THE POST-DOLLAR DOLLAR:

THE UNITED STATES' LEGISLATIVE BET ON PRIVATE CRYPTO POWER

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ABSTRACT

In July 2025, the U.S. Congress advanced the most consequential digital asset legislation to date: a coordinated package comprising the GENIUS Act, the CLARITY Act, and the Anti-CBDC Surveillance State Act. The GENIUS Act, originating in the Senate and enacted into law after approval by the House of Representatives, forms the cornerstone of this legislative agenda. Its companion laws, the CLARITY Act and the Anti-CBDC Surveillance State Act, both originating in the House, have passed their chamber and are now before the Senate for the second reading. This paper analyzes the statutory and executive alignment that redefines the U.S. crypto-financial landscape. It examines the proposed new division of regulatory authority, the codification of stablecoin standards, and the categorical rejection of programmable central bank digital currencies. Anchored in the Trump administration's strategic endorsement of blockchain innovation and decentralized monetary systems, the emerging legislative framework positions the United States as a free-market counterweight to the rise of surveillance-driven digital finance in authoritarian states. The analysis explores how these measures will reshape the conditions for capital formation, strengthen the architecture of regulatory accountability, and recalibrate the dollar's strategic role in an evolving multipolar monetary competition. More than a regulatory shift, the 2025 package articulates a constitutional orientation toward crypto-governance, grounded in individual financial autonomy, competitive innovation, and institutional limits on state power. Overall, it signals a national commitment to digital monetary pluralism over centralized control.

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INTRODUCTION

In July 2025, during what has been dubbed "Crypto Week,"[1] the United States Congress advanced a trio of digital asset bills—the GENIUS Act, the CLARITY Act, and the Anti-CBDC Surveillance State Act.[2] The GENIUS Act, originally drafted in the Senate under Republican leadership, was approved with bipartisan support and passed unchanged in the House of Representatives, swiftly becoming law.[3] Concurrently, the House had been developing its own companion measures—the CLARITY Act and the Anti-CBDC Surveillance State Act—both of which cleared the chamber with comfortable majorities and now await their second reading in the Senate.[4] This rare display of legislative coordination between the two chambers was closely overseen by the White House.[5] Bo Hines, who headed President Donald J. Trump's Council of Advisers on Digital Assets, worked behind the scenes to align the bills with the President's broader monetary

[1] Press Release, U.S. H. Comm. on Fin. Servs. Chair French Hill, House Announces Week of July 14th as "Crypto Week," (July 3, 2025) https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=410793 [https://perma.cc/HY43-PRCZ].
[2] *Id.*
[3] Sara Dorn, *Trump Signs Stablecoin GENIUS Act: Here's What To Know*, FORBES (July 17, 2025), https://www.forbes.com/sites/saradorn/2025/07/17/house-passes-stablecoin-genius-act-heres-what-to-know [https://perma.cc/5GQN-GQHH].
[4] *Id.*
[5] *See* Press Release, U.S. H. Comm. on Fin. Servs. Chair French Hill, Chairman Hill Commends Passage of Landmark Digital Asset Bills, (July 17, 2025) https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=410815 [https://perma.cc/WL89-53PV].

and financial strategy.[6] Lawmakers have described Congress's action as "a critical step" for cryptocurrencies, stablecoins, and blockchain regulation in U.S. history. [7]

The legislative action reflects a rapidly evolving attitude in Washington toward the digital asset economy, after years of regulatory uncertainty surrounding the classification of digital assets and the role of stablecoins in financial markets. The three bills together signal a firm convergence around financial innovation, clearer regulation, and stronger safeguards for individual financial privacy. Until now, the U.S. digital asset framework had been marked by deep regulatory fragmentation: the Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC) issued overlapping or conflicting guidance, the Treasury and the Federal Reserve offered inconsistent interpretations of stablecoin risk, and state-level licensing regimes—such as New York's BitLicense—created a patchwork of compliance obligations.[8] This lack of statutory clarity led to enforcement-driven policymaking, with crypto firms subject to *ex post* litigation rather than *ex ante* rules.[9] The GENIUS, CLARITY, and Anti-CBDC Acts collectively represent the first coherent legislative attempt to move from *ad hoc* regulation by enforcement to a predictable, statutory framework that supports innovation while embedding prudential and privacy safeguards.[10] At the end of the legislative process, Congress will have built a regulatory architecture for digital assets in the U.S., addressing stablecoins, market structure, and the threat (or possibility) of a central bank digital currency (CBDC).

The idea behind the legislative action is that the GENIUS Act provides the foundation for the CLARITY Act and the Anti-CBDC Surveillance State Act by governing payment stablecoins, creating rules on issuance, reserve

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[6] *See* Kanishka Singh, *White House Crypto Adviser Bo Hines Announces Departure*, REUTERS (Aug. 9, 2025), https://www.reuters.com/world/us/white-house-crypto-adviser-bo-hines-announces-departure-2025-08-09/ [https://perma.cc/YEF6-8NEZ].

[7] Hill, *supra* note 5; Press Release, Dan Meuser, U.S. H. of Rep., Congressman Meuser Helps Lead Passage of the GENIUS Act, Anti-CBDC Act, and CLARITY Act: "America Will Lead the World in Financial Innovation," (July 17, 2025), https://meuser.house.gov/media/press-releases/congressman-meuser-helps-lead-passage-genius-act-anti-cbdc-act-and-clarity-act [https://perma.cc/44SC-RQSP].

[8] David Adler, *The BitLicense: Regulatory Overreach or Prudent Response?*, FORDHAM J. CORP. & FIN. L., Blog (Mar. 26, 2018), https://news.law.fordham.edu/jcfl/2018/03/26/the-bitlicense-regulatory-overreach-or-prudent-response/ [https://perma.cc/Z8PG-DAPP].

[9] Roslyn Layton, *A Pivotal Case Shaping Cryptocurrency Regulation*, REGUL. REV. (June 17, 2025), https://www.theregreview.org/2025/06/17/layton-a-pivotal-case-shaping-cryptocurrency-regulation/ [https://perma.cc/5X32-YUVK].

[10] *See* David Zaslowsky, *Crypto Week Was More than the GENIUS Act: What the CLARITY Act and Anti-CBDC Surveillance State Act Mean for the Future of Digital Assets*, N.Y. L. J. (Aug. 20, 2025), https://insightplus.bakermckenzie.com/bm [https://perma.cc/67Q3-5PHQ].

backing, oversight, and closing a regulatory gap for stablecoin minting and use.[11] The CLARITY Act is intended to fill gaps around how different types of digital assets are classified, how intermediaries are regulated, and which federal agencies have which authority.[12] The Anti-CBDC Surveillance State Act will function as a guardrail, forbidding certain actions by the Federal Reserve related to issuing or deploying a retail CBDC, thereby limiting the risk of centralization or surveillance.[13]

In summary, GENIUS handles stablecoins, CLARITY will handle the broader crypto market infrastructure, and the Anti-CBDC bill will limit central bank overreach. Together, they aim to create coherence in U.S. crypto law.

This ongoing legislative realignment is closely tethered to the strategic priorities of President Trump, who resumed office in January 2025 with an explicit mandate to reassert the U.S.'s leadership in frontier technologies, including financial innovation.[14] President Trump's digital asset agenda frames crypto policy as an instrument of national strategy rather than financial regulation alone—tying technological sovereignty to independence from Chinese digital payment systems; economic competitiveness to the re-dollarization of global settlements through dollar-backed stablecoins; and geopolitical differentiation to the rejection of EU-style centralized digital currency models that risk state surveillance and monetary control.[15] Since his re-inauguration, President Trump has issued two major executive orders intended to consolidate American leadership in digital asset innovation and

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[11] *See id.*
[12] *See id.*
[13] *See id.*
[14] President Trump's claim to a mandate to reassert U.S. leadership in financial technology is supported by both electoral rhetoric and immediate policy action. During the 2024 campaign, his platform explicitly committed to "making America the crypto capital of the world" and to opposing a central bank digital currency, framing financial innovation as central to U.S. competitiveness and sovereignty. *Fact Sheet: Donald J. Trump Establishes the Strategic Bitcoin Reserve and U.S. Digital Asset Stockpile*, WHITE HOUSE (Mar. 6, 2025), https://www.whitehouse.gov/fact-sheets/2025/03/fact-sheet-president-donald-j-trump-establishes-the-strategic-bitcoin-reserve-and-u-s-digital-asset-stockpile/ [https://perma.cc/N8YE-FGZ3]. Upon returning to office, this agenda was codified through *Executive Order 14178, Strengthening American Leadership in Digital Financial Technology*, which directed agencies to promote blockchain innovation and prohibit the development of a Federal Reserve-issued CBDC. Exec. Order 14,178, 90 Fed. Reg. 8647 (Jan. 23, 2025). The subsequent *President's Working Group on Digital Asset Markets Report* reaffirmed the administration's goal of maintaining U.S. pre-eminence in global digital finance. THE WHITE HOUSE, STRENGTHENING AMERICAN LEADERSHIP IN DIGITAL FINANCIAL TECHNOLOGY (2025).
[15] *See* Exec. Order No. 14,178, 90 Fed. Reg. 8647 (Jan. 23, 2025); *see also* THE WHITE HOUSE, *supra* note 14, at 1 (asserting that blockchain-based dollar instruments are essential to preserving global monetary influence).

to safeguard monetary sovereignty amid international experimentation with centralized digital currencies.[16] These measures articulate a doctrine of financial autonomy that links the preservation of the dollar's global reserve status to the promotion of market-based, dollar-denominated stablecoins, rather than a state-issued central bank digital currency. The policy aims to maintain U.S. jurisdictional control over digital financial infrastructure, strengthen the dollar's role in cross-border settlements, and counter the emergence of alternative digital payment systems—particularly those developed by China—that could erode the geopolitical leverage derived from U.S. monetary primacy.[17] These orders—Executive Order 14,178 on *Strengthening American Leadership in Digital Financial Technology*[18] and Executive Order 14,233 on the *Establishment of the Strategic Bitcoin Reserve and United States Digital Asset Stockpile*[19]—underscore a deregulatory, pro-innovation stance.

This paper explores the legislative content, executive policy, and regulatory implications of the 2025 digital asset package, and provides an economic analysis. It situates the GENIUS Act, the CLARITY Act, and the Anti-CBDC Surveillance State Act within the broader context of U.S. crypto policy, examines the proposed redistribution of oversight powers from the SEC toward the CFTC, and assesses the overall impact of the legislation, once the whole package is finalized, on financial markets, financial architecture, and financial stability.

I. REGULATION AND LACK THEREOF: WHEN CRYPTO FINANCE WAS CAPITAL WITHOUT A COMPASS

Before Congress advanced the 2025 digital asset legislative package, the U.S. operated without a coherent statutory framework for crypto finance. What existed instead was an unstable patchwork of agency interpretations, court rulings, and enforcement actions that substituted discretion for law.[20] The SEC and the CFTC competed for jurisdictional primacy, each asserting authority through enforcement rather than rulemaking.[21] The SEC, invoking the *Howey* test, treated most digital tokens as securities, while the CFTC regarded them as commodities subject to its antifraud and derivatives

[16] Exec. Order No. 14,178, 90 Fed. Reg. 8647 (Jan. 23, 2025); Exec. Order No. 14,233, 90 Fed. Reg. 11789 (Mar. 6, 2025).
[17] *See* Exec. Order No. 14,178, 90 Fed. Reg. 8647 (Jan. 23, 2025); *and* Exec. Order No. 14,233, 90 Fed. Reg. 11789 (Mar. 6, 2025).
[18] Exec. Order No. 14,178, 90 Fed. Reg. 8647 (Jan. 23, 2025).
[19] Exec. Order No. 14,233, 90 Fed. Reg. 11789 (Mar. 6, 2025).
[20] *See, e.g.*, Layton, *supra* note 9.
[21] *Id.*

mandate.[22] The result was a regulatory limbo where the same asset could fall under two incompatible regimes depending on the venue or the theory of the case.[23]

The conflict originates from the U.S. system of dual financial oversight. The U.S. financial regulatory framework divides regulatory powers between the SEC and the CFTC based on the nature of financial instruments.[24]

The SEC has jurisdiction over securities, defined broadly under the Securities Act of 1933 and interpreted through judicial tests such as *Howey*.[25] The *Howey* test establishes that an "investment contract" exists where there is (1) an investment of money, (2) in a common enterprise, (3) with an expectation of profits, (4) to be derived from the efforts of others.[26] This functional test, rather than a fixed statutory list, allows the SEC to extend its jurisdiction to novel financial instruments.[27] Applied to digital assets, the *Howey* framework produced inconsistent outcomes: some tokens were treated as securities because their value depended on a promoter's managerial efforts, while others were deemed commodities under CFTC oversight.[28] Stablecoins, designed primarily as payment instruments rather than investment vehicles, fell into a grey area—lacking the profit expectation central to *Howey* but also not fitting traditional commodity definitions.[29]

In general terms, the SEC enforces registration, disclosure, and anti-fraud obligations to protect investors and ensure orderly markets.[30] The CFTC, by contrast, governs commodities and their derivatives under the Commodity Exchange Act.[31] It regulates futures, options, and swaps, and oversees exchanges like the CME and CBOT and clearinghouses that handle

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[22] Elizabeth Caires & Eric Forni, *Digital Assets Regulation in 2023: Is a New Regulatory Framework Finally Emerging?*, DLA PIPER (Feb. 2, 2023), https://www.dlapiper.com/en/insights/publications/2023/01/the-cftc-and-a-congressional-framework-for-regulation-of-digital-assets [https://perma.cc/NS9F-MPR4].
[23] *See id.*
[24] U.S. COMMODITY FUTURES TRADING COMM'N & U.S. SEC. & EXCH. COMM'N, JOINT REPORT OF THE SEC & CFTC ON HARMONIZATION OF REGULATION 1, 3 (2009).
[25] 15 U.S.C. § 77b(1); SEC v. W.J. Howey Co., 328 U.S. 293 (1946).
[26] *W.J. Howey Co.*, 328 U.S. at 293.
[27] *See, e.g.*, Eva Su, CONG. RSCH. SERV., R46208, DIGITAL ASSETS AND SEC REGULATION 1, 6 (2021).
[28] *CFTC vs. SEC: Navigating Regulatory Overlap in the Crypto Market*, MERKLE SCI. (Nov. 19, 2024), https://www.merklescience.com/blog/cftc-vs-sec-navigating-regulatory-overlap-in-the-crypto-market [https://perma.cc/5GEF-8URE].
[29] *See id.*
[30] *Mission*, U.S. SEC. & EXCH. COMM'N (Aug. 9, 2023), https://www.sec.gov/about/mission [https://perma.cc/EV45-H4HR].
[31] *Commodity Futures Trading Commission (CFTC) Overview*, INVESTOPEDIA (Nov. 18, 2003), https://www.investopedia.com/terms/c/cftc.asp [https://perma.cc/27DC-4X6Q].

these instruments.[32] While spot commodity markets lie mostly outside the CFTC's scope, it has enforcement power over fraud and manipulation in those markets.[33] The SEC's regime is disclosure-based and rooted in investor protection; the CFTC operates a risk-based, prudential model focused on market integrity.[34] Securities are inherently linked to corporate finance and investor ownership; commodities are typically fungible goods or reference assets.[35]

This jurisdictional divide reflects historical functions: capital formation on one side, hedging and price discovery on the other.[36] Ambiguities, however, arise when instruments blur categories or straddle both definitions.[37] Because Congress had not so far clearly defined the statutory nature of digital assets, regulatory agencies have pursued conflicting interpretations.[38]

This overlap bred institutional tension and market uncertainty.[39] The absence of statutory clarity discouraged investment and fostered defensive

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[32] *Id.*
[33] *See CFTC Oversight of the Spot Market: Market Manipulation in Crypto*, MERKLE SCI. (Oct. 2, 2024), https://www.merklescience.com/blog/cftc-oversight-of-the-spot-market-market-manipulation-in-crypto [https://perma.cc/54EN-EZYR].
[34] MARC LABONTE, CONG. RSCH. SERV., R44918, WHO REGULATES WHOM? AN OVERVIEW OF THE U.S. FIN. REGULATORY FRAMEWORK 7, 10 (Oct. 13, 2023).
[35] Securities are defined under the Securities Act of 1933, 15 U.S.C. § 77b(a)(1), to include "any note, stock, treasury stock, bond, debenture, evidence of indebtedness . . . investment contract . . . or, in general, any interest or instrument commonly known as a 'security.'" This definition ties securities to corporate finance and investor ownership, as confirmed in SEC v. W.J. Howey Co., 328 U.S. 293 (1946), which established that an "investment contract" exists when there is an investment of money in a common enterprise with profits to be derived from the efforts of others. Commodities, by contrast, are defined under the Commodity Exchange Act, 7 U.S.C. § 1a(9), as "all other goods and articles . . . and all services, rights, and interests . . . in which contracts for future delivery are presently or in the future dealt in" (emphasizing their fungible and tradeable nature). The CFTC's jurisdiction extends to derivatives and spot markets for such fungible assets, rather than ownership interests or capital formation. Together, these authorities demonstrate that securities law governs instruments linked to enterprise ownership and capital raising, whereas commodities law governs fungible goods or reference assets used in trade and price discovery.
[36] *See* LABONTE, *supra* note 34, at 7, 10.
[37] Frantz Jacques, *The Coming of Age of Digital Assets: Key Policy, Regulatory, and Legal Considerations*, AM. BAR ASS'N BUS. L. TODAY (Aug. 14, 2025), https://www.americanbar.org/groups/business_law/resources/business-law-today/2025-august/coming-of-age-digital-assets-policy-regulatory-legal/ [https://perma.cc/M73S-JU96].
[38] *See Clarifying the CLARITY Act: What To Know About Congress's Latest Crypto Market Structure Bill*, ARNOLD & PORTER (Aug. 26, 2025), https://www.arnoldporter.com/en/perspectives/advisories/2025/08/clarifying-the-clarity-act [https://perma.cc/D68S-PCAS].
[39] *Id.*

compliance strategies.[40] Firms operated in anticipation of litigation rather than pursuant to clear guidance.[41] Courts, forced to adapt pre-digital doctrines to decentralized systems, struggled to reconcile the statutory silence with evolving market realities.[42] Each enforcement action became a precedent by default, effectively transforming the courtroom into a surrogate rulemaking forum.[43]

The period has been marked by prominent disputes that exposed the structural weakness of the pre-legislative landscape. The *Ripple Labs* litigation highlighted the instability of applying *Howey* to secondary token sales.[44] *SEC v. Coinbase* illustrated the perils of prosecuting market platforms as unregistered securities exchanges without any parallel CFTC oversight.[45] *Bitnomial*'s attempt to certify XRP futures revealed open conflict between agencies, while the twin suits against *Gemini Earn* epitomized the fragmentation of oversight.[46] Decentralized finance (DeFi) enforcement—seen in the *Mango Markets* and *Kraken* staking case—further blurred the boundary between securities, commodities, and contractual arrangements.[47]

In constitutional terms, the vacuum raised separation-of-powers concerns: regulatory agencies were effectively legislating through

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[40] C. R. Goforth, *Regulation by Enforcement: Problems with the SEC's Approach to Crypto-Asset Regulation*, 82 MD. L. REV. 107, 145–46 (2022).
[41] *Id.*
[42] Eric Wessan & Phil Pillari, *Problems with Rulemaking by District Court Enforcement Action: The SEC's Improper Cryptocurrency Regulation*, 45 HARV. J.L. & PUB. POL'Y PER CURIAM, No. 31, Summer 2024, at 1–2.
[43] *Id.*
[44] SEC v. Ripple Labs Inc., 682 F. Supp. 3d 308 (S.D.N.Y. 2023).
[45] SEC v. Coinbase, Inc., 726 F. Supp. 3d 260 (S.D.N.Y. 2024).
[46] *Bitnomial Exchange Sues SEC, Challenging Agency's Authority Over XRP Futures*, KATTEN (Oct. 11, 2024), https://katten.com/bitnomial-exchange-sues-sec-challenging-agencys-authority-over-xrp-futures#_ftn5 [https://perma.cc/9AEW-4C4S]; Press Release 9031-25, U.S. Commodity Futures Trading Comm'n, Gemini Trust Ordered to Pay $5 Million for Making False or Misleading Statements, Omissions to the CFTC, (Jan. 13, 2025), https://www.cftc.gov/PressRoom/PressReleases/9031-25 [https://perma.cc/K5UQ-DP7Z]; Press Release No. 2023-7, U.S. Securities & Exch. Comm'n, SEC Charges Genesis and Gemini for the Unregistered Offer and Sale of Crypto Asset Securities through the Gemini Earn Lending Program, (Jan. 12, 2023), https://www.sec.gov/newsroom/press-releases/2023-7 [https://perma.cc/5F97-TLVQ].
[47] *See* Press Release No. 8647-23, Commodity Futures Trading Comm'n, CFTC Charges Avraham Eisenberg with Manipulative and Deceptive Scheme to Misappropriate Over $110 Million from Mango Markets (Jan. 9, 2023), https://www.cftc.gov/PressRoom/PressReleases/8647-23?utm [https://perma.cc/GJ9W-BZW4]; Press Release No. 2023-13, U.S. Sec. & Exch. Comm'n, SEC Charges Avraham Eisenberg with Orchestrating Attack on Mango Markets, a Crypto Asset Trading Platform (Jan. 20, 2023), https://www.sec.gov/newsroom/press-releases/2023-13?utm [https://perma.cc/9RGT-2ETB].

enforcement. The absence of congressional direction allowed bureaucratic jurisdiction to expand without democratic authorization, contravening the principle that major policy determinations must originate in statute, not administrative inference.[48]

The 2025 legislative initiative—comprising the enacted GENIUS Act and the pending CLARITY and Anti-CBDC Surveillance State Acts—was conceived as corrective.[49] Together, the laws aim to replace the reactive, case-by-case regime with a structured statutory framework.[50] The pre-CLARITY environment thus stands as both a cautionary episode and a justification for reform: a period when digital capital flowed freely but without legal orientation—a financial ecosystem driven by innovation, constrained by uncertainty, and governed, in practice, by the absence of governance itself.

This dualism created a regulatory void; one exploited, challenged, or simply misunderstood by both enforcers and market actors.[51] This fragmentation soon manifested in a series of high-profile disputes—cases in which the SEC and CFTC asserted overlapping jurisdiction over the same assets, platforms, or transactions, exposing the institutional tension at the heart of the U.S.'s improvised crypto regulatory regime.

A. Ripple Labs and the Limits of Howey

The SEC's 2020 enforcement action against Ripple Labs asserted that its XRP sales amounted to unregistered securities offerings.[52] The CFTC, by never initiating any parallel enforcement, implicitly rejected that premise—not as a pro-Ripple position, but as a rejection of the SEC's jurisdictional theory itself.[53] Put differently, the disagreement was on classification: the CFTC did not view XRP as a security in the first place.

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[48] *See* Wessan & Pillari, *supra* note 42.
[49] *See* French Hill, *CoinDesk: The Clock is Ticking on Crypto Market Structure Legislation in the U.S.*, U.S. H. COMM. ON FIN. SERVS. CHAIR FRENCH HILL (Sep. 16, 2025) https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=410871 [https://perma.cc/834T-USY8].
[50] *See* ARNOLD & PORTER, *supra* note 38.
[51] *See generally* U.S. GOV'T ACCOUNTABILITY OFF., GAO-23-105346, *BLOCKCHAIN IN FINANCE – LEGISLATIVE AND REGULATORY ACTIONS ARE NEEDED TO ENSURE COMPREHENSIVE OVERSIGHT OF CRYPTO ASSETS* (2023) (detailing the void of regulations); *and* Wessan & Pillari, *supra* note 42 (discussing how the SEC was mistaken for regulating crypto assets as investment contracts).
[52] SEC v. Ripple Labs Inc., 682 F. Supp. 3d 308 (S.D.N.Y. 2023).
[53] Omar Elorfaly, *CFTC Commissioner Sees Ripple Court Decision as Path to U.S. Regulatory Clarity*, CCN (July 18, 2023), https://www.ccn.com/news/cftc-commissioner-ripple-decision-path-regulatory-clarity/ [https://perma.cc/2XUV-2HW2].

In defense, Ripple argued that many of its transactions—particularly its algorithmic, secondary-market "programmatic sales"—did not meet the *Howey* criteria of an "investment contract."[54] Judge Analisa Torres of the Southern District of New York resolved the motion for summary judgment in July 2023 in a split ruling.[55] She held that XRP sales to institutional buyers under written contracts qualified as securities transactions, but that programmatic sales on digital asset exchanges and distributions for services did not.[56]

The court grounded its analysis in the totality of circumstances approach.[57] It observed that programmatic buyers could not reliably determine whether their funds were paying Ripple or another seller, undermining the expectation-of-profits prong of *Howey*.[58] Meanwhile, institutional purchasers entered bespoke agreements, were informed of Ripple's plans to use proceeds toward ecosystem development, and thus could reasonably expect profits derived from Ripple's efforts.[59]

That decision partially undercut the SEC's maximalist argument, but offered no comprehensive resolution to the core question: by what statutory logic do tokens occasionally qualify as securities and sometimes do not? Because the ruling is fact-dependent and limited to particular kinds of transactions, it did not—and could not—establish a stable doctrinal framework for digital assets generally.

The CLARITY Act seeks to displace that ambiguity. The Act will define "digital commodities" as assets under CFTC oversight and "digital asset" as assets under SEC jurisdiction.[60] By statute, XRP's status under various transaction types will no longer depend on courts sifting through *Howey* factors on a case-by-case basis.[61] This legislative demarcation will forestall future litigation over token classification and simplify institutional planning. The *Ripple* decision thus exemplifies the interpretive uncertainty the Act is

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[54] *Ripple Labs Inc.*, 682 F. Supp. 3d at 321.
[55] *Id.*
[56] *Id.*
[57] *Id.* at 309.
[58] Jessica B. Magee & Craig McCarron Turner, *SEC v. Ripple: When a Security Is Not a Security*, HOLLAND & KNIGHT (July 20, 2023), https://www.hklaw.com/en/insights/publications/2023/07/sec-v-ripple-when-a-security-is-not-a-security [https://perma.cc/J4NS-NXH3].
[59] *Ripple Labs Inc.*, 682 F. Supp. 3d at 326–27.
[60] Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong., (2025).
[61] SEC v. W.J. Howey Co., 328 U.S. 293 (1946).

designed to resolve: a judicial approach that distinguishes transaction types *ex post* rather than offering *ex ante* clarity for issuers and markets alike.[62]

B. Coinbase and Platform Classification

The SEC's prosecution of Coinbase for operating as an unregistered securities exchange, broker, and clearing agency—despite the absence of any formal CFTC objection to its listed assets—illustrates the institutional dissonance that the CLARITY Act will address.[63] In *SEC v. Coinbase*,[64] the SEC alleged that Coinbase facilitated trading in crypto assets that qualified as securities under the *Howey* test without registering as an exchange. Coinbase responded that the agency was engaging in regulation by enforcement in the absence of clear statutory guidance, asserting that no federal law definitively determined whether digital tokens were securities or commodities.[65] The court acknowledged the regulatory uncertainty that continues to characterize the digital asset space, though it allowed parts of the SEC's claims to proceed.[66]

The CLARITY Act will directly address this uncertainty. The CLARITY Act would establish a statutory taxonomy dividing digital assets into three categories—digital commodities, payment stablecoins, and digital investment contracts—and assign jurisdiction accordingly: where the CFTC oversees digital commodities and spot markets, the Federal Reserve and OCC supervise payment stablecoins under the GENIUS Act, and the SEC retains authority over digital investment contracts.[67] According to the House Agriculture Committee's summary, the Act "establishes clear jurisdictional lines between the SEC and CFTC, and ensures Americans have comparable protections in digital asset markets to those in the traditional financial system."[68]

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[62] *Ripple Labs Inc.*, 682 F. Supp. 3d at 335.
[63] *See Crypto in the Courts: Five Cases Reshaping Digital Asset Regulation in 2025*, KATTEN (Jan. 21, 2025), https://katten.com/crypto-in-the-courts-five-cases-reshaping-digital-asset-regulation-in-2025 [https://perma.cc/2GG5-XZ8V].
[64] SEC v. Coinbase, Inc., 726 F. Supp. 3d 260, 279–80 (S.D.N.Y. Mar. 27, 2024).
[65] *See id.* at 284.
[66] *See id.* at 286.
[67] R Tamara de Silva, *The Crypto Market Bill Explained: Analyzing the CLARITY Act of 2025 and Its Regulatory Impact on Digital Assets*, DE SILVA LAW OFFS. (May 31, 2025), https://www.desilvalawoffices.com/articles/blog/2025/may/the-crypto-market-bill-explained-analyzing-the-c/ [https://perma.cc/PSP6-435S]; Kristin Boggiano et al., *Stablecoins and the Genius Act: What you need to know*, DLA PIPER (July 24, 2025), https://www.dlapiper.com/en-us/insights/publications/2025/07/stablecoins-and-the-genius-act-what-you-need-to-know [https://perma.cc/D7FY-Q8XV].
[68] H.R. Rep. No. 119-168, at 59 (2025).

Together, these sources confirm that the CLARITY Act will resolve the jurisdictional ambiguity that defined the Coinbase litigation and the current regulatory regime.

C. Bitnomial's XRP Futures and the Institutional Confrontation

In early 2024, Chicago-based derivatives exchange Bitnomial sought to self-certify futures contracts based on XRP under the Commodity Exchange Act's provisions allowing designated contract markets to list new products without prior approval, provided the contracts comply with CFTC regulations.[69] The CFTC permitted the certification to proceed, implicitly treating XRP as a commodity within its jurisdiction.[70] The SEC, however, intervened shortly thereafter, "asserting that XRP futures are security futures subject to federal securities laws."[71]

Bitnomial responded by filing suit against the SEC in the Northern District of Illinois, arguing that the agency's intervention exceeded its statutory authority and infringed on the exchange's right to rely on the CFTC's product-certification framework.[72] Although the complaint does not name the nondelegation and major questions doctrines, its theory tracks them: Bitnomial's argument presupposes that an agency cannot unilaterally expand its jurisdiction into an entirely different statutory domain without an express congressional grant, and that Article I prohibits an agency from effectively reassigning lawmaking power to itself. In that sense, the complaint functionally invokes the concerns that animate both the nondelegation and major questions doctrines.[73] The litigation raised a fundamental question about institutional competence: whether two independent regulators could claim concurrent authority over the same financial instrument without a governing statute to reconcile their mandates.[74]

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[69] Letter from Jane Downey, Chief Regul. Officer, Coinbase Derivatives, to Christopher J. Kirkpatrick, Sec'y of the Comm., Commodity Futures Trading Comm'n (Apr. 3, 2025), https://www.cftc.gov/sites/default/files/filings/ptc/25/04/ptc04032518916.pdf [https://perma.cc/Q5BE-KCWN].

[70] Lockridge Okoth, *Coinbase Launches CFTC-Regulated XRP Futures Contracts*, BEINCRYPTO (Apr. 22, 2025), https://beincrypto.com/coinbase-xrp-futures-cftc-approval/ [https://perma.cc/4VRG-2QE6].

[71] KATTEN, *supra* note 46.

[72] Complaint for Declaratory and Injunctive Relief at 1, 10, 14, Bitnomial Exch., LLC v. SEC, No. 24-cv-09904 (N.D. Ill. Oct. 10, 2024).

[73] *Id.*

[74] *Id.*

Although the case was never adjudicated on the merits—Bitnomial voluntarily dismissed its complaint in March 2025[75]—the episode left the underlying jurisdictional conflict unresolved but publicly exposed the extent of interagency friction, illustrating what the CLARITY Act is designed to remove.

The Bitnomial episode underscored the structural instability of crypto regulation in the absence of legislative direction. Two federal agencies reached mutually exclusive conclusions about the same underlying asset, without any statutory mechanism to determine primacy.[76] This regulatory standoff effectively froze market development and signaled to Congress the need for definitional and jurisdictional clarity.[77]

The CLARITY Act will directly address this fault line. By codifying separate statutory definitions for "digital commodities" and "digital asset securities," and by allocating oversight accordingly, the Act will eliminate the uncertainty that produced the Bitnomial dispute.[78] Under the new framework, XRP-based futures will fall squarely within the CFTC's jurisdiction as a digital commodity derivative, foreclosing the possibility of overlapping enforcement.[79] The episode thus stands as a case study in how procedural inconclusiveness can expose substantive institutional dysfunction—a dysfunction the CLARITY Act is now designed to correct.

D. Gemini Earn and Product-Type Fragmentation

If any episode epitomized the institutional dissonance between the SEC and CFTC, it was the Gemini Earn saga. The case revealed how two agencies, applying distinct statutory lenses to related conduct, could reach overlapping enforcement outcomes in the absence of legislative coordination. In June 2022, the CFTC filed *CFTC v. Gemini Trust Co.*, alleging that Gemini made materially false or misleading statements during meetings and documentation submitted in connection with its proposed Bitcoin futures contract, which the exchange sought to list on a designated contract market.[80] The Commission argued that Gemini's representations

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[75] Aislinn Keely, *Bitnomial Drops SEC Challenge Amid Ripple Dismissal Buzz*, LAW360 (Mar. 19, 2025), https://www.law360.com/articles/2313080/bitnomial-drops-sec-challenge-amid-ripple-dismissal-buzz [https://perma.cc/UQZ9-SEHZ].
[76] KATTEN, *supra* note 46.
[77] *See id.*
[78] ARNOLD & PORTER, *supra* note 38.
[79] *Id.*
[80] Press Release No. 8540-22, Commodity Futures Trading Comm'n, CFTC Charges Gemini Trust Company for Making Material False or Misleading Statements and Omissions to the Commission (June 2, 2022), https://www.cftc.gov/PressRoom/PressReleases/8540-22 [https://perma.cc/CWK8-A4YY].

obscured the potential for market manipulation and mischaracterized the platform's spot-market integrity—issues squarely within the CFTC's remit over derivatives and commodity markets.[81]

Barely seven months later, the SEC brought an entirely separate action against Gemini and Genesis Global Capital, alleging that the Gemini Earn program constituted the unregistered offer and sale of securities in violation of Sections 5(a) and 5(c) of the Securities Act of 1933.[82] The SEC's complaint characterized the yield-bearing accounts as "investment contracts under *Howey*," because investors expected profits from the managerial efforts of Gemini and Genesis in lending pooled crypto assets.[83]

The CFTC's and SEC's theories were not directly contradictory—the former targeted pre-listing misrepresentations in a derivatives context, the latter an unregistered securities offering—but together they exposed the absence of a coherent regulatory architecture.[84] Both agencies applied distinct statutory frameworks to related activities stemming from the same firm, based not on functional differences but on institutional mandates. The result was duplication of enforcement, conflicting compliance expectations, and increased legal uncertainty for intermediaries operating at the intersection of commodities and securities law.

This dual enforcement posture highlighted a broader structural flaw: Congress had never drawn a statutory line separating digital commodities from digital investment contracts. Agencies, therefore, filled the vacuum by analogizing digital assets to familiar instruments within their jurisdictional comfort zones. The CFTC viewed Gemini through the lens of commodity market integrity, the SEC, instead, through the prism of investor protection.[85] Market actors faced both, with no authoritative framework to reconcile the two. The CLARITY Act will introduce functional harmonization intended to eliminate precisely this form of regulatory overlap.[86] Under the CLARITY Act, yield-generating programs such as Earn will be governed by statutory criteria linked to the economic substance and disclosure structure of the

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[81] *Id.*
[82] Press Release No. 2023-7, Sec. & Exch. Comm'n, SEC Charges Genesis and Gemini for the Unregistered Offer and Sale of Crypto Asset Securities through the Gemini Earn Lending Program (Jan. 12, 2023), https://www.sec.gov/newsroom/press-releases/2023-7 [https://perma.cc/Z9DK-KYC6].
[83] Complaint at 17, SEC v. Genesis Glob. Cap. LLC, No. 23-CV-287, 2024 WL 1116877 (S.D.N.Y. Mar. 13, 2024).
[84] *Id.*; Commodity Futures Trading Comm'n, *supra* note 80.
[85] Complaint, *Genesis Glob. Cap. LLC*, No. 23-CV-287, 2024 WL 1116877; Commodity Futures Trading Comm'n, *supra* note 80.
[86] Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong., (2025).

product.[87] If a program pools customer assets and offers a return contingent on managerial performance, it will be classified as a digital investment contract under SEC jurisdiction;[88] if returns are algorithmic, collateralized, or market-based without issuer discretion, it will fall under CFTC oversight as a digital commodity yield instrument.[89] By codifying these distinctions, the CLARITY Act will replace the interpretive competition between agencies with a unified rulebook that defines oversight according to function rather than institutional boundaries.

In effect, the Gemini episode can be seen as both precedent and pretext for reform: it demonstrated how two legitimate regulatory logics—market integrity and investor protection—can coexist in conflict when statutory clarity is absent. The CLARITY Act will transform that conflict into coordination, ensuring that enforcement follows clearly delineated lines of congressional intent rather than bureaucratic interpretation.

E. Mango Markets and DeFi's Legal Gray Zone

Mango Markets illustrates yet another permutation of the inter-agency conflict, expanding the clash to decentralized finance (DeFi).[90] The case emerged from a 2022 incident in which trader Avraham Eisenberg exploited the protocol's oracle mechanism to inflate the value of his collateral and withdraw approximately $116 million in digital assets.[91] The maneuver, though executed entirely through smart contracts, prompted swift action from both the CFTC and the SEC—each applying its own statutory framework to the same conduct.[92]

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[87] *Id.*
[88] *Id.*
[89] *Id.*
[90] *See* Press Release No. 8647-23, Commodity Futures Trading Comm'n, CFTC Charges Avraham Eisenberg with Manipulative and Deceptive Scheme to Misappropriate Over $110 million from Mango Markets, a Digital Asset Exchange (Jan. 9, 2023), https://www.cftc.gov/PressRoom/PressReleases/8647-23 [https://perma.cc/L2EG-E3SH]; *and* Press Release No. 2024-154, Sec. & Exch. Comm'n, SEC Charges Entities Operating Crypto Asset Trading Platform Mango Markets for Unregistered Offers and Sales of the Platform's "MNGO" Governance Tokens (Sep. 27, 2024), https://www.sec.gov/newsroom/press-releases/2024-154 [https://perma.cc/4GJU-U3XL].
[91] Commodity Futures Trading Comm'n, *supra* note 90.
[92] Press Release No. 8647-23, Commodity Futures Trading Comm'n, CFTC Charges Avraham Eisenberg with Manipulative and Deceptive Scheme to Misappropriate Over $110 million from Mango Markets, a Digital Asset Exchange (Jan. 9, 2023), https://www.cftc.gov/PressRoom/PressReleases/8647-23 [https://perma.cc/L2EG-E3SH]; *and* Press Release No. 2024-154, Sec. & Exch. Comm'n, SEC Charges Entities Operating Crypto Asset Trading Platform Mango Markets for Unregistered Offers and Sales of the Platform's "MNGO" Governance Tokens (Sep. 27, 2024), https://www.sec.gov/newsroom/press-releases/2024-154 [https://perma.cc/4GJU-U3XL].

The CFTC charged Eisenberg with commodity manipulation and fraud under the Commodity Exchange Act, arguing that MNGO tokens and perpetual futures contracts on the platform constituted "commodities" and that his scheme involved "manipulative and deceptive" devices affecting commodity prices.[93] The SEC, by contrast, pursued the case as securities fraud, asserting that MNGO qualified as a "security" because the protocol's design and governance structure induced participants to expect profits from the managerial efforts of its developers and community.[94]

The parallel proceedings illustrated the difficulty of fitting decentralized systems into traditional regulatory categories. For the CFTC, Eisenberg's conduct resembled commodities manipulation—an attempt to distort market prices for profit. For the SEC, it appeared as an unregistered and fraudulent securities transaction facilitated by the expectation of profit embedded in the MNGO governance token. Both perspectives were arguably correct within their institutional mandates, but the absence of statutory demarcation between "digital commodities" and "digital investment contracts" left developers and users unable to anticipate which laws applied to their activity.

Regulatory overlap creates uncertainty which could produce a chilling effect across the DeFi ecosystem. Developers confronted the possibility that identical smart-contract activity could trigger simultaneous enforcement by both agencies, depending on whether the transaction was viewed through a commodities or securities lens. The uncertainty extends to governance participants as well, who risk secondary liability without clear guidance on whether their votes or protocol updates constituted "investment activity" or "market conduct."

The CLARITY Act will address this ambiguity through a bespoke framework for decentralized systems. Under the CLARITY Act, DeFi platforms will be categorized based on operational characteristics—such as whether the protocol's governance is autonomous or managerially directed, and whether token holders receive profit-linked returns.[95] Where a platform's code executes transactions without discretionary human control, its native tokens are classified as "digital commodities" under CFTC oversight.[96] Conversely, if governance or revenue distribution depends on

[93] Commodity Futures Trading Comm'n, *supra* note 90.
[94] Sec. & Exch. Comm'n, *supra* note 90.
[95] *See* Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong., (2025).
[96] *See id.*

managerial or developmental efforts, the tokens qualify as "digital investment contracts" within the SEC's jurisdiction.[97]

The CLARITY Act will also create procedural safeguards against redundant enforcement. The CLARITY Act requires interagency notice and consultation before any enforcement action against a DeFi protocol, ensuring that only the regulator with primary jurisdiction may proceed.[98] The CFTC and SEC must issue joint guidance defining the criteria for protocol-level classification and jurisdictional triggers, thus institutionalizing coordination rather than competition.[99]

In effect, *Mango Markets* serves as the archetype of why such statutory harmonization is needed. The case exposed the interpretive strain of applying Depression-era securities and commodities statutes to autonomous code. The CLARITY Act will resolve that strain by embedding functional distinctions into law—distinguishing market integrity from investor protection without subjecting decentralized systems to overlapping enforcement.

F. Kraken Staking and Selective Enforcement

The SEC's 2023 enforcement action against Kraken over its staking-as-a-service program illustrated the limits of enforcement-driven regulation and the selective nature of interagency engagement. In February 2023, the Commission charged Payward Ventures, Inc. and Payward Trading, Ltd.—collectively operating as Kraken—with failing to register the offer and sale of their crypto asset staking program as securities.[100] The case was resolved by consent order: Kraken agreed to cease the service for U.S. customers and pay a $30 million civil penalty, without admitting or denying the allegations.[101]

The SEC's complaint framed Kraken's staking program as an unregistered investment contract under *Howey*.[102] Customers, the SEC argued, invested tokens in a common enterprise with the expectation of profit derived from Kraken's managerial efforts in validating transactions and

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[97] *See id.*
[98] *See id.*
[99] *See id.*
[100] Press Release No. 2023-25, Sec. & Exch. Comm'n, Kraken to Discontinue Unregistered Offer and Sale of Crypto Asset Staking-As-A-Service Program and Pay $30 Million to Settle SEC Charges (Feb. 9, 2023), https://www.sec.gov/newsroom/press-releases/2023-25 [https://perma.cc/9XQJ-HSQT].
[101] *Id.*
[102] Complaint at 2–3, SEC v. Payward Inc., 763 F. Supp. 3d 901 (N.D. Cal. 2024).

distributing yield.[103] Kraken, by contrast, maintained that its service was a technical facilitation mechanism, not an investment scheme, and that the SEC's theory improperly extended securities law to network operations that resembled custody and yield aggregation rather than investment solicitation.[104]

What was more striking than the enforcement itself was the absence of any corresponding CFTC action or comment. Staking involves locking crypto assets—often those based on proof-of-stake consensus mechanisms like Ether—to earn validator rewards.[105] Economically, the process could be analogized to a yield on a digital commodity rather than a traditional security.[106] The CFTC's silence therefore underscored the lack of an agreed classification for staking services: a regulatory vacuum where one agency asserted expansive jurisdiction and the other declined to engage, leaving the market without coherent boundaries.

This asymmetry illustrated the broader pattern of selective enforcement the CLARITY Act will eliminate. The SEC exercised jurisdiction where managerial activity could be inferred, while the CFTC intervened primarily in cases involving derivatives or overt market manipulation. The result was inconsistent protection and uncertainty for both providers and consumers of yield-bearing digital products. The CLARITY Act will directly address this ambiguity by codifying a dedicated category for staking services. Section 108 works on a functional allocation theory.

When staking is structured as protocol-level participation with transparent validator performance, risk disclosures, and the enumerated controls, it is treated as economic activity tied to the functioning of a commodity network rather than an issuance of capital raising instruments. That is why the statute houses those programs inside a conditional safe harbor and places them into the CFTC's lane.

When promoters alter the structure so the economic return is driven primarily by managerial discretion or a synthetic fixed yield rather than the endogenous mechanics of block validation, the economic substance begins to resemble classic investment contract logic.

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[103] *Id.* at 41.
[104] *See* SEC v. Payward Inc., 763 F. Supp. 3d 901 (N.D. Cal. 2024).
[105] Yubo Li & Zach Pandl, *Staking 101: Secure the Blockchain, Earn Rewards*, GRAYSCALE (Oct. 2, 2025), https://research.grayscale.com/reports/staking-101-secure-the-blockchain-earn-rewards.
[106] *Id.*

The CLARITY Act codifies this pivot through the "digital investment contract" classification. Fixed return claims collapse the link to protocol variance, asset pooling under promoter control transfers the value driver from the network to the promoter, and opacity functions as a prophylactic anti-evasion hook. Once those conditions are present, the default statutory inference is that the instrument has crossed into securities territory.

The statute thus will introduce a functional, risk-based model that will balance consumer protection with operational clarity. It will recognize staking as a legitimate network function rather than an inherently financial product, while imposing disclosure obligations designed to ensure transparency in yield calculation, validator selection, and custody practices.

Kraken's case stands as a cautionary example of how enforcement without guidance can shape entire market segments through deterrence rather than design. The CLARITY Act seeks to replace that ad hoc enforcement with a principled regulatory framework—one that distinguishes technological participation from investment solicitation and prevents unilateral agency expansion in the absence of congressional intent.

G. Structural Resolution

The CLARITY Act will govern crypto-assets through a three-pronged classification system: "Digital Commodities" (e.g., Bitcoin, Ether) will fall under CFTC oversight; digital "Investment Contracts" (e.g., ICOs and staking programs marketed as profit-generating schemes) will fall under SEC jurisdiction; "Payment Stablecoin[s]" will be regulated under a new Title V supervisory framework administered by the Fed and the OCC.[107]

Crucially, the Act requires joint rulemaking for hybrid instruments and will create a permanent interagency mechanism to resolve jurisdictional disputes pre-litigation.[108]

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[107] The CLARITY Act defines "digital commodity," "digital asset security," and "payment stablecoin," and allocates regulatory jurisdiction accordingly. The CFTC is given primary authority over "digital commodities" and their spot markets; the SEC retains jurisdiction over "digital asset securities" and "digital investment contracts"; and "payment stablecoins" are governed under the GENIUS Act and supervised by the Federal Reserve and Office of the Comptroller of the Currency. Tamara de Silva, *supra* note 67; Boggiano et al., *supra* note 67.

[108] Section 105(a) of the CLARITY Act mandates that the SEC and CFTC shall jointly issue rules to further define mixed digital asset transactions and to jointly issue rules, procedures, or guidance regarding the process to delist an asset under the Act. Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong. § 105(a) (2025).

The conflicts between the SEC and the CFTC in the absence of statutory guidance like the CLARITY Act serve as a cautionary tale about regulatory fragmentation in the face of technological change. The lack of statutory clarity delayed innovation, fostered litigation, and exposed market actors to conflicting enforcement risks.[109] With the passage of the CLARITY Act, the United States will have a unified structure for digital asset oversight. But the path to clarity was paved with costly confusion. These historical conflicts offer vital insight into how regulatory institutions react when left to interpret new markets without legislative direction.

II. LAYING THE GROUNDWORK: THE TRUMP ADMINISTRATION'S EXECUTIVE ORDERS ON CRYPTOCURRENCY

The legislative developments followed, and built upon, back-to-back executive actions issued by President Trump. President Trump's 2025 second term in the White House has been quickly accompanied by a strategic reorientation of federal cryptocurrency policy. Within the first 100 days, the President has issued two significant executive orders that laid the groundwork for the legislative advances formalized in July.

These executive directives—Executive Order 14178 and Executive Order 14233—articulate one and the same policy: a deregulatory, innovation-centric, and strategically adversarial posture toward centralized monetary control, particularly as implemented through programmable digital currencies.[110]

A. Executive Order 14178 on Strengthening American Leadership in Digital Financial Technology

Signed on January 23, 2025, Executive Order 14178 instructed federal financial regulators to coordinate digital asset policy in a manner that removes regulatory friction and promotes innovation.[111] The order created the President's Working Group on Digital Asset Markets within the National Economic Council to lead interagency collaboration and industry engagement.[112] Executive Order 14178 directs the financial regulators to coordinate digital asset policy and expressly assigns the President's Working Group on Digital Asset Markets to lead that coordination.[113] That direction necessarily presupposes joint policy development rather than siloed agency

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[109] *See* KATTEN, *supra* note 46.
[110] *See* Exec. Order No. 14,178, 90 Fed. Reg. 8647 (Jan. 23, 2025); *and* Exec. Order No. 14,233, 90 Fed. Reg. 11,789 (Mar. 6, 2025).
[111] Exec. Order No. 14,178, 90 Fed. Reg. 8647 § 1 (Jan. 23, 2025).
[112] *Id.* § 4.
[113] *Id.*

posture. Once the order places the SEC, CFTC, and IRS inside a common directive to align policy outputs under NEC coordination, the logical implication is that their eventual rulemaking and guidance must converge rather than conflict—and that is the inferential basis for describing the order as mandating harmonized guidance across tax, investor protection, and market conduct treatment.

The Executive Order formally declared it a strategic priority of the United States to maintain technological leadership in permissionless blockchain protocols and privacy-preserving financial technologies.[114] It directed agencies to identify and eliminate regulatory bottlenecks that impede the growth of decentralized systems, signaling a sharp departure from the enforcement-first posture that characterized the Biden administration's approach.[115] Between 2021 and 2024, federal crypto policy largely unfolded through agency enforcement rather than rulemaking: the SEC brought 125 crypto-related enforcement actions, targeting token issuers, exchanges, and staking providers, while offering little formal guidance on classification or registration standards.[116] The CFTC likewise expanded its jurisdiction through litigation—*CFTC v. Ooki DAO* being the flagship action—rather than through rulemaking.[117]

By contrast, Executive Order 14178 under the Trump administration's 2025 policy agenda reframed crypto governance as a matter of strategic industrial and monetary policy.[118] It prioritizes harmonized interagency rulemaking and the reduction of duplicative oversight, establishing the President's Working Group on Digital Asset Markets to coordinate regulatory action rather than pursue independent enforcement campaigns.[119] The shift marks a transition from reactive deterrence to proactive market design: from regulating innovation through prosecutions to structuring it through statutory clarity and executive coordination.

President Trump also aims to insulate U.S. fiscal strategy from foreign monetary manipulation and systemic disruption in global interbank networks. The Executive Order mandates U.S. leadership in establishing interoperable payments standards and cross-border settlement architectures

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[114] *Id.* § 1.
[115] *See id.*
[116] Akshay S. Ralhi, *Beyond Enforcement: The SEC's Shifting Playbook on Crypto Regulation*, GEO. L. CTR. ON TRANSACTIONAL BUS. & L. (May 9, 2025), https://www.law.georgetown.edu/ctbl/blog/beyond-enforcement-the-secs-shifting-playbook-on-crypto-regulation/ [https://perma.cc/Q8ZK-6L5B].
[117] CFTC v. Ooki DAO, No. 22-cv-05416, 2023 WL 5321527 (N.D. Cal. 2023).
[118] Exec. Order No. 14,178, 90 Fed. Reg. 8647 § 1 (Jan. 23, 2025).
[119] *Id.*

that favor dollar-based pathways.[120] It directs agencies to eliminate regulatory bottlenecks to participation in global decentralized finance and to promote standards that protect dollar primacy and private sector leadership.[121]

B. Executive Order 14233 on the Establishment of the Strategic Bitcoin Reserve and United States Digital Asset Stockpile

Issued on March 6, 2025, Executive Order 14233 instructed the Department of the Treasury to acquire and maintain a Strategic Bitcoin Reserve.[122] The rationale outlined in the order emphasized both macroeconomic resilience and national security.[123] The directive also authorized the creation of a Digital Asset Stockpile.[124] By treating bitcoin as a reserve asset and storing other tokens, the government signals a shift toward recognizing digital assets as instruments of national economic policy.

The Strategic Bitcoin Reserve is conceived not as a monetary instrument per se but as a geopolitical hedge—a digital counterpart to the Strategic Petroleum Reserve.[125] Its function is to strengthen the United States' macroeconomic and national security posture in an increasingly digitized global financial system.[126] Much like the Strategic Petroleum Reserve was designed to safeguard energy security against external supply shocks, the Bitcoin Reserve aims to insulate U.S. fiscal and monetary policy from vulnerabilities in global payment infrastructure and foreign digital currency initiatives.[127]

The Reserve serves three interrelated purposes. First, it operates as a *strategic asset buffer*, ensuring that the federal government holds a non-sovereign, globally liquid store of value that can be mobilized during geopolitical or financial stress.[128] Second, it functions as a *monetary hedge*, diversifying part of U.S. reserve composition away from purely fiat

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[120] Exec. Order No. 14,178, 90 Fed. Reg. 8647 § 1 (Jan. 23, 2025).
[121] *Id.*
[122] Exec. Order No. 14,233, 90 Fed. Reg. 11789 § 3(a) (Mar. 6, 2025).
[123] *See id.* § 1.
[124] *Id.* § 3(b).
[125] *See* Ananya Kumar, *What Exactly is a Strategic Bitcoin Reserve?*, ATL. COUNCIL (Aug. 8, 2024), https://www.atlanticcouncil.org/blogs/econographics/what-exactly-is-a-strategic-bitcoin-reserve/ [https://perma.cc/36MP-GEU9].
[126] *See id.*
[127] *See id.*
[128] *See* Bepi Pezzulli, *Trump's Digital Fort Knox: Bitcoin, the Dollar, and America's Financial Future*, AM. THINKER (Mar. 12, 2025), https://www.americanthinker.com/articles/2025/03/trump_s_digital_fort_knox_bitcoin_the_dollar_and_america_s_financial_future.html [https://perma.cc/3RZ4-76RZ].

instruments vulnerable to debasement or geopolitical sanctions risk.[129] Third, it acts as a *signaling device*; by institutionalizing Bitcoin holdings, the United States communicates its intent to remain a leading jurisdiction for digital asset innovation and to contest the influence of state-controlled digital currencies—particularly China's e-CNY—in international settlements.[130]

Framed this way, the Strategic Bitcoin Reserve is less a speculative asset pool than a policy instrument of deterrence and resilience. It introduces a digital reserve layer capable of absorbing market shocks, supporting cross-border liquidity, and symbolizing monetary independence in a multipolar financial environment. The result is a formal "digital Fort Knox" meant to enhance U.S. strategic positioning in the global crypto landscape.[131]

C. Executive-Legislative Synergy

President Trump's executive orders on digital assets laid the intellectual and strategic foundation for the July legislative package. Executive Order 14178, in particular, emphasized regulatory clarity, institutional legitimacy, and support for private innovation in the crypto-financial sector.[132] It also explicitly rejected CBDCs as incompatible with individual liberty and market-based finance.[133] These directives were not symbolic. They shaped the legislative agenda.

The GENIUS Act, which establishes standardized frameworks for stablecoin issuance and imposes capital and liquidity requirements on issuers, directly echoes the objectives articulated in Executive Order 14178.[134] Both instruments share a common regulatory philosophy: reducing fragmentation by creating a unified federal structure for digital financial infrastructure.

Executive Order 14178 instructs the banking regulators to coordinate standards for digital payments and stablecoin issuance rather than maintain separate, inconsistent supervisory constructs. When the order tasks Treasury, the Federal Reserve, and the OCC with producing interagency recommendations on supervisory pathways and prudential standards for privately issued payment tokens, the operative inference is that the statute expects these agencies to reconcile overlapping regimes and arrive at

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[129] *See id.*
[130] *See id.*
[131] *Id.*
[132] *Id.*
[133] *Id.* § 5.
[134] *See* GENIUS Act, Pub. L. 119-27, §§ 3, 4(a)(4), 139 Stat. 419, 423, 427 (July 18, 2025); Exec. Order No. 14,178, 90 Fed. Reg. 8647 § 1 (Jan. 23, 2025).

interoperable, risk-based frameworks rather than three separate supervisory architectures.[135] In brief, the Order frames stablecoin policy as a matter of strategic financial leadership, emphasizing prudential supervision, reserve transparency, and operational resilience as national priorities.

The GENIUS Act translates those executive principles into statutory architecture. Title I mandates that all payment stablecoin issuers be chartered, either at the state or federal level, and subject to ongoing OCC and Federal Reserve oversight.[136] Title II requires full one-to-one reserve backing in cash or short-term Treasuries, monthly reporting to the Federal Reserve, and periodic attestations by independent auditors—mirroring Executive Order 14178's emphasis on capital adequacy and transparency.[137] In effect, the GENIUS Act operationalizes Executive Order 14178's directive for an integrated regulatory perimeter by converting interagency coordination into codified supervisory mandates.

Where Executive Order 14178 outlined a policy blueprint—calling for federal primacy, prudential safeguards, and the avoidance of state-by-state fragmentation—the GENIUS Act provides the legislative mechanism to realize that blueprint. Together, they mark the transition from executive guidance to statutory enforcement, aligning digital-asset governance with traditional standards of safety and soundness in the banking system.

Separately, the Blockchain Regulatory Certainty Act, now pending before the House, will further advance this goal by creating statutory safe harbors for developers and service providers who do not custody customer assets, preemptively protecting innovation from agency overreach.[138] Meanwhile, the Anti-CBDC Surveillance State Act converts the administration's position into binding statute, blocking the issuance or pilot of a U.S. CBDC and limiting the Federal Reserve's ability to replicate surveillance-based digital currency models.[139]

Taken together, the Executive Orders and the congressional package articulate a coherent national doctrine: one that favors competitive digital asset markets over state-controlled monetary architecture, treats

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[135] Exec. Order No. 14,178, 90 Fed. Reg. 8647 (Jan. 23, 2025).
[136] GENIUS Act, Pub. L. No. 119-27, §4, 139 Stat. 419, 433 (2025).
[137] *Id.* at 425–26, 432.
[138] The Blockchain Regulatory Certainty Act, H.R.1747, 118th Cong. § 2(a) (2024).
[139] The Anti-CBDC Surveillance State Act would amend the Federal Reserve Act to expressly prohibit any Federal Reserve bank from issuing a central bank digital currency (or substantially similar digital asset) directly or indirectly to individuals, and forbid the Board of Governors from creating or implementing a CBDC or using it for monetary policy. S. 1124, 119th Cong. §§ 2–4 (2025).

decentralization as a strategic asset in geopolitical and domestic terms, and draws constitutional red lines around the use of programmable currency as a tool of surveillance and control. This is not, as some claimed, regulatory minimalism.[140] It is a deliberate framework for digital economic sovereignty.

III. THE GENIUS ACT

The Giving Every National Investor Uniform Security (GENIUS) Act represents a sweeping reconfiguration of the U.S.'s approach to regulating stablecoins.

Stablecoins are digital assets designed to maintain a stable value relative to a reference asset, typically a fiat currency like the U.S. dollar.[141] They aim to combine the benefits of cryptocurrencies—speed, programmability, global reach—with the price stability of traditional money.[142] There are three main types of stablecoins: fiat-collateralized, crypto-collateralized, and algorithmic.[143] Fiat-backed stablecoins, such as USDC or USDT, are pegged to reserves held in banks.[144] Crypto-backed stablecoins use overcollateralized crypto assets to maintain stability.[145] Algorithmic stablecoins rely on code and market incentives rather than reserves.[146] Fiat-backed stablecoins are already widely used in decentralized finance (DeFi) and cross-border payments.[147] Crypto-backed stablecoins are gaining rapidly growing acceptance.[148] Algorithmic stablecoins, by contrast, have faced significant volatility and reputational damage following multiple collapse events—notably TerraUSD in 2022—and are now subject to heightened regulatory scrutiny.[149] While research into more resilient algorithmic models

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[140] *See* Tom Wherler, *Donald Trump's Digital Mercantilism*, BROOKINGS (Oct. 8, 2025), https://www.brookings.edu/articles/donald-trumps-digital-mercantilism/ [https://perma.cc/YXH9-DTLS].
[141] Conrad Roberts, *Stablecoins—Types and Definitions*, ZILLION RSCH. LABS 1–7 (2022).
[142] Ingo Fiedler & Lennart Ante, *Stablecoins*, in JAKE RYAN, MAREK HUDON & JONAS GROSS (eds.), THE EMERALD HANDBOOK ON CRYPTOASSETS: INVESTMENT OPPORTUNITIES AND CHALLENGES, 93–105 (Emerald Publ'g Ltd. 2023).
[143] Sungil Kim, *New Crypto-Secured Lending System with a Two-Way Collateral Function*, 6 LEDGER 1,1 (2021).
[144] Fiedler & Ante, *supra* note 142, at 94–95.
[145] *Id.* at 95.
[146] *Id.* at 95–96.
[147] Dmitrii A. Kochergin, *Economic Nature and Classification of Stablecoins*, 24 FIN. THEORY & PRAC. 140, 140 (2020).
[148] *See What to Know About Stablecoins*, JPMORGAN (Sep. 4, 2025), https://www.jpmorgan.com/insights/global-research/currencies/stablecoins#:~:text=Today%2C%20the%20U.S.%20dollar%2Ddenominated,the%20sector%20continues%20to%20grow [https://perma.cc/7GAD-6HNT].
[149] David Krause, *Algorithmic Stablecoins: Mechanisms, Risks, and Lessongs from the Fall of TerraUSD* 2–3, 9–11 (Jan. 2025) (unpublished manuscript) (on file with BUS. & FIN. L. REV.).

continues, their practical adoption remains limited due to inherent design vulnerabilities and the absence of credible reserve backing.[150]

Stability is crucial for adoption of stablecoins in everyday transactions and financial contracts.[151] Designed to ensure stability, transparency, and institutional legitimacy in this rapidly expanding sector of crypto-finance, the GENIUS Act creates a dual-track licensing framework under which both banks and qualified nonbank institutions may issue stablecoins.[152]

Key provisions of the GENIUS Act require that all payment stablecoins be fully backed on a one-to-one basis by fiat U.S. dollars or short-term Treasury assets, held in segregated accounts and subject to routine independent audits.[153] Issuers must maintain high-quality liquid reserves, comply with disclosure and anti-money-laundering obligations under the Bank Secrecy Act, and obtain approval from their primary prudential regulator—whether that be a bank supervisor or the Office of the Comptroller of the Currency for nonbank issuers.[154]

This framework effectively places stablecoin issuers within a prudential regime analogous to that governing money market funds and insured depository institutions, though with stricter asset-backing and transparency requirements.[155] By implication, unlike banks, which may lend against deposits, permitted payment stablecoin issuers cannot engage in maturity transformation; their assets must remain fully liquid to guarantee redemption at par.[156] Furthermore, in contrast to money market funds, permitted stablecoin issuers are barred from "breaking the buck" and must maintain constant-value redemption rights.[157] For financial institutions, this means that stablecoin liabilities will resemble high-quality liquid assets under Basel capital rules but without the credit-creation function of deposits. The GENIUS Act therefore reclassifies stablecoins as a narrow form of private money—functionally closer to tokenized cash than to either securities or

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[150] *See* Douglas W. Arner, Raphael Auer & Jon Frost, *Stablecoins: Risks, Potential and Regulation* 5 (BIS Working Paper No. 905 2020), https://ssrn.com/abstract=3979495 [https://perma.cc/9QP8-9VFK].
[151] *See* Christoph Bertsch, *Stablecoins: Adoption and Fragility* 4 (Sveriges Riksbank Working Paper Series No. 423, 2023), https://www.riksbank.se/globalassets/media/rapporter/working-papers/2023/no.-423-stablecoins---adoption-and-fragility.pdf [https://perma.cc/QR3K-GSUQ].
[152] *See* GENIUS Act, Pub. L. No. 119-27, § 5, 139 Stat. 419, 439 (2025) (to be codified at 12 U.S.C. § 5904).
[153] *Id.* § 4 (to be codified at 12 U.S.C. § 5903).
[154] *Id.* § 4(a)(5).
[155] *Id.*
[156] *See id.*
[157] *See id.*

bank liabilities—while imposing a supervisory perimeter designed to insulate the broader financial system from digital liquidity shocks.

By creating this uniform regime, the Act seeks to bring consumer trust and regulatory legitimacy to stablecoins while preserving innovation.[158] It does so by converting what had been a largely unregulated sector—dominated by offshore issuers and fragmented state oversight—into a federally supervised market governed by prudential standards comparable to those applied to other payment instruments.[159] Consumers gain confidence through mandated redemption rights, public reserve disclosures, and periodic audits ensuring that each token is backed by verifiable dollar or Treasury holdings.[160]

At the same time, the Act preserves room for innovation by allowing both banks and qualified nonbank entities to issue payment stablecoins under a single national framework, thereby avoiding the patchwork of state money transmitter laws that previously constrained entry.[161] The statute's pre-emption of inconsistent state rules and its refusal to classify compliant stablecoins as securities or commodities further remove regulatory ambiguity.[162] This balance—federal supervision without overextension of securities law—aims to enable stablecoin integration into mainstream financial infrastructure, including payments, remittances, and tokenized deposits, without stifling the technological dynamism that defines the digital asset sector.[163]

IV. THE CLARITY ACT

The Digital Asset Market Clarity (CLARITY) Act, now pending before the Senate for the second reading, tackles a foundational and long-contested issue in U.S. crypto regulation: the legal classification of digital assets and the resulting jurisdictional uncertainty between the SEC and the CFTC.[164] For years, the absence of a clear statutory framework permitted both the SEC and CFTC to assert overlapping regulatory authority, often through high-profile enforcement actions, producing fragmented oversight and legal

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[158] U.S. H. Comm. on Fin. Servs. Chair French Hill, *supra* note 5.
[159] *GENIUS Act Ushers in Comprehensive Federal Regulation of Payment Stablecoins*, PAUL, WEISS, (July 28, 2025), https://www.paulweiss.com/media/hx1pjiar/genius_act_ushers_in_comprehensive_federal_regulation_of_payment_stablecoins.pdf [https://perma.cc/ZQF3-PCNJ].
[160] *Id.*
[161] *Id.*
[162] *Id.*
[163] *Id.*
[164] *See* Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong., (2025).

ambiguity that complicated compliance and introduced operational risk for digital asset market participants.[165]

The absence of legislative clarity has slowed market development and raised constitutional questions about agency overreach.[166] In the years preceding congressional action, the SEC and CFTC have relied on enforcement rather than rulemaking to assert jurisdiction over digital assets, resulting in fragmented and unpredictable oversight.[167] High-profile cases such as *SEC v. Ripple Labs* and *SEC v. Coinbase*, exemplified this uncertainty: courts questioned whether the SEC had offered "fair notice" of its interpretation of the securities laws in the crypto context.[168] This ambiguity discouraged institutional participation and led several exchanges and issuers to relocate operations abroad to jurisdictions with explicit licensing regimes, such as the E.U.'s *Markets in Crypto-Assets Regulation (MiCA)*.[169]

Constitutionally, the controversy has centered on the major questions doctrine, as articulated in *West Virginia v. EPA*.[170] Critics argue that the SEC's expansive interpretation of its statutory mandate to encompass most digital assets constitutes an exercise of legislative power without congressional authorization.[171] Members of Congress, including chairs of the House Financial Services and Agriculture Committees, have publicly questioned whether such actions violate the separation of powers by allowing

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[165] Yuliya Guseva & Irena Hutton, *Regulatory Fragmentation: Investor Reaction to SEC and CFTC Enforcement in Crypto Markets*, 64 BOS. COLL. L. REV. 1555, 1557–58 (2023) (empirical study demonstrating that both agencies engage in enforcement of digital assets under existing securities and commodities statutes, contributing to regulatory overlap and causing market uncertainty).

[166] *See* Seung Hyun Shin, *Clarifying Crypto: The Case for Restoring Due Process in Crypto Regulation*, N.Y.U. PROCEEDINGS (Sep. 12, 2025), https://proceedings.nyumootcourt.org/2025/09/clarifying-crypto-the-case-for-restoring-due-process-in-crypto-regulation/ [https://perma.cc/2VV3-4UZS].

[167] ARNOLD & PORTER, *supra* note 38.

[168] SEC v. Ripple Labs, Inc., 682 F. Supp. 3d 308 (S.D.N.Y. 2023); SEC v. Coinbase, Inc., 726 F. Supp. 3d 260 (S.D.N.Y. 2024).

[169] Aaron Wood, *Competition Heats Up As Crypto Exchanges Vie for European Market*, COINTELEGRAPH (July 1, 2025), https://cointelegraph.com/news/competition-heats-crypto-exchanges-europe [https://perma.cc/3Y57-8XV3]; David Yaffe-Bellany, *Crypto Firms Start Looking Abroad as U.S. Cracks Down*, N.Y. TIMES (June 7, 2023), https://www.nytimes.com/2023/06/07/technology/crypto-firms-start-looking-abroad-as-us-cracks-down.html#:~:text=David%20Yaffe%2DBellany%20has%20extensively,A%20day%20earlier%2C%20the%20S.E.C. [https://perma.cc/RX9N-WCGF].

[170] West Virginia v. Env't Prot. Agency, 597 U.S. 697 (2022).

[171] Matt Donovan, *Ripple Effect: The SEC's Major Questions Doctrine Problem*, 91 FORDHAM L. REV. 2310, 2311–12 (2024) (discussing the major questions doctrine problem facing the SEC when it exercises its authority to regulate crypto assets).

administrative agencies to define the scope of their own jurisdiction in the absence of explicit legislation.[172]

The CLARITY Act is intended to resolve these tensions by providing a clear statutory basis for digital asset oversight—reducing regulatory uncertainty, restoring market confidence, and grounding agency authority within explicit legislative parameters. By introducing definitional standards and assigning primary oversight responsibility based on asset characteristics, the CLARITY Act aims to resolve this institutional deadlock and establish a durable legal architecture for digital asset governance.[173]

Under the CLARITY Act, a new legal test will be introduced to determine whether a digital asset should be treated as a commodity or a security.[174] Most cryptocurrencies, including Bitcoin and Ethereum, would be classified as commodities unless they meet a revised version of the *Howey*

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[172] The SEC expansion into cryptocurrency regulation under Chair Gary Gensler has attracted significant, multifaceted criticism. The primary critique is that the agency engages in "regulation by enforcement," using litigation rather than formal rulemaking to establish policy, thereby creating legal uncertainty and violating principles of fair notice. This approach is contested by the industry (e.g., lawsuits against Coinbase and Ripple) and internally by SEC Commissioner Hester Peirce, who has repeatedly dissented, arguing for guided compliance instead of punitive actions. A second major criticism concerns jurisdictional overreach, with figures like CFTC Commissioner Caroline Pham accusing the SEC of encroaching on the Commodity Futures Trading Commission's territory by incorrectly classifying many digital assets as securities instead of commodities. Legislators, notably Senators Cynthia Lummis and Kirsten Gillibrand, argue this underscores the need for new congressional legislation to delineate authority clearly. Furthermore, critics from industry and venture capital contend this regulatory posture stifles innovation and harms U.S. economic competitiveness by driving projects to more predictable jurisdictions like the EU and UK. This view received judicial support in *SEC v. Ripple Labs Inc.*, where the court limited the application of the *Howey* test to certain token sales, challenging the legal foundation of the SEC's broader mandate. For a summary of these critiques, see, e.g., Hester M. Peirce, *New Paradigm: Remarks at SEC Speaks*, SEC. & EXCH. COMM. (May 19, 2025) https://www.sec.gov/newsroom/speeches-statements/peirce-remarks-sec-speaks-051925-new-paradigm-remarks-sec-speaks?utm_source=chatgpt.com [https://perma.cc/K8HR-G545]; *Statement of Commissioner Caroline D. Pham on SEC v. Wahi*, COMMODITY FUTURES TRADING COMM'N (July 21, 2022), https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement072122 [https://perma.cc/AM54-2S9H]; and the legislative framework in *Lummis, Gillibrand Introduce Bipartisan Landmark Legislation to Create Regulatory Framework for Stablecoins,* CYNTHIA LUMMIS SEN. FOR WY. (Apr. 17, 2024) https://www.lummis.senate.gov/press-releases/lummis-gillibrand-introduce-bipartisan-landmark-legislation-to-create-regulatory-framework-for-stablecoins/ [https://perma.cc/7GXW-2HPJ].

[173] *See Digital Asset Market Clarity Act: The Increasing Role of the CFTC in Regulating Crypto Markets*, DLA PIPER (June 12, 2025), https://www.dlapiper.com/en/insights/publications/2025/06/digital-asset-market-clarity-act [https://perma.cc/9D7X-V6CF] (discussing the increasing role of the CFTC in digital asset regulation).

[174] *See id.*

test that assesses whether the asset's value is derived primarily from the managerial efforts of others.[175] The CLARITY Act departs from Howey in two textual moves. First, § 201 amends the Securities Act to define an "investment contract asset" as a digital commodity "that can be exclusively possessed and transferred, person to person, without necessary reliance on an intermediary, and is recorded on a blockchain," and that is "sold or otherwise transferred…pursuant to an investment contract," and simultaneously provides that "investment contract" does not include an "investment contract asset" across the federal securities statutes.[176] Second, Titles II–IV allocate supervision by treating those tokens as "digital commodities" outside the definition of a security for specified purposes and by vesting the CFTC with spot-market authority. Title III excludes "digital commodities" and "permitted payment stablecoins" from the definition of "security" for Exchange Act and related purposes, while Title IV adds CEA § 2(c)(2)(F), granting the CFTC "exclusive jurisdiction" over cash or spot digital-commodity transactions executed on CFTC-registered venues, subject to listed carve-outs.[177]

The House Agriculture Committee's summary explains that the Act assigns primary jurisdiction over digital commodities and digital commodity trading platforms to the Commodity Futures Trading Commission, while preserving the SEC's authority over digital assets offered as part of capital-raising transactions.[178]

In codifying this separation between the contractual arrangement and the underlying asset, the Act rejects the presumption—rooted in *Howey*—that token sales automatically trigger securities classification.[179] Under *Howey*, the SEC has long treated digital tokens as "investment contracts" when purchasers contribute money to a common enterprise with a reasonable expectation of profit derived from the efforts of others.[180] Courts have upheld this interpretation in several enforcement actions, most notably *SEC v.*

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[175] *See* Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong. § 201(a) (2025).
[176] *Id.* § 201(a), adding 15 U.S.C. § 77b(a)(36), and amending 15 U.S.C. §§ 77b(a)(1), 78c(a)(10), 80a–2(a)(36), 80b–2(a)(18) (2025).
[177] *Id.* §§ 301, 401(d), adding 7 U.S.C. § 2(c)(2)(F).
[178] *CLARITY Act One-Pager*, H. COMM. ON AGRIC, https://files.constantcontact.com/9f2b5e3d701/9166ccb3-6539-49ab-8056-3011be506630.pdf [https://perma.cc/MD59-EJ87] (last visited Nov. 7, 2025).
[179] *See* SEC v. W.J. Howey Co., 66 S. Ct. 1100, 1103 (1946); *Framework for "Investment Contract" Analysis of Digital Assets*, SEC. & EXCH. COMM'N (July 5, 2024), https://www.sec.gov/about/divisions-offices/division-corporation-finance/framework-investment-contract-analysis-digital-assets [https://perma.cc/XPA5-NK57]; *see also* SEC v. Telegram Group Inc., 448 F. Supp. 3d 352 (S.D.N.Y. 2020) (seeking an injunction under the assumption that a token would sell on a secondary market).
[180] *See* SEC. & EXCH. COMM'N, *supra* note 179.

Telegram,[181] where the court held that the sale of Gram tokens constituted an unregistered securities offering.

The CLARITY Act explicitly departs from this approach. Section 102 distinguishes between the *transaction* and the *asset*: while the initial sale of a digital token may constitute an investment contract subject to securities regulation, the token itself—once fully decentralized and functional—qualifies as a digital commodity under CFTC jurisdiction.[182] This statutory demarcation reflects Congress's intent to end the "regulation by enforcement" approach that blurred the line between capital-raising contracts and the underlying blockchain assets.[183] This provides regulatory clarity for developers and token issuers, especially in contexts involving capital formation.

The Act delegates oversight of digital asset spot markets to the CFTC, while maintaining SEC jurisdiction over digital asset securities and initial coin offerings (ICOs).[184] Section 103 of the Act assigns the CFTC "exclusive jurisdiction over transactions in digital commodities conducted on digital asset trading platforms," thereby bringing spot market activity within the CFTC's regulatory perimeter.[185] Conversely, Section 104 preserves the SEC's authority over "digital assets offered or sold as part of a securities offering" and over entities engaging in initial coin offerings or tokenized securities.[186]

The House Committee on Agriculture's summary confirms this division, stating that the bill grants the CFTC primary oversight of digital commodity spot markets while ensuring that the SEC retains jurisdiction over digital assets distributed for capital formation.[187] This codified split will replace years of informal, overlapping enforcement and delineates a structural framework analogous to that used for derivatives and securities markets.[188] The law will also impose new transparency requirements on crypto

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[181] *Telegram Group Inc.*, 448 F. Supp. 3d 352.
[182] *See* Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong., § 101 (2025).
[183] Arnold & Porter Discusses the CLARITY Act, CLS BLUE SKY BLOG, https://clsbluesky.law.columbia.edu/2025/09/09/arnold-porter-discusses-the-clarity-act/#:~:text=The%20Act%20includes%20specific%20provisions,for%20books%20and%20recordkeeping%20requirements [https://perma.cc/2DR7-F5PD].
[184] Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong., § 401 (2025).
[185] *Id.* § 103.
[186] *Id.* § 104.
[187] Press Release, U.S. H. Comm. On Agric., Thompson, Hill, and Bipartisan Leaders Release Digital Asset Market Structure Legislation (May 29, 2025), https://agriculture.house.gov/news/documentsingle.aspx?DocumentID=7921 [https://perma.cc/6VXQ-K84F].
[188] ARNOLD & PORTER, *supra* note 38.

exchanges and custodians and aims to standardize industry disclosures, creating a more consistent regulatory landscape.[189]

Proponents hail the CLARITY Act as a decisive end to regulatory ambiguity that has long impeded the growth of U.S. digital asset markets.[190] They argue that codifying clear statutory definitions for "digital commodities," "digital asset securities," and "payment stablecoins" will restore predictability and legal certainty, enabling market participants to operate under uniform national standards rather than a patchwork of enforcement actions and state licensing regimes. Supporters—including the House Financial Services and Agriculture Committees, major exchanges, and blockchain industry groups—contend that clarity will foster capital formation, encourage institutional participation, and reduce the flight of crypto innovation to jurisdictions such as the European Union under MiCA, or the United Kingdom.[191] They also emphasize that transferring primary jurisdiction over most digital commodities to the Commodity Futures Trading Commission will align oversight with the agency's market-integrity expertise, while preserving the SEC's role in protecting investors in genuine securities offerings.[192] In this view, the CLARITY Act represents a recalibration, not deregulation—anchoring crypto-finance within transparent statutory limits consistent with congressional intent and constitutional delegation.

Critics, however, warn that the Act's definitional thresholds and jurisdictional allocations could invite regulatory arbitrage and weaken investor protection.[193] Because classification depends on whether an asset's

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[189] *See generally* Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong., §§ 202–205 (2025) (requiring certain disclosures, reports, and specifications for crypto exchanges).

[190] Krystal Martin, *The CLARITY Act of 2025*, BAKER NEWMAN NOYES (Sep. 15, 2025), https://www.bnncpa.com/resources/the-clarity-act-of-2025/#:~:text=In%20a%20year%20defined%20by,certainty%2C%20and%20new%20commercial%20opportunities [https://perma.cc/627M-5UCQ].

[191] *See* Chris Prentice & Hannah Lang, *U.S. House Passes Stablecoin Legislation, Sending Bill to Trump*, REUTERS (July 17, 2025), https://www.reuters.com/legal/government/us-house-passes-stablecoin-legislation-sending-bill-trump-2025-07-17/ [https://perma.cc/D8D5-QAQH] (noting that the Clarity Act would "critically define when a cryptocurrency is a security or a commodity and clarify the Securities and Exchange Commission's jurisdiction over the sector"); *and* Wood, *supra* note 169.

[192] Press Release, Chairman French Hill, U.S. H. Comm. on Fin. Serv., What They Are Saying: Financial Services Highlights Support for CLARITY Act, (July 18, 2025), https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=410816 [https://perma.cc/5ZGC-NWLF].

[193] *Fact Sheet: AFR Fact Sheet on the CLARITY Act: A Crypto Cash Grab That is a Consumer Catastrophe*, AMS. FOR FIN. REFORM (July 8, 2025), https://ourfinancialsecurity.org/resources/fact-sheet-afr-fact-sheet-on-the-clarity-act-a-crypto-cash-grab-that-is-a-consumer-

value derives "primarily" from the managerial efforts of others, issuers may structure offerings to avoid SEC oversight while effectively conducting investment schemes.[194] Opponents, including former SEC officials and some academic commentators, caution that the CFTC lacks the enforcement resources and disclosure framework necessary for large-scale retail markets.[195] They argue that shifting jurisdiction from the SEC to the CFTC could result in fragmented supervision and inconsistent compliance obligations, particularly for hybrid or evolving instruments.[196] Consumer advocates further contend that the Act's functional distinctions may prove unstable as products converge across financial, technological, and contractual features.[197] Some Democrats in Congress have also criticized the bill as a de facto deregulation of securities law under the guise of modernization.[198]

The debate therefore reflects two competing philosophies: one favouring market-led innovation supported by statutory precision, the other prioritizing administrative flexibility to adapt to evolving risks. Whether the CLARITY Act succeeds in reconciling these approaches will depend less on its text than on how agencies interpret and coordinate its provisions once enacted.

V. THE ANTI-CBDC SURVEILLANCE STATE ACT

The Anti-CBDC Surveillance State Act will prohibit the Federal Reserve and the U.S. Department of the Treasury from developing or issuing any form of central bank digital currency (CBDC) that could be used for surveillance or behavioral control.[199] Introduced by House Majority Whip Tom Emmer (R-Minn.), the Act responds to growing concerns over the

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catastrophe/#:~:text=It%20is%20a%20gift%20to,to%20vote%20against%20this%20bill [https://perma.cc/P2RJ-BE4F].

[194] Press Release, Consumer Reports, House approves Clarity Act Without Needed Protections for Consumers and Investors (July 17, 2025), https://advocacy.consumerreports.org/press_release/house-approves-clarity-act-without-needed-protections-for-consumers-and-investors/ [https://perma.cc/5RY9-DS32].

[195] *See id.*

[196] *See id.*

[197] *Statement: AFR Statement on House Committees' Passage of the so-called CLARITY Act*, AMS. FOR FIN. REFORM (June 11, 2025), https://ourfinancialsecurity.org/news/statement-afr-statement-on-house-committees-passage-of-the-so-called-clarity-act/#:~:text=Washington%2C%20DC%20—%20Mark%20Hays%2C,to%20hold%20the%20industry%20accountable [https://perma.cc/H8QB-Q4ED].

[198] Consumer Reports, *supra* note 194.

[199] Press Release, U.S. House Comm. on Fin. Servs., *House Passes CBDC Anti-Surveillance State Act*, (May 23, 2024), https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=409278 [https://perma.cc/V7F3-JTJ2].

potential misuse of programmable money by governments to monitor or restrict individual financial behavior.[200] The law bars the Fed from directly issuing digital currency to individuals or establishing retail accounts, and disallows the use of any CBDC that can be programmed to restrict purchases or enforce social credit-style systems.[201] This legislation is the first statutory prohibition against a government-backed digital currency in the Western world.[202]

Supporters praise the Anti-CBDC Surveillance State Act for preserving individual financial privacy and maintaining the role of physical cash as a safeguard against centralized control.[203] They argue that a CBDC would concentrate financial data within the Federal Reserve and expose citizens to state surveillance, programmable spending restrictions, or de-banking risks.[204] Proponents—among them members of the House Financial Services Committee and digital rights organizations—frame the Act as a constitutional reaffirmation of financial autonomy, likening it to the Fourth Amendment's protection against unreasonable searches applied to digital money.[205] They further contend that the United States can achieve faster and cheaper payments through privately issued stablecoins and bank-integrated systems without resorting to direct state issuance.[206]

Critics, however, argue that the legislation overcorrects by foreclosing technological tools that could enhance financial inclusion, cross-border remittance efficiency, and monetary policy transmission.[207] Economists from the Brookings Institution and the Atlantic Council have observed that a well-designed retail or wholesale CBDC, equipped with strong privacy

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[200] Press Release, Tom Emmer, *Majority Whip Tom Emmer's Flagship Legislation, the Anti-CBDC Surveillance State Act, Passes House of Representatives* (July 17, 2025), https://emmer.house.gov/media-center/press-releases/majority-whip-tom-emmer-s-flagship-legislation-the-anti-cbdc-surveillance-state-act-passes-house-of-representatives/ [https://perma.cc/FH2D-86WA].
[201] *Id.*
[202] *See Central Bank Digital Currency Tracker*, ATLANTIC COUNCIL (July 2025), https://www.atlanticcouncil.org/cbdctracker/ [https://perma.cc/TB6X-K8RH].
[203] David Krause, *Do the Anti-CBDC Surveillance State Act and the GENIUS Act Jeopardize U.S. Digital Finance?*, CLS BLUE SKY BLOG (Aug. 11, 2025), https://clsbluesky.law.columbia.edu/2025/08/11/do-the-anti-cbdc-surveillance-state-act-and-the-genius-act-jeopardize-u-s-digital-finance/ [https://perma.cc/28EZ-XVSX].
[204] *See id.*
[205] Press Release, Tom Emmer, WTAS: Whip Emmer Announces Stakeholder Support for Crypto Week Bills (July 17, 2025), https://www.majoritywhip.gov/news/documentsingle.aspx?DocumentID=3425# [https://perma.cc/RL55-VNTQ].
[206] S. Yash Kalash, *How Central Banks Are Shaping the Future of Digital Currencies*, CIGI PAPER NO. 322, June 12, 2025, at 14.
[207] Krause, *supra* note 203.

safeguards, could modernize payment infrastructure and extend financial access to the unbanked.[208] Opponents thus view the Act as a political rather than economic measure—one that pre-emptively blocks experimentation and may limit the Federal Reserve's capacity to respond to digital currency initiatives by the European Central Bank or the People's Bank of China.[209]

The debate reflects a deeper philosophical divide: whether financial innovation should proceed through market mechanisms constrained by privacy norms, or through state-backed digital infrastructure designed to preserve monetary sovereignty. The Anti-CBDC Act codifies the former approach, entrenching a commitment to market-driven payments innovation while intentionally restricting the scope of federal monetary experimentation.

VI. OVERARCHING POLICY OBJECTIVES

The 2025 legislative and executive crypto policy framework reflects a set of coherent objectives rooted in strategic economic positioning and a conservative-libertarian legal philosophy. Taken together, the statutes and executive directives mark a deliberate departure from the cautious, enforcement-driven posture of prior administrations. Their shared aims include regulatory clarity, decentralization, privacy preservation, and the reinforcement of U.S. monetary leadership through market-based innovation and statutory precision.[210]

A. Reinforcing U.S. Leadership in Blockchain Innovation

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[208] *See* Sarah Allen et al., *Design Choices for Central Bank Digital Currency*, BROOKINGS (July 23, 2020), https://www.brookings.edu/articles/design-choices-for-central-bank-digital-currency/#:~:text=Efficiency:%20CBDCs%20can%20reduce%20friction,"Opportunities%20for%20innovation"%20below [https://perma.cc/4ZSN-NDMB].

[209] Krause, *supra* note 203.

[210] *See* Exec. Order No. 14,178, 90 Fed. Reg. 8647 (Jan. 23, 2025) (declaring a federal policy to ensure "regulatory clarity and certainty" while protecting individual freedom to use "open public blockchain networks" and prohibiting any federal agency from issuing or promoting a U.S. CBDC); *see also* THE WHITE HOUSE, STRENGTHENING AMERICAN LEADERSHIP IN DIGITAL FINANCIAL TECHNOLOGY (2025) (emphasizing interagency coordination and U.S. leadership in digital finance); *U.S. President's Working Group Issues Report Outlining Key Policy Recommendations for Digital Assets Regulation*, HOGAN LOVELLS (Aug. 18, 2025), https://www.hoganlovells.com/en/publications/us-presidents-working-group-issues-report-outlining-key-policy-recommendations [https://perma.cc/ZHN9-F2Y6] (identifying strategic and jurisdictional objectives of the administration's digital-asset policy); *The Trump Administration's Reshaping of Digital Asset Policy*, VEDDER PRINCE (Apr. 29,2025), https://www.vedderprice.com/the-trump-administrations-reshaping-of-digital-asset-policy [https://perma.cc/ZHN9-F2Y6] (describing the shift toward innovation-driven, clarity-oriented regulation).

One of the primary motivations behind the GENIUS and CLARITY Acts is to position the United States as the preferred global jurisdiction for blockchain development.[211] The White House fact sheet for the GENIUS Act explicitly states that the legislation "will pave the way for the United States to lead the global digital currency revolution."[212] Similarly, the House Financial Services commentary emphasizes that CLARITY is intended to "make sure crypto stays in the U.S." by giving "long-term incentives for both builders & investors" under a consistent regulatory regime.[213] Together, these public statements show that policymakers view these statutes not merely as domestic fixes but as strategic tools to attract global talent, capital, and innovation by providing regulatory certainty unmatched elsewhere.

Policymakers cite the risk of capital flight, regulatory arbitrage, and brain drain if innovators relocate to more hospitable environments abroad.[214] The CLARITY Act's jurisdictional definitions and the GENIUS Act's structured approach to stablecoins are intended to attract digital asset firms to operate within U.S. legal boundaries.[215]

This approach reflects the growing understanding that decentralized networks—like open-source software before them—are becoming infrastructure layers of the global economy.[216] Congressional leaders have emphasized that a permissive, yet structured legal regime is essential for maintaining a competitive edge over the European Union's MiCA framework and China's aggressively centralized digital currency regime.[217]

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[211] *Fact Sheet: President Donald J. Trump Signs GENIUS Act into Law*, WHITE HOUSE (July 18, 2025), https://www.whitehouse.gov/fact-sheets/2025/07/fact-sheet-president-donald-j-trump-signs-genius-act-into-law/ [https://perma.cc/QJ83-5YY4].

[212] *Id.* (stating that the GENIUS Act "will pave the way for the United States to lead the global digital currency revolution").

[213] Chairman French Hill, U.S. H. Comm. on Fin. Serv., *supra* note 192 (explaining that the bill "gives long-term incentives for both builders & investors" and "makes sure crypto stays in the U.S.").

[214] *See* BreakingCrypto, *US Crypto Policy at a Crossroads: Executives and Lawmakers Convene Amidst Regulatory Gridlock*, FIN. CONTENT (Oct. 20, 2025, at 10:58 ET), https://markets.financialcontent.com/stocks/article/breakingcrypto-2025-10-20-us-crypto-policy-at-a-crossroads-executives-and-lawmakers-convene-amidst-regulatory-gridlock [https://perma.cc/RK6K-LSTB].

[215] *See* WHITE HOUSE, *supra* note 211.

[216] Sandra Waliczek & Harry Yeung, *What is 'Decentralized Finance' and What Can It Do in Practice?*, WORLD ECON. F. (Oct. 20, 2025), https://www.weforum.org/stories/2025/10/decentralized-finance-financial-markets-in-practice/ [https://perma.cc/4KE3-QLWT].

[217] Regulation 2023/1114 of the European Parliament and of the Council on Markets in Crypto-Assets (MiCA), 2023 O.J. (L 150) 40 (June 9, 2023); James A. Dorn, *China's Digital Yuan a Threat to Freedom*, CATO INST. (Aug. 25, 2021), https://www.cato.org/blog/chinas-digital-yuan-threat-freedom [https://perma.cc/H3VJ-

B. Ensuring Financial Privacy and Resisting Surveillance Models

By codifying a statutory prohibition on the issuance and deployment of retail CBDCs by the FED or any federal agency, the Anti-CBDC Surveillance State Act reflects a constitutionalist approach to monetary governance, grounded in concerns over the technological affordances of programmable digital fiat instruments.[218]

Retail CBDCs are designed to provide central banks with complete visibility into payment activity.[219] Their architecture enables granular transaction traceability, allowing every transfer to be recorded and, in principle, monitored in real time.[220] Such systems can also permit direct control over the use of funds, whether through *ex ante* restrictions that preclude certain transactions or *ex post* reversals of payments deemed non-compliant.[221]

Most proposed models incorporate some manner of identity-linked access frameworks, tying each wallet to verified personal data to meet anti-money-laundering and know-your-customer obligations.[222] While these features enhance transparency and regulatory oversight, they also raise civil-liberties concerns by expanding the state's capacity to surveil and condition individual financial behavior.[223] The debate over retail CBDCs therefore centers not merely on efficiency or innovation, but on the constitutional and philosophical boundaries of monetary authority in a digital economy.

NSDG]; *see* Press Release, H. Comm. on Fin. Servs., McHenry Delivers Opening Remarks at Historic Markup of Comprehensive Digital Asset Market Structure Legislation, (July 26, 2023), https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=408928 [https://perma.cc/SR3Z-UQT4] (asserting that FIT21 ensures America leads the financial system of the future and remains a hub for technological innovation); Chairman French Hill, U.S. H. Comm. on Fin. Serv., *supra* note 192 (stating that legislation is designed to maintain America's competitive edge and ensure the United States remains the global leader in financial technology).

[218] *See* Brandon Michelsen, Comment, *China's Moonshot: How the Introduction of the Digital Renminbi Furthers China's Societal Grip and Threatens the Future of Digital Currencies*, 15 U. ST. THOMAS J.L. & PUB. POL'Y 813 (2021).

[219] *See* Shobhit Seth, *Understanding Central Bank Digital Currencies (CBDCs): A Comprehensive Guide*, INVESTOPEDIA (Sep. 25, 2025), https://www.investopedia.com/terms/c/central-bank-digital-currency-cbdc.asp#toc-understanding-different-types-of-cbdcs [https://perma.cc/RZM8-TH2X].

[220] *See id.*

[221] *See* Nicholas Anthony & Norbert Michel, *Central Bank Digital Currency: Assessing the Risks and Dispelling the Myths*, CATO INST. (Apr. 4, 2023), https://www.cato.org/policy-analysis/central-bank-digital-currency#world-reserve-currency [https://perma.cc/SG9S-TMC9].

[222] *See* Kieran Murphy et al., *Central Bank Digital Currency Data Use and Privacy Protection*, IMF FINTECH NOTE NO. 2024/004 3–7 (Aug 30, 2024).

[223] *Id.* at 14.

Legislators invoked empirical developments in the People's Republic of China—particularly the operationalization of the digital yuan—as evidence of CBDC architectures enabling pervasive state-mediated surveillance and behavioral conditioning via monetary channels.[224]

The Act preserves the use of bearer instruments such as physical cash, thereby operationalizing a separation between the monetary base and the administrative reach of the central state in retail-level financial exchanges.[225] The legislation also precludes the integration of digital wallets or programmable features administered directly by the federal government, thereby constraining the institutional design space for a U.S. retail CBDC.[226] In doing so, the Act aims to insulate monetary transactions from discretionary regulatory friction, preserving the transactional opacity and fungibility characteristic of traditional currency forms under common law and Fourth Amendment jurisprudence.

C. Promoting Safe Stablecoin Integration

Stablecoins, especially dollar-pegged variants, serve as critical infrastructure for bridging DeFi and traditional banking.[227] They function as transactional mediums, collateral instruments, and liquidity reserves across digital asset markets.[228] Yet their growing role has outpaced the regulatory architecture governing them, exposing both users and the broader financial system to credit, liquidity, and operational risks.

The GENIUS Act addresses this gap by establishing a statutory regime that integrates stablecoins into the financial system without subordinating them to the regulatory template of commercial banks. The Act authorizes issuance by subsidiaries of insured depository institutions and by federally licensed nonbank entities approved by the OCC, thereby preventing exclusive concentration of issuance in incumbent banks while subjecting nonbank issuers to federally imposed supervision and prudential standards.[229] Capital and redemption requirements aim to ensure that issuers

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[224] Dorn, *supra* note 217.
[225] *See* Anti-CBDC Surveillance State Act, H.R. 1919, 119th Cong. § 4 (2025) (amending 12 U.S.C. § 16 to clarify that dollar-denominated currency that is open, permissionless, private, and fully preserves the privacy protections of United States coins and physical currency shall not be replaced or replicated by any Federal Reserve–issued digital currency).
[226] *See id.* § 2.
[227] *See* Parma Bains et al., *Regulating the Crypto Ecosystem*, IMF FINTECH NOTE NO. 2022/008 at 12 (Sep. 2022).
[228] *See id.*
[229] *The GENIUS Act of 2025: Stablecoin Legislation Adopted in the U.S.*, LATHAM & WATKINS (July 24, 20252025), https://www.lw.com/en/insights/the-genius-act-of-2025-stablecoin-legislation-adopted-in-the-us [https://perma.cc/EQ5J-7G8T] (explaining that the

maintain sufficient backing to honor redemptions at par, reducing the risk of destabilizing runs.[230] Mandatory quarterly audits enhance transparency, while AML obligations bring stablecoin activity into compliance with national security and financial integrity norms.

This dual-licensing structure avoids the pitfalls of a one-size-fits-all regime. It recognizes the systemic importance of stablecoins while preserving architectural diversity in their design and distribution. By codifying a regulatory perimeter without preemptively excluding technological or institutional models, the GENIUS Act lays the groundwork for stablecoins to scale responsibly. It also reasserts U.S. monetary leadership by anchoring digital dollar–based instruments within a rules-based legal framework, in contrast to offshore or opaque alternatives.

D. Preserving Dollar Dominance in a Multipolar Monetary World

The legislative framework for stablecoins aligns closely with President Trump's broader approach to economic statecraft. Under this regime, stablecoins function less as digital cash and more as de facto money market funds.[231] Backed largely by short-term U.S. Treasuries, they offer a secure, yield-bearing asset that integrates seamlessly with both traditional finance and decentralized systems, channeling capital between the two without relying on banks.[232]

This architecture reinforces the domestic demand for Treasury instruments, effectively integrating crypto-market dynamics with federal debt sustainability. Stablecoins thus serve as passive instruments for public debt distribution, institutionalizing a new channel through which U.S.

Act's dual-licensing model balances innovation access with federal prudential oversight, avoiding exclusive control by traditional banks).

[230] *See* GENIUS Act, Pub. L. No. 119-27, § 4, 139 Stat. 419 (2025) (requiring at least 1:1 reserves in cash, demand deposits, short-term U.S. Treasuries, and specified repos, and mandating a publicly disclosed policy for timely redemptions); *see also id.* § 11(a)(1) (giving holders priority to required reserves and exempting redemption of payment stablecoins from the automatic stay in insolvency).

[231] Gianclaudio Torlizzi, *Stablecoin l'arma della politica estera Usa* [Stablecoin: the Weapon of U.S. Foreign Policy], IL GIORNALE (July 7, 2025), https://www.ilgiornale.it/news/politica/criptovalute-e-re-dollarizzazione-2506169.html [https://perma.cc/A7WC-ZR4Y].

[232] *See* WHITE HOUSE, *supra* note 211 (declaring that the GENIUS Act "requires 100% reserve backing with liquid assets like U.S. dollars or short-term Treasuries"); s*ee also* Austin Chegini et. al., *The GENIUS Act: A New Federal Framework for Stablecoin Issuers*, PILLSBURY (July 2, 2025), https://www.pillsburylaw.com/en/news-and-insights/genius-act-stablecoin-issuers.html? [https://perma.cc/EVQ9-6NFD] (explaining that "stablecoins must be fully backed by U.S. dollars, short-term treasuries or similarly liquid, high-quality assets").

sovereign debt can be absorbed by both domestic and foreign digital asset markets.[233]

This dynamic aligns with President Trump's stated objective of managing the dollar's strength to enhance U.S. industrial competitiveness. As the President explained in July 2025, "[W]hen we have a strong dollar . . . you don't do any tourism. You can't sell tractors, you can't sell trucks, you can't sell anything," "you make a hell of a lot more money with a weaker dollar."[234] His administration's digital-asset strategy, including the GENIUS Act's integration of stablecoins backed by U.S. Treasuries, supports that goal by channeling foreign and domestic demand for dollar-denominated instruments while moderating upward pressure on the currency's value.[235]

A structurally weaker dollar makes U.S. exports cheaper to foreign buyers, thereby increasing demand abroad.[236] It also raises the relative price of imports, shifting domestic consumption toward goods produced at home.[237] Economists refer to this mechanism in standard trade theory: when the exchange rate depreciates, exports gain competitiveness while imports become costlier, reinforcing domestic output.[238]

As an empirical illustration, U.S. agricultural exports have benefited from periods of dollar depreciation. Between 2002 and 2006, for instance, the U.S. dollar declined by nearly 18 percent against trading partners' currencies, which contributed to record levels of agricultural exports as American producers gained pricing advantage abroad.[239]

Stablecoins contribute to this objective by facilitating capital mobility into U.S. Treasuries without generating upward pressure on the dollar

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[233] Torlizzi, *supra* note 231.
[234] Maiya Keidan, *Trump: Strong Dollar Sounds Good, But 'You Make a Hell of a Lot More' with a Weaker One*, REUTERS (July 25, 2025), https://www.reuters.com/world/us/trump-strong-dollar-sounds-good-you-make-hell-lot-more-with-weaker-one-2025-07-25/ [https://perma.cc/XH4P-LVKL].
[235] *See id.*
[236] *See id.*
[237] See Cathy L. Jabara, *How Do Exchange Rates Affect Import Prices? Recent Economic Literature and Data Analysis* 1–2 (Off. of Indus. Working Paper No. ID-21 2009) (explaining how a weaker dollar theoretically raises import costs and boosts export demand).
[238] *See id.*
[239] Mathew Shane & William M. Liefert, *Weaker Dollar Strengthens U.S. Agriculture*, U.S. DEP'T AGRIC. (Feb. 1, 2007), https://www.ers.usda.gov/amber-waves/2007/february/weaker-dollar-strengthens-u-s-agriculture [https://perma.cc/LCC5-67KU] (observing that a decline in the dollar contributed to heightened export volumes).

through traditional capital inflows.[240] In effect, they recycle global demand for dollar-denominated assets into a synthetic financial infrastructure that supports both liquidity and macroeconomic rebalancing.[241]

Furthermore, the framework positions the U.S. dollar as the default collateral and settlement layer for global DeFi transactions, reinforcing dollar hegemony in a digitized context without requiring central bank digital currency issuance.[242] It achieves this while limiting systemic risk by anchoring stablecoins to regulated reserve requirements. The design turns stablecoins into macroprudential tools: they lubricate credit conditions in emerging financial ecosystems while indirectly serving U.S. fiscal and trade strategy.[243] As such, this legislative package is not merely a response to crypto innovation; it is a calculated insertion of monetary policy logic into digital markets, consistent with the Trump administration's broader pursuit of transactional leverage through dollar instruments.

As geopolitical competitors accelerate efforts to internationalize their currencies—most notably China through its e-CNY and the BRICS bloc's calls for non-dollar trade settlement[244]—the U.S. faces growing pressure to defend the global role of the dollar in a rapidly digitizing global system. That external strategic pressure intersects with internal constitutional limits: the U.S. cannot preserve global monetary influence by adopting the same centralizing surveillance architecture that characterizes authoritarian CBDCs. Rather than emulate that model, U.S. policymakers have chosen a market-led approach that leverages private innovation to extend dollar reach. The rejection of a state-issued CBDC therefore reflects not only domestic privacy constraints, but also an affirmative choice to defend dollar hegemony through private issuance rather than centralized state control.

In their place, the GENIUS Act offers a framework for regulated, dollar-pegged stablecoins to scale internationally. These instruments—backed by verifiable assets, issued by licensed entities, and compliant with anti–money

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[240] *See* Duane Block et al., Modernizing the U.S. Dollar for the Future of Digital Networks, THE DIGITAL DOLLAR PROJECT (2025), https://digitaldollarproject.org/wp-content/uploads/2025/03/Modernizing-the-US-Dollar-for-the-Future-of-Digital-Networks-1.pdf [https://perma.cc/2FY9-9P5V].
[241] *See id.*
[242] *See id.*
[243] Vedang R. Vatsa, Stablecoins in the Modern Financial System 13–15 (June 29, 2025) (unpublished manuscript) https://ssrn.com/abstract=5329957 [https://perma.cc/DUG4-ZA2R].
[244] Robert Greene, *The Difficult Realities of the BRICKS' Dedollarization Efforts-and the Renminbi's Role* (Carnegie Endowment for Int'l Peace Working Paper Dec. 5, 2023), https://carnegieendowment.org/research/2023/12/the-difficult-realities-of-the-brics-dedollarization-effortsand-the-renminbis-role?lang=en [https://perma.cc/Q6TH-YFD4].

laundering standards—can serve as functional dollar proxies in regions where access to the formal dollar system is limited or politically constrained. Their programmability and interoperability make them attractive for global trade, cross-border remittances, and decentralized financial services.

This approach is not isolationist. Paired with the Strategic Bitcoin Reserve, an institutional mechanism designed to hedge monetary risk and enhance reserve flexibility, it represents an adaptive model for digital-era monetary influence.[245] Together, these policies enable the dollar to circulate in tokenized form without being monopolized by the U.S. government. The outcome is a pluralistic, resilient extension of dollar primacy, one that competes not by coercion or administrative fiat but by aligning with market demand for liquidity, credibility, and freedom from centralized control.[246] In a multipolar world, preserving monetary leadership will depend less on domination and more on strategic openness; precisely the balance this framework aims to strike.

VII. ECONOMIC ANALYSIS

The economic implications of the 2025 crypto legislative package are far-reaching, affecting asset markets, banking, innovation ecosystems, and global financial dynamics. While it is too early to assess the full macroeconomic impact, early indicators and structural projections suggest the legislation will have a significant influence on capital formation, stablecoin utilization, investor sentiment, and the United States' monetary strategy.[247]

A. Banking Sector Integration and Disintermediation

By legalizing and standardizing the issuance of fiat-backed stablecoins, the GENIUS Act integrates crypto-native tokens into traditional financial flows.[248] Banks that previously hesitated to touch digital assets due to

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[245] Exec. Order No. 14,233, 90 Fed. Reg. 11789 (Mar. 6, 2025).
[246] Dave Birnbaum, *Why Congress May Pass The GENIUS Act Rather Than Make A CBDC*, FORBES (July 16, 2025) https://www.forbes.com/sites/davidbirnbaum/2025/07/16/why-congress-may-pass-the-genius-act-rather-than-make-a-cbdc/ [https://perma.cc/6T28-UKFB].
[247] *See, e.g.*, BANK FOR INT'L SETTLEMENTS, ANNUAL ECONOMIC REPORT 2023 93–97 (June 2023), (discussing structural effects of tokenization on capital allocation and monetary policy); U.S. DEP'T OF THE TREASURY, THE FUTURE OF MONEY AND PAYMENTS: REPORT PURSUANT TO SECTION 4(B) OF EXEC. ORDER 14067 39–41 (2022) (analyzing potential impacts of digital-asset regulation on U.S. financial stability and payments systems).
[248] *See* Austin Chegini et. al., *supra* note 232.

regulatory uncertainty are now beginning to explore issuing their own stablecoins or offering related custodial services.[249]

However, the Act also introduces competitive risks. By legitimizing nonbank stablecoin issuers under a federal framework, it may incentivize the migration of retail deposits away from traditional depository institutions toward tokenized dollar instruments, thereby accelerating deposit disintermediation.[250] This shift could erode the deposit base of commercial banks, constrain their balance sheet capacity, and complicate the Federal Reserve's implementation of monetary policy by reducing the efficacy of its traditional transmission channels.[251] Additionally, stablecoins operating outside the prudential oversight of the bank regulatory apparatus may introduce volatility into short-term funding markets, especially during periods of stress when redemption demand spikes.[252]

The counterargument to this is that tokenized money-market instruments backed by high-quality liquid assets, such as Treasuries, do not constitute credit intermediation in the traditional sense and may even reduce systemic risk by limiting maturity transformation.[253] Moreover, programmable compliance features and real-time auditability could enhance financial stability relative to opaque shadow banking structures. Finally, by setting clear supervisory parameters, the Act could prevent regulatory arbitrage and foster safer innovation without compromising monetary sovereignty, as long

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[249] *See* Hannah Lang, *Trump signs stablecoin law as crypto industry aims for mainstream adoption*, REUTERS (July 18, 2025), https://www.reuters.com/legal/government/trump-signs-stablecoin-law-crypto-industry-aims-mainstream-adoption-2025-07-18/ [https://perma.cc/JY5G-WVBT].

[250] Arthur E. Wilmarth, *The Looming Threat of Uninsured Nonbank Stablecoins* (June 18, 2025). DEL. J. OF CORP. L. (forthcoming) (manuscript at 60).

[251] *See* BD. OF GOVERNORS OF THE FED. RSRV. SYS., MONEY AND PAYMENTS: THE U.S. DOLLAR IN THE AGE OF DIGITAL TRANSFORMATION 17–18 (2022) (explaining that the proliferation of digital money could reduce aggregate deposits in the banking system, thereby diminishing the Federal Reserve's ability to implement monetary policy through existing tools); *see also* BANK FOR INT'L SETTLEMENTS, *supra* note 247, at 93–94 (2023) (observing that the migration of funds into tokenized money and stablecoins could disintermediate banks and alter the transmission of monetary policy through bank balance sheets).

[252] Charles-Enguerrand Coste, *Toss a Stablecoin to Your Banker: Stablecoins'*, ECB OCCASIONAL PAPER NO. 353 12 (July 2024).

[253] *See*, e.g., BANK FOR INT'L SETTLEMENTS, *supra* note 247, at 96–98 (arguing that tokenized deposits and money-market instruments can mitigate maturity mismatch and enhance settlement safety when fully backed by central bank liabilities or government securities); *see also* BD. OF GOVERNORS OF THE FED. RSRV. SYS., *supra* note 251, at 32–33, 40 (noting that well-regulated stablecoins and tokenized cash equivalents could improve payment efficiency and resilience if subject to transparency and liquidity standards).

as the Fed retains tools to manage aggregate demand irrespective of liability structure fragmentation across tokenized and non-tokenized channels.

B. Innovation Stimulus and Venture Capital Inflows

The CLARITY Act's delineation of regulatory boundaries provides venture capital firms and developers with improved risk-modeling frameworks. Clear statutory definitions reduce *regulatory uncertainty premiums*—the implicit discount investors apply when legal classifications are ambiguous.[254] This increases the expected net present value of early-stage projects, improving investment attractiveness and lowering the cost of capital.[255] The effect has been visible in seed-stage crypto funding, protocol deployments, and startup formation across decentralized finance (DeFi), non-custodial exchanges, and cross-border payment platforms.[256]

Legal certainty also compresses compliance costs by narrowing the range of possible regulatory interpretations and enforcement exposure. Transaction-cost economics predicts that reduced policy ambiguity minimizes the "cost of contracting," freeing resources for productive investment and innovation.[257] Similarly, empirical studies in law and economics show that regulatory predictability strengthens innovation ecosystems by improving capital allocation efficiency and shortening product-to-market timelines.[258] Within this framework, the CLARITY Act's jurisdictional structure functions not merely as legal reform but as economic policy by stabilizing expectations and fostering venture participation in U.S. digital-asset markets.

C. International Competitive Advantage

As the United Kingdom, European Union, and China pursue divergent digital asset strategies, the U.S. legislative posture signals a unique bet on market liberalism and private innovation. The Anti-CBDC Surveillance State Act sets the United States apart by rejecting state-owned programmable

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[254] Oliver E. Williamson, *The Economics of Organization: The Transaction Cost Approach*, 87 AM. J. SOC. 548, 551 (1981).
[255] *Id.* at 568–569.
[256] *See* THE WHITE HOUSE, *supra* note 14, at 54.
[257] Alexis Collomb, Primavera De Filippi & Klara Sok, *Blockchain Technology and Financial Regulation: A Risk-Based Approach to the Regulation of ICOs*, 10 EUR. J. RISK REG. 263, 302 (2019).
[258] Marcel Dell'Erba, *Initial Coin Offerings: A Primer. The First Response of Regulatory Authorities*, 14 N.Y.U. J.L. & BUS. 1109, 1136 (2018).

currencies, thus potentially attracting capital from investors wary of state surveillance in authoritarian jurisdictions.

Moreover, the Strategic Bitcoin Reserve, established by EO 14233, enhances U.S. positioning within the evolving global digital monetary system by securing a scarce and non-inflationary reserve asset—Bitcoin—under sovereign custodianship.[259] The EO frames Bitcoin as *"digital gold"*, underscoring its long-term strategic value due to its fixed supply and resistance to seizure or debasement.[260] By maintaining and expanding this reserve, the United States not only hedges against fiat dilution and foreign currency risk, but also asserts influence in future frameworks for cross-border settlement, decentralized finance (DeFi) infrastructure, and digital asset standards. This positions the U.S. to act from a place of strength as global institutions shift toward blockchain-based monetary instruments.[261]

D. Fiscal and Monetary Policy Considerations

The fiscal and monetary implications of the 2025 stablecoin legislation package will reach well beyond its immediate regulatory function, signaling a structural evolution in how monetary and fiscal tools will interact with digitized finance. While the GENIUS Act and companion statutes are not formal instruments of monetary policy, they introduce a framework where private sector-issued, Treasury-backed stablecoins integrate directly into the sovereign debt ecosystem.[262] This institutionalization of demand for short-duration U.S. Treasuries by stablecoin issuers could contribute to a more stable and predictable absorption of government debt, thereby compressing borrowing costs and enhancing fiscal flexibility under benign conditions.[263]

Crucially, stablecoins also introduce positive macro-financial externalities. Unlike demand deposits, which are intermediated through fractional-reserve banking system, fully reserved stablecoins reduce endogenous credit creation, potentially limiting procyclicality and deposit flight in times of stress. Moreover, by embedding programmability and cryptographic auditability, they may enhance transmission efficiency and real-time tracking of money multipliers—yielding new data inputs for central bank analytics.[264]

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[259] Exec. Order No. 14,233, 90 Fed. Reg. 11789 (Mar. 6, 2025).
[260] *Id.*
[261] Pezzulli, *supra* note 128.
[262] *See* GENIUS Act, Pub. L. No. 119-27, 139 Stat. 419 (2025).
[263] Coste, *supra* note 252; Murphy et al., *supra* note 222.
[264] Block et al., *supra* note 240.

Still, risks persist. If redemption volumes spike during systemic stress, stablecoin issuers could be forced to liquidate Treasuries, triggering destabilizing feedback loops akin to those observed in money market funds during 2008 and March 2020.[265] This dynamic introduces liquidity asymmetry into what appears *ex ante* to be a stable funding base.

The growing use of stablecoins in remittances, merchant payments, and decentralized commerce challenges the Federal Reserve's conventional tools for managing monetary aggregates. Unlike traditional deposits, stablecoins circulate outside the commercial banking system and therefore fall outside reserve requirements and the Fed's direct balance-sheet control.[266] Their velocity, issuance, and redemption depend on private market activity rather than the central bank's policy transmission.[267] As a result, large-scale adoption of stablecoins could weaken the traditional link between base money and broader aggregates such as M2, complicating efforts to forecast liquidity conditions and implement interest-rate adjustments.

The Federal Reserve has acknowledged this dynamic. Representatives of the Federal Reserve have noted that stablecoins, if widely adopted, could alter the composition of the money supply and affect the transmission of monetary policy and warned that privately issued digital money might substitute for bank deposits, reducing the banking sector's role in credit intermediation.[268] Similarly, the Bank for International Settlements observed that the increasing use of stablecoins for cross-border payments and

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[265] Vatsa, *supra* note 243; Michael S. Barr, Member of Bd. of Governors of the Fed. Reserve Sys., Exploring the Possibilities and Risks of New Payment Technologies at 2025 D.C. Fintech Week, 6 (Oct. 16, 2025) (The historical examples point out that issuing liquid liabilities redeemable at par but backed by assets, even high-quality ones, about which creditors might have questions makes private money vulnerable to run risk. These same dynamics occurred even in much more modern times. The most notable example is when the Reserve Primary Fund broke the buck on September 16, 2008, one day after the bankruptcy of Lehman Brothers, as the assets backing the fund came into question. Pressures on money market funds also occurred during the onset of the COVID-19 outbreak in March 2020, when institutional prime funds suffered outflows of about 30 percent of their assets under management within a period of two weeks.).

[266] *See* Phillip Basil, *The Crypto Stablecoin GENIUS Act Hurts All Americans by Undermining the Economy, Financial System, and Monetary Policy*, BETTER MARKETS (Aug. 21, 2025), https://bettermarkets.org/analysis/the-crypto-stablecoin-genius-act-hurts-all-americans-by-undermining-the-economy-financial-system-and-monetary-policy/ [https://perma.cc/2MSR-2ME3].

[267] *See id.*

[268] Michelle W. Bowman, Governor, Bd. of Governors of the Fed. Rsrv. Sys., Considerations for a Central Bank Digital Currency (Apr. 18, 2023); *see also* James A. Clouse, *A Field Guide to Monetary Policy Implementation Issues in a New World with CBDC, Stablecoin, and Narrow Banks* 65, BD. OF GOVERNORS OF THE FED. RSRV. SYS. (2024), https://www.federalreserve.gov/econres/feds/files/2024001pap.pdf [https://perma.cc/83BW-5CQG] (noting potential issues crypto poses for monetary policy implementation).

merchant transactions blurs the boundary between money and deposits and introduces non-monetary policy channels beyond the reach of central banks.[269]

In the U.S. context, this shift implies that monetary policy could lose traction as stablecoin adoption expands. Each stablecoin transaction represents value transfer in dollars without necessarily passing through the regulated banking network. This parallel circulation of dollar substitutes mirrors historical episodes—such as the rise of money market funds in the 1980s—when financial innovation altered the effective money supply faster than regulation could adjust. The GENIUS Act attempts to restore that linkage by bringing stablecoin issuance under prudential supervision, ensuring reserves are held in central-bank-liable instruments, like Treasuries, thereby preserving the Federal Reserve's indirect control over liquidity even in a tokenized monetary environment.[270]

As stablecoins displace portions of the traditional money supply (M1 and M2), the Federal Reserve may need to supplement interest-rate policy with digital liquidity operations—potentially through reverse repo mechanisms or tokenized discount windows—to maintain effective control over short-term funding conditions. The logic follows the Fed's existing framework for open market operations, which already relies on the overnight reverse repurchase facility to absorb excess liquidity and stabilize money-market rates as nonbank participation expands.[271] However, this evolution offers strategic advantages: a stablecoin-backed monetary layer could insulate dollar dominance in cross-border settlements against alternative systems promoted by geopolitical rivals.[272]

In sum, the legislation signals a shift toward a competitive, interoperable, and programmable financial system—market-led but with significant public design. Rather than pursuing a state-issued CBDC, Congress has chosen to build a decentralized dollar framework that anchors innovation in monetary discipline while enhancing policy flexibility and financial system resilience.

CONCLUSION

The passage of the GENIUS Act, the CLARITY Act, and the Anti-CBDC Surveillance State Act represents a watershed moment in the

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[269] *See* BANK FOR INT'L SETTLEMENTS, ANNUAL ECONOMIC REPORT 2023 82–85 (2025).
[270] *See* GENIUS Act, Pub. L. No. 119-27, 139 Stat. 419 (2025).
[271] BANK FOR INT'L SETTLEMENTS, *supra* note 247, at 91–93; U.S. DEP'T OF THE TREASURY, *supra* note 247, at 16–18.
[272] Greene, *supra* note 244, at 13–15.

evolution of the United States' approach to cryptocurrency and digital asset regulation. For the first time, Congress has enacted a coherent and comprehensive framework that seeks to legitimize, guide, and scale the rapidly developing crypto-financial ecosystem.

Through the legislative package, the U.S. has formally recognized digital assets as integral components of the financial landscape, granting regulatory legitimacy to stablecoins, delineating oversight authority between the SEC and CFTC, and erecting legal safeguards against government-controlled surveillance currencies. These changes align with President Trump's executive agenda, which has championed deregulation, privacy preservation, and a return to market-based innovation in the financial sector.[273]

Collectively, these policies articulate a uniquely American vision of crypto governance: one rooted in competitive market principles, individual financial autonomy, and an aversion to centralized monetary control. This approach differentiates the U.S. from authoritarian and regulatory-heavy jurisdictions and may prove decisive in attracting global crypto capital and infrastructure.

However, challenges remain. The newly delegated authority to the CFTC will require swift capacity building, and interagency cooperation mechanisms must be proven effective to avoid regulatory arbitrage. Moreover, legal questions surrounding hybrid assets, decentralized autonomous organizations, and cross-border compliance will demand further clarification.

In the broader geopolitical context, the legislative turn signals the U.S. intent to reassert its monetary influence not through a digital dollar, but through an ecosystem of privately issued, dollar-pegged digital instruments backed by clear guidelines and grounded in the rule of law. The strategic inclusion of Bitcoin in the national reserve further underscores the emerging synthesis between sovereign policy and decentralized infrastructure.

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[273] *See* Exec. Order No. 14,192, 90 Fed. Reg. 9065 (Feb. 6, 2025) (directing all executive agencies to identify, repeal, or modify rules that impose unnecessary regulatory burdens); *see also* Exec. Order 14,178, 90 Fed. Reg. 8647 (Jan. 23, 2025) (establishing a federal policy to promote market-based digital-asset innovation, inter-agency coordination, and protection of financial privacy through prohibition of a U.S. CBDC); Press Release, U.S. H. Comm. on Fin. Servs. Chair French Hill, Hill, Steil Applaud President Trump's Actions to Maintain America as a Leader in Digital Financial Technology Around the Globe (Jan. 24, 2025), https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=409447 [https://perma.cc/KZ6Y-ZSED] (commending the administration's executive order for advancing digital-asset leadership and privacy protections).

In summary, the 2025 crypto legislation package constitutes more than a regulatory inflection point; it articulates a structural commitment to financial architecture grounded in market dynamism, technological neutrality, and constitutional constraint. In asserting control over digital asset jurisdiction without centralizing monetary power, the United States signals that the future of finance must remain compatible with individual autonomy and institutional separation of powers.

Congress has acted with bipartisan resolve and structural foresight: the dollar's digital future will be secured not by state command, but by the credibility of constraint—a system where freedom is engineered, not administered.