The CFTC provides the CFTC with two types of legal authority: REGULATORY AUTHORITY and ENFORCEMENT AUTHORITY.

REGULATORY AUTHORITY gives the CFTC the power to regulate futures contracts and other derivatives, but not cash commodities. The CFTC does not regulate cash commodities - that is, the commodities themselves, such as wheat, cattle, or corn, rather than futures contracts or other derivatives on those cash commodities.

ENFORCEMENT AUTHORITY gives the CFTC the power to enforce the laws, rules, and regulations it has established.

Examples that illustrate the distinction between commodities (which the CFTC does not regulate) and derivatives products (which the CFTC does regulate) are:

- Cattle are commodities, and the CFTC regulates futures contracts and other derivatives on cattle, as well as cash markets and cattle auctions.
- Interest rates are intangible commodities, and the CFTC regulates futures contracts and other derivatives on interest rates.
- Natural gas is a commodity, and the CFTC regulates futures contracts and swaps on natural gas.
- A trading platform that offers derivatives on digital assets to U.S. persons without registering, or in violation of CFTC trading rules, is subject to the CFTC's enforcement authority.

Because the CFTC is a regulator of derivatives, it may regulate derivatives on commodities, even though the CFTC does not regulate those commodities.

For a number of years, the CFTC has aggressively used its broader ENFORCEMENT AUTHORITY to deter manipulation and fraud involving cash digital assets, even though the CFTC does not regulate those digital assets.

For example, a trading platform that offers derivatives on digital assets to U.S. persons without registering, or in violation of CFTC trading rules, is subject to the CFTC's enforcement authority.

The CFTC utilizes this particular enforcement authority to protect the integrity of the derivatives markets that it regulates.

Of course, the CFTC has ENFORCEMENT AUTHORITY over products that it regulates.

Because the CFTC is a regulator of derivatives, it may regulate derivatives on securities, such as it does today for futures on broad-based stock indexes.

For example, a platform that offers derivatives on digital assets to U.S. persons without registering, or in violation of CFTC trading rules, is subject to the CFTC's enforcement authority.

However: The CFTC does not regulate derivatives on digital assets, just as it regulates other derivatives.

That includes the regulation of trading, clearing, etc., of futures contracts and swaps on digital assets, such as in Bitcoin, and other listed or traded on various CFTC-regulated exchanges.

Just as the CFTC does not regulate cash commodities, it does not regulate derivatives on cash commodities.

Therefore: Even if a digital asset is a commodity, it is not regulated by the CFTC.

Examples that illustrate this point are:

- The CFTC does not regulate a digital asset even if it is a commodity (and
- As the agency's middle name suggests, the CFTC does regulate futures contracts and other derivatives on commodities.
- Therefore, if a digital asset is a security, further analysis is required to determine the allocation of regulatory authority over a derivatives product as between the CFTC and the SEC.
- This could include, in some cases, derivatives on a digital asset that is a security.
- If the digital asset under consideration is a security, further analysis is required to determine the allocation of regulatory authority over the derivatives product as between the CFTC and the SEC or jointly by both.
- Examples that illustrate the distinction between commodities (which the CFTC does not regulate) and derivatives products (which the CFTC does regulate) are:

- For example, a trading platform that offers derivatives on digital assets to U.S. persons without registering, or in violation of CFTC trading rules, is subject to the CFTC's enforcement authority.

- That includes the regulation of trading, clearing, etc., of futures contracts and swaps on digital assets, such as in Bitcoin, and other listed or traded on various CFTC-regulated exchanges.

- Accordingly, if a digital asset is a security, it may be regulated by the CFTC or the SEC, or jointly by both.

- In the CEA and the federal securities statutes, Congress determined that futures contracts and other derivatives on securities may be regulated by the CFTC or the SEC, or jointly by both.

- The answer depends on the specific characteristics of the product, and requires an analysis of whether the product is a commodity or a security.

- Because the CFTC is a regulator of derivatives, it may regulate derivatives on securities, such as it does today for futures on broad-based stock indexes.

- For example, a platform that offers derivatives on digital assets to U.S. persons without registering, or in violation of CFTC trading rules, is subject to the CFTC's enforcement authority.

- The analysis of Congress' statutory framework and CFTC and SEC rules.

- Because this distinguishing point is absent from the considerable number of CFTC enforcement-related press releases, it may not be well-understood (to the detriment of the investing public).

- Notably, the 'CFTC ENFORCEMENT AUTHORITY' top is broader than the CFTC regulatory authority.

- For example, a platform that offers derivatives on digital assets to U.S. persons without registering, or in violation of CFTC trading rules, is subject to the CFTC's enforcement authority.

- Therefore: Even if a digital asset is a commodity, it is not regulated by the CFTC.

- The CFTC does not regulate cash commodities - that is, the commodities themselves, such as wheat, cattle, or corn, rather than futures contracts or other derivatives on those cash commodities.

- For a number of years, the CFTC has aggressively used its broader ENFORCEMENT AUTHORITY to deter manipulation and fraud involving cash digital assets, even though the CFTC does not regulate those digital assets.

- The CFTC does not regulate cash commodities - that is, the commodities themselves, such as wheat, cattle, or corn, rather than futures contracts or other derivatives on those cash commodities.