Crypto Policy Tracker

PAUL HASTINGS

August 2026 Follow us on **LinkedIn**

Crypto Policy Tracker

CFTC Proposes Conflicts Rules for Affiliated Registrants, Clarity Act Ethics Negotiations Continue Ahead of Recess and Courts Divide on Prediction Market Preemption

By Chris Daniel, Eric Sibbitt, Dana Syracuse, Josh Boehm, Meagan Griffin, Jaime Madell, Jason Shafer, Lisa Rubin and Samantha Ackel.

In Congress, negotiations over the Digital Asset Market Clarity Act (H.R. 3633) continued as the Senate entered its final scheduled weeks before the August state work period. A bipartisan pair of senators submitted a counterproposal on the bill's government ethics provision to the White House, and the New York Attorney General submitted written testimony on state authority.

The CFTC published a notice of proposed rulemaking addressing affiliations among CFTC-regulated entities and the conflicts of interest that may arise. The Commission separately announced a settled order resolving manipulation charges arising from trading in a prediction market event contract. Federal and state courts continued to divide on whether the Commodity Exchange Act preempts state gambling laws as applied to event contracts.

Congressional Updates

Senators Send Ethics Counterproposal on the Clarity Act to the White House

- On July 30, Sens. Ruben Gallego (D-AZ) and Thom Tillis (R-NC) transmitted to the White House a counterproposal for the government ethics provision of the Digital Asset Market Clarity Act (H.R. 3633).
- Senate Republican leaders have indicated they are preparing to seek a procedural vote. Treasury Secretary Scott Bessent posted on July 30 encouraging passage of the bill.
- On July 27, New York Attorney General Letitia James described how the Digital Asset Market Clarity Act would restrict state and local law enforcement.
- On July 27, Sen. Richard Blumenthal (D-CT), ranking member of the Senate Permanent Subcommittee on Investigations, and Sen. Chris Van Hollen (D-MD) convened a public forum on the ethics provisions of the Clarity Act.
- On July 31, the National Sheriffs' Association sent Senate leaders a letter requesting specific changes, including on anti-money laundering and sanctions requirements for certain decentralized finance participants.

Regulatory Updates

CFTC Proposes Rules Addressing Affiliations Among Regulated Entities

- On July 30, the CFTC published a notice of proposed rulemaking regarding new rules and amendments to its existing regulations for futures commission merchants (FCMs), swap execution facilities (SEFs), designated contract markets (DCMs) and derivatives clearing organizations (DCOs). The proposal follows what the Commission described as continued growth in affiliations among DCOs, DCMs, SEFs, FCMs and other market participants, including market makers.
- The Commission stated that the proposal would address issues that may arise in connection with such firms, including perceived and potential conflicts of interest. Comments will be accepted for 60 days following publication in the Federal Register.

CFTC Settles Manipulation Charges Involving a Prediction Market Event Contract

- On July 31, the CFTC announced an order filing and settling charges against a former member of Congress for manipulative activity in an event contract concerning attendance at the 2026 State of the Union address, an underlying event the respondent controlled. The order also imposes a three-year trading ban and requires the respondent to cease and desist from further violations of the Commodity Exchange Act and Commission regulations. The respondent neither admitted nor denied the findings.

Comment Period Closes on CFTC Event Contracts Proposal

- On July 27, the comment period closed on the CFTC's June 10 notice of proposed rulemaking concerning event contracts involving enumerated activities. The proposal would establish a framework for determining which event contracts may be listed for trading on designated contract markets, and it contemplates permitting contracts referencing professional and collegiate sports, elections and award competitions where they are not readily susceptible to manipulation.

OCC Seeks Comment on Stablecoin Licensing and Registration Applications

- On July 27, the OCC published a Federal Register notice seeking comment on a new information collection covering the application forms that entities will use to seek approval as permitted payment stablecoin issuers, and that foreign payment stablecoin issuers will use to register with the OCC, under the GENIUS Act.
- The collection would support the application processes set out in the agency's proposed 12 CFR 15.30, part of the proposed rule that the OCC published on March 2. That rule has not been finalized, so no application is currently accepted. Applications would require an overview of the applicant, a detailed business plan, proposed activities and their permissibility, reserve, redemption and risk management policies, a certification as to material misrepresentations and omissions, and Interagency Biographical and Financial Reports for directors, executive officers and principal shareholders.
- The OCC estimates 50 respondents and 6,250 total annual burden hours. Comments are due Sept. 25.

Additional Updates

Prediction Markets Updates

- On July 27, the U.S. District Court for the District of Minnesota granted preliminary injunctions sought by two prediction market platforms and the CFTC, barring enforcement of a Minnesota

statute prohibiting the listing of certain categories of event contracts, including contracts referencing sports, elections and legal actions, days before the statute was to take effect.
- On July 29, the U.S. District Court for the Eastern District of Wisconsin denied the CFTC's motion for a preliminary injunction against state enforcement of Wisconsin gambling law as to sports-related event contracts offered by designated contract markets.
- On July 30, a 6th Circuit panel heard consolidated argument in appeals arising from an Ohio decision declining to shield sports event contracts from state enforcement and a Tennessee decision granting relief pending litigation.
- A July 24 joint stipulation in Nevada state court requires a prediction market platform to work with a third-party compliance provider to geofence Nevada by August 12 or face a $120,000 daily penalty, following state allegations that investigators placed prohibited trades notwithstanding existing internet protocol and residency-based controls. The stipulation remains in place while the underlying injunction is active, and the platform did not concede grounds for contempt.

Court Grants Partial Summary Judgment on Statutory Seller Claims

- On July 30, the Southern District of New York issued a split summary judgment ruling in a putative class action alleging unregistered securities transactions on a digital asset exchange. The court held that the exchange was not a statutory seller as to matched transactions because it never held title to the tokens and because its publication of pricing and token information amounted to collateral participation rather than solicitation. Claims proceed as to orders the exchange filled from its own inventory.

✧ ✧ ✧

If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:

Atlanta

Chris Daniel
+1-404-815-2217
chrisdaniel@paulhastings.com

Meagan E. Griffin
+1-404-815-2240
meagangriffin@paulhastings.com

New York

Dana V. Syracuse
+1-212-318-6034
danasyracuse@paulhastings.com

Josh Boehm
+1-212-318-6033
joshboehm@paulhastings.com

Jaime Madell
+1-212-318-6029
jaimemadell@paulhastings.com

San Francisco

Eric C. Sibbitt
+1-415-856-7210
ericsibbitt@paulhastings.com

Lisa E. Rubin
+1-415-856-7027
lisarubin@paulhastings.com

Washington D.C.

Jason Shafer
+1-202-551-1884
jasonshafer@paulhastings.com