



McDermott
Will & Emery



PREPARING FOR THE US FEDERAL ELECTION: INSIGHTS FOR IN-HOUSE COUNSEL

ACC-Northeast Chapter

October 23, 2024

[mwe.com](https://www.mwe.com)



MODERATORS



BYRON KALOGEROU

Partner

Corporate

Boston

bkalogerou@mwe.com



KATHLEEN PATTON

General Counsel

Divert

Boston

kpatton@divertinc.com

SPEAKERS



BRIAN BUNN

Partner

Corporate

Boston

bbunn@mwe.com



**JOAN-ELISSE
CARPENTIER**

Partner

Employee Benefits &
Executive Compensation

New York

jcarpentier@mwe.com



BOB COHEN

Partner

Corporate

Chicago

rcohen@mwe.com



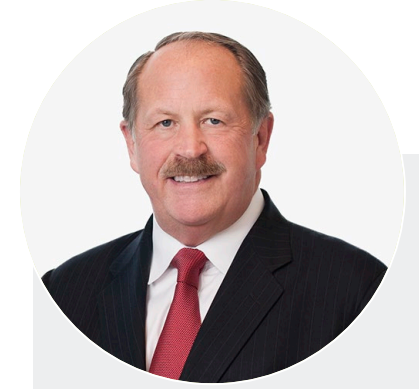
JOE EVANS

Partner

White Collar

New York

jbevans@mwe.com



RAY JACOBSEN

Partner

Antitrust

Washington, D.C.

rayjacobsen@mwe.com



AGENDA

- Federal Trade Commission's antitrust agenda and its effects on merger control
- Need for capital and the impact on the public and private capital markets
- Legal immigration and the quest for skilled workers
- Regulation of cryptocurrency and blockchain
- Thank You / Questions

BACKGROUND MATERIALS

- [Assessing-the-macroeconomic-consequences-of-harris-vs-trump.pdf](#)

FEDERAL TRADE COMMISSION'S ANTITRUST AGENDA AND ITS EFFECTS ON MERGER CONTROL



FEDERAL TRADE COMMISSION'S ANTITRUST AGENDA AND ITS EFFECTS ON MERGER CONTROL

- Regardless of the outcome-a better position than we are in today
- Impact on dealmaking and the new HSR Rules
- End of Lina Khan under Trump or continuation under Harris?
- Hard to predict what “targets” might be in Trump’s sights
- Impact of a divided government

BACKGROUND MATERIALS

- [What A Trump or Harris Win Means For Big Tech Antitrust Battles \(investors.com\)](#)
- [Trump, Harris Might Alter DOJ, FTC Enforcement in Counterintuitive Ways \(law.com\)](#)
- [Wall Street wants Harris to turn the antitrust tide \(ft.com\)](#)

NEED FOR CAPITAL AND THE IMPACT ON THE PUBLIC AND PRIVATE CAPITAL MARKETS



NEED FOR CAPITAL AND THE IMPACT ON THE PUBLIC AND PRIVATE CAPITAL MARKETS

- The end of Gary Gensler at the SEC?
- Reform of the private equity industry?
- The end of government Incentives on Clean Tech?
- Elon Musk as the US Economic Czar-“Secretary of Cost Cutting”?

BACKGROUND MATERIALS

- [Harris victory may mean more bank regulation; Trump could target ACA, green tax credits | Insights | Bloomberg Professional Services](#)
- [Trump vs. Harris: Stock Market Investors Brace for Volatility \(inc.com\)](#)
- [Election 2024: Is Harris or Trump better for Silicon Valley? | AP News](#)
- [How Harris' and Trump's tax and spending plans affect US debt | Reuters](#)
- [Trump Announces New Secretary Position Just for Elon Musk - 'He's Dying to Do This' \(msn.com\)](#)

LEGAL IMMIGRATION AND THE QUEST FOR SKILLED WORKERS



LEGAL IMMIGRATION AND THE QUEST FOR SKILLED WORKERS

- Legal immigration is as important an issue as border control
- Visa numbers need to be increased to ensure the US can be competitive in the tech fields and fill the jobs we need
- US Citizenship and Immigration Services (USCIS) filing fees get higher, while processing times get longer
- International travel issues for those in the legal immigration process need to be remedied

BACKGROUND MATERIALS

- [Decision Guide: What Happens to Immigration Under Harris vs. Trump | America 2024 | US News \(usnews.com\)](#)
- [Harris and Trump Voters Agree on Border and Skilled Immigration: Survey – Newsweek](#)

REGULATION OF CRYPTOCURRENCY AND BLOCKCHAIN



CRYPTO LEGISLATION – CURRENT LANDSCAPE

- **Financial Innovation and Technology 21st Century Act (“FIT21”)**
 - FIT21 will clarify the regulatory responsibilities of the CFTC and the SEC over digital asset products and transactions. CFTC would have authority over “Digital Commodities” and the SEC would have authority over “Restricted Digital Assets.” The classification would be based on the level of decentralization and functionality of the digital asset, the method of acquisition by the end user, and the party holding the digital asset. In May 2024, FIT21 passed in the House with bipartisan support
- **Lummis-Gillibrand Payment Stablecoin Act (the “Payment Stablecoin Act”)**
 - Proposes to mandate one-to-one stablecoin reserves, prohibit algorithmic stablecoins, and require issuers to comply with anti-money laundering (“AML”) and sanctions rules. The Payment Stablecoin Act would also make it unlawful to engage in the business of issuing a payment stablecoin unless via a state non-depository trust company or a depository institution chartered by the OCC or a state bank supervisor
- **Infrastructure Investment and Jobs Act (“IIJA” or the “Bipartisan Infrastructure Bill”)**
 - Imposes reporting requirements on taxpayers receiving over \$10,000 in “digital assets.” Also imposes reporting requirements for brokers and any person responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person. Enacted on November 15, 2021 and goes into effect January 1, 2025
- **Money Transmission Modernization Act**
 - Nationwide standards proposed by the Conference of State Bank Supervisors (“CSBS”) pertaining to the supervision and regulation of money transmitters. Adopted fully or partially by 26 states

HARRIS & TRUMP'S DIFFERING STANCES ON CRYPTO

| Topic | Harris | Trump |
|---|---|--|
| Has an official position on cryptocurrency? | <p>No, Harris has yet to take any official positions on cryptocurrency during her campaign. Harris has made statements that she plans to “encourage innovative technologies like AI and digital assets.”</p> <p>Harris did release a recent Agenda that would support “a regulatory framework for cryptocurrency and other digital assets so Black men who invest in and own these assets are protected.”</p> | <p>Yes, Trump stated at Bitcoin 2024 that he wants the US to become the “crypto capital of the planet” and make Bitcoin the “superpower of the world.” At Bitcoin 2024, Trump also advocated for a government stockpile of Bitcoin, creating a crypto advisory council, and blocking the Federal Reserve from creating its own digital currency.</p> <p>Trump also indicated that he will fire Gary Gensler.</p> |
| Do they accept crypto donations? | Harris’ campaign is not accepting crypto donations, but certain pro-Harris PACs (including Future Forward PAC) have onboarded with Coinbase Commerce to accept crypto donations. | Trump’s campaign accepts crypto donations, including Bitcoin, Ethereum, and USDC. |
| Supports FIT21 and stablecoin legislation? | Somewhat supportive, it seems that Harris’ team has engaged with the industry on this topic. | Extremely supportive, and JD Vance has expressed significant support in advancing market structure legislation like FIT21. |
| Supports Bitcoin mining? | Somewhat hostile since Harris has made “climate justice” a key issue of her policy goals, and she was previously a co-sponsor of the “Green New Deal” while in the Senate. | Extremely supportive, he wants Bitcoin to be “made in America.” |
| Does the DNC or RNC have a stance? | No, the official Master Platform document for the Democratic Party does not mention cryptocurrency, digital assets, or Bitcoin. | Yes, including statements like “Republicans will end Democrats’ unlawful and unAmerican Crypto crackdown and oppose the creation of a Central Bank Digital Currency. We will defend the right to mine Bitcoin, and ensure every American has the right to self-custody of their Digital Assets, and transact free from Government Surveillance and Control.” |
| Has a crypto project? | No. | Yes. In 2024, Trump and his family launched World Liberty Financial, a decentralized finance protocol that will provide access to third-party applications (such as Aave) for lending and borrowing cryptocurrency. |

BACKGROUND MATERIALS

- [Trump Vs. Harris on Crypto Regulation: Key Differences-Merkle Science | Blockchain Analysis](#)
- [What Crypto Regulations Could Look Like Under a 2025 Trump Presidency \(yahoo.com\)](#)
- [Trump, Biden, and Harris: The Battle for America's Crypto Future \(forbes.com\)](#)

THANK YOU / QUESTIONS?

This material is for general information purposes only and should not be construed as legal advice or any other advice on any specific facts or circumstances. No one should act or refrain from acting based upon any information herein without seeking professional legal advice. McDermott Will & Emery* (McDermott) makes no warranties, representations, or claims of any kind concerning the content herein. McDermott and the contributing presenters or authors expressly disclaim all liability to any person in respect of the consequences of anything done or not done in reliance upon the use of contents included herein. *For a complete list of McDermott entities visit mwe.com/legalnotices.

©2024 McDermott Will & Emery. All rights reserved. Any use of these materials including reproduction, modification, distribution or republication, without the prior written consent of McDermott is strictly prohibited. This may be considered attorney advertising. Prior results do not guarantee a similar outcome.

