



CLARITY ACT DELAYED IN SENATE; YEAR-END ROUND-UP

The U.S. Senate Banking Committee did not hold a markup hearing on the CLARITY Act, the market structure legislation to define which federal regulator will oversee what part of the digital assets ("crypto") industry, before its Christmas break. Under the Act, the classification of a digital asset (whether as a security or a commodity) will determine the appropriate regulator. See our ALERTS of [July 11](#) and [July 18](#), 2025. While the committee reportedly made significant progress, lawmakers are still negotiating. The committee is working from a Republican draft. Democratic concerns include financial stability, market integrity and ethics. The delay may be disappointing for the industry but may result in a more solid bill. How quickly the committee can get to and complete its work in 2026 is uncertain.

Meanwhile federal regulators have proceeded to take action in anticipation of ultimate passage. The U.S. Securities and Exchange Committee ("SEC") and the Commodity Futures Trading Commission ("CFTC") have proceeded to lay groundwork for the future. The SEC has published a number of statements and held roundtables, and the CFTC has started allowing licensees to engage in spot crypto trading, and last week it granted no-action relief to prediction market operators around certain data requirements.

Federal banking regulators too have been busy. See our ALERTS of [May 16](#) and [Aug. 14](#), 2025. On [December 2](#), newly confirmed Federal Deposit Insurance Corporation ("FDIC") Chair Travis Hill told the U.S. House Financial Services Committee that the FDIC plans to issue a proposal on stablecoin prudential standards in early 2026. The agency has approved a proposed rule governing the application process for issuing payment stablecoins under the GENIUS Act. On [December 16](#), the FDIC approved a deposit insurance application for Erebor Bank, N.A., a newly chartered national bank to be headquartered in Columbus, Ohio. Erebor Bank's proposed business model will focus on providing deposit and lending products to businesses and individuals in the technology, payment systems, investment, and defense industries, including virtual currency market participants.

On [December 12](#), the Office of the Comptroller of the Currency ("OCC") announced the conditional approval of five national trust

bank charter applications. "New entrants into the federal banking sector are good for consumers, the banking industry and the economy," said Comptroller of the Currency Jonathan V. Gould. The OCC conditionally approved applications for *de novo* national trust bank charters for First National Digital Currency Bank and Ripple National Trust Bank. The OCC conditionally approved applications to convert from a state trust company to a national trust bank for BitGo Bank & Trust, National Association, Fidelity Digital Assets, National Association and Paxos Trust Company, National Association.

On [December 17](#), the Board of Governors of the Federal Reserve System ("FRB") withdrew a 2023 policy statement and issued a new policy statement regarding the treatment of FRB-supervised state member banks that creates an avenue for both insured and uninsured FRB-supervised state member banks to engage in certain innovative activities such as crypto-asset activities. "New technologies offer efficiencies to banks and improved products and services to bank customers," said Vice Chair for Supervision Michelle W. Bowman. "By creating a pathway for responsible, innovative products and services, the Board is helping ensure that the banking sector remains safe and sound while also modern, efficient, and effective."

On [December 19](#), the FRB requested public input on a "payment account" that eligible financial institutions could use for the limited purpose of clearing and settling their payments. The payment account would be distinct from a master account. A payment account would not pay interest, not have access to Fed credit, and would be subject to balance caps, among other features that would separate it from a master account. A payment account would not expand or otherwise change legal eligibility for access to payments services from the FRB.

We will continue to follow and report on these and other developments during this exciting period of change. □

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