

U.S. Bank Regulators Accelerate Integration of Crypto Assets into the Banking System

Why This Matters and What To Do Now

- *For National Banks (and Federal Savings Associations):* The OCC's interpretive letter framework now provides a clear pathway for banks to engage in crypto-asset custody, stablecoin reserves, payments, network fee payments, and riskless principal transactions without prior approval. However, banks should ensure their risk management systems, compliance programs, and governance structures are adequately designed for the complexity of these activities before proceeding.
- *Uninsured State Member Banks:* The Federal Reserve's December 2025 policy statement creates additional flexibility to engage in crypto activities not permitted for insured banks, provided the institution can demonstrate financial risk management at least as effective as deposit insurance, e.g., including sufficient loss-absorbing capacity, high-quality liquid assets equal to 100% of demand deposits and short-term liabilities, and an orderly wind-down plan.
- *State-Chartered Banks and Trust Companies:* Evaluate the competitive implications of the expanded federal framework. In some cases, state-regulated banks will benefit from expanded permissible activities for national banks since national bank powers essentially set the outer limits of what insured state banks can do.
- *Compliance Infrastructure Is Critical:* The interagency statement emphasizes that crypto-asset safekeeping remains subject to Bank Secrecy Act and OFAC sanctions obligations. Blockchain's pseudonymous addresses, transaction speed, and potential indirect exposure to sanctioned parties require banks to implement blockchain analytics tools capable of tracing transaction histories and screening counterparties in real time.
- *Lending Against Crypto Collateral Requires UCC Article 12 Attention:* Banks extending credit secured by crypto assets should evaluate the applicability of UCC Article 12 for "controllable electronic records." A party obtaining "control" of such a record in good faith and for value takes free of competing security interests – even those perfected by a financing statement. Lenders should assess whether perfection by such control is necessary to protect priority against subsequent transferees.
- *Operational Readiness:* Regardless of the permissive regulatory environment, banks must develop robust internal security procedures, including secure wallet infrastructure and private key management protocols.

Thorough third-party due diligence on external partners and service providers — many of which may be thinly-capitalized start-ups — is essential before scaling crypto activities.

- *Crypto-Focused Institutions Seeking Federal Reserve Access:* The Federal Reserve's "payment account" concept, currently in the Request for Information stage, could provide a streamlined alternative to the full master account process. Unlike a master account, a payment account would not pay interest on balances, would not provide access to Federal Reserve credit, and would cap overnight balances at the lesser of \$500 million or 10% of assets. However, approval could come within 90 days — substantially faster than the current master account timeline.
Action Item — Comment Deadline: Interested parties should respond to the Federal Reserve's Request for Information on payment accounts by February 6, 2026.
- *Crypto-Native Firms:* The December 2025 OCC charter approvals (Erebore Bank and five national trust bank charters) demonstrate a viable federal pathway. The national trust bank charter is particularly attractive for firms focused on custody, stablecoin, and settlement activities. The FDIC's proposed GENIUS Act rule provides the first concrete guidance on becoming a permitted payment stablecoin issuer through an insured depository institution subsidiary.

Introduction

In 2025, the three primary federal banking regulators — the Office of the Comptroller of the Currency ("OCC"), the Federal Reserve Board ("Federal Reserve"), and the Federal Deposit Insurance Corporation ("FDIC") — took coordinated action to fundamentally reshape the regulatory landscape for activity involving crypto assets within the U.S. banking system. This article examines the full scope of these developments, including the OCC's interpretive letters addressing crypto-asset custody, stablecoin reserves, network fee transactions, and riskless principal activities; the conditional approvals of national bank and national trust bank charters for crypto-focused banking institutions; the Federal Reserve's rescission of restrictive supervisory guidance and its request for information on a new "payment account" pathway; the FDIC's clarification of permissible crypto asset activities and its proposed rule for payment stablecoin issuers under the GENIUS Act; and the first interagency statement on crypto-asset safekeeping. The article also addresses each agency's actions to combat debanking of lawful crypto businesses. Finally, we discuss the implications of these regulatory developments for traditional banks, crypto-native firms, and state-chartered institutions and the opportunities they present.

Background: Advance and Retreat

The current wave of regulatory activity builds on a framework the OCC initiated in 2020 and 2021 under the first Trump administration. In July 2020, OCC Interpretive Letter 1170 confirmed that national banks may provide crypto custody services as a modern form of traditional safekeeping activities.¹ Two months later, Interpretive Letter 1172 authorized banks to hold fiat deposits as reserves for stablecoin issuers.² In January 2021, the OCC issued

¹ OCC Interpretive Letter No. 1170 (July 22, 2020), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1170.pdf>.

² OCC Interpretive Letter No. 1172 (Sept. 21, 2020), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1172.pdf>.

Interpretive Letter 1174 broadening permissible activities for national banks to include participation in distributed ledger technology networks and stablecoin-related payment activities.³

However, in November 2021, Interpretive Letter 1179 imposed a supervisory pause by requiring banks to obtain a written non-objection from the OCC before engaging in crypto-asset activities.⁴ This requirement effectively halted expansion of bank involvement in crypto assets during a period of heightened market volatility and regulatory uncertainty. Then, in 2025, there was a decisive reversal of that cautious posture across all three federal banking agencies.

The OCC

Regulatory Reset

Rescission of the Non-Objection Requirement

In March 2025, the OCC issued Interpretive Letter 1183, rescinding the supervisory non-objection requirement established by Interpretive Letter 1179.⁵ The agency concluded that the requirement was no longer necessary to ensure safe and sound banking practices. Going forward, national banks may engage in crypto-asset activities previously authorized by Interpretive Letters 1170, 1172, and 1174 through ordinary supervisory processes, subject to the same risk management and compliance expectations applicable to other bank activities. In parallel with the OCC, the Federal Reserve and FDIC have also withdrawn crypto-specific non-objection requirements, discussed further below.⁶

Custody, Execution, and Network Fee Services

Interpretive Letter 1184, issued in May 2025, clarified that national banks providing crypto-asset custody services may also facilitate customer execution and trading as an incidental activity.⁷ The OCC reasoned that custody inherently involves activities such as receiving, transferring, and disposing of assets at customer direction. In November 2025, Interpretive Letter 1186 confirmed that national banks may acquire and hold *de minimis* amounts of crypto assets for the purpose of paying network fees (known as “gas”) incidental to custody and payment activities, treating these activities as “convenient or useful” to authorized banking activities.⁸

The practical impact of the *de minimis* limitation in Interpretive Letter 1186 should be evaluated in light of the significant capital implications of holding unbacked crypto assets on a bank’s balance sheet. Under the Basel

³ OCC Interpretive Letter No. 1174 (Jan. 4, 2021), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2021/int1174.pdf>.

⁴ OCC Interpretive Letter No. 1179 (Nov. 18, 2021), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2021/int1179.pdf>.

⁵ OCC Interpretive Letter No. 1183 (Mar. 7, 2025), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2025/int1183.pdf>.

⁶ Press Release, Board of Governors of the Federal Reserve System, *Federal Reserve Board announces the withdrawal of guidance for banks related to their crypto-asset and dollar token activities and related changes to its expectations for these activities* (Apr. 24, 2025), <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20250424a.htm>. See also FDIC Financial Institution Letter 7-2025, *Notification of Engaging in Crypto-Related Activities* (Mar. 28, 2025), available at <https://www.fdic.gov/news/financial-institution-letters/2025/fdic-clarifies-process-banks-engage-crypto-related>.

⁷ OCC Interpretive Letter No. 1184 (May 2025), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2025/int1184.pdf>.

⁸ OCC Interpretive Letter No. 1186 (Nov. 2025), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2025/int1186.pdf>; see 12 C.F.R. § 7.1000(d)(1).

Committee's prudential framework for crypto-asset exposures, which member jurisdictions had previously agreed to implement by January 1, 2026, unbacked crypto assets that do not meet certain hedging recognition criteria would be subject to a 1250% risk weight — effectively requiring banks to hold capital equal to the full value of such exposures.⁹

However, U.S. banking regulators have indicated they do not intend to implement the Basel crypto-asset standards in their current form. In October 2025, Federal Reserve Vice Chair for Supervision Michelle Bowman called the framework "not very realistic," and in November 2025, the Basel Committee's chair acknowledged that the standards would need to be reworked in light of the U.S. and U.K. refusals to adopt them.¹⁰ Pending further regulatory developments, the capital treatment of bank crypto-asset holdings in the United States remains uncertain.

Importantly, these capital considerations do not apply to crypto assets held in custody on behalf of customers, which, when properly segregated, do not give rise to credit or market risk capital requirements.

Riskless Principal

OCC Interpretive Letter 1188, issued in December 2025, is currently the most recently issued letter. It confirms that, in addition to acting in a traditional agency role, national banks may engage in riskless principal crypto-asset transactions.¹¹ In such transactions, a bank purchases an asset from one counterparty for immediate resale to another, with the purchase conditioned on an offsetting order. The bank assumes only nominal settlement, market, and credit risk, functioning as the economic equivalent of a broker.

For crypto assets that constitute securities (i.e., "tokenized securities"), the OCC found such transactions permissible due to national banks' existing authority to deal in securities without recourse solely upon customer order.¹² For non-security crypto assets, the OCC determined that riskless principal transactions are both functionally equivalent to recognized brokerage activities and a logical outgrowth of crypto-asset custody services. The OCC emphasized its technology-neutral approach to permissibility determinations, focusing on the economic substance of activities rather than the form of the underlying assets.

OCC Charter Approvals

Erebtor Bank

In October 2025, the OCC conditionally approved a *de novo* national bank charter for Erebtor Bank, National Association, based in Columbus, Ohio.¹³ Erebtor is the first *de novo* bank to receive preliminary conditional approval since Comptroller Jonathan Gould assumed leadership of the OCC in July 2025. The bank will operate as a full-service FDIC-insured national bank targeting technology companies and ultra-high-net-worth individuals that utilize virtual currencies. Planned activities include lending and deposit products, stablecoin-related services, credit card issuance, and other financial services to technology firms in sectors including crypto, artificial intelligence, defense, and manufacturing.¹⁴

⁹ Basel Committee on Banking Supervision, *Prudential Treatment of Cryptoasset Exposures* (Dec. 2022), as amended (July 2024), <https://www.bis.org/bcbs/publ/d545.pdf>.

¹⁰ See Erik Thedéen, Chair, Basel Comm. on Banking Supervision, Interview with Financial Times (Nov. 19, 2025) (stating that "a different approach" is needed and acknowledging U.S. and U.K. refusals to implement the standards).

¹¹ OCC Interpretive Letter No. 1188 (Dec. 9, 2025), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2025/int1188.pdf>.

¹² 12 U.S.C. § 24 (Seventh).

¹³ Press Release, OCC, OCC Conditionally Approves Erebtor Bank, National Association, Charter Application, NR 2025-97 (Oct. 15, 2025), <https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-101.html>.

¹⁴ Application to Organize Erebtor Bank, N.A., OCC (June 11, 2025), <https://www.occ.gov/topics/charters-and-licensing/digital-assets-licensing-applications/erebtor-bank.pdf>.

Comptroller Gould stated that the approval demonstrates that the OCC “does not impose blanket barriers to banks that want to engage in digital asset activities,” and that “[p]ermissible digital asset activities . . . have a place in the federal banking system if conducted in a safe and sound manner.”¹⁵ The conditional approval imposes requirements including a minimum 12% Tier 1 Leverage ratio during the first three years, engagement of an independent external auditor, and OCC non-objection prior to any significant deviation from the business plan.

In its conditional approval, the OCC applied the “convenient or useful” standard under the incidental powers doctrine, finding that Erebor’s proposed holding of crypto assets is convenient or useful to its crypto asset custody services and therefore incidental to the business of banking. This analytical framework may support approvals for other crypto-asset related activities by national banks seeking to expand their crypto offerings.

Five National Trust Bank Charters

In December 2025, the OCC conditionally approved five national trust bank charter applications from major crypto asset companies.¹⁶ The approved institutions include two *de novo* national trust banks — First National Digital Currency Bank (associated with Circle) and Ripple National Trust Bank — and three conversions from state trust companies: BitGo Bank & Trust, National Association; Fidelity Digital Assets, National Association; and Paxos Trust Company, National Association.¹⁷ These represent the first national trust bank charters granted to crypto-focused institutions since the OCC approved Anchorage Digital Bank in 2021.

National trust banks operate under a limited charter focused on fiduciary and custodial activities, generally without the ability to accept deposits or make loans as principal. The approved institutions will engage in a broad range of crypto activities including crypto custody and safekeeping, exchange and trading services, wallet platform services, transfer services, key management, staking services, escrow services, collateral trustee and reserve management, and stablecoin issuance. The conditional approvals require conforming any stablecoin issuance to comply with the GENIUS Act,¹⁸ obtaining OCC non-objection before marketing or issuing any bank-issued stablecoin, maintaining minimum tier 1 capital levels, and maintaining 180 days of operating expenses in eligible liquid assets.

A national trust bank charter may provide significant operational efficiencies for firms with nationwide customer bases. For fiduciary activities, including fiduciary custody, a national trust bank may operate across state lines without obtaining state money transmitter licenses, as state licensing requirements are preempted as impermissible limitations on the exercise of federally authorized fiduciary powers.¹⁹ The extent to which this preemption extends to non-fiduciary activities authorized under OCC Interpretive Letter 1176 — such as non-fiduciary custody or payments facilitation — remains less clearly established and may depend on application of general preemption principles.²⁰

¹⁵ *Id.*

¹⁶ Press Release, OCC, OCC Conditionally Approves Five National Trust Bank Charter Applications, NR 2025-125 (Dec. 12, 2025), <https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-125.html>.

¹⁷ *Id.*

¹⁸ Guiding and Establishing National Innovation for U.S. Stablecoins Act of 2025 (GENIUS Act), Pub. L. No. 119-27 (2025).

¹⁹ 12 C.F.R. § 9.7. See also OCC Interpretive Letter No. 1167 (Apr. 2020), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1167.pdf>

²⁰ See OCC Interpretive Letter No. 1176 (Jan. 11, 2021), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2021/int1176.pdf> (addressing chartering authority for non-fiduciary activities); OCC Interpretive Letter No. 1179 (Nov. 18, 2021), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2021/int1179.pdf> (clarifying that IL 1176 is limited to charter application context). For the general federal preemption standard applicable to national banks, see *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. 25, 33 (1996) (holding that state laws are preempted where they “prevent or significantly interfere with the national bank’s

Actions on Debanking

The OCC recently took several actions to address concerns that banks had improperly restricted access to financial services for digital asset companies and other lawful businesses.

In December 2025, Comptroller Jonathan Gould issued a statement in response to the release of the House Financial Services Committee majority staff report titled “Operation Chokepoint 2.0: Biden’s Debanking of Digital Assets.”²¹ Comptroller Gould stated that the report confirmed that the preceding presidential administration’s “actions discouraged and prevented the institutions within the regulated banking system from engaging with digital assets.”²²

In December 2025, the OCC also released preliminary findings from its supervisory review of debanking activities at the nine largest national banks, conducted pursuant to Executive Order 14331, “Guaranteeing Fair Banking for All Americans.”²³ The OCC found that between 2020 and 2023, the reviewed banks maintained internal policies that imposed “inappropriate distinctions” among customers based on lawful business activities. The OCC identified digital asset activities — including issuers, exchanges, and administrators — among the sectors subjected to restricted access or heightened review at various banks.

Comptroller Gould stated that “the OCC intends to hold these banks accountable for any unlawful debanking activities, including by making referrals to the Attorney General.”²⁴ The OCC indicated it will continue reviewing historical account decisions, consumer complaints, and interactions with law enforcement from 2020 through 2025.

These actions, combined with the OCC’s earlier removal of “reputation risk” from its examination handbooks and guidance documents, signal a decisive shift in the agency’s approach to bank engagement with digital asset customers.²⁵

Federal Reserve

Policy Statement Rescission

The Federal Reserve took action in two phases during 2025 to liberalize its approach to crypto-asset activities by supervised institutions.

First, in April 2025, the Federal Reserve rescinded two supervisory letters that had constrained state member banks from engaging in crypto activities.²⁶ The first letter had required state member banks to notify the Federal Reserve

exercise of its powers”); cf. Michael Townsley, *Banking on Trust Companies: A Critique of OCC Interpretive Letter 1176* (Apr. 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3834609 (arguing OCC lacks authority to charter national trust companies for primarily non-fiduciary activities).

²¹ OCC News Release 2025-114, *Comptroller Issues Statement on Congressional Debanking Report* (Dec. 1, 2025), available at <https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-114.html>.

²² *Id.*

²³ OCC News Release 2025-123, *OCC Releases Preliminary Findings from Its Review of Large Banks’ Debanking Activities* (Dec. 10, 2025), available at <https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-123.html>; Exec. Order No. 14331, *Guaranteeing Fair Banking for All Americans*, 90 Fed. Reg. 38925 (Aug. 2025).

²⁴ OCC News Release 2025-123, *OCC Releases Preliminary Findings from Its Review of Large Banks’ Debanking Activities* (Dec. 10, 2025), available at <https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-123.html>.

²⁵ OCC Bulletin 2025-4, *Bank Supervision: Removing References to Reputational Risk* (Mar. 20, 2025).

²⁶ Press Release, Board of Governors of the Federal Reserve System, *Federal Reserve Board announces the withdrawal of guidance for banks related to their crypto-asset and dollar token activities and related changes to its expectations for these activities* (Apr. 24, 2025), <https://www.federalreserve.gov/news-events/pressreleases/bcreg20250424a.htm>.

before engaging in any crypto-asset-related activity and the second letter had imposed a formal supervisory non-objection process for state member banks seeking to issue, hold, or transact in dollar tokens.²⁷ Effective immediately upon rescission, banking organizations supervised by the Federal Reserve no longer need to submit separate notices or seek prior approval for permissible crypto-asset or dollar-token activities; instead, the Federal Reserve will monitor such activities through the normal supervisory process.

Concurrently, the Federal Reserve (and FDIC, as noted below) joined the OCC in withdrawing from two interagency statements issued in January and February 2023 regarding crypto-asset risks and liquidity risks to banking organizations.

In December 2025, the Federal Reserve rescinded its 2023 policy statement, which had set forth a strong presumption against state member banks engaging in novel and unprecedented crypto activities.²⁸ The 2023 statement had specifically identified holding crypto assets as principal and issuing crypto tokens as presumptively impermissible and likely inconsistent with safe and sound banking practices.

The replacement 2025 policy statement signals a more innovation-friendly approach.²⁹ It incorporates the principle of “different activity, different risks, different regulation” and removes the language that singled out specific crypto activities as presumptively unsafe. Significantly, the new statement distinguishes between insured and uninsured state member banks and provides that the Federal Reserve may authorize uninsured state member banks to engage in certain activities that may not be permissible for national banks or insured state banks.³⁰ When considering such requests, the Federal Reserve will evaluate whether the bank has a “financial profile that is at least as effective as deposit insurance in minimizing the risk of deposit runs and contagion.” This may include sufficient total loss-absorbing capacity or high-quality liquid assets equal to 100% of demand deposits and short-term liabilities, as well as a resolution plan demonstrating orderly wind-down capability.³¹

Federal Reserve Governor Michael S. Barr dissented from the rescission, characterizing the “different activity, different regulation” principle as new and likely to encourage regulatory arbitrage.³² The dissent underscores the tension between facilitating innovation and maintaining consistent supervisory standards across differently chartered institutions as well as the potential for a reversal of pro-crypto momentum in different political environments. Governor Barr’s dissent may also be interpreted as a signal that a subsequent federal administration may balance these competing policy initiatives differently.

²⁷ See Board of Governors of the Federal Reserve System, *Engagement in Crypto-Asset-Related Activities by Federal Reserve-Supervised Banking Organizations*, SR 22-6/CA 22-6 (Aug. 16, 2022), <https://www.federalreserve.gov/newsreleases/files/bcreg20250424a3.pdf> (withdrawn Apr. 24, 2025) and Board of Governors of the Federal Reserve System, *Supervisory Non-objection Process for State Member Banks Seeking to Engage in Certain Activities Involving Dollar Tokens*, SR 23-8/CA 23-5 (Aug. 8, 2023), <https://www.federalreserve.gov/newsreleases/files/bcreg20250424a4.pdf> (withdrawn Apr. 24, 2025).

²⁸ Press Release, Board of Governors of the Federal Reserve System, *Federal Reserve Board Announces Withdrawal of Guidance for Banks Related to Their Crypto-Asset and Dollar Token Activities* (Dec. 17, 2025), <https://www.federalreserve.gov/newsreleases/bcreg20251217a.htm>.

²⁹ Board of Governors of the Federal Reserve System, *Policy Statement on Section 9(13) of the Federal Reserve Act*, 90 Fed. Reg. 59,731 (Dec. 22, 2025) (to be codified at 12 C.F.R. pt. 208).

³⁰ See 12 U.S.C. § 330 (section 9(13) of the Federal Reserve Act); 12 U.S.C. § 1831a (section 24 of the Federal Deposit Insurance Act).

³¹ Policy Statement on Section 9(13) of the Federal Reserve Act, 90 Fed. Reg. 59,731, 59,732 (Dec. 22, 2025) (to be codified at 12 C.F.R. pt. 208).

³² Statement by Governor Michael S. Barr (Dec. 17, 2025), <https://www.federalreserve.gov/newsreleases/barr-statement-20251217.htm>.

Payment Account Request for Information

In December 2025, the Federal Reserve Board requested public input (“Request for Information”) on a contemplated “payment account” prototype, which eligible financial institutions could use for the limited purpose of clearing and settling their payments.³³ The Request for Information responds to rapid developments in the payments industry that have led to innovative approaches to banking, with financial institutions operating under new business models increasingly seeking access to Federal Reserve payment services. Governor Christopher J. Waller, who had previously proposed a “skinny master account” concept,³⁴ stated that the “new payment accounts would support innovation while keeping the payments system safe” and characterized the Request for Information as “a key first step to ensuring that the Fed is responsive to evolutions in how payments are made.”³⁵

A payment account would be distinct from a master account, which is what financial institutions currently use to access payment services from the Federal Reserve.³⁶ Key distinguishing features include that a payment account would not pay interest on balances, would not provide access to Federal Reserve credit (including daylight overdrafts and the discount window), and would be subject to balance caps. Under the contemplated framework, overnight balance limits would be set at the lesser of \$500 million or 10% of the holder’s assets.³⁷ Permitted services would be limited to Fedwire Funds Service, National Settlement Service, FedNow Service, and Fedwire Securities Service for free transfers. Importantly, the proposal would not expand or otherwise change legal eligibility for access to Federal Reserve payment services.

The Federal Reserve expects that these tailored features could result in lower risk to the payment system and, as a result, requests for payment accounts could generally receive a streamlined review — potentially within 90 days of receiving complete materials, substantially faster than the current master account process. The comment period closes on February 6, 2026. Governor Barr dissented from issuance of the Request for Information, citing concerns about the lack of specificity regarding anti-money laundering safeguards, though his dissent articulated general support for the payment account concept.³⁸ For crypto-focused institutions like Wyoming’s Custodia Bank, which was previously denied a master account, the payment account alternative may provide a viable pathway to Federal Reserve payment services.³⁹

³³ Press Release, Board of Governors of the Federal Reserve System, *Federal Reserve Board Requests Public Input on “Payment Account”* (Dec. 19, 2025), <https://www.federalreserve.gov/news/pressreleases/bcreg20251219a.htm>.

³⁴ Governor Christopher J. Waller, *Remarks at the Payments Innovation Conference* (Oct. 21, 2025), <https://www.federalreserve.gov/news/speech/waller20251021a.htm>.

³⁵ Press Release, Board of Governors of the Federal Reserve System, *Federal Reserve Board Requests Public Input on “Payment Account”* (Dec. 19, 2025), <https://www.federalreserve.gov/news/pressreleases/bcreg20251219a.htm>.

³⁶ Governor Christopher J. Waller, *Remarks at the Payments Innovation Conference* (Oct. 21, 2025), <https://www.federalreserve.gov/news/speech/waller20251021a.htm>.

³⁷ Board of Governors of the Federal Reserve System, *Request for Information and Comment on Reserve Bank Payment Account Prototype*, 90 Fed. Reg. 60096 (Dec. 23, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-12-23/pdf/2025-23712.pdf>.

³⁸ Board of Governors of the Federal Reserve System, *Statement by Governor Michael S. Barr* (Dec. 19, 2025), <https://www.federalreserve.gov/news/pressreleases/barr-statement-20251219.htm>.

³⁹ Its denial is the subject of ongoing litigation. See *Custodia Bank, Inc. v. Fed. Rsr. Bd. of Governors*, 728 F. Supp. 3d 1227 (D. Wyo. 2024), *aff’d*, No. 24-8024, 2025 WL 3039669 (10th Cir. Oct. 31, 2025).

FDIC

Rescission of Prior Notification Requirement

In March 2025, the FDIC issued Financial Institution Letter 7-2025, rescinding its prior notification requirement and clarifying that FDIC-supervised institutions may engage in permissible crypto-related activities without receiving prior FDIC approval.⁴⁰ The guidance affirms that FDIC-supervised institutions may engage in permissible activities involving crypto assets, provided they adequately manage associated risks and conduct all activities in a safe and sound manner consistent with applicable laws and regulations.

Then Acting Chairman Travis Hill⁴¹ stated that “the FDIC is turning the page on the flawed approach of the past three years” and characterized the action as “one of several steps the FDIC will take to lay out a new approach for how banks can engage in crypto- and blockchain-related activities in accordance with safety and soundness standards.”⁴² The guidance identifies permissible crypto-related activities to include acting as crypto-asset custodians, maintaining stablecoin reserves, issuing crypto and other digital assets, acting as market makers or exchange or redemption agents, participating in blockchain- and distributed ledger-based settlement or payment systems, and related activities such as finder activities and lending.

Proposed Rule for Payment Stablecoin Issuers

Also in December, the FDIC proposed the first implementing rule under the GENIUS Act, which was enacted in July 2025 and establishes a federal statutory framework for the regulation of payment stablecoins.⁴³ The proposed rule sets out an application process and review framework for subsidiaries of FDIC-supervised institutions — state banks that are not members of the Federal Reserve System and state savings associations — to become permitted payment stablecoin issuers.

The application process would require submission of a letter application to the relevant FDIC regional office. The FDIC would have 30 days to determine whether the application is substantially complete based on the five statutory factors specified in the GENIUS Act: ability to meet statutory requirements, quality of management, fitness and competence of management, adequacy of redemption policy, and any other safety and soundness factors.⁴⁴ Following receipt of a substantially complete application, the FDIC has 120 days to approve or deny the application; if no decision is rendered within that period, the application is deemed automatically approved. Denied applicants have a right to a hearing if requested within 30 days of denial.⁴⁵

⁴⁰ FDIC Financial Institution Letter 7-2025, *Notification of Engaging in Crypto-Related Activities* (Mar. 28, 2025), available at <https://www.fdic.gov/news/financial-institution-letters/2025/fdic-clarifies-process-banks-engage-crypto-related>.

⁴¹ He is now the Chairman. See U.S. Senate, Roll Call Vote No. 655, 119th Cong., 1st Sess. (Dec. 18, 2025), https://www.senate.gov/legislative/LIS/roll_call_votes/vote1191/vote_119_1_00655.htm.

⁴² FDIC Press Release, *FDIC Clarifies Process for Banks to Engage in Crypto-Related Activities* (Mar. 28, 2025).

⁴³ FDIC, *Approval Requirements for the Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Institutions*, 90 Fed. Reg. 59409 (proposed Dec. 19, 2025) (to be codified at 12 C.F.R. pt. 303).

⁴⁴ GENIUS Act § 4.

⁴⁵ FDIC, *Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions*, 90 Fed. Reg. 59409, 59413–14 (proposed Dec. 19, 2025) (to be codified at 12 C.F.R. pt. 303).

The Federal Reserve and OCC are also required to issue their own rules for institutions under their supervision but have not yet done so. Acting Comptroller Gould, as an FDIC Board member, voted for the proposed rule, suggesting potential alignment between the FDIC and OCC processes.

Tokenized Deposit Dialogue

Distinct from payment stablecoins addressed by the GENIUS Act, banking regulators are also engaged in dialogue on tokenized deposits — digital representations of traditional bank deposit liabilities recorded on distributed ledger technology.⁴⁶ Unlike payment stablecoins, which are fully reserve-backed instruments issued outside the traditional deposit framework, tokenized deposits represent fractional-reserve commercial bank money and may be eligible for FDIC insurance.⁴⁷ FDIC's Travis Hill has stated that "deposits are deposits, regardless of the technology or recordkeeping deployed," signaling the agency's view that tokenization should not alter the legal character of a deposit liability.⁴⁸ However, tokenized deposits raise distinct regulatory considerations. State bank supervisors have identified the need for guidance on liquidity risk management — particularly given the potential for 24/7 redemption activity — as well as supervisory expectations for smart contract functionality, cybersecurity, and the technical capability to halt token transfers at the point of a bank failure.⁴⁹ The FDIC has indicated that it is developing guidance to provide additional clarity on these issues.⁵⁰

Interagency Statement on Crypto-Asset Safekeeping

In July 2025, the OCC, Federal Reserve, and FDIC issued a joint statement on risk-management considerations for crypto-asset safekeeping, marking the first new interagency guidance on crypto assets under the current regulatory framework.⁵¹ The statement highlights potential risk-management considerations related to holding crypto assets on customers' behalf and discusses existing risk-management principles applicable to crypto asset safekeeping services.

The joint statement does not create new supervisory expectations but instead catalogs existing legal, regulatory, and risk management requirements applicable to banks providing safekeeping services for crypto assets. The statement

⁴⁶ See Conference of State Bank Supervisors, *Letter to Federal Banking Agencies re: Guidance on Tokenized Deposits* (Nov. 2025), <https://www.csbs.org/csbs-tokenized-deposits-comment-letter> (defining a "tokenized deposit" as "a digital representation of a bank deposit liability, recorded and transferable on a distributed ledger, such as a blockchain").

⁴⁷ See Travis Hill, FDIC, *Banking's Next Chapter? Remarks on Tokenization and Other Issues, Speech at the Mercatus Center* (Mar. 11, 2024), <https://www.fdic.gov/news/speeches/2024/spmar1124.html> (distinguishing tokenized deposits from stablecoins and noting deposit insurance implications).

⁴⁸ *Id.*

⁴⁹ Conference of State Bank Supervisors, *Letter to Federal Banking Agencies re: Guidance on Tokenized Deposits* (Nov. 2025), <https://www.csbs.org/csbs-tokenized-deposits-comment-letter> (requesting guidance on "liquidity risk monitoring and management expectations that account for the risks of always-on, 24/7 redemption" and "supervisory expectations for banks embedding smart contract functionality into tokenized deposits"); Travis Hill, FDIC, *View from the FDIC: Update on Key Policy Issues, Speech at the American Bankers Association Washington Summit* (Apr. 2025), <https://www.fdic.gov/news/speeches/2025/view-fdic-update-key-policy-issues> ("[W]e . . . should work to ensure that technical capabilities exist to stop the flow of funds via blockchains at the point of a bank's failure.").

⁵⁰ See FDIC, *Statement by Acting Chairman Travis Hill on Proposed Rule Regarding Approval Requirements for Issuance of Payment Stablecoins* (Dec. 2025), <https://www.fdic.gov/news/speeches/2025/proposed-rule-regarding-approval-requirements-issuance-payment-stablecoins>.

⁵¹ Board of Governors of the Federal Reserve System, *Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, Joint Statement: Crypto-Asset Safekeeping by Banking Organizations* (July 14, 2025), <https://www.federalreserve.gov/news/events/pressreleases/bcreg20250714a.htm>.

addresses six categories of considerations: strategic and risk assessment, operational and technology risk, third-party risk management, legal and compliance risk, liquidity risk, and governance.

Among these considerations, the agencies emphasized that crypto-asset safekeeping activities remain subject to Bank Secrecy Act and Office of Foreign Asset Control (“OFAC”) sanctions compliance obligations, including customer identification, transaction monitoring, and suspicious activity reporting.⁵² Blockchain transactions present distinct compliance challenges: the pseudonymous nature of wallet addresses, the speed and irreversibility of on-chain transfers, and potential indirect exposure to sanctioned parties through multiple intermediary transactions require banks to implement blockchain analytics tools capable of tracing transaction histories and screening counterparties in real time.⁵³

Notably, the statement directs Federal Reserve- and FDIC-supervised institutions to follow the OCC’s guidance on risk management principles to apply when considering offering crypto-asset safekeeping services.⁵⁴ The agencies indicated they “continue to explore ways to provide additional clarity with respect to banks’ engagement in crypto-asset-related activities,” suggesting additional interagency guidance may follow.

Related Developments

These developments complement ongoing initiatives at the Commodity Futures Trading Commission (“CFTC”). The CFTC’s “Crypto Sprint,” launched in August 2025, has produced significant regulatory developments, including a December 2025 announcement permitting listed spot crypto products to trade for the first time on CFTC-registered futures exchanges,⁵⁵ the launch of a pilot program allowing futures commission merchants to accept bitcoin, ether, and USDC as collateral in derivatives markets,⁵⁶ and the withdrawal of guidance that the CFTC deemed outdated on virtual currency delivery and segregation requirements.⁵⁷ Additionally, pending market structure legislation — including the Digital Asset Market Clarity Act of 2025 (CLARITY Act), which passed the House in July 2025, and the Senate Agriculture Committee’s November 2025 draft expanding CFTC authority over digital commodities⁵⁸ — could

⁵² *Id.*

⁵³ See OFAC, *Sanctions Compliance Guidance for the Virtual Currency Industry* (Oct. 15, 2021), <https://ofac.treasury.gov/media/913571/download>.

⁵⁴ See OCC Bulletin 2017-43, *New, Modified, or Expanded Banking Products and Services: Risk Management Principles* (Oct. 20, 2017).

⁵⁵ Press Release, CFTC, *Acting Chairman Pham Announces First-Ever Listed Spot Crypto Trading on U.S. Regulated Exchanges* (Dec. 4, 2025), <https://www.cftc.gov/PressRoom/PressReleases/9145-25>.

⁵⁶ Press Release, CFTC, *Acting Chairman Pham Announces Launch of Digital Assets Pilot Program for Tokenized Collateral in Derivatives Markets* (Dec. 8, 2025), <https://www.cftc.gov/PressRoom/PressReleases/9146-25>; see also Gary E. Kalbaugh, *CFTC’s Tokenized Collateral Guidance: Integrating Blockchain into Derivatives Markets*, Cahill Gordon & Reindel LLP Client Alert (Dec. 15, 2025), <https://www.cahill.com/publications/client-alerts/2025-12-15-cftc-tokenized-collateral-guidance-integrating-blockchain-into-derivatives-markets>.

⁵⁷ CFTC, *Withdrawal of Interpretive Guidance: Retail Commodity Transactions Involving Certain Digital Assets*, 90 Fed. Reg. 58149 (Dec. 16, 2025).

⁵⁸ Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong. (2025); Senate Comm. on Agriculture, Nutrition and Forestry, Bipartisan Discussion Draft of Digital Commodities Market Structure Legislation (Nov. 11, 2025); see also Lewis Rinaudo Cohen & Gary E. Kalbaugh, *The Senate Speaks on Crypto Market Structure: The Agriculture Committee’s Bipartisan Discussion Draft*, Cahill Gordon & Reindel LLP (Nov. 18, 2025), <https://www.cahill.com/publications/client-alerts/2025-11-18-the-senate-speaks-on-crypto-market-structure-the-agriculture-committee-bipartisan-discussion-draft>. The Senate Agriculture Committee’s bill is intended to be integrated with legislation being negotiated in parallel within the Senate Banking Committee. See Senate Comm. on Banking, Housing, and Urban Affairs, Discussion Draft of the Responsible Financial Innovation Act of 2025 (Sept. 5, 2025), https://www.banking.senate.gov/imo/media/doc/senate_banking_committee_digital_asset_market_structure_legislation_discussion_draft.pdf and Senate Comm. on Banking, Housing, and Urban Affairs,

further encourage bank participation in crypto-asset markets by establishing jurisdictional authority and boundaries between the SEC and CFTC over spot digital assets.

Implications for Market Participants

The coordinated actions across all three federal banking agencies create significant opportunities for both traditional banks and crypto-native firms. For existing national banks and federal savings associations, the OCC interpretive letter framework now provides a clear pathway to engage in crypto-asset custody, stablecoin reserves, payments, network fee payments, and riskless principal transactions without prior approval. Banks should ensure that risk management systems (including the new operational risks arising from engaging with crypto assets), compliance programs, and governance structures are adequate for the complexity of proposed activities.

Banks extending credit secured by crypto assets should also attend to recent developments in state commercial law. New York's December 2025 adoption of new UCC Article 12 provides a legal framework for "controllable electronic records," including most crypto assets, and clarifies how security interests in such assets may be perfected.⁵⁹ Critically, a party that obtains "control" of a controllable electronic record in good faith and for value takes free of competing security interests, even those previously perfected by filing a financing statement.⁶⁰ Bank lenders should therefore evaluate whether perfection by control is necessary to protect their priority position against subsequent transferees.

For state member banks, the Federal Reserve's new policy statement creates additional flexibility, particularly for uninsured institutions that can demonstrate financial risk management at least as effective as deposit insurance. The concept of a payment account floated in the Request for Information, if implemented, could provide a faster pathway to Federal Reserve payment services for institutions with payment-focused business models. It is critical for interested parties to respond with comments to the Request for Information by the February 6, 2026 deadline.

For crypto-native firms, the December OCC charter approvals demonstrate a viable federal pathway for crypto businesses. The national trust bank charter may be particularly attractive for firms focused on custody, stablecoin, and settlement activities. The FDIC's proposed GENIUS Act rule provides the first concrete guidance on the path to becoming a permitted payment stablecoin issuer through an insured depository institution subsidiary.

State-chartered banks and trust companies should evaluate the competitive implications of the expanded federal framework. In some cases, state regulated banks will benefit from the expanded permissible activities for national banks.⁶¹ The GENIUS Act's provisions for state-licensed payment stablecoin issuers, subject to comparability determinations, provide an alternative pathway that may be attractive depending on a firm's business model and existing regulatory relationships.

Conclusion

The actions taken by the federal banking agencies in 2025 mark a decisive acceleration in the integration of crypto assets into the regulated banking system. The OCC's interpretive letters and charter approvals, the Federal

Bipartisan Negotiated Market Structure Bill Text (Jan. 12, 2026),
https://www.banking.senate.gov/imo/media/doc/market_structure_draft.pdf.

⁵⁹ N.Y. Assembly Bill 3307-A/Senate Bill 1840-A (2025).

⁶⁰ N.Y. U.C.C. § 12-104(e)–(f).

⁶¹ 12 U.S.C. § 1831a(a); 12 C.F.R. § 362.3 (permitting insured state banks to engage in activities permissible for national banks).

Reserve's policy statement rescission and payment account inquiry, and the FDIC's openness to tokenized deposits collectively signal that responsible crypto innovation has a place within the federal banking framework.

Market participants should continue to monitor developments as the newly chartered trust banks complete the approval process and commence operations, the Federal Reserve's payment account concept is refined through the Request for Information process, and the GENIUS Act's stablecoin framework is implemented through agency rulemakings. The federal banking agencies have positioned themselves at the forefront of crypto-asset regulation, but the full contours of the regulatory framework will emerge through ongoing supervisory practice and the implementation of the statutory framework Congress has now provided.

Beyond regulatory considerations, banks seeking to expand their crypto activities must also address significant operational challenges. Institutions will need to develop robust internal security procedures for handling crypto assets, including secure wallet infrastructure and private key management protocols. Banks must also conduct thorough third-party due diligence on external partners and service providers, many of which may be thinly capitalized start-ups with limited operating histories.⁶² Without adequately addressing these operational prerequisites, banks will face practical constraints on their ability to scale activity in the crypto sector, regardless of the permissive regulatory environment.

If you have any questions about the regulatory developments addressed in this article, or if you would like to discuss their implications for your institution, please do not hesitate to contact any of the authors.

Summary of Key Takeaways

- In March 2025, the OCC rescinded the Biden-era pre-approval requirement for national banks to engage in crypto activity, allowing them to engage in previously authorized crypto-asset activities through ordinary supervisory processes.
- In March 2025, the FDIC also rescinded its prior notification requirement and clarified that FDIC-supervised institutions may engage in permissible crypto-related activities without prior FDIC approval, provided they adequately manage associated risks.
- In April 2025, the Federal Reserve eliminated prior notification and supervisory non-objection requirements for crypto-asset activities, and joined the OCC and FDIC in withdrawing from restrictive 2023 interagency statements.
- In July 2025, the three federal banking agencies issued a joint statement on crypto-asset safekeeping, providing a common baseline of risk-management principles for banks offering crypto custody services. This and similar coordinated actions across all three federal banking agencies signal a decisive shift toward facilitating responsible crypto innovation within the regulated banking system.
- The OCC conditionally approved the Erebor Bank *de novo* national bank charter in October 2025, followed by its December 2025 conditional approval of five national trust bank charters for major crypto firms: Ripple, Circle, BitGo, Fidelity Digital Assets, and Paxos.

⁶² See Board of Governors of the Federal Reserve System, FDIC & OCC, *Interagency Guidance on Third-Party Relationships: Risk Management*, 88 Fed. Reg. 37920 (June 9, 2023), <https://www.federalregister.gov/documents/2023/06/09/2023-12340/interagency-guidance-on-third-party-relationships-risk-management>.

- In November 2025, the OCC clarified that national banks providing crypto-asset custody may also facilitate customer execution and trading and acquire *de minimis* amounts of crypto assets for paying network fees (referred to as “gas”).
- The OCC also confirmed, in December 2025, that national banks may engage in riskless principal crypto-asset transactions, treating such transactions as functionally equivalent to recognized brokerage activities.
- In December 2025, the Federal Reserve rescinded its 2023 policy statement regarding uninsured state member banks and replaced it with a more permissive framework that authorizes such banks to engage in crypto activities not permitted for insured banks, subject to state law and enhanced financial profile requirements.
- In December 2025, the Federal Reserve also issued a request for information on a contemplated “payment account” alternative to a full master account, which could provide crypto-focused institutions with a streamlined pathway to Federal Reserve payment services.
- In December 2025, the FDIC proposed the first implementing rule under the GENIUS Act, establishing an application process for FDIC-supervised institution subsidiaries to become permitted payment stablecoin issuers.

Annex: Table of Crypto-Related Bank Regulatory Developments

Regulator	Instrument	Description
OCC	Interpretive Letter 1183 (Mar. 7, 2025)	Rescinded non-objection requirement, allowing banks to engage in crypto activities through ordinary supervisory processes
OCC	Interpretive Letter 1184 (May 7, 2025)	Clarified that banks providing crypto custody may also facilitate customer execution and trading
OCC	Interpretive Letter 1186 (Nov. 18, 2025)	Authorized banks to acquire <i>de minimis</i> crypto assets for paying network fees
OCC	Interpretive Letter 1188 (Dec. 9, 2025)	Confirmed banks may engage in riskless principal crypto-asset transactions
OCC	Erebos Bank Charter Approval (Oct. 15, 2025)	Conditionally approved <i>de novo</i> national bank charter for crypto-focused institution
OCC	Five National Trust Bank Charters (Dec. 12, 2025)	Conditionally approved trust bank charters for Ripple, Circle, BitGo, Fidelity Digital Assets, and Paxos
OCC	OCC Bulletin 2025-4 (Mar. 20, 2025)	Removed references to reputational risk from examination guidance
OCC	Debanking Review Findings (Dec. 10, 2025)	Released preliminary findings on debanking activities at large national banks
Fed	Rescission of SR 22-6 and SR 23-8 (Apr. 24, 2025)	Eliminated prior notification and supervisory nonobjection requirements for crypto activities
Fed	Withdrawal from 2023 Interagency Statements (Apr. 24, 2025)	Withdrew from restrictive interagency statements on crypto-asset and liquidity risks
Fed	2025 Policy Statement (Dec. 17, 2025)	Replaced 2023 policy with more permissive framework; allows uninsured state member banks broader crypto activities
Fed	Payment Account RFI (Dec. 19, 2025)	Requested input on streamlined “payment account” alternative to full master account access
FDIC	FIL 7-2025 (Mar. 28, 2025)	Rescinded prior notification requirement; clarified banks may engage in permissible crypto activities without FDIC approval
FDIC	GENIUS Act Proposed Rule (Dec. 2025)	Established application process for FDIC-supervised institution subsidiaries to become payment stablecoin issuers
OCC/Fed/FDIC	Joint Statement on Crypto-Asset Safekeeping (July 14, 2025)	Provided common risk-management principles for banks offering crypto custody services

If you have any questions about the issues addressed in this alert, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to call or email Gary E. Kalbaugh (partner) at 212.701.3505 or GKalbaugh@cahill.com and Lewis Rinaudo Cohen (partner) at 212.701.3758 or lrcohen@cahill.com.