

U.S. Crypto Regulation: Key Developments in Trump's First Week

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The first week of the Trump administration saw notable developments in U.S. crypto regulation. The U.S. Securities and Exchange Commission created a new “Crypto Task Force,” rescinded controversial staff accounting guidance around crypto custody and issued new guidance on the same topic. Meanwhile, President Trump issued an executive order that promises a comprehensive re-examination of U.S. crypto regulation.

On the campaign trail, President Trump offered a significant change in posture on crypto regulation from President Biden’s administration. The events of the first week of President Trump’s administration appear to demonstrate a pro-crypto turn.

On January 21, acting SEC Chair Mark Uyeda launched a crypto task force focused on clarifying the regulatory framework around crypto assets.¹ On January 23, the SEC released Staff Accounting Bulletin No. 122 (“SAB 122”), rescinding the controversial Staff Accounting Bulletin No. 121 (“SAB 121”).² SAB 121 required an entity safeguarding crypto assets for customers to present a liability on its balance sheet to reflect its safeguarding obligation. On the same day, President Trump signed an executive order to establish regulatory clarity for digital financial technology, which created a “Presidential Working Group on Digital Asset Markets” to review existing regulations applicable to crypto assets and banned federal agencies from creating or supporting central bank digital currencies.³

We briefly summarize each of these actions below.

The SEC’s Crypto Task Force

Acting SEC Chair Mark Uyeda created a crypto task force with the goal of “developing a comprehensive and clear regulatory framework” for crypto assets (the “Task Force”). The Task Force will be led by Commissioner Hester Peirce and is intended to seek a “sensible regulatory path” that moves away from an approach perceived to be driven primarily by enforcement actions.

In its press release, the SEC said the Task Force’s primary focus will include establishing “clear regulatory lines,” providing for realistic paths to registration, crafting disclosure guidelines and using enforcement resources judiciously. The Task Force will operate within the statutory framework provided by Congress and will coordinate with Congress as it potentially makes legislative changes to that framework. The Task Force will also coordinate with federal departments and agencies, including the Commodity Futures Trading Commission, and state and international counterparts.

SAB 121 is Withdrawn and Replaced by SAB 122

Two days after the creation of its new Task Force, the SEC rescinded SAB 121 and issued SAB 122 in its place.

SAB 121 was issued in 2022 and states that, “as long as [a firm] is responsible for safeguarding the crypto assets held for its platform users, including maintaining the cryptographic key information necessary to access the crypto assets,” the firm should present a liability on its balance sheet to reflect its obligation to safeguard the crypto assets held for its users with a corresponding asset.⁴ The asset and liability are required to be recognized at the fair value of the crypto assets custodied.

The effect of SAB 121 was therefore to move custodied crypto assets on to a custodian’s balance sheet – a practice at odds with the traditional accounting treatment of custodied assets. This attracted significant criticism from a number of crypto and established financial services firms, which sought to have the accounting guidance withdrawn. Notably, the SEC did not submit SAB 121 for review as a rule under the Congressional Review Act (“CRA”). The CRA requires agencies to report the issuance of rules to Congress and provides Congress with special fast-track procedures under which to consider legislation that overturns a rule.⁵

The SEC has now rescinded SAB 121 and issued SAB 122 in its place. In the new bulletin, the SEC notes that an entity previously under an obligation to recognize a liability on its balance sheet would now need to make a determination by applying guidelines under Financial Accounting Standards Board Accounting Standards Codification Subtopic 450-20 or International Accounting Standards 37. SAB 122 paves the way for financial institutions (especially SEC registrants) to begin integrating crypto assets into their custody services, without necessarily having to present these as on-balance sheet assets.

Executive Order on Strengthening U.S. Leadership in Digital Financial Technology

President Trump signed an executive order to “establish regulatory clarity” for crypto assets (the “Crypto EO”).⁶ The Crypto EO establishes a “Presidential Working Group on Digital Asset Markets,” chaired by AI & Crypto Czar David Sacks and consisting of the Secretary of the Treasury, the Chairman of the SEC, the Chairman of the Commodity Futures Trading Commission and a number of other heads of agencies and departments. The Working Group will:

- Identify all regulations, guidance documents, orders or other items that affect the crypto asset sector, within 30 days of the date of the Crypto EO.
- Within 60 days of the date of the Crypto EO, submit to the Chair of the Working Group recommendations on whether each identified regulation, guidance document, order or other item should be rescinded or modified, or adopted through a regulation.
- Within 180 days of the date of the Crypto EO, submit a report to the President to recommend regulatory and legislative proposals that advance the policies established in the Crypto EO.
- Propose a Federal regulatory framework governing the issuance and operation of digital assets, including stablecoins.
- Evaluate the potential creation and maintenance of a national crypto asset stockpile.

Notably, the Crypto EO defines a “digital asset” as “any digital representation of value that is recorded on a distributed ledger, including cryptocurrencies, digital tokens, and stablecoins.” Accordingly, and least on its face, the Crypto EO may extend beyond “native” crypto assets such as Bitcoin and Ether to potentially include even traditional financial assets (such as stock or bonds) if these are recorded on a blockchain. It remains to be seen how broadly the Working Group will interpret the term. The Crypto EO also prohibits any federal agency from taking action to establish, issue or promote “central bank digital currencies” (“CBDCs”), which it defines as “a form of digital money or monetary value, denominated in

the national unit of account, that is a direct liability of the central bank.” While very few countries have currently issued a CBDC, the Crypto EO may act to deter the development of any future assets of this type. The Crypto EO also immediately terminates any ongoing plans or initiatives at any agency related to the creation of a CBDC within the U.S.

The Crypto EO follows closely after the adoption of the European Union’s Markets in Crypto Assets Regulation (“MiCA”). MiCA contemplates the registration of, and a regulated path for, crypto assets including “electronic money tokens” or “E-money tokens,” which are crypto assets that aim to stabilize their value by referencing only one official currency, and which are “electronic surrogates for coins and banknotes and are likely to be used for making payments.”⁷ Unlike MiCA, the Crypto EO might deny any Federal recognition of any e-money tokens if they are a direct liability of any central bank.

The Crypto EO also directs government agencies to make it easier for crypto companies to open bank accounts. This appears to be a response to claims within the crypto industry of “debanking,” where crypto companies were allegedly being denied access to banking services by actions or policies of financial regulators.⁸ The U.S. House Oversight Committee has already opened an investigation into these claims and the Senate Banking Committee intends to hold a hearing on February 5, 2025.⁹

Conclusion

The Trump administration and its SEC have signaled a significant shift in crypto policy in 2025. The crypto industry has celebrated the developments of the past week, but many regulatory challenges remain. Congressional leaders in both the House and Senate have indicated a desire to pass crypto legislation, but prospects for future legislation, as well as for the nature of further regulatory relief, are still unclear.

Contributors

**The authors would like to thank Sammy Zeino for his contributions to this Newsflash.*

Footnotes

1. SEC Crypto 2.0: Acting Chairman Uyeda Announces Formation of New Crypto Task Force, SEC, (Jan. 21, 2025).
2. Staff Accounting Bulletin No. 122, SEC, (Jan. 23, 2025).
3. Strengthening American Leadership in Digital Financial Technology, The White House, (Jan. 23, 2025).
4. Staff Accounting Bulletin No. 121, SEC, (March 31, 2022).
5. In October 2023, the Government Accountability Office determined that SAB 121 was a rule requiring submission under the CRA. Congress issued a joint resolution of disapproval, which was vetoed by President Biden.
6. Fact Sheet: Executive Order to Establish United States Leadership in Digital Financial Technology, The White House, (Jan. 23, 2025).

7. Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023, Official Journal of the European Union, (June 9, 2023).
8. Angel Au-Yeung, Crypto Industry Hopes Trump Can Finally Get Them Bank Accounts, Wall Street Journal, (Dec. 11, 2024).
9. Comer Investigates Apparent Politically Motivated Debanking of Thirty Tech Founders, First Lady Melania Trump, Committee on Oversight and Government Reform, (Jan. 24, 2025); Scott: Banking Committee Will Investigate Debanking, U.S. Senate Committee on Banking, Housing, and Urban Affairs, (Jan. 24, 2025).

Key Contacts



Brenden P. Carroll

PARTNER

Washington, D.C.

+1 202 261 3458 brenden.
carroll@dechert.com



Neel Maitra

PARTNER

Washington, D.C.

+1 202 261 3445 neel.
maitra@dechert.com



Mark D. Perlow

PARTNER

San Francisco

+1 415 262 4530 mark.
perlow@dechert.com

Related Professionals



PARTNER

Brenden P. Carroll

Washington, D.C.

+1 202 261 3458



PARTNER

Neel Maitra

Washington, D.C.

+1 202 261 3445



PARTNER

Mark D. Perlow

San Francisco

+1 415 262 4530

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