3 Action Items For Innovators Amid Fintech Regulatory Pivot

By **Jess Cheng** (April 8, 2025)

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We are witnessing a convergence between crypto and banking, with a smoother path for banks to engage in crypto-related activities and crypto adoption poised to gain more mainstream traction.

Two federal banking agencies, the Federal Deposit Insurance Corp. and the Office of the Comptroller of the Currency, have smoothed the way for banks under their respective purviews to engage in crypto-related activities.

The FDIC's new Financial Institution Letter-7-2025 on March 28, and the OCC's Interpretive Letter 1183 on March 7, set out a new, innovation-friendly approach for how banks can engage in crypto- and blockchain-related activities.[1]

This development is in step with a broader turning point in federal bank supervision: The federal banking agencies are now seeking to engage with the industry to integrate crypto safely and incrementally into the banking system.

Innovators should take note of this new chapter in banking and payments services, especially as leadership in digital financial technology is now a national priority. Innovations such as distributed ledger technology, or DLT, and crypto are an opportunity for fintech companies and banks to collaboratively upgrade the outdated underpinnings of our financial system.

The current crypto-friendly pivot in bank supervision is a significant development because banks play a dominant role in mainstream, day-to-day financial activities. A bank's expansion into crypto-related activities or offerings underpinned by DLT, particularly in partnership with a fintech company, would amplify adoption of these technologies.

A fintech company may find its own scale, reach, and reputation in offering crypto services or DLT-based networks augmented by partnering with a bank. If done carefully and cautiously, these partnerships could also help safely integrate certain crypto and DLT-based innovations into more mainstream uses.

Specifically, the FDIC's FIL-7-2025 and the OCC's Interpretive Letter 1183 each rescind previous guidance that had mandated a supervisory nonobjection process for banks under the agencies' respective purviews seeking to engage in certain crypto-related activities.

Now, these banks are no longer required to obtain any nonobjection or other supervisory feedback from the FDIC or OCC to engage in crypto-related activities. Examples of these activities include acting as crypto-asset custodians, maintaining stablecoin reserves, issuing crypto and other digital assets, acting as market makers or exchange or redemption agents, participating in blockchain- and distributed ledger-based settlement or payment systems (including performing node functions), and related activities such as finder activities and lending.

If these crypto-related activities sound familiar, they were the areas of focus for the federal banking agencies' crypto-asset policy sprint initiative announced in 2021.[2] The crypto-asset road map promised in that announcement may soon materialize.

The OCC also withdrew from two previously issued interagency statements with the Federal Reserve Board of Governors and the FDIC that highlighted the risks to banking organizations relating to crypto-assets.[3] The FDIC indicated in FIL-7-2025 that it will work with the other banking agencies to replace those interagency documents.

This new openness to crypto innovation in banking is consistent with a broader shift in bank supervision. In a recent speech on bank regulation, Federal Reserve Gov. Michelle Bowman — President Donald Trump's nominee for the Federal Reserve's vice chair for supervision — emphasized promoting innovation through "transparency and open communication, including demonstrating a willingness to engage during the development process."[4]

Expect further crypto-friendly developments with the issuance of Trump's executive order directing federal agencies to identify and consider modifying or rescinding any prior crypto-related regulations, guidance or orders.[5]

Innovative banks and technology service providers to banks have a critical role to play in the crypto ecosystem. Innovators can take advantage of this important pivot in bank supervision, including with the following practical considerations.

1. Address the threshold question of whether a given crypto-related activity is legally permissible.

Banks are limited in the activities they can engage in by legal permissibility — that is, before a bank can engage in new activities of any kind, including crypto-related activities, it must ensure that the specific activity is permissible under applicable banking law and regulation.

For any crypto-related activity, refer to prior supervisory statements on legal permissibility or identify where analogies could be drawn to traditional financial activities where permissibility has already been established, e.g., safekeeping and traditional custodial services. But innovators will not stop there.

Also consider additional services that focus on the unique aspects of the crypto ecosystem, e.g., staking or protocol governance, and be aware of the need to undertake the associated legal permissibility analysis.

2. Have a handle on the well-established risk stripes.

Prudential oversight in banking means that banks must operate with safety and soundness in mind, as well as have appropriate measures and controls in place to manage risks.

Key risk areas in the context of crypto-assets include the following:

- Operational and IT risks (particularly with respect to wallet management, the underlying protocol and any smart contracts);

- Third-party risk (particularly given that many banks rely on service providers for technical expertise and infrastructure);

- Consumer risk (e.g., fraud and scams);

- Market risk (e.g., volatility in crypto markets); and

- Legal and compliance risk (namely around compliance with anti-money laundering requirements and economic sanctions).

3. Keep an eye out for new statements or guidance.

Look out particularly for guidance on key safety and soundness and compliance considerations related to crypto custody activities and potentially other crypto-related activities, such as customer trade facilitation services and crypto-collateralized loans.

The emphasis among the federal banking agencies on promoting innovation through transparency signals greater clarity on what crypto-related activities are permitted, as well as the supervisory and regulatory expectations that accompany those activities.

We are entering a new chapter in the evolution of crypto, DLT, and the businesses around them. Leadership in digital financial technology is a national priority, and technologies like DLT and crypto continue to present unique and promising opportunities for fintech companies and banks to collaboratively upgrade the outdated underpinnings of our financial system.

The innovations that are most advanced in addressing legal uncertainties, mitigating risk and building strong compliance infrastructures will be best positioned for success.

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[1] Federal Deposit Insurance Corporation, FDIC Clarifies Process for Banks to Engage in Crypto-Related Activities, FIL-7-2025 (March 28, 2025), available at https://www.fdic.gov/news/financial-institution-letters/2025/fdic-clarifies-process-banks-engage-crypto-related; Office of the Comptroller of the Currency, OCC Letter Addressing

Certain Crypto-Asset Activities, Interpretive Letter 1183 (March 7, 2025), available at https://occ.gov/topics/charters-and-licensing/interpretations-and-actions/2025/int1183.pdf.

[2] Federal Reserve Board of Governors, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Joint Statement on Crypto-Asset Policy Sprint Initiative and Next Steps (November 23, 2021), available at https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20211123a1.pdf.

[3] Office of the Comptroller of the Currency, Bank Activities: OCC Issuances Addressing Certain Crypto-Asset Activities, press release (March 7, 2025), available at https://www.occ.treas.gov/news-issuances/bulletins/2025/bulletin-2025-2.html.

[4] Federal Reserve Board of Governors, speech by Governor Michelle W. Bowman, Bank Regulation in 2025 and Beyond (February 5, 2025), available at https://www.federalreserve.gov/newsevents/speech/bowman20250205a.htm.

[5] White House, Executive Order, Strengthening American Leadership in Digital Financial Technology (January 23, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/strengthening-american-leadership-in-digital-financial-technology/.