

Lawmakers to OCC: Take banks out of crypto

Article

The news: Senators are asking the **Office of the Comptroller of the Currency (OCC)** to reverse guidance given to banks during the Trump administration on their crypto abilities, [per](#) Yahoo! Finance.

What's happening? Led by Senator Elizabeth Warren, lawmakers sent a letter to the OCC asking it to rescind Trump-era guidance to banks on permissible cryptocurrency activities. Under that guidance, federally chartered banks can engage in [limited crypto practices](#), including:

- Providing crypto asset custody services.
- Holding cash reserves backing stablecoins.
- Using blockchain technology and stablecoins to verify bank-to-bank payments.

The letter asked the OCC to consult with the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve to refine how the agencies oversee banks' dealings in cryptocurrency. They implied that banks and traditional financial markets should remain insulated from the turbulence of the crypto market. Lawmakers also wanted to know how many OCC-regulated banks are currently engaging in crypto activities.

OCC response: The OCC reacted by reiterating comments Acting Comptroller of the Currency Michael Hsu made last week when he heard the letter was circulating.

- Hsu told Bloomberg: "I think we're doing a pretty good job. See Exhibit A: A whole bunch of stuff just happened, and the banking system is in pretty good shape, knock on wood. I think part of that is the actions we've taken."

Last November the OCC said it would not revoke its guidance, but mandated that banks receive OCC approval before engaging in crypto activities.

How did we get here? Yesterday we reported on banks' plea to the Biden administration to have a bigger role in developing crypto regulation.

- Banks argue that the highly regulated sector is the safest place for crypto and digital asset innovation to occur.
- They highlighted the risks consumers face when engaging in crypto activities with non-regulated entities, and pointed out that the strict regulatory environment in which they operate leaves them at a disadvantage regarding opportunities in digital asset markets.

Proponents of the banks agree that operating in a regulated environment would make the crypto market less prone to fraud and money laundering, minimizing threats to national security.

Opponents fear that allowing banks to take part in the crypto markets will open them up to greater fraud risks and potentially compromise traditional financial markets.

US Banks' Cryptocurrency Plans, Dec 2021

% of respondents



Note: n=165 senior bank executives; numbers may not add up to 100% due to rounding
Source: Cornerstone Advisors, "What's Going On in Banking 2022," Jan 25, 2022

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Our take: Just when banks have made a case for deeper crypto involvement, they're facing the possibility that the few crypto activities in which they *can* participate may be taken away. And while it seems like the OCC has no intention of canceling its earlier guidance, it also seems to have no intention of providing any further guidance to banks and non-bank entities on crypto.

As the OCC, the Securities and Exchange Commission, the Commodity Futures Trade Commission, and any other regulator that wants a stake in the development of crypto regulation continue their power struggle, crypto exchanges are going bankrupt, fraud is running rampant, and consumers are suffering. Despite the OCC's promise of further guidance on crypto in 2022, thus far, we've heard only crickets. How many more things need to go wrong, and how many more bold enforcement actions will happen before regulators create regulation?

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