

UPDATES

# U.S. DOJ Shifts Focus in Digital Asset Enforcement

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*April 10, 2025*

The U.S. Department of Justice (DOJ or Department) has announced a significant shift in enforcement priorities concerning digital assets. On April 7, 2025, Deputy Attorney General Todd Blanche issued a [memorandum](#) (Memorandum) announcing that the Department is not a “digital assets regulator” and will no longer pursue litigation or enforcement actions that “have the effect of superimposing regulatory frameworks on digital assets.” Instead, the Memorandum directs DOJ to focus on the prosecution of conduct that victimizes investors or uses digital assets in furtherance of crimes such as terrorism, narcotics trafficking, hacking, and human trafficking.

This new directive could result in halting several ongoing investigations and cases. However, stakeholders in the digital asset industry should expect that prosecutors will still use all tools available to target priority offenses. Accordingly, stakeholders will be well served by continuing to implement effective compliance programs and anti-money laundering controls. Summaries of key portions of the Memorandum and related insights are below.

## **Enforcement Priorities: Focus on Victimization of Crypto Investors and “Total Elimination” of Cartels and Transnational Criminal Organizations**

Continuing the Trump Administration’s shift <sup>1</sup> away from targeting digital asset platforms, software, and other facilitating spaces, DOJ leadership has directed its prosecutors to deprioritize cases against virtual currency exchanges, mixing and tumbling services, and offline wallets for the acts of their end users or for “unwitting” violations of regulations. <sup>2</sup> Instead, DOJ prosecutors are instructed to focus on cases against individual actors that victimize investors, including: (1) embezzlement of funds on exchanges; (2) digital asset scams; (3) rug pulls; (4) hacking; and (5) exploitation of smart contract vulnerabilities. This shift is also consistent with the change in priorities at the SEC, which has stepped away from pending litigation against several digital asset protocols and exchanges and announced the formation of a Crypto Task Force.<sup>3</sup>

Consistent with the Administration’s prior “Total Elimination” directive, <sup>4</sup> DOJ will also prioritize the prosecution of cases involving the use of digital assets in furtherance of unlawful conduct by cartels, Transnational Criminal Organizations, Foreign Terrorist Organizations, and Specially Designated Global Terrorists, such as narcotics trafficking and human smuggling. In this respect, prosecutors were directed to target enterprises and individuals as opposed to the platforms these individuals or enterprises use to

conduct their illegal activities.

Significantly, the Memorandum makes clear that “[o]ngoing investigations that are inconsistent with the foregoing should be closed.” The Office of the Deputy Attorney General, with the Criminal Division and the Executive Office of U.S. Attorneys, will be undertaking a review of pending matters “for consistency with this policy”; as with the [ongoing review of Foreign Corrupt Practices Act](#) matters, it is possible that the review will yield case dismissals.

### **Digital Assets Charging Considerations**

The Memorandum outlines certain factors that prosecutors should consider when making charging decisions. Factors favoring prosecution include cases involving individuals who (1) cause financial harm to digital asset investors and consumers and (2) use digital assets in furtherance of cartel or other criminal activities.

Conversely, prosecutors are directed to refrain from charging regulatory violations in cases involving digital assets, including but not limited to: unlicensed money transmitting under 18 U.S.C. § 1960; violations of the Bank Secrecy Act; unregistered securities offering violations; unregistered broker-dealer violations; and other violations of registration requirements under the Commodity Exchange Act (CEA). The exception to this rule is if the defendant “knew of the licensing or registration requirement at issue and violated such a requirement willfully.”

Prosecutors are directed to avoid charging violations of the Securities Act of 1933, the Securities Exchange Act of 1934, the CEA, or regulations promulgated pursuant to these Acts, in cases (1) which would require the DOJ to litigate whether a digital asset is offered and sold as a “security” or “commodity” (unless it involves taking the position that Bitcoin and Ether are “commodities” under the CEA or in cases where the “security” in question is the equity in a blockchain company); and (2) where there are “adequate alternative criminal charges available, such as wire fraud.”

Notably, the Memorandum is being applied more broadly than the DOJ, and Commodity Futures Trading Commission (CFTC) Acting Chairman Caroline D. Pham has already [directed](#) CFTC staff to adhere to these DOJ enforcement priorities and charging considerations.

### **Shifting Resources Related to Digital Assets**

In keeping with this Administration’s trend of pushing more decision-making to the U.S. Attorneys’ Offices, the Memorandum requires that:

- The National Cryptocurrency Enforcement Team, a D.C.-based group composed of prosecutors detailed from U.S. Attorneys’ Offices (USAO), the Computer Crime and Intellectual Property Section, and the Money Laundering and Asset Recovery Section of the Criminal Division, be disbanded;
- The Fraud Section’s Market Integrity and Major Frauds Unit cease cryptocurrency prosecutions in favor of procurement fraud and immigration work; and

- USAO prosecutors pursuing digital asset cases focus on the priorities outlined in the Memorandum.

## Impact on Prosecutions

Historically, DOJ prosecutors have largely brought digital asset and crypto fraud cases under the wire fraud statute, so it remains to be seen how much of a sea change the Memorandum will be for fraud and market manipulation matters against individuals. Further, while the Memorandum directs prosecutors to avoid charging violations of the CEA, it allows prosecutors to charge CEA offenses in cases where Bitcoin and Ether are the “commodities” in question. For example, the DOJ would potentially still be able to bring charges based on fact patterns similar to *United States v. Eisenberg* (the Mango Markets case), where the digital asset was USDC, a commodity according to the CFTC.<sup>5</sup> However, the Department’s new policy may chill prosecutorial appetite for cases against exchanges and other facilitating entities. Prosecution of market manipulation cases may also diminish so that resources can be refocused on cases with a nexus to terrorism.

## Considerations for Digital Asset Companies and Exchanges

First, notwithstanding the shift in enforcement priorities, blockchain companies and digital asset exchanges should not lower their defenses on the assumption that DOJ will prosecute only individuals to the exclusion of corporations.<sup>6</sup>

- DOJ has continued to bring enforcement actions against exchanges in recent months. As recently as last month, for example, prosecutors dismantled the [Garantex exchange](#) for allegedly facilitating money laundering by transnational criminal organizations and sanctions violations. While the charges included conspiracy to commit money laundering and to operate an unlicensed Money Services Business, according to the allegations, the proceeds were used to facilitate crimes including hacking, ransomware, terrorism, and drug trafficking. Notably, the charges also included a conspiracy to violate the International Emergency Economic Powers Act, which permits the President to take actions to address threats to national security.
- Additionally, the statute of limitations for the deprioritized offenses may be five to six years or more, which could extend into a new administration. That new administration could choose to reprioritize prosecuting these offenses.

Second, while DOJ may be deprioritizing these offenses, State Attorneys General have been increasingly active in investigating market manipulation cases.

Stakeholders in the digital asset space should continue to consider undertaking relevant risk assessments and compliance improvements on a periodic basis to prevent harm to crypto investors, market participants, and their bottom lines.

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<sup>1</sup>For further discussion of the Trump Administration’s digital asset enforcement priorities outlined in Executive Order [14178](#) (“Strengthening American Leadership in Digital Financial Technology”), see [this Sidley alert](#) and the [White House Fact Sheet on U.S. Leadership in Digital Financial Technology](#).

<sup>2</sup> Note that unwitting violations are generally not prosecutable because of the mens rea (criminal intent) requirements of applicable federal criminal statutes enforced by DOJ.

<sup>3</sup> See [Sidley alert](#).

<sup>4</sup> See [U.S. DOJ, Office of Atty. Gen., “Total Elimination of Cartels and Transnational Criminal Organizations,” \(Feb. 5, 2025\)](#).

<sup>5</sup> <https://www.justice.gov/archives/opa/pr/man-convicted-110m-cryptocurrency-scheme>.

<sup>6</sup> The Memorandum also contemplates that the Deputy Attorney General can make exceptions to the default policy on a case-by-case basis.

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