

June 2026

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Crypto Policy Tracker

CFTC Approves Perpetual Futures Application, SEC Delays Innovation Exemption, Fed Proposes Skinny Payment Account, FDIC Advances GENIUS Act Rule

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The CFTC announced the approval of a designated contract market's application to list perpetual futures contracts tied to the price of bitcoin. This is the first time the CFTC has approved such an application, after releasing a policy statement stating the Commission will approve applications on a case-by-case basis.

The Federal Reserve Board issued a formal proposal to establish a new "payment account" at Federal Reserve Banks to provide nonbank financial institutions an ability to clear and settle payments in a so-called skinny version of a Federal Reserve master account. A press release accompanying the proposed payment account requested that Federal Reserve Banks pause any decisions on pending master account applications by entities in Tier 3 of the Federal Reserve's Account Access Guidelines — a category that includes crypto firms. The FDIC followed two days later with an approval of a proposed rule formally implementing Bank Secrecy Act and sanctions compliance standards for FDIC-supervised permitted payment stablecoin issuers. The SEC's anticipated tokenization innovation exemption is still pending release, with Commissioner Hester Peirce discussing the rule's expected narrow scope.

On the prediction markets front, the CFTC sued Minnesota to block enactment of a new state criminal statute targeting event contracts, the 9th Circuit ruled that state enforcement actions against CFTC-regulated prediction markets platforms can proceed in state court and the House Committee on Oversight and Government Reform opened a formal investigation into potential insider trading on prediction markets. The SEC and NFA signed a memorandum of understanding (MOU) extending the agency's harmonization initiative beyond the CFTC, and the CFTC and the National Hockey League executed an MOU on sports integrity coordination.

Regulatory Updates

Federal Reserve Proposes Skinny 'Payment Account' Framework and Pauses Certain Pending Account Access Decisions

- On May 20, the Federal Reserve Board [issued a notice of proposed rulemaking](#) that would establish a new category of "payment account" at the Federal Reserve Banks for eligible financial institutions to use for clearing and settling payments. As the payments landscape rapidly evolves, non-depository financial institutions with an increasingly wide range of business models have

sought direct access to the Federal Reserve's payment services to reduce costs and increase payment speed.

- Payment account holders would not have access to intraday credit or the discount window and could access payment services only with automated controls to prevent overdrafts. Moreover, end-of-day balance limits would be imposed, tied to expected payment activity and not earning interest.
- The Board also requested that Federal Reserve Banks temporarily pause decisions on access requests from institutions in Tier 3 of the Board's Account Access Guidelines, a category that includes most institutions chartered for novel activities, including digital asset activities, until the Board completes its policy development process. The pause is expected to affect approximately 20 pending requests from crypto-focused national trust banks and other novel institutions.
- A 60-day comment period will close on [July 27](#).

FDIC Board Approves Proposal to Address Bank Secrecy Act and Sanctions Compliance Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers

- On May 22, the FDIC Board approved a [notice of proposed rulemaking](#) (NPR) that would formally implement Bank Secrecy Act and sanctions compliance standards for FDIC-supervised permitted payment stablecoin issuers. This follows the FDIC's GENIUS Act rulemaking on December 2025 regarding the [application framework proposal](#) and the April 2026 [prudential standards proposal](#).
- The proposal would require FDIC-supervised stablecoin issuers to comply with anti-money laundering/countering the financing of terrorism and sanctions programs and reporting requirements established by FinCEN and OFAC. The FDIC estimates between five and 30 institutions could seek to issue payment stablecoins through subsidiaries in the early years of the GENIUS Act framework.
- The proposal is distinct from the April 8 joint [FinCEN/OFAC NPR](#), which would treat stablecoin issuers as financial institutions under the Bank Secrecy Act.

CFTC Approves First Perpetual Futures Application

- On May 29, the CFTC [announced the approval](#) of a designated contract market's application to list perpetual futures contracts tied to the price of bitcoin. This is the first time the Commission has approved such an application, after releasing a [policy statement](#) stating the Commission will approve applications on a case-by-case basis.
- On the same day, the CFTC's Division of Clearing and Risk, Division of Market Oversight and Market Participants Division [released Staff Letter No. 26-16](#) on 24/7 trading, clearing and settlement. The letter states that switching to 24/7 trading may be more suitable for derivatives referencing crypto assets as opposed to agriculture products, and outlines the potential risks associated with 24/7 trading.

SEC Statement on Novel ETFs Tokenization Innovation

- On May 20, SEC Chairman Paul Atkins issued a [statement on novel exchange-traded funds](#), acknowledging that fund sponsors have voluntarily delayed the effectiveness of several novel ETFs, including event contract ETFs, while the Commission considers their implications. Chairman Atkins instructed staff to seek public input on how the Commission should respond to recent market changes.

SEC Delays Tokenized Stock Innovation Exemption

- The SEC [reportedly delayed](#) its innovation exemption for tokenized stocks after pushback from stock exchanges over third-party synthetic tokens. The concern was over a provision in the draft that would permit trading in third-party tokens, digital representations of company shares issued by intermediaries without the underlying corporation's knowledge or approval.
- On May 21 and May 22, Commissioner Hester Peirce [posted on X](#) to address reports characterizing the SEC's anticipated tokenization innovation exemption as a broad authorization for synthetic tokenized securities. Commissioner Peirce [stated that](#) she has "always expected that it'd be limited in scope and would facilitate trading only of digital representations of the same underlying equity security that an investor could purchase in the secondary market today, not synthetics," referring market participants to the staff's [Jan. 28 statement](#) on tokenization for the distinction between tokenized issuer-sponsored securities and synthetic instruments.

SEC and NFA Sign Memorandum of Understanding to Harmonize Regulatory Coordination

- On May 21, the SEC and the National Futures Association [announced a memorandum of understanding](#) to enhance cooperation, coordination and information sharing in areas of common regulatory interest, including emerging risks, examination planning and financial markets conditions. The [MOU provides for](#) periodic staff meetings between the two organizations.
- The agreement extends Chairman Atkins's broader harmonization initiative, which began with the March 11 [SEC-CFTC MOU](#). The MOU is likely to facilitate coordination between SEC- and NFA-regulated activities at the same registered entity, including in digital asset markets where dual SEC and CFTC oversight continues to develop.

CFTC Sues Minnesota Over Prediction Markets Criminal Statute

- On May 19, the CFTC [filed suit in federal court](#) against Minnesota seeking to block enactment of a state law that would make operating or assisting in the operation of a prediction market a criminal felony as of Aug. 1. The [complaint seeks](#) a preliminary injunction and declaratory relief. The CFTC's complaint argues that the Minnesota statute ([SF 4760](#)) is preempted by the Commodity Exchange Act.
- The Minnesota suit follows CFTC lawsuits filed earlier this year against Arizona, Connecticut, Illinois, New York and Wisconsin, as well as amicus filings in the 6th and 9th Circuits and the Supreme Judicial Court of Massachusetts.

9th Circuit Holds State Enforcement Actions Against CFTC-Regulated Prediction Markets Platforms May Proceed in State Court

- On May 21, a 9th Circuit panel [ruled that](#) enforcement actions brought by the Washington and Nevada state regulators against CFTC-regulated prediction market platforms over alleged violations of state gambling laws can proceed in their respective state courts. The three-judge panel found that the prediction market argument about federal preemption — that the court had federal question jurisdiction — is not likely to succeed on the merits because it "is an affirmative defense, which cannot by itself give rise to federal question jurisdiction." The panel also found that the prediction markets are not irreparably harmed by proceeding in state court and the "[p]rinciples of federalism and comity tip the balance of hardships and public interest in favor of allowing [the state] an opportunity to enforce its laws in state court."

CFTC and National Hockey League Sign Memorandum of Understanding on Sports Integrity

- On May 21, the CFTC and the National Hockey League [announced an MOU](#) intended to protect the integrity of professional hockey and CFTC-regulated event contracts. Under [the MOU](#), the

parties will share information and designate representatives to coordinate on integrity matters, including insider trading and fraud in prediction markets.

- The CFTC-NHL agreement follows the CFTC's March 19 [MOU with Major League Baseball](#) and continues the CFTC's coordination with professional sports leagues as event contract trading volumes have grown.

Congressional Updates

House Oversight Committee Opens Investigation Into Prediction Markets Platforms

- On May 22, House Committee on Oversight and Government Reform Chairman James Comer opened a [formal investigation](#) into potential insider trading on prediction markets platforms, sending document requests to the chief executives of two leading CFTC-regulated event contract platforms. The letters seek information on identity verification procedures, geographic restriction enforcement, suspicious trade detection systems, internal policies governing employees and contractors with access to nonpublic information, and any prior referrals to the CFTC or the Department of Justice. The committee has set a June 5 production deadline.
- The investigation was prompted by reporting on suspiciously timed trades around recent national security events and by the April 24 [federal indictment](#) of a U.S. Army sergeant alleged to have used classified information to profit from event contracts on a prediction markets platform. Chairman Comer indicated in [public remarks](#) that he is also considering legislation to prohibit members of Congress, administration officials and federal employees from trading on prediction markets.
- The probe follows the May 20 Senate Committee on Commerce, Science and Transportation Subcommittee [hearing](#) on prediction markets and sports betting integrity covered [in last week's tracker](#).

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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 lawyers:

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