

Regulators Should Use Existing Tools To Jump-Start Crypto

By **Lee Schneider** (June 1, 2026)

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The U.S. Senate Banking Committee recently marked up the Digital Asset Market Clarity Act, designed to bring regulation to crypto.

The committee passed the bill by a vote of 15 to 9 on May 14, with two Democrats joining all the Republicans. A lot of work remains in Congress, including the melding of this bill with the Senate Committee on Agriculture, Nutrition, and Forestry bill that passed out of committee back in January, passage by the full Senate, and then passage by the full U.S. House of Representatives — and of course signing by the president.

Even if the legislation ultimately becomes law, it will require many rulemakings by the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission, where for too long, there has been ambiguity that inhibited growth and left customers without adequate protections.

Fortunately, the current leadership at both the SEC and the CFTC has signaled a genuine commitment to developing a workable regulatory regime for network tokens from the draft bill, and they do not need to wait for Congress to start delivering it.

The solution is straightforward: Use existing agency authority to provide exemptive relief and conduct rulemakings to allow existing intermediaries to engage in activities like trading and custody of network tokens in accordance with their existing licenses and policies.

These are the intermediaries each agency already regulates: primarily broker-dealers and exchanges, on the SEC side, and futures commission merchants and designated contract markets, on the CFTC side. There are no new registrant categories or dividing lines — just focused, practical rulemakings that would permit the addition of network tokens as a new asset class.

The network token has been misunderstood for too long. A network token is an intangible, commercially fungible asset integral to the functioning of a protocol, whether that protocol is a blockchain, a smart contract, a restaking application or another type of software network.

These tokens have no existence or purpose apart from the protocol they power. The question of whether they are securities or commodities is almost beside the point — they do not sit comfortably in either category.

They are not stocks or otherwise part of a company's capital stack. They are not commodity futures or swaps. They are something new, but they still trade and settle electronically, like the assets already regulated by both agencies. The draft legislation recognizes this fact.

The practical solution is to regulate secondary market trading through the intermediaries

each agency already oversees. The broker-dealers, alternative trading systems, national securities exchanges, clearing agencies, futures commission merchants, swap execution facilities and designated contract markets are the right focal point for a durable framework.

The financial services industry and its regulators already have deep experience with electronic trading, settlement and custody, and established market integrity and customer protection principles can be applied naturally here.

Each agency should use its existing authority to create regulations expressly permitting their respective intermediaries to conduct activities in network tokens — trading, custody, clearing and settlement — by adapting existing rules and principles to the distinctive features of network token markets.

That process takes time, however, and the market cannot afford to wait. That is where exemptive relief comes in.

While notice-and-comment periods proceed, each agency can use its exemptive authority to create a transitional period that gets things rolling immediately, allowing registered intermediaries to begin supporting network token secondary market activities under a structured opt-in framework.

The statutory path is clear for both agencies. The SEC can act under Section 36 of the Securities Exchange Act, which provides broad exemptive authority, exercisable by commission order, to the extent relief is necessary or appropriate in the public interest and consistent with investor protection.

The CFTC's authority is equally direct. Section 4(c) of the Commodity Exchange Act empowers the commission to exempt transactions from certain CEA provisions to promote responsible financial innovation and fair competition.

Both agencies are already moving in this direction. Over the last year, each has issued a variety of interpretations and no-action letters clarifying aspects of network token markets.

On the SEC side, the Division of Trading and Markets has published FAQs addressing network token issues for broker-dealers and other intermediaries, issued guidance on the contours of broker-dealer regulation as it relates to network tokens, and joined the CFTC in a March 17 joint interpretation addressing token classification and the circumstances under which a network token might be the subject of an investment contract.

The CFTC has been equally active, publishing FAQs covering digital asset questions for futures commission merchants, issuing a no-action letter explaining registration requirements and how unregistered entities may interact with merchants, and extending — through its December 2025 no-action letter, supplemented in February — permission for network tokens to serve as margin collateral subject to specified conditions.

These actions demonstrate that both agencies understand the landscape and have the institutional capacity to act decisively.

Against this backdrop, both agencies should move immediately to implement a grace period through exemptive relief. Registered intermediaries would opt in through a straightforward notification and certification process, filing a notice of intent and an attestation by a CEO or chief financial officer confirming that appropriate policies and procedures are in place covering custody and segregation, conflicts of interest, market surveillance, recordkeeping

and operational resilience. The grace period would remain in effect until formal rulemakings are finalized.

The statements from both agencies, along with the president's working group report on digital asset markets, signal that Washington, D.C., understands the urgency. Recent action in the Senate confirms this is the case. A grace period is not merely a placeholder — it is an opportunity.

The conditions and compliance expectations established during that transitional phase will directly inform the permanent rules that emerge from notice-and-comment rulemaking. Market participants, intermediaries and practitioners who engage now will help shape a framework that will serve the market for years to come. The window to influence that outcome is open, but it will not stay open indefinitely.

American financial markets have always drawn their strength from rigorous, workable oversight combined with the freedom to innovate. The network token markets are ready to reach the next level. The agencies have the tools. The time to use them is now.

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