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Crypto Policy Tracker

Senate Advances Market Structure Draft, SEC–CFTC Issue Joint Statement, OCC Releases Debanking Guidance and Nasdaq Files Proposal for Tokenized Securities

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With Congress coming back into session after the August recess, digital asset policy developments accelerated across Congress and the federal regulatory agencies. Certain senators released an updated draft of the Responsible Financial Innovation Act of 2025, while other senators introduced guiding principles. At the regulatory level, the SEC and CFTC issued a joint statement pledging closer coordination on emerging products and markets, including potential innovation exemptions for DeFi, expanded trading hours, greater clarity for event contracts and an upcoming roundtable. Nasdaq announced that it has submitted a filing to the SEC to facilitate the trading of tokenized securities on its markets. Meanwhile, the OCC released two bulletins implementing President Trump's executive order on "fair banking," signaling heightened scrutiny of politicized debanking practices and reinforcing banks' obligations to safeguard customer financial records.

Congressional Updates

Update From the Senate on Market Structure Legislation

- On September 5, Senate Banking Committee Republicans released an [updated discussion draft](#) of the "Responsible Financial Innovation Act of 2025." The new draft builds on the [July 22 version](#) by adding provisions on tokenization and decentralized finance software developers, and further defining "ancillary asset."
- Ancillary Asset. The term "ancillary asset" means "an intangible asset, including a digital commodity, that is offered, sold, or otherwise distributed to a person pursuant to the purchase and sale of a security through an arrangement that constitutes an investment contract, as that term is used in section 2(a)(1) and as further clarified by the Commission through the final rule adopted under section 105 of the Responsible Financial Innovation Act of 2025." **Sec. 101, adding new Section 4B (hereinafter Sec. 4B) to the Securities Act, p. 8.**
- Excludes. The term "ancillary asset" does not include any of the following: (i) Any security, other than an investment contract or a certificate of interest or participation in any profit-

sharing agreement. (ii) An investment contract or a certificate of interest or participation in any profit-sharing agreement that represents debt or equity interest, liquidation rights, dividend. (iii) An interest in an investment company, as defined by section 3(a) of the Investment Company Act of 1940. (iv) An intangible asset that represents or is functionally equivalent to an interest in any entity or person that is not an investment company, as defined in section 3(a) of the Investment Company Act of 1940, but holds or will hold assets other than securities. **Sec. 4B(a)(1)(B), pp. 8-9.**

- Investment Contract. This draft preserves the long-standing “investment contract” test to determine when a digital asset sale constitutes a securities offering and directs the SEC to complete rulemaking within two years to clarify how that framework applies.
- A group of pro-crypto Democratic senators, including Senators Ruben Gallego (D-AZ), Mark Warner (D-VA), Kirsten Gillibrand (D-NY) and Cory Booker (D-NJ), followed on September 8 by releasing a set of principles to guide negotiations, calling their proposal “a substantive road map” for bipartisan talks and an eventual compromise bill.
- Senate Banking Chairman Tim Scott (R-SC) reiterated his goal of advancing the legislation out of Committee by September 30. Senator Cynthia Lummis (R-WY) told CNBC that she hopes to see the bill on the President’s desk before the end of the year. Further changes are expected, however, as the Senate Agriculture Committee has yet to release its companion text.

Senate Banking Committee Advances Miran Nomination to Federal Reserve Board

- On September 10, the Senate Banking Committee voted 13-11 to advance Stephen Miran’s nomination to serve as a Member on the Board of Governors of the Federal Reserve System, with a term ending in January 2026. Miran, the current head of the White House Council on Economic Advisors, was nominated to fill the role of former Federal Reserve Governor Adriana Kugler, who unexpectedly resigned in August. The Senate is expected to vote on Miran’s confirmation on Monday. If confirmed, Miran could attend the next Federal Reserve meeting scheduled for September 16 and 17.
- The Committee previously held a confirmation hearing on September 4 to consider four of President Trump’s nominees, including Miran. Senators pressed Miran on whether he would be able to act independently of the White House while simultaneously serving as a White House advisor. Miran has stated that he will take unpaid leave from the White House while serving at the Federal Reserve. The line of questioning reflected bipartisan concerns over the importance of preserving the Board’s independence in monetary policy decisions.

House Votes on NDAA

- On September 10, the House voted 231-196 to pass the Streamlining Procurement for Effective Execution and Delivery and National Defense Authorization Act for Fiscal Year 2026 (H.R. 3838). The bill features text from the Anti-CBDC Surveillance State Act (H.R. 1919), which prohibits the Federal Reserve from creating and issuing a central bank digital currency.

Regulatory Agency Updates

SEC and CFTC Issue Joint Statement on Regulatory Harmonization

- On September 5, the SEC and CFTC released a joint statement outlining efforts to coordinate regulatory frameworks for innovative products and trading platforms. The statement emphasized the importance of regulatory clarity to support U.S. competitiveness and identified several priority areas for collaboration:

- 24/7 Markets. For on-chain finance to scale, the statement indicated that the SEC and the CFTC should collaborate to consider the possibility of further expanding trading hours, where appropriate. Factors that may be relevant to this consideration include operational feasibility and liquidity consistent with investor and customer protections. Specific markets, including foreign exchange, gold and crypto assets, already trade continuously. Further expanding trading hours could better align U.S. markets with the evolving reality of a global, always-on economy. Expanding trading hours may be more viable in some asset classes than others, so a one-size-fits-all approach may not be applicable to all products.
- Event Contracts. The statement noted that prediction markets, which have existed around the world for decades, are undergoing rapid growth due to increasing demand from both market operators and the public. The agencies should work together to provide clarity for innovators who want to list event contracts on prediction markets responsibly, including those based on securities. The SEC and CFTC should explore opportunities to collaborate on considering where event contracts may be made available to U.S. market participants, regardless of where the jurisdictional lines fall.
- Innovation Exemptions and DeFi. Both agencies are prepared to consider “innovation exemptions” to create safe harbors or exemptions that allow market participants to engage in peer-to-peer trading of spot, leveraged, margined or other transactions in spot crypto assets, including derivatives such as perpetual contracts, over DeFi protocols. These safe harbors and exemptions would allow market participants to build commercially viable models while the agencies advance longer-term rulemaking.
- Next Steps. The statement [announced a joint SEC-CFTC roundtable](#) scheduled for September 29, which will focus on discussing regulatory harmonization with stakeholders. The statement indicated that the United States has long been the home of financial innovation, but recently, novel products have been driven overseas due to fragmented oversight and legal uncertainty. The SEC and the CFTC should encourage the reversal of this trend by harmonizing their approaches to product offerings, enabling increased market choice and protecting investors through clear, predictable and pro-innovation regulatory frameworks.

Nasdaq’s Proposal for Tokenized Securities

- On September 8, Nasdaq announced that it has [submitted a filing](#) to the SEC to facilitate the trading of tokenized securities on its markets. Specifically, Nasdaq proposed the ability for member firms and investors to tokenize the equity securities and exchange traded products (ETPs) that they trade on the Nasdaq Stock Market, with the goal of advancing financial innovation while maintaining stability, fairness and investor protections.
- It would work as follows:
 - A security may be traded on Nasdaq in either traditional form or tokenized form.
 - Upon entry of the order, a participant can elect to clear and settle trades in regular or tokenized form, and the exchange will communicate the participant’s instruction. All shares will be traded on Nasdaq with the same order entry and execution rules, and each tokenized share has the same identification number (CUSIP) and gives its holder the same rights and benefits as a traditional share.
- The statement indicated that it is important to emphasize that while tokenized securities are technologically distinct from those traded today on Nasdaq’s market, under the proposal they still represent the same store of value as their traditional counterparts.

OCC Issues Bulletins on Debanking and Customer Data Protection

- On September 8, the Office of the Comptroller of the Currency (OCC) released Bulletins [2025-22](#) and [2025-23](#) addressing debanking practices and customer financial records, following directives from [President Trump's Executive Order 14331 "Guaranteeing Fair Banking For All Americans."](#)
- [Bulletin 2025-22, "Consideration of Politicized or Unlawful Debanking."](#) The OCC stated it will scrutinize banks' debanking practices, particularly where services are denied for political or other non-financial reasons, when reviewing bank licensing applications and assessing performance under the Community Reinvestment Act.
- [Bulletin 2025-23, "Protecting Customer Financial Records."](#) The OCC reminded banks of their obligation to safeguard customer financial records and clarified that such information may only be disclosed when legally required, even if requested by government agencies.

Industry Group Updates

Industry Group Warns SEC on Quantum Computing

- On September 3, the SEC Crypto Task Force received a [written submission](#) titled "Post-Quantum Financial Infrastructure: A Roadmap for the Quantum-Safe Transition of Global Financial." The proposal is in response to the [National Security Memorandum-10 \(NSM-10\)](#), the [Executive Order 14144 of January 2025](#) and [Commercial National Security Algorithm Suite 2.0 \(CNSA 2.0\)](#), requiring federal systems to fully migrate to post-quantum cryptography (PQC) by 2035. The proposed framework asserts that current cryptographic frameworks are vulnerable to quantum attacks and necessitate an architectural framework to transition to quantum-resistant cryptography.

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