Bank On It

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Bank On It: September 2026 Update

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Bank On It is a monthly newsletter providing insights into the latest U.S. financial regulatory developments impacting banks and other financial institutions. Click here to subscribe to future mailings.

Tokenized Deposits

Every day seems to bring news about tokenized deposits. The topic was discussed at this year's Jackson Hole conference, whose theme was "Implications for Payments and Policy." Perhaps in anticipation of the Jackson Hole conference, researchers from the Federal Reserve Bank of Dallas published a paper discussing the potential that tokenized deposit adoption could affect the maturity transformation function of banks and increase bank demand for highly liquid assets to mitigate the risk from faster deposit outflows.

One driver of the accelerating pace of tokenized deposit adoption (or at least exploration) are the Federal Deposit Insurance Corporation's (FDIC) proposed changes to its deposit recordkeeping rules. If adopted, the changes make clear the permissibility of tokenized deposits for FDIC insurance purposes, which includes whether a blockchain ledger can serve as a "deposit account record." That's a big deal — in the past, other initiatives to develop a tokenized deposit product were shut down by regulators. With the clarity provided by the rule, and the posture articulated by leaders of the federal banking agencies on tokenized deposits and innovation, the door is open for those that had been forced to sit on the sidelines.

So what is a tokenized deposit? In general, a tokenized deposit is a tokenized representation or record of a bank deposit. Depending on the structure, the tokenized deposit may be considered an access device (for Regulation E purposes) to the underlying bank deposit. A tokenized deposit has features of a regular deposit (including that it can be interest-bearing) and the added functionality offered by the blockchain, including programmability (which will be critical as AI agents become increasingly integrated in commerce). Want your money to automatically pay a supplier when certain conditions are met? That can be scheduled via programmability.

Banks and networks continue to develop systems to enable instantaneous interbank settlement of transactions using tokenized deposits, both within the U.S. and on a cross-border basis. This isn't just about being cutting-edge; it's about staying competitive and relevant. Those banks without a tokenized deposit strategy risk being left behind as the world is quickly moving to one where customers (and their agents) demand (expect) their deposits to be tokenized.

Quantum Computing

Quantum computing is becoming closer to reality, with major implications for the financial system. In recognition of this changing landscape, the president signed Executive Order 14412 and the Department of the Treasury (Treasury) established the Quantum-Readiness Task Force. The task force will be a public-private initiative focused on the U.S. financial sector's transition to quantum-safe technology. It will operate through three workstreams: Sector Alignment & PQC Transition; Third-Party & Vendor Readiness; and Digital Assets & Emerging Technology Risk.

While quantum computing presents opportunities, it also poses challenges to securing financial data, payment systems, digital identifies and market infrastructure. The task force will focus on "practical, risk-based approaches to quantum readiness, including identifying critical dependencies, improving cryptographic agility, promoting interoperability, strengthening operational resilience, and addressing implementation challenges related to third-party dependencies and digital assets."

Read more about quantum computing and how it may affect financial services in a post by Tom Brown, senior counsel at Paul Hastings: Quantum Shift — Why the Time Has Come for Financial Institutions to Pay Attention to Quantum Computing.

Treasury Proposes Regulations to Implement GENIUS Act

Treasury has proposed regulations that would implement Section 3 of the GENIUS Act, clarifying who may lawfully issue, offer, sell or make available payment stablecoins in the United States. Treasury makes a number of significant interpretive choices in the notice of proposed rulemaking, including:

- Clarifying how "issue" is defined: by capturing the first transfer of a stablecoin that vests rights in a third party.
- Treating all payment stablecoin issuers as digital asset service providers, as defined in the Act, with the result that such entities would be subject to both issuance and offer-and-sale restrictions.
- Permitting qualifying foreign issuers to issue directly in the United States under Section 18(a).
- Constructing safe harbors for offshore activity while explicitly declining to import Reg S wholesale.

The proposal does not include any de minimis safe harbors and leaves certain questions unresolved, including the treatment of wrapped tokens. It also includes 87 questions on which the industry is invited to comment on before any rules are finalized.

Final OCC GENIUS Act Rulemaking Expected by November

Comptroller of the Currency Jonathan Gould said at the Wyoming Blockchain Symposium in Jackson Hole, Wyoming, that the Office of the Comptroller of the Currency's (OCC) GENIUS Act rulemakings will be finalized by November and that development of the supervisory framework for permitted payment stablecoin issuers (PPSIs) is underway. Our blog post covering the OCC's proposed rule is available here.

Comptroller Gould also said that the OCC will begin processing at the beginning of 2027 applications from national banks, savings associations, federal branches and nonbank entities seeking to issue payment stablecoins. These new entrants will be required to comply with Part 15, which includes standardized capital, reserve, redemption, risk management and wind-down standards.

This raises a question about potential differences between new PPSIs and *de novo* trust banks. A key condition included in conditional approval orders for stablecoin-issuer trust banks has been that they will "conform, cease or divest" proposed activities to comply with the GENIUS Act and implementing regulations, but this obligation is forward-looking and enforceable only at the OCC's "sole discretion." The result is a potential competitive asymmetry: Early movers secured federal charters under bespoke, lighter-touch conditions, while later applicants will face a fully articulated prudential regime.

FDIC and OCC Finalize Rule Defining 'Unsafe and Unsound' Practices

The FDIC and the OCC (together with the FDIC, the Agencies) finalized a rulemaking defining "unsafe or unsound practices" for the purposes of Section 8 of the Federal Deposit Insurance Act (FDIA) and establishing standards for issuing Matters Requiring Attention (MRAs). The rule is part of the Agencies' push to focus on material financial risks and provide greater transparency as part of the supervision and examination process. We have summarized some of the key differences between the proposed rule and final rule below:

- The final rule, in contrast to the proposal, does not apply to institution-affiliated parties, and enforcement actions against institution-affiliated parties will continue to be handled under the Agencies' prior standards and procedures. The Agencies reasoned that an individual's misconduct should be assessed relative to that individual's responsibilities and sphere of influence rather than the institution's asset size or staffing numbers.
- The final rule adds a mechanism for addressing "other violations" of banking or banking-related laws for which the Agencies do not issue an MRA. Agencies may direct institutions to remediate such violations or take other actions as required by law. If the violation is not remediated, the FDIC may cite it as an MRA at the next examination for FDIC-supervised institutions. These violations can also be considered as part of ratings determinations.

While the rule has only just been finalized, the Agencies are already implementing its principles. At the June 4 "Oversight of Prudential Regulators" hearing in the House Financial Services Committee, FDIC Chairman Travis Hill stated that FDIC examiners had already been directed to focus on material financial risks and violations of banking laws and regulations. He stated that, as part of this process, the FDIC has been conducting a "lookback" review and closing outstanding matters requiring board attention and supervisory recommendations that are inconsistent with the focus on material financial risks. At the conclusion of the lookback, remaining matters requiring board attention will be converted to MRAs in line with the rule.

FDIC's New Deposit Insurance Application Process

The FDIC announced a new two-phase process that it will use to review new deposit insurance applications. The two-phase process is intended to provide applicants clarity on whether they may receive deposit insurance earlier in the bank formation process and to align with the application processes of other chartering authorities.

The first phase of the review process will allow *de novo* applicants who satisfy the requirements to receive a contingent authorization within 120 days of submitting an application. The FDIC expects to see with the application a comprehensive business plan, three-year financial projections, an ownership and organizational structure chart, capital raise description, the qualified officers and directors, and other information, including the materials provided to the chartering authority. We note that this phase of the process corresponds with the current OCC *de novo* charter application process, which also requires a 120-day response from the regulator and similar information from the applicant.

The second phase of the review process will allow for approval within the subsequent 12 months following the receipt of additional information and the completion of key organizational steps. The FDIC will request supplemental information from applicants.

The FDIC states that it will coordinate to the extent possible with the chartering authority on communication, additional information requests (AIRs), interviews and meetings. Ideally, this will result in concurrent application processes that take less time and allow for a streamlined submission of materials to multiple regulators. Collaboration between the FDIC and OCC will not be an issue — Comptroller Gould released a statement in support of the FDIC's revised process, noting that it "aligns with the OCC's efforts to reverse the decline in *de novo* chartering by providing a clear and transparent application process that encourages new entrants to the banking system."

The open question is how coordination will work between the FDIC and other state chartering authorities that may have different risk appetites for their chartered institutions. In the past, a *de novo* bank would have to clear the hurdle of the charter application process before applying for deposit insurance. With a simultaneous process, there is a risk that applicants may receive conflicting requests from the FDIC and the state chartering authority, leading to a potentially drawn-out process.

OCC Charter Application Denials Serve as Warning for Prospective Applicants

OCC Bulletin 2026-27, issued in June, cautioned *de novo* national bank charter applicants that the OCC would return materially deficient filings and would deny filings with significant supervisory, Community Reinvestment Act (if applicable) or compliance concerns. The OCC also stated that it would make all denial decisions public. Since then, the OCC has denied two applications and returned one.

The first denial of a trust bank charter was based on the parent company's anti-money laundering (AML) compliance deficiencies and the finding that the proposed management and directors were insufficiently competent. The second denial of a full-service bank charter noted that the applicant did not demonstrate that the bank had competent management or directors, that it could be expected to achieve and maintain profitability, or that it had sufficient capital, among other factors.

These denials and return highlight to prospective applicants the importance of submitting a well-developed business plan, recruiting experienced bank management and directors, and taking advantage of pre-filing meetings to ensure that the OCC's expectations for the application are met. Though the OCC welcomes financial innovation and *de novo* banks, the agency has made clear that it maintains high standards for all applicants.

FDIC Launches New Office of Supervisory Appeals

The FDIC launched its Office of Supervisory Appeals (OSA), replacing the Supervision Appeals Review Committee (SARC) as the final level of review for material supervisory determinations. The FDIC briefly operationalized a similar office in 2021, but the FDIC restored the SARC in 2022 before the office heard any appeals. Under revised guidelines finalized on Jan. 22, the OSA is a standalone office reporting to the Chairman's Office and staffed by externally recruited reviewing officials serving fixed terms. Each three-member panel must include at least one official with bank supervisory or examination experience and at least one with industry experience.

The final guidelines also expand appellate rights: The facts and circumstances underlying certain proposed formal enforcement actions are now in scope for review, provided the enforcement action is not based on unsafe or unsound practices or anti-money laundering and countering the financing of terrorism (AML/CFT) and sanctions violations. The OSA applies a non-deferential standard of review, making its own independent supervisory determination without deference to either party, though the burden of proof remains with the appealing institution.

For FDIC-supervised institutions, the OSA provides a formal mechanism to challenge examination ratings, classifications, matters requiring attention and compliance determinations through an independent body outside the supervisory chain of command.

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

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