

LEGAL UPDATES

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SARAH RAZAQ SALLIS

WASHINGTON:
202.378.9364

SARAH.SALLIS@
HUSCHBLACKWELL.COM

JEFF LE RICHE

KANSAS CITY:
816.983.8000

JEFF.LERICHE@
HUSCHBLACKWELL.COM

Is the Turf War Finally Over? SEC and CFTC Sign Historic Regulatory Alliance

As we reported last month, the U.S. Securities and Exchange Commission (SEC) and the U.S. Commodity Futures Trading Commission (CFTC) have been advancing a joint harmonization initiative to reduce regulatory fragmentation across financial markets, particularly for digital assets. That effort has now produced a formal agreement.

On March 11, 2026, SEC Chairman Paul S. Atkins and CFTC Chairman Brian S. Selig signed the Memorandum of Understanding Regarding Harmonization in Areas of Common Regulatory Interest (the MOU), which supersedes the prior 2018 MOU between the agencies.

What the New MOU Covers

The MOU establishes a coordination framework across six key areas:

1. **Product Definitions:** Joint interpretations and rulemakings to clarify product classifications;
2. **Clearing, Margin, and Collateral:** Modernized frameworks across both regulatory regimes;
3. **Dually Registered Firms:** Reduced friction for exchanges, trading venues, and intermediaries registered with both agencies;
4. **Crypto Assets:** A fit-for-purpose regulatory framework for digital assets and emerging technologies;
5. **Regulatory Reporting:** Streamlined reporting for trade data, funds, and intermediaries; and

6. **Cross-Market Oversight:** Coordinated examinations, surveillance, risk monitoring, and enforcement.

The MOU also commits both agencies to a “minimum effective dose” regulatory philosophy aimed at fostering innovation, market integrity, and U.S. global competitiveness. Critically, it does not alter, expand, or limit either agency’s existing statutory authority.

Operational Commitments

To give effect to the coordination framework, the MOU establishes the following concrete mechanisms:

Data sharing on matters of common regulatory interest, including swap and security-based swap data.

Advance notification when either agency proposes to list or approve novel derivative or crypto asset products.

Cross-training through staff detailing arrangements between the agencies.

Senior-level coordination process, including a potential formal joint team at each Chairman’s discretion.

What This Means for Market Participants

The MOU signals a meaningful shift in the regulatory environment, but its practical impact will depend heavily on implementation and, ultimately, congressional action. Prior efforts at high-level coordination have often been derailed due to differences in market structure and regulatory philosophy. Market participants across all categories should assess how the new coordination framework affects their compliance, product, and enforcement posture:

Dually registered firms will benefit most immediately. Coordinated examination planning and joint enforcement consultation should reduce duplicative burdens. However, firms should maintain agency-specific compliance frameworks until formal rule changes follow.

Digital asset businesses face a more constructive environment. The agencies’ joint commitment to crypto-specific interpretations signals a move away from the enforcement-first approach of recent years. That said, the securities/commodity classification question remains unresolved by statute, and product-specific legal analysis remains essential.

Trading venues and intermediaries should note that regulatory coordination will now begin at the product approval stage. The MOU's advance notification commitment means multi-agency engagement should be built into product development timelines from the outset.

Compliance and legal teams should plan for coordinated enforcement. When parallel investigations arise, both agencies will confer on charges, sequencing, and public communications. A resolution strategy that accounts for only one regulator is no longer sufficient.

The key caveat for all participants: The MOU creates no binding legal obligations and can be deprioritized under future agency leadership. Only congressional legislation—including the pending CLARITY Act and related Senate bills—can deliver durable statutory certainty.

Action Items

Navigating the evolving SEC-CFTC regulatory landscape requires proactive legal counsel with deep experience across both securities and derivatives regulation. In the near term, market participants should consider doing the following:

Review dual registration and compliance structures in light of coordinated examination and enforcement commitments;

Reassess product classification strategies given the shift toward joint SEC-CFTC interpretations for digital assets;

Build early, multi-agency engagement into novel product launch timelines;

Ensure internal investigation and regulatory response strategies account for parallel agency action from the outset; and

Monitor legislative developments. Statutory reform remains the only path to permanent clarity.

Contact us

If you have questions about how the latest SEC-CFTC MOU may affect your organization's compliance program, registration strategy, or product development plans, please contact Sarah Razaq Sallis, Jeff Le Riche, or your Husch Blackwell attorney.