

LEGAL UPDATES AND NEWS

Federal Reserve Issues Crypto Guidance

The Board of Governors of the Federal Reserve System (“FRB”) issued a supervisory letter (“SR 22-6”) for FRB-supervised banking organizations that are currently engaged in or seeking to engage in crypto-asset-related activities.

“Crypto asset” is broadly defined as “any digital asset using cryptographic techniques.” Examples of “crypto-asset-related activities” include, but are not limited to:

- Crypto-asset safekeeping and custody (including traditional and ancillary custody services).
- Facilitation of customer purchases and sales of crypto assets.
- Loans collateralized by crypto assets.
- Issuance and distribution of stablecoins.

SR 22-6 requires bank holding companies, savings and loan holding companies, and state member banks to take the following steps:

1. **Legal Permissibility** – Analyze whether such activities are permissible under relevant state and federal laws and determine whether any federal bank regulatory filings are required.
2. **Notice to FRB** – Notify FRB lead supervisory point of contact prior to engaging in any crypto-asset-related activities. If already engaged, promptly notify the FRB. (State member banks should also notify their state regulator.)
3. **Systems and Controls** – Have in place adequate systems, risk management and controls to (a) conduct such activities in a safe and sound manner and consistent with applicable laws, and (b) identify, measure, monitor, and control associated risks.

The FRB supervisory letter is substantially similar to guidance previously issued by the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation to their regulated entities.

Implications and Takeaways

Given the perceived risks posed by crypto assets, exacerbated by the recent turbulence and volatility in the crypto markets, the U.S. federal banking agencies, among other regulators, are closely monitoring and scrutinizing bank crypto-asset activities and partnerships. Substantive regulatory developments with respect to crypto assets are occurring regularly and we can expect them to continue as various agencies strive to establish regulatory guardrails and articulate supervisory expectations with respect to crypto-asset-related activities.

To ensure compliance, all banking institutions and their holding companies should obtain the advice of counsel prior to engaging in or entering any new crypto asset activities or partnerships, and confirm the permissibility of existing activities and partnerships.

Please contact any of our attorneys below if you have any questions regarding the information contained in this newsletter.

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