

A New Era for Crypto Regulation & Innovation? The Crypto Executive Order, a Rebooted SEC Crypto Task Force & the Journey Ahead

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Recent regulatory developments in the crypto asset and financial technology space suggest that US regulators may be shifting toward a more balanced approach — one that prioritizes clearer regulations while fostering innovation over a more enforcement-driven strategy. President Trump’s recent executive order on this topic reshapes the Biden administration’s approach to crypto assets by eliminating many of the prior administration’s policies on crypto and establishing the President’s Working Group on Digital Asset Markets (Working Group). Acting US Securities and Exchange Commission (SEC) Chairman Mark Uyeda has relaunched the SEC’s Crypto Task Force, appointing Commissioner Hester Peirce to lead its efforts and set its objectives. The SEC has also moved to roll back problematic accounting guidance and pause certain enforcement actions against major crypto companies. Other key regulators, including the Commodity Futures Trading Commission (CFTC) and the Office of the Comptroller of the Currency (OCC), have yet to take similar steps. However, the president recently nominated Brian Quintenz to lead the CFTC, and Jonathan Gould to head the OCC, both of whom have substantial crypto experience. Taken together, these developments may signal a long-awaited shift toward regulatory clarity for crypto that balances innovation and investor protection.

If these developments are received favorably by the industry, we anticipate more investment and new entrants in the crypto asset space. In particular, we can expect additional research & development and new innovations by both start-ups and existing enterprises. Past cycles have brought a race to develop valuable technology and stake out intellectual property rights to capture the value represented by those innovations.

The Trump Administration’s Executive Order on Crypto Assets

On January 23, 2025, President Trump [issued an executive order](#) titled “Strengthening American Leadership in Digital Financial Technology,” which establishes a new framework for crypto asset policy. The order revokes prior executive order 14067 and the Department of the Treasury’s

“Framework for International Engagement on Digital Assets,” effectively reversing the prior administration’s approach to crypto regulation. The Trump administration’s policy suggests a preference for open public blockchain networks, opposes the creation of a US central bank digital currency (CBDC) or the recognition of CBDCs issued by other countries, and seeks to provide regulatory certainty through better-defined jurisdictional boundaries.

The executive order also created the President’s Working Group on Digital Asset Markets, chaired by David Sacks as the Special Advisor for AI and Crypto. The Working Group’s mandate is to develop a federal regulatory framework governing crypto assets, including stablecoins, and to evaluate the potential creation and maintenance of a national crypto asset stockpile. They are tasked with submitting a report to the president within 180 days recommending regulatory and legislative proposals that advance the policies established in the executive order.

Federal agencies, including the SEC and CFTC, also must now review and potentially rescind previous regulatory guidance that conflicts with this new direction. Additionally, the Working Group will evaluate the feasibility of a national crypto asset reserve derived from lawfully seized cryptocurrencies and seek to ensure that existing and future US regulatory frameworks support US leadership in blockchain and digital financial technology.

Crypto Task Force Reboot & Pause on Binance Enforcement

In a related development, the SEC [re-formed a new dedicated Crypto Task Force](#) led by Commissioner Hester Peirce (Task Force). In an announcement titled “Crypto 2.0,” Commissioner Uyeda stated that, among other things, the Task Force aims to resolve long-standing uncertainties in crypto regulation by developing clearer registration pathways, enhancing disclosure frameworks, and ensuring a more consistent enforcement strategy. Many have criticized the SEC’s prior regulatory approach for relying too heavily on enforcement actions, which created uncertainty for industry participants. The Task Force will reportedly collaborate with stakeholders across the public and private sectors, including Congress, the CFTC, and international regulators, to shape a more coherent regulatory approach. The release announcing the Task Force acknowledges the need for a clear regulatory framework that fosters both innovation and investor protection.

Shortly after announcing the Task Force, the SEC and Binance [jointly requested a 60-day stay](#) of the SEC’s lawsuit against the crypto exchange, citing the potential impact of the newly established Task Force. The SEC previously sued Binance, its US unit, and founder Changpeng Zhao in June 2023, alleging market manipulation and investor deception. The request signals a potential shift in the SEC’s enforcement strategy, with some viewing it as a step toward a more crypto-friendly stance in line with the president’s broader industry goals. A similar pause was also requested in the SEC’s ongoing action against Coinbase.

Commissioner Peirce’s Statement on the Future of Crypto Regulation

In her [February 4 statement titled “The Journey Begins,”](#) Commissioner Peirce outlined the Task Force’s objectives and highlighted several key areas of focus.

1. **Clarifying “Security” Status.** The Task Force “is working hard” to assess different types of crypto assets and determine their status under securities laws. Currently, market participants face uncertainty regarding whether certain crypto assets qualify as securities, which affects compliance obligations, trading, and broader market adoption. To date, the SEC has largely relied on enforcement actions to define its stance, leaving investors and other market

participants without clear regulatory guidance. Establishing a clear framework to help determine the security status of crypto assets has the potential to provide much-needed regulatory certainty, support responsible innovation, and facilitate greater institutional participation in the crypto markets.

2. **Providing a Pathway to Registration & Trading for Unregistered Offerings.** The Task Force “is thinking about” recommending SEC action to grant temporary **prospective and retroactive** relief for coin or token offerings not registered with the SEC if an entity takes responsibility to provide specified information, updates it, and accepts SEC jurisdiction in fraud cases. Such coins or tokens would be deemed non-securities, allowing trading on unregistered secondary markets if disclosures remain current. The potential success or failure of such a proposal is likely to depend on the specific disclosure requirements imposed and on whether the relief provided offers real benefits while avoiding excessive regulatory burdens.
3. **New Crypto ETFs, Staking, and In-Kind Creations and Redemptions.** The Task Force “will work” with the SEC staff to clarify the SEC’s approach to approving or denying proposed rule changes to list new types of crypto exchange-traded products. To date, the SEC has taken a cautious approach to crypto exchange-traded funds (ETFs), or investments focused on cryptocurrency assets, approving only spot Bitcoin and Ethereum ETFs, despite applications to create ETFs for other crypto assets (e.g., Ripple’s XRP). Existing crypto ETFs also cannot currently engage in staking. Staking typically involves committing crypto tokens to a blockchain network to earn rewards, sometimes requiring them to be locked for a period. ETFs also cannot engage in in-kind redemptions. Allowing staking could enable ETFs to generate additional yield for investors by participating in network validation, aligning ETF returns more closely with the underlying assets’ earning potential. Permitting in-kind creations and redemptions — where ETF shares are exchanged directly for crypto assets rather than cash — could also reduce transaction costs, improve tax efficiency, and minimize tracking errors. Clarifying the regulatory path forward on these issues has the potential to further expand investment opportunities and provide ETF investors with more cost-effective and capital-efficient access to crypto assets.
4. **Addressing Crypto Lending and Staking Programs.** The Task Force “plan[s] to work” to help address how crypto lending and staking programs can be structured consistent with applicable law. Currently, these programs face substantial regulatory uncertainty, particularly regarding whether they involve securities offerings subject to SEC registration and investor protection requirements. The SEC has pursued enforcement actions against certain crypto lending platforms, but clear guidance on compliant structures remains lacking. Establishing clear guidelines for crypto lending and staking programs could provide investors with greater confidence in accessing staking rewards while ensuring these services operate transparently and in compliance with regulatory protections.
5. **Clarifying Custody Solutions for Investment Advisers.** The Task Force “will work” with investment advisers to provide a framework within which advisers can safely, legally, and practically custody client assets themselves or with a third party. Currently, investment advisers face challenges in complying with the “Custody Rule” (Rule 206(4)-2 under the Investment Advisers Act of 1940), which requires client funds and securities to be held by a “qualified custodian.” This is because substantial ambiguity remains about whether any crypto custodians meet this standard and whether advisers can safely custody crypto assets themselves. Establishing a clear framework that provides advisers with a practical and legally compliant pathway to custody client assets has the potential to significantly reduce regulatory uncertainty for advisers to both individuals and investment funds and to help expand institutional participation in crypto-asset markets.
6. **Updating Special Purpose Broker-Dealer Relief.** The Task Force “will explore” updating its special-purpose broker-dealer framework to potentially allow broker-dealers to custody crypto

asset securities alongside crypto assets that are not securities. Current securities laws effectively prohibit broker-dealers from facilitating transactions in many crypto assets, substantially limiting their ability to offer comprehensive crypto-related services. The SEC's prior relief for special-purpose broker-dealers was very narrowly tailored and imposed operational constraints on broker-dealers, making it unworkable for most. Expanding the framework to permit custody of both security and non-security crypto assets would be a helpful first step in broadening its appeal.

If the Task Force can accomplish even half of these objectives, it bodes well for the larger crypto community.

There may also be reason to hope for such progress. As noted by Commissioner Peirce, the SEC recently rescinded "SAB 121," which stands for Staff Accounting Bulletin No. 121. SAB 121 was issued by the SEC's Office of the Chief Accountant and Division of Corporation Finance in March 2022, and it required financial institutions that custodied crypto assets to record them as both assets and liabilities on their balance sheets. As a result, banks and other financial institutions faced significantly higher capital requirements when holding crypto assets compared to more traditional assets, making crypto custody prohibitively expensive for many. Thus, SAB 121's rescission simultaneously removes a major regulatory obstacle to providing crypto custody and marks a meaningful shift in the SEC's regulatory approach.

Conclusion

While many questions remain, the regulatory developments above appear to signal a significant shift in the treatment of crypto assets by the SEC. In the crypto space, the relaxation of regulatory restrictions combined with new technological advancements often drives growth for the most innovative players, which can expand both market share and valuable intellectual property rights. Market participants should remain proactive in monitoring developments and position themselves to capitalize on the new opportunities that will emerge.

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