FORsights™

# SEC Rescinds SAB 121 – What's Next for Crypto?

**The SEC is moving rapidly to create a regulatory path for the expansion of crypto. SEC Acting Chair Mark Uyeda is quickly fulfilling comments made at a December 2024 American Institute of CPAs conference, including the rescission of Staff Accounting Bulletin (SAB) 121 and the creation of a crypto task force to develop a clear regulatory framework for this asset class.**

---

## Rescission of SAB 121

On January 23, 2025, the SEC issued the Office of the Chief Accountant's (OCA) SAB 122, which rescinds SAB 121. The OCA issues SABs to clarify the staff's views on how U.S. GAAP and International Financial Reporting Standards should be applied to federal securities laws. SAB 121, *Accounting for Obligations to Safeguard Crypto-Assets an Entity Holds for its Platform Users*, was published in March 2022 and required reporting entities that perform crypto-asset safeguarding or custody activities to record a safeguarding liability with a corresponding crypto asset. This was a departure from the traditional off-balance-sheet treatment for custodied cash and assets. This accounting treatment and regulatory capital implications have likely deterred banks and broker-dealers from providing crypto-asset custody services.

### Accounting Impacts

SAB 122 will be effective once published in the **Federal Register**. With the rescission of SAB 121, specifically Topic 5.FF, entities that have an obligation to safeguard crypto assets for others will now determine whether to recognize a liability related to the risk of loss under such an obligation and the liability measurement by applying the recognition and measurement guidance in Accounting Standards Codification (ASC) 450-20, *Loss Contingencies*, or International Accounting Standard 37, *Provisions, Contingent Liabilities and Contingent Assets*. This change should be done on a fully retrospective basis in annual periods beginning after December 15, 2024. Entities may elect to effect the rescission in any earlier interim or annual financial statement period included in filings with the SEC after SAB 122's effective date (publication in the **Federal Register**). Entities should include clear disclosure of the effects of a change in accounting principle on initial application. Entities should consider existing disclosure requirements (Regulation S-K items 101, 105, and 303, ASC 450-20, and ASC 275, *Risks and Uncertainties*) to provide disclosures that allow investors to understand an entity's obligation to safeguard crypto assets held for others.

### Existing Custody Guidelines & Risk Alerts

Each of the banking regulators have previously issued guidelines for custodying crypto assets that have included seemingly contradictory positions. A joint statement from the Federal Reserve, the FDIC, and the Office of the Comptroller of the Currency (OCC) noted:

"Banking organizations are neither prohibited nor discouraged from providing banking services to customers of any specific class or type, as permitted by law or regulation."

"Based on the agencies' current understanding and experience to date, the agencies believe that issuing or holding as principal crypto-assets that are issued, stored, or transferred on an open, public, and/or decentralized network, or similar system is highly likely to be inconsistent with safe and sound banking practices."

Given the new administrative and crypto task forces detailed below, new guidance is expected on this topic. See the Appendix for a list of existing guidelines.

## Crypto Task Forces

Both the SEC and President Donald Trump have formed task forces to address crypto regulation and governance.

On January 21, 2025, Uyeda announced the formation of a crypto task force to develop a regulatory framework for these assets. Longtime crypto advocate Commissioner Hester Peirce will lead the group.

On January 23, 2025, an executive order created the President's Working Group on Digital Asset Markets to develop a federal framework within 180 days for the trading of digital assets. Within 60 days, the group should submit a recommendation for the rescission or modification of any existing regulations that affect the digital asset sector. The group will evaluate the potential creation of a national digital asset stockpile while prohibiting any agency from pursuing or promoting a digital currency issued by a central bank. The group will be led by David Sacks, a venture capitalist, and will include, among others, the secretary of the Treasury, attorney general, secretary of Commerce, and chairs of both the SEC and the Commodity Futures Trading Commission (CFTC).

### Who Is in Charge?

Unlike the securities and derivatives market, no single regulator oversees cryptocurrency, exchanges, or brokers. A security subject to SEC oversight is defined in the *Securities Act of 1933*, and the benchmark interpretation is based on a 1946 U.S. Supreme Court case that resulted in the Howey test. The SEC's ability to regulate digital assets under existing securities law is dependent on the outcome of this test. Currently, most crypto exchanges are regulated at the state level. The CFTC took an early lead on enforcing cryptocurrencies when it allowed bitcoin futures to start trading in 2017, but its powers are mostly limited to overseeing derivatives. Trump's nominee for SEC Chair, Paul Atkins, previously advocated for merging the SEC and CFTC.

| Congress | Banking Regulators | Financial Market Regulators |
|---|---|---|
| U.S. House of Representatives | Federal Reserve | U.S. Securities and Exchange Commission |
| U.S. Senate | Federal Deposit Insurance Corporation | Commodities Futures Trading Commission |
| | Office of the Comptroller of the Currency | |

## What’s Next?

Cryptocurrency custody arrangement opportunities have grown substantially since the January 2024 SEC approval of spot bitcoin exchange-traded funds (ETFs). Four of the top five new ETFs launched in 2024 were spot crypto funds and there are now 36 spot bitcoin ETF trading in the U.S., totaling $61 billion in assets under management.[1] Bloomberg estimates the crypto custody market to have an annual growth rate of almost 30% and that crypto custody commands significantly higher fees than other asset classes.[2]

## How Forvis Mazars Can Help

Working with crypto involves many risks. Staying informed and working with the right advisors can help mitigate those risks. Forvis Mazars has the resources to stay up to date on this evolving issue. We are ready to help. If you have any questions or need assistance, please reach out to a professional at Forvis Mazars. To stay up to date on accounting and tax reporting issues, subscribe to our **FORsights**™.

## Contributors

**Geron Morgan**
Partner
geron.morgan@us.forvismazars.com

**Nik Fahrer**
Director
nik.fahrer@us.forvismazars.com

**Anne Coughlan**
Director
anne.coughlan@us.forvismazars.com

[1] “Spot Bitcoin ETFs,” etf.com.
[2] “BNY Approved by SEC for Crypto Custody Beyond ETFs, Gensler Says,” Bloomberg.com, September 26, 2024.

## Appendix – Banking Regulators Crypto Guidance

### Joint Statements

Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities (February 2023)

### FDIC

Crypto-Asset Risks (2024)

Notification of Engaging in Crypto-Related Activities (April 2022)

### Federal Reserve Board

Policy Statement on Section 9(13) of the Federal Reserve Act (January 2023)

Engagement in Crypto-Asset-Related Activities by Federal Reserve-Supervised Banking Organizations (August 2022)

### OCC

Chief Counsel's Interpretation Clarifying Authority of a Bank to Engage in Certain Cryptocurrency Activities (November 2021)

OCC Interpretive Letter 1170 (July 2020)

OCC Interpretive Letter 1172 (October 2020)

OCC Interpretive Letter 1174 (January 2021)