

Digital assets in the United States: a legal and institutional overview

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Abstract: U.S. digital asset regulation operates through a functionally structured framework grounded in legal classification, multi-agency oversight and enforcement practice. The applicable rules depend on how digital assets are categorized across securities, commodities, payments and tax regimes. Regulatory authority is distributed among federal and state institutions that exercise overlapping jurisdictions based on the type of activity involved. Courts and enforcement actions play a central role in shaping legal interpretation and regulatory application. This article provides a systematic analysis of the U.S. framework by integrating doctrinal classification, institutional design and enforcement dynamics. It synthesizes key regulatory approaches and brings together relevant case-law to illustrate how legal standards are applied in practice. Particular attention is given to the role of securities law and the interpretation of investment contracts, as well as to the evolving regulatory treatment of stablecoins and digital asset intermediaries. The analysis shows how the U.S. framework structures digital asset markets through existing legal categories while enabling regulatory adaptation to technological developments.

Keywords: *commodities law, digital assets, enforcement, financial regulation, regulatory fragmentation, securities law, stablecoins*

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1. Introduction

The United States (U.S.) regulates digital assets through a fragmented framework of existing financial law including securities law under the *Securities Act* of 1933 and the *Securities Exchange Act* of 1934, commodities law under the *Commodity Exchange Act*, banking and payments regulation, anti-money-laundering rules under the *Bank Secrecy Act*, sanctions law, tax law and state money-transmission regimes (Financial Stability Oversight Council, 2024). The applicable rules depend on how a digital asset is classified, how it is used and which institution exercises jurisdiction over the relevant activity.

The fragmented structure creates at least four practical issues. First, U.S. law does not assign all digital assets to one category; some may be treated as securities, others as commodities, yet others as payment instruments, and some may trigger multiple regulatory regimes at once. Second, regulatory authority is divided among several federal agencies—notably the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), the Department of the Treasury (Treasury), the Internal Revenue Service (IRS) and state regulators—so firms often face overlapping compliance obligations and uncertainty about which rules govern issuance, trading, custody or payment use (Werbach, 2023). Third, the absence of a comprehensive federal digital-asset market-structure statute has meant that courts and enforcement actions have played a major role in shaping legal doctrine, particularly through litigation concerning whether token distributions constitute “investment contracts” under securities law. Fourth, the growth of stablecoins has raised a distinct set of questions concerning payment-system integrity, reserve backing, redemption rights, prudential supervision, illicit-finance controls and financial stability.

The federal government has attempted to coordinate the policy approaches to digital assets under both the Biden administration and the second Trump administration, although the two administrations emphasized different policy priorities. First, President Biden issued Executive Order 14067, directing federal agencies to evaluate the implications of digital assets for financial stability, national security, consumer protection and the potential development of a U.S. central bank digital currency (Executive Office of the President, 2022). Second, in January 2025, shortly after returning to office, President Trump issued Executive Order 14178, titled *Strengthening American leadership in digital financial technology*. The order revoked

Executive Order 14067 and articulated a new framework emphasizing regulatory clarity, support for open blockchain networks, the global role of dollar-backed stablecoins and opposition to the development of a U.S. central bank digital currency (Executive Office of the President, 2025). These developments underscore the growing regulatory significance of stablecoins within digital asset markets.

Stablecoins have a distinct position within digital assets, following the enactment of federal legislation establishing a dedicated framework for payment stablecoins. While ‘crypto-assets’ is a broad term covering blockchain-based digital tokens used for investment, governance, access or exchange, stablecoins are a narrower category of digital assets designed to maintain a fixed value, usually by reference to a sovereign currency such as the U.S. dollar. Because they are intended to function as relatively stable stores of value and means of payment, stablecoins sit closer to banking and payments regulation than many other digital assets do. This distinction has become more important after Congress enacted the *Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act*, which establishes a federal regulatory framework for payment stablecoins while leaving broader questions of digital asset market structure to other legislative and regulatory processes (United States Congress, 2025). Although the statute is in force, several operational provisions depend on implementing regulations and phased effective dates. Following the *GENIUS Act*’s enactment, the U.S. Treasury initiated an Advance Notice of Proposed Rulemaking (ANPRM) in September 2025, and the Office of the Comptroller of the Currency (OCC) issued proposed implementing rules in early 2026 (Office of the Comptroller of the Currency, 2026).

2. Classification of crypto-assets

The starting point of U.S. digital asset regulation is legal classification, as the rights, obligations and applicable regulators depend on whether the asset is treated as a security, commodity, payment instrument or taxable property. Unlike jurisdictions that have adopted comprehensive crypto-specific statutes, the U.S. determines the regulatory treatment of digital assets primarily by applying preexisting legal categories. As a result, the classification of a digital asset directly determines which statutory regime governs its issuance, trading, custody and taxation. This functional approach

has produced a complex legal landscape in which different types of digital assets may fall under the jurisdiction of different regulatory authorities.

2.1 Securities law: investment contracts

U.S. securities law plays a central role in the regulation of digital assets that function as investment instruments. The SEC has consistently maintained that many digital tokens fall within the definition of a security when they meet the legal criteria for an ‘investment contract’. Based on the *Howey* test, established by the Supreme Court in ‘SEC v. W.J. Howey Co.’, an investment contract is a transaction involving an investment of money in a common enterprise with a reasonable expectation of profits derived primarily from the efforts of others (‘SEC v. W.J. Howey Co.’, 1946).

Applying this framework to digital assets, the SEC has argued that tokens issued through initial coin offerings (ICOs) or similar fundraising mechanisms may constitute securities when investors purchase tokens with the expectation that the token issuer will develop a platform or ecosystem that increases the token’s value. The SEC’s 2017 investigative report concerning the DAO was an early indication that digital tokens could fall within the scope of federal securities laws (Securities and Exchange Commission, 2017). In that report, the Commission concluded that certain blockchain-based tokens issued to finance the development of a decentralized investment project satisfied the *Howey* test and therefore required compliance with securities registration requirements.

The SEC subsequently expanded its interpretation of securities law in the digital asset context through guidance such as the Commission’s Framework for ‘Investment Contract’ Analysis of Digital Assets (Securities and Exchange Commission, 2019). The framework identifies factors that may indicate the presence of an investment contract, including whether a centralized promoter plays a significant role in developing the network and whether purchasers rely on managerial efforts to increase the value of the token.

Recent litigation has further shaped the application of securities law to digital assets. In ‘SEC v. Ripple Labs Inc.’ (2023), a federal district court held that certain institutional sales of the XRP token constituted securities offerings, whereas programmatic sales on digital-asset trading platforms were held by the district court not to satisfy the *Howey* test based on the facts presented. The SEC and Ripple subsequently dismissed their respective appeals in August 2025, leaving the district court’s final judgment—including a civil

penalty and injunction—intact (U.S. Securities and Exchange Commission, 2025). However, because the ruling was issued by a district court and turned on the specific transaction structure, it does not establish a definitive nationwide rule.

Federal courts have addressed these issues in several notable cases applying the *Howey* test to digital asset transactions. In ‘Securities and Exchange Commission v. Telegram Group Inc.’ (2020), the court granted a preliminary injunction halting the distribution of ‘Gram’ tokens after concluding that the overall token-distribution scheme likely constituted an unregistered securities offering. In ‘Securities and Exchange Commission v. Kik Interactive Inc.’ (2020), the court similarly held that the public sale of ‘Kin’ tokens violated federal securities registration requirements because investors reasonably expected profits from the issuer’s efforts to develop the associated digital ecosystem. In ‘Securities and Exchange Commission v. LBRY, Inc.’ (2022), the court rejected the argument that a so-called ‘utility token’ falls outside the scope of securities law, emphasizing that the economic realities of the transaction determine whether a digital asset constitutes an investment contract. More recently, ‘Securities and Exchange Commission v. Terraform Labs Pte. Ltd.’ (2023) addressed alleged securities fraud involving algorithmic stablecoins and related digital tokens within the Terra ecosystem.

As a result, securities regulation remains one of the most significant sources of legal obligations for digital asset issuers and intermediaries. When a token is classified as a security, issuers must comply with registration and disclosure requirements under the Securities Act of 1933, and trading platforms facilitating secondary-market transactions may need to register as securities exchanges or broker-dealers.

2.2 Commodities law: goods, services, rights and interests

Digital assets that do not qualify as securities may instead fall within the jurisdiction of commodities law, which is administered primarily by the CFTC. Under the *Commodity Exchange Act 1936* (CEA), the term ‘commodity’ includes a broad range of goods, services, rights and interests in which futures contracts may be traded. The CFTC has consistently taken the position that certain widely traded digital assets—including Bitcoin and Ether—fall within the broad statutory definition of a ‘commodity’ under the *Commodity Exchange Act* (Commodity Futures Trading Commission, 2021).

Federal courts have also supported the CFTC's jurisdictional interpretation. In 'Commodity Futures Trading Commission v. McDonnell' (2018), the U.S. District Court for the Eastern District of New York held that virtual currencies fall within the definition of 'commodities' under the *Commodity Exchange Act* and confirmed that the CFTC may exercise anti-fraud enforcement authority with respect to fraudulent schemes involving virtual currencies, including in spot markets underlying derivative trading. More recently, 'Commodity Futures Trading Commission v. Ooki DAO' (2023) addressed the application of commodities law to decentralized finance governance structures. The U.S. District Court for the Northern District of California entered a default judgment holding that a decentralized autonomous organization (DAO) could be treated as an unincorporated association and therefore as a 'person' subject to liability under the CEA ('Commodity Futures Trading Commission v. Ooki DAO', 2023).

However, the CFTC's authority over digital assets is most clearly established in the context of derivatives markets. The agency regulates futures, options and swaps based on digital assets, ensuring that derivatives exchanges comply with market integrity and anti-manipulation rules. In addition, the CFTC possesses enforcement authority to combat fraud and market manipulation in spot markets for commodities, including digital asset transactions. Therefore, the CFTC's authority over spot crypto markets remains more limited than the SEC's authority over securities markets. The agency does not currently supervise the general operation of digital asset trading platforms in the same comprehensive manner as securities exchanges are regulated.

2.3 Stablecoins: payment instruments

A stablecoin is a digital token whose value is intended to remain fixed relative to a reference asset, most commonly the U.S. dollar. Stablecoins occupy a distinct position in the taxonomy of digital assets because they are designed to function as stable-value payment instruments rather than speculative investment assets. To achieve this stability, issuers typically maintain reserves consisting of cash, government securities or other highly liquid assets that can be used to redeem stablecoins at a fixed value.

The growing use of stablecoins in payment systems and decentralized finance has raised regulatory concerns relating to financial stability, reserve transparency and redemption rights. Stablecoins may operate in a manner similar to privately issued digital money, creating potential links

between digital asset markets and the broader financial system. In response to these trends, the U.S. Congress enacted the *GENIUS Act* in 2025. The statute establishes a federal regulatory framework for payment stablecoins, including requirements relating to reserve backing, redemption rights, disclosure and supervisory oversight by federal regulators, while permitting state regulatory regimes to continue operating under specified conditions (The White House, 2025). The *GENIUS Act* treats stablecoins as components of both digital asset markets and the broader payment and financial infrastructure (U.S. Department of the Treasury, 2025). This approach is in line with an earlier analysis by the President’s Working Group on Financial Markets, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency, who already identified payment stablecoins as potential sources of run risk, payment-system risk and concentration-related concerns, and recommended that Congress establish a consistent and comprehensive federal prudential framework for stablecoin issuers and related arrangements (President’s Working Group on Financial Markets, 2021).

2.4 Tax law: property

Digital assets are also subject to taxation under federal tax law. The IRS first addressed the tax treatment of digital assets in Notice 2014-21, which states that virtual currencies are treated as ‘property’ for federal tax purposes (Internal Revenue Service, 2014). Thus, transactions involving digital assets may generate duties to taxpayers, such as reporting obligations related to cryptocurrency holdings, and may result in taxable events, including capital gains or losses when tokens are sold, exchanged or used to purchase goods and services.

Recent federal legislation and implementing regulations expanded broker reporting obligations for digital-asset transactions, including Form 1099-DA² reporting for transactions effected on or after 1 January 2025 (Internal Revenue Service, 2026). Under the *Infrastructure Investment and Jobs Act*—which amended the *Internal Revenue Code* to extend broker information-reporting requirements to digital asset transactions—certain digital asset brokers are required to report transaction information to the IRS using new reporting forms designed specifically for digital asset transactions. These rules aim to improve tax compliance and provide the IRS with

² Form 1099-DA is a tax information return used by brokers to report digital-asset transactions and associated gains or losses to the Internal Revenue Service and to taxpayers.

greater visibility into digital asset markets. Although tax law does not directly regulate the operation of digital asset markets, the IRS classifies them as ‘property’, representing an essential component of the broader legal framework for crypto-assets, shaping how individuals and businesses interact with them.

3. Institutional allocation of regulatory authority

A central feature of the U.S. framework is the functional distinction between regulatory allocation and enforcement. While these dimensions are institutionally intertwined in practice, analytically separating them clarifies how digital asset regulation operates where several federal and state authorities exercise overlapping but distinct forms of jurisdiction and power.

3.1 Federal agencies and functional jurisdiction

At the federal level, several agencies regulate different aspects of the digital asset ecosystem. The most prominent authorities include the SEC, the CFTC, the Department of Justice (DOJ) and the Treasury. Each institution exercises jurisdiction based on the type of activity involved rather than the technological characteristics of digital assets.

As mentioned in the previous section, the SEC is responsible for regulating digital assets that qualify as securities, while the CFTC oversees derivatives markets involving digital assets and possesses enforcement authority over fraud and manipulation in commodity markets. The Treasury exercises several forms of authority relevant to digital assets through its specialized offices and coordination with interagency offices. For example, the Financial Crimes Enforcement Network (FinCEN) administers anti-money laundering (AML) regulations under the *Bank Secrecy Act* and has issued guidance clarifying that certain digital asset businesses qualify as money service businesses subject to registration and reporting obligations. The Office of Foreign Assets Control (OFAC) is enforcing economic sanctions and has issued guidance addressing compliance obligations for participants in the virtual currency industry. The IRS regulates the taxation of digital assets as properties, which subjects digital asset transactions to capital gains taxation and imposes reporting obligations on taxpayers and, increasingly,

on intermediaries. The Treasury also plays a central role in financial stability oversight through the Financial Stability Oversight Council (FSOC), an interagency body chaired by the Secretary of the Treasury that monitors systemic risks in the U.S. financial system and has identified potential financial stability risks associated with certain digital asset activities. In addition, the DOJ enforces federal criminal laws related to digital assets. Through specialized units and interagency task forces, the DOJ investigates and prosecutes cases involving fraud, market manipulation, money laundering and sanctions violations associated with digital asset transactions.

3.2 State-level regulation and licensing regimes

State governments regulate digital asset activities through money transmission laws and specialized licensing regimes, retaining authority over the licensing and supervision of non-bank financial service providers. As a result, digital asset exchanges, custodians and payment providers may be required to obtain state-level licenses to operate legally. An example is the New York ‘BitLicense’ regime, administered by the New York State Department of Financial Services. This framework imposes requirements relating to capital adequacy, cybersecurity, consumer protection and AML compliance for businesses engaged in digital asset activities within the state (New York State Department of Financial Services, 2015). Other states use more traditional money-transmitter licensing frameworks, such as California’s *Money Transmission Act* (California Department of Financial Protection and Innovation, 2011). Some states have also adopted legislation to encourage blockchain innovation and asset development. Wyoming, for example, has enacted a series of laws recognizing digital assets as a form of property and creating specialized legal structures for their custody and blockchain-based businesses (Wyoming Legislature, 2019). Wyoming also recognized the legal enforceability of smart contracts and have begun to introduce frameworks for decentralized governance structures, including limited recognition of DAOs (Wyoming Legislature, 2021). Similarly, Arizona has recognized the legal validity of blockchain-based records and smart contracts, reinforcing their enforceability under existing law (Arizona Legislature, 2017).

3.3 Coordination and jurisdictional overlap

The distribution of regulatory authority among multiple agencies and levels of government has created significant overlap within the U.S. regulatory system. It does not help that digital assets can simultaneously perform functions associated with securities, commodities and payment instruments. For example, a digital asset trading platform may face potential oversight from the SEC if certain tokens qualify as securities, from the CFTC if derivatives trading is involved, from FinCEN for AML compliance and from state regulators under money-transmission laws. The coexistence of multiple state regimes can increase compliance complexity for firms operating across the U.S. Companies may need to obtain licenses in numerous jurisdictions, each with distinct regulatory requirements.

Recognizing that the cross-sector nature of digital assets raises practical and jurisdictional issues, Executive Order 14067 directed federal agencies to coordinate their policy responses through an interagency process (Executive Office of the President, 2022). President Trump subsequently issued Executive Order 14178, revoking Executive Order 14067, and directing the President's Working Group on Financial Markets to review existing digital asset regulations and propose a federal regulatory framework for digital asset markets (Executive Office of the President, 2025).

Legislative proposals such as the *Digital Asset Market Clarity Act* seek to address these jurisdictional questions by defining categories of digital assets and allocating supervisory authority more explicitly between the SEC and the CFTC (House Committee on Financial Services, U.S. Congress, 2025). Although these proposals remain under consideration, they reflect broader efforts to adapt the U.S. financial regulatory architecture to the distinctive characteristics of digital asset markets.

4. Regulatory application: intermediaries and compliance

The operation of digital asset markets depends on the regulation of intermediaries and the compliance obligations imposed on market participants. Because many digital asset services are provided through centralized platforms or service providers, regulators often focus on these intermediaries rather than attempting to regulate decentralized technologies directly.

4.1 Trading platforms and market access

Digital asset trading platforms represent one of the primary access points to crypto markets and, therefore, occupy a central position in the U.S. regulatory framework. These platforms enable users to buy, sell and exchange digital assets, often functioning in a manner similar to traditional securities exchanges or commodity trading platforms. However, the regulatory treatment of these platforms depends largely on the legal classification of the digital assets traded on them.

If a platform facilitates trading in digital assets classified as securities, it may be required to register with the SEC. In such cases, the platform must comply with investor protection requirements, market surveillance obligations and disclosure rules designed to ensure the integrity of securities markets. Where digital assets are treated as commodities, trading platforms may fall under the oversight of the CFTC. Although the CFTC does not comprehensively regulate spot trading platforms in the same manner as securities exchanges, it retains enforcement authority to address fraud and abusive practices in commodity markets.

4.2 Custody, brokerage and market infrastructure

A wide range of intermediaries participate in the digital asset ecosystem by providing brokerage, custody and payment services. These intermediaries often serve as critical infrastructure for market participants by holding digital assets on behalf of customers, executing transactions and maintaining access to blockchain networks.

Custody services are particularly important in this context because the ability to control cryptographic private keys determines ownership and access. As a result, custodial providers must implement security procedures designed to safeguard customer assets and prevent unauthorized transfers. Brokerage services also play a significant role in digital asset markets. Digital asset brokers may facilitate transactions on behalf of customers and provide trading access to various digital asset platforms. Depending on the nature of the assets involved, such brokers may be required to register with securities regulators.

4.3 Anti-money laundering, know-your-customer and sanctions compliance

AML regulation constitutes one of the most established areas of U.S. digital asset oversight. Under the *Bank Secrecy Act* and its implementing regulations, businesses engaged in transmitting or exchanging convertible virtual currencies may qualify as money service businesses (MSBs) and therefore, must comply with AML obligations administered by FinCEN (Financial Crimes Enforcement Network, 2019). These obligations include registering with FinCEN, implementing risk-based AML programs, maintaining transaction records and reporting suspicious activities to regulatory authorities. Digital asset exchanges and other service providers must also implement customer identification and verification procedures commonly referred to as 'know-your-customer' (KYC) requirements. These measures are designed to prevent money laundering, terrorist financing and other forms of illicit financial activity.

Digital asset businesses also have to comply with economic sanctions by the OFAC, whose regulations prohibit transactions involving sanctioned individuals, entities or jurisdictions and require digital asset firms to implement compliance systems capable of identifying prohibited transactions (Office of Foreign Assets Control, 2021).

4.4 Enforcement as a compliance mechanism

Federal agencies have increasingly relied on enforcement actions to clarify the application of existing laws to digital asset businesses. These actions have targeted a range of activities, including unregistered securities offerings, fraudulent investment schemes, market manipulation, sanctions violations and failures to implement adequate AML programs (Securities and Exchange Commission, 2017). Through these enforcement efforts, regulators have sought to ensure that digital asset market participants comply with the same legal standards that govern traditional financial markets (Financial Crimes Enforcement Network, 2019). At the same time, the reliance on enforcement has contributed to ongoing debates about regulatory certainty and the need for clearer legislative frameworks governing digital asset markets (Werbach, 2023).

5. Private law foundations of digital assets

Digital assets also raise important questions within private law, particularly in relation to contract formation, property rights and secured transactions. While much policy attention focuses on regulatory supervision by agencies such as the SEC and the CFTC, the functioning of digital asset markets also depends on how private legal relationships between parties are structured and enforced. Courts have to determine how existing doctrines apply to blockchain-based assets and transactions. In response to these issues, legal reforms—most notably amendments to the *Uniform Commercial Code* (UCC)—have sought to adapt traditional commercial law principles to digital asset markets.

5.1 Smart contracts and contract formation

Contract law provides the basic legal framework governing many transactions involving digital assets, trading agreements, platform terms of service and blockchain-based smart contracts. In traditional legal systems, contracts are formed through agreement between parties, supported by consideration and enforceable through judicial remedies. Digital asset transactions often replicate these relationships but may execute them through automated code rather than written agreements.

Smart contracts—self-executing code deployed on blockchain networks—automatically perform specified actions once predefined conditions are met. For example, a smart contract may transfer tokens to a buyer once payment is received or distribute governance rights based on participation in a protocol. Because these mechanisms operate automatically, they can reduce reliance on intermediaries and potentially increase transactional efficiency (Werbach and Cornell, 2017). A few states, such as Wyoming (Wyoming Legislature, 2021) and Arizona (Arizona Legislature, 2017), have recognized the legal enforceability of smart contracts and have begun to introduce frameworks for decentralized governance structures, including limited recognition of DAOs. However, the use of smart contracts also raises interpretive questions. Courts need to determine whether code-based agreements satisfy requirements for contract formation and how disputes should be resolved when the code produces unintended outcomes. In many cases, digital asset platforms supplement smart contracts with traditional agreements that clarify the rights and obligations of participants. This

hybrid structure reflects an emerging legal practice in which blockchain-based automation operates alongside conventional contractual frameworks.

5.2 Property rights and custody structures

The classification of digital assets as a form of property is essential for determining ownership rights, custody arrangements and the legal consequences of asset transfers. Digital assets are typically controlled through cryptographic private keys associated with blockchain addresses. Possession or control of the relevant private key enables a user to transfer the digital asset on the blockchain network. This technological structure raises questions about how ownership should be defined and how custody arrangements should be regulated. Scholars have debated whether control of a private key should be treated as a proxy for legal ownership or whether traditional property law concepts require adaptation to account for the unique features of blockchain-based assets (Moringiello and Odinet, 2019). These questions are particularly relevant in custodial relationships. When a digital asset exchange holds tokens on behalf of customers, the legal characterization of that relationship determines whether customers retain proprietary rights or merely hold contractual claims against the intermediary, with significant implications in insolvency scenarios.

5.3 Secured transactions and the *Uniform Commercial Code*

Commercial law has begun to adapt specifically to digital assets through amendments to the *Uniform Commercial Code*. The UCC provides a standardized framework for determining how security interests in personal property are created, perfected and enforced. Historically, the Code did not contain clear provisions addressing blockchain-based assets, creating uncertainty about how lenders could obtain enforceable security interests in digital assets used as collateral.

To address this gap, the Uniform Law Commission adopted amendments to the UCC in 2022, introducing the concept of a ‘controllable electronic record’ (Uniform Law Commission, 2022). This category was designed to encompass certain types of digital assets, including cryptocurrencies and tokenized financial instruments. Under the amended framework, a party may obtain “control” over a controllable electronic record in a manner that functions similarly to possession of traditional negotiable instruments. Establishing control allows lenders to perfect their security interests in digital assets

and establish priority over competing claims (McJohn and Graham, 2023–2024). This reform is particularly important for financial institutions and commercial lenders that wish to accept digital assets as collateral in secured lending arrangements (Schroeder, 2016).

6. Monetary integration: stablecoins and the central bank digital currency

Stablecoins are designed as stable-value digital tokens, intended to maintain a constant value most commonly relative to the U.S. dollar. Stablecoins may achieve price stability through reserve backing, in which the issuer holds assets—such as cash, short-term government securities or other liquid instruments—that support redemption of the token at a fixed value. This structure theoretically allows stablecoins to function as relatively stable stores of value and facilitates their use in digital payments and trading within cryptocurrency markets. It means that stablecoins enable users to move value between exchanges and blockchain-based applications without converting assets into traditional bank deposits.

As mentioned in earlier sections, Congress enacted the *GENIUS Act* in 2025 to establish a federal framework for payment stablecoins (United States Congress, 2025). The legislation is the first major federal statute specifically addressing the issuance and supervision of stablecoins in the U.S. It seeks to promote stability and consumer confidence by establishing regulatory standards for stablecoin issuers. These standards include requirements relating to reserve backing, transparency and regulatory oversight. It establishes supervisory responsibilities for federal regulators while allowing state regulatory regimes to continue operating under certain conditions. The *GENIUS Act* reflects the policy recognition that stablecoins differ from other crypto-assets because they operate as privately issued digital representations of fiat currency (e.g., USD). Their regulation intersects not only with financial market regulation but also with broader questions concerning payment systems, monetary stability and the role of the U.S. dollar in global finance.

Despite the *GENIUS Act*, analysts have raised concerns that stablecoin regulation may still contain gaps that could pose risks to financial stability (Rajic and Dohr, 2026). Because stablecoin issuers promise redemption at a fixed value, their ability to maintain adequate reserves and manage liquidity

is critical to maintaining confidence in the system. If users lose confidence in a stablecoin's backing or redemption mechanism, they may attempt to redeem tokens simultaneously, potentially triggering a run similar to that observed in traditional financial markets. Some commentators have argued that current legislative frameworks do not impose sufficiently detailed requirements regarding reserve composition, liquidity management or stress testing. For example, the absence of clearly defined liquidity standards may increase the risk that stablecoin issuers could hold reserves in assets that become difficult to liquidate during periods of financial stress (Rajic and Dohr, 2026). In addition, the coexistence of federal and state regulatory regimes may create potential fragmentation in oversight. Differences in regulatory standards between jurisdictions could encourage issuers to locate in jurisdictions with less stringent requirements, potentially complicating efforts to maintain consistent supervision of stablecoin markets.

The rise of privately issued stablecoins has also influenced debates about whether the United States should develop a central bank digital currency (CBDC). A CBDC would represent a digital form of sovereign currency issued directly by a central bank, potentially providing a publicly backed digital payment instrument that could coexist with or compete against privately issued digital assets. Proponents of a U.S. CBDC argue that it could enhance payment efficiency, support financial inclusion and preserve the international role of the U.S. dollar in an increasingly digital global financial system (Board of Governors of the Federal Reserve System, 2022). Other institutions contend that privately issued stablecoins already provide many of these benefits while preserving the role of private-sector innovation in financial technology (U.S. Department of the Treasury, 2023). Policy debates surrounding CBDCs have also raised questions about privacy, government surveillance and the appropriate role of the state in digital financial infrastructure. The U.S. has taken a cautious approach to CBDC development. Executive Order 14067 directed federal agencies and the Federal Reserve to evaluate the potential design, benefits and risks of a U.S. CBDC, including its implications for financial stability, payments efficiency, financial inclusion and national security (Executive Office of the President, 2022). The 2025 executive order reversed this by prohibiting federal agencies from undertaking actions to establish or promote a U.S. CBDC and emphasizing the role of private-sector innovation and dollar-backed stablecoins in digital financial development (Executive Office of the President, 2025).

7. Judicial development and enforcement

In the absence of a comprehensive statutory framework, enforcement actions and judicial decisions have played a central role in shaping digital asset regulation. Regulators rely on enforcement to apply existing financial laws, while courts interpret how established doctrines, particularly securities law, apply to blockchain-based technologies. This development can be understood along two related dimensions: first, judicial interpretation in regulatory enforcement proceedings, and second, the application of criminal law to digital asset activities.

Related to the first dimension, courts have become a critical venue for determining how existing financial laws apply to digital assets. As many regulatory disputes concerning digital assets arise in enforcement proceedings, federal courts are frequently called upon to interpret the application of securities law and other financial statutes to new technological contexts. See examples described in Section 2, such as, ‘SEC v. Ripple Labs Inc.’ (2023) and ‘Commodity Futures Trading Commission v. Ooki DAO’ (2023).

Related to the second dimension, criminal enforcement constitutes an important component of digital asset regulation by the U.S. Federal prosecutors who, primarily through the DOJ, have pursued cases involving fraud, market manipulation, money laundering and sanctions violations, often in coordination with financial regulators.

Although digital assets enable cross-border and pseudonymous transactions, law enforcement authorities have increasingly relied on blockchain analysis tools to trace activity and identify illicit conduct. Cases such as ‘United States v. Ulbricht’ (2014) and ‘United States v. Sterlingov’ (2024) illustrate how courts apply existing criminal statutes to digital asset activities, including illicit marketplaces and money laundering schemes while relying on blockchain tracing techniques. These cases demonstrate that existing criminal statutes remain applicable to digital asset activities.

8. Legislative reforms and market structure proposals

In response to jurisdictional uncertainty and the rapid expansion of digital asset markets, policymakers in the United States have begun to consider comprehensive legislative reforms designed to clarify market structure and regulatory authority. While existing statutes allow federal agencies to regulate certain aspects of digital asset activity, many policymakers and industry participants argue that the current framework lacks clear rules governing the classification of digital assets, the supervision of trading platforms and the allocation of authority between regulatory agencies. As a result, Congress has introduced several legislative proposals aimed at establishing a more coherent regulatory structure for digital asset markets.

One of the central objectives of recent legislative proposals is to clarify the division of authority between the SEC and the CFTC. As discussed earlier, the classification of digital assets as either securities or commodities determines which agency exercises primary jurisdiction. However, the application of existing legal tests—particularly the *Howey* investment contract test—has produced uncertainty regarding how many digital assets should be classified.

The *Clarity Act* represents one of the most well-known legislative efforts to address this issue. (House Committee on Financial Services, U.S. Congress, 2025) The bill seeks to establish clearer legal categories for digital assets, including distinctions between investment contracts, digital commodities and stablecoins. By defining these categories, the legislation aims to provide more predictable rules governing which regulatory authority supervises particular types of digital asset activity.

In addition to clarifying regulatory jurisdiction, some legislative proposals seek to establish a broader market structure regime governing digital asset intermediaries and trading platforms. The *Responsible Financial Innovation Act* (RFIA) represents one such proposal aimed at creating a more comprehensive framework for digital asset regulation (U.S. Congress, 2023). The legislation addresses issues including digital asset classification, regulatory oversight of intermediaries and consumer protection. It intends to define the regulatory status of digital asset service providers, establish compliance obligations for trading platforms and custodians and create clearer disclosure requirements for digital asset issuers.

These legislative efforts also seek to address the regulatory gaps that arise from the fragmented nature of the existing system. For example, lawmakers

have debated how to ensure that digital asset service providers remain subject to anti-money laundering obligations under the *Bank Secrecy Act* while avoiding regulatory loopholes that could enable illicit financial activity.

9. Technological challenges to the regulatory framework

Technological developments within the digital asset ecosystem challenge regulatory frameworks that were originally designed to supervise identifiable financial intermediaries operating within national jurisdictions. Many digital asset systems rely on decentralized network structures in which transactions are validated by distributed participants and governed through open-source protocols rather than centralized institutions. These technological characteristics complicate the application of regulatory rules that traditionally rely on identifiable issuers, financial intermediaries and geographically defined regulatory authority. As digital asset technologies continue to evolve, regulators are confronted with questions regarding how existing legal obligations apply to decentralized networks, autonomous software protocols and cross-border digital financial activity.

9.1 Decentralized finance (DeFi) and intermediation

Decentralized finance (DeFi) challenges the U.S. regulatory frameworks that rely on identifiable intermediaries to impose legal obligations. Because DeFi systems operate through distributed protocols, it is often unclear which actors—developers, interface operators or governance participants—should be subject to regulatory requirements. These characteristics have generated debate regarding whether developers of DeFi protocols, operators of user interfaces or governance participants should bear regulatory responsibilities. Policymakers have expressed concern that decentralized platforms could be used to circumvent existing regulatory safeguards, including anti-money laundering obligations and investor protection requirements. (U.S. Department of the Treasury, 2023)

9.2 Decentralized autonomous organizations and governance structures

DAOs raise questions regarding governance and legal accountability within U.S. regulatory frameworks. Because decision-making is distributed among token holders rather than centralized management, it is often unclear who should bear legal responsibility for a DAO's activities. This has prompted debate over whether participants should be treated as members of an unincorporated association or subject to other forms of collective liability. While some U.S. states have introduced limited legal recognition of DAOs, their treatment remains uncertain and continues to evolve through judicial and regulatory interpretation.

9.3 Privacy tools and enforcement limits

Privacy-enhancing technologies within digital asset networks present additional challenges for law enforcement and sanctions compliance. Certain digital asset services—commonly referred to as ‘mixers’ or ‘tumblers’—are designed to obscure the transaction history of digital assets by pooling and redistributing funds among multiple users. These tools can enhance user privacy but may also be used to conceal illicit financial activity.

Regulators have expressed particular concern that anonymity tools could facilitate money laundering, ransomware payments and sanctions evasion. Because blockchain transactions are publicly recorded, actors seeking to obscure the origin of digital assets may rely on mixing services to make transaction tracing more difficult. As a result, authorities have taken enforcement actions against some platforms that allegedly facilitated large-scale money laundering activities.

Legal debates have also emerged regarding the extent to which sanctions laws can apply to decentralized software protocols. Court decisions addressing the legal status of certain blockchain-based tools have raised questions about whether immutable smart contracts can be treated as property or as entities subject to sanctions enforcement.

9.4 Cross-border regulation and arbitrage

The cross-border and decentralized nature of digital asset markets creates jurisdictional challenges for U.S. regulators, particularly where activities involve actors or platforms located outside U.S. territory. These conditions raise concerns about regulatory arbitrage, as firms may operate from less regulated jurisdictions while continuing to serve U.S. users. In response, U.S. authorities have increasingly focused on regulating access points such as exchanges, custodians and payment providers, highlighting the limits of traditional, territorially based regulatory models.

10. Conclusion

The U.S. digital asset regulation operates through a fragmented but functional legal framework that combines securities law, commodities law, banking and payments regulation, AML-requirements, tax law and certain specific state regulations. This system provides regulators with significant flexibility to address emerging risks, but it also creates legal uncertainty for market participants and raises questions about whether the current approach can effectively support long-term innovation and financial stability.

Assessing the future trajectory of U.S. digital asset regulation therefore requires examining several potential pathways through which the legal framework may evolve.

One possible trajectory for U.S. digital asset regulation is a gradual consolidation of regulatory oversight around stablecoins and digital payment infrastructure. The enactment of the *GENIUS Act* points this way. Policymakers may expand regulatory requirements relating to stablecoin reserves, liquidity management and supervisory coordination between federal and state authorities. Additional legislation could also address the interaction between stablecoin issuers and the banking system, particularly if stablecoins become widely used as digital representations of sovereign currency. Such developments would gradually transform stablecoin regulation into a central pillar of the broader digital asset regulatory framework.

Another potential development involves the adoption of comprehensive market structure legislation clarifying the classification of digital assets

and the jurisdictional boundaries between federal regulators. Proposals such as the *Digital Asset Market Clarity Act* and the *Responsible Financial Innovation Act* reflect congressional efforts to address the uncertainty surrounding categorization of digital assets as securities or commodities (House Committee on Financial Services, U.S. Congress, 2025). If enacted, such legislations could theoretically establish clearer legal categories for digital assets and define the regulatory responsibilities of the SEC and the CFTC.

A third scenario is the continuation of enforcement actions and judicial decisions as primary mechanisms for shaping digital asset law. Under this approach, federal agencies would continue applying existing statutory authorities to digital asset activities, while courts interpret the application of those laws to new technological contexts. This enforcement-driven model allows quick response to emerging risks without requiring new legislation. It also reflects the historical pattern of U.S. financial regulation, which often evolves through litigation and administrative interpretation. However, reliance on enforcement actions as a primary regulatory tool may continue to generate uncertainty for market participants, particularly when legal standards are clarified only through court decisions.

Ultimately, the future of U.S. digital asset regulation will depend on whether policymakers can provide greater legal certainty without sacrificing the flexibility needed to respond to rapid technological change. The central challenge is how to design a framework that reconciles business needs, innovation, market integrity, financial stability and national security within the institutional structure of U.S. law.

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