APR 12
Tom Auchterlonie

# Feds could intervene to stop legal patchwork for banks and crypto

Article

**The news:** With US crypto oversight still a work in progress, lawmakers and watchdogs are making regulatory moves to fill the vacuum around the increasingly popular digital asset space.

- **Federal:** The FDIC released a letter stating that it wants insured banks **to report any activities pertaining to digital assets**.

- **State:** Several states have **mulled changing their laws to be more accommodating** to the crypto space, per a feature story from The New York Times.

**The FDIC's letter, at a glance:** The regulator raises concerns about how banks' crypto activities will **impact consumers**.

- It flagged risks that banks face "in effectively managing the application of consumer protection requirements" to crypto activities, and connected it with unfair or deceptive acts or practices.
- It addressed **banks offering crypto assets**, directly or with a partner, warning that "consumers may not understand the role of the bank or the speculative nature of certain crypto assets" compared with banks' established offerings.
- It also touched on **financial stability**—which appears to be particularly relevant to stablecoins, due to the FDIC's **concern over how runs could affect digital assets' own underlying assets**.

The FDIC also addressed **safety and soundness**, **covering risks from anti-money laundering (AML) to cybersecurity.**

**States' actions, at a glance:** States have passed or proposed legislation to exempt the crypto space from certain laws. These bills have been floated in the absence of federal regulations, the Times notes. Examples include:

- **Florida:** The legislature approved a bill that exempts sellers in two-party transactions from having to obtain money transmitter licenses. The broader restriction is on the books as an AML measure.
- **North Carolina:** The legislature passed a bill permitting "certain experimental cryptocurrency start-ups" to avoid existing consumer-protection laws.
- **Mississippi**: A proposed bill would exempt digital tokens from the state's securities laws. Though the legislation failed to advance out of a state senate committee this past February, the Times said it will be reintroduced.

**The big takeaway:** This patchwork regulatory approach could provide additional incentives to Congress and executive branch agencies to continue pursuing federal regulations.

- **Stablecoins will likely be a high priority.** Sen. Pat Toomey (R-Pennsylvania) and Acting Comptroller of the Currency Michael Hsu have each described how they'd like to see the digital assets handled. Their proposals include treating stablecoin issuers like money market funds or like depository banks, or taking a mixed approach.
- President Joe Biden's recent executive order covering crypto may lead to further **policy brainstorming**. Its provisions include directing the Treasury Department to produce a report, and support for the Federal Reserve's ongoing research into a central bank digital currency (CBDC).