



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

August 20, 2021

**MEMORANDUM FOR**      **NELLIE LIANG**  
**UNDER SECRETARY FOR DOMESTIC FINANCE**

**FROM:**                      Brian Sonfield, Assistant General Counsel,  
   General Law, Ethics & Regulation and  
   Designated Agency Ethics Official

**Brian J.**      Digitally signed by  
**Sonfield**      Brian J. Sonfield  
   Date: 2021.08.20  
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**SUBJECT:**                      Participation in Matters Regarding the International Monetary  
   Fund (IMF) per 5 C.F.R. § 2635.502

This memorandum authorizes you to participate in certain matters that involve the International Monetary Fund (IMF).

**BACKGROUND**

You joined Treasury as Counselor to the Secretary in January 2021. You were sworn in as Under Secretary for Domestic Finance on July 22, 2021. Prior to joining Treasury, you served as a Visiting Scholar to the IMF, where you consulted with IMF staff on research papers on improving frameworks to monitor financial stability risks and developing quantitative measures of risks to economic growth from financial vulnerabilities, from April 2017 until January 2021.

As Under Secretary, you will oversee and make decisions with respect to the Department's domestic finance policy, strategy, and programs. These duties include providing the Secretary information needed to make policy decisions on a range of domestic financial issues, including virtual currencies and climate-related financial risks. In your Under Secretary role, you will seek to engage IMF economists on two issues of importance to Treasury. First, Treasury is working internally and with an inter-agency financial regulators group on the rapid developments in virtual currencies. Among other things, Treasury is assessing the potential effects on the payments system, interactions with a potential central bank digital currency, and potential changes to financial intermediation services. Treasury is also evaluating the current regulatory structure that could apply to virtual currency, determining whether there are regulatory gaps, and will make recommendations for changes, if needed. Economists at the IMF are among the world's leading experts in the development of virtual currencies, building on experiences in many countries. You would benefit greatly from being able to speak to IMF economists on these issues, as it would improve the quality of the information used by you in carrying out your role as Under Secretary.

Second, Treasury is working to implement a Presidential Executive Order on Climate-Related Financial Risk<sup>1</sup> (EO). The EO requires Treasury, among other things, to determine the disclosure, data, and modeling needed by financial firms to measure climate-related financial risks. Pursuant to the EO, Treasury will engage with members of the Financial Stability Oversight Council (FSOC) and write a report on these factors within the 180-day

<sup>1</sup> Executive Order No. 14,030, 86 Fed. Reg. 27,967 (May 20, 2021).

deadline required by the EO. IMF economists have written extensively on global efforts to measure climate-related financial risks. You would benefit greatly from discussions with IMF economists on these technical issues, which will improve the content of the FSOC report.

Subpart E of the Standards of Conduct regulations contains provisions intended to ensure that an employee takes appropriate steps to avoid an appearance of absence of impartiality in the performance of her official duties. Due to your former role with IMF within the past year, you have a “covered relationship” with the IMF. 5 C.F.R. § 2635.502(b)(1)(iv). As such, you are prohibited from participating in a “particular matter involving specific parties”<sup>2</sup> when “a person<sup>3</sup> with whom you have a covered relationship is or represents a party” to the matter, and the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality in the matter. 5 C.F.R. § 2635.502(a)(1).

## ANALYSIS

Under section 2635.502(d), even when an employee’s participation in a particular matter involving specific parties likely would create an appearance of partiality, “the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee’s participation outweighs the concern that a reasonable person may question the integrity of the Government’s programs and operations.” The authorization provision lays out factors that may be taken into consideration in deciding whether an authorization is appropriate:

- 1) The nature of the relationship involved;
- 2) The effect that resolution of the matter would have on the financial interests of the person involved in the relationship;
- 3) The nature and importance of the employee’s role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- 4) The sensitivity of the matter;
- 5) The difficulty of reassigning the matter to another employee; and
- 6) Adjustments that may be made in the employee’s duties that would reduce or eliminate the likelihood that a reasonable person would question the employee’s impartiality.

*Id.* at § 2635.502(d).

After weighing these factors, we authorize your participation in discussions with the IMF regarding virtual currency issues and implementation of EO 14030, subject to the limitations below, for the following reasons:

- The IMF is an international organization that works to foster global monetary cooperation and exchange rate stability, facilitates international trade, promotes high employment and

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<sup>2</sup> A particular matter involving specific parties “typically involves a specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties.” 5 C.F.R. § 2640.102(1). Examples of particular matters involving specific parties include such matters as contracts, grants, licenses, product approval applications, litigation, and investigations.

<sup>3</sup> Person means an individual, corporation and subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity. For purposes of this part, a corporation will be deemed to control a subsidiary if it owns 50 percent or more of the subsidiary's voting securities. The term is all-inclusive and applies to commercial ventures and nonprofit organizations as well as to foreign, State, and local governments, including the Government of the District of Columbia. It does not include any agency or other entity of the Federal Government or any officer or employee thereof when acting in his official capacity on behalf of that agency or entity. 5 CFR § 2635.102

sustainable economic growth, and works to reduce poverty around the world. It is not a conventional private lending institution. The United States is a member country of the IMF and its largest shareholder, contributing financially to its mission. As such, there is little likelihood that a government employee could take action to favor the commercial interest of IMF at the expense of the United States.

- You do not have financial interests in IMF, including outstanding consulting fees or retirement plans or other continuing benefits.
- Your work at IMF did not touch upon virtual currency issues or climate-related financial disclosure risks. Thus, there will be no overlap between the work you performed for IMF and your current Treasury duties. Further, this authorization is limited to discussions with the IMF regarding virtual currency issues and implementation of EO 14030.
- Your Treasury work on virtual currency issues and implementation of EO 14030 are time sensitive matters. Interaction with the IMF economists will permit Treasury to gain a unique perspective that will assist in these important matters. . You are uniquely well qualified to perform this work given your prior experience at the IMF, the Federal Reserve, the Financial Stability Board, and the Brookings Institution. You bring a distinctive skill set to Treasury, and reassignment of this IMF-related work to another employee would be inefficient and deprive the Department of your expertise in these matters.

In conclusion, after careful consideration of the provisions in 5 C.F.R. § 2635.502(d), we authorize you to participate in the discussions with the IMF regarding virtual currency issues and implementation of EO 14030. Given the factors discussed above, we conclude that the interest of the Government in your participation outweighs concern that a reasonable person might question your impartiality in the administration of these matters.<sup>4</sup>

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<sup>4</sup> Paragraph 2 of President Biden's Ethics Pledge, Executive Order 13989, prohibits political appointees from participating personally and substantially, during the first two years after entering federal service, in any particular matter involving former employers or clients the employees served in the two years prior to entering federal service. However, Paragraph 2 of the Ethics Pledge is not implicated here, because "former employer" under the Pledge does not include any international organization in which the United States is a member state. Section 2(k), EO 13989. Further, the definition of "former client" under the Pledge is intended to exclude the same entities as those excluded under the definition of former employer. Office of Government Ethics, Legal Advisory DO-09-011, at page 4, March 26, 2019; Office of Government Ethics Legal Advisory, LA-21-05, February 23, 2021 (noting the applicability of prior OGE guidance to E.O. 13989).