



# Creating A Digital Banking Hub In the Sunshine State

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## Introduction

**O**n national and state-by-state levels, digital assets and digital asset banking are proving to be the next wave in financial innovation and competitive advantage. The amount of economic value generated by the digital asset space has increased to a multi-trillion dollar asset class during 2020 and 2021 alone.<sup>1</sup> Headline makers such as the dramatic price

increase of specific cryptocurrencies tends to augment this investment and excitement, but that only provides a partial view of the state of the cryptoasset landscape.

Digital asset services are also on the rise. Some additional context can be provided by comparing the market capitalization of Coinbase, a leading cryptocurrency exchange platform, with traditional major U.S. commercial and investment banks. Coinbase obtained a market capitalization

closing in on \$100 billion,<sup>2</sup> which would have ranked it among the largest banking institutions in the United States as of its direct listing date. While market capitalization can, and does, sometimes change just as dramatically, the fact that these conversations are even occurring are a clear indication of market appetite for crypto-native financial institutions.

Cryptoassets, in whatever form they take, are by now well integrated into the economic development conversation. The trend is clear; jurisdictions that proactively embrace these technologies are going to be better positioned to benefit from these technologies as compared to jurisdictions that do not.

Florida should position itself on the right side of these currents. In some ways, it already has: Miami Mayor Francis Suarez has taken strong steps to encourage the crypto ecosystem in South Florida. There are other significant steps that can be taken as well as factors that should be considered.<sup>3</sup> Until recently, federal banking regulations had made the creation of a digital asset banking sector fundamentally difficult.

The lack of consistent guidelines and rules for new digital asset banking and financial service providers was for a long time a substantive headwind preventing wider adoption and implementation. This is one rare instance in which regulators and regulation have proven to be an accelerator of innovation rather than only serving as an obstacle or gatekeeper. In other words, this is an opportunity for true collaboration between the public and private sectors to foster and support economic activity and development.

This article provides a framework for Florida to become a cryptoasset and digital banking hub.

## **A Byte of Bitcoin Banking**

For policymakers to best understand how to update rules to encourage digital asset banking, it is imperative to first understand cryptocurrency and how Bitcoin banking compares and contrasts with traditional banking.

Distributed cryptocurrencies like Bitcoin allow individuals to send value directly to another party online without the need to rely on a trusted third party like a bank. A network of computers runs a program that adds new transactions to the ledger of all activities, called the blockchain, in a way that makes it virtually impossible for any one party to block a transfer or counterfeit the currency. So long as an individual maintains control of what is called a “private key,” which is kind of like a password,<sup>4</sup> no entity can move or inflate their funds. The “Law of Private Keys,” also stated as “not your keys, not your coins,” maintains that whoever holds the private keys effectively owns the funds, in that they are the only entity that can move them.

Of course, not every individual has the skills or desire to protect their private keys. Further, cryptocurrency users may want to earn yields on their holdings by lending them out for interest. As such, an industry of digital asset custody services and banking has developed. Here are a few unique considerations that digital asset services must weigh and the policy challenges they raise:

*Digital asset custody services:* Custody is perhaps the most potentially complicated service that a digital asset bank could offer, with the usual distinctions between retail and commercial clients existing in both the digital asset and traditional fiat system. In an environment of pure direct transfer, the Law of Private Keys would never be violated; this would mean that every individual or institution that owned cryptoassets would also self-custody private key information. Ideal to some, but not terribly practical in the current marketplace. As such, custody services constitute a large portion of the digital asset service economy, with many cryptocurrency users never actually interacting with the blockchain at all.

*Key management:* To have a digital asset bank operate at scale, that institution should have a robust key management process, and policy frameworks can help set those standards. Government should set the totality of rules, but since this involves fiduciary responsibility, policymakers should be involved in this process to ensure consistent development and implementation. As mentioned, not every individual or commercial customer can provide these services for themselves. Furthermore, key management can become quite complex, with sophisticated programmable arrangements called “multisignature transactions” that can be set up so that funds only move if a certain number of a set possible number

of keys sign off on a transaction. Digital asset financial institutions routinely offer key management services associated with multi-sig wallets or arrange to have those services contracted for their own institution. In terms of crypto banking policy, the key management policies need to be clear and well-defined. Stated another way, rules to tailor custodial services to crypto banking should not inadvertently stifle non-custodial offerings.

*Wallet management:* A related item to key management is how digital asset institutions approach wallet management. A cryptocurrency wallet is kind of like a digital keychain for addresses and their associated private keys. It is true that while blockchains, to date, have proven virtually immutable and systematically unhackable, there have been numerous breaches and hacks associated with the individual wallets that help customer and client cryptoassets. This highlights the importance of ensuring that private key and wallet management services are clear, objective, and communicated to clients prior to implementation. Put simply, the higher percentage of keys and funds that are stored and accessible in “hot wallets,” or internet-connected wallets, the higher the risk profile of the institution will be. From an operational perspective, key custody and management will likely continue to be the highest profile—and potentially most costly—risk for a digital asset institution moving forward.

*Cold storage:* As part of implementing a robust internal control policy and processes, a significant percentage of keys held on behalf of clients will be stored in what is known as cold storage. Cold storage can be thought of as customized hardware specifically designed and built to store cryptocurrency information, such as keys and “seed phrases” that can recover balances, offline. This contrasts with hot wallets, which are simple internet-connected software applications that allow faster and more convenient access to crypto information. In theory, cold storage options have higher levels of security associated with them than hot wallets, but that does not mean that there are no security issues. To the contrary, the very fact that cold storage involves physical storage devices means that physical asset controls will have to be developed and implemented at these institutions.

*Differentiating risk profiles for services:* The risk profile of a digital asset financial institution needs to be incorporated into public policy and the insurance options available to these institutions. For example, if a customer (individual or institutional) wishes to partake in certain activities, that customer may end up shouldering the entire risk of these transactions. As we will discuss in the section on Wyoming’s template for digital asset banking institutions, FDIC coverage is neither necessary nor required. Potential clients and customers of these digital asset institutions need

to be educated in terms of what the rights and obligations are for both the customer and the institution itself.

Incumbent institutions are also part of this conversation, as there is a large amount of potential overlap and integration upside for these players. Regardless of whether sandboxes or other deregulatory tools are used to encourage innovative thinking and new business ideas, there are compliance requirements that simply must be fulfilled.

## **How Bitcoin Banks Compare to Traditional Banks**

Policymakers should keep several questions in mind when considering how to approach digital asset banking. First, will the state develop and roll out unique organizational frameworks for crypto-native institutions, or will incumbent players be able to integrate digital asset services into existing frameworks? From Fidelity submitting an application for a Bitcoin ETF<sup>5</sup> to PayPal<sup>6</sup> and Visa<sup>7</sup> facilitating crypto payments and settlements, the potential for incumbents to participate in this digital asset banking space is significant. In other words, there is absolutely space for incumbent firms to participate in, and work with policymakers to create an innovative and conducive environment. Second, how can policymakers coordinate with the private sector to ensure a dynamic landscape that does not favor any particular technology or organization?

At this time, the OCC has granted federal charters to only a handful of institutions, with Anchorage and Protego representing the first two digital asset

banking institutions. There are digital asset firms such as Coinbase and BlockFi that offer an array of crypto-native products and services, including lending services. However, these are not federally chartered digital asset banking institutions. Depending on how the market evolves the focus on crypto banking versus crypto services may become blurred, but at this point are clearly delineated.

Before we turn to the ways that Texas and Wyoming have updated their laws to encourage digital asset banking, we should lay out some of the fundamental differences between fiat banking and crypto banking. While on the surface, a bank is a bank, and every institution operates uniquely, there are a few important distinctions between these kinds of institutions.

1. Lending looks different. At the core of the idea, cryptocurrencies are defined by the principle of direct instrument ownership. As the Law of Private Keys holds, to truly own cryptocurrencies, the individual or institution must self-custody the proof of ownership: private keys. How this applies to the banking industry is that the lending component of the financial institution cannot take place as it would with a traditional bank, since that would violate this fundamental principle underpinning cryptocurrencies. New developments in decentralized lending that would maintain private key ownership, such as the Sovryn project, are quickly developing, but they are still in a relatively early phase.<sup>8</sup>

2. No FDIC required. Digital asset

institutions that do not perform lending or loan operations may not require typical insurance and other compliance activities. This is exemplified by the specialized institutions that have been established in Wyoming and maybe replicated by other jurisdictions.

3. Cryptoassets are stored differently. While the idea of bank accounts, brokerage accounts, or other digital holding locations for fiat currencies are undoubtedly familiar, cryptocurrencies operate in a different manner from fiat assets. Cryptoassets are, by default, connected and supported by an underlying blockchain. They are accessed by crypto holders via an application known as a wallet. The specifics of how different wallets operate on a technical level are beyond the scope of this document, but while wallets are how cryptocurrencies are accessed, cryptocurrencies are not stored in these wallets. By accessing the wallets, crypto holders are able to access holdings that are in fact stored on that underlying blockchain.

A. Hot wallets are online portals akin to online apps to access information, such as logging into a brokerage app. Because they are connected to the internet, hot wallets are more prone to being hacked than cold wallets.

B. Cold wallets, to the contrary, are specialized hardware devices customized to store private key information. While relatively more secure, they introduce risks in terms

of physical security and the potential for hardware-based breaches<sup>9</sup> or phishing.<sup>10</sup>

4. Differentiated services. Digital asset institutions must offer distinct services to individual and institutional clients. Specific services include, but are not limited to, offering custody services around keys, as well as managing wallet services and access for clients.

Given these distinctions, digital asset institutions can be legally onboarded in two ways: as a federally chartered digital asset bank or as a state specific institution. Obtaining a federal charter involves certain compliance and other regulatory paperwork and processes, but it is far from impossible. Alternatively, a specific state can create a hub even without comprehensive actions taken at the federal level. We will now discuss what actions the federal government has taken before considering what different states have done to encourage digital asset institutions on their own, with a specific focus on Wyoming.

### **How the Office of the Comptroller of the Currency Cleared the Way**

The Office of the Comptroller of the Currency, or OCC, might not be a regulator that readily comes to mind, nor is it an agency with the name recognitions of the Securities and Exchange Commission (SEC), or the Internal Revenue Service (IRS), but it is an incredibly important agency. The OCC is the regulator for national banks and federal savings associations, with a mandate to

ensure that these organizations operate in a safe and sound manner, provide equitable treatment to all customers, and operate in compliance with all applicable laws.<sup>11</sup>

Similar to the SEC with regards to securities, the OCC also has enforcement power over these entities, with the ability to initiate enforcement actions if organizations violate the National Bank Act or Homeowner's Loan Act. In addition, to become a federally chartered bank, any applying entity must obtain a charter from the OCC, which oftentimes requires changes to the operating structure of the applying entity. The OCC is an integral part of the federal banking sector in the United States, and updates from this policymaker are closely watched and analyzed by market participants.

Many involved in the cryptocurrency space had initially intended to build an alternative financial system and a legitimate competitor to the fiat-based banking system. But the lack of consistent federal guidelines greatly complicated this undertaking. Whether or not an individual or institution supports any particular regulation, establishing some guardrails and a framework within which to operate is essential for any economic sector. In late 2020 and early 2021, the OCC provided such a framework by clarifying which activities and projects could be implemented and managed by federally chartered financial institutions. Even better, the rules put forth by the OCC were designed to encourage the nascent crypto banking space.

Finalized in September of 2020, the OCC clarified that regulated institutions could hold, as deposits, what are called

“stablecoins,” or a cryptocurrency that is backed, supported, or tethered to an underlying asset. For example, USDC—a stablecoin minted by Circle and run on the Ethereum blockchain—is backed by the U.S. dollar and treated as a 1:1 equivalent to the USD. The SEC quickly endorsed the OCC’s position.<sup>12</sup> The only qualification was that these stablecoins did, in fact, need to be supported by an equivalent in fiat currency such as the U.S. dollar.

This rule was included because previously some projects that held themselves out as “stablecoins” did not indeed have the appropriate reserves on hand. In concept, every stablecoin is backed or supported by U.S. dollars or similar assets to minimize liquidity risks such as a “run” on the stablecoin. Before the OCC guidance, stablecoin projects often chose to be fully backed by currency equivalents, but it was not a requirement.

The accounting issues surrounding the popular stablecoin Tether provides a good example. On a basic level, problems arose surrounding the accounting for the dollars that served as stabilizers for the USDT token issued by Tether. Tether is the first stablecoin, and by April 2021 reached a market capitalization in excess of \$50 billion.<sup>13</sup> Theories surrounding Tether’s true reserves have swirled for as long as it had existed. In 2019, there was an allegation that Tether dollar reserves were understated by approximately \$800 million. In other words, critics suspected there were more stablecoins issued and outstanding than the organization had dollars in reserve, potentially undermining the entire concept.

The New York Attorney General

investigated Tether and the related exchange Bitfinex to determine the extent of the problem. By March of 2021, this matter was settled.<sup>14</sup> The AG office uncovered evidence of some wrongdoing that was far short of what critics suspected. Bitfinex and Tether admitted no wrongdoing but submitted to an approximately \$20 million fine and several additional reporting requirements. USDT is still the largest stablecoin by market capitalization and trading volume. While the situation at Tether seems to have been resolved, stablecoins potentially raise this issue for policymakers.

Following the update that gave regulated institutions the green light to hold fully backed stablecoins in their reserves, in January of 2021 the OCC issued additional guidance stating that federally chartered banking institutions could verify and approve transactions that were taking place on independent node verification networks (INVN), which is the OCC parlance for “permissionless blockchains,” or fully decentralized and open network cryptocurrencies.<sup>15</sup> In simple terms, this means that regulated institutions may issue their own stablecoins, engage in stablecoin transactions, and operate nodes on stablecoin networks.

The impact of these two clarifications is difficult to overstate, as when combined they allow federally chartered banks to significantly participate in the crypto economy and provide an important bridge for crypto users to integrate with the fiat economy more fully.

Complying with even the most well-designed federal rules can be complex, costly, and not particularly amenable to

new entrants. This is not to say that there are no federally chartered digital asset banking institutions as mentioned previously in this document. To the contrary, there are several that received their charter in 2021 alone. Anchorage, the first digital asset bank, received OCC approval in early 2021.<sup>16</sup> This is in addition to the numerous legacy financial institutions that are beginning to offer Bitcoin and other crypto related services, such as the Bank of NY Mellon, the oldest bank in the nation.<sup>17</sup>

Clearly, not every financial institution or entrepreneur has the resources of Bank of NY Mellon. Policy should therefore aim to lower the barriers to entry for upstarts to compete in the developing crypto space. States can build on the positive momentum of recent federal policy changes in several ways. Many states have already enacted policies to help encourage investment and growth in the digital asset economy.

### **What Are the States Doing?**

State leadership has proven to be essential in the digital asset space. Several states have not waited on the federal government to act before promulgating favorable rules for cryptocurrency activity. Three specific examples are documented below, but there is a slew of initiatives underway in other states that simply have not progressed as far just yet. Florida legislators should look at these examples to better understand what has worked best so far. A state can focus on encouraging specific activities like mining, as Kentucky has, or it can pursue wholesale reforms to encourage digital asset banking, like Texas and Wyoming.

### **Kentucky: “There’s Gold in Those Blockchains”**

A state can take a targeted approach to complement the formation of digital asset banking institutions by encouraging other crypto related activities. One such example is a new Kentucky effort to turn that state into a crypto mining hub.<sup>18</sup> “Mining” is the computing process that employs special hardware, software, and power generation to add new transactions to the network and mint new currency units until a supply cap is reached. It can be thought of as a kind of utility for the maintenance of a cryptocurrency network.

Kentucky’s efforts are focused on leveraging the state tax code to help encourage investment in crypto mining operations. Specifically, the new rules focus on 1) removing sales tax burdens from electricity purchased for crypto mining purposes and 2) providing energy incentives for miners.

There are a few reasons a jurisdiction might want to incentivize cryptocurrency mining. First, it could allow the jurisdiction to accumulate a strategic digital asset holding without having to pay market or spot processes. The mayor of Jackson, TN gave this rationale for his initiative to encourage Bitcoin mining.<sup>19</sup> Second, it can help existing energy utilities to run more efficiently. For example, many natural gas companies are turning to Bitcoin mining to monetize their flaring processes that would otherwise go to waste. Third, on a macro level, these policies diversify which entities are involved in the mining process. Ideally, cryptocurrency mining will be widely decentralized. Right now, approximately 45

percent of Bitcoin mining is concentrated in mainland China, a nation not exactly known for light touch administration.<sup>20</sup> Given the geopolitical tensions between the United States and China and the market valuation of Bitcoin alone (in excess of \$1 trillion), diversifying the mining of new coins and validation of transactions makes business and national security sense.

Efforts to encourage mining are not as comprehensive, nor as targeted toward Bitcoin and crypto adoption, as other efforts I will discuss. They don't have to be. There are multiple approaches a state can take. Kentucky's targeted approach demonstrates that digital asset reforms do not have to be an all-or-nothing conversation, and states can tailor the policies that best address their unique situations. Still, to best take advantage of all the possibilities that cryptocurrency can present, policymakers can look to the more ambitious strategies of Texas and Wyoming.

### **Wyoming: Blazing a Crypto Trail**

Technology tends to be associated with the Silicon Valley and financial services tend to be associated with New York. That is changing thanks to the forward-looking policy posture of Wyoming. Wyoming and neighboring states have long been hubs for various financial services such as credit cards, credit unions, and other (at the time) creative solutions to industry problems. Now, Wyoming has cemented itself as the leader in cryptocurrency law.<sup>21</sup> Interesting for sure, but also an illustrative case study that can and should be replicated by other jurisdictions. Especially in the post-COVID world there is no reason why any single

geographic area should have a monopoly on specific industry sectors.

These developments did not simply materialize out of thin air. Rather, they are the direct result of concerted and consistent efforts of Caitlin Long and the Wyoming Blockchain Task Force.<sup>22</sup> Wyoming was the first state to pass legislation specific to defining digital assets and how these digital assets interact with the state uniform commercial code (UCC). Additionally, blockchain technology was approved and authorized to serve as a means to create and maintain corporate records. The state also codified the status of what's called "utility tokens," or cryptocurrency tokens that are not intended to be mere investments but have some integral function on the corresponding platform, such as hosting files or video. Lastly, and more recently, Wyoming was the first state to recognize the legal status of decentralized autonomous organizations (DAOs), or programmed entities that automate activities on behalf of a defined user group, usually through smart contracts that buy or sell digital assets in response to some objective external condition, if they choose to register as such in the state.<sup>23</sup>

There is a reason Wyoming is known as the "Delaware of digital asset law."

One of the most pivotal developments that occurred in Wyoming is the creation of an entirely new form of financial institution: the special purpose depository institution (SPDI). Created by the Wyoming State Legislature, these special purpose entities are institutions that receive deposits and conduct other incidental activities, including fiduciary and custodial services.

Based on this legislation, the assumption is that many of the SPDIs will focus heavily on digital assets, but these organization may also hold traditional assets.

A critically important differentiation between SPDIs and traditional financial institutions is that, unlike fiat based financial institutions, SPDIs may not extend loans using customer deposits denominated in fiat currency. As such, there is no obligation for SPDIs to obtain FDIC coverage. This may seem like simply a technical differentiator in the marketplace, but is an important point for policymakers to factor into how these institutions may ultimately take shape.

### **Bitcoin Reform is Bigger in Texas**

Texas may not have been the first to pursue wholesale cryptocurrency reform, but it may end up being the most consequential. The Texas Innovation and Technology Caucus of the Texas House of Representatives has put forward policy initiatives concerning digital assets, digital identity, and integrating blockchain-anchored digital signatures into the Texas Uniform Commercial Code.<sup>24</sup> Texas seems to be borrowing heavily from Wyoming, and that is perfectly fine. This drive to create digital asset hubs is not happening in a vacuum as isolated events. Codifying and clarifying the enforceability around blockchain applications is an integral step toward building up a digital asset banking system.

### **Florida: Focusing on Payments**

Florida, in particular Miami, is looking to integrate Bitcoin and other

cryptocurrencies into the business environment; this includes the payroll and asset management conversation. Miami is already experiencing an inflow of billions of dollars in assets under management (AUM), both because of remote work trends driven by COVID-19 and by the amendable business environment in Florida.<sup>25</sup> It seems logical that Florida should capitalize on these converging trends of technology and crypto investment. For Florida to realize an environment where employees can be paid in Bitcoin, several distinct points need to be highlighted.

First, a state or local government needs to adjust its underlying payment infrastructure to accompany Bitcoin functionality. For example, something as simple as integrating Bitcoin into payroll operations will require that 1) the existing payroll technology can correctly account for Bitcoin transactions, and that 2) employees can link Bitcoin to retirement and other savings options. While not every employee may want to receive part (or all) current compensation in Bitcoin, they might like the option to allocate a portion of IRA funds to this asset. Private businesses that offer Bitcoin payments to employees have already implemented systems to account for unique price variance and tax implications of cryptocurrencies, and firms such as Grayscale offer Bitcoin exposure in retirement accounts for those who do not wish to set up a self-directed IRA that custodies cryptocurrency. Governments could look to these examples when deciding how to structure their own cryptocurrency payments. Additionally, legislators could consider creating a specialized carve out to

encourage financial institutions—incumbent or startups—to offer these products in a manner akin to a sandbox approach.

Next, Florida should take care that its policies encourage, and do not discourage, critical infrastructure such as Bitcoin ATMs and other services that can convert cryptocurrency to fiat and vice versa as well as social norms around people generally accepting cryptocurrency as a transactional medium. As past research by The James Madison Institute has pointed out, one easy way to do this would be to define digital assets in law and exempt non-custodial cryptocurrency transactions from money transmitter regulations.<sup>26</sup>

Finally, Florida is no stranger to regulatory sandboxes, and its forward-looking fintech sandbox established in 2019 is likely one catalyst that helped draw cryptocurrency firms to the state. Legislators could consider monitoring the sandbox to determine whether changes could be made to further entice the digital asset industry. While analyzing the potential for specialized crypto areas it is important to note that these technologies do not exist in a vacuum; there are other digital assets and digital asset infrastructure that need to be constructed as well; in particular, smart contracts.

### **Other Digital Asset Infrastructure**

To fully realize the potential of the digital asset economy, the enforceability and interoperability of smart contracts with other financial and technology systems must be addressed. Smart contracts, for the purposes of this conversation, can be defined as executable programmable code that is

embedded into an underlying blockchain. It is important to note, however, that these so-called smart contracts are neither inherently smart nor technically representative of traditional legal contracts.<sup>27</sup> Rather, these programmable lines of code merely seek to embed certain business logic or logical functionality into a virtual representation of physical assets. To that end, it is imperative that policymakers consider reforming existing rules or regulations that would make smart contracts unworkable or of questionable legality.

Policymakers should first note that there is much philosophical disagreement within cryptocurrency circles about the proper role of government for smart contracts. For some, because a smart contract is self-executing, governments need not be involved at all. If the code is faulty, that is the problem of the person who did not vet it enough. Others believe that governments may have a larger role in mediating disputes or securing restitution. Regardless, there is a role for clarifying the legal status of smart contract technology and reforming rules that could make smart contracts legally unworkable. Wyoming's DAO legislation is one good example of this approach, as it defined smart contracts in law and gave the private sector the green light to integrate this technology into their operations, although as another Journal article will discuss, there are problems with the Wyoming law as well.

Accepting Bitcoin or encouraging Bitcoin mining and tangential activities is only part of the approach that needs to be adopted to transform a jurisdiction into a digital asset hub. To truly maximize the benefits of the increased interest in

cryptoassets, the entire ecosystem and policy framework needs to be reviewed and updated as appropriate.

## **How to Encourage Digital Asset Banking in Florida**

Based on the analysis of states like Wyoming, there are a few different approaches jurisdictions can take to capitalize on the growing crypto economy. The specifics are varied, and will be discussed in more depth, but these options share a few general characteristics.

First, the goal of these approaches is to encourage innovation and dynamic risk-taking, while fully acknowledging that many organizations that start will not succeed over time.

Second, care will have to be taken that organizations seeking to leverage these opportunities, credits, zones, or sandboxes are actually seeking to bring crypto development to Florida. As with any new technology or innovative way of doing business, there will be individuals and institutions seeking to take unethical advantage of information asymmetry; policymakers must be sure that these fraudulent or exploitative actions are prevented.

One reason that scams and fraud have bloomed in the cryptocurrency space was a lack of consistent guidelines and rules in this new asset sector. Collaboration between policymakers and private sector actors to determine clear and objective definitions and operating guidelines will be important to prevent and combat fraudulent activity.

With that context, let's examine a few specific steps that Florida should take to

encourage further crypto adoption and utilization.

## **Implementation Steps**

Prioritize function over product. Policymakers must resist the temptation to indicate any preference for one technology or company over another. Digital assets clearly have benefits to offer. But these benefits can be enjoyed no matter what particular provider or technology ends up being the market winner.

Lead by example. The initiative underway in Miami to offer to city employees the option to be paid in Bitcoin is an excellent illustration of this idea. In addition to the rather obvious public relations benefits of doing so, this also will reduce the potential risk and liability for private companies that might be associated with implementing cryptocurrency applications. But a large metropolitan area like Miami-Dade or the state of Florida in general can profit from much more than simple payments. Other options include incentivizing Bitcoin mining, creating a Bitcoin sovereign wealth fund, or allowing citizens to use decentralized identities (DIDs) for official government purposes.

Legal certainty. Policymakers should pass defining legislation and rules that make private entities comfortable engaging in digital asset activity. For example, the legislature could consider defining digital assets and smart contracts in the law and outline how such activities would be enforced.

Incentivize adoption and investment. Like with any other new technology, there is an opportunity for some collaboration

between the private sector and public sector to foster and support new ideas and ways of doing business. The private sector should take the lead in terms of product and service development, but the public sector can—as has been done in Miami—bring attention to the potential use cases of cryptocurrency, and also help incentivize organizations to allocate capital to these sectors.

Focus on interoperability. Policies should not prevent or impede interoperability among payment and enterprise systems. Users should be able to seamlessly switch between them.

Be technology neutral. Bitcoin is the largest cryptocurrency and will likely continue to be the most popular. But it should not be that way because of a policy that picked a winner and many losers. The policy landscape should be designed to allow experimentation and overall growth.

Volatility policies. Digital assets present unique challenges due to current volatility. Policymakers should think carefully about whether measures such as cash reserve requirements, limiting “black out” periods for redemptions or conversions, codifying the process for fiat conversion to happen in a manner that is both efficient and cost effective, or just warning the public about the risks of volatility are appropriate for different use cases.

Enable on-ramps and off-ramps. Policymakers should take care that the conversion from cryptocurrency to fiat and vice versa is not penalized or made more

costly. While the private sector should lead the way in terms of development and implementation, policy should focus on enabling this to happen in a frictionless manner.

Incentivize the tax structure and code. One of the largest and most entrenched obstacles to wider cryptoasset adoption is that any time a cryptoasset changes hands, is exchanged, or is used to pay for goods or services there is a tax reporting and potential tax payment obligation. Florida could consider waiving local, regional, or state taxes connected to certain crypto transactions. This could both encourage people to view cryptocurrency as a legitimate alternative and attract further interest and investment from crypto-native organizations.

## **Conclusion**

The digital asset ecosystem is one of Florida’s fastest growing industries. The specifics of any wider policy, be it in Florida or beyond, are going to vary depending on the scope and objective of said policy. Fostering the development and maturation of a digital asset banking sector is not a task that can be relegated or designated to one specific economic sector or actor. Rather, the rise of the digital asset banking sector presents a rare opportunity for true collaboration between policymakers and the private sector to innovate and think of ways to turbocharge this fast-moving space.

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