Why SEC, CFTC Crypto Rules 'Sprint' Could Be A Marathon

By Phillip Bantz · Listen to article

Law360 (September 9, 2025, 4:34 PM EDT) -- The White House-backed push to entice the crypto industry's return to the U.S. with clearer rules is off to a quick start, but experts say the process could drag on longer than anticipated as regulators navigate competing interests of embracing the evolving digital assets market and protecting consumers.

As part of President Donald Trump's urgent directive to rewrite rules for the crypto sector, the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission recently announced that they had joined forces with their respective "Project Crypto" and "Crypto Sprint" initiatives.

The ongoing collaboration comes after the President's Working Group on Digital Assets released a long-awaited report that SEC Chair Paul Atkins hailed as a "blueprint" for creating new crypto regulations in the absence of legislation, which also is in the works with the Clarity Act that passed the House and is now before the Senate.

The government also recently unveiled a regulatory agenda packed with potential rule proposals related to crypto, including proposals for certain exemptions and safe harbors related to the offer and sale of crypto assets.

But the finish line for the rulemaking process, which typically involves rule proposals followed by a period of public comment before a vote on the final rule, could be more than a year away, according to experts.

"It's going to take a lot longer than most people think," Daniel Silva, a Buchalter PC white collar shareholder and former California federal prosecutor who focused on financial crimes, told Law360.

He added, "The very nature of crypto is difficult, with a lot of gray areas and ambiguity That's the reason there have been so limited and ineffective regulations and inconsistent case authority [for crypto] and challenges in letting the industry and financial system know what's OK and what's not."

Exactly how long the crypto rulemaking process will take is unknown, but Neel Maitra, a Dechert LLP partner who formerly served as a crypto and fintech specialist in the SEC's Division of Trading and Markets, predicted that "six months is on the shorter side."

"Most of these things will take longer than that," he said.

The SEC's Crypto Task Force has already held a series of "Spring Sprint Toward Crypto Clarity" roundtables that kicked off in March as part of the rulemaking process. But other discussions are upcoming, including a Sept. 29 roundtable with the SEC and CFTC at the SEC's headquarters in Washington, D.C.

The roundtable will focus on aligning the regulatory frameworks at the SEC and CFTC to "reduce unnecessary barriers, enhance market efficiency, and create space for innovation to thrive," according to a joint statement from Atkins and CFTC acting Chair Caroline D. Pham. The duo described the meeting as a "pivotal step toward building more coherent and competitive U.S. markets."

The SEC's Crypto Task Force is slated to hold another roundtable Oct. 17, featuring public discussion focused on financial surveillance and privacy related to crypto.

"Understanding recent developments in privacy-protecting tools will assist the SEC and other financial regulators as we work on policy solutions in the crypto space," SEC Commissioner Hester M. Peirce said in a statement announcing the talks.

The ongoing series of roundtables suggest that regulators are giving more consideration to public comment and input from crypto market participants than they might have in the past, according to experts. That's a welcome development for the industry, though it might also prolong the process.

"If the rulemaking process really works out the way that it should and the regulators take the public comments on the proposed rules and evaluate them — rather than just ignoring them or writing them off, as they have been doing — there's bound to be significant change between what's proposed and what's final," Laurian Cristea, a partner at Barnes & Thornburg LLP who focuses on the digital asset markets, told Law360.

While regulators are considering a host of rule proposals, experts said two areas are high on the wishlist for the crypto industry: clear guidance on determining whether a digital asset is a security or commodity and clear rules for crypto custody.

"If we get those resolved, that sets the rails for everything else," Cristea said. "But without those basic things figured out, I don't think we make a lot of movement."

While the details are still coming into focus, a clearer picture of the potential new rule proposals has been emerging, in part, through staff statements from the SEC and CFTC. For instance, the agencies issued a joint statement Sept. 2 asserting that "current law does not prohibit SEC- or CFTC-registered exchanges from facilitating trading of … spot crypto asset products."

"Market participants are invited to engage with SEC staff or CFTC staff, as needed," the statement says.

"We're going to see more [staff] guidance like that, because it can be done very quickly," as opposed to crafting new rules, said Tiffany J. Smith, co-chair of WilmerHale's blockchain and cryptocurrency working group.

Staff statements from the SEC and CFTC are "helpful and the industry is looking for it," added WilmerHale partner Jeremy Moorehouse, who focuses on digital assets "But it doesn't have the same sense of finality as rulemaking does, because if the priorities change the [statements] could be rescinded."

He added, "It could be the case that we see all these various concepts [from staff statements] ultimately rolled up into something broader via rulemaking."

Based on the messaging from regulators so far, crypto industry players are looking for the SEC and CFTC to eventually propose rules that are as "specific and as close to black-and-white as they can get," according to former SEC prosecutor David R. Chase, now an SEC defense lawyer based in Fort Lauderdale, Florida.

"There is going to be tremendous efforts to give practical, clear guidance that didn't exist before so there is clarity for those in the crypto space to make intelligent business investment capital formation decisions based on a much clearer, better understood regulatory environment," he said.

"But I'll believe it when I see it, because there's always gray areas and ambiguity," he added.