



# Donald Trump and the US as the New “Crypto Capital of the Planet”

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## *What is the Context?*

### *What is Cryptocurrency?*

Cryptocurrency - or crypto - is a digital or virtual currency that operates by a decentralised system that is distributed across a large number of computers using cryptography, as opposed to a centralised authority like governments.

### *What is the Status of Cryptocurrency in the US and the UK?*

Foremost, the trade of cryptocurrencies is permitted under both US and UK law.

In 2023, the UK passed the Financial Services and Markets Act 2023 which extended the laws on crypto assets, services and providers. More recently, the Property (Digital Assets etc.) Bill extends legal protection to intangible digital assets like cryptocurrencies, non-fungible tokens (NFTs) and carbon credits.

In 2022, the US established a new framework that conferred a regulatory power to the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC). But, crypto assets in the US have faced significant scrutiny under the Biden Administration. For example, the SEC - led by Gary Gensler - brought 46 enforcement actions related to cryptocurrencies (a 53% increase over 2022) with a value of \$281m in monetary penalties for settlements. These include *SEC v. Binance*, *SEC v. Coinbase* and *SEC v. Ripple*. There has also been pressure on financial institutions concerning their involvement with crypto asset businesses in 2023. To briefly discuss a few, the Federal Reserve enforced a rule to the Federal Register to clarify that the

institution would “presumptively prohibit” state member banks from holding crypto assets as principal in any amount and deemed the issuing of “tokens on open, public, and/or decentralised networks, or similar systems” as inconsistent with “safe and sound banking practices”. And Operation Chokepoint 2.0 - established by crypto investor Nic Carter - cut crypto firms from traditional banking services. In addition, In 2023, a Digital Asset Mining Energy (DAME) excise tax levied on cryptocurrency mining operations required these businesses to financially compensate the government with a 30% tax on their electricity consumption.



(Image Credit: BBC News, ‘A Really Simple Guide to the Presidential Vote’)

## What is Happening?

On 5 November 2024, Donald Trump was re-elected to replace Joe Biden as the new US President. Not long after the election, the price of Bitcoin surged to \$90,000. As a part of his campaign, Donald Trump promised to make the US the “crypto capital of the planet”. So, how does he intend to achieve this?

### World Liberty Financial



(Image Credit: “Trump’s World Liberty Financial: A Crypto Venture Raising Eyebrows and Red Flags”, BNC, September 18 2024)

Trump and his three sons backed World Liberty Financial with the support of Elon Musk. This crypto business represents a decentralised finance (DeFi) money market platform with \$WLFI as its proprietary cryptocurrency and demonstrates Trump’s commitment to the revival of the crypto industry in the US.

## National Crypto Stockpile and Crypto Mining in US

In July 2024, Trump attended a Bitcoin conference in Nashville. Here, he expressed that he intends to (a) keep 100% of all the bitcoin the US government currently holds and (b) ensure that bitcoin is mined in the US. This will increase their competitive advantage and incentivise crypto investors and business owners to pursue crypto-related projects in the US.



(Image Credit: Kit Eaton, "Bitcoin Gets a Moment in the Trump Spotlight as a New Bill Gets Traction in Washington", Inc. Magazine, July 29 2024)

## The Sacking of Gary Gensler

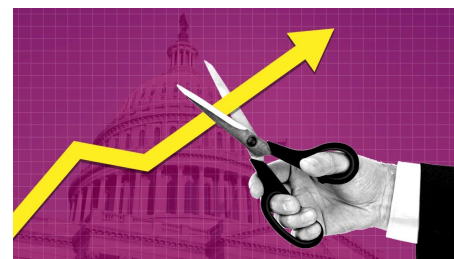


(Image Credit: Liam 'Akiba' Wright, "Gary Gensler Claims SEC Helped Crypto, Takes Credit For Bitcoin ETFs, Dismisses Altcoins and Hints at Resignation", CryptoSlate, November 15 2024)

Gary Gensler was nominated on February 3, 2021, to serve as Chair of the US Securities and Exchange Commission. Since then, he has demonstrated what has been viewed as an "unfair vendetta" by leading the crackdown on the crypto industry, and has therefore been referred to as crypto firms' 'prime nemesis'. To revive crypto business in the US, Trump has promised to fire Gary Gensler.

## Federal Reserve Cuts

Trump has proposed a deduction on statutory corporate tax income from 21% to 15%. This creates a more favourable market for crypto businesses and investors and by extension stimulates economic growth for the US.



(Image Credit: Beth Braverman, "What the Fed's Latest Rate Cut Means for You", AARP, November 7 2024)

## What is the Impact on Commercial Law Firms?



*(Image Credit: Simont Braun, FinTech & Crypto)*

Commercial law firms that have an international presence will advise on multi-jurisdictional transactions. Therefore, Trump's decision to create a crypto friendly environment in the US and lower the regulatory burden on the industry will (i) encourage investments in crypto-related projects, and (ii) increase business opportunities for start-ups and promote innovation for existing crypto businesses.

Foremost, commercial law firms would need to review the impact on the market on an international scale, determine if, and how, their clients businesses are impacted, and advise them as to the steps required to ensure their business not only maintains profitability but capitalises on the new regulatory environment for the crypto industry.

### ***Fintech***

These lawyers would advise crypto business owners and investors in structuring documents for new products, their rights within the new regulatory environment, the establishment of a cryptocurrency trading platform, and any cybersecurity issues that may arise.

### ***M&A***

The evolving popularity of cryptocurrency, the reduced corporate tax of 15% in the US, and subsequent investment opportunities will increase demand for the transactional advice of M&A lawyers on the drafting and negotiation of agreements, due diligence and the financing for crypto-related M&A transactions.

### ***Intellectual Property and Litigation***

An increase in crypto-related projects can increase demand for IP lawyers to advise on both non-contentious and contentious matters, like patents and trademarks related to the relevant cryptocurrencies, and the litigation of these matters where disputes arise. This is particularly important considering the Property (Digital Assets etc.) Bill in the UK that will extend property rights to intangible digital assets, like cryptocurrencies.

# Commercial Word of the Article

## *What are Syndicated Loans?*

In instances where a single borrower (i.e. a corporation, large project, or sovereign government) seeks a large loan - of \$1 million or more per se - which a single lender (i.e. bank) cannot provide, a syndicated loan is available as an alternative credit facility option. For the lenders, a syndicate loan allows the risk of borrower default to be spread across multiple lenders while benefiting from the financial opportunity.

The syndication process is led by an appointed 'agent', or 'lead lender', who interacts with the borrower on behalf of the other syndicate banks to facilitate the borrowings, receive repayments, and ensure accurate distribution amongst the other syndicate lenders.

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