

Summary of Policy Recommendations Included in “The Role of Law Enforcement in Detecting, Investigating, and Prosecuting Criminal Activity Related to Digital Assets” (“the Report”)

Legislative and Regulatory Policy Recommendations

Priority Proposals:

- Expand existing law that prohibits financial institutions from tipping off customers when their records are sought via a subpoena to apply to crypto services providers. Pg. 42-43.
- Amend [18 U.S.C. § 1960](#), which criminalizes operation of an unlicensed money transmitting business by:
 - (1) increasing maximum sentence *from 5 to 10* years and increasing criminal fines;
 - (2) clarifying that the statute applies to “platforms providing services that enable their users to transfer digital assets in a manner analogous to traditional money-transmitting businesses;”
 - (3) ratifying case law holding that general intent requirements under state-registration prong (§ 1960 (b)(1)(A)) apply to the federal-registration prong under § 1960(b)(1)(B). Pgs. 43-44.
- *Extend the statute of limitations period for crimes involving transfers of digital assets from 5 to 10 years*, and extend the tolling period when U.S. officials request to obtain foreign evidence, by amending [18 U.S.C. § 3293](#) (Financial institution offenses). Pg. 44.

Facilitating Evidence Gathering and Ensuring Appropriate Venue:

- Amend venue provisions to *permit prosecution in any district where the victim of a digital asset related offense or other cybercrime is found*. Pg. 45.

Strengthening Penalties

- Amend criminal statutes prohibiting fraud and manipulation in commodities markets to *permit forfeiture of ill-gotten gains from criminal activity involving commodities*. Pg. 45-46.
- *Lift the \$500,000 cap on administrative forfeiture for crypto and other digital assets*, either via Treasury regulation or by amending [19 U.S.C. § 1607](#). Pg. 46.
- Consider *amending sentencing guidelines under [U.S.S.G. § 2S1.3](#) to strengthen penalties for Bank Secrecy Act violations*.

Bank Secrecy Act & Implementing Regulations

- Support FinCEN finalizing a proposed rule clarifying that regulations requiring financial institutions to keep records about certain fund transfers and pass those records on to other financial institutions involved in such transfers apply to crypto transfers above the required threshold, as well as transactions involving digital assets with legal tender status. Pg. 47-48.
- *Clarify that the Bank Secrecy Act and implementing regulations’ key anti money laundering/combating the financing of terrorism provisions— including the **obligations to have customer identification programs and report suspicious transactions to regulators—apply to NFT platforms, including online auction houses and digital art galleries***. Pg. 48.

Funding Law Enforcement Operations

- Address enforcement challenges by (1) seeking funding from Congress for additional tools and resources specific to digital asset enforcement operations and (2) maximizing hiring authorities to ensure high caliber investigative personnel. Pg. 48-49.