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Crypto Policy Tracker

White House Issues Digital Asset Report, SEC Chair Declares Most Crypto Assets Are Not Securities and CFTC Advances Spot Market Push

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Last week, the White House released a landmark report on digital financial technology, signaling a coordinated federal push to modernize crypto regulation. The report, issued by the President's Working Group on Digital Assets, calls for a fit-for-purpose framework to support the responsible growth of blockchain technology across the economy. It recommends that the SEC and CFTC coordinate on digital asset rulemaking, create safe harbors for early-stage tokens and decentralized infrastructure, and clarify the regulatory treatment of DeFi. The report also urges the SEC to explore tailored exemptions for digital asset securities and the CFTC to expand guidance for commodity classification and spot crypto trading.

Notably, SEC Chair Paul Atkins declared that "most crypto assets are not securities" and announced the launch of Project Crypto, a commission-wide initiative to revise disclosure, custody and market structure rules to reflect the realities of on-chain financial activity. Atkins outlined a vision for onshoring crypto capital markets and creating regulatory pathways for token distributions, staking and multi-asset "super-apps."

Meanwhile, the CFTC announced a crypto "sprint" to implement the White House recommendations and advance a spot trading regime, aligning with the Administration's goal of making the U.S. the global crypto capital. In Congress, the House and Senate are out of session for the August recess and expected to return on September 2.

Congressional Updates

Senator Lummis Introduces Bill to Allow Crypto Assets in Mortgage Underwriting

- On July 29, Senator Cynthia Lummis (R-WY) introduced the [21st Century Mortgage Act](#), which would require Fannie Mae and Freddie Mac to consider a borrower's digital assets when assessing eligibility for a mortgage. The bill would codify [a recent directive](#) from the Federal Housing Finance Agency (FHFA) and explicitly prohibit government-sponsored enterprises (GSEs) from converting the value of a borrower's digital assets into dollars for underwriting

purposes. In other words, GSEs would be required to consider the digital asset itself, rather than its fiat equivalent, when evaluating a borrower's ability to repay.

- On July 24, Senators Elizabeth Warren (D-MA), Bernie Sanders (I-VT), Mazie Hirono (D-HI), Chris Van Hollen (D-MD) and Jeffrey Merkley (D-OR) sent [a letter to](#) FHFA Director William Pulte raising questions and concerns that considering unconverted crypto assets in mortgage underwriting could pose risks to financial stability and requesting additional clarity on how such assets would be assessed. The letter requested Pulte's responses to the senators' questions by August 7.

Bipartisan Senators Reintroduce Bill Targeting Illicit Use of Digital Assets

- On July 31, Senators Ted Budd (R-NC), Kirsten Gillibrand (D-NY) and Cynthia Lummis (R-WY) [reintroduced](#) the [Financial Technology Protection Act](#), bipartisan legislation designed to combat the use of digital assets and emerging financial technologies for illicit activities such as sanctions evasion, terrorist financing and money laundering. The bill would establish a Financial Technology Working Group, composed of federal officials and private-sector experts. Government participants would include representatives from the Department of the Treasury, Office of Terrorism and Financial Intelligence, Internal Revenue Service, Department of Justice, Federal Bureau of Investigation, Department of Homeland Security, Secret Service, Office of the Director of National Intelligence and the Drug Enforcement Administration. The working group would also include members from blockchain firms, financial institutions, research organizations, and privacy and civil liberties groups.
- The Working Group is tasked with conducting research on terrorist and illicit use of digital assets and other emerging technologies and develop legislative and regulatory proposals to improve efforts on AML measures. The legislation also requires reports on preventing rogue and foreign actors from using digital assets to evade sanctions and developing a strategy to mitigate and prevent such activity. The Working Group has to submit the various reports to the appropriate congressional committees and agencies.

Agency Updates

White House Releases Report on Digital Asset Policy

- On July 30, the President's Working Group on Digital Assets, chaired by the Special Advisor for AI and Crypto and comprising senior officials from Treasury, the SEC, CFTC and Department of Homeland Security, released a comprehensive report in response to Executive Order 14178 of January 23 titled "[Strengthening American Leadership in Digital Financial Technology](#)." The report offers a broad set of recommendations to support the responsible growth and use of digital assets, blockchain and related technologies across all sectors of the economy.
- [Digital Asset Market Structure Recommendations](#). The report calls for coordinated rulemaking between the SEC and CFTC, including public comment processes, and offers targeted recommendations to each agency:
 - The SEC is encouraged to use its rulemaking and exemptive authorities to:
 - Create a fit-for-purpose exemption for securities distributions involving digital assets.
 - Establish a time-limited safe harbor for transactions involving digital assets that may be subject to an investment contract because they are not yet fully functional.
 - Provide safe harbors for airdrops and decentralized infrastructure providers.

- Allow non-security digital assets tied to an investment contract to trade on non-SEC-registered platforms immediately following primary distribution.
 - Pursue additional initiatives. **Pages 140-42.**
- CFTC. The CFTC is advised to use its rulemaking, interpretive and exemptive authorities to:
 - Issue guidance to designated contract markets (DCMs) on listing leveraged, margined or financed spot retail commodity transactions involving digital assets.
 - Clarify when digital assets qualify as commodities.
 - Update rules governing commodity pool operators; and more. **Page 142.**
- Congress. The report recommends Congress enact market structure legislation consistent with the above guidance but clarifies that the SEC and CFTC can use existing authorities absent congressional action. **Page 143.**
- Banking and Digital Assets: The report recommends that the bank agencies update the regulatory framework to include digital assets by:
 - Relaunching agency crypto innovation efforts to clarify outstanding permissible activities, including tokenization and custody of digital assets.
 - Clarifying the process to obtain a bank charter or reserve bank master account. **Page 149.**
- DeFi Regulation. As outlined in provisions of the CLARITY Act, Congress is encouraged to evaluate decentralized finance (DeFi) protocols based on:
 - The degree of control exercised over user assets;
 - Whether the software can be modified;
 - Whether a centralized structure governs it; and
 - Whether the protocol is capable of complying with regulatory requirements. **Page 150.**
- Stablecoins. The report calls for all relevant federal agencies to implement the GENIUS Act expeditiously. **Page 151.**
- Illicit Finance: The report calls for various federal agencies and Congress to enhance the Bank Secrecy Act, anti-money laundering and countering illicit finance frameworks:
 - Congress. Congress is encouraged to clarify who should have AML and CFT obligations within DeFi ecosystems. **Pages 153.**
 - Treasury. The Treasury is encouraged to consider issuing guidance to financial institutions on how they can utilize digital identity solutions within their existing customer identification programs. **Pages 154 and 156.**
- Additional Recommendations. The report also includes recommendations on a wide range of additional topics, including insurance regulation, tax policy, cybersecurity and the domestication of offshore foundations. **Pages 148-159.**

SEC Chair Atkins: Most Crypto Assets Are Not Securities

- On July 31, the day after the White House report was released, SEC Chair Paul Atkins [delivered remarks](#) at the America First Policy Institute, stating: “Despite what the SEC has said in the past, most crypto assets are not securities.” He also announced the launch of Project Crypto, a commission-wide initiative to modernize securities rules and regulations to support the transition of U.S. financial markets onto blockchain-based infrastructure.

- Onshoring Crypto. Atkins emphasized the SEC's intent to "bring crypto asset distributions back to America," declaring that the "days of convoluted offshore corporate structures, decentralization theater and confusion over security status are over." He identified the swift establishment of a regulatory framework for crypto asset distributions within the U.S as a key priority.
- Investment Contracts. Atkins directed SEC staff to develop clear guidance to help market participants determine whether a crypto asset is a security or otherwise subject to the investment contract test. The aim is to allow firms to categorize assets, such as digital collectibles, digital commodities or stablecoins, based on the economic realities of a transaction, including any promises or commitments made by the issuer.
- Crypto Asset Securities. Atkins called for a tailored regulatory framework that enables crypto asset securities to flourish, offering investors features like distributions, voting rights and other benefits typical of traditional securities. He argued that projects should not be compelled to form offshore foundations or decentralize prematurely. He also praised the growth of tokenized equities. For crypto asset offerings that fall under securities laws, he instructed key SEC staff to propose purpose-fit disclosures, exemptions and safe harbors, including for so-called "initial coin offerings," "airdrops" and network rewards.
- Custody and Trading Flexibility. Atkins stated that the SEC will prioritize expanding custodial and trading options, ensuring that market participants have "maximum choice" in how and where they hold and trade crypto assets.
- Integrated Product Offerings. Atkins introduced the concept of "super-apps," asserting that broker-dealers operating alternative trading systems should be able to offer a broad range of services, including trading in both crypto asset securities and non-securities, traditional securities, staking and lending, without needing dozens of state or federal licenses.

SEC Crypto Task Force to Host a Series of Roundtables Across the US

- On August 1, [the SEC announced](#) that it would host a [series of roundtables](#) across the country to provide opportunities for additional stakeholders to meet with Commissioner Hester Peirce, who leads the Crypto Task Force. The task force is particularly interested in hearing from representatives of crypto-related projects that have 10 or fewer employees and are less than two years old, intending to expand input from stakeholders who were not able to attend previous roundtables hosted in Washington D.C.

SEC Approves In-Kind Creations and Redemptions for Crypto ETPs

- On July 29, the SEC [approved orders](#) allowing in-kind creations and redemptions for crypto asset exchange-traded products (ETPs). This change permits market participants to create and redeem shares of bitcoin and ether ETPs, consistent with other commodity-based ETPs approved by the SEC, using the underlying digital asset directly, rather than converting to or from cash equivalents.

CFTC Launches Crypto Spot Trading Initiative

- On August 4, CFTC Acting Chairman Caroline Pham [announced the launch of an initiative](#) for trading spot crypto asset contracts that are listed on a CFTC-registered futures exchange (Designated Contract Markets). The CFTC is aiming to bring spot crypto asset contracts to

regulated platforms under existing CFTC oversight. They have set a two-week deadline for stakeholders to provide insight.

- This announcement is part of Acting Chairman Pham's "[crypto sprint](#)," which she announced on August 1 stating, "The CFTC is wasting no time in fulfilling President Trump's vision to make America the crypto capital of the world," adding that "[w]e will work closely with SEC Chairman Paul Atkins and Commissioner Hester Peirce to achieve Project Crypto. Providing regulatory clarity now and fostering innovation in digital asset markets will deliver on the Administration's promise to usher in a Golden Age of Crypto."

CFTC Nomination Update

- On July 28, the Senate Agriculture Committee delayed a vote on the CFTC Chair nomination for Brian Quintenz. While it is unclear when the vote will take place next, the White House [reaffirmed in a statement](#) that Quintenz is still the nominee for the role and they are expecting a swift confirmation.

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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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