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Veritas BITCOIN STRATEGIES

FOR ESTATE PLANNING ATTORNEYS

Bitcoin Custody Basics

Five ways a client may hold Bitcoin, and what each means for the estate and its security

STRUCTURE	WHO HOLDS THE KEYS	ESTATE IMPACT	SECURITY
1. Spot Bitcoin ETF Brokerage shares	The fund's custodian. The client owns shares, not Bitcoin.	Fund the trust like any security: retitle or TOD at the broker. No keys to find.	No client keys to steal. Coins sit in the fund custodian's institutional cold storage.
2. Qualified custodian Chartered trust company or bank	The custodian, segregated from its own assets. Examples: Coinbase Custody, Fidelity Digital Assets, Anchorage, Gemini, BNY.	Can be titled to the trust. The successor trustee follows the custodian's process.	Mostly cold storage, audits, and regulatory exams. Segregated assets stay client property if the custodian fails.
3. Exchange or app Non-qualified custodian	The company, under money transmitter licenses. Examples: Coinbase retail, Kraken, Robinhood, Cash App.	Usually individual, not trust-titled. In a platform failure, the terms of service decide ownership.	**Highest risk.** Pooled hot wallets are prime targets, and a breach can freeze withdrawals. Repayment depends on the company.
4. Collaborative custody 2-of-3 multisignature	Client holds two keys, provider one. Examples: Unchained, Casa.	Provider helps a successor, but the client's keys must be locatable.	No single point of failure. A breach of the provider cannot move funds. The client guards two keys.
5. Self-custody Hardware wallet or seed phrase	The client alone. No institution involved.	Depends on a written access plan and a capable successor. Keep keys out of the will.	No company to hack. The risks are loss, theft of the seed phrase, and coercion of the owner.

Bitcoin IRAs, loan collateral, and entity-held Bitcoin sit inside one of these five structures; identify both the wrapper and the structure.

Before drafting, confirm

1. Which structure holds each position, in whose name.
2. Who holds each key and recovery code, and where.
3. What the custodian requires from a successor.
4. Whether lending or rehypothecation is allowed.
5. Whether the documents grant fiduciary access to digital assets under RUFADAA.

Recent changes

2023: Celsius court ruled "Earn" deposits company property.

2025: SEC staff accepted state trust companies as crypto custodians for RIAs.

2025 to 2026: OCC conditionally approved national trust charters for Fidelity Digital Assets, Coinbase, and others.

Oct 2026: Binance lost about $6.3 billion in the largest crypto theft on record and suspended withdrawals.

Legal authority under RUFADAA is not key access. The plan has to be in place while the client is alive.