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Crypto Policy Tracker

SEC Approves Binary KPI Options and Addresses Tokenization, OCC Targets GENIUS Act Final Rule by Month-End, OCC Releases Debanking Report

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The SEC approved Cboe's proposal to list binary options on issuer key performance indicators, and Chairman Paul Atkins expressly preserved CFTC jurisdiction over similar contracts structured as CFTC-regulated products. SEC Division of Trading and Markets Director Jamie Selway addressed the Innovation Exemption for tokenized securities and discussed the move toward 24-hour equity trading.

On the banking side, Comptroller Jonathan Gould reportedly said the OCC expects to finalize its GENIUS Act implementing rule before the end of October. The OCC also released its debanking review of the nine largest national banks, which identified restrictions on digital asset activities, and the CFPB announced a follow-on investigation.

Regulatory Updates

SEC Approves Listing of Binary Options on Key Performance Indicators

- On Oct. 13, the [SEC approved](#) Cboe's proposal to list binary options tied to key performance indicators (KPIs) that certain public companies report. Put simply, once trading begins, investors will be able to trade yes-or-no contracts on whether a company hits a specific business metric as reported by the public company in its SEC filings, such as trading volume or revenue. The contracts will be settled in cash, can be exercised only at expiration (European-style) and will trade in much the same way as other standardized exchange-listed options.
- [Chairman Atkins stated](#) that the order does not address, and does not foreclose, CFTC jurisdiction over similar contracts on the same KPIs that are structured to fall under the CFTC's jurisdiction. He described the approval as reflecting "a new spirit of harmonization, innovation, and investor choice" after decades of jurisdictional "turf wars" between the agencies.
- This matters for the digital asset industry because similar yes-or-no contracts already trade on CFTC-regulated prediction markets. The Chairman's comments suggest that the SEC and the CFTC could each permit these kinds of contracts, depending on how they are structured and where they trade.
- As [recent experience](#) with prediction markets suggests, KPI binary options could be subject to novel forms of manipulation and insider trading. This could increase regulator focus on public company accounting practices and compliance programs designed to restrict access to and use

of material nonpublic information. Digital asset firms may want to review their internal controls for exposure and update them accordingly.

SEC Trading and Markets Director Addresses Tokenization

- On Oct. 14, SEC Division of Trading and Markets Director Jamie Selway [delivered remarks](#) at the Security Traders Association's 93rd Annual Market Structure Conference.
- Turning to tokenization, Selway called the Commission's Innovation Exemption, approved on Sept. 17, "a responsible step forward." The exemption is a five-year, conditional exemption from the definition of "exchange" for Tokenized Securities Venues (TSVs) that use automated market makers to let permissioned participants trade tokenized NMS stocks.
- Selway said the experience gained from trading tokenized NMS stocks in the U.S. will inform future Division recommendations, including potential proposed rulemaking to fully integrate digital assets into market structure.

OCC Comptroller Signals GENIUS Act Final Rule Before End of October

- On Oct. 15, Comptroller of the Currency Jonathan Gould said that the OCC's final rule implementing the GENIUS Act is expected "in the very near term," possibly before the end of October, instead of the previous forecasted November timeframe, according to [reports](#) of his remarks at the Milken Institute's "Building the New Digital Economy" event, held alongside D.C. Fintech Week.

OCC Releases Debanking Report; CFPB Announces Follow-On Initiative

- On Oct. 14, the OCC [released a report](#) on its supervisory review of debanking practices at the nine largest national banks it supervises. The [full report](#) found that the banks maintained policies and procedures that did restrict access to financial services for certain industry sectors, including digital asset activities.
- The same day, the CFPB [announced that](#) it will investigate whether the banks named in the report, and others, violated federal consumer financial laws through their alleged debanking activities.

Additional Updates

White House Crypto Council Executive Director Departs

- On Oct. 14, the executive director of the President's Council of Advisers on Digital Assets [announced his departure](#) from the Administration.

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