Practice Update

The End of No-Coiners in the Beltway: Form or Substance?

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By Eric I. Goldberg

The Biden administration's approach to digital assets and crypto products frustrated industry participants and advocates for years. As the SEC, CFTC, FDIC, OCC, Federal Reserve, and even CFPB attempted to regulate these developing products, observers accused the regulators of too often failing to provide clear guidance, regulating by enforcement, and cutting crypto products off from the banking system at large.

The incoming administration promised to change things. President Donald Trump appointed industry advocates to key roles in his administration and, through new crypto czar David Sacks, adopted a more cooperative tone to implementing digital asset rules and guidance. Although the industry so far responded with unadulterated approval—eagerly awaiting much-needed regulatory clarity—only time will tell whether these new appointments result in a substantive policy shift.

I. Background

The crypto and digital asset industries long claimed the federal government, and particularly President Joe Biden's administration, pushed them out of the American banking system. Those claims held some merit—Coinbase produced heavily redacted letters in January showing the FDIC asked major banking institutions to halt crypto asset-related activity until

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they addressed "safety and soundness" concerns—often with little additional specificity. The FDIC letters, combined with crypto's tense relationship with prior SEC commissioner Gary Gensler, demonstrated to many advocates the government's hostility toward crypto and digital assets and the welcome change President Trump's administration presents for this nascent industry.

II. Trump's Initial Crypto Moves

A. Securities Agencies

Trump promised to end the "war on crypto" on the campaign trail and took several steps toward fulfilling that promise following his election. He pushed SEC commissioner Gary Gensler to resign, with free-market adherent (and prior SEC commissioner) Paul Atkins named to take his place. Atkins—the former co-chair of pro-crypto lobbying group the Token Alliance—champions a pro-industry approach, with "clear rules" and relatively minimal oversight.

Even while Atkins waits to clear the Senate, Trump's acting SEC chair, Mark Uyeda, wasted no time changing the agency's approach, announcing a "Crypto Task Force" to "draw clear regulatory lines, provide realistic paths to registration, craft sensible disclosure frameworks, and deploy enforcement resources judiciously." The Task Force leader, SEC Commissioner Hester Peirce, since spearheaded rescinding the controversial Staff Accounting Bulletin 121 (regarding accounting for obligations to safeguard crypto assets an entity holds for platform users) and seems poised for more—perhaps toward removing certain memecoins from SEC jurisdiction, for example.

A narrower SEC view on regulating cryptocurrencies necessarily implicates the CFTC, where Trump's new influence also took hold. Rostin Behnam, a lukewarm industry regulator, resigned, leaving Trump free to nominate former commissioner and self-avowed crypto advocate Brian Quintenz to replace him. As with the SEC, the CFTC's acting chair (and current commissioner) Caroline Pham already took steps to implement the administration's digital asset goals, announcing a Crypto CEO Forum "to discuss the launch of the CFTC's digital asset markets pilot program for tokenized non-cash collateral such as stablecoins." The CFTC expects Coinbase, Circle, Crpyto.Com, MoonPay, and Ripple representatives to attend.

B. Prudential Regulators

As to the banking industry, Biden-appointed FDIC Chair Martin Gruenberg quickly resigned following Trump's win, prompting a jeering "Good Riddance!" from *Bitcoin Magazine*. His temporary (for now) replacement, Travis Hill, promptly released additional FDIC letters reflecting its efforts to supervise banks involved in, or seeking to develop business in, crypto activities. Hill promised the FDIC would "provid[e] a pathway for institutions to engage in crypto- and blockchain-related activities," although he has not yet implemented any significant changes to the FDIC's existing digital asset guidance.

Then there's the OCC. Biden acting comptroller Michael Hsu drew industry criticism for generally mirroring FDIC efforts to restrict crypto banking. The OCC joined the FDIC and Federal Reserve in a joint statement dissuading supervised banks from entering the crypto field and later required supervised banks to implement "adequate" controls before engaging in certain cryptocurrency, distributed ledger, and stablecoin activities. The Trump White House replaced Hsu and nominated Jonathan Gould—former Chief Legal Officer at Blockchain company Bitfury—to take over the agency. Like at the FDIC, the leadership change did not carry any immediate practical impact for banks' relationship with cryptocurrencies and assets.

Even the Federal Reserve, a relatively steady rock in American politics, seems to be changing tune.

Despite the Fed signing on to the FDIC and OCC joint statement just two years ago, Chairman Jerome Powell recently told Congress he was "struck by the growing number of cases of what appears to be debanking" and promising to "take a fresh look." Just this week, Governor Christopher Waller reiterated the Federal Reserve's changing position during remarks at stablecoin's A Very Stable Conference, calling for a clear regulatory framework to enable innovative private sector solutions, whether in stablecoins or otherwise. The Fed has not yet acted on these statements, seeming to prefer the FDIC and OCC's measured approach rather than the SEC and CFTC blitzes.

C. The CFPB

Trump dismissed Rohit Chopra, who just earlier this year proposed the CFPB regulate certain crypto products, for acting directors Scott Bessent, a well-known digital asset advocate, and, then, OMB Director Russell Vought. Acting Director Voight's immediate focus seems to remain on the Bureau's well-reported funding freeze and office closure, with little-to-no guidance on crypto or digital assets (or any other product) thus far. Trump's choice to lead the CFPB upon confirmation, former FDIC Commissioner Jonathan McKernan, gave little indication how he views digital assets or cryptocurrencies during his career to date. Whatever the agency looks like when it emerges, its official position on this industry remains to be seen.

III. Impact

The crypto market responded to Trump's changes with resounding approval, including benchmark currency Bitcoin gaining nearly 50% and crypto's total market cap increasing by approximately $1.2 trillion (62.5%) since November 4, 2024. Among industry stalwarts, the hope grows Trump's crypto-friendly team will not so much deregulate crypto and digital assets, but create clear, simple guidelines for banks and fintechs to follow when offering these products, so they may avoid the regulation-by-enforcement method they associated with the Biden administration.

How the new leadership specifically impacts existing cryptocurrencies and digital assets remains less certain. Nearly every new or acting chair promised pro-industry changes, but took little concrete action thus far. The SEC, unsurprisingly, looks like the one exception, with Commissioner Peirce and the Crypto Task Force already claiming a regulatory victory—rolling back SAB 121—and posturing for more. We will continue keeping an eye on these agencies and the administration at large for regulations and guidance impacting the crypto space.
