Stay Current

PAUL HASTINGS

Week of June 13, 2025

Follow us on LinkedIn

Crypto Policy Tracker

CLARITY and GENIUS Acts Advance, SEC DeFi Roundtable and OCC Agenda Drive Policy Momentum

By Chris Daniel, Eric Sibbitt, Dana V. Syracuse, Josh Boehm, Meagan E. Griffin, Lisa Rubin, Dina Ellis Rochkind and Samantha Ackel

The digital asset policy landscape developed on multiple fronts this week. The House Financial Services and Agriculture Committees voted to advance the CLARITY Act, a bipartisan proposal to establish a regulatory framework for digital assets, moving the bill closer to a vote on the House floor. Both Committees released updated versions of the CLARITY Act, introducing a new category of "tradable assets" that would expand the CFTC's jurisdiction, exemptions for non-custodial blockchain developers and new provisions on broker-dealer insolvency disclosures.

The Senate advanced a GENIUS Act substitute amendment (SA 2307) by voting 68-30 on the cloture motion, which features changes to gain additional support for the bill, clearing another procedural hurdle for the landmark stablecoin legislation.

Meanwhile, the SEC's Crypto Task Force hosted a "DeFi and the American Spirit" roundtable, where Commissioners and industry experts debated the applicability of federal securities laws to decentralized systems and the constitutional limits of regulating code publication. SEC Chair Paul Atkins warned against applying securities laws to software developers solely for publishing code. Separately, Chair Atkins testified before the Senate Appropriations Committee, reaffirming that crafting a rational regulatory framework for crypto markets is a top priority of his term. The OCC also laid out its policy agenda for responsible digital asset engagement and innovation-driven banking reform.

Congressional Updates

CLARITY Act Updates

- Markups. On June 10, the House Financial Services and Agriculture Committees held markups of the CLARITY Act (H.R. 3633) based on each committee's jurisdiction.
    - House Agriculture Committee. The Agriculture Committee marked up its portion of the bill, generally related to the CFTC, and approved the CLARITY Act by a vote of 47–6.
        - The Agriculture Committee voted on their new version of the CLARITY Act, also known as an Amendment in the Nature of a Substitute or ANS.
        - The ANS was amended with the changes in the Manager's Amendment.

- The Committee also adopted Amendment 6 from Rep. McClain Delaney (D-MA) that ensures the CFTC can collect filing and registration fees from the entities required to register with the agency pursuant to the CLARITY Act.

- House Financial Services Committee. The House Financial Services Committee marked up its portion of the bill, generally related to the SEC, and approved the CLARITY Act, as amended, by a vote of 32-19.

  - The House Financial Services Committee voted on their new version of the CLARITY Act (their ANS).

- The House legislation will likely change before it is sent to the Senate for consideration.

- Substitute Amendments. Prior to the markups, the House Financial Services and Agriculture Committees shared updated versions of the CLARITY Act (H.R. 3633) text in the form of ANS (as discussed above). Some of the changes are included below.

  - Tradable Assets. Introduces "tradable assets" as a new subset of digital assets. A "tradable asset" is defined as a digital asset not classified as a "digital commodity" in the CLARITY Act and is not excluded from that definition by specific exceptions in the statute. Any tradable asset traded on a CFTC-registered platform is deemed a digital commodity for regulatory purposes. This provision appears to act as a regulatory "catch-all" to ensure that digital assets not already covered by the definition of a digital commodity still fall under CFTC oversight if traded on a registered platform. ***See* Ag ANS, Sec. 413, pp. 211-213.**
  - Treatment of Non-Controlling Blockchain Developers (i.e., the Blockchain Regulatory Certainty Act). Exempts blockchain developers and service providers from money transmission licensing requirements if they do not have control over customer funds. Defines "non-controlling" blockchain developers who cannot access or transmit customer assets. ***See* HFSC ANS, Sec. 110, pp. 59-61**.
  - Broker-Dealer Disclosures. Requires the SEC to issue rules mandating that brokers and dealers disclose how a customer's digital commodity, payment stablecoin or investment contract involving a digital commodity would be treated in the event of insolvency, resolution or liquidation. ***See* HFSC ANS, Sec. 311, pp. 130-131**.

- Committee Hearings. Prior to the markups, the House Financial Services Committee and the House Agriculture Committee held separate hearings to examine the CLARITY Act (H.R. 3633) on June 4.

  - The House Financial Services Committee held a hearing entitled "American Innovation and the Future of Digital Assets." Lawmakers and witnesses debated whether the bill strikes the right balance between regulatory clarity and investor protection. Republican members and several witnesses, including former CFTC Chair Rostin Behnam, emphasized that the legislation would provide clear rules, enhance consumer protections and help retain crypto innovation in the United States. Ranking Member Maxine Waters (D-CA) and certain other members criticized the bill as overly complex and under-protective. They warned that new definitions could weaken existing securities laws and leave gaps in oversight.
  - The House Agriculture Committee held a hearing entitled "American Innovation and the Future of Digital Assets: From Blueprint to a Functional Framework." Members from both parties, including Ranking Member Angie Craig (D-MN), supported expanding CFTC authority over crypto spot markets and requiring digital asset intermediaries to register and comply with basic conduct standards. Some Democratic members called for stronger ethics provisions and additional investor education and urged Congress to ensure the CFTC has adequate funding to carry out its enhanced responsibilities under the proposed legislation.

- HFS Minority Hearing/Ranking Member Waters' Actions.
  - On June 6, House Financial Services Ranking Member Maxine Waters (D-CA) held a minority hearing on concerns about the CLARITY Act.
  - On June 3, House Financial Services Ranking Member Waters sent a letter to SEC Chair Paul Atkins requesting a comprehensive analysis of the CLARITY. Act. The eight-page letter outlines detailed questions on how the bill would affect the SEC's ability to regulate digital assets, enforce securities laws, and carry out its core mission.

GENIUS Act Advances Procedurally in Senate

- On June 11, the Senate voted 68-30 to advance a GENIUS Act substitute amendment (SA 2307) by invoking cloture. The substitute amendment was introduced by Sens. Bill Hagerty (R-TN) and Kirsten Gillibrand (D-NY) and features changes to gain additional support for the bill. Due to a procedural move, amendments to the legislation will not be considered on the Senate floor. The legislation is likely to be passed by the Senate at the beginning of next week.

SEC Chair Atkins Testifies in Senate Appropriations Hearing

- On June 3, SEC Chair Paul Atkins testified before the Senate Appropriations Subcommittee on Financial Services and General Government in a hearing titled *"*A Review of the President's Fiscal Year 2026 Budget Request for the Securities and Exchange Commission*."* Chair Atkins outlined his top priorities, including restoring the agency's focus on its three-part mission, protecting investors, facilitating capital formation, maintaining fair, orderly and efficient markets, and creating clear rules that foster economic growth and innovation.

  - On Digital Assets. Atkins reaffirmed that a key priority is developing a "rational regulatory framework" for crypto asset markets, using the SEC's existing statutory authority. He said the SEC will move away from regulation-by-enforcement and instead rely on notice-and-comment rulemaking to establish fit-for-purpose standards for crypto issuance, custody and trading.

Agency Updates

SEC Holds Roundtable on DeFi

- On June 9, the SEC's Crypto Task Force hosted its fifth public roundtable, "DeFi and the American Spirit." The event brought together SEC Commissioners, staff and industry stakeholders to examine the unique features of decentralized finance (DeFi), the legal boundaries of code publication and whether existing securities laws are equipped to regulate self-executing software systems.

  - SEC Chair Paul Atkins delivered opening remarks framing DeFi as a reflection of core American values: economic liberty, private property rights and innovation. He stated that blockchains and self-executing smart contracts offer a revolutionary model of finance that operates without centralized intermediaries. Atkins praised the SEC staff for clarifying that proof-of-work and proof-of-stake networks are not automatically securities depending on the circumstances.

    - He urged the Commission to codify this position in formal rulemaking. Atkins also called for a new "innovation exemption" framework to allow registrants and non-registrants to launch on-chain products under conditional relief.
    - Atkins emphasized that self-custody is a "foundational American value" and said individuals should not lose that right merely by going online.
    - He added that engineers should not be subject to the federal securities laws solely for publishing software code. Citing a court decision, Atkins stated that "it would be irrational to hold the developer of a self-driving car liable for a third-party's use of the car to commit a traffic violation or to rob a bank. In those circumstances, one would not sue the car

company for facilitating the wrongdoing; they would sue the individual who committed the wrong." *Risley v. Universal Navigation Inc.*, 690 F. Supp. 3d 195, 217 (S.D.N.Y. 2023), *aff'd in part, vacated in part, remanded*, No. 23-1340-CV, 2025 WL 615185 (2d Cir. Feb. 26, 2025) (internal citations omitted).

- Commissioner Hester Peirce questioned whether the SEC should regulate DeFi at all while acknowledging that activities beyond code publication, such as custody, order execution or platform administration, could fall within the agency's purview. She warned against using DeFi's decentralized label as a shield for centralized actors.
- Commissioner Mark Uyeda compared the Commission's DeFi exploration to the Lewis and Clark expedition, emphasizing the need for thoughtful discovery rather than rigid frameworks. He cautioned against avoiding regulation merely because DeFi challenges traditional regulatory categories.
- Commissioner Caroline Crenshaw called for careful, deliberate policymaking and reaffirmed that formal rulemaking, with public input, is necessary to address DeFi's novel risks.
- Industry panelists offered views on defining DeFi, with many emphasizing its core attributes: self-custody, open-source transparency and autonomous execution without intermediaries. They stressed that risks in DeFi, particularly cyber and illicit finance risks, are real but different from those in traditional financial systems. Several panelists highlighted the importance of preserving First Amendment protections for code publication, even where the code may be misused. Others encouraged the SEC to explore privacy-preserving compliance tools, such as zero-knowledge proofs, to avoid unnecessary collection of personal data. The roundtable also addressed the need for interoperability and technology-neutral regulations, noting that market infrastructure will continue to evolve and that policy must accommodate innovation without stifling progress.

OCC Comptroller Discusses Crypto Regulatory Landscape

- On June 10, Acting Comptroller of the Currency Rodney Hood was interviewed by Politico about the OCC's authority in the crypto regulatory space.

  - Stablecoin Legislation. Hood stated that the OCC has a team of examiners prepared to implement stablecoin legislation once enacted, with a focus on safety and soundness. He noted that the OCC has the capacity to supervise stablecoin issuers and that oversight would be managed by the OCC's Office of Financial Technology.
  - Crypto Regulation. Hood pointed to the OCC's recent Interpretive Letters 1183 and 1184, reaffirming the agency's support for responsible digital asset activities in the banking system.
  - Crypto Risks. When asked where he seeks risks for banks in the crypto space, Hood responded, "[s]ome of the primary risks, I think, are if we don't have this strong risk management program around [the Bank Secrecy Act] and [anti-money laundering laws]."

- On June 3, Hood delivered a speech at the U.S. Chamber of Commerce Capital Markets Summit outlining the OCC's vision for a modern, inclusive and innovation-driven banking system. Hood emphasized accelerating bank-fintech partnerships and expanding responsible engagement with the digital assets industry.

  - Bank-Fintech Partnerships. Hood highlighted the OCC's Office of Financial Technology and its use of tools like regulatory sandboxes and virtual office hours to support safe and agile innovation. He pointed to the OCC's recent conditional approval of a national bank transforming into a tech-enabled small-business lender. He shared insights from his visit to the BIS Innovation Hub in London to inform domestic regulatory approaches.
  - Digital Assets. Hood stated that digital assets and distributed ledger technologies are "not a passing trend," but infrastructure for the future of finance. He noted the issuance of Interpretive Letter 1183 in March, which eliminated the requirement for banks to obtain a prior

non-objection letter before engaging in digital asset activities. Instead, banks must demonstrate adequate risk management frameworks.

Nomination Updates

Senate Confirms Michelle Bowman's Federal Reserve Nomination

- On June 9, Michelle Bowman was sworn in as Vice Chair for Supervision of the Board of Governors of the Federal Reserve System. The Senate voted to confirm Bowman on June 4. Senate Banking Committee Chairman Tim Scott (R-SC) has applauded Bowman's confirmation.

Senate Agriculture Picks Date for CFTC Nomination Hearing

- On June 10, the Senate Agriculture Committee held a nomination hearing for Brian Quintenz, the President's nominee to serve as Chair of the CFTC. The hearing follows the announced departures of four of the CFTC's five commissioners. Senate Agriculture Committee Chair John Boozman (R-AR) told Politico the committee is moving "as quickly as possible" to advance the nomination.

✧ ✧ ✧

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

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.

Dina Ellis Rochkind
+1-202-551-1938
dinaellis@paulhastings.com

Paul Hastings LLP

Stay Current is published solely for the interests of friends and clients of Paul Hastings LLP and should in no way be relied upon or construed as legal advice. The views expressed in this publication reflect those of the authors and not necessarily the views of Paul Hastings. For specific information on recent developments or particular factual situations, the opinion of legal counsel should be sought. These materials may be considered ATTORNEY ADVERTISING in some jurisdictions. Paul Hastings is a limited liability partnership. Copyright © 2025 Paul Hastings LLP.