



## U.S. President Issues Executive Order on Digital Assets

On 9 March 2022, U.S. President Joseph R Biden Jr issued an [Executive Order on Ensuring Responsible Development of Digital Assets](#)<sup>1</sup> (the **Digital Asset Executive Order**) initiating a comprehensive approach to cryptocurrency regulation and oversight aimed at striking the right balance between the opportunities and risks cryptocurrencies present. With ever increasing innovation in digital assets and the rise in interest in and ownership of the new asset class, the Executive Order marks a watershed moment for the U.S. cryptocurrency landscape by ordering the various U.S. federal agencies to adopt a unified approach to digital asset regulation and consult their international counterparts in a bid to achieve international collaboration on appropriate development and regulation of digital assets.

The Executive Order also orders urgent research into the benefits and risks of a digital U.S. dollar, that is a U.S. central bank digital currency (**CBDC**), and its potential design and deployment options. Otherwise, the executive order seeks to foster responsible financial innovation by focusing on equal access to safe and affordable financial services, reduced fund transfer and payment costs, consumer protection and climate change issues and countering the use of cryptocurrencies in financial crime. The Executive Order is wide-reaching ordering action in six principal areas: consumer and investor protection; financial stability; financial crime; U.S. financial leadership and competitive advantage; responsible innovation; and financial efficiency and inclusion.

## Current U.S. Administration's Cryptocurrency Policy Objectives

The current U.S. administration has stated that it sees a need to develop a framework regulating digital asset use to protect U.S. consumers, investors and businesses, safeguard U.S. and global financial stability and mitigate systemic risk, illicit finance and the national security risks posed by the misuse of digital assets. The Executive Order also emphasises the need to reinforce U.S. financial leadership and give the U.S. a competitive advantage over other countries in the development of cryptocurrencies.

However, while the Digital Asset Executive Order represents a major step in U.S. efforts to address uneven digital asset regulation, supervision and compliance, it does not itself introduce a new regulatory framework for digital assets. Instead, it set out a series of policy statements and calls for a series of reports to be produced by the U.S. federal agencies on a coordinated basis.

## Rationale for Digital Asset Regulation

The Digital Asset Executive Order identifies six key risks relating to digital assets:

- i. Financial risks – without sufficient oversight and standards, there is a risk of inadequate protections for sensitive financial data, custodial and other arrangements relating to customer assets and funds, and insufficient disclosure of the risks of investing in digital assets.

- ii. Systemic risk – digital asset trading platforms and service providers may fall outside the existing scope of regulations and supervision. The novel and unique uses and functions of digital assets may create additional economic and financial risks that need to be addressed.
- iii. Illicit finance and national security risks – misuse of digital assets may present illicit finance risks, including money laundering, cybercrime and ransomware, narcotics and human trafficking, and terrorism and proliferation financing. Digital assets may also be used to evade U.S. and foreign financial sanctions regimes and other tools and authorities. Jurisdictions which fail to implement the international standards for the regulation of digital assets for anti-money laundering and countering terrorist financing (**AML/CTF**) set by the Financial Action Task Force (**FATF**), or inadequately implement those standards, can pose significant illicit financing risks for the U.S. and global financial systems. The perpetrators of ransomware incidents and other cybercrime often take advantage of discrepancies between competing jurisdictions to launder and liquidate their illicit proceeds. Without controls to counter illicit finance, the growth in decentralised finance (**DeFi**) applications and peer-to-peer payments could also pose additional market and national security risks in the future.
- iv. Unequal access to safe and affordable financial services – many Americans are underbanked and the costs of international funds transfers and payments are high.

## Coordination among Federal Agencies

The Digital Asset Executive Order introduces an interagency process with the aim of developing a coordinated approach to crypto regulation. The federal agencies involved include the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Trade Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency.

## White House Administration’s Proposal for US Central Bank Digital Currency (CBDC)

The Digital Asset Executive Order orders urgent research into the potential design and deployment options of a digital US dollar, which will include an evaluation of the benefits and risks for consumers, investors and businesses; financial stability and systemic risk; payment systems; national security; the ability to exercise human rights; financial inclusion and equity; and the actions required for issuing a US CBDC if this is considered to be in the national interest.

The Digital Asset Executive Order requires the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, the Secretary of Commerce, the Secretary of Homeland Security, the Director of the Office of Management and Budget, the Director of National Intelligence, and the heads of other relevant agencies, to submit a report on the future of money and payment systems, including the conditions that favour the adoption of digital assets, the extent to which technological advancements may affect their adoption, and their implications for the U.S. financial system, payment systems, economic growth, financial inclusion and national security.

The Digital Asset Executive Order also encourages the Chairman of the Board of Governors of the Federal Reserve System to continue to research and report on whether CBDCs could increase financial efficiency and reduce the costs of payment systems, to examine the optimal protocol of a US CBDC and to develop a strategic plan for the Federal Reserve (the **Fed**) and broader U.S. Government action to evaluate the essential steps and requirements for the proposed issuance of a US CBDC. The Fed Chairman is encouraged to study whether a US CBDC would enhance or inhibit the ability of monetary policy to function effectively as a critical macroeconomic stabilisation tool.

The Digital Asset Executive Order further requires the Attorney General, in consultation with the Secretary of the Treasury and the Fed Chairman, to consider whether legislative amendments are necessary for issuing a US CBDC and provide a legislative proposal based on the report submitted by the Secretary of the Treasury and any materials issued by the Fed Chairman.

## Digital Assets: U.S. Research and Development Timeline

The Presidential Digital Asset Executive Order sets out a series of reports to be produced and a timeline for their delivery as summarised in the table below.

Lead agency	Task(s)	Timeline
US CBDC		

<b>Secretary of the Treasury</b>	To study the future of money and payment systems	Report to be submitted within 180 days (on or before 5 September 2022)
<b>Chairman of the Federal Reserve</b>	To research and develop a US CBDC and a strategic plan for its issuance	N/A
<b>Attorney General</b>	To evaluate whether legislative amendments are required for issuing a CBDC	Report to be submitted within 180 days (on or before 5 September 2022)
<b>Attorney General</b>	To make a legislative proposal based on the Treasury Secretary's report and any materials published by the Fed Chairman	Report to be submitted within 210 days (on or before 5 October 2022)
<b>Customer, investor and business protection</b>		
<b>Secretary of the Treasury</b>	To examine the implications of digital assets and financial market and payment system infrastructures for US consumers, investors, businesses and for equitable economic growth	Report to be submitted within 180 days (on or before 5 September 2022)
<b>Director of the Office of Science and Technology Policy</b>	To evaluate the technological infrastructure, capacity and expertise that would be required to facilitate and support the proposed CBDC system	Report to be submitted within 180 days (on or before 5 September 2022)
<b>Attorney General</b>	To study the role of law enforcement agencies in detecting, investigating and prosecuting criminal activity related to digital assets	Report to be submitted within 180 days (on or before 5 September 2022)
<b>Attorney General, Chair of the Federal Trade Commission and Director of the Consumer Financial Protection Bureau</b>	To identify what impact the growth of digital assets could have on competition policy	N/A
<b>Chair of the Federal Trade Commission and Director of the Consumer Financial Protection Bureau</b>	To consider making use of any available privacy or consumer protection measures to protect digital asset holders and whether there is a need to implement additional measures	N/A
<b>Chair of the Securities and Exchange Commission, Chair of the Commodity Futures Trading Commission, Chairman of the Federal Reserve, Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the Comptroller of the Currency</b>	To consider making use of any available investor protection measures to mitigate the risks of digital assets and whether there is a need to implement additional measures	N/A
<b>Director of the Office of Science and Technology Policy</b>	To study the relationships between DLT and economic and energy transitions, the potential for these technologies to affect the efforts to address climate change, and the impacts these technologies have on the environment	Report to be submitted within 180 days (on or before 5 September 2022) and an updated report to be submitted 1 year after the initial submission (on or before 5 September 2023)
<b>Fostering financial stability, risk mitigation and market integrity</b>		

<b>Secretary of the Treasury</b>	To convene the Financial Stability Oversight Council and identify the specific financial stability risks and regulatory gaps presented by digital assets and provide recommendations to mitigate such risks	Report to be submitted within 210 days (on or before 5 October 2022)
<b>Mitigating illicit finance and associated national security risks</b>		
<b>Secretary of the Treasury, Secretary of State, Attorney General, Secretary of Commerce, Secretary of Homeland Security, Director of Office of Management and Budget, Director of National Intelligence and heads of other relevant agencies</b>	To assess illicit finance risks presented by digital assets, including cryptocurrencies, stablecoins, CBDCs and trends in the use of digital assets by illicit actors	Report to be submitted within 90 days after submission of the National Strategy for Combating Terrorist and Other Illicit Financing
<b>Secretary of the Treasury</b>	To develop a coordinated action plan based on the conclusions for mitigating the digital asset-related illicit finance and national security risks addressed in the updated strategy	Report to be submitted within 120 days after submission of the National Strategy for Combating Terrorist and Other Illicit Financing
<b>Secretary of the Treasury</b>	To notify the relevant agencies of any pending, proposed or prospective rulemakings to mitigate digital asset illicit finance risks	Report to be submitted within 120 days after completion of the National Money Laundering Risk Assessment, the National Terrorist Financing Risk Assessment, the National Proliferation Financing Risk Assessment, and the updated National Strategy for Combating Terrorist and Other Illicit Financing
<b>International cooperation and US competitiveness</b>		
<b>Secretary of the Treasury</b>	To establish a framework for inter-agency international engagement with foreign counterparts to adapt, update and enhance adoption of global principles and standards for how digital assets are used and transacted, and to develop digital asset and CBDC technologies consistent with US values and legal requirements	Report to be submitted within 120 days (on or before 7 July 2022) and a report on priority actions taken and effectiveness to be submitted within 1 year of the establishment of the framework (on or before 7 July 2023)
<b>Secretary of Commerce</b>	To establish a framework for enhancing US economic competitiveness in, and leveraging of, digital asset technologies	Report to be submitted within 180 days (on or before 5 September 2022)
<b>Attorney General</b>	To examine what measures should be taken to strengthen international law enforcement cooperation for detecting, investigating and prosecuting criminal activity related to digital assets	Report to be submitted within 90 days (on or before 7 June 2022)

[1] The SFC did not review any facilitation trades prior to 2014 as CGMAL had no longer retained audio records

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