

A Framework for Market Structure Legislation

I. Why We Need Digital Asset Market Legislation

U.S. financial markets are widely recognized as the most robust, transparent, and efficient markets in the world. They have served as a vital engine for economic growth, innovation, and wealth creation for Americans for decades.

Our markets are underpinned by a regulatory framework grounded in the principle that the nature of an activity determines the rules that apply. This approach has served U.S. markets through generations of technological innovation—from the emergence of electronic trading to the rise of complex derivatives.

Across the country, more and more Americans use and trade digital assets. Today, these assets make up a nearly \$4 trillion market. Digital asset technology has the potential to unlock new businesses and spur American innovation.

But questions about digital assets' place in the U.S. regulatory framework have hobbled both innovation and consumer protection. New businesses confront uncertainty about where their products fit in our regulatory system, and the growth of digital assets has highlighted gaps in the existing financial rulebook. Meanwhile, investors have been left vulnerable to scams and fraud, with inadequate protections from misconduct.

It is time to strengthen digital asset markets for investors and businesses through clear, consistent, and fair rules of the road. Legislation is the best way to protect consumers and investors while providing digital asset firms a pathway to grow. It is time for legislation to:

- Close regulatory gaps—most importantly, the gap over the spot market for digital assets that are not securities—to protect investors and markets.
- Create clarity for digital asset businesses and consumers about how and where crypto tokens fit into financial regulation.
- Incorporate digital asset platforms into the regulatory framework.
- Address new opportunities and risks created by digital assets.

Any digital assets legislation should be guided by the values that have helped to make U.S. markets the strongest, most transparent, and most liquid in the world. These include:

- Promoting efficient markets that direct capital to the best ideas and entrepreneurs.
- Providing clear, predictable rules to market participants.
- Addressing the same kinds of risks with the same kinds of regulation.
- Protecting financial privacy while denying bad actors access to the financial system.
- Protecting investors and consumers while ensuring oversight and enforcement against corruption, fraud, and misconduct.

The following pages outline a framework for digital asset legislation that would protect investors while providing a compliance pathway for digital asset businesses. With this approach, Congress can stop abuses and secure U.S. leadership in financial innovation.

II. Principles for a Digital Asset Regulatory Framework

(1) Closing the Gap in the Spot Market for Non-Security Digital Assets

There is no U.S. regulator with the authority to proactively regulate commodity markets. While the Commodity Futures Trading Commission (CFTC) regulates markets for commodity derivatives, it has limited resources and tools in the markets for commodities that underly those derivatives (sometimes called the “spot” market).

This creates a regulatory gap in digital asset markets. There is widespread consensus that some digital assets qualify as “commodities” and not “securities,” since they don’t meet the legal test to qualify as a “security.” However, since the CFTC doesn’t regulate spot commodity markets and platforms, it lacks the authority to effectively police markets for these non-security digital assets.

Legislation should close this regulatory gap. It should:

- Grant the CFTC exclusive jurisdiction over markets for digital assets that are not securities (“digital commodities”).
- Provide the CFTC registration, regulation, and enforcement tools over platforms involved in the digital commodity market.
- Apply established core principles to digital commodity platforms, including anti-manipulation, financial integrity, risk management, conflict of interest, and other standards, while creating guardrails to address new issues, such as “memecoins.”
- Adopt consumer protection rules for digital commodity platforms to strengthen CFTC tools in markets with broad retail engagement, such as marketing and advice standards.
- Require digital asset platforms to provide adequate disclosures about the digital commodities they make available, which could include information regarding a token’s technology, functionality, governance, trading characteristics, and material risks.
- Establish a clear, fair, and efficient process for listing digital commodities that requires a showing that an asset is not a security or susceptible to manipulation.
- Equip the CFTC and Federal Reserve to regulate credit in digital commodity trading.
- Prevent fraud, manipulation, and deceptive acts or practices in digital commodity trading.

(2) Clarifying the Legal Status of Digital Assets and Regulator Jurisdiction

Questions about the legal status of digital assets have stymied entrepreneurs while inhibiting effective regulation. As digital asset technology enables new kinds of transactions and business models, market participants have navigated enormous challenges about when and how digital assets fall within the securities laws. Too often, open issues have been resolved through litigation, instead of with clear, constructive guidance.

At the same time, markets rely on information and transparency to allocate capital efficiently. Regular, accurate disclosures enable investors to direct capital to the best investment opportunities. Transparency also prevents self-dealing by insiders that could move asset prices to

benefit at the expense of investors. Ultimately, the disclosures in our securities law framework have proven to be a pillar of the United States' efficient, dynamic capital markets.

Legislation should provide clarity to digital asset developers, investors, and platforms while ensuring efficient, transparent markets. It should:

- Require regulators to issue guidance about how key longstanding securities law precedents apply to digital asset transactions, which could include safe harbors to identify transactions that do not involve securities.
- Codify a process by which digital asset market participants can obtain a regulatory determination about the status of a proposed or existing digital asset, including a determination that a digital asset is no longer offered in connection with a security.
- Promote fair, efficient markets by ensuring that assets presenting information asymmetries between insiders and the public trigger disclosure obligations under the securities laws.
- Maintain consistency with existing law by ensuring that an asset receives the same legal treatment in both primary and secondary markets.
- Protect traditional markets from disruptive changes to longstanding law, and provide that legislation should not be construed to change the regulation of traditional securities.
- Preserve state antifraud, consumer, and securities law, as well as the authorities of the Consumer Financial Protection Bureau (CFPB).

(3) Incorporating Digital Asset Issuers into the Regulatory Framework

Digital asset issuers have struggled with how securities laws—designed for traditional assets—should apply to digital asset transactions involving securities. The established disclosure framework is sufficient for many businesses, but may fail to provide clarity to digital assets appropriately. Current disclosure requirements may not be suitable for some aspects of a digital asset business, while leaving out other unique risks entirely.

If some digital asset transactions involve securities, issuers need realistic, actionable pathways for compliance with the securities laws. And investors need a regulatory framework that equips them with the right information to invest with confidence, while rooting out fraud and self-dealing. Any changes to current law must avoid undermining the integrity of traditional markets and prevent regulatory arbitrage.

Legislation should:

- Provide the SEC with resources, tools, and a mandate to incorporate digital assets that represent a security into the securities law framework, while ensuring regulators maintain flexibility as the digital asset market evolves.
- Ensure appropriate, timely, and accurate disclosures by digital asset issuers in plain language, both in initial offerings and periodically while an asset represents a security. For instance, disclosures could address:
 - A token's underlying technology and blockchain network.

- A developer's use of proceeds from the sale of a token, its plans for any associated digital asset project, and the role of the token in the project.
- Token holdings and transactions involving insiders or related parties.
- Material governance and financial information for a related digital asset project.
- Adhere to longstanding materiality principles so that investors have the information to make informed investing decisions.
- Prevent the use of digital assets to evade investor protections in traditional capital raising activities.
- Preserve state securities regulators' role in protecting consumers.
- Guarantee the SEC's ability to impose penalties for misconduct, while preserving investors' right to seek damages for fraud and other violations.

(4) Incorporating Digital Asset Platforms into the Regulatory Framework

Like digital asset issuers, digital asset platforms have faced challenges integrating their businesses into legacy regulatory frameworks. Today, digital asset markets confront questions about how important features of digital asset trading—such as new clearing and custody practices—fit into critical investor protection rules.

These ambiguities have created uncertainty for platforms, while leaving consumers and investors exposed. While digital asset markets are novel, they present many of the same kinds of risks as traditional markets. So it is critical that protections are incorporated for issues like custody, margin and credit, fair pricing, conflicts of interest, and insider trading. New business models may also raise the need for new regulatory tools to protect investors and ensure financial stability.

Legislation should:

- Require the SEC to promptly make rules to incorporate digital asset platforms that offer securities into existing regulatory frameworks for exchanges, brokers, and securities markets. Rules should ensure key investor protection issues are effectively addressed, including custody, pricing, execution, cybersecurity, and capital.
- Incorporate digital asset platforms into self-regulatory frameworks where appropriate, potentially including through the creation of a new self-regulatory organization dedicated to digital asset market participants.
- Ensure appropriate supervision over platform affiliates and interlocking lines of business.
- Direct regulators to provide an appropriate and effective oversight framework for decentralized finance (DeFi) protocols and platforms.
- Provide regulators tools to address novel risks created by digital asset platforms and markets, such as conflicts of interest and vertically integrated market structures.
- Preserve the intent of the GENIUS Act prohibition on interest or yield paid by stablecoin issuers, including indirectly or through affiliates.

(5) Preventing Illicit Finance

Digital assets have created new avenues for both conducting and detecting illicit financial activity. Legislation should ensure national security officials have new tools they need to combat financial crime and sanctions evasion with digital assets. Digital asset intermediaries should be accountable if they turn a blind eye to criminal activity. And Congress should learn from the successful use of digital asset technology to hunt down illicit funds.

Legislation should:

- Require digital asset platforms to register with FinCEN as “financial institutions” under the Bank Secrecy Act (BSA) and adopt anti-money laundering/combating the financing of terrorism (AML/CFT) policies and procedures, including compliance with BSA and FinCEN reporting requirements.
- Address bad actors’ use of DeFi platforms to skirt illicit finance controls.
- Ensure that digital asset platforms serving U.S. customers comply with sanctions and AML/CFT requirements, even if nominally domiciled abroad.
- Shape ecosystems to isolate non-compliant platforms that facilitate illicit activity.

(6) Preventing Corruption and Abuse

President Trump has turned to digital asset projects to enrich himself and his family, abusing his office for corruption with no modern precedent. His actions have also undermined confidence in the broader digital asset industry.

Legislation should:

- Limit elected officials and their families from issuing, endorsing, or profiting from digital assets while in office.
- Codify requirements to disclose digital asset holdings on officials’ financial disclosures.
- Require promoters of a digital asset to disclose compensation or any stake in the asset.

(7) Ensuring Fair, Effective Regulation

Designing and enforcing a digital asset framework will require significant additional resources for the SEC, CFTC, and the Treasury Department. In addition, President Trump has fired countless Democratic commissioners from independent regulatory agencies and shown little interest in nominating new officials.

For digital assets regulation to succeed, it is essential that regulators have the funding and staff that they need. These agencies also require Democratic voices, as Congress intended: only a bipartisan regulatory process will produce durable, balanced rules that provide long-term stability and legitimacy for digital asset markets.

Legislation should:

- Provide the SEC, CFTC, and Treasury with funding to implement digital assets rules.
- Authorize streamlined hiring processes for digital assets-related positions.

- Require that commissioners from both parties sit at the SEC and CFTC to create a quorum for digital asset rulemakings.

* * *

Digital assets create opportunities for investors and entrepreneurs across the United States, and as they continue to grow, Congress should embrace the opportunity to develop smart, effective guardrails. With the right approach, the United States can protect investors, support efficient and transparent capital markets, and drive innovation.