

# The New Regulatory Landscape for Crypto in the US and Japan

Sadakazu Osaki  
10 December 2025

**lakyara vol.408**

## Executive Summary



**Sadakazu Osaki**

Chief Researcher

Center for Strategic Management  
& Innovation

*In the US, the pro-crypto Trump Administration has abandoned the Biden-era SEC's strict regulation-by-enforcement approach to cryptoassets. Meanwhile, Japanese regulators have started to discuss regulating cryptoassets under the Financial Instruments and Exchange Act instead of the Payment Services Act.*

.....

## Recent changes in US crypto regulation

Since the second Trump Administration's inauguration in January 2025, the US's approach to regulation of cryptoassets (virtual currencies) like Bitcoin has changed dramatically. The US Securities and Exchange Commission (SEC) had previously deemed many cryptoassets to be securities that fell within the regulatory purview of securities laws. For instance, the SEC ruled that tokens sold via an initial coin offering (ICO) were securities. It took the position that selling tokens to non-accredited investors without registering with the SEC constituted an unlawful securities offering. It filed numerous lawsuits seeking injunctions and/or monetary penalties against token issuers.

The SEC stepped up such enforcement actions after the major crypto exchange FTX's November 2022 bankruptcy in particular. It filed suits against other major exchanges such as Coinbase and Binance on the grounds that they were operating unregistered securities exchanges. The SEC also cracked down on both sales of non-fungible tokens (NFTs) used as digital art or collectibles and crypto exchanges' staking services. It claimed both were unlawful securities offerings. The SEC's treatment of cryptoassets was criticized as unreasonable and unpredictable "regulation by enforcement," not enforcement of explicitly codified rules.

President Trump himself harshly criticized how the SEC regulated cryptoassets while campaigning for president in 2024. Once inaugurated, he established a cross-departmental Working Group on Digital Asset Markets at the White House to propose crypto regulatory reforms in the aim of making the US the "crypto capital of the world."

## Cryptoassets remain subject to securities regulation in US

The SEC's regulation-by-enforcement approach to cryptoassets was spearheaded by its former Chairman Gary Gensler, who resigned shortly before Trump's second term began. Trump initially appointed SEC Commissioner Mark Uyeda, an internal critic of Gensler's approach to crypto regulation, to serve as the SEC's interim chairman. Uyeda formed a Crypto Task Force headed by Commissioner Hester Peirce, who had a reputation as an ally of the crypto industry, so much so that she was nicknamed "Crypto Mom." Paul Atkins, Trump's appointee to officially succeed Gensler as SEC chairman, assumed that role on April 21. Like Uyeda, Atkins was a well-known critic of the SEC's crypto regulation during Gensler's tenure.

The post-Gensler SEC has abandoned regulation by enforcement, most notably by dropping its lawsuit against Coinbase and settling a five-year lawsuit against Ripple Labs. It also published guidance explicitly stating that staking services and meme coins are outside the regulatory purview of US securities laws.

On the legislative front, the US Congress passed the Guiding and Establishing National Innovation for US Stablecoins (GENIUS) Act, which was signed by President Trump in July 2025. The GENIUS Act requires stablecoin issuers to be federally licensed and stablecoins to be fully collateralized by highly liquid assets, such as short-term government debt instruments, denominated in the fiat currency to which the stablecoin is pegged.

Amid such a rapidly changing US regulatory environment for cryptoassets, one fundamental principle that remains unchanged in the US is that crypto-asset issuance for the purpose of raising capital is subject to regulation as a securities offering like equity or bond issuance. The SEC's regulation by enforcement was rooted in a US Supreme Court ruling that defined an investment contract, a type of securities under the Securities Act of 1933, as an arrangement involving (1) an investment of money (2) in a common enterprise (3) with a reasonable expectation of profits (4) to be derived solely from the efforts of others. This four-pronged rubric is called the Howey Test. Not even Hester Peirce or pro-crypto legal experts dispute the Howey Test's applicability to cryptoassets. They merely oppose aggressive enforcement that can be construed as an overreaching interpretation of the Howey Test.

Even under Trump 2.0, the SEC has not changed its prior position that fraudulent cryptoasset projects are unregistered securities offerings. In September 2025, the SEC and Commodity Futures Trading Commission (CFTC) jointly announced a plan to harmonize their respective regulatory frameworks. One of the project's aims is to clarify cryptoasset regulations, meaning that cryptoassets will not be exempted from securities regulation even under the Trump Administration.

## Crypto regulatory reforms on Japan's agenda also

Meanwhile, Japan's Financial Services Agency also has started to work on reforming cryptoasset regulation through a working group set up under its Financial System Council. Japan became the first country in the world to statutorily regulate cryptoassets in 2016, when it amended the Payment Services Act to bring cryptoassets within its purview in response to the 2014 Mt. Gox heist. Mt. Gox, located in Tokyo, had been the world's largest crypto exchange until it fell prey to a massive cybertheft of customer assets.

Regulating cryptoassets under the Payment Services Act, which governs electronic payment instruments, presumably reflected the fact that cryptoassets in 2014 were essentially limited to Bitcoin. At the time, Bitcoin was called a virtual currency and was viewed mainly as a means of paying for goods and services or transferring funds internationally. Since then, however, cryptoassets have increasingly been used as investment products similar to equities, bonds, or gold rather than as payment instruments. As a result, regulatory discussions of cryptoassets started to shift toward the idea of regulating them under the Financial Instruments and Exchange Act (FIEA) like marketable securities such as equities and bonds. Specific proposals under discussion include imposing information disclosure requirements on issuers that raise capital through cryptoasset offerings, regulating crypto exchanges on equal footing with securities broker/dealers and establishing rules against unfair trading (e.g., insider trading).

One factor likely driving such discussions is that crypto ETFs like the Bitcoin and Ethereum ETFs popular in US markets are not yet available in Japan. Under Japan's current tax code, individual taxpayers' gains from trading of spot cryptoassets are included as miscellaneous income in the taxpayer's gross income and taxed at the taxpayer's marginal tax rate. By contrast, capital gains from securities trading are mostly taxed as a separate line item at a preferential flat rate.

If Bitcoin and other cryptoassets were brought under the Financial Instruments and Exchange Act and taxed in the same manner as securities, the launch of crypto ETFs in Japan would become far more likely. Developments on this front bear watching going forward.

## about NRI

*Founded in 1965, Nomura Research Institute (NRI) is a leading global provider of system solutions and consulting services with annual sales above \$5.1 billion. NRI offers clients holistic support of all aspects of operations from back- to front-office, with NRI's research expertise and innovative solutions as well as understanding of operational challenges faced by financial services firms. The clients include broker-dealers, asset managers, banks and insurance providers. NRI has its offices globally including Tokyo, New York, London, Beijing and Sydney, with over 16,700 employees.*

*For more information, visit <https://www.nri.com/en>*

.....

The entire content of this report is subject to copyright with all rights reserved.  
The report is provided solely for informational purposes for our UK and USA readers and is not to be construed as providing advice, recommendations, endorsements, representations or warranties of any kind whatsoever.  
Whilst every effort has been taken to ensure the accuracy of the information, NRI shall have no liability for any loss or damage arising directly or indirectly from the use of the information contained in this report.  
Reproduction in whole or in part use for any public purpose is permitted only with the prior written approval of Nomura Research Institute, Ltd.

Inquiries to : Financial Market & Innovation Research Department  
Nomura Research Institute, Ltd.  
Otemachi Financial City Grand Cube,  
1-9-2 Otemachi, Chiyoda-ku, Tokyo 100-0004, Japan  
E-mail : kyara@nri.co.jp

<https://www.nri.com/en/knowledge/publication/list.html#lakyara>

.....