

# OCC Chief Counsel Clarifies Bank Authority to Engage in Crypto

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On November 18, the Chief Counsel of the Office of the Comptroller of the Currency (OCC) [issued](#) a fourth interpretive letter ([Letter 1179](#)) regarding whether it is permissible for national banks and federal savings associations to engage in certain cryptocurrency, distributed ledger, and stablecoin activities. The letter clarifies ambiguities in the previous three letters including the authority of a bank to engage in certain cryptocurrency activities and the authority of the OCC to charter a national trust bank.

The first letter, Interpretive Letter [1170](#), concluded that banks may provide certain cryptocurrency custody services on behalf of customers. The second letter, OCC Interpretive Letter [1172](#), concluded that banks may hold deposits that serve as reserves for stablecoins that are backed on a 1:1 basis by a single fiat currency and held in hosted wallets. The third letter, OCC Interpretive Letter [1174](#), concluded that banks may use distributed ledgers and stablecoins to engage in and facilitate payment activities. The three previous letters indicated that banks conducting cryptocurrency activities must abide by safe and sound banking practices.

In the newest letter, the OCC elaborated on the process that would be required to engage in cryptocurrencies in a “safe and sound” manner. As long as a bank shows that it has sufficient controls in place, and first obtains written notice of “non objection” by its supervisory office, then a bank is said to be engaging in a “safe and sound manner.”

In deciding whether to grant supervisory “non-objection,” the supervisory office will evaluate the adequacy of a bank’s risk measurement and management information systems including:

- Any relevant compliance obligations, including under the Bank Secrecy Act, Federal Securities laws, the Commodity Exchange Act, and consumer protection laws.
- Whether the bank has established appropriate risk management and measurement process (e.g., identifying, monitoring, and controlling risk)
- Whether the bank has addressed novel risks associated with cryptocurrency activities (e.g.,

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hacking, fraud, theft, liquidity risk, strategic risk, and compliance risk)

Finally, the letter also reiterated that OCC Interpretive Letter [1176](#) on the OCC's chartering authority did not expand on or change a bank's existing obligations under the OCC's fiduciary activities regulations. The OCC retains discretion in determining whether an activity is conducted in a fiduciary capacity for purposes of federal law.

**Putting it into Practice:** Banks that plan to conduct cryptocurrency activities should pay special attention to this series of letters from the OCC . Due to the regulatory hurdles, banks interested in cryptocurrency activities should be aware that they may need much higher levels of capital and liquidity to satisfy the OCC's new requirements. As of this latest letter, banks already engaged in cryptocurrency, distributed ledger, or stablecoin activities do not need to obtain supervisory non-objection, provided that they previously notified their supervisory offices and have adequate systems and controls in place to ensure that they are operating in a "safe and sound" manner.

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