



# *FedFin Client Report*

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Wednesday, March 9, 2022

## **Biden Administration Decides Crypto Here to Stay, Seeks CBDC**

Client Report: CRYPTO26

### **Executive Summary**

We follow our initial client alert here with an in-depth analysis of President Biden's long-awaited [executive order](#) laying down steps intended quickly to construct a U.S. digital-asset policy construct. Although sparked in part by virtual currency's role in the Ukraine crisis, the executive order (EO) is a watershed event establishing for the first time that the U.S. views digital assets as a fixture of future finance warranting a rapid, far-reaching, and stringent set of governance, law-enforcement, equity, inclusion, and technology policy intervention. In general, the EO establishes a U.S. principle akin to that set by global regulators in this [area](#): same-business same rules. Nothing in the order thus threatens SEC Chairman Gensler's assertion that current law addresses many investor-protection challenges ([see Client Report INVESTOR19](#)) indeed, the EO strengthens the SEC's hand by validating the chairman's concerns. Although the independent banking agencies need do nothing explicit in the wake of the EO, they will surely expand on their inconclusive [crypto "sprint"](#) to advance specific policies on consumer, infrastructure, and systemic risk, with the CFPB perhaps taking the lead to rewrite electronic-payment rules also to address the Administration's equity and inclusion concerns.

As noted this morning, we read the order as close to an express demand that the FRB offer a CBDC as possible given the Fed's independence and Treasury Secretary Yellen's qualms. The order's focus on the need for the U.S. to be at the forefront of payment-system innovation also stipulates that the U.S. should work to ensure that global developments protect privacy and human rights; we read this as a statement of U.S. intent to limit cross-border payment inter-connectedness and inter-operability with China and other nations that do not adopt clear governance and human-rights protections. The extent to which the U.S. stands by this policy will determine the future of the FSB's ambitions for a friction-free global payment system ([see FSM Report PAYMENT24](#)).

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## Analysis

In Key next steps are:

- **CBDC:** The Fed is "encouraged" to accelerate consideration of CBDC, with the President saying that his Administration places the "highest priority" on the considerations necessary to determine the need for a U.S. CBDC. Merit is also seen in "showcasing" U.S. leadership on CBDC in part to preserve the dollar's status and payment-system standards, with the order also noting that CBDC has significant advantages over private remittance services. The Attorney General, in consultation with the Fed and other agencies, will advise within 180 days if statutory change is required to institute a U.S. CBDC and provide legislative language within 210 days if the Treasury report (see below) recommends a CBDC. The White House Office of Science and Technology Policy (OSTP) is also to submit a report on CBDC technical considerations within 180 days, doing so in consultation with the Treasury, Fed, and other agencies. This report is to consider developments such as quantum computing and CBDC implications for delivering government benefits.
- **Payment Reform:** The Treasury Department will, in consultation with other agencies, issue a report within 180 days on the future of money and the payment system. The report will consider a wide array of issues noted in the EO as top priorities, including those germane to CBDC. This report may thus propel CBDC action far faster than the Fed may contemplate on its own if the White House's clear concerns about lost opportunity are shared by the Treasury Department.
- **Equitable, Sound Cryptoassets:** Treasury is required within 180 days to issue another report, based on consultation with numerous agencies, that will assess crypto implications for consumers, investors, businesses, and equitable growth. The report must look specifically at what might drive mass adoption and the resulting implications for vulnerable consumers and disparate impact. Policy options, including possible legislative language, is also required to ensure a safe and affordable financial system.
- **Systemic Risk:** Within 210 days, Treasury is to convene the FSOC and issue a report on the ways in which various types of digital assets affect financial stability, providing recommendations for new law or rule. There is no suggestion of a systemic designation, but the EO does reference the PWG stablecoin report ([see Client Report CRYPTO21](#)), which does touch on this option.
- **Law Enforcement:** The Attorney General will, along with other agencies, report within 180 days on civil and criminal concerns related to digital assets. Legislative or policy recommendations are also requested along with a report within ninety days on international law-enforcement efforts and how these may be improved.

- **Competition:** The Department of Justice and FTC are encouraged, but not required, to consider digital-asset implications on market competition.
- **Privacy:** DOJ and the FTC are also encouraged to consider privacy concerns and provide recommendations as appropriate.
- The SEC, FRB, OCC, and FDIC are encouraged to consider their rules on digital assets.
- **Climate Risk:** OSTP is to work with other agencies to provide a report within 180 days on DLT environmental concerns. Specific recommendations are required in areas such as climate-risk mitigation. A follow-up report is required one year thereafter.
- **National Security:** An array of classified and unclassified reports and an action plan are required to address this risk.
- **International Cooperation:** As noted, the President wants the U.S. to take the lead not only developing CBDCs and digital-asset infrastructure, but also ensuring global systems meet U.S. policy objectives. Treasury is to work with other agencies to issue a report within 180 days with a framework for international engagement across the range of digital-asset issues under consideration at multilateral financial institutions, the G7 and G20, the FSB, and other bodies. This is to be a "whole-of-government" program to advance U.S. objectives, elevating U.S. participation. A treasury-led report on this work is required within a year.
- **Competitiveness:** Commerce is to work with other agencies to issue a report in 180 days on how U.S. efforts can improve the global competitiveness of U.S. digital-asset products and technology.