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December 2025

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Crypto Policy Tracker

Congress Pushes Forward Market Structure Legislation, FDIC Proposes Stablecoin Application Procedures and SEC Hosts Privacy Roundtable and Issues Broker-Dealer Statement

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Publication note: The next edition of Crypto Policy Tracker will be published after the holiday, on Jan. 5.

On digital asset market structure legislation, senators met with crypto industry participants and trade associations to discuss policy priorities. The meeting was organized by Senate Banking Committee Chair Tim Scott (R-SC), who has indicated an intent to hold a markup early next year. The discussions come as banks and crypto firms continue to diverge on several issues, including whether crypto exchanges should be permitted to offer yield to stablecoin holders through rewards programs. Meanwhile, the Senate voted to confirm Michael Selig as Chair of the CFTC and Travis Hill as permanent Chair of the FDIC. Additionally, Sen. Cynthia Lummis (R-WY), a key crypto proponent, announced her retirement from Congress.

The FDIC approved a proposal establishing application procedures under the GENIUS Act for FDIC-supervised institutions seeking to issue payment stablecoins. The FDIC also approved the deposit insurance application of a crypto-friendly bank intending to offer deposit and lending products.

The Treasury Department's Financial Stability Oversight Council released its 2025 annual report, which removed crypto assets from its list of potential threats to U.S. financial stability in the context of nonbank financial company determinations. The report further noted that the GENIUS Act framework represents a critical first step toward a comprehensive regulatory regime for the digital asset industry.

The SEC's Crypto Task Force convened a roundtable focused on financial surveillance and privacy. SEC Chair Paul Atkins stated that participants were asked to consider whether individuals can engage in modern financial markets without surrendering their privacy. Separately, the SEC issued a statement addressing broker-dealers that custody crypto-asset securities for customers, including firms that also conduct traditional securities businesses.

Congressional Updates

Senators Meet With Crypto Industry Regarding Market Structure Legislation

- On Dec. 17, *CoinDesk* reported that Republican and Democratic senators met with crypto industry members and trade associations to discuss policy priorities for market structure legislation. The meeting was organized by Senate Banking Chair Tim Scott (R-SC), who is pushing to hold a markup early next year. The discussion comes as banks and crypto firms express differing views on whether crypto exchanges should have the ability to pay yield to stablecoin holders through rewards programs.

- On Dec. 18, White House AI and Crypto Czar David Sacks posted on X that a markup of crypto market structure legislation would happen in January.

- On Dec. 19, Sen. Cynthia Lummis (R-WY) announced she will not seek reelection to the Senate next year. Her seat will be up for grabs in the 2026 Senate election.

House Financial Services Committee Advances Capital Formation Bills

- On Dec. 17, the House Financial Services Committee advanced 20 bills to the House for full consideration. Among them were two bills aimed at easing requirements for capital formation. The Regulation A+ Improvement Act of 2025 (H.R. 6541) increases the offering limit for Regulation A+ offerings to $150 million. The Small Business Relief Act (H.R. 4130) provides companies increased flexibility to sell shares to investors without triggering Exchange Act registration and reporting obligations by excluding Qualified Institutional Buyers and Institutional Accredited Investors for purposes of calculating a company's record holders. This comes as the SEC has made statements regarding reviving the U.S. capital markets and expanding opportunities for IPOs.

Senate Banking Holds Debanking Hearing

- On Dec. 16, the Senate Banking Subcommittee on Financial Institutions and Consumer Protections held a hearing titled "Ensuring Fair Access to Banking: Policy Levers and Legislative Solutions." Subcommittee Chair Thom Tillis (R-NC) emphasized the importance of his discussion draft legislation, the Ensuring Fair Access to Banking Act of 2025, in authorizing bank supervisors to ensure banks do not deny banking services to certain businesses by setting national standards, requiring documented justifications for denying services (not just "reputational risk") and imposing penalties for noncompliance, like losing federal lending benefits or facing civil fines. Certain senators focused on whether to balance the responsibility of the regulators versus the banks when debanking activities occur.

Sens. Moran and Slotkin Introduce Crypto Fraud Task Force Bill

- On Dec. 15, Sens. Jerry Moran (R-KS) and Elissa Slotkin (D-MI) announced the introduction of S. 3428, the Strengthening Agency Frameworks for Enforcement of Cryptocurrency (SAFE Crypto) Act, creating a government task force to combat crypto fraud. The bill establishes the Secretary of the Treasury as Chair of the task force and includes members from the Department of Justice, FinCEN, the Secret Service, industry group representatives, law enforcement, state bank regulatory authorities and more.

Rep. Miller Says Crypto Tax Laws Are Coming

- On Dec. 9, at the Blockchain Association's Policy Summit, Rep. Max Miller (R-OH) discussed legislation to update the tax treatment of crypto, which would include how mining and staking should be taxed. Miller hopes the legislation will be passed before the next August recess.

Regulatory Agency Updates

Selig and Hill Confirmed by Senate

- On Dec. 18, the Senate voted to confirm Michael Selig as Chair of the CFTC and Travis Hill as Chair of the Board of Directors of the FDIC. Mike Selig will replace Acting Chair of the CFTC Caroline Pham until his term expires in 2029. Travis Hill will maintain his role, switching from Acting Chair to permanent Chair until 2030.

FDIC Seeks Feedback on Special Purpose Payment Accounts

- On Dec. 19, the FDIC published a request for information and comment seeking feedback on a potential special purpose Payment Account that would allow eligible financial institutions to use Federal Reserve clearing and settling payment services. Federal Reserve Governor Christopher Waller said: “These new payment accounts would support innovation while keeping the payments system safe. This request for information is a key first step to ensuring that the Fed is responsive to evolutions in how payments are made.”

FDIC Approves Proposal to Establish GENIUS Act Application Procedures

- On Dec. 16, the Board of Directors of the Federal Deposit Insurance Corporation (FDIC) approved a Notice of Proposed Rulemaking (NPR) that would implement application provisions for state nonmember banks and state savings association under the GENIUS Act. The GENIUS Act allows insured depository institutions to issue payment stablecoins through a subsidiary and to engage in certain related activities. An FDIC-supervised state nonmember bank or state savings association seeking to issue payment stablecoins through a subsidiary is required to apply to the FDIC for the subsidiary to be approved as a permitted payment stablecoin issuer. This is a notable step toward implementing the GENIUS Act.

- Under the NPR, the FDIC proposes to adopt a tailored process to evaluate the safety and soundness of institutions before allowing them to issue stablecoins, process applications within specified timeframes and establish an appeal process for denied applications. Comments on the proposed rule will be accepted for 60 days after publication in the Federal Register.

- FDIC Acting Chairman Hill stated: “This proposed rule is the FDIC’s first action to implement the GENIUS Act. In the months ahead, we expect to issue a proposed rule to establish the statutorily mandated capital, liquidity, and risk management requirements for subsidiaries of FDIC-supervised institutions that are approved to be PPSIs, among other GENIUS Act-related workstreams.”

FDIC Approves Deposit Insurance Application for Full-Service Crypto Bank

- On Dec. 16, the FDIC approved the deposit insurance application for a full service national bank that proposes to engage in crypto activities as well as offer deposit and lending products. The bank’s proposed business model will focus on providing deposit and lending products to businesses and individuals in the technology, payment systems, investment and defense industries, including virtual currency market participants. The bank received preliminary approval for its national bank charter from the OCC on Oct. 15.

Treasury’s Financial Stability Oversight Council Removes Crypto From List of Threats

- On Dec. 16, the Treasury’s Financial Stability Oversight Council (FSOC) released its 2025 report, which did not include crypto assets as a threat to U.S. financial stability from its nonbank financial company determinations. While the FSOC’s 2024 report referenced stablecoins and the crypto-asset market as “Financial Risks,” (*see* pp. 8-9), such statements were absent from the FSOC’s 2025 report.

- Instead, the 2025 report noted: "Through a series of actions, the federal banking agencies have taken steps to clarify that banking organizations may engage in certain crypto-asset activities and provide products and services to customers engaged in crypto-asset related activities, consistent with safety and soundness and applicable laws and regulations." *See* p. 20.

- The report also noted that, "the GENIUS Act's framework represents a critical first step toward establishing a comprehensive regulatory structure for the digital asset industry" and "protects consumers by prioritizing the claims of payment stablecoin holders in an insolvency proceeding, prohibiting the rehypothecation of reserves except for limited purposes, and requiring that third-party custodians segregate reserve assets from their own funds." *See* pp. 42-43.

SEC Crypto Task Force Holds Financial Surveillance and Privacy Roundtable

- On Dec. 15, the SEC held a roundtable titled "Crypto Task Force Roundtable on Financial Surveillance and Privacy." SEC Chair Paul Atkins stated that roundtable participants were there to consider whether people can participate in modern finance without surrendering their privacy. Atkins noted that crypto provides the ability to "peer into almost every dimension of an individual's financial life." He continued, "[a]t the same time, this technology allows for privacy-preserving tools that the analog world could not provide, such as zero-knowledge proofs, selective disclosure, and wallet designs that allow users to prove compliance without handing over their entire financial history or personal details to intermediaries or to the government. One can imagine systems where a regulated platform can demonstrate that its users have been screened, without the ability to retain a permanent, person-by-person map of every payment, trade, or donation."

- SEC Commissioner Hester Peirce stated: "Government should not assume ill-intent when people take steps to guard their privacy … Relatedly, the government should avoid imposing regulatory obligations, including Bank Secrecy Act obligations, on a software developer who does not have custody of users' assets or the ability to override users' choices."

- SEC Commissioner Mark Uyeda asked, "to what extent can financial technologies be used to increase individual privacy?" He also stated: "We must strive to promote a financial system that is both innovative and respectful of privacy and individual rights."

SEC Statement on the Custody of Crypto-Asset Securities by Broker-Dealers

- On Dec. 17, the SEC's Division of Trading and Markets issued a staff statement clarifying how broker-dealers can satisfy the customer protection rule when holding crypto-asset securities, such as tokenized stocks or bonds. The customer protection rule is meant to ensure that broker-dealers actually control and can return customer assets, including tokenized securities, if the firm experiences financial or operational stress. The guidance generally explains that broker-dealers may be deemed to have "physical possession" if they control the private keys, assess blockchain risks, maintain strong security controls and plan for operational disruptions. The statement does not create new requirements but offers interim clarity on how existing custody rules apply to blockchain-based securities.

SEC Roundtable on Rule 611 of Regulation NMS

- On Dec. 16, the SEC hosted a roundtable to discuss Rule 611 of Regulation National Market System (NMS) and other associated rules and regulatory requirements. Regulation NMS, passed in 2005 to modernize and improve stock trading, includes Rule 611, also known as the Order Protection Rule (OPR), which requires that trading centers route orders to better-displayed quotes before executing at inferior prices. The rule has been long critiqued, and the roundtable provided panelists the opportunity to explore alternatives to the rule and how amendments to or the repeal of the rule would impact Regulation NMS rules, plans and FINRA regulations.

- There has been discussion of applying an order protection rule to crypto markets.

CFTC Staff Seek Public Comment on Direct Clearing by Retail Participants

- On Dec. 18, CFTC staff issued a Request for Comment seeking public comments to better inform the staff's understanding of issues related to derivatives clearing organizations (DCOs) that "either in part or in whole, provide for the clearing of derivatives to retail traders on a direct (non-intermediated) basis" (Retail DCOs). Retail DCOs have become more numerous and more active due in large part to the growth of prediction and event-type markets. These event-based markets are cleared on a fully collateralized basis and offer direct access to retail customers without intermediation. More recently, Retail DCOs have started providing or are proposing to provide hybrid clearing models, which include multiple clearing structures provided by the same registered legal entity (including clearing products using more traditional intermediated models). The CFTC staff is seeking comments on the different risks associated with Retail DCOs and other issues outlined in the Request. Comments are due by Feb. 2, 2026.

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