CADWALADER

CABINET NEWS

Research and commentary on regulatory and other financial services topics

SEC Rescinds Crypto Interpretive Guidance That Has Hamstrung Industry

February 6, 2025

By Mercedes Kelley Tunstall
Partner | Financial Regulation

Effective January 30, the Securities & Exchange Commission ("SEC") rescinded the Staff Accounting Bulleting ("SAB") that has made engaging in crypto-related activities so perilous over the last couple of years, **SAB-121**, replacing it with a friendlier approach for the time being, as described in **SAB-122**.

The previous guidance, which applied to entities that held crypto-assets on their platform for users, put into place a series of requirements for safeguarding those crypto-assets. Those requirements, which addressed technological, legal and regulatory risks, were effectively untenable to put into practice and so any entity engaged in these activities did so having to accept the possibility that the SEC would have grounds to commence an enforcement action.

The new guidance states that these entities “should determine whether to recognize a liability related to the risk of loss” to its users and duly disclose and account for such risk of loss consistent with the **Financial Account Standards Board Accounting Standards Codification (FASB ASC) Subtopic 450-20**, which is still a “proposed accounting standard” or with the **International Accounting Standard (IAS) 37**. And, of course, such entities should continue to “consider existing requirements to provide disclosures that allow investors to understand” the risks of its crypto-asset safeguarding activities.