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Announced Cryptocurrency Executive Order Will Shape Federal Regulations for the $3 Trillion Digital Assets Market

Today, the White House announced President Biden will sign an Executive Order on "[e]nsuring Responsible Innovation in Digital Assets." The announcement explains that digital assets, "have seen explosive growth in recent years, surpassing market cap last November and up from $14 billion just five years prior," and that an estimated 16 percent of Americans have "invested in, traded, or used crypto currencies." Because of this exponential growth and adoption, and the potential associated risks, the Administration has determined that the United States "must maintain technological leadership in this rapidly growing space, supporting innovation while mitigating the risks for consumers, businesses, the broader financial system, and the climate," while also playing "a leading role in international engagement and global governance of digital assets consistent with democratic values and U.S. global competitiveness." Given the above, "President Biden will sign an Executive Order outlining the first ever, whole-of-government approach to addressing the risks and harnessing the potential benefits of digital assets and their underlying technology."

The Executive Order will address six key priorities concerning digital assets, which are: consumer and investor protection; financial stability; illicit finance; U.S. leadership in the global financial system and economic competitiveness; financial inclusion; and responsible innovation. Additionally, the Executive Order calls for measures to:

- protect U.S. consumers, investors, and businesses;
- protect U.S. and global financial stability and mitigate systemic risk;
- mitigate the illicit finance and national security risks posed by the illicit use of digital assets;
- promote U.S. leadership in technology and economic competitiveness to reinforce U.S. leadership in the global financial system;
- promote equitable access to safe and affordable financial services;
- support technological advances and ensure responsible development and use of digital assets; and
- explore a U.S. Central Bank Digital Currency (CBDC).

The Executive Order will require the Administration, Congress, and agencies across the federal government to work towards establishing policies and regulations that will guide the ongoing development of digital assets. U.S. Secretary of the Treasury Janet L. Yellen already released a statement this morning outlining the efforts Treasury will begin to take concerning the administration of the Executive Order. These efforts will include, partnering "with interagency colleagues to produce a report on the future of money and payment systems," and convening "the Financial Stability Oversight Council to evaluate the potential financial stability risks of digital

assets and assess whether appropriate safeguards are in place."

The White House's announcement on the Executive Order stresses that in addition to Congressional and federal agency involvement, the Administration will work with the "private sector to study and support technological advances in digital assets." Similarly, Treasury Secretary Yellen's Statement explains that Treasury's actions concerning the Executive Order "will be guided by consumer and investor protection groups, market participants, and other leading experts."

Entities in the cryptocurrency sphere will play a critical role in helping the U.S. develop regulations for digital assets. While it is not yet clear what information the Administration or federal agencies will solicit, in similar instances federal agencies have sought public comment or related types of private sector input. Continuing to monitor these developments is essential for both businesses in the digital assets space and those affected by it.

If you have any questions concerning the Executive Order announcement, including questions related to its potential administration and implementation, please do not hesitate to reach out to Kilpatrick Townsend's Government and Regulatory practice contacts Stephen Anstey at sanstey@kilpatricktownsend.com or John Loving at jloving@kilpatricktownsend.com.

Kilpatrick Townsend's Government and Regulatory Practice

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