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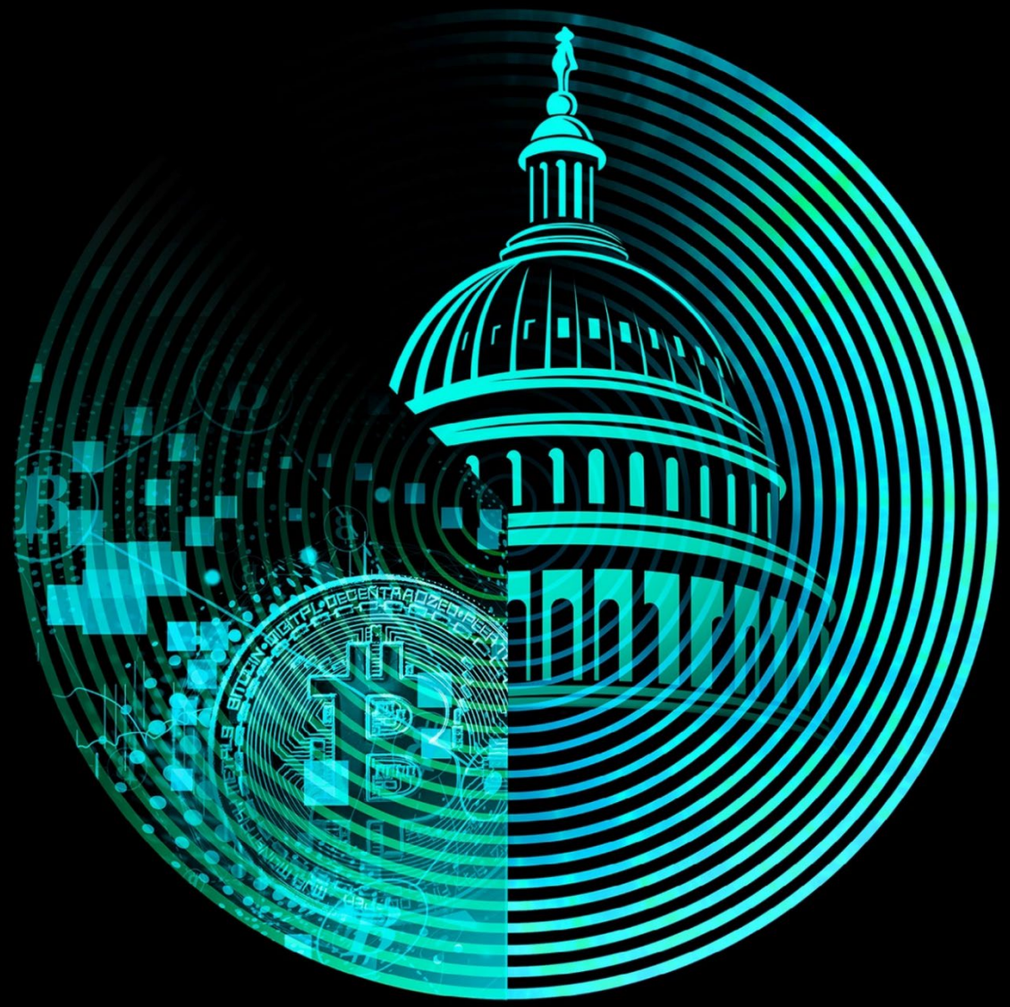

Digital Assets Banking and Capital Markets Regulatory Digest

February 2025

Center *for*
Regulatory Strategy US

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Introduction

As other jurisdictions implement tailored rules for digital assets,[1] US policymakers are increasingly feeling pressure to respond to maintain US competitiveness.[2] While many of these prior legislative efforts have yet to pass, the tone at the federal level has taken a striking change with the Trump administration. As the administration continues to develop its policy approach, a more favorable regulatory environment may be expected for the sector. Lawmakers are working with the administration toward developing further clarity regarding the status of digital assets and providing a regulatory framework for the industry. In the meantime, several states have developed their own licensing regime and tailored rules for digital asset firms engaged in trading, custody, and mining activities.[3]

Executive Branch: The Trump administration has begun to take a more permissive approach to digital assets, including via an executive order, potentially opening new pathways for traditional financial institutions to engage with digital assets. We anticipate that financial regulators will develop new guidance for digital asset-native companies and potentially rescind previous guidance in certain circumstances. However, even under a more accommodating administration, financial regulators will continue to fulfil their mandates for consumer and investor protection and safety and soundness. Therefore, prudent risk management and compliance should continue to be a key focus for firms engaged in the digital asset sector.

Legislative Branch: Congressional leaders, particularly the chairs of the Senate Banking and House Financial Services committees, have expressed digital assets as a key policy priority for the 119th Congress.[4] With both chambers now having dedicated subcommittees on digital assets, legislation on establishing a federal regulatory framework looks increasingly promising. Among members of congress, digital assets appears to be subject with moderate bipartisan consensus with prior bills having achieved support from members across the aisle.[5]

States: Since New York established the first tailored digital asset regulatory framework in the US back in 2015, several other states have followed suit.[6] Today, most of the rules and guidance for digital asset firms are at the state-level. While an important and valuable regulatory structure, this state-by-state approach to regulating digital assets can present challenges to firms seeking to quickly expand operations nationally. Additionally, firms may need to invest in greater regulatory efforts to maintain compliance with multiple, potentially differing state rules.

Policy primer mark-to-market

In our *Digital Assets Policy Primer*, we outlined two distinct paths that US regulatory policy could potentially take: with legislation or without legislation. The majority of recent developments are more consistent with our views for a diffused regulatory landscape without tailored legislation; however, there's reason to believe that may be changing. Through these changes, we have identified five policy focus areas.

Topic	Assessment	Outlook
Classification and reporting of digital assets	Efforts to classify and regulate digital assets remain a focus around the industry. In the absence of federal legislation, individual states are implementing their own reporting and licensing structures. Establishing a clearer classification regulatory framework is expected to be a priority for the new administration and 119th Congress.	**Positive**
Regulatory clarity for exchanges	Legislators and new administration officials have raised concerns about prior enforcement-led approaches to regulating exchanges.[7] Market regulators are expected to focus on developing industry guidance and pathways for digital asset exchange registration and disclosure frameworks. Previous legislative initiatives, such as the Financial Innovation and Technology for the 21st Century Act (FIT21), may offer indications of where policy may develop in Congress.	**Positive**
Regulatory clarity for stablecoin issuance	Stablecoin legislation is expected to be a priority for the 119th Congress with the Senate considering the GENIUS Act and the House considering the STABLE Act, potentially offering indications of where policy may develop. The role of states under a federal stablecoin framework remains uncertain and is likely to raise a number of policy considerations, including federal preemption and the role of the dual banking system in the digital asset sector.	**Positive**
Path to a US CBDC	In the first week in office, President Trump issued an executive order on digital assets that, among other things, prohibited federal agencies from undertaking any action to establish, issue, or promote central bank digital currencies (CBDCs) within the US or abroad. Absent legislation—which, if vetoed, would require two-thirds vote in both chambers of Congress—development of a US CBDC is not expected to materialize over the near- or medium-term.	**Negative**
Tokenization of real-world assets	Regulators and lawmakers continue to study the technology behind, and implications of, asset tokenization. Meanwhile, industry participants continue to explore use cases and launch applications, such as the cross-industry Regulated Settlement Network (RSN).[8] However, while these developments are positive, there remains legalistic hurdles for greater tokenization across different asset classes that would need to be addressed at both the state and federal levels.	**Mixed**

President Trump issues executive order on digital assets

Key summary points

- ***Headline***: On January 23, 2025, President Trump issued an executive order (EO) to advance digital assets by forming an interagency working group to "promote United States leadership in digital assets and financial technology."
- ***Working Group***: The EO establishes the President's Working Group on Digital Asset Markets which is to be chaired by the Special Advisor to the President for AI and Crypto and consist of cabinet officials and agency heads, including the chairs of the Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC).
- ***Setting forth a regulatory framework***: The EO requires the Working Group members to identify all regulations and guidance that affect the digital asset sector within 60 days and submit recommendations as to whether they should be rescinded, modified, or adopted in a regulation.
    - Additionally, the EO directs the Working Group to submit a report to the president recommending regulatory and legislative proposals to advance the policies established under the EO within 180 days.
- ***Promoting stablecoins while prohibiting CBDCs***: The EO expressly states the new administration's policy of promoting the development and growth of US dollar-backed stablecoins, while prohibiting executive agencies from establishing CBDCs.

Source: The White House, "Strengthening American Leadership in Digital Financial Technology," January 23, 2025.

Considerations

New regulatory approach to digital assets

- President Trump's EO sets forth a new, seemingly more permissive, interagency regulatory effort to develop a regulatory framework for digital assets.
- President Trump's digital asset EO also rescinds Executive Order 14067 "Ensuring Responsible Development of Digital Assets" issued by President Biden, which placed a greater emphasis on digital asset risks and consumer protection concerns, as well as the Treasury Department's "Framework for International Engagement on Digital Assets."

Digital asset legislation and regulations may be forthcoming

- As part of the Working Group's report, the EO directs the members to "propose a Federal regulatory framework governing the issuance and operation of digital assets, including stablecoins, in the United States. The Working Group's report shall consider provisions for market structure, oversight, consumer protection, and risk management."
- The Working Group's report may help advance regulatory and legislative developments in setting a tailored framework for digital assets.

See Deloitte's publication "President Trump issues executive order to advance digital assets" for more information.

SEC rescinds SAB No. 121 and establishes a new crypto task force

Key summary points

- ***Headline***: On January 23 and 21, 2025, respectively, the SEC issued staff accounting bulletin (SAB) No. 122 which rescinded SAB No. 121 and announced the formation of a new crypto task force to be led by Commissioner Hester Peirce.
- ***Rescinding SAB 121***: Under SAB 121, an entity that safeguarded crypto assets was required to record a liability for the safeguarding obligation and a corresponding asset on its balance sheet.
  - SAB 121 had been criticized by lawmakers and subject to a Congressional resolution of disapproval under the Congressional Review Act before being vetoed by then-President Biden.
- ***Crypto task force***: The new crypto task force's focus will be to "help the Commission draw clear regulatory lines, provide realistic paths to registration, craft sensible disclosure frameworks, and deploy enforcement resources judiciously." In a speech this month, Commissioner Hester Peirce discussed the task force's early policy priorities which include, among others, evaluating issues relating to token offerings, special purpose broker dealers, crypto lending and staking, and crypto exchange traded products.

Considerations

Continue to assess accounting obligations for custody

- While the rescinding of SAB 121 provides some regulatory relief for digital asset custodians, SAB 122 notes entities with a crypto safeguarding obligation should continue to determine any liability recognition obligations by applying the recognition and measurement requirements for liabilities arising from contingencies in:
  - (1) FASB ASC Subtopic 450-20, "Loss Contingencies" or
  - (2) IAS 37, "Provisions, Contingent Liabilities and Contingent Assets".

Consider engaging with new task force

- Commissioner Hester Peirce stated the new initiative will seek input from a "wide range of investors, industry participants, academics, and other interested parties."
- Market participants should consider opportunities to engage with the new task force, including providing feedback to agency requests for information and roundtable discussions.
- The SEC noted in the meantime, it welcomes public input at Crypto@sec.gov.

Sources: Securities and Exchange Commission (SEC), "Staff Accounting Bulletin No. 122," January 23, 2025; SEC, "SEC Crypto 2.0: Acting Chairman Uyeda Announces Formation of New Crypto Task Force," press release, January 21, 2025. **FASB ASC** = Financial Accounting Standards Board Accounting Standards Codification; **IAS** = International Accounting Standard.

IRS finalizes reporting rules for DeFi brokers

Key summary points

- ***Headline***: On December 27, 2024, the IRS issued final reporting requirements for certain trading front-end service providers that enable customers to interact with decentralized finance (DeFi) trading applications, or "DeFi brokers."
- ***Background***: Brokers are generally required to file information returns showing the names and addresses of each customer with details regarding gross proceeds. In 2021, the Infrastructure Investment and Jobs Act amended the definition of broker to include persons providing services effectuating transfers of digital assets.
- ***Covered DeFi brokers***: The final rules apply to any trading front-end service where the person providing that service "ordinarily would know or be in a position to know the nature of the transaction."
    - Such persons qualify if that person maintains control or sufficient influence over the trading front-end services to have the ability to determine whether and the extent to which the transfer of digital assets involved in a transaction gives rise to gross proceeds.
- ***Effective date***: The regulations are effective for sales of digital assets occurring on or after January 1, 2027.

Considerations

Conduct individual assessment against the rule

- Firms should conduct an individualized assessment to determine whether their activities may fall under the rule's definition of a DeFi broker.
- For those firms that may be covered by the rule, senior managers and compliance staff should assess potential policy and operational changes necessary to fulfil the rule's legal obligations.

Congress may overturn the rule under the CRA

- While it is important for organizations to begin assessments of rule changes early, covered firms should also be aware the rule's future may become subject to congressional action.
- Under the Congressional Review Act (CRA), Congress may pass, by a simple majority, a joint resolution of disapproval of agency rules or guidance that have been submitted within the prior 60 legislative days. If disapproved, the rule subject to the joint resolution goes out of effect immediately and may not be reissued in "substantially the same" form.
- Given new congressional leadership and the new administration's policy stance toward digital assets, the IRS DeFi broker rule may become subject to a CRA resolution.

Sources: US Department of the Treasury, "U.S. Department of the Treasury Releases Final Regulations Implementing Bipartisan Tax Reporting Requirements for Brokers of Digital Assets," press release, December 27, 2024; Internal Revenue Service (IRS), "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales," *Federal Register*, December 20, 2024.

Senate Banking and House Financial Services committees set out digital asset initiatives

Key summary points

- ***Headline***: In January 2025, new chairs were selected for the US Senate Banking Committee and House Financial Services Committee, who have begun to lay out their digital asset priorities.
- ***New Committee chairs***: Senator Tim Scott of South Carolina and Representative French Hill of Arkansas will lead their respective committees in the 119th Congress (2025-2027).
    - Senator Scott previously served as the Senate Banking Committee Ranking Member and Representative Hill previously served as the Chair of the House Financial Services' Subcommittee on Digital Assets.
- ***New Senate digital asset subcommittee***: Senate Banking Committee Chair Scott announced the Senate's first Subcommittee on Digital Assets to be led by Senator Cynthia Lummis from Wyoming. The new Subcommittee will be focused on "passing bipartisan digital asset legislation."
    - Senator Lummis previously introduced the Lummis-Gillibrand Payment Stablecoin Act and BITCOIN Act.
- ***House schedules digital asset hearings***: House Financial Services Chair Hill announced a series of early hearings, including two focused on a developing a digital asset framework and banking access for digital asset firms.

Considerations

Digital assets expected to be a legislative priority

- Congress is likely to focus meaningful attention towards digital assets over the coming term.
- Senate Banking Committee Chair Scott has announced his policy priorities which includes developing a regulatory framework for digital assets; meanwhile House Financial Services Committee Chair Hil's previous experience as the Chair for the Subcommittee on Digital Assets suggests it will continue to be a priority in his new role as Committee Chair.

Crypto banking access has become an important topic

- Both the Senate Banking and House Financial Services Committees have announced plans to hold hearings on banking access for digital asset-native companies.
- At the January FOMC press conference, Federal Reserve Chair Powell said "banks are perfectly able to serve crypto customers. . . we certainly don't want to take actions that would cause banks to terminate customers who are perfectly legal just because of excess risk aversion."
- Financial institutions should discuss customer onboarding, due diligence, and risk assessments for digital asset companies with their primary federal supervisors to better understand regulatory expectations for their individual circumstances.

Sources: US Senate, Committee on Banking, Housing, and Urban Affairs, "Membership," accessed January 31, 2025; US House of Representatives, Committee on Financial Services, "Committee Members," accessed January 31, 2025; US Senate, Office of Senator Cynthia Lummis, "Lummis to Chair Historic Senate Panel on Digital Assets," January 23, 2025; US House of Representatives, Committee on Financial Services, "House Financial Services Committee Hearings Schedule for February 2025," January 24, 2025; US Senate, Committee on Banking, Housing, and Urban Affairs, "Scott: Banking Committee Will Investigate Debanking," January 24, 2025.

California enacts “digital good” consumer protection law

Key summary points

- ***Headline***: On January 1, 2025, a new consumer protection law went into effect in California which sets forth certain advertising and marketing requirements for sellers of a “digital good,” which, while unclear, could potentially apply to nonfungible tokens (NFTs).
- ***Digital good defined***: Under the new law, a “digital good” is broadly defined to include any non-subscription digital audiovisual work, digital audio work, digital book, digital code, or digital application or game.
- ***Advertisement prohibitions***: Under the new law, a seller is prohibited from advertising or offering for sale a digital good, which does not confer full ownership, with the terms “buy,” “purchase,” or any other term which a reasonable person would understand to confer an unrestricted ownership interest in the digital good; unless they provide disclosures and obtain acknowledgments that the consumer understands they are buying a license with specific restrictions and conditions.
- ***Violations***: California law makes a person who violates specified false advertising provisions liable for a civil penalty, as specified, and provides that a person who violates those false advertising provisions is guilty of a misdemeanor.

Considerations

NFT sellers may be subject to the new advertising law

- While the law does not explicitly mention NFTs or other digital asset products, a “digital good” is defined broadly so as to potentially encompass some NFT issuers and marketplaces.
- Possession of a NFTs, which can represent content such as artwork, may not necessarily confer full legal ownership, such as intellectual property rights.
    - Therefore, some NFT sales may fall under the law’s prohibition of advertising a digital good with the false implication of full ownership.
- However, the law provides a number of exclusions including where a seller cannot revoke access to a digital good after the transaction.
    - Therefore, blockchain-based transactions could potentially qualify for one of the law’s exemption, depending upon whether the NFT is store directly onto the blockchain settlement layer or linked to a separate file location.
- Without additional guidance from regulators, the analysis of whether a NFT is subject to the new law will be a highly individualized, fact-specific assessment.

Source: California State Legislature, “AB-2426 Consumer protection: false advertising: digital goods,” 2023-2024 session, approved by the Governor September 24, 2024.

Stablecoin legislation introduced in the Senate

Key summary points

- ***Headline***: On February 4, 2025, Banking Committee Chair Tim Scott along with US Senators Bill Hagerty, Kirsten Gillibrand, and Cynthia Lummis introduced the Guiding and Establishing National Innovation for US Stablecoins (GENIUS) Act which would establish a federal regulatory framework for stablecoin issuers.
- ***Building upon previous bills***: The bill builds upon the Lummis-Gillibrand Payment Stablecoin Act (LGPSA) introduced in 2024. Notably, Senators Lummis and Gillibrand are cosponsors of the GENIUS Act, suggesting the new bill represents the chamber's most promising piece of stablecoin legislation going forward.
- ***State supervision***: Under the bill, stablecoin issuers with less than $10 billion in total market capitalization may be exempt from federal supervision if the state-level regulatory regime is determined to be "substantially similar" to the federal regulatory framework under the bill.
- ***Federal supervision***: Under the bill, stablecoin issuers with more than $10 billion in total market capitalization must transition to federal regulatory oversight, unless waived by the applicable federal regulator.

Considerations

Key difference with LGPSA

- Under the LGPSA, the Office of the Comptroller of the Currency (OCC) would have been granted authority to issue a new uninsured depository institution (UDI) charter for stablecoin issuers without issuance limitations.
    - The GENIUS Act, by comparison, does not grant new chartering authority to the OCC, however it would provide the agency with *exclusive* federal regulation and supervision for federal nonbank payment stablecoin issuers (in coordination with other relevant regulators).

Role of the states will be important policy decision

- The role of state licensing and supervision of stablecoin-issuers under a federal framework remains open.
- New York State issued the first US stablecoin regulatory framework, in the form of guidance, in 2022. Since then, other states, such as California, have enacted their own digital asset regulatory regime.

Source: US Senate, Office of Senator Bill Hagerty, "Hagerty leads legislation to establish a stablecoin regulatory framework," press release, February 4, 2025.

Stablecoin draft legislation introduced in the House of Representatives

Key summary points

- ***Headline***: On February 6, 2025, House Financial Services Chairman French Hill and Digital Assets Subcommittee Chairman Bryan Steil released a discussion draft of the Stablecoin Transparency and Accountability for a Better Ledger Economy (STABLE) Act which would establish a framework for the issuance and operation of US dollar-denominated payment stablecoins in the US.
- ***Building upon previous bills***: The bill builds upon the Clarity for Payment Stablecoins Act of 2023 (CPSA) introduced by then-House Financial Services Committee Chairman Patrick McHenry.
- ***Reserves***: Like many previous congressional stablecoin bills, including the GENIUS Act, the STABLE Act requires issuers to back outstanding stablecoins on at least a 1:1 basis of reserves comprising of high-quality liquid assets (HQLA) and undergo monthly inspection the reserves' composition by a registered public accounting firm (which would be certified by the issuer's CEO and CFO subject to criminal penalties).
- ***Tailoring***: Under the STABLE Act, the primary federal stablecoin regulators would be required to tailor regulatory requirements, taking into consideration the issuers' capital structure, riskiness, complexity, financial activities, and size.

Considerations

Key differences with CPSA

- Compared to the CPSA which provided a pathway for Federal Reserve oversight over nonbank stablecoin issuers, the STABLE Act would give the OCC the authority to approve and supervise federally qualified nonbank payment stablecoin issuers.
- The STABLE Act appears to provide more protections to state licensing and rulemaking authority by explicitly stating the bill's provision relating to federal enforcement over state qualified stablecoin issuers "do not preempt any law of a State and do not supersede any State licensing requirement."

Key difference with GENIUS Act

- Unlike the Senate's GENIUS Act, the STABLE Act does not require state-regulated stablecoin issuers above a set threshold to transition to a federal regulatory framework.
  - The STABLE Act appears to allow large issuers to exist within the state-regulatory framework, while granting federal regulators authority to take enforcement actions against state qualified issuers in exigent circumstances.

Source: US House of Representatives, Committee on Financial Services, "Hill and Steil Release Discussion Draft for Stablecoins," press release, February 6, 2025.

CFPB issues proposed interpretive rule for stablecoin and digital asset payments

Key summary points

- ***Headline***: On January 10, 2025, the CFPB issued a proposed interpretive rule related to requirements that apply to emerging payment mechanisms, such as stablecoins and other digital assets, under Regulation E and the Electronic Fund Transfer Act (EFTA).
- ***"Funds" under the EFTA***: The proposed rule interprets "funds" as including non-fiat assets that act or used like money, including stablecoins and any other similarly-situated fungible asset that operate as a medium of exchange or as a means of paying for goods or services—regardless of whether the asset fluctuates in value.
- ***"Account" under the EFTA***: The proposed rule interprets "account," depending upon the facts and circumstances, as potentially including, among others, virtual currency wallets.
- ***Regulatory freeze***: The future state of the rule remains uncertain under the new administration. On January 20, 2025, President Trump issued an executive order halting proposed rules until such time that "department or agency head appointed or designated by the President after noon on January 20, 2025, reviews and approves the rule."

Considerations

Assess whether offerings may meet interpretive definitions

- Market participants providing emerging technology payment mechanisms should review their offerings to understand whether their product and service may meet the EFTA's definitions under proposed interpretive rule.
- In particular, market participants should give careful consideration to whether their account meets the definition of "other consumer asset account," including whether it is established for "personal, family, or household purposes."

Understand potential legal obligations under the EFTA

- Financial institutions have a number of legal obligations under EFTA and Regulation E; among the most important are error resolution and limits on consumers' liability for unauthorized electronic fund transfers (EFTs), as well as initial and ongoing disclosures.
- Market participants whose offerings may meet the EFTA's definitions under proposed interpretive rule should consider engaging professional service experts to better understand what regulatory requirements may be implicated should the interpretive rule be finalized as proposed.

Source: Consumer Financial Protection Bureau (CFPB), "Electronic Fund Transfers Through Accounts Established Primarily for Personal, Family, or Household Purposes Using Emerging Payment Mechanisms (Electronic Fund Transfer Act; Regulation E)," January 10, 2025.

Federal Reserve Governor Waller delivers remarks on decentralized finance (DeFi)

Key summary points

- ***Headline***: On October 18, 2024, Federal Reserve Board (FRB) Governor Christopher Waller delivered remarks wherein he discussed the role of DeFi-related technologies and their impact on traditional, centralized financial (CeFi) system.
- ***DeFi complements, not substitutes CeFi***: Governor Waller expressed his views that, while DeFi-related technologies "will almost certainly lead to efficiency gains over time," it would not be possible to completely decentralize finance using these technologies; rather they are largely complementary to centralized finance.
- ***Areas of potential improved efficiency***: Governor Waller noted DeFi-related technologies, including distributed ledgers and smart contracts, can reduce the need for intermediaries (in the case of stablecoin payments) and may be a faster and more efficient means of recordkeeping in a 24/7 trading world (e.g., debt, equity and real estate).
- ***Need for central intermediaries remains***: Despite the potential means of improving financial services, Governor Waller said intermediation remains valuable for the average person, including in the trading of digital assets. Centralized intermediaries are also valuable from a regulator's perspective as they are better position to prohibit illicit finance and money laundering.

Considerations

Increasing regulatory attention on DeFi

- Governor Waller's speech highlights the growing regulatory attention towards DeFi and policy considerations around regulatory safeguards; among the issues Governor Waller highlights include the risk of spillover effects onto the broader market and society, as well as the increased risk of inadvertently providing funds to bad actors.
- As DeFi technologies mature and the volume of transactions increase, policymakers may look at ways to apply regulatory guardrails to these technological applications, including know your customer/anti money-laundering (KYC/AML) requirements.

Centralized intermediaries should consider DeFi technology

- Governor Waller noted that several financial institutions are experimenting with distributed ledger technology (DLT) to speed up transfers of assets and take advantage of smart contracts.
- Financial institutions, which have not already done so, may wish to consider developing their DLT and smart contract capabilities, for example, by setting up a pilot program in parallel with existing operations.
- Financial institutions should engage with their regulators early to discuss potential digital asset-related initiatives.

Source: Federal Reserve Board of Governors (FRB), Speech by Governor Christopher J. Waller, "Centralized and Decentralized Finance: Substitutes or Complements?," October 18, 2024.

Bank for International Settlements releases report on tokenization

Key summary points

- ***Headline***: On October 21, 2024, the Bank for International Settlements (BIS) released a report that discussed opportunities and risks for tokenization arrangements, as well as a series of considerations for central banks.
- ***Opportunities***: The report notes that token arrangements may improve the safety and efficiency of financial markets through greater transparency, reduced transaction or information costs, higher speed and improved risk management.
    - However, the report also notes that certain frictions present in existing payment, clearing and settlement arrangements are in place to achieve particular policy and risk management objectives (e.g., KYC/AML compliance).
- ***Risks and challenges***: The report notes several risks associated with tokenization, including legal uncertainty, potential mismatches between the token and underlying asset, as well as operational and cyber risk to the underlying technology or applications.

Considerations

Interoperability remains a potential obstacle

- The report notes that the development of multiple token arrangements in parallel may lead to siloed and fragmented implementations which could hinder full materialization of the opportunities of tokenization.
- The report suggests central banks and private market participants may wish to consider coordinating tokenization efforts, such as through Project Agorá, to foster consistent standards and improve interoperability.

Central banks may increase oversights of tokenization

- The report notes that central banks may promote the safety and efficiency of payment, clearing, and settlement systems through (i) monitoring token arrangements; (ii) assessing them against the objectives of safety and efficiency; and (iii) determining whether such arrangements would qualify as financial market infrastructure (FMI).
- For token arrangements that are within the scope of a central bank's oversight, they may become subject to regulatory prescribed risk-management standards and governance requirements.

Source: Bank for International Settlement (BIS), "Tokenisation in the context of money and other assets: concepts and implications for central banks," October 2024.

Treasury Department advisory committee discusses tokenized Treasury market

Key summary points

- ***Headline***: On October 29, 2024, the US Department of the Treasury's Treasury Borrowing Advisory Committee (TBAC) met to discuss, among other topics, the effects of digital assets on the Treasury market and potential for tokenization of Treasuries.
- ***Effects on Treasury market***: The TBAC noted that because most stablecoin collateral reportedly consists of either Treasury bills or Treasury-backed repurchase agreement transactions, the growth in stablecoins has likely resulted in a modest increase in demand for short-dated Treasury securities.
- ***Potential benefits of tokenized Treasuries***: Among the potential benefits to tokenized Treasuries discussed by the TBAC include improvements in clearing and settlement, collateral management, as well as the creation of new and highly customizable financial products.
- ***Potential risks of tokenized Treasuries***: Among the potential risks to tokenized Treasuries discussed by the TBAC include operational risks of the underlying blockchain settlement layer, legal challenges for cross-border transactions, and financial stability concerns due to potential for increased leverage, interconnectedness, and stablecoin run risk.

Considerations

Design considerations for tokenized Treasury market

- Among the design principles the TBAC noted necessary for a secure tokenized Treasury market include: (i) legal certainty; (ii) regulatory compliance; (iii) resiliency and security; (iv) safeguards to customer assets; (v) connectivity and inter-operability; and (vi) operational scalability.
- The TBAC notes tokenization in the Treasury market will likely require the development of a privately controlled and permissioned blockchain managed by one or more trusted private or public authorities.

Potential future impact of digital assets on Treasury market

- Continued growth in stablecoins, assuming current trend in stablecoin collateral, will likely create increased structural demand for short-dated Treasuries.
- Growth in stablecoins could lead to larger share of the Treasury bill market and may lead to increased volatility risk in the event of runs on stablecoins.
- Increased institutional investment in digital assets may create additional hedging and flight to safety demand for tokenized Treasuries during periods of heightened downside volatility.

Sources: US Department of the Treasury, "Minutes of the Meeting of the Treasury Borrowing Advisory Committee October 29, 2024," press release, October 29, 2024; US Department of the Treasury, "Treasury Presentation to TBAC," pages 107–132, October 29, 2024. *See also* US Department of the Treasury, "Treasury Borrowing Advisory Committee (TBAC)," accessed October 30, 2024.

CFTC advisory committee recommends expanded use of non-cash collateral through distributed ledger technology

Key summary points

- ***Headline***: On November 21, 2024, the CFTC Global Markets Advisory Committee (GMAC) issued a recommendation to expand the use of non-cash collateral through DLT.
- ***Operational challenges***: The report outlines several existing challenges to non-cash collateral, including the need to sequential involvement of multiple intermediaries which can make the settlement process lengthier and more complex. Additionally, across various eligible non-cash collateral assets, relevant infrastructure typically is not in operation on a 24/7/365 basis.
- ***Potential benefits of DLT***: The report notes several potential benefits of DLT applications for market participants, including real-time, 24/7/365 transfers, increased velocity of asset transfers, and potential expansion of the pool of assets for use.
- ***Setting a legal and regulatory framework***: The report provides a set of recommendations and considerations for setting forth a legal and regulatory framework for how market participants can apply existing policies, procedures and practices to support the use of DLT for non-cash collateral.

Considerations

2025 may be a significant year for CFTC digital asset policy

- Recommendations by the Global Markets Advisory Committee are advisory in nature and, therefore, require formal adoption by the CFTC.
- However, given the Commission's newly appointed acting chair and new presidential administration, the CFTC is likely to be more engaged on DLT-related policy issues in 2025.
- Market participants should look for opportunities to engage with their regulators on digital asset-related initiatives and remain informed about agency activity.

Consider DLT qualities in conducting risk management

- The report notes Swap Entities, DCOs, and FCMs are subject to certain risk management and other requirements that may bear on their use of DLT for non-cash collateral.
- Therefore, institutions that are interested in engaging with DLT application should consider reviewing the report's recommendations for how policies, procedures, and practices may be modified to incorporate potential risks associated with DLT use cases.

Source: Commodity Futures Trading Commission (CFTC), "CFTC's Global Markets Advisory Committee Advances Recommendation on Tokenized Non-Cash Collateral," Release No. 9009-24, November 21, 2024.

Endnotes

[1] Financial Conduct Authority (FCA), PS23/6: Financial promotion rules for cryptoassets, November 15, 2023; European Union, Regulation (EU) 2023/1114 (Markets in Crypto-Assets Regulation [MiCA]), May 31, 2023.

[2] US House of Representatives, Committee on Financial Services, "McHenry Delivers Remarks at Hearing on the Future of the Digital Asset Ecosystem," press release, June 13, 2023; US Department of Commerce, "Responsible Advancement of U.S. Competitiveness in Digital Assets Report," September 2022.

[3] 23 NYCRR Part 200 under the New York Financial Services Law; Office of the Governor of California, "AB39 signing message," October 13, 2023; California Assembly, Assembly Bill No. 39, October 13, 2023 ("Digital Financial Assets Law").

[4] *See* US Senate, Committee on Banking, Housing, and Urban Affairs, "Scott Announces Banking Committee Priorities for the 119th Congress," January 15, 2025.

[5] US Congress, "Financial Innovation and Technology for the 21st Century Act," introduced July 20, 2023; US Congress, "Lummis-Gillibrand Payment Stablecoin Act," introduced April 17, 2024.

[6] *Supra*, note 3.

[7] *See* US Securities and Exchange Commission (SEC), "SEC Crypto 2.0: Acting Chairman Uyeda Announces Formation of New Crypto Task Force," press release, January 21, 2025; US House of Representatives, Committee on Financial Services, "Hill Delivers Remarks at Hearing to Break Down the SEC's Politicized Approach to Digital Assets," press release, September 18, 2024.

[8] Deloitte, "Members of the U.S. Financial Sector to Explore Multi-Asset Settlement Using Shared Ledger Technology," press release, May 8, 2024.

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About the Center

The Deloitte Center for Regulatory Strategy provides valuable insight to help organizations in the financial services industry keep abreast of emerging regulatory and compliance requirements, regulatory implementation leading practices, and other regulatory trends. Home to a team of experienced executives, former regulators, and Deloitte professionals with extensive experience solving complex regulatory issues, the Center exists to bring relevant information and specialized perspectives to our clients through a range of media, including thought leadership, research, forums, webcasts, and events.