

Client Alert

Providing Strategic Legal Guidance to the Financial Services Industry



Corporate & Government Matters & Regulation

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For more information, contact:

J.C. Boggs

+1 202 626 2383

jboggs@kslaw.com

Daniel R. Kahan

dkahan@kslaw.com

Russell D. Sacks

+1 212 790 5369

rsacks@kslaw.com

Michael Regan

+1 212 790 5398

mregan@kslaw.com

Steven Blau

+1 212 790 5302

sblau@kslaw.com

King & Spalding

Washington, D.C.

1700 Pennsylvania Avenue, NW

Suite 900

Washington, D.C. 20006

T. +1 202 737 0500

Miami

Southeast Financial Center

200 S. Biscayne Boulevard

Suite 4700

Miami, Florida 33131

T. +1 305 462 6000

OCC Clarifies Crypto-Asset Guidance

The Office of the Comptroller of the Currency (“OCC”) and the Federal Deposit Insurance Corporation (“FDIC”) have both recently taken actions and issued statements that indicate a more permissive bank regulatory approach to crypto-asset activities.

On March 7, 2025, the OCC:

- Rescinded guidance that had required banks to obtain the OCC’s non-objection prior to engaging in certain crypto-asset activities;ⁱ and,
- Withdrew from January 2023 and February 2023 interagency statements that had focused on heightened risks relating to crypto-asset activities.ⁱⁱ

These actions effectively restore the OCC’s official guidance regarding crypto-asset activities to as it was at the close of the 2020. This OCC guidance follows a February announcement from the FDIC also reflecting a more permissive regulatory approach to crypto-asset activities.ⁱⁱⁱ

OCC INTERPRETIVE LETTER 1183

The OCC’s Interpretive Letter 1183 rescinds earlier OCC guidance (Interpretive Letter 1179) which had required written OCC non-objection for banks to engage in crypto-asset activities permitted under three OCC interpretive letters. The three interpretive letters address the following:

- **Custody:** Interpretive Letter 1170 provides that banks may provide certain cryptocurrency custody services;^{iv}
- **Stablecoin Reserves:** Interpretive Letter 1172 provides that banks may hold deposits serving as reserves backing stablecoins, specifically addressing use of stablecoin backed on a 1:1 basis by a single fiat currency^v; and,

- Distributed Ledger activities: Interpretive Letter 1172 provides that banks may (1) act as nodes on a distributed ledger to verify customer payments, and (2) engage in certain stablecoin activities to facilitate payment transactions on a distributed.^{vi}

Interpretive Letter 1183 effectively restores the OCC's official guidance regarding crypto-asset activities to what it was at the close of the 2020. Specifically, banks are again permitted to provide crypto-asset custody services, hold stablecoin reserves consistent with the conditions of Interpretive Letter 1172, and operate a node on a distributed ledger without obtaining supervisory non-objection, provided that the same are consistent with generally regulatory and prudential requirements applicable to banks. Indeed, on March 17, 2025, the OCC announced that it had conditionally approved a fintech business model for a national bank.^{vii}

FDIC PUBLICATION

In a similar vein, in February, the FDIC published 175 supervisory documents relating to crypto-asset activities and Acting Chair Travis Hill issued an accompanying public statement declaring that the FDIC is “actively reevaluating [its] supervisory approach to crypto-related activities,” including Financial Institution Letter (FIL) 16-2022 (which requires FDIC-supervised institutions that intend to engage in, or that are currently engaged in, crypto asset activities to notify the FDIC, which will provide supervisory feedback) and “providing a pathway for institutions to engage in crypto- and blockchain-related activities while still adhering to safety and soundness principles.”^{viii}

CONCLUSION

Taken together, these OCC and FDIC actions and statements reflect a broader opening to crypto-asset activities by U.S. federal banking regulators. The King & Spalding team is available to discuss any questions or concerns related to the new guidance.

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This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice. In some jurisdictions, this may be considered “Attorney Advertising.”

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ⁱ Rodney E. Hood, OCC Interpretive Letter 1183, Addressing Certain Crypto-Asset Activities (Mar. 7, 2025), *available at* <https://occ.gov/topics/charters-and-licensing/interpretations-and-actions/2025/int1183.pdf>

ⁱⁱ Joint Statement on Crypto-Asset Risks to Banking Organizations (Jan. 3, 2023), *available at* <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20230103a1.pdf>

ⁱⁱⁱ Press Release, FDIC, FDIC Releases Documents Related to Supervision of Crypto-Related Activities (Feb. 5, 2025), *available at* <https://fdic.gov/news/press-releases/2025/fdic-releases-documents-related-supervision-crypto-related-activities>.

^{iv} Jonathan V. Gould, OCC Interpretive Letter 1170, Authority of a National Bank to Provide Cryptocurrency Custody Services for Customers (July 2020), *available at* <https://occ.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1170.pdf>.

^v Jonathan V. Gould, OCC Interpretive Letter 1172, OCC Chief Counsel's Interpretation on National Bank and Federal Savings Association Authority to Hold Stablecoin Reserves (Oct. 2020), *available at* <https://occ.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1172.pdf>.

^{vi} Jonathan V. Gould, OCC Interpretive Letter 1174, OCC Chief Counsel's Interpretation on National Bank and Federal Savings Association Authority to Use Independent Node Verification Networks and Stablecoins for Payment Activities (Jan. 2021), *available at* <https://occ.gov/news-issuances/news-releases/2021/nr-occ-2021-2a.pdf>.

^{vii} OCC News Release 2025-19, OCC Conditionally Approves Fintech Business Model for a National Bank (Mar. 17, 2025), *available at* <https://occ.gov/news-issuances/news-releases/2025/nr-occ-2025-19.html>.

^{viii} Press Release, FDIC, FDIC Releases Documents Related to Supervision of Crypto-Related Activities (Feb. 5, 2025), *available at* <https://fdic.gov/news/press-releases/2025/fdic-releases-documents-related-supervision-crypto-related-activities>.