Simpson Thacher

Memorandum

Federal Banking Agencies Take Steps to Accommodate Banks' Involvement in Crypto-Related Activities

April 28, 2025

On April 24, 2025, the Federal Reserve became the third federal banking agency to lift Biden-era restrictions and regulatory notification requirements on banking organizations' involvement in crypto-related activities. Together with the withdrawal from interagency guidance on crypto-related risk management by each of the federal banking agencies, these recent actions by the banking agencies reflect a significant shift in regulatory posture towards banks' crypto-related activities, from "careful and cautious" to supportive of innovation and emerging technologies in the banking system, although without clear guidelines about permissible activities going forward.

Elimination of Prior Notice and Non-Objection Procedures

The Federal Reserve's actions include the rescission of both its 2022 supervisory letter directing bank holding companies and state member banks to provide advance notification of their involvement in any crypto-asset activities, as well as its 2023 supervisory letter establishing a prior notification and supervisory nonobjection requirement for state member banks to engage in dollar token activities.

The Federal Reserve's actions follow recent similar actions by both the OCC and the FDIC. On March 7, 2025, the OCC issued Interpretive Letter No. 1183, which rescinded its prior notification and supervisory non-objection procedures for crypto-related activities of national banks and federal thrifts established under the OCC's 2021 Interpretive Letter No. 1179. On March 28, 2025, the FDIC rescinded its April 2022 Financial Institutions Letter which had established a prior notification requirement for FDIC-supervised institutions that wish to engage in crypto-related activities.

As a result of the withdrawn guidance, none of the federal banking agencies will expect their supervised banking organizations to provide formal prior notification regarding their existing or proposed crypto-asset activities. Each of the federal banking agencies has indicated that it will instead monitor banking organizations' crypto-asset activities through the agencies' respective supervisory processes.

Agency	Withdrawn Guidance	Prior Expectation of Prior Notice / Non-Objection	Status	New Procedure / Notification Expectation
Federal Reserve	Federal Reserve SR 22-6 / CA 22-6: "Engagement in Crypto-Asset-Related Activities by Federal Reserve-Supervised Banking Organizations," (Aug. 16, 2022).	"A supervised banking organization should notify its lead supervisory point of contact at the Federal Reserve prior to engaging in any crypto-asset-related activity…"	Rescinded (April 25, 2025)	Federal Reserve will no longer expect banks to provide formal notification and will instead monitor banks' crypto-asset activities through the normal supervisory process.
FDIC	FDIC FIL-16-2022 "Notification and Supervisory Feedback Procedures for FDIC-Supervised Institutions Engaging in Crypto-Related Activities," (Apr. 7, 2022).	"Prior to engaging in, or if currently engaged in, a crypto-related activity, an FDIC-supervised institution promptly should notify the appropriate FDIC Regional Director."	Rescinded (March 28, 2025)	FDIC-supervised institutions may engage in permissible crypto-related activities without receiving prior FDIC approval.
OCC	OCC Interpretive Letter 1179, "Chief Counsel's Interpretation Clarifying: (1) Authority of a Bank to Engage in Certain Cryptocurrency Activities; and (2) Authority of the OCC to Charter a National Trust Bank," (Nov. 18, 2021).	"[B]efore engaging in the activities addressed in the interpretive letters, a bank should notify its supervisory office, in writing, of the proposed activities and should receive written notification of the supervisory non-objection."	Rescinded (March 7, 2025)	Prior non-objection procedures of Interpretative Letter 1179 "no longer necessary"; OCC will examine crypto-related activities as part of its ongoing supervisory process.

Reversal of "Careful and Cautious" Agency Approach to Crypto Risk

Also on April 24, the Federal Reserve and FDIC each withdrew from two interagency joint statements regarding risks associated with banking organizations' crypto-asset-related activities: the January 2023 "Joint Statement on Crypto-Asset Risks to Banking Organizations," and the February 2023 "Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities." The OCC had previously withdrawn from both crypto-risk joint statements in March 2025.

While the joint statements each noted that "banking organizations are neither prohibited nor discouraged from providing banking services to customers of any specific class or type," they generally reflected the agencies' previously "careful and cautious approach related to current or proposed crypto-asset-related activities and exposures" at banking organizations.

Uncertain Status of Future Guidance

The federal banking agencies have not yet replaced any of their withdrawn guidance documents with additional guidance on the scope of permissible crypto-related activities under the current administration. The FDIC has previously stated that it expects to issue further guidance providing additional clarity regarding banks' engagement in particular crypto-related activities, and indicated in its April 24 announcement that the federal banking agencies are exploring issuing such "additional clarity…in the coming weeks and months." The Federal Reserve, meanwhile, committed only to working with the FDIC and OCC to "consider whether additional guidance…is appropriate." The OCC has not commented on interagency efforts toward additional crypto-activity guidance.

The lack of replacement guidance may leave banks' crypto-related plans temporarily subject to the ad hoc supervisory assessment of agency staff. While the agencies' formal notice procedures have been rescinded, banking organizations may nevertheless wish to engage in discussions with their supervisory staff before undertaking new crypto-related activities due to the absence of clear replacement guidelines for permissible crypto-related activities. Recent agency announcements have indicated that supervisory staff would likely continue to expect banking organizations to demonstrate how the development and implementation of any new crypto-related activities would be consistent with sound risk management practices and align with the bank's overall business plans and strategies. However, the rescission of Biden-administration guidance across agencies demonstrates a clearly softened stance towards bank involvement in crypto-related activities.

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