



“Ending Regulation by Prosecution” in US Crypto Industry: Deputy Attorney General Todd Blanche Issues Sweeping US DOJ Policy Reset on Digital Asset Enforcement

On 07 April 2025, the United States Department of Justice (**DOJ**), through Deputy Attorney General Todd Blanche, issued a memorandum titled “*Ending Regulation By Prosecution*.” This policy document represents a recalibration of the federal government’s approach to digital asset enforcement, positioning the US DOJ squarely in alignment with Executive Order 14178 issued by President Donald J. Trump. The directive marks a formal departure from the prior administration’s prosecutorial strategy, where criminal enforcement was frequently employed to fill perceived regulatory gaps in the digital asset space, a practice now expressly denounced by the current administration as a misuse of criminal law.

The memorandum reflects a foundational shift in enforcement priorities, signalling the end of what the US DOJ now characterises as “regulation by prosecution”, a term referencing the aggressive use of criminal statutes to indirectly enforce regulatory compliance in lieu of clear legislative or agency rulemaking. Under the new policy, US DOJ prosecutors are directed to refocus investigative resources exclusively on conduct that (a) results in direct financial harm to investors or (b) involves the use of digital assets to facilitate traditional criminal activity, including terrorism, narcotics trafficking, organised crime, and human trafficking.

The memorandum makes plain that the DOJ, while possessing investigatory authority, is not a regulatory body for digital assets. It will no longer undertake enforcement actions that create de facto regulatory standards, such as treating unregistered offerings, licensing oversights, or technical violations of financial regulations as standalone criminal conduct, unless such conduct is accompanied by willful intent and falls within the core enforcement priorities.

The Policy establishes several core operational directives such as:

- i. Curtailment of Criminal Liability Based on Technical Regulatory Breaches: Prosecutors are instructed not to pursue charges under statutes such as the Bank Secrecy Act, unregistered securities offerings, or broker-dealer registration failures unless there is clear evidence of willfulness. Mere non-compliance with ambiguous or evolving digital asset regulatory standards will no longer suffice to trigger federal criminal prosecution.

- ii. Avoidance of Doctrinal Litigation Over “Security” or “Commodity” Classifications: The DOJ is expressly dissuaded from initiating prosecutions that depend on judicial determinations as to whether a digital asset qualifies as a “security” under the Securities Act of 1933 or a “commodity” under the Commodity Exchange Act. Unless no adequate fraud-based alternative exists (e.g., wire fraud, money laundering), prosecutors should not test novel classification theories in criminal court.
- iii. Termination of Ongoing Investigations and Units: Investigations inconsistent with this policy are to be closed. Effective immediately, the National Cryptocurrency Enforcement Team (NCET) is disbanded, and the Market Integrity and Major Frauds Unit will no longer handle cryptocurrency cases. Instead, general prosecutions consistent with the new framework may continue through local U.S. Attorneys’ Offices.
- iv. Prosecutorial Focus on Illicit Finance: The DOJ will concentrate its efforts on digital asset misuse in contexts such as:
 - a) Cartel and terrorist financing, including the use of digital assets by organisations such as Hamas, ISIS, and North Korean actors;
 - b) Fentanyl trafficking, where cryptocurrency is increasingly used to fund precursor chemical procurement and laundering networks;
 - c) Digital asset investment fraud, such as misappropriation on exchanges, rug pulls, and theft through hacking or smart contract exploits.
- v. Asset Recovery and Compensation Reforms: Noting shortcomings in current forfeiture procedures, the memo tasks the DOJ’s Office of Legal Policy and Office of Legislative Affairs with proposing regulatory and legislative amendments to allow victim compensation based on present asset value, rather than depressed valuations at the time of the fraud. This would directly address fairness issues highlighted in high-profile bankruptcies (e.g., FTX, Voyager, Celsius) where victims were denied post-fraud market appreciation.
- vi. Interagency Collaboration via the President’s Working Group: The DOJ will now actively participate in the President’s Working Group on Digital Asset Markets, established under Executive Order 14178. The group is tasked with recommending statutory and regulatory reforms to reduce legal uncertainty, eliminate enforcement duplication, and modernise the digital asset regulatory framework. The DOJ will assist in drafting a consolidated report for the President, the recommendations of which will become binding DOJ policy upon adoption.

This policy memorandum is an attempt to re-establish clear jurisdictional boundaries among federal agencies by explicitly rejecting criminal enforcement as a substitute for regulation, the US DOJ under Blanche acknowledges the legal and economic risks of prosecutorial overreach in a rapidly evolving technological domain. The memorandum seeks to de-risk digital asset innovation by clarifying that lawful businesses, including exchanges, custodial platforms, wallet services, and software developers, will not face criminal liability for technical or passive regulatory infractions, provided they are not willfully complicit in fraud or crime. This may encourage greater capital formation, legal structuring, and domestic growth in the blockchain and Web3 sectors. The disbanding of NCET and resource reallocation toward traditional DOJ priorities (e.g., immigration and procurement frauds) signals a fundamental reprioritisation of federal enforcement efforts. This reallocation may free up DOJ bandwidth for high-impact national security and public safety cases, while reserving digital asset engagement for matters with a clear nexus to economic or criminal victimisation.

The new US DOJ crypto enforcement policy provides a clear legal environment for exchanges, custodians, DeFi protocols, and blockchain developers and lays the groundwork for a unified, Congressional-led digital asset regulatory framework that removes duplicative state and federal requirements and appropriately distinguishes between asset types (utility tokens, payment coins, NFTs, stablecoins, etc.).

US CFTC Clarifies Use of U.S. Treasury ETFs as Eligible Margin Collateral for Uncleared Swaps

On 14 April 2025, the United States Commodity Futures Trading Commission (**US CFTC**), through its Market Participants Division, issued CFTC Letter No. 25-11 [Staff Interpretation Regarding Exchange-Traded Funds as Eligible Margin Collateral for Uncleared Swaps Transactions](#) to clarify that shares of certain U.S. Treasury exchange-trad-

ed funds may be deemed eligible margin collateral for uncleared swap transactions under the conditions prescribed by United States CFTC Regulation 23.156. This interpretative letter provides formal recognition that such ETF shares may qualify as both initial margin (**IM**) and variation margin (**VM**), reinforcing the liquidity and operational efficiency of the derivatives market.

The interpretative letter addresses a regulatory gap concerning the classification of redeemable securities in pooled investment funds. Pursuant to United States CFTC Regulation 23.156(a)(1)(ix), the rule permits certain redeemable securities issued by pooled investment funds—such as money market funds and similar instruments—to be posted as IM by covered swap entities (**CSEs**), which include swap dealers (**SDs**) and major swap participants (**MSPs**). The interpretation confirms that US Treasury ETFs structured as open-end investment companies under United States SEC Rule 6c-11 of the United States Investment Company Act of 1940 satisfy the conditions to be recognised as redeemable securities, thus qualifying as eligible collateral for uncleared swaps.

The clarification comes in response to a recommendation issued on 06 March 2024 by the Global Markets Advisory Committee (**GMAC**) of the US CFTC. The GMAC's Global Market Structure Subcommittee in the recommendation stated that US Treasury ETFs offer portfolio diversification, transparent pricing, and superior secondary market liquidity compared to individual bonds. The recommendation emphasised that enabling such ETFs as margin collateral would enhance operational flexibility, reduce idiosyncratic risk, and increase collateral management efficiency for market participants.

Under United States CFTC Regulation 23.156(b), US Treasury ETF shares that qualify as eligible initial margin may also be posted as VM when transacting with financial end users. The interpretation specifies that to be considered eligible, such funds must: (i) be limited to U.S. Treasury securities and cash; (ii) issue and redeem shares daily based on market value; and (iii) refrain from securities lending or similar asset transfer mechanisms. These requirements ensure the collateral's liquidity and stability under financial stress conditions, as originally intended by the CFTC Margin Rule promulgated in 2016.

US Treasury ETFs falling within the scope of United States SEC Rule 6c-11 are recognised as “redeemable securities” under the Investment Company Act of 1940. The US CFTC aligns with this classification and applies it to determine eligibility under its own margin framework. As the Division noted, the combination of primary and secondary market liquidity mechanisms, such as creation/redemption processes and arbitrage opportunities, supports the inclusion of such ETFs in the eligible collateral pool for uncleared swaps.

Regarding applicable haircuts, United States CFTC Regulation 23.156(a)(3) requires haircut percentages to be applied to account for potential declines in the value of non-cash collateral. For US Treasury ETFs, swap entities may choose either a weighted average discount based on underlying asset composition or a conservative fixed haircut based on the longest residual maturity of held assets. This aligns with the haircut methodology in the Prudential Regulators Margin Rule.

This interpretative guidance, while representing the view of the US CFTC's Market Participants Division, is not binding on the Commission and it aims only to promote regulatory certainty, expand collateral flexibility for swap dealers and market participants, and enhance systemic resilience through prudent risk management of uncleared derivatives transactions. For further information or specific queries, the US CFTC has directed market participants to contact Associate Director Liliya Bozhanova or Attorney Advisor Christine McKeveny.

(Source: <https://www.cftc.gov/PressRoom/PressReleases/9065-25>)

SFC and HKEX Host Hong Kong's First International Carbon Markets Summit

On 15 April 2025, the Hong Kong Securities and Futures Commission (**SFC**) and Hong Kong Exchanges and Clearing Limited (**HKEX**) jointly hosted the city's inaugural *International Carbon Markets Summit*, a major step in Hong Kong's ambition to become a global hub for green finance.

Over 200 global participants, from regulators to carbon traders and institutional investors, convened to tackle the complexities of voluntary carbon markets, spotlighting the urgent need for standardisation, cross-border connectivity, and technological integration.

Hong Kong's Secretary for Financial Services and the Treasury, Mr. Christopher Hui, and Secretary for Environment and Ecology, Mr. Tse Chin-wan, outlined the government's strategy in a fireside discussion, emphasising the city's pivotal role in shaping global carbon finance.

Ms. Julia Leung, Chief Executive Officer of the Hong Kong SFC stated: *"Today signals the beginning of a global dialogue on scaling voluntary carbon markets, Credibility, transparency, and alignment with international best practices must be at the core."*

(Source: <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?ref-No=25PR49>)

ASIC to Launch New AFS Licensing Portal on 5 May 2025 as Part of Digital Overhaul

On 16 April 2025, the Australian Securities and Investments Commission (**ASIC**) announced the launch of a new digital portal for Australian financial services (**AFS**) licensees, scheduled to go live on 5 May 2025.

The new AFS licence portal is aimed to streamline the process of applying for, varying, and cancelling licences by offering a more intuitive, efficient, and data-driven interface. ASIC clarified that the eligibility criteria and policy settings under the current Regulatory Guides 1–3 will remain unchanged, although updates to reflect the portal's functionality will be issued at launch.

ASIC's increasing reliance on digital infrastructure, a trend relevant for fintech and digital asset service providers seeking AFS licences which aims to reduce application processing times and enhance regulatory interactions through automation and data pre-fill features.

Until the new portal's activation, the existing **AFS Licensing portal** will remain operational. ASIC also confirmed that transition resources and support materials will be made available to guide stakeholders through the change.

(Source: <https://asic.gov.au/about-asic/news-centre/news-items/asic-to-launch-new-portal-for-australian-financial-services-licensees/>)

US CFTC Opens Public Consultation on 24/7 Derivatives Trading and Clearing

On 21 April 2025, the United States Commodity Futures Trading Commission (**US CFTC**) issued a formal Request for Comment (**RFC**) to gather public input on the potential transition to 24/7 trading and clearing in derivatives markets under its jurisdiction. The move reflects a growing industry shift toward round-the-clock market access, particularly relevant for crypto-derivatives and digital asset-linked contracts.

Spearheaded by the US CFTC's Divisions of Market Oversight, Clearing and Risk, and Market Participants, the consultation seeks views on the operational, liquidity, and systemic risks of continuous trading, alongside the adequacy of current risk controls, margining practices, and market surveillance under such conditions. Concerns raised in the RFC include real-time margin adequacy on weekends, systems resilience without routine maintenance downtime, collateral sourcing during non-banking hours, and surveillance readiness against abusive or manipulative practices outside standard hours.

The US CFTC invites market participants, clearing organisations, trading platforms, and the public to submit comments by 21 May 2025, either electronically through the US CFTC's official comment portal or by mail.

As digital asset markets operate non-stop globally, the outcome of this consultation could influence whether and how regulated crypto-derivatives enter a compliant 24/7 trading environment within the United States framework.

Acting Chairman Caroline D. Pham stated: *"As I have long said, the CFTC must take a forward-looking approach to shifts in market structure to ensure our markets remain vibrant and resilient while protecting all participants, one evolving trend is the move to 24/7, 24/6, or 24/5 trading hours. I look forward to the public comments on this market innovation."*

(Source: <https://www.cftc.gov/PressRoom/PressReleases/9068-25>)

Paul S. Atkins Sworn In as 34th Chairman of the United States Securities and Exchange Commission

On 21 April 2025, Paul S. Atkins was officially sworn in as the 34th Chairman of the United States Securities and Exchange Commission (**US SEC**), following his nomination by President Donald J. Trump on 20 January 2025 and confirmation by the United States Senate on 9 April 2025. Chairman Atkins previously served as a Commissioner of the US SEC from 2002 to 2008, having been appointed by President George W. Bush. A member of the New York and Florida bars, Chairman Atkins holds a Juris Doctor degree from Vanderbilt University School of Law (1983) and an A.B., Phi Beta Kappa, from Wofford College (1980).

Prior to his reappointment, Chairman Atkins served as chief executive of Patomak Global Partners, a regulatory consulting firm he founded in 2009. In that capacity, he was instrumental in shaping industry best practices, particularly within the emerging digital asset sector. His corporate governance experience includes serving as an independent director and non-executive chairman of the board of BATS Global Markets, Inc. from 2012 to 2015. Chairman Atkins' early regulatory experience includes serving on the staff of former US SEC Chairmen Richard C. Breeden and Arthur Levitt from 1990 to 1994, ultimately as chief of staff and counselor. Before his public service, he practised corporate law in New York, focusing on securities transactions, M&A, and cross-border transactions, including a 2½-year residency in Paris, where he was admitted as a *conseil juridique*.

In his public statement, US SEC Chairman Paul S. Atkins remarked, *"I am honored by the trust and confidence President Trump and the Senate have placed in me to lead the SEC. As I return to the SEC, I am pleased to join with my fellow Commissioners and the agency's dedicated professionals to advance its mission to facilitate capital formation; maintain fair, orderly, and efficient markets; and protect investors. Together we will work to ensure that the U.S. is the best and most secure place in the world to invest and do business."*

(Source: <https://www.sec.gov/newsroom/press-releases/2025-68>)

US SEC Awards \$6 Million to Joint Whistleblowers Following Successful Enforcement Action

On 21 April 2025, the United States Securities and Exchange Commission (**US SEC**) announced a **whistleblower award** totalling approximately \$6 million to joint whistleblowers whose original and credible information led to the opening of an SEC examination and ultimately triggered a successful enforcement action.

Under the Dodd-Frank Act, the SEC maintains strict confidentiality of all whistleblower identities. Awards can range from 10% to 30% of monetary sanctions collected, provided the total exceeds \$1 million. The funds are disbursed from an investor protection fund established by Congress, which is financed entirely by penalties paid by securities violators.

Jonathan Carr, Acting Chief of the US SEC's Office of the Whistleblower stated: *"Today's award illustrates that the agency can leverage whistleblower information in various ways, including by prompting an examination, If that examination ultimately results in an enforcement action, the whistleblower may be eligible for an award."*

(Source: <https://www.sec.gov/newsroom/press-releases/2025-67>)

US SEC Charges PGI Global Founder in \$198 Million Crypto and Forex Fraud Scheme

On 22 April 2025, the United States Securities and Exchange Commission (**US SEC**) filed a civil **complaint** in the United States District Court for the Eastern District of Virginia, initiating enforcement proceedings demanding jury trial against Ramil Ventura Palafox, the founder and operator of PGI Global, also known as Praetorian Group International Corporation. The complaint alleges that Palafox orchestrated a fraudulent investment scheme which raised approximately \$198 million from global investors by offering unregistered securities in the form of “membership packages” promising high returns from purported crypto asset and foreign exchange trading.

As alleged in the complaint, from January 2020 to October 2021, PGI Global marketed itself as a crypto and Forex trading platform offering guaranteed passive returns. Palafox allegedly solicited investors through promotional events, social media platforms, and direct communications, promising daily returns of 0.5% to 3% and total returns of up to 200% on investments. The packages were also allegedly structured to include multi-level marketing-style referral incentives. However, instead of conducting trading as promised, Palafox allegedly misappropriated over \$57 million in investor funds for personal use, including purchases of luxury vehicles, watches, jewellery, and real estate. The remaining funds were allegedly used to pay purported returns to earlier investors in a Ponzi-like manner until the scheme collapsed in late 2021.

The complaint further alleges that Palafox created the false impression of legitimate trading activity through fake dashboards, promotional materials, and false claims regarding regulatory licences in jurisdictions such as the Philippines and Estonia. PGI Global was not registered to sell securities, nor were the membership packages registered or exempt from registration under United States securities laws. The complaint also names four relief defendants, BBMR Threshold LLC, Darvie Mendoza, Marissa Mendoza Palafox, and Linda Ventura, who allegedly received funds and assets derived from misappropriated investor money without legitimate entitlement.

According to the US SEC, PGI Global’s operations were conducted through use of interstate commerce, including email, telephone, and blockchain transactions. The complaint notes that the scheme involved the transfer of investor funds via Bitcoin and fiat currency, with certain investor events held in Alexandria, Virginia. The fraudulent scheme allegedly ceased by October 2021, when the US Internal Revenue Service seized PGI Global’s website and the Philippine Securities and Exchange Commission issued a fraud alert.

The US SEC seeks permanent injunctive relief against Palafox, including prohibitions on participation in future offerings of securities, particularly involving crypto assets or multi-level marketing structures. The complaint also requests disgorgement of ill-gotten gains with prejudgment interest, civil monetary penalties under United States securities laws, and conduct-based injunctions. Relief defendants are similarly subject to claims for unjust enrichment and the return of investor funds.

The charges against Palafox include alleged violations of Section 10(b) of the United States Securities Exchange Act of 1934 and Rule 10b-5 thereunder, as well as Sections 5(a), 5(c), and 17(a) of the United States Securities Act of 1933. The US SEC asserts that PGI Global’s “membership packages” constituted securities as defined under United States federal law, particularly under the investment contract test set forth in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946).

The litigation is being handled by the US SEC’s Philadelphia Regional Office and supervised by the Cyber and Emerging Technologies Unit. Attorneys Spencer Willig, Gregory Bockin, and Eugene Hansen are representing the Commission in court. The US SEC acknowledges the assistance of the US Department of Justice, the Federal Bureau of Investigation (**FBI**), and the Internal Revenue Service (**IRS**) in its parallel investigation.

As stated by Scott Thompson, Associate Director of the US SEC’s Philadelphia Office, *“As alleged in our complaint, Palafox attracted investors with the allure of guaranteed profits from sophisticated crypto asset and foreign exchange trading, but instead of trading, Palafox bought himself and his family cars, watches, and homes using millions of dollars of investor funds.”* Laura D’Allaird, Chief of the Cyber and Emerging Technologies Unit, added, *“Palafox used the guise of innovation to lure investors into lining his pockets with millions of dollars while leaving many victims empty-handed.”*

The US SEC continues to investigate the matter and has urged investors to refer to its resources on [Investor.gov](https://www.investor.gov) to help detect and avoid investment fraud schemes, especially those falsely presenting as legitimate crypto asset or multi-level marketing ventures.

(Source: <https://www.sec.gov/newsroom/press-releases/2025-69>)

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