

## Cabinet News and Views

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### White House Fact Sheet: Comprehensive Framework for Responsible Development of Digital Assets



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Last Friday, September 16, the White House released a “[Fact Sheet](#)” that lays out a comprehensive framework around which a plethora of Federal Government agencies and departments are being tasked with addressing digital assets, in one way or another.

The scope of this framework is quite expansive and is not too surprising, because it mirrors early statements from President Biden’s [March 2022 Executive Order](#) (“EO”) regarding digital assets but contains some interesting detail and unexpected positions, once one delves below the surface. For example, while the EO discusses central bank digital currency (“CBDC”) as being a topic for further exploration, the Fact Sheet reveals an Administration that is now quite bullish on the development of a United States CBDC.

After observing that 16% of adult Americans to date have purchased digital assets of some kind and that the market capitalization of digital assets, as of November 2021, was \$3 trillion, the Fact Sheet organizes the plethora of activities covered into seven main categories. Meanwhile, the EO had directed several parts of the Federal Government to issue reports on various aspects of digital asset development, with an early September 2022 due date, and so the Fact Sheet liberally intersperses conclusions and information from those reports throughout.

The first category of activity centers around the topic of [Protecting Consumers, Investors and Businesses](#), and the Fact Sheet lists the following activities as part of this pillar of the framework:

- Continued enforcement against unlawful practices in the digital asset space by the Securities & Exchange Commission (“SEC”) and the Commodity Futures Trading Commission (“CFTC”);

- Continued monitoring of consumer complaints and use of unfair or deceptive acts or practices authority by the Federal Trade Commission (“FTC”) and the Consumer Financial Protection Bureau (“CFPB”);
- Collaboration among enforcement and regulatory agencies to address consumer, investor and business risks raised by digital assets; and
- Public awareness campaigns to be organized and disseminated by the Financial Literacy Education Commission<sup>[1]</sup> (“FLEC”).

The second category of activity addresses Safe, Affordable Financial Services and includes the following:

- Encourages the development and adoption of instant payment systems by federal agencies, including by utilizing digital asset-related technologies such as blockchain software and distributed ledger technology;
- Calls for the development of a federal framework to regulate nonbank payment providers;
- Prioritizes efforts to improve the efficiency of cross-border payments; and
- Directs the National Science Foundation (“NSF”) to ensure that digital asset ecosystems are designed to be usable, inclusive, equitable and accessible.

The third pillar of the comprehensive framework announced by the Fact Sheet is called Fostering Financial Stability and highlights that there is “potential for instability” even when the digital asset in question is a so-called stablecoin. To that end, the Financial Stability Oversight Council (“FSOC”) has been directed to issue a report in October 2022 regarding financial stability risks of digital assets, generally; identify regulatory gaps in addressing digital assets; and to make recommendations. In addition, Treasury is directed to work with financial institutions to bolster digital assets in the U.S. economy and to work with other agencies to identify and track strategic risks.

The fourth set of activities are around Advancing Responsible Innovation of digital assets. Specifically, the NSF is again tagged, in conjunction with the White House’s Office of Science and Technology Policy (“OSTP”), to create a research and development agenda that addresses: next generation cryptography, transaction programmability, cybersecurity and privacy protections, environmental impacts of digital assets, and methods of informing, educating and training diverse stakeholders regarding digital assets. Additionally, the Department of Energy and the Environmental Protection Agency (“EPA”) are directed to work on the environmental impacts of digital assets, particularly with an eye to aligning them to transition to a net-zero emissions economy. Finally, the Department of Commerce is tasked with bringing government, industry, academics and the public together to discuss digital assets.

The fifth pillar addresses Reinforcing Global Financial Leadership and Competitiveness, and largely draws from Treasury’s on-going exploration of “the implications of development and adoption of digital assets and changes in financial market and payment infrastructures.” [See 87 Fed. Reg. 40881.](#)

The sixth category involves Fighting Illicit Finance activities. The main purpose of these activities are intended to significantly cut back and reduce the use of digital assets for money laundering, criminal goods and services and human trafficking, which occurs frequently today due to the anonymous nature of existing digital assets such as Bitcoin. Specifically, the Administration indicates support for legislation to target unlicensed money transmission such that the definition of money transmission is expanded to include digital asset exchanges, including non-fungible token (“NFT”) marketplaces. Treasury is directed to issue a February 2023 report on illicit finance risks and a July 2023 report on NFTs.

Finally, the seventh pillar of the framework focuses on Exploring a U.S. Central Bank Currency and includes a broad list of benefits the Administration sees from a US CBDC, including such a CBDC could:

- Result in a more efficient payment system that would reduce costs and the amount of time needed for payments to be considered final;
- Facilitate faster cross-border transactions;
- Offer environmental sustainability;
- Promote financial inclusion and equity by enabling broad access;
- Foster economic growth;
- Protect against privacy and security attacks;
- Safeguard sensitive data better;
- Minimize illicit transactions;
- Preserve the U.S.'s global financial leadership; and
- Support the effectiveness of U.S. monetary sanctions.

*Cadwalader will be providing in-depth Client & Friends memos in the days to come regarding a number of topics discussed in this summary, including an examination of what a CBDC could mean for consumers, investors and businesses and the financial institutions that serve them, as well as the environmental, social and government (“ESG”) considerations of digital assets, and the implications of an expanded definition of money transmission and increased anti-money laundering (“AML”) requirements for several digital asset industry participants. If you would like to ensure receipt of these memos, please [write to us](#) at Cabinet News and Views.*

[1] The Financial Literacy Education Commission sits within the Department of the Treasury and is chaired by the Secretary of the Treasury, vice-chaired by the Director of the CFPB and coordinated by Treasury’s Office of Consumer Policy. Nineteen federal agencies and departments are members of FLEC, including the federal banking regulators, as well as the several Departments and FEMA.

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