

Moves Toward Coherent Regulation of Crypto Products

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The Trump Administration has begun the process of determining how cryptocurrencies and other blockchain-based products can be regulated in an orderly manner. Previously (and currently) different regulatory bodies have asserted jurisdiction over various crypto products, sometimes inconsistently.

On January 23, 2025, President Trump issued an executive order, entitled Strengthening American Leadership in Digital Financial Technology, aimed at encouraging the “responsible growth and use of digital assets, blockchain technology, and related technologies” while prohibiting the use of Central Bank digital currencies.

In support of its program, the order establishes within the National Economic Council the President’s Working Group on Digital Asset Markets, to be chaired by a “Special Advisor for AI and Crypto.” The working group includes 11 members, including the Attorney General, the chairmen of the SEC and the CFTC, the Secretaries of Treasury, Commerce, and Homeland Security, the Director of OMB, and several assistants to the President. Each agency has been given 60 days to submit recommendations for rescinding or modifying existing regulations, and the working group has 180 days to propose a Federal regulatory framework that provides for “market structure, oversight, consumer protection and risk management.”

Even before President Trump’s executive order, on January 21, 2025, the Acting Chairman of the SEC, Mark Uyeda, appointed his fellow Commissioner, Hester Peirce, to lead the SEC’s Crypto Task Force “dedicated to developing a comprehensive and clear regulatory framework for crypto assets.” On February 4, 2025, Commissioner Peirce published a statement setting forth her roadmap for the SEC Crypto Task Force, entitled The Journey Begins.

The statement begins by admitting that “it took us a long time to get into this mess, and it is going to take us some time to get out of it.” Commissioner Peirce notes that an application for a Bitcoin ETF (exchange-traded fund) first appeared at the SEC in 2013, and that the application of the Howey test to treat crypto products as securities occurred early during the first Trump Administration. Commissioner Peirce acknowledges that “the Commission’s handling of crypto has been marked by legal imprecision and commercial impracticality,” but estimates that “[d]etermining how best to disentangle ... [the current positions], including ongoing litigation, will take time.”

Commissioner Peirce goes on to assert that the goal of encouraging experimentation would not be permitted to allow “a haven for fraudsters,” reaffirming the SEC’s investor protection mandate and its antifraud responsibilities. Congressional mandates for regulation of market participants “will impose costs and other compliance burdens that some may find irritating, and the Commission will use its enforcement tools when necessary.” The SEC Crypto Task Force and the SEC will invite applicants for exemptive relief to provide “well-reasoned legal analysis” to meet “technical and legal requirements,” so as to avoid unnecessary delays in moving forward.

As for the steps forward, Commissioner Peirce outlines: determining how to assess crypto assets as securities; granting relief by no-action letter to permit activity not deserving of SEC enforcement; granting temporary prospective – and retroactive – relief for “coin or token offerings for which the issuing entity or some other entity [is] willing to take responsibility [to] provide [... and update] certain specified information” pending

permanent rules or legislation; registration of offerings; revising rules, including custody rules, for special purpose broker-dealers and investment advisers, as well as clearing agencies and transfer agencies; permitting new forms of crypto exchange-traded products; and developing approaches to permit cross-border experimentation, first on a limited and temporary scale. Commissioner Peirce's statement explains how to communicate with, and seek meetings with, the SEC Crypto Task Force in order to educate the members on the expectation that (unless confidentiality is granted) the contents of submissions made to the SEC Crypto Task Force will be made public.

[For more on the issue of Cryptoassets as a security please see here.](#)

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