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BLOG

President Trump's Sweeping Executive Order on Digital Assets and the Repeal of SAB 121

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On January 23, 2025, President Trump signed an Executive Order (EO) on digital assets, blockchain technology, "and related technologies across all sectors of the economy," demonstrating a dramatic shift in tone and approach from the Biden Administration. On the same day, the Securities and Exchange Commission (SEC) rescinded Staff Accounting Bulletin (SAB) No. 121 (SAB 121), removing a major impediment to financial institutions offering digital asset services.

A STRIKING CONTRAST IN TONE

- Trump's EO—"Strengthening American Leadership in Digital Financial Technology"—repealed and replaced President Biden's 2022 EO addressing the same general subject area.
- The EO emphasizes that the digital asset sector "plays a critical role in innovation and economic development" and that the Administration's policy is "to support the responsible growth and use of digital assets, blockchain technology, and related technologies."
- This is a marked contrast from the Biden Administration's EO on digital assets, which focused on tasking agencies with studying risks and concerns related to the technology.

KEY PROVISIONS OF THE EO

- Among its many initiatives to boost digital asset sector innovation and digital asset adoption, President Trump's EO:
  - Establishes the "President's Working Group on Digital Assets Markets," chaired by the Special Advisor for AI and Crypto, David Sacks, and is made up of stakeholder agencies, including the SEC and the U.S. Department of the Treasury
  - Directs the Working Group to make recommendations regarding the modification or rescission of existing crypto regulations, propose a regulatory framework governing the issuance and operation of digital assets, and to evaluate the creation of a national digital asset stockpile and propose criteria for establishing such a stockpile
  - Defines specific timelines for the Working Group and federal agencies to pursue regulatory clarity initiatives with urgency

- Advocates for the promotion of dollar-backed stablecoins to protect the sovereignty of the U.S. dollar
- Prohibits federal agencies from establishing, issuing, or promoting Central Bank Digital Currencies (CBDC), in contrast to President Biden's EO, which called for exploring the potential of a U.S. CBDC (and which the Board of Governors of the Federal Reserve System has been studying, including through technological research and experimentation)
- Endorses open and lawful access to banking services and public blockchain networks

REPEAL OF SAB 121

- A few hours later, the SEC (under acting Chair Mark Uyeda) formally rescinded SAB 121, which required public companies (generally entities that file reports pursuant to Sections 13(a) or 15(d) of the Securities Exchange Act of 1934 and entities that have submitted or filed a registration statement under the Securities Act of 1933) holding bitcoin and other crypto assets for customers in a custodial capacity to record those holdings as liabilities on their balance sheets.
- Essentially, SAB 121 took the view that a covered entity should record a liability to reflect its obligation to safeguard the crypto-assets held for its platform users.
- This "bitcoin-as-a-liability" accounting treatment was unorthodox and acted as an impediment for large financial institutions to serve as digital asset custodians.
- The repeal of SAB 121 ended a lengthy saga which culminated in President Biden vetoing a bipartisan piece of legislation that would have rescinded SAB 121.
- The SEC's new bulletin SAB 122 instructs firms to use Financial Accounting Standards Board rules or International Accounting Standard requirements.

IMPLICATIONS

- The issuance of the EO sends a strong signal that the current administration, in sharp contrast to the prior administration, intends to responsibly embrace the digital assets sector and blockchain technology.
- The repeal of SAB 121 has potential to unleash significant energy in the traditional financial sector to move more swiftly and deeply into digital assets.

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