRS, Bitconnect enlisted multi-level affiliate marketers to recruit new investors, and
24 Taxpayer 1 was a prominent Bitconnect recruiter. After the States of North Carolina and
25 Texas issued public letters warning that Bitconnect was engaging in an unregistered sale
26 of securities, in January 2018, Bitconnect suddenly shut down its trading platform and
27 lending program, which led to a 90% drop in the value of Bitconnect's investors'
28 holdings. See Yogita Khatri, *FBI Seeking Potential Victims of BitConnect to Assist*
Investigation, Coindesk (Feb. 22, 2019), [https://www.coindesk.com/fbi-seeking-](https://www.coindesk.com/fbi-seeking-potential-victims-of-bitconnect-to-assist-investigation)
[potential-victims-of-bitconnect-to-assist-investigation](https://www.coindesk.com/fbi-seeking-potential-victims-of-bitconnect-to-assist-investigation) [<https://perma.cc/2PNX-U74W>];
[https://www.fbi.gov/contact-us/field-offices/cleveland/news/press-releases/seeking-](https://www.fbi.gov/contact-us/field-offices/cleveland/news/press-releases/seeking-potential-victims-in-bitconnect-investigation)
[potential-victims-in-bitconnect-investigation](https://www.fbi.gov/contact-us/field-offices/cleveland/news/press-releases/seeking-potential-victims-in-bitconnect-investigation) [<https://perma.cc/C2AC-ASKV>].

1 Revenue Agent, Taxpayer 1's receipt of U.S. dollars from digital currency exchanges and
2 SFOX is indicative of taxable transactions, likely reflecting the sale of cryptocurrency or
3 the receipt of cryptocurrency as compensation and should have been reported on a
4 Schedule C or some other schedule or form. Although Taxpayer 1 reported some income
5 on a Schedule C, there was no report of gain or loss from virtual currency transactions
6 and the gross receipts amounts reported do not appear to include the known deposits.
7
8

9 94. Taxpayer 2 is a U.S. citizen. Taxpayer 2 is a YouTube video creator and
10 online gambler who receives cryptocurrency deposits from YouTube subscribers and
11 gambling. In addition, Taxpayer 2 receives gambling returns in cryptocurrency that are
12 sold via third-party platforms. In 2018 and 2019, Taxpayer 2 made cryptocurrency
13 deposits of approximately \$120,000 into an SFOX account. The deposited
14 cryptocurrency was immediately exchanged into U.S. dollars and transferred from the
15 SFOX account to a bank account. Taxpayer 2 answered "Yes" to the 2019 Schedule 1
16 question, "At any time during 2019, did you receive, sell, send, exchange, or otherwise
17 acquire any financial interest in any virtual currency during the year?" As discussed in
18 Section I.C. above, receipt of cryptocurrency as compensation and the exchange of
19 cryptocurrency into U.S. dollars are taxable events. Despite this, Taxpayer 2 failed to
20 report any gain or loss from any cryptocurrency transactions, including the sales
21 conducted through SFOX, on a Schedule D (Capital Gains or Losses) or any other
22 schedule or form on the 2018 and 2019 tax returns. Taxpayer 2 should have reported the
23 specific cryptocurrency unit, date, basis, and proceeds from each disposition of
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1 cryptocurrency on a Schedule D or some other schedule or form. Although the value of
2 the cryptocurrency was approximately \$120,000 at the time it was deposited into the
3 SFOX account, that is not Taxpayer 2's basis in the property or purposes of determining
4 gain or loss. *See* paragraph 38, *supra*. Based on my experience as a Senior Revenue
5 Agent, the transactions in which Taxpayer 2 engaged with SFOX are indicative of taxable
6 income, however, Taxpayer 2 has not filed any tax returns reporting income from this
7 activity.
8
9

10 95. Taxpayer 3 is a U.S. citizen. In 2018, Taxpayer 3 deposited approximately
11 20 units of Bitcoin into several SFOX accounts. At the time of the deposits, the Bitcoin
12 was worth approximately \$120,000. On the same day the Bitcoin was deposited, it was
13 exchanged for U.S. dollars and transferred from SFOX to Taxpayer 3's personal bank
14 account. In total, Taxpayer 3 transferred approximately \$115,000 from SFOX to the
15 personal bank account. The income reported on Taxpayer 3's 2018 tax return stems from
16 Schedule C income, and the amount reported on the Schedule C is significantly less than
17 the exchanged Bitcoin at issue. In addition, Taxpayer 3 failed to report any gain or loss
18 from any cryptocurrency transactions, including the sales conducted with SFOX, on a
19 Schedule D or any other schedule or form on the 2018 tax returns. As discussed in
20 Section I.C. above, the exchange of cryptocurrency into U.S. dollars is a taxable event.
21 Taxpayer 3 should have reported the specific Bitcoin unit, date, basis, and proceeds from
22 each disposition on a Schedule D or some other schedule or form. Although, the value of
23 the Bitcoin was approximately \$120,000 at the time it was deposited into the SFOX
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1 account, like Taxpayer 2, the value on the date of the transfer is not the basis of the
2 cryptocurrency in the hands of Taxpayer 3 for purposes of determining gain or loss.

3
4 Based on my experience as a Senior Revenue Agent, the Bitcoin transactions in which
5 Taxpayer 3 engaged with SFOX are indicative of taxable income and it appears that
6 Taxpayer 3 has underreported income by failing to properly report those transactions.

7
8 96. Taxpayer 4 is a U.S. person. In 2018 and 2019, Taxpayer 4 deposited
9 approximately 15 total units of Bitcoin into an SFOX account. At the time of the
10 deposits, the Bitcoin was worth approximately \$60,000. On the same days the Bitcoin
11 were deposited with SFOX, Taxpayer 4 exchanged the Bitcoin into U.S. dollars and
12 transferred the proceeds into a personal bank account. In total, Taxpayer 4 transferred
13 approximately \$55,000 from SFOX to the bank account. Taxpayer 4 did not file a federal
14 tax return for 2018. Taxpayer 4 did file a 2019 tax return that reported only one dollar of
15 taxable interest income but did not report any gain or loss from any virtual currency
16 transactions on any schedule or form. As discussed in Section I.C. above, the exchange
17 of cryptocurrency into U.S. dollars is a taxable event. Taxpayer 4 should have reported
18 the specific Bitcoin unit, date, basis, and proceeds from each disposition on a Schedule D
19 or some other schedule or form. Like in the prior examples, Taxpayer 4's basis in the
20 cryptocurrency for purposes of determining gain or loss is not the approximate \$60,000
21 value at the time it was deposited into the SFOX account. Based on my experience as a
22 Senior Revenue Agent, the transactions in which Taxpayer 4 engaged with SFOX are
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1 indicative of taxable income, however, Taxpayer 4 has not filed any tax returns reporting
2 income from this activity.

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4 97. Taxpayer 5 is a U.S. citizen. Between October 2018 and March 2019,
5 Taxpayer 5 received Automated Clearing House (“ACH”) (*i.e.*, electronic) and cash
6 deposits of approximately \$55,000 into a personal bank account from various third
7 parties. Approximately \$7,000 of such deposits were received from SFOX. Taxpayer 5
8 subsequently withdrew approximately \$30,000 of the deposits in 47 separate cash
9 withdrawals. Taxpayer 5’s 2018 and 2019 tax returns reported income stemming
10 primarily from wages reported on Forms W-2. Taxpayer 5’s 2018 and 2019 tax returns
11 did not report any income from the transactions described above or any other virtual
12 currency on any schedule or form. As described in Section I.C. above, the receipt of
13 cryptocurrency as compensation or the sale or exchange of cryptocurrency are taxable
14 events. Taxpayer 5 should have reflected the receipt of these transfers as wages, other
15 income, or capital dispositions on the 2018 and 2019 tax returns. Based on my
16 experience as a Senior Revenue Agent, the transactions in which Taxpayer 5 engaged,
17 including the receipt of funds disbursed from SFOX, are indicative of taxable income.
18 Because these transfers of U.S. dollars cannot be accounted for on the 2018 and 2019 tax
19 returns, it appears that Taxpayer 5 has underreported income.

20
21 98. Taxpayer 6 is a U.S. citizen. In 2017 and 2018, Taxpayer 6 received ACH
22 deposits into a personal bank account of approximately \$30,000 from various third
23 parties, including SFOX and a digital currency exchange. During the same period,
24

1 Taxpayer 6 deposited approximately \$20,000 in cash and checks from unknown sources
2 into the same bank account. Taxpayer 6 subsequently withdrew approximately \$45,000
3 of the deposited funds, primarily in cash or through point-of-sale transactions. Taxpayer
4 6's 2017 and 2018 tax returns only reported income stemming from wages reported on
5 Forms W-2. As described in Section I.C. above, the sale or exchange of cryptocurrency
6 or the receipt of cryptocurrency as compensation are taxable events. Taxpayer 6 should
7 have reflected the receipt of these transfers as wages, other income, or capital
8 dispositions on the 2017 and 2018 tax returns. Based on my experience as a Senior
9 Revenue Agent, the transactions in which Taxpayer 6 engaged, including the receipt of
10 funds disbursed from SFOX, are indicative of taxable income. Because these transfers of
11 U.S. dollars cannot be accounted for on the 2017 and 2018 tax returns, it appears that
12 Taxpayer 6 has underreported income.
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17 99. Taxpayer 7 is a U.S. citizen. Taxpayer 7 made cryptocurrency deposits into
18 two SFOX accounts of approximately \$20,000 and \$60,000 in 2018 and 2019,
19 respectively. The deposited cryptocurrency was exchanged into U.S. dollars and
20 subsequently transferred out of the SFOX accounts to a bank account. As discussed in
21 Section I.C. above, the exchange of cryptocurrency into U.S. dollars is a taxable event.
22 Yet, on a 2018 tax return Taxpayer 7 only reported income stemming from Form W-2
23 wages and interest and failed to report any gain or loss from the sales of cryptocurrency,
24 including the sales conducted through SFOX. On the 2019 tax return, Taxpayer 7
25 reported Bitcoin sales of approximately \$10,000 on Schedule D and Form 8949 (Sales
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1 and Other Dispositions of Capital Assets). However, this reported amount is far less than
2 the approximately \$60,000 of known sales conducted through SFOX in 2019. Although,
3 the value of the cryptocurrency was approximately \$20,000 and \$60,000 at the time of
4 the deposits into the SFOX account, the value on the dates of the deposits is not the basis
5 of the cryptocurrency in the hands of Taxpayer 7 for purposes of determining gain or
6 loss. Based on my experience as a Senior Revenue Agent, the transactions in which
7 Taxpayer 7 engaged are indicative of taxable income and Taxpayer 7 should have
8 reported the specific cryptocurrency unit, date, basis, and proceeds from each disposition
9 of cryptocurrency on a Schedule D or some other schedule or form in 2018 and to have
10 fully accounted for the cryptocurrency dispositions in 2019. By failing to properly report
11 those transactions, it appears that Taxpayer 7 has underreported income.
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16 100. Taxpayer 8 is a U.S. citizen. In November 2018, Taxpayer 8 deposited
17 approximately \$5,000 of cryptocurrency into an SFOX account. On the same day the
18 cryptocurrency was deposited, it was exchanged for U.S. dollars and the proceeds
19 transferred from SFOX to Taxpayer 8's personal bank account. As discussed in Section
20 I.C. above, the exchange of cryptocurrency into U.S. dollars is a taxable event. Taxpayer
21 8's 2018 tax return only reported income stemming from Form W-2 wages and did not
22 report any gain or loss from virtual currency transactions on any schedule or form
23 including the sales conducted through SFOX. Taxpayer 8 should have reported the
24 specific cryptocurrency unit, date, basis, and proceeds from the disposition of each
25 cryptocurrency on a Schedule D or some other schedule or form on the 2018 tax return.
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1 Again, although the value of the cryptocurrency was approximately \$5,000 at the time it
2 was deposited into the SFOX account, the value on the date of the transfer is not the basis
3 of the cryptocurrency in the hands of Taxpayer 8 for purposes of determining gain or
4 loss. However, because Taxpayer 8 has failed to properly report the cryptocurrency
5 transactions with SFOX on the 2018 tax return, it appears that Taxpayer 8 has
6 underreported income.
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9 101. Taxpayer 9 is a U.S. citizen. In June 2018, Taxpayer 9 deposited
10 approximately 2 units of Bitcoin into an SFOX account. At the time of the deposits, the
11 Bitcoin was worth approximately \$10,000. On the same day it was deposited the Bitcoin
12 was exchanged for U.S. dollars and the proceeds transferred from SFOX to Taxpayer 9's
13 personal bank account. As discussed in Section I.C. above, the exchange of
14 cryptocurrency into U.S. dollars is a taxable event. Taxpayer 9 should have reported the
15 specific Bitcoin unit, date, basis, and proceeds from the disposition the Bitcoin on a
16 Schedule D or some other schedule or form. Taxpayer 9's 2018 tax return only reported
17 income stemming from Form W-2 wages, Individual Retirement Accounts
18 ("IRAs"/pensions/annuities, and unemployment income. Taxpayer 9 failed to report any
19 gain or loss from the sales of cryptocurrency, including the sales conducted with SFOX,
20 on the 2018 tax return. Although the value of the Bitcoin was approximately \$10,000 at
21 the time it was deposited into the SFOX account, the value on the date of the transfer is
22 not the basis of the cryptocurrency in the hands of Taxpayer 9 for purposes of
23 determining gain or loss. Based on my experience as a Senior Revenue Agent, the
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1 transactions in which Taxpayer 9 engaged with SFOX are indicative of taxable income,
2 however, Taxpayer 9 has not filed any tax return reporting income from this activity.
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4 102. Taxpayer 10 is a U.S. person. Between October 2018 and January 2019,
5 Taxpayer 10's personal bank account was funded with approximately \$5,000 in ACH
6 deposits from several digital currency exchanges, including approximately \$4,000
7 received from SFOX that appear to be proceeds from the exchange of cryptocurrency, as
8 well as with cash deposits totaling approximately \$10,000. During the same period, the
9 same bank account also had 62 transfers, totaling approximately \$5,000, to a digital
10 currency exchange and approximately \$5,000 of internet and point of sale/debit card
11 purchases. Taxpayer 10's 2018 and 2019 tax returns only reported income stemming
12 from Form W-2 wages, IRAs/pensions/annuities, and social security benefits. Such
13 returns did not report any income from the above referenced transactions or any gain or
14 loss from virtual currency transactions on any schedule or form. As described in Section
15 I.C. above, the receipt of cryptocurrency as compensation or the sale or exchange of
16 cryptocurrency are taxable events. Taxpayer 10 should have reflected the receipt of these
17 transfers as wages, other income, or capital dispositions on the 2018 or 2019 tax returns.
18 Based on my experience as a Senior Revenue Agent, the transactions in which Taxpayer
19 10 engaged, including the receipt of funds disbursed from SFOX, are indicative of
20 taxable income. Because these transfers of U.S. dollars cannot be accounted for on the
21 2018 and 2019 tax returns, it appears that Taxpayer 10 has underreported income.
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1 **III. THE “JOHN DOE” SUMMONS REQUIREMENTS ARE MET**

2 103. As described in greater detail below: (A) the “John Doe” summons to SFOX
3 relates to the investigation of an ascertainable group or class of persons; (B) there is a
4 reasonable basis for believing that such group or class of persons has failed or may have
5 failed to comply with provisions of the internal revenue laws; and (C) the information
6 and documents (and the identity of the persons with respect to whose tax liabilities the
7 summonses have been issued) sought to be obtained from the examination of the records
8 or testimony are not readily available from sources other than SFOX.
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11 **A. The Summons Describes a Particular Person or Ascertainable Class of**
12 **Persons**

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14 104. The proposed John Doe summons to SFOX seeks information regarding
15 unknown U.S. taxpayers who directly or indirectly held or had control over any
16 combination of user accounts at SFOX with at least the equivalent of \$20,000 in value of
17 transactions (regardless of type) in cryptocurrency in any one year during the period
18 January 1, 2016, through December 31, 2021.
19

20 **B. There Is a Reasonable Basis to Believe that Members of the John Doe**
21 **Class May Have Failed to Comply with the Internal Revenue Laws**

22 105. As explained above, cryptocurrency, along with other virtual currencies, is
23 treated as property under the internal revenue laws. The receipt and disposition of
24 cryptocurrency may give rise to federal tax liabilities. As detailed in this declaration, the
25 IRS is aware of numerous situations in which owners of cryptocurrency have failed to
26 comply with internal revenue laws as they relate to cryptocurrency transactions.
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1 106. In my investigation, I was able to identify specific individuals, discussed in
2 paragraphs 93-102 above, who held accounts with SFOX and may have failed to comply
3 with their tax reporting requirements.
4

5 107. The information available to the IRS and its experience with other
6 compliance initiatives suggest that many unknown U.S. taxpayers engage in virtual
7 currency transactions. Because the IRS does not know the identity of the individuals
8 within the John Doe class, it cannot yet examine the income tax returns filed by those
9 taxpayers to determine whether they have properly reported any income attributable to
10 virtual currencies.
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13 108. Taken as a whole, the information obtained by the IRS and discussed in this
14 declaration indicates that members of the John Doe class may have failed to properly
15 report their cryptocurrency transactions or failed to report the associated income and pay
16 the proper amount of tax.
17

18 **C. The Requested Materials (and the Identities of the Members of the John**
19 **Doe Class) Are Not Readily Available from Other Sources**

20 109. Concurrently with the filing of this petition, the IRS is filing a petition in the
21 U.S. District Court for the Southern District of New York seeking leave to serve a John
22 Doe summons on M.Y. Safra Bank, FSB (“M.Y. Safra”).
23

24 110. M.Y. Safra is a bank that was established on June 5, 2000. It has been
25 insured with the Federal Deposit Insurance Corporation (“FDIC”) since that date. *See*
26 *FDIC, M.Y. Safra Bank, FSB* (Nov. 12, 2021), <https://banks.data.fdic.gov/bankfind->
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1 [suite/bankfind/details/35154?activeStatus=0%20OR%201&bankfindLevelThreeView=Hi](https://bankfind/details/35154?activeStatus=0%20OR%201&bankfindLevelThreeView=Hi)
2 <story&branchOffices=true&name=M.Y.%20SAFRA%20BANK%2C%20FSB&pageNu>
3 <mber=1&resultLimit=25> [<https://perma.cc/E85P-VS7R>]. According to “About Us”
4 section of its webpage, M.Y. Safra serves as a “full-service banking institution for clients
5 worldwide.” See *About Us*, M.Y. Safra, <https://www.mysafra.com/About>
6 [<https://perma.cc/9TSW-NF27>]. It has options for personal, private, business, and
7 FinTech banking, including checking accounts, savings accounts, certificates of deposit,
8 mortgage loans, cash management services, and business loans.
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12 111. In 2019, M.Y. Safra and SFOX partnered to offer SFOX’s traders cash
13 deposit accounts at M.Y. Safra. See Matthew Leising, *Wild Crypto Market’s Traders Get*
14 *Something New: FDIC Protection*, Bloomberg (May 14, 2019),
15 <https://www.bloombergquint.com/business/wild-crypto-market-s-traders-get-something->
16 <new-fdic-protection> [<https://perma.cc/S4H6-VRSF>].
17

18 112. According to SFOX’s Terms of Service dated May 31, 2019 (a copy of
19 which are attached hereto as **Exhibit 4**), approved users were “offered the ability to
20 receive certain services from” M.Y. Safra. *Id.* § 2.4. The Terms of Service included an
21 appendix containing particular terms associated with the M.Y. Safra which included the
22 following:
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25 Certain approved and properly onboarded Clients will hold an interest in a
26 pooled account with M.Y. Safra to the extent of the funds Client holds in such
27 account (the ‘Pooled Account’). Client is the owner of its share of the balance
28 of the Legal Tender in the Pooled Account and SFOX has no right, title or
interest in, access or control over, the Pooled Account or the funds in the

1 Pooled Account. . . . Certain qualified Clients will also enter into standard
2 commercial account documentation with M.Y. Safra and SFOX will arrange
3 for such Clients to sign and deliver all such documentation to M.Y. Safra.
4 Such Clients will hold commercial transaction accounts ('Commercial
Accounts') with M.Y. Safra.

5 *Id.* Appendix 2, § 1.1.

6 113. When an SFOX user with an interest in a M.Y. Safra account initiated a
7 transfer of funds in connection with the purchase or sale of cryptocurrency, the user
8 provides its instructions to SFOX, which then processes those instructions to M.Y. Safra.
9 M.Y. Safra would then make a transfer of funds from the account (either the Pooled
10 Account or the SFOX user's Commercial Account) to an operating account maintained
11 by M.Y. Safra for SFOX. *See id.* § 1.7.
12
13

14 114. Any customer service issues related to the M.Y. Safra account are directed
15 to SFOX by the user.
16

17 115. SFOX's Terms of Service were updated on November 18, 2019, and no
18 longer made mention of M.Y. Safra. *See Exhibit 5.* SFOX's most recent terms of
19 service, updated in November 2021, do not mention M.Y. Safra. *See SFOX Terms of*
20 *Service.*
21

22 116. Based on information in the IRS's possession and because of the account
23 services M.Y. Safra offers its users, I believe that SFOX and M.Y. Safra may possess
24 related, but qualitatively different, user and transaction information. As a financial
25 institution, M.Y. Safra performed additional KYC protocols while onboarding SFOX
26 users and holds banking records such as wires, transfers, and transaction reports. Further,
27
28

1 as discussed above, the IRS has learned that cryptocurrency entities may not always
2 possess all the information needed to positively identify their customers. Accordingly,
3 the John Doe summonses for SFOX and M.Y. Safra make distinct requests that reflect the
4 information I believe each separate entity should possess.
5

6 117. To my knowledge, and based on my experience, SFOX is the only
7 repository of the information sought in the requests included in the attachment to the
8 summons. To the extent that there are U.S. taxpayers who are SFOX users, and whose
9 identities are known to the IRS at the time the summons is issued, such U.S.
10 taxpayers/SFOX users will be identified for the summoned party and excluded from the
11 John Doe class.
12
13

14 118. The records sought by the John Doe summons are not otherwise reasonably
15 and timely available to the IRS.
16

17 **D. The Information Sought Is Narrowly Tailored to Information that**
18 **Pertains to the Failure or Potential Failure of Members of the John Doe**
19 **Class to Comply with the Internal Revenue Laws**

20 119. Additionally, the information sought in the summons is narrowly tailored to
21 seek only information that is necessary for the IRS to identify and investigate whether
22 individuals in the John Doe class complied with the internal revenue laws with respect to
23 their cryptocurrency activity.
24

25 120. The proposed SFOX summons, attached as **Exhibit 6**, seeks records that
26 may reveal the identity and transaction activity of unknown SFOX users, who had control
27 over any combination of SFOX accounts with at least the equivalent of \$20,000 in value
28

1 of transactions (regardless of type) in cryptocurrency in any one year from January 1,
2 2016, through December 31, 2021.

3
4 121. The information requested is narrowly tailored to assist the IRS with
5 identifying and beginning to investigate U.S. taxpayers with accounts at SFOX that have
6 potentially failed to comply with the internal revenue laws. The requests are directed at
7 two categories: user identity information and transaction activity.
8

9 122. Requests one, two, and five are directed at adequately identifying the John
10 Doe class members so that transactional data can reasonably be associated with a
11 particular person. Unlike traditional financial accounts, SFOX accounts can be opened
12 with limited personal-identifying information and without signature cards or written
13 account applications. As a result, linking a particular account to an actual person for
14 purposes of examining such taxpayer's compliance with the internal revenue laws
15 requires access to whatever identifying information SFOX obtained from the user during
16 the opening of the account or during its subsequent interactions.
17
18

19
20 123. Requests three and four are directed at obtaining transactional information
21 that may permit the IRS to evaluate whether a particular taxpayer complied fully with
22 internal revenue laws.
23

24 124. The IRS expects the summoned records will produce leads to help it identify
25 U.S. taxpayers that have transacted in cryptocurrency at or above the transaction
26 threshold (\$20,000) through SFOX at any time during the specified period and who may
27
28

1 have failed to comply with internal revenue laws with respect to reporting those
2 transactions.

3
4 125. Addressing the requests specifically, request 1 seeks account registration
5 records for each SFOX account owned or controlled by a user. The IRS is asking for
6 accounts owned *or* controlled by the user because it is not uncommon for individuals to
7
8 disguise account ownership through a nominee or an alias.

9 126. The IRS identified specific items within the account registration records that
10 it needs: (1) complete user profile, account application information, and user preferences;
11
12 (2) history of changes to the user profile; (3) complete user history; and (4) complete user
13 payment methods, including any other information relating to funding sources. The IRS
14 is not seeking private personal information such as password, pins, private keys, security
15 settings, or account recovery information.
16

17 127. Based on the IRS's experience when issuing any summons, including John
18 Doe summonses, it has concluded that it needs to draft its requests for information in a
19 manner that ensures it will capture the information that it needs even when it is not clear,
20 as with SFOX, how the summoned party categorizes or defines that information.
21

22 Therefore, the proposed summons specifically identifies the four types of information in
23 paragraph 126.
24

25 128. The IRS has identified "user profile," "user preferences," and "account
26 application information" as three categories relied upon by entities to store or manage
27 personal information that likely contains basic personal information about the user. The
28

1 IRS's request for information within these categories is designed to ensure it receives
2 identifying information regardless of what it is called or how it is stored.
3

4 129. Cryptocurrency prime dealers do not maintain a particular "account
5 application" document because information is generally entered by the applicant through
6 a web-based portal with a series of data fields rather than a traditional "application" that
7 would be completed on paper.
8

9 130. The IRS does not know how SFOX categorizes its information, but to
10 clarify, the IRS is seeking the following basic account user information:
11

- 12 • Name;
- 13 • Taxpayer identification number;
- 14 • Date of birth;
- 15 • Physical address;
- 16 • Telephone number; and
- 17 • Email address
18

19 131. The IRS needs a user's telephone number and email address (in addition to a
20 name, taxpayer identification number, date of birth, and physical address) as they have
21 become a more fundamental aspect of a person's identity. Based on my experience,
22 telephone and email information is relied upon more heavily in the cryptocurrency space
23 than names or physical addresses.
24

25 132. The IRS's internal systems track a taxpayer's physical address, telephone
26 number, and email address when reported by them when filing their income tax returns.
27
28

1 133. In situations where the IRS does not receive a taxpayer identification
2 number, or the person's name and taxpayer identification number do not initially match
3 with the IRS's internal information, additional data points such as date of birth, physical
4 address, telephone number, and email address can assist the IRS in linking the user
5 account information to a specific taxpayer.
6

7
8 134. Generally, the IRS tries to have three specific data points that match to
9 positively link information to a taxpayer. Being able to reconcile multiple different
10 pieces of identifying information against the IRS's internal records is necessary when
11 verifying an account user's identity.
12

13 135. Based on SFOX's personal and business creation webpages, I believe that
14 the information SFOX collects from its users will include a telephone number and email
15 address.
16

17 136. Internally, the IRS is also in possession of cryptocurrency platform data
18 received from other sources relating to foreign-based cryptocurrency exchanges. This
19 data lacks a taxpayer identification number. Because of how foreign-based
20 cryptocurrency exchanges track user information, this data is best searched using
21 telephone numbers, email addresses, and internet protocol addresses (discussed below).
22
23

24 137. SFOX requires its users to update their information should any of it change.
25 I expect that the user account information that is maintained in SFOX's records at the
26 time SFOX responds to the summons may not reflect the name, date of birth, physical
27 address, telephone number, or email address information that was provided when the
28

1 account was created and may not match what the IRS has in its databases because the
2 information may have been changed. The proposed summons requests a complete list of
3 how this information may have changed to help the IRS successfully link a user's account
4 information to an individual taxpayer.
5

6 138. The proposed summons request for complete user history is directed
7 specifically at internet protocol ("IP") addresses. This information is helpful when
8 initially confirming a user's identity and making an initial determination regarding
9 whether the identified user is in tax compliance.
10

11 139. In situations where the IRS has had difficulty adequately confirming a
12 taxpayer's identity, it has been able to employ IP address information as an additional
13 data point to confirm that the IRS has connected information to the proper taxpayer. IP
14 address information indicates the geographical location where a device accesses the
15 internet (generally through an internet service provider). The geographical location of an
16 IP address is publicly available so the IRS can use IP address information to search
17 publicly available records to determine a location.
18
19
20

21 140. For example, a taxpayer accessing his SFOX account from Los Angeles,
22 California will have an IP address indicating that the access was made from Los Angeles,
23 California.
24

25 141. Based on SFOX's privacy policy, it is my understanding that IP address
26 information is actively being collected and monitored.
27
28

1 142. Using this information, the IRS will be able to confirm a user's identity in
2 situations where the user's identity is not certain based on the other personal information
3 by confirming that the account was accessed from IP address locations that coincide with
4 the taxpayer's known physical address.
5

6 143. Conversely, where the IP address information does not match, the IRS will
7 be able to conduct additional due diligence to determine the proper account owner or
8 whether there was an incidence of identity theft.
9

10 144. Aside from its utility in confirming an individual's identity, the IRS will be
11 able to use this information to make a determination regarding a user's tax compliance.
12 The IRS is in possession of data relating to foreign cryptocurrency exchanges. That data
13 lacks a taxpayer identification number, but does include information such as telephone
14 number, email address, and IP address. Being able to match the IP address information
15 of an SFOX user to IP address information (and other data points contained in the IRS's
16 information) will permit the IRS to link substantive transactional information from
17 multiple sources for a single individual taxpayer and make a more accurate initial
18 determination regarding that individual's tax compliance.
19
20
21

22 145. In my experience as a Senior Revenue Agent, it is important for the IRS to
23 receive this information at the same time it receives the other identity information
24 because it helps identify users and can be searched against existing data in the IRS's
25 possession to determine whether a user is in tax compliance.
26
27
28

1 146. If the IRS only receives the “name” listed on the account, that name may be
2 fictitious or belong to a fictitious entity, which would result in the IRS being unable to
3
4 connect the nominal account name with an actual taxpayer.

5 147. In the IRS’s experience, user accounts can list a pseudonym rather than
6
7 actual name information or can omit a name altogether.

8 148. Based on its experience, the IRS has concerns about potential situations
9
10 where user account information cannot be adequately linked to an actual taxpayer
11
12 because of missing or incorrect information – particularly the lack of a taxpayer
13
14 identification number.

15 149. Because SFOX does not request taxpayer identification number information
16
17 to create an account, it is expected that SFOX users may have used pseudonyms and
18
19 other fictitious information.

20 150. The IRS’s experience in investigating tax evasion and avoidance indicates
21
22 that when less identifying information is gathered, particularly a taxpayer identification
23
24 number, the risk of individuals providing false or fictitious information is even greater
25
26 and taxpayers who create false identities are more likely to evade their taxes. This
27
28 phenomenon is like the increased evasion of taxes that occurs when there is a lack of
information return reporting.

151. Request 2 seeks all exception reports produced by SFOX’s anti-money
laundering (“AML”) system and all records of investigation of such exceptions.

1 152. Exceptions reports are used to identify questionable user transactions that
2 warrant additional research and investigation. Based on my experience, reviewing these
3 reports allows the IRS to leverage the industry expertise of the business involved (here, a
4 cryptocurrency prime dealer) regarding activity it deems abnormal or suspicious and
5 allows the IRS to combine that expertise with other information available to the IRS to
6 help it determine whether the subject taxpayer is complying with the internal revenue
7 laws.
8

9
10 153. Moreover, investigative information compiled by the cryptocurrency prime
11 dealer as part of its review of the exception report often contains information provided by
12 users explaining the nature of the questionable activity. That information can also assist
13 the IRS in determining whether a taxpayer is complying with tax laws.
14

15
16 154. For example, in response to an investigation regarding large dollar,
17 voluminous, or frequent transactions, a user may provide an explanation regarding the
18 source or destination of funds or the specific purpose for the activity that is reasonable
19 and comports with what the user reported on a tax return. In this situation, the IRS may
20 be able to avoid unnecessarily examining an individual based on what may otherwise
21 have appeared to be questionable activity.
22

23
24 155. Request 3 seeks all records of activity in users' accounts.

25 156. Based on my review of the type of activity permitted on SFOX's platform, I
26 anticipate SFOX having the following transactional information which is necessary to
27 determine whether users complied with the internal revenue laws.
28

1 157. The IRS needs purchase and sale information for the subject user accounts.
2 This includes transactions where cryptocurrency units were purchased or sold for fiat
3 currencies or exchanged for other cryptocurrencies. The sale of cryptocurrency for cash
4 or exchange of cryptocurrency for other cryptocurrency is a taxable disposition. The
5 purchase of cryptocurrency is not inherently taxable, but the purchase price (plus any fees
6 paid) establishes the cost basis in that property, which is used to determine the amount of
7 taxable gain generated upon the sale of that same unit. The same is also true in situations
8 where cryptocurrency is exchanged for another cryptocurrency rather than fiat currency.
9
10

11
12 158. These types of transactions are reportable on an individual’s income tax
13 return and relate directly to an individual’s proper tax reporting.
14

15 159. Where users engage in “margin” activity, that is the borrowing (or lending)
16 of fiat currency or cryptocurrency to effectuate other trading activity, those transactions
17 have tax implications.
18

19 160. The IRS needs information relating to the deposit and withdrawal of
20 cryptocurrency units out of each user’s account.
21

22 161. The IRS needs information relating to the incoming and outgoing
23 transactions in each user’s account. The existence of such transactions indicates that a
24 user is purchasing or selling cryptocurrency on the SFOX platform, but it may also
25 indicate that a user is engaged in cryptocurrency transactions on other cryptocurrency
26 platforms or moving cryptocurrency to personal user wallets. The IRS needs to know
27 this information to identify where each user is holding cryptocurrency so it can gather as
28

1 much information as possible to make a determination regarding whether users complied
2 with the internal revenue laws.

3
4 162. Additionally, the deposit or withdrawal of units from an account may be
5 taxable transactions themselves. The deposit (receipt) of cryptocurrency into an account
6 may represent compensation or a similar payment to the user that represents taxable
7 income. Conversely, the withdrawal (sending) of units from the account may represent a
8 taxable disposition if the units are going to a third-party. Knowing the third-party (or
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counterparty's) name and user ID helps the IRS make a determination about whether the
transaction is a taxable disposition to either the taxpayer or the third-party (provided the
third-party is an SFOX user).

163. In order to evaluate this information to determine the proper tax
characterization of the transactions and whether a user is in tax compliance, the IRS
needs this transactional information, including the date and time of the transaction,
cryptocurrency involved, amount of cryptocurrency involved, U.S. dollar value,
transaction hash (ID), and blockchain addresses and the counterparty's name and user ID.

164. The IRS needs records relating to other taxable events that may have
occurred within the account. This includes the receipt of additional units of
cryptocurrency as the result of a chainsplitting hard fork, which represents taxable
income, or other situations where a user may receive units of cryptocurrency gratuitously
through promotional events.

1 165. Because all these situations may result in taxable income to the user, the IRS
2 needs the transactional information relating to these events so it can properly determine
3 whether each user is complying with the tax law.
4

5 166. Request 4 seeks all records of account funding relating to the deposit,
6 withdrawal, or transfer of fiat currency. The IRS uses this information to understand how
7 a user is funding his or her purchases of cryptocurrency and where money may be getting
8 sent after units are sold. This information is evaluated against other information in the
9 IRS's possession and reported on the user's tax returns to make the most-informed
10 decision the IRS can on whether an individual is in compliance with the internal revenue
11 laws.
12
13

14 167. Request 5 seeks information held by SFOX for each M.Y. Safra account that
15 an SFOX user partially or completely owned, controlled, or held an interest in during the
16 relevant periods. Request 5 also seeks information held by SFOX for M.Y. Safra
17 accounts owned, controlled, or administered by SFOX for users during the relevant
18 periods. Specifically, this request seeks user reference identification numbers; account
19 agreements; and communications between SFOX and M.Y. Safra pertaining to the M.Y.
20 Safra account and related transaction information or communications between SFOX and
21 the user pertaining to the M.Y. Safra account and related transaction information.
22
23

24 168. Information available to the IRS indicates that when funds are moved from
25 the Pooled Account at M.Y. Safra (described *supra* ¶ 113), in which the SFOX user has
26 an interest or from the SFOX user's commercial account to the operating account
27
28

1 maintained by M.Y. Safra for SFOX, the transactions are usually associated with a user
2 reference identification number. Because any transactions will be moved to an operating
3 account maintained by M.Y. Safra on SFOX's behalf, the IRS needs to know the
4 reference identification numbers associated with the user so that it can identify which
5 users have transacted so that it can determine the individual's tax compliance.
6

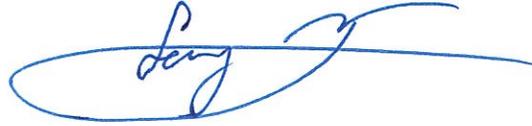
7
8 169. The account agreements and communications may reveal who is the
9 originator or beneficiary of a transaction. The information will also assist the IRS in
10 understanding what transactions were authorized by the user. The IRS uses this
11 information to understand how a user is funding their purchases of cryptocurrency and
12 where the money may be getting sent after units are sold. This information is evaluated
13 against other information in the IRS's possession and reported on the user's tax returns to
14 make the most-informed decision the IRS can on whether an individual is in compliance
15 with the internal revenue laws.
16
17

18 **III. CONCLUSION**

19
20 170. Based upon the foregoing, I believe the information sought by the John Doe
21 summons to SFOX will allow the IRS to identify U.S. persons who had control over any
22 combination of SFOX accounts with at least the equivalent of \$20,000 in value of
23 transactions (regardless of type) in cryptocurrency in any one year from the years ended
24 December 31, 2016, through December 31, 2021, who may have failed to comply with
25 their obligation to report and pay tax on virtual currency transactions.
26
27
28

1 I declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746 that the
2 foregoing is true and correct.
3

4 Executed this 20 day of July 2022, in San Francisco, California.

5 
6

7 SENG TCHONG LEE
8 Senior Revenue Agent
9 Internal Revenue Service
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