

# IRA Investments in Cryptocurrency and Applicable Compliance Requirements

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As we previously reported [here](#), following an executive order issued by the Trump Administration last year, there has been a recent trend encouraging access to alternative assets through retirement accounts, including through Individual Retirement Accounts (“**IRAs**”). Alternative assets are broadly defined to include investments in digital assets (including cryptocurrency), private markets, real estate, commodities, infrastructure financing and development projects, and lifetime income investment strategies.

As a part of this recent trend, investment services offered by cryptocurrency platforms to IRAs are becoming more prevalent in the financial marketplace. Although the current regulatory environment appears to be more favorable to such platforms, as we previously reported [here](#), IRA owners and beneficiaries (collectively, referred to herein as, “**IRA Owners**”) and cryptocurrency providers still need to comply with applicable regulatory landscape, including the following compliance requirements under the Code:

- **IRA Custodian Requirement:** Cryptocurrency platforms seeking to hold IRA assets must either qualify as a bank or obtain IRS approval as a nonbank trustee or custodian, which requires demonstrating, among other things, fiduciary ability, fitness to handle retirement funds, and the capacity to account for the interests of IRA holders.
- **Tax Filings:** IRA custodians must file annual information returns with the IRS on behalf of IRA Owners, including Form 5498 (reporting contributions and the fair market value of the IRA as of the end of the year) and Form 1099-R (reporting IRA distributions).
- **Private Key Requirement:** Ownership and control of cryptocurrency depends on the possession of cryptographic private keys, which are unique codes that authorize blockchain transactions for cryptocurrencies. Through the use of private keys, the IRA custodian should retain the sole authority to execute transactions for and on behalf of the IRA account, in a manner which preserves the account’s tax-advantaged status.
- **Prohibited Transactions:** IRA Owners and custodians must comply with “prohibited transaction” restrictions under the Code which, unless an exemption is met, generally prohibit sales of property, lending of money, and the offering of services between an IRA and certain persons who have specified relationships with the IRA (referred to as “disqualified persons” under the Code). In addition, acts of self-dealing by the IRA Owner may also result in prohibited transactions. Due to potentially significant prohibited transaction penalties and adverse consequences (including the IRA’s potential loss of tax-qualified status), cryptocurrency platforms and IRA Owners should coordinate with legal counsel to ensure that applicable exemptions, if available, are complied with.

As a reminder, although the recent regulatory environment demonstrates a trend towards providing more access to alternative assets in retirement accounts, it does not alter an IRA Owner’s or an

investment platform's compliance requirements under the Code.