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Senate Republicans Release Updated Clarity Act Text Ahead of Sept. 15 Cloture Vote and Prediction Markets Litigation Advances

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The Senate returns from its August recess this week for a scheduled Sept. 15 cloture vote on the motion to proceed to the Digital Asset Market Clarity Act. On Sept. 13, Senate Republicans released a further revised text of the bill, in the form of a 635-page amendment in the nature of a substitute to H.R. 3633.

The SEC's Investor Advisory Committee held a meeting on the use of artificial intelligence in public company disclosure and on potential reforms to Regulation NMS. Commissioner Hester Peirce noted that the Investor Advisory Committee meeting was likely her last as a Commissioner.

Prediction markets litigation continued. A prediction markets platform petitioned the 9th Circuit for a rehearing of the court's decision, which affirmed the dissolution of a preliminary injunction against Nevada gaming regulators, and a federal court in Iowa denied the platform's request for a preliminary injunction against Iowa gaming regulators and the 10th Circuit also denied a platform's emergency motion for an injunction.

Congressional Updates

Senate Republicans Release Updated Clarity Act Text Ahead of Sept. 15 Cloture Vote

- On Sept. 13, Senate Republicans released a further revised text of the bill, in the form of a 635-page amendment in the nature of a substitute to H.R. 3633, ahead of the Sept. 15 cloture vote. The text supersedes the version released on Sept. 10. The revised text includes an updated government ethics provision, adds a regulatory circuit breaker to the prohibition on interest and yield on payment stablecoins, and revises software developer provisions.

- As previously noted, Senate Majority Leader John Thune (R-SD) filed cloture on the motion to proceed to H.R. 3633 on Aug. 8. Invoking cloture requires 60 votes and does not pass the bill. The Senate is scheduled to vote on cloture on the motion to proceed on Sept. 15.

Regulatory Updates

SEC Investor Advisory Committee Meets; Commissioner Peirce Signals Final Committee Appearance

- On Sept. 10, the SEC's Investor Advisory Committee held a meeting on the use of artificial intelligence in public company disclosure and on potential reforms to Regulation NMS. In pre-recorded remarks, Chairman Paul Atkins stated that the availability of AI tools to analyze filings does not give the Commission latitude to depart from its materiality principle in prescribing disclosure; that AI should complement rather than substitute for human judgment given its susceptibility to error; and that the SEC will not prescribe the models firms must use.

- Commissioner Hester Peirce, in remarks titled "Lame Duck," posed questions to the panels on whether AI improves or degrades disclosure quality and cautioned against regulating AI prematurely. She stated that the Investor Advisory Committee meeting was likely her last as a Commissioner. Commissioner Mark Uyeda also delivered remarks.

Additional Updates

Prediction Markets Update

- On Sept. 9, a prediction markets platform petitioned the 9th Circuit for a rehearing of the court's Aug. 28 decision, discussed in our tracker, which affirmed the dissolution of a preliminary injunction against Nevada gaming regulators. The petition argues that the decision creates a circuit split on an important question of federal preemption based on an inconsistent reading of the Commodity Exchange Act.

- On Sept. 8, the U.S. District Court for the Southern District of Iowa denied the platform's motion for a preliminary injunction, concluding that the platform is unlikely to succeed on the merits of its argument that the Commodity Exchange Act preempts Iowa gambling laws and regulations.

- On Sept. 8, a two-judge panel of the 10th Circuit denied the platform's emergency motion for an injunction, pending appeal of the August summary judgment ruling that held that the Commodity Exchange Act does not preempt Utah's enforcement of its anti-gambling laws.

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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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