



CRYPTO B R I E F



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Lowenstein Crypto advises leading digital asset and cryptocurrency projects, exchanges, and trading firms. Our practice covers regulatory advice, transactions and structuring advice, investigations, and adversarial matters including commercial disputes, bankruptcy, and related litigation. As these markets continue their rapid growth and market participants continue to evolve and mature their businesses, we are providing this weekly digest as a resource that highlights and summarizes a selection of key recent legal regulatory developments.

SEC Drops SAB No. 121 Accounting Obligations to Safeguard Crypto-Assets

SAB No. 121 (effective April 11, 2022), required, among other things, entities that hold crypto assets on behalf of customers to disclose the nature and the amount of crypto assets they are responsible for safeguarding and to include safeguarded assets on their balance sheets. SAB No. 122, issued on January 23, 2025, rescinds SAB No. 121 Topic 5.FF, and directs entities that have obligations to safeguard crypto-assets to refer to Financial Accounting Standards Board Account Standards Codification, Subtopic 450-20 or International Accounting Standard 37, and determine whether to recognize the liability associated with the risk of loss of the safeguarded assets. Entities should reflect the rescission on a fully retrospective basis in annual periods beginning after December 15, 2024. *SAB No. 122 is available to view [here](#).*

President Trump Signs Executive Order Establishing a Digital Asset Markets Working Group

On January 23, 2025, President Donald Trump signed an executive order formally establishing the 'Presidential Working Group on Digital Asset Markets to strengthen U.S. leadership in digital finance' (the Working Group). The Working Group is tasked with developing a federal regulatory framework governing the issuance and operation of digital assets and evaluating the potential creation and maintenance of a national digital asset stockpile. Additionally, the executive order directs the Department of Treasury, the Department of Justice, the Securities and Exchange Commission (SEC), and all other relevant agencies to identify all regulations and guidance documents for the Working Group within thirty (30) days. Within sixty (60) days, each agency chair must submit a recommendation relating to the identified items. Within one

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hundred eighty (180) days, the Working Group is expected to submit a report to Trump providing a recommendation for regulatory and legislative proposals. In addition, the executive order explicitly prohibits any agency from furthering the issuance of a central bank digital currency (CBDC), which the executive order states will threaten the stability of the financial system, individual privacy, and the sovereignty of the United States. See [White House release of the executive order here](#).

SEC Charges Digital Currency Group and Former Genesis Global Capital CEO

The SEC charged Digital Currency Group (DCG) and Soichiro "Michael" Moro, the former CEO of Genesis Global Capital (GGC), for misleading investors about GGC's financial condition. GGC suffered a significant loss when a large borrower, Three Arrows Capital (TAC), defaulted on a margin call in June 2022. Despite this, DCG and Moro made false and misleading statements about GGC's financial health, downplaying the impact of the loss and exaggerating the support provided by DCG. To settle these charges, DCG agreed to pay a \$38 million civil penalty, and Moro agreed to pay a \$500,000 civil penalty. See [press release here](#).

President Donald Trump Grants Pardon for Silk Road Founder, Ross Ulbricht

Ross Ulbricht, the founder of the dark net marketplace, Silk Road, was given two life sentences, plus 40 years for running a website that allegedly facilitated over \$180 million in drug sales using Bitcoin. An early adopter of Bitcoin, Silk Road was shut down by the FBI in 2013, and Ulbricht was found guilty two years later. Newly minted President Trump announced on January 21, 2025 on his Truth Social platform that he had signed a full, unconditional pardon of Ulbricht. See [link here](#).

BitMEX Fined an Additional \$100M for Willfully Ignoring AML Obligations

BitMEX, a cryptocurrency exchange, was fined \$100 million by the U.S. Department of Justice for violating the Bank Secrecy Act and willfully ignoring its anti-money laundering (AML) and know-your-customer (KYC) obligations. Despite knowing it was serving U.S. customers, BitMEX required only an email address from its customers. Egregiously, BitMEX also falsely represented the nature of a subsidiary to move millions of dollars through the U.S. financial system as part of their evasion of U.S. AML laws. See [press release here](#).

SEC Files Lawsuit Against Nova Labs, Inc. (Helium) Days Before New Administration

The SEC filed a complaint against Nova Labs, Inc., the owner and operator of the Helium Network, alleging the unlawful sale of unregistered securities. Nova Labs raised millions by selling "Hotspots," devices that generated crypto assets, and through a rewards program, including the Helium Network Token (HNT), the Helium Mobile Network Token (MOBILE), and the Helium IoT Network Token (IOT). The SEC claims these were unregistered securities offerings and that Nova Labs made materially false and misleading statements about partnerships with major companies. See [complaint here](#).

Mark T. Uyeda Named Acting Chairman of the SEC

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On January 21, 2025, the SEC announced Mark T. Uyeda as the Acting Chairman following the resignation of former SEC Chair Gary Gensler. At the SEC, Mr. Uyeda has served as senior advisor to former Chairman Jay Clayton, counsel to commissioners Michael S. Piwowar and Paul S. Atkins, and Assistant Director and senior Special Counsel in the Division of Investment Management. Before joining the SEC, Mr. Uyeda was appointed by former Governor Arnold Schwarzenegger to serve as the chief advisor to the California Corporations Commissioner, the state's securities regulator. Earlier in his career, he worked as a corporate and securities attorney. Mr. Uyeda is known for his opposition to regulating the crypto industry by enforcement but has yet to issue a public statement regarding his plans for crypto while Paul Atkins' appointment as Chair of the SEC is confirmed by the Senate. *See [press release here](#).*

SEC Crypto 2.0: Acting Chairman Uyeda Announces Formation of New Crypto Task Force

The SEC announced the formation of a new crypto task force, led by Commissioner Hester Peirce, to create a clearer regulatory framework for crypto assets. The task force aims to provide more defined rules for registration, improve disclosure, and use enforcement resources effectively. This initiative follows past reliance on retroactive enforcement actions, which created confusion and hindered innovation. The task force will collaborate with other federal agencies and seek public input to develop a balanced regulatory environment that protects investors and fosters growth within the crypto industry. *See [press release here](#).*

Acting Chairman Pham: Time for CFTC to Get Back to Basics

On January 20, Caroline D. Pham was appointed as Acting Chair of the Commodity Futures Trading Commission (CFTC). Pham plans to return to the CFTC's core mission: promoting market integrity and responsible innovation. Pham has an extensive background in finance, law, and regulation, including experience with digital assets. More specifically, Pham was a sponsor of the CFTC's Global Markets Advisory Committee and delivered 14 recommendations relating to U.S. Treasury market reform, repo and funding markets, money market funds, collateral management, capital and margin, exchange volatility controls, T+1 securities settlement and FX markets, central counterparty resilience, streamlining trade reporting data, tokenized collateral, and a first-ever U.S. digital asset taxonomy. Pham's vision as the new Acting Chair focuses on streamlining regulations to enhance market efficiency and competitiveness. *See [press release here](#).*

Statement From Travis Hill, Acting Chair of the FDIC

The Acting Chair of the Federal Deposit Insurance Corporation, Travis Hill, released his policy priorities on January 20. In his policy priorities, Hill emphasized, among other things, his "open-minded approach to innovation and technology adoption," including a more transparent approach to fintech partnerships, digital assets and tokenization. *See [press release here](#).*

Sen. Cruz, Rep. Carey, Work To Overturn Biden Admin IRS Rule for Fear of Sending American Cryptocurrency Innovation Overseas

Sen. Ted Cruz and Rep. Mike Carey, along with other colleagues, introduced a resolution to overturn a new IRS rule classifying decentralized finance (DeFi) participants as brokers. This rule, finalized in December 2024, imposes burdensome reporting requirements, which they argue will stifle American cryptocurrency innovation and drive it overseas. Both Senator Cruz and Representative Carey expressed concerns about the rule's impact and the potential for overwhelming the IRS. The resolution has garnered support from numerous organizations within the cryptocurrency industry. *See [resolution here](#).*

Better Markets Files Amicus Brief in Support of SEC in *SEC v. Ripple Labs*

Better Markets, a non-profit organization that aims to promote the public interest in financial markets, filed an amicus brief on January 22, 2025, challenging the district court's understanding of the economic realities surrounding the offer and sale of XRP. The amicus brief argues that all purchasers were led to expect profits from Ripple's efforts, regardless of where they purchased XRP. The brief further attack's the district court's understanding of the Howey Test , highlighting the fact that the Howey Test does not distinguish between primary and secondary market transactions and does not contemplate investor sophistication. The district court notably distinguished Ripple's primary market sales to institutional investors from secondary market transactions to retail purchasers, arguing that retail purchasers were not sophisticated enough to understand the link between their expected profits and Ripple's entrepreneurial and managerial efforts. The brief further contends that the district court's ruling undermines investor protections that the securities laws were designed for, which may lead to further harm to investors and markets. *A copy of the amicus brief is accessible [here](#).*

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