

Crypto Legislation: CLARITY Act's (H.R. 3633) Potential Effects on SEC Jurisdiction

July 10, 2025

The Digital Asset Market Clarity Act of 2025 (CLARITY, H.R. 3633) passed the House Committees on Financial Services and Agriculture on June 10, 2025. The bill aims to transform digital asset regulatory landscape and redefine the regulatory roles at the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC). This Insight focuses on discussions of the SEC's jurisdiction. For an overview of CLARITY, see CRS Insight IN12583, *Crypto Legislation: An Overview of H.R. 3633, the CLARITY Act*, by Paul Tierno.

SEC's Existing Regulatory Framework

The SEC is the primary regulator overseeing digital and traditional security offerings, trading, and investment activities. The current regulatory framework at the SEC is *technology neutral*, meaning securities regulation generally applies to all securities whether they are digital or traditional. The SEC's regulatory framework generally aligns with its mission to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. For more details, see CRS Report R48521, *Capital Markets and Securities Regulation: Overview and Policy Issues*, by Eva Su.

For digital assets that are securities, the SEC has both (1) *regulatory* authority, including over digital asset securities, which include registration requirements, disclosure requirements, and market oversight; and (2) *enforcement* authority that allows it to bring civil enforcement actions, such as anti-fraud and anti-manipulation actions, for securities laws violations.

SEC Chair Paul S. Atkins [stated](#) that the agency plans to develop new regulatory approaches for digital assets. The [SEC's Crypto Task Force](#), formed in January 2025, is leading this effort.

Legislative Context

Not all digital assets are legally classified as *securities*, and thus they may not fall under the securities regulation regime. Digital assets may also be *commodities* under the Commodity Exchange Act (P.L. 74-675). In such cases, they are subject to the jurisdiction of the CFTC, which generally extends to

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IN12584

commodities and derivatives. While the CFTC does not regulate digital asset securities, if a digital asset instrument is a security-based derivative, both the SEC and the CFTC may have jurisdiction over it.

No federal agency currently has general regulatory authority over spot transactions in digital assets (i.e., assets that are bought and sold for immediate settlement, meaning the transactions are settled “on the spot”) that are not securities. As such, these markets do not feature the same rules and regulations as seen within the securities regulatory framework to safeguard investors, deter market manipulation, and ensure efficient market operations. The Financial Stability Oversight Council (FSOC)—a systemic risk oversight body—[published a report](#) that highlights the perceived “regulatory gap,” encouraging Congress to pass legislation that provides regulatory authority for federal financial regulators over spot markets for digital assets that are not securities. Some [policymakers](#) and [legislators](#) appear to be using this FSOC-described regulatory gap as a rationale for the crypto legislative proposals to reform the digital asset market structure.

Potential Effects of CLARITY on SEC Jurisdiction

CLARITY would generally grant the CFTC jurisdiction over digital assets that meet its definition of *digital commodity* and would narrow the SEC’s jurisdiction over digital asset securities. The SEC’s role would be reduced in several areas, including the following:

- The bill acknowledges the view that a digital asset originally sold as part of an investment contract may, over time, become sufficiently decentralized or functionally “mature” such that it no longer meets the definition of *security*. To account for this, the bill would allow the issuer to file a notice with the SEC stating that the asset either is already mature or is expected to become so within four years. The SEC would review and decide whether to object. The bill would also direct the SEC to promulgate rules regarding consequences or penalties for failing to meet the promised maturity timeline. This approach differs from current securities regulation, where all digital asset securities—including those that are in the transition stage to become commodities—are subject to securities regulation.
- The bill would create a new exemption from the Securities Act of 1933 for certain digital commodities issuers that offer and sell up to \$75 million in assets within a 12-month period when certain disclosure and eligibility conditions are met. This exemption would require issuers to file initial and ongoing disclosures. Disclosure items would include maturity status, source code, token economics, and risk factors. The SEC would have one year from the bill’s enactment to promulgate rules governing the new exemption. Aspects of the exemption are similar to certain existing SEC private securities exemptions. For example, the [SEC Regulation A Tier 2 offering](#) (also known as Regulation A+) allows securities offerings of up to \$75 million in a 12-month period. Issuers raising money through Regulation A+ face eligibility requirements, a scaled-down version of the disclosure requirement relative to [public securities offerings](#), and bad actor disqualifications, among other requirements.

- The bill would clarify that “permitted payment stablecoins” that meet the bill’s reserve and operational requirements would be generally excluded from securities regulation. But the SEC would retain certain anti-fraud and anti-manipulation authorities over them. This clarification would remove the possibility of generally applying securities regulation to applicable stablecoins. For example, it would eliminate uncertainty over whether [stablecoins’ investment fund-like structures](#) (e.g., structures mimicking money market mutual funds and exchange-traded funds) could trigger securities regulation. Draft legislation that has been introduced for permitted payment stablecoins is included in [separate proposals](#) that are specific to stablecoins.

In addition, CLARITY includes other provisions that would more narrowly affect the SEC’s regulatory scope. For example, the bill would prevent the banking regulators and the SEC from requiring certain financial institutions that custody digital assets to treat such assets as balance sheet liabilities. Aspects of this provision are similar to SEC [Staff Accounting Bulletin \(SAB\) No. 122](#) that rescinded SEC [SAB No. 121](#).

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