ALERTS

FDIC Releases Documents Related to Supervision of Crypto-Related Activities Amidst Signs of Shift to Deregulatory Approach to Crypto

February 6, 2025

On Feb. 5, 2025, the Federal Deposit Insurance Corporation ("FDIC") released a set of 175 documents[1] related to the FDIC's supervision of banks that engaged in, or sought to engage in activities related to cryptocurrency or digital assets (broadly, "crypto"). In an accompanying statement, Acting FDIC Chairman Travis Hill stated, "The documents that we are releasing today show that requests [to pursue "crypto- or blockchain-related activities"] from … banks were almost universally met with resistance [from the FDIC] … Looking forward, we are actively reevaluating our supervisory approach to crypto-related activities."[2] He also stated that the FDIC is considering replacing its 2022 letter, which required any FDIC-supervised institution to notify them of any existing or planned crypto-related activity to allow the FDIC to provide supervisory feedback.[3] Overall, the document release accompanied by Acting Chairman Hill's statement is demonstrative of the Trump administration's broader deregulatory stance and a potential shift at the FDIC to end debanking practices relating to crypto.

Background

On Jan. 3, 2025, the FDIC released 25 'pause letters' in which the FDIC to various extents either instructed certain FDIC-supervised institutions to pause or not further expand certain crypto-related activities or the FDIC requested further information regarding an FDIC-supervised institution's crypto-related activit(ies).[4] This release of the 'pause letters' occurred in connection with a Freedom of Information Act ("FOIA") lawsuit by a consultant of Coinbase alleging that the agency withheld crucial documents that were responsive to a FOIA request.[5] The further release of the 175 documents on February 5 is in connection with the same lawsuit and subject matter.

The document release on February 5 occurred on the same day as the US Senate Committee on Banking, Housing and Urban Affairs conducted a hearing on 'debanking' (when a bank closes or will not open an account for a customer), where at the hearing the CEO of the (only) federally-charted crypto bank, Anchorage Digital, testified that certain of Anchorage Digital's banking relationships were terminated or prevented due to regulatory pressure because of regulators' skepticism of or hostility to crypto-related activities.[6]

Key Takeaways

The document release in connection with Acting FDIC Chairman Hill's critical views of the FDIC's "resistance" to requests from supervised institutions to engage in crypto-related activities[7] signals that the FDIC may be shifting towards a more crypto-friendly approach consistent with the position that the Trump administration is taking.

Acting Chairman Hill's statement also states that the FDIC intends to replace its directive to FDIC-supervised institutions to notify the FDIC of any crypto-related activities the institutions is engaged in or plans to engage in.[8] However, this directive has not yet been replaced, and FDIC-supervised institutions should in the meantime continue to comply with its notification requirements.

Schulte Roth & Zabel's lawyers are available to assist you in addressing any questions you may have regarding these developments. Please contact the Schulte Roth & Zabel lawyer with whom you usually work, or any of the following attorneys:

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[1] The documents are available here.

[2] The accompanying statement (the "Statement") is available here.

[3] The 2022 letter is available here.

[4] The released 'pause letters' are available here.

[5] The Statement refers to the "court-ordered deadline" to release such documents by Feb. 7, 2025.

[6] The testimony is available here.

[7] Statement.

[8] Statement.

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