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Crypto Executive Order: A New Era for Digital Assets

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President Trump's [crypto executive order](#) (the Crypto Executive Order) was a first step in the Trump Administration's articulation of a policy on promoting the lawful use of blockchain technology. It remains to be seen whether these policies will be implemented through actual legislation, regulations or guidance.

Our key takeaways from the Crypto Executive Order are as follows:

1. Centralized Policy Coordination with Aggressive Timelines

The Crypto Executive Order requires certain federal agencies and other federal stakeholders to work collaboratively to identify recommendations on existing regulations and guidance impacting the digital asset sector. The order sets aggressive deadlines which may introduce a proposed regulatory framework within months, rather than years. This could come in the form of staff guidance, similar to the 2019 [Framework for "Investment Contract" Analysis of Digital Assets](#) issued by the prior Trump administration, which does not require legislation or a vote of the U.S. Securities and Exchange Commission (SEC) or the Commodity Futures Trading Commission (CFTC).

The Crypto Executive Order creates the Presidential Working Group on Digital Asset Markets (Working Group), chaired by crypto and AI czar David Sacks, which includes the treasury secretary, the attorney general, the commerce secretary, the homeland security secretary, the director of the Office of Management and Budget and a number of presidential advisors and assistants, in addition to the chairs of the SEC and CFTC. Notably, none of the federal banking agencies are represented in the working group, though they could be invited to participate by Chairman Sacks.

By including the SEC and CFTC in the group, the executive order indicates the desire of the new Trump administration to speak with one voice on digital assets. It remains to be seen what role, if any, the SEC's crypto task force, launched two days prior to the publication of the Crypto Executive Order, will have. It is possible we will see proposals from the SEC in the near-term.

The executive order sets a strict timeline for the working group, mandating that they review all existing regulations and orders across the U.S. government within 30 days, provide recommendations within 60 days, and submit a report recommending regulatory and legislative proposals within 180 days. Adhering to this timeline will not be easy, but it is hard to imagine a more streamlined process by Washington standards.

2. Emphasis on Agency Action, Not Legislation

Although the executive order refers to legislative proposals, it appears to be focused primarily on establishing a federal regulatory framework via agency rulemaking and other actions. If the working group recommends agency action, it will be worth watching how those efforts are coordinated with the proposed legislation in Congress on federal stablecoin and market structure. Observers expected that the new Trump administration would support legislative proposals on crypto, but the executive order suggests that they want to understand what can be accomplished under existing laws.

We believe the Crypto Executive Order will have major implications for market participants, including:

- The Department of the Treasury's Financial Crimes Enforcement Network and Office of Foreign Assets Control are likely to stay the course on anti-money laundering and sanctions enforcement in the digital assets space. While the Department of the Treasury is unlikely to expand enforcement efforts in these key areas, national security will remain a priority of this administration. The regulatory constructs applicable to crypto firms are well-developed and have been in place for some time. Firms must continue to comply with laws on transaction monitoring, sanctions screening and know-your-customer processes.
- The SEC will likely pause enforcement activity for technical violations, and perhaps the CFTC, while the agency leadership determines the appropriate steps on pending matters. As a result, these agencies are likely to divert resources back to policing fraud, so firms should disclose material risks and ensure their marketing and sales tactics are honest.
- Where the SEC and CFTC pull back, we expect state attorneys general (AGs), private plaintiffs and perhaps certain state securities commissions to step in. Actions by state AGs, private plaintiffs and state commissions under the federal commodities, securities or state blue sky laws do not require federal support or approval. Therefore, crypto issuers and secondary market participants must stay vigilant to ensure that their products comply with these laws.
- Clarity on a federal charter or license for digital asset firms, including stablecoin issuers, is unlikely to be provided while the working group assesses the regulatory commission's landscape and market structure. We believe that the state banking departments and the Conference of State Bank Supervisors will monitor any such development closely.
- Currently, most centralized crypto firms providing services to residents of the United States are regulated under various state banking departments, either through money transmitter licensing or state trust regimes, or both. This construct remains a viable path forward for exchanges, custodians and payment processors looking to operate in the United States in the near-term. While an eventual federal regulatory regime may provide an alternative to state charters and licenses, legislators have historically sought to complement state regimes, not replace them.¹ Accordingly, federal regulatory frameworks may operate alongside existing state regulation in the future.

3. Pull-Back on a Strategic Reserve, For Now

The Crypto Executive Order also directs the working group to "evaluate the potential creation" of a "national digital asset stockpile" that is "potentially derived from cryptocurrencies lawfully seized" by federal law enforcement. While innovative, this appears to be a partial walk-back of Trump's pledge, at a bitcoin conference in July 2024, to create a national bitcoin "strategic reserve."

Establishing a federal stockpile of digital assets would be a watershed moment for the digital asset industry. It would convey that the U.S. government views bitcoin, and potentially other digital assets, as strategic national investments. The details surrounding the digital asset stockpile will matter, which may explain why the executive order did not go further than it did. For example, while bitcoin has been a central focus,

observers speculate that the reserve could include other digital assets. Determining which assets should be included — and why — also will require careful analysis and stakeholder input. In addition, by acting as a market participant, the federal government would likely have a market-moving impact on the asset class, which raises significant issues.

4. Prohibition on Central Bank Digital Currency

The crypto executive order protects the burgeoning stablecoin space by prohibiting the creation of a central bank digital currency and directing the new regulatory framework to govern stablecoins. That said, there have not been serious proposals to develop a central bank digital currency for some time, making this mostly a symbolic move.

5. What's Next?

While the crypto executive order is an important initial step in providing much-needed clarity to the market, the hard decisions have been left to the Working Group. The industry will need to watch closely in the coming months because the details will matter and there may be disagreements among stakeholders regarding the best approach. Moreover, activity on Capitol Hill may influence future proposals from the Working Group. While Senate Banking Chair Tim Scott (R-SC) and House Financial Services Chair French Hill (R-AR) have made cryptocurrency a top legislative priority, cooperation and input of Senate and House Democrats will be required to adopt any legislation. Paul Hastings will continue to monitor developments in this area.



If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:

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¹ See, e.g., H.R. 4766, *Clarity for Payment Stablecoins Act of 2023*, which would exempt issuers of less than \$10 billion in total stablecoin from federal regulation, allowing them to remain under the oversight of state regulators.