OCC Issuances Addressing Crypto-Asset Activities

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On March 7, 2025, the OCC issued Interpretive Letter 1183, removing the prior non-objection requirement for banks to engage in cryptocurrency activities and returning the OCC to a more technology-neutral regulatory approach to cryptocurrency activities. IL 1183 reaffirms that banks may provide crypto custody, hold stablecoin reserves, operate blockchain nodes, and facilitate certain stablecoin payments—subject to standard risk oversight. The OCC also withdrew from previous interagency statements that discouraged crypto involvement. Below, the authors outline some of the principal changes in the OCC's policy and suggest practices for banks navigating this more open regulatory landscape.

During the Biden Administration, the Office of the Comptroller of the Currency ("OCC") issued Interpretive Letter ("IL") 1179, which imposed special requirements on national banks and federal savings associations (collectively "banks") for engaging in cryptocurrency banking activities, including having adequate risk controls and obtaining written supervisory non-objection. These requirements hindered and sometimes prevented many banks from engaging in lawful cryptocurrency activities.

On March 7, 2025, the OCC rescinded IL 1179 through its new IL 1183. Although IL 1183 does not provide blanket authorization for banks to conduct cryptocurrency activities, it represents a significant shift in the regulatory approach. Whereas the Biden-era IL 1179 adopted a crypto-specific regulatory approach, imposing requirements for cryptocurrency activities that did not apply to similar activities using traditional technologies, IL 1183 returns to a more technology-neutral supervisory approach by removing crypto-specific requirements. Now banks can engage in cryptocurrency activities subject to the same supervisory expectations as other banking activities. Consequently, banks will be able to more readily offer cryptocurrency custody services, hold stablecoin reserves, operate blockchain nodes, and facilitate certain stablecoin payments without the burden of obtaining prior regulatory written non-objection. The OCC's action suggests that banks may eventually be permitted to engage in a wider range of cryptocurrency activities, potentially including stablecoin issuance and broader cryptocurrency asset services.

This alert highlights IL 1183's key regulatory changes, suggests how these changes are likely to affect banks, and examines how the OCC's action might interact with other financial regulators' policies.

Key Changes Under IL 1183

IL 1183 makes the following significant changes to the regulatory landscape:

- **Rescinds the Written Non-Objection Requirement:** The Biden-era's IL 1179 permitted banks to engage in certain cryptocurrency activities only by first obtaining explicit written notification of OCC non-objection. The OCC's non-objection had to be based on the agency's evaluation of a particular bank's risk controls. An adequate risk management system had to address operational, liquidity, strategic, and compliance risks. IL 1183 eliminates this supervisory non-objection requirement and constitutes a reversion to the regulatory framework under the first Trump administration, before IL 1179 was issued. Rather than requiring special non-objection, the OCC will now examine cryptocurrency activities as part of its regular supervisory process, treating them like other permissible banking activities.

- **Reaffirms Permissible Activities:** IL 1183 explicitly reaffirms permissible cryptocurrency activities established through IL 1170, 1172, and IL 1174, which were issued during the first Trump administration and which remained in effect during the Biden administration. Activities permitted under those ILs include providing cryptocurrency custody services, holding dollar deposits serving as reserves for stablecoins, operating nodes on blockchain networks, and engaging in certain stablecoin activities to facilitate payments.

- **Withdraws From Restrictive Interagency Statements:** Concurrently with its issuance of IL 1183, the OCC also announced it was withdrawing from two Biden-era interagency joint statements issued in early 2023 that took a negative stance toward banks' involvement with cryptocurrency assets – specifically, the Joint Statement on Crypto-Asset Risks to Banking Organizations and the Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities. Those statements emphasize various risks to banking organizations from crypto-asset activities, including liquidity, frauds and scams, volatility, and lack of governance and oversight. The OCC's withdrawal from those statements reinforces its intention to return to the deregulatory stance of the first Trump administration and to eliminate or reduce the high barriers that the Biden administration had imposed on banks' engaging in cryptocurrency activities.

Relationship to Other Financial Regulators' Policies

During the Biden administration, the OCC's position on cryptocurrency banking activities were aligned with the positions of the Securities and Exchange Commission ("SEC"), the Federal Deposit Insurance Corporation ("FDIC"), and the Federal Reserve Board ("Fed"). So far, these agencies have been moving toward aligning with the OCC's new technology-neutral policies.

A. The SEC

The OCC's action follows recent changes at the SEC, which has begun taking a more open approach to cryptocurrency. On January 23, 2025, the SEC rescinded Staff Accounting Bulletin ("SAB") 121, which had imposed special accounting treatment for cryptocurrency custody. The rescission of SAB 121 restores technology neutrality in accounting standards.

B. The FDIC

The FDIC has informally indicated it will align its policy with the OCC's. On January 21, 2025, the Acting Chairman of the FDIC, Travis Hill, said in a press release that the agency would likely adopt a "more open-minded approach to innovation and technology adoption," including with respect to digital assets. Hill later said that the FDIC would reevaluate its practice of sending "crypto pause" letters to some institutions instructing them to suspend cryptocurrency activities, creating a de facto ban. And Hill said the FDIC would replace its Financial Institution Letter 16-2022 to "provid[e] a pathway for institutions to engage in crypto- and blockchain-related activities."

C. The Fed

The Fed's position remains to be determined. State member banks currently face more restrictions than national banks due to the Fed's continued supervisory non-objection requirement. However, the Fed's Policy Statement on Section 9(13) of the Federal Reserve Act (issued during the Biden administration) directs state member banks to look to OCC regulations and interpretations to determine permissible activities. As long as this policy remains in effect, it provides a basis for further alignment on technology-neutral regulation of cryptocurrency banking activities in light of IL 1183.

Conclusion and Recommendations

The OCC's action marks an important step in what appears to be a broader effort to liberalize the federal approach to regulating banks' cryptocurrency activities. Further regulatory developments are likely as the new administration continues to implement its policy of encouraging innovation and engagement in the cryptocurrency space.

For banks considering cryptocurrency-related activities, we recommend the following:

- **Review Permissible Activities:** Carefully review OCC IL 1170, 1172, and 1174 to understand the scope of permissible activities. These letters were first issued in the first Trump administration, and were reaffirmed by IL 1183.
- **Develop Robust Risk Management:** Ensure cryptocurrency activities are conducted with appropriate risk-management practices typical of non-crypto assets. While easing barriers to cryptocurrency activity, IL 1183 maintains that cryptocurrency activities should still be "developed and implemented consistent with sound risk management practices and align with banks' overall business plans and strategies."
- **Monitor Regulatory Developments:** Stay attentive to further regulatory changes, especially potential harmonization efforts by the SEC, the FDIC, and the Fed.
- **Consider Strategic Positioning:** Evaluate how these regulatory changes may create strategic opportunities within the broader financial services and cryptocurrency markets.

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