

## SEC's Crypto Journey Continues

Article By:

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In a wide-ranging [public statement](#) entitled “The Journey Begins,” SEC Commissioner Hester Peirce previewed next steps for the SEC’s [Crypto Task Force](#). As chair of the Crypto Task Force, Commissioner Peirce’s statement lays out a broad agenda for the SEC’s approach to cryptocurrency over the next four years.

The statement begins by criticizing the SEC’s past approach to crypto, noting:

it took us a long time to get into this mess, and it is going to take us some time to get out of it. The Commission has engaged with the crypto industry in one form or another for more than a decade. The first bitcoin exchange-traded product application hit our doorstep in 2013, and the Commission brought a fraud case that had a tangential crypto element that same year. In 2017, we issued the [DAO Section 21\(a\) report](#), which reflected the first application of the *Howey* test in this context. Since then, there have been many enforcement actions, a number of no-action letters, some exemptive relief, endless talk about crypto in speeches and statements, lots of meetings with crypto entrepreneurs, many inter-agency and international crypto working groups, discussion of certain aspects of crypto in rulemaking proposals, consideration of crypto-related issues in reviews of registration statements and other filings, and approval of numerous SRO proposed rule changes to list crypto exchange-traded products.

Commissioner Peirce also sought to manage expectations about the timing and complexity of future SEC action:

Throughout this time, the Commission’s handling of crypto has been marked by legal imprecision and commercial impracticality. Consequently, many cases remain in litigation, many rules remain in the proposal stage, and many market participants remain in limbo. Determining how best to disentangle all these strands, including ongoing litigation, will take time. It will involve work across the whole agency and cooperation with other regulators. Please be patient. The Task Force wants to get to a good place, but we need to do so in an orderly, practical, and legally defensible way.

The statement hits libertarian notes, proclaiming, “In this country, people generally have a right to make decisions for themselves, but the counterpart to that wonderful American liberty is the equally wonderful American expectation that people *must* decide for themselves, not look to Mama Government to tell them what to do or not to do, nor to bail them out when they do something that turns out badly.” But Commissioner Peirce also warned that “SEC rules will not let you do whatever

you want, whenever you want, however you want,” and that the SEC will not “tolerate liars, cheaters, and scammers.”

The heart of the statement lays out a 10-point, nonexclusive agenda for the SEC Crypto Task Force:

- providing greater specificity as to which crypto assets are securities;
- identifying areas both within and outside the SEC’s jurisdiction;
- considering temporary regulatory relief for prior coin or token offerings;
- modifying future paths for registering securities token offerings;
- updating policies for special purpose broker-dealers transacting in crypto;
- improving crypto custody options for investment advisers;
- providing clarity around crypto lending and staking programs;
- revisiting SEC policies regarding crypto exchange-traded products;
- engaging with clearing agencies and transfer agents transacting in crypto; and
- considering a cross-border sandbox for limited experimentation.

Commissioner Peirce’s statement concludes with instructions on how to engage with the Crypto Task Force, both in writing and in person.

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National Law Review, Volume XV, Number 36

Source URL: <https://natlawreview.com/article/secs-crypto-journey-continues>