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Crypto Regulatory Update: A Unique Window of Opportunity

Is this finally the time for the development of a consistent U.S. regulatory framework on crypto assets? Federal bank regulators have rolled back previous restrictive guidance, the SEC has moved away from aggressive enforcement actions, and the newly formed SEC Crypto Task Force has now heard feedback from three public expert panels. Here are the key takeaways for banks, asset managers, broker-dealers, and insurers.

The U.S. is now in a rare moment when the executive and legislative branches of government and federal regulators are willing to consider clear rules formalizing permissible crypto-asset activities for financial institutions. Market volatility and high-profile collapses have failed to squash growing consumer interest in the crypto market. As a regulatory framework emerges, there are several industries with potential for change:

- Asset management
- Custody services
- Payments and remittances
- Trading
- Tokenization
- Insurance

Though there are still domestic barriers to a fully implemented digital asset strategy, the future is bright, and new solutions are on the horizon for adopters.

Background

Under the SEC's current statutory framework, a security subject to SEC oversight is defined in the *Securities Act of 1933* and the benchmark interpretation is based on a 1946 U.S. Supreme Court case that resulted in the *Howey* test. The SEC's current authority to regulate digital assets under existing securities law is dependent on the outcome of this test. Regulatory framework to date has not provided a clear direction forward on application of securities and commodities law. The nature of digital assets has been the subject of great debate, causing regulation through enforcement and barriers to entrance. A recent House bill would expand the role of the Commodity Futures Trading Commission (CFTC) to crypto assets.¹ While the CFTC took an early lead when it allowed trading of bitcoin futures in 2017, the regulator's mandate does not include investor protection or capital formation. Alternatively, Congress could update the SEC's scope of authority to cover all or parts of this asset class.

Currently, most crypto exchanges are regulated at the state level, generally leveraging money transmitter or trust company licensing laws. Each state regulates through its own precedent and practice. Market participants would prefer a federal framework, applied throughout the industry rather than on territorial discretion. The U.S. national securities exchanges can only list registered securities, and most tokenized securities are unregistered. SEC Commissioner Mark Uyeda [noted](#), "The drafters of the federal securities laws did not contemplate the use of

¹"House Republicans unveil draft of landmark crypto regulatory overhaul," [politicopro.com](#), May 5, 2025.

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blockchains or smart contracts to perform the functions of a transfer agent, facilitate the exchange of securities, or clear securities transactions.”

SEC

The SEC has made significant updates in 2025. [The commission rescinded Staff Accounting Bulletin \(SAB\) 121](#), which [required custodians](#) to record the custodied crypto assets and safeguarding liability on the balance sheet. The impact deterred banks and broker-dealers, which are both subject to regulatory capital minimums, from providing this service. Further, the SEC has paused or dismissed enforcement action in high-profile cases involving application of SEC rules related to brokering and clearing of unregistered securities transactions. The SEC has also provided clarification on its position on the nature of several digital asset classes and disclosure requirements:

- **Meme coins.** Meme coins, as described in a [statement](#), do not involve the offer and sale of securities under the federal securities laws and the offer and sale of meme coins do not need to register with the SEC. Neither meme coin purchasers nor holders are protected by the federal securities laws.
- **Stablecoin.** The offer and sale of “[Covered Stablecoins](#)” do not involve the offer and sale of securities under the *Securities Act of 1933*.
- **Mining.** Mining activities as defined in the SEC’s [statement](#) in connection with self-mining or a mining pool do not involve the offer and sale of securities.
- **Registration disclosure requirements.** The Division of Corporation Finance staff provided its [views](#) on disclosure requirements for offerings and registrations of debt or equity securities of issuers whose operations relate to networks, applications, and/or crypto assets, as well as crypto assets offered as part of or subject to an investment contract.

The SEC’s [Crypto Task Force](#) was established “to help the Commission draw clear regulatory lines, provide realistic paths to registration, craft sensible disclosure frameworks, and deploy enforcement resources judiciously.” A series of roundtables have occurred to solicit feedback from industry, legal, and academic experts on the following topics:

- March 21 – How We Got Here and How We Get Out – Defining Security Status
- April 11 – Between a Block and a Hard Place: Tailoring Regulation for Crypto Trading
- April 25 – Know Your Custodian: Key Considerations for Crypto Custody
- May 12 – Tokenization – Moving Assets Onchain: Where TradFi and DeFi Meet
- June 9 – DeFi and the American Spirit

Some observations, common themes, and suggestions from panelists from completed sessions include:

- 80% of the crypto market is currently offshore. It is important to develop a U.S. crypto regulatory framework to provide investors with access to a safe, secure, well-functioning market, which will require new and updated rules.
- Applying a securities model to crypto assets without modifications to address the notable variances in risk and transactability will not address the SEC’s goals of investor protection or capital formation.

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- The current regulatory process is premised on enforcement and is not in the best interest of investors or consistent with the SEC's mission (which is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation).
- Secondary decisioning will be needed relative to which exemptive reliefs might apply or need to be modified for capital formation related to the crypto industry, *i.e.*, Regulation D, etc.
- The crypto market will continue to evolve at a rapid pace and principles-based guidance would be preferred over technology-based regulation. A strict rules-based approach would be easy to circumvent and would quickly lose relevance.
- Regulation should be harmonized across regulators to create a level field, so that all service providers are assessed in the same way to prevent market fragmentation.
- Panelists supported short-term solutions while a comprehensive crypto framework is being developed, including:
 - Use of exemptive relief
 - Clarity of what is not covered, similar to the statements on meme coin and stablecoins noted above
- Adequate investor protections are key to crypto growth; the current “buyer beware” approach is not appropriate. Changes may be needed for other existing safeguards; for example, a broker-dealer’s Securities Investor Protection Corporation only covers securities.
- Updates are needed to the qualified custodian definition.
- The level of custody segregation is a key decision point. Very granular segregation provides greater customer assurance; less segregation means less movement and risk of loss and would reduce transaction costs.

“As Commission registrants increasingly engage with crypto assets, it is important that they have access to a number of custodial solutions that comply with applicable laws and regulations.” – Uyeda

Banks

All three federal banking regulators (Federal Reserve, Office of the Comptroller of the Currency, and FDIC) have repealed previous interpretive guidance and supervisory letters that required notification and nonobjection before engaging in crypto-asset activities. See [Appendix](#) for details. The [Federal Reserve](#) will now monitor banks’ crypto-asset activities through the normal supervisory process. The regulators are considering what additional guidance may be needed to support innovation. There are bills in the House (STABLE) and the Senate (GENIUS) that would establish a regulatory framework for government oversight of stablecoin issuance. If passed, several large banks have already announced plans to issue their own stablecoins.²

²“Bank of America Plans To Launch Stablecoin Once U.S. Legislation is Passed, CEO Says,” [finance.yahoo.com](#), February 27, 2025.

Broker-Dealers

Uyeda noted the SEC could consider further steps to enhance competition by modifying or sunseting the special purpose broker-dealer (SPBD) [guidance](#), which is set to expire in February 2026. An SPDB is specifically authorized to custody and transact in digital asset securities and is subject to limitations on business activities, including transacting, dealing, maintaining custody, and/or operating an alternative trading system (ATS) for digital asset securities. The first SPBD was approved in June 2023 and to date, only three have been authorized. Within the potential endeavor, the commission could provide guidance on application of the current regulatory framework relating to capital and customer protection rules to non-security crypto assets and crypto-asset securities.

Asset Managers

SEC regulation does not provide clarity as to the ability of registered investment advisers to use state-chartered limited purpose trust companiesⁱ to custody crypto assets as a qualified custodian in compliance with the Rule 206(4)-2 (the Custody Rule). Further, the prior administration took the position that “most crypto assets” are likely to be funds or securities; this interpretively applied constraints to investment opportunities through incompatible custodial regulations. Further, the existing custody rule does define the term “funds.” These framework clarifications are considered paramount for asset managers.

Insurers

Insurance companies are largely regulated at the state level, which has provided opportunities for innovation. Insurers were early adopters of blockchain technology (crypto’s underlying technology) to handle claims and operations. While one insurer started accepting [bitcoin](#) for premiums in 2013³, this practice has only spread to about a dozen additional firms. One large insurer is using bitcoin as a general fund investment to fund future claims. Other companies are using insurance dedicated funds (IDFs), which are segregated accounts that allow alternative investments like private equity, hedge funds, and crypto, and comply with IRS regulations.

Resources

[SEC Rescinds SAB 121 – What’s Next for Crypto?](#)

[Custodial & Non-Custodial Digital Asset Wallet Risk Management](#)

[Key Consideration for Protecting Crypto Assets](#)

[Details on FASB’s New Crypto Guidance](#)

Conclusion

As a regulatory framework emerges, firms and boards should evaluate risk appetite and establish guiderails for emerging opportunities in the crypto market. A robust understanding of regulation, asset classes, and accounting and tax implications will be critical for risk management and regulatory compliance. Financial institutions considering engaging in crypto activities may consider third-party relationships to help with cost savings,

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operational efficiencies, and access to professionals with advanced, industry-specific skills. However, increased reliance on third-party vendors and collaborators comes with increased operational, compliance, reputational, and cybersecurity risks, which highlights a need for a robust [third-party risk management practice to help protect stakeholders](#). Regulators have made it clear that failings cannot be blamed on contractors and that companies must take a rigorous, formal approach to assessing and managing risks created by reliance on third parties.

How Forvis Mazars Can Help

Whether your team is looking to learn the basics of digital assets or navigating complex questions related to digital assets risk, Forvis Mazars can help. Our teams help navigate the impacts to broker-dealers, asset managers, funds, and taxation. If you have any questions or need assistance, please reach out to a professional at Forvis Mazars.

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ⁱAppendix – Rescinded Crypto Guidance

Joint Statements

[Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities](#)

[Joint Statement on Crypto-Asset Risks to Banking Organizations](#)

FDIC

[FIL-16-2022, Notification of Engaging in Crypto-Related Activities](#)

Federal Reserve Board

[SR 22-6 / CA 22-6: Engagement in Crypto-Asset-Related Activities by Federal Reserve-Supervised Banking Organizations](#)

[SR 23-8 / CA 23-5: Supervisory Nonobjection Process for State Member Banks Seeking to Engage in Certain Activities Involving Dollar Tokens](#)

Office of the Comptroller of the Currency

[Interpretive Letter 1170](#)

[Interpretive Letter 1172](#)

[Interpretive Letter 1174](#)

[Interpretive Letter 1179](#)

[Interpretive Letter 1184](#)