

THE REVIEW OF
**SECURITIES & COMMODITIES
REGULATION**

AN ANALYSIS OF CURRENT LAWS AND REGULATIONS
AFFECTING THE SECURITIES AND FUTURES INDUSTRIES

Vol. 59 No. 6 March 25, 2026

A “NEW ERA OF COLLABORATION” OVER DIGITAL ASSETS BETWEEN THE SEC AND CFTC

This article examines the evolving relationship between the SEC and CFTC regarding oversight of digital assets in the U.S., characterized by a shift from conflicting enforcement approaches and regulatory ambiguity to increased collaboration and clarity. Previously, both agencies vied for jurisdiction over digital assets, with differing regulatory approaches, leading to industry confusion. Under the second Trump Administration, however, increased agency cooperation has fostered a more innovation-friendly regulatory environment. The SEC has disclaimed authority over several categories of digital asset transactions, signaling a departure from earlier hardline policies and paving the way for the CFTC to assume a greater regulatory role. Overall, although many questions remain, these changes establish the beginning of a harmonized, more transparent regulatory framework intended to support the growth of the digital asset industry.

By Jacqueline Yecies and Jack C. Murphy *

Over the past decade, U.S. financial regulators confronted the challenge of applying laws and regulations created for traditional financial products and businesses associated with them to the digital asset industry. The Securities and Exchange Commission (“SEC”) and the Commodity Futures Trading Commission (“CFTC”) found themselves at the forefront of this effort. Up until 2025, both agencies pursued hardline enforcement tactics that shaped the legal and commercial landscape for digital asset markets in the U.S. These efforts began under the first Trump Administration and accelerated with full force under the Biden Administration.

From the industry’s perspective, a regulatory gap existed, given no federal agency had express Congressional authority to oversee these markets. This

drew in part from ambiguity, as digital assets range widely in terms of function and purpose and can exhibit characteristics of both securities and non-security commodities. It also drew from assertive positions taken by the SEC under former Chairman Gary Gensler, who stated publicly that he believed almost every digital asset except bitcoin was a security within the SEC’s jurisdiction.¹

To make matters even more complicated, certain high profile enforcement cases saw both the SEC and CFTC claim jurisdiction over the same or similar products.

¹ David Hollerith, *SEC Chair Gensler says ‘vast majority’ of cryptocurrencies are securities*, Yahoo Finance (Sept. 8, 2022), <https://finance.yahoo.com/news/sec-chair-gensler-majority-cryptocurrencies-securities-124610154.html>.

* JACQUELINE YECIES is a partner and JACK C. MURPHY is senior counsel at Akin Gump Strauss Hauer and Feld LLP’s New York City office. Their e-mail addresses are jyecies@akingump.com and jmurphy@akingump.com.