

# **Key Bridge Advisors**



## **Executive Digital Assets Executive Order (E.O.) On Ensuring Responsible Development of Digital Assets**

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## I. Executive Summary

On March 9, 2022, President Joe Biden signed an [Executive Order on Digital Assets](#) (Digital Assets E.O.) that represents the first ‘whole-of-government’ strategy to address the risks and harness the potential benefits of digital assets and distributed ledger technology. The Digital Assets E.O. lays out a national policy for digital assets across six key priorities: consumer and investor protection; financial stability; illicit finance; U.S. leadership in the global financial system and economic competitiveness; financial inclusion; and, responsible innovation.

As background, the White House notes in a [fact sheet](#) regarding the Digital Assets E.O. that digital assets’ total value surpassed a \$3 trillion market cap last November, up from \$14 billion just five years prior. According to the White House, surveys suggest that around 16 percent of adult Americans – approximately 40 million people – have invested in, traded, or used cryptocurrencies. Over 100 countries are exploring or piloting Central Bank Digital Currencies (CBDCs), a digital form of a country’s sovereign currency. The White House also released a [statement](#) from NEC Director Brian Dees and National Security Advisor Jake Sullivan on the Digital Assets E.O. that describes an intensification in the approach toward responsible innovation of digital assets.

The Digital Assets E.O. harnesses: the efforts of the Department of the Treasury to focus on consumers, investors, and businesses; the Financial Stability Oversight Council (FSOC) to address systemic risks in the economy as a result of digital assets; the Department of Commerce to establish a framework to drive U.S. competitiveness and leadership; coordination across multiple agencies and international bodies to address illicit finance and national security risks; and, the promotion of equitable access to safe and affordable financial services through Treasury with a report on the future of money and payment systems. The Digital Assets E.O. focuses on a careful balance in the use of digital asset systems while prioritizing privacy, security, the combating of illicit exploitation, and the reduction of negative climate impacts.

The E.O. also explores a U.S. Central Bank Digital Currency (CBDC) by placing urgency on research and development of a potential United States CBDC, should issuance be deemed in the national interest. The Digital Assets E.O. directs the U.S. Government to assess the technological infrastructure and capacity needs for a potential U.S. CBDC in a manner that protects Americans’ interests. The Digital Assets E.O. also encourages the Federal Reserve to continue its research, development, and assessment efforts for a U.S. CBDC, including development of a plan for broader U.S. Government action in support of their work. This effort prioritizes U.S. participation in multi-country experimentation and ensures U.S. leadership internationally to promote CBDC development that is consistent with U.S. priorities and democratic values.



## II. Section-By-Section Summary

### Section 1: Policy

The Digital Assets E.O. describes advances in DLT that have led to a dramatic growth in the digital asset markets, which require consideration of the following subjects:

1. Protection of consumers, investors, and businesses, including data privacy and security
2. Financial stability and systemic risk
3. Crime
4. National security
5. Financial inclusion and equity, including the ability to exercise human rights
6. Energy demand and climate change

Key words to note in the policy section are ‘responsible financial innovation’ which has been a [consistent theme from U.S. regulators](#) since 2016. Additionally, the description by the Digital Assets E.O. of ‘inconsistent controls to defend against key risks’ references new geopolitical, technological, and social challenges such as ransomware and sanctions evasion that have proven significant as a threat to National Security. Finally, the focus on ‘climate change and pollution’ shows the Administration’s specific sensitivities to the intensive proof-of-work consensus algorithms solved by miners.

### Section 2: Objectives

This section lists six objectives of the Digital Asset E.O.:

1. *We must protect consumers, investors, and businesses in the United States.* Concern: Lack of oversight and standards of firms providing digital asset services has led to cybersecurity and market failures at major digital asset exchanges and trading platforms costing billions of dollars in losses.
2. *We must protect the United States and global financial stability and mitigate systemic risk.* Concern: Apply principle of “same business, same risks, same rules” to digital asset issuers, exchanges, trading platforms, and intermediaries whose risk is the same as traditional market infrastructure and financial firms.
3. *We must mitigate the illicit finance and national security risks posed by misuse of digital assets.* Concerns: money laundering, cybercrime and ransomware, narcotics and human trafficking, and terrorism and proliferation financing are tools to circumvent United States and foreign financial sanctions regimes. Also, the Digital Assets E.O. notes that illicit actors, including the perpetrators of ransomware incidents and other cybercrime, launder and cash out of their illicit proceeds using digital asset service providers in jurisdictions that have not yet effectively implemented the international standards set by the Financial Action Task Force (FATF).



4. *We must reinforce United States leadership in the global financial system and in technological and economic competitiveness, including through the responsible development of payment innovations and digital assets.* The U.S. derives significant economic and national security benefits from the central role that the United States dollar and United States financial institutions and markets play in the global financial system. The U.S. must lead in digital asset technology that promotes democratic values, the rule of law, privacy, the protection of consumers, investors, and businesses, and interoperability with digital platforms, legacy architecture, and international payment systems.
5. *We must promote access to safe and affordable financial services.* The United States has a strong interest in promoting responsible innovation that expands equitable access to financial services, particularly for those Americans underserved by the traditional banking system. Through responsible innovation in digital assets, the administration seeks to make investments and domestic and cross-border funds transfers and payments cheaper, faster, and safer, and by promoting greater and more cost-efficient access to financial products and services.
6. *We must support technological advances that promote responsible development and use of digital assets.* The technological architecture of different digital assets has substantial implications for privacy, national security, the operational security and resilience of financial systems, climate change, the ability to exercise human rights, and other national goals. Digital asset development should include privacy and security in their architecture, integrate features and controls that defend against illicit exploitation, and reduce negative climate impacts and environmental pollution, as may result from some cryptocurrency mining.

### Section 3: Coordination

This section describes the required coordination and logistics of agencies involved with a note regarding the independence of financial services regulators (FDIC, OCC, Federal Reserve, SEC, CFTC) that technically are not beholden to the E.O.

### Section 4: CBDC Policy

The Administration notes that they see “sovereign money [as being] at the core of a well-functioning financial system, macroeconomic stabilization policies, and economic growth.” *The Biden Administration places the highest urgency on research and development efforts into the potential design and deployment options of a United States CBDC.*

The Biden Administration also sees merit in showcasing United States leadership and participation in international forums related to CBDCs and in multi-country conversations and pilot projects involving CBDCs.



### **Section 5: Measures to Protect Consumers, Investors, and Businesses.**

Risks of crimes such as fraud and theft, other statutory and regulatory violations, privacy and data breaches, unfair and abusive acts or practices, and other cyber incidents faced by consumers, investors, and businesses.

### **Section 6: Actions to Promote Financial Stability, Mitigate Systemic Risk, and Strengthen Market Integrity**

The Financial Stability Oversight Council (FSOC) plays an important role in mitigating systemic risks in the financial system.

### **Section 7: Actions to Limit Illicit Finance and Associated National Security Risks**

- (a) Digital assets have facilitated sophisticated cybercrime-related financial networks and activity, including through ransomware activity.
- (b) The growing use of digital assets in financial activity heightens risks of crimes such as money laundering, terrorist and proliferation financing, fraud and theft schemes, and corruption.
- (c) These illicit activities highlight the need for ongoing scrutiny of the use of digital assets, the extent to which technological innovation may impact such activities, and exploration of opportunities to mitigate these risks through regulation, supervision, public-private engagement, oversight, and law enforcement.

### **Section 8: Policy and Actions Related to Fostering International Cooperation and United States Competitiveness**

Technology-driven financial innovation is frequently cross-border funds transfer and therefore requires international cooperation among public authorities. The United States Government has been active in international forums and through bilateral partnerships on many of these issues and has a robust agenda to continue this work in the coming years and led FATF in its first international standards on digital assets.

The United States must continue to work with international partners on standards for the development and appropriate interoperability of digital payment architectures and CBDCs to reduce payment inefficiencies and ensure that any new funds transfer and payment systems are consistent with United States values and legal requirements

The United States established the G7 Digital Payments Experts Group to discuss CBDCs, stablecoins, and other digital payment issues. The G7 report outlining a set of policy principles for CBDCs is an important contribution to establishing guidelines for jurisdictions for the exploration and potential development of CBDCs.

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While a CBDC would be issued by a country's central bank, the E.O. suggests that supporting infrastructure could involve both public and private participants. The G7 report highlighted that any CBDC should be grounded in the G7's long-standing public commitments to transparency, the rule of law, and sound economic governance, as well as the promotion of competition and innovation. The G7's 13 Principles of CBDC Development can be found [here](#).

The United States continues to support the G20 roadmap for addressing challenges and frictions with cross-border funds transfers and payments for which work is underway, including work on improvements to existing systems for cross-border funds transfers and payments, the international dimensions of CBDC designs, and the potential of well-regulated stablecoin arrangements. The U.S. will continue to support the international Financial Stability Board (FSB), who together with standard-setting bodies, is leading work on issues related to stablecoins, cross-border funds transfers and payments, and other international dimensions of digital assets and payments, while FATF continues its leadership in setting AML/CFT standards for digital assets.

With respect to digital assets, the Biden Administration will seek to ensure that our core democratic values are respected; consumers, investors, and businesses are protected; appropriate global financial system connectivity and platform and architecture interoperability are preserved; and, the safety and soundness of the global financial system and international monetary system are maintained.



### III. Reports Required by the Digital Assets E.O.

1. Within 180 days of the date of this Digital Assets E.O. (March 9<sup>th</sup>, 2022), 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 will provide a report on the future of money and payment systems, including: the conditions that drive broad adoption of digital assets; the extent to which technological innovation may influence these outcomes; and, the implications for the United States financial system, the modernization of and changes to payment systems, economic growth, financial inclusion, and national security.
2. The Attorney General, in consultation with the Secretary of the Treasury and the Chairman of the Federal Reserve, shall:
  - (i) within 180 days of the date of this Digital Assets E.O., provide to the President through the APNSA and APEP an assessment of whether legislative changes would be necessary to issue a United States CBDC, should it be deemed appropriate and in the national interest; and,
  - (ii) within 210 days of the date of this Digital Assets E.O., provide to the President through the APNSA and the APEP a corresponding legislative proposal.
3. Within 180 days of the date of this Digital Assets E.O., the Secretary of the Treasury, in consultation with the Secretary of Labor and the heads of other relevant agencies, including, as appropriate, the heads of independent regulatory agencies such as the FTC, the SEC, the CFTC, Federal banking agencies, and the CFPB, shall submit to the President a report, or section of the report required by section 4 of this Digital Assets E.O., on the implications of developments and adoption of digital assets and changes in financial market and payment system infrastructures for United States consumers, investors, businesses, and for equitable economic growth.
4. Within 180 days of the date of this Digital Assets E.O., the Director of the Office of Science and Technology Policy and the Chief Technology Officer of the United States, in consultation with the Secretary of the Treasury, the Chairman of the Federal Reserve, and the heads of other relevant agencies, shall submit to the President a technical evaluation of the technological infrastructure, capacity, and expertise that would be necessary at relevant agencies to facilitate and support the introduction of a CBDC system should one be proposed.
5. Within 180 days of the date of this Digital Assets E.O., the Attorney General, in consultation with the Secretary of the Treasury and the Secretary of Homeland Security, shall submit to the President a report on the role of law enforcement

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agencies in detecting, investigating, and prosecuting criminal activity related to digital assets

6. Within 180 days of the date of this Digital Assets E.O., the Director of the Office of Science and Technology Policy, in consultation with the Secretary of the Treasury, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Chair of the Council of Economic Advisers, the Assistant to the President and National Climate Advisor, and the heads of other relevant agencies, shall submit a report to the President on the connections between distributed ledger technology and short-, medium-, and long-term economic and energy transitions; the potential for these technologies to impede or advance efforts to tackle climate change at home and abroad; and, the impacts these technologies have on the environment.
7. Within one year of submission of the report described in section 5(b)(vii) of this Digital Assets E.O., the Director of the Office of Science and Technology Policy, in consultation with the Secretary of the Treasury, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Chair of the Council of Economic Advisers, and the heads of other relevant agencies, shall update the report (above on climate change) , including to address any knowledge gaps identified in such report.
8. Within 210 days of the date of this Digital Assets E.O., the Secretary of the Treasury should convene the FSOC and produce a report outlining the specific financial stability risks and regulatory gaps posed by various types of digital assets and providing recommendations to address such risks.
9. Within 120 days of submission to the Congress of the National Strategy for Combating Terrorist and Other Illicit Financing, 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 shall develop a coordinated action plan based on the Strategy's conclusions for mitigating the digital-asset-related illicit finance and national security risks addressed in the updated strategy.
10. Within 120 days following completion of all of the following reports — 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 — the Secretary of the Treasury shall notify the relevant agencies through the interagency process described in section 3 of this Digital Assets E.O. on any pending, proposed, or prospective rulemakings to address digital asset illicit finance risks. The Secretary of the Treasury shall consult with and consider the





perspectives of relevant agencies in evaluating opportunities to mitigate such risks through regulation.

11. Within 120 days of the date of this Digital Assets E.O., the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Commerce, the Administrator of the United States Agency for International Development, and the heads of other relevant agencies, shall establish a framework for interagency international engagement with foreign counterparts and in international forums to, as appropriate, adapt, update, and enhance adoption of global principles and standards for how digital assets are used and transacted, and to promote development of digital asset and CBDC technologies consistent with our values and legal requirements. Note: This framework shall include specific and prioritized lines of effort and coordinated messaging; interagency engagement and activities with foreign partners, such as foreign assistance and capacity-building efforts and coordination of global compliance; and whole-of-government efforts to promote international principles, standards, and best practices
12. Within one year of the date of the establishment of the framework required by section 8(b)(i) of this Digital Assets E.O., the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Commerce, the Director of the Office of Management and Budget, the Administrator of the United States Agency for International Development, and the heads of other relevant agencies as appropriate, shall submit a report to the President on priority actions taken under the framework and its effectiveness.
13. Within 180 days of the date of this Digital Assets E.O., the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of the Treasury, and the heads of other relevant agencies, shall establish a framework for enhancing United States economic competitiveness in, and leveraging of, digital asset technologies.
14. Within 90 days of the date of this Digital Assets E.O., the Attorney General, in consultation with the Secretary of State, the Secretary of the Treasury, and the Secretary of Homeland Security, shall submit a report to the President on how to strengthen international law enforcement cooperation for detecting, investigating, and prosecuting criminal activity related to digital assets.

### ***Optional Report***

1. Within 90 days of submission to the Congress of the National Strategy for Combating Terrorist and Other Illicit Financing, the Secretary of the Treasury, 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

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of other relevant agencies may each submit to the President supplemental annexes, which may be classified or unclassified, to the Strategy offering additional views on illicit finance risks posed by digital assets, including cryptocurrencies, stablecoins, CBDCs, and trends in the use of digital assets by illicit actors.

### ***Recommendations Requested***

The Chairman of the Board of Governors of the Federal Reserve System (Chairman of the Federal Reserve) is encouraged to continue to research and report on the extent to which CBDCs could improve the efficiency and reduce the costs of existing and future payments systems, to continue to assess the optimal form of a United States CBDC, and to develop a strategic plan for Federal Reserve and broader United States Government action, as appropriate, that evaluates the necessary steps and requirements for the potential implementation and launch of a United States CBDC. The Chairman of the Federal Reserve is also encouraged to evaluate the extent to which a United States CBDC, based on the potential design options, could enhance or impede the ability of monetary policy to function effectively as a critical macroeconomic stabilization tool.

The Attorney General, the Chair of the FTC, and the Director of the CFPB are each encouraged to consider what, if any, effects the growth of digital assets could have on competition policy.

The Chair of the FTC and the Director of the CFPB are each encouraged to consider the extent to which privacy or consumer protection measures within their respective jurisdictions may be used to protect users of digital assets and whether additional measures may be needed.

The Chair of the SEC, the Chairman of the CFTC, the Chairman of the Federal Reserve, the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, and the Comptroller of the Currency are each encouraged to consider the extent to which investor and market protection measures within their respective jurisdictions may be used to address the risks of digital assets and whether additional measures may be needed.



### Appendix: Definitions In Digital Assets E.O.

(a) The term “blockchain” refers to distributed ledger technologies where data is shared across a network that creates a digital ledger of verified transactions or information among network participants and the data are typically linked using cryptography to maintain the integrity of the ledger and execute other functions, including transfer of ownership or value.

(b) The term “central bank digital currency” or “CBDC” refers to a form of digital money or monetary value, denominated in the national unit of account, that is a direct liability of the central bank.

(c) The term “cryptocurrencies” refers to a digital asset, which may be a medium of exchange, for which generation or ownership records are supported through a distributed ledger technology that relies on cryptography, such as a blockchain.

(d) The term “digital assets” refers to all CBDCs, regardless of the technology used, and to other representations of value, financial assets and instruments, or claims that are used to make payments or investments, or to transmit or exchange funds or the equivalent thereof, that are issued or represented in digital form through the use of distributed ledger technology. For example, digital assets include cryptocurrencies, stablecoins, and CBDCs. Regardless of the label used, a digital asset may be, among other things, a security, a commodity, a derivative, or other financial product. Digital assets may be exchanged across digital asset trading platforms, including centralized and decentralized finance platforms, or through peer-to-peer technologies.

(e) The term “stablecoins” refers to a category of cryptocurrencies with mechanisms that are aimed at maintaining a stable value, such as by pegging the value of the coin to a specific currency, asset, or pool of assets or by algorithmically controlling supply in response to changes in demand in Digital Assets E.O. to stabilize value.