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Toolkits, Cross-Border Branches, and Tokens — Regulatory Realignment in Action

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FDIC Chairman Hill Outlines Plan to "Refocus" the Agency's Regulatory Toolkit

March 12, 2026

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In **remarks** delivered at the **American Bankers Association's Washington Summit** on March 11, 2026, FDIC Chairman Travis Hill outlined the agency's ongoing effort to recalibrate the federal banking regulators' supervisory and regulatory "toolkit." Hill framed the initiative as part of a broader effort to simplify supervisory processes and focus regulatory attention more squarely on risks that materially affect bank safety and soundness.

Chairman Hill explained that the FDIC is seeking to move supervision away from what he described as an increasingly process-oriented framework toward one that concentrates on "issues that truly matter to a bank's financial condition and compliance with the law." The initiative forms part of a broader interagency effort to reassess supervisory tools and expectations following the banking sector stresses of three years ago.

A central component of the initiative involves clarifying supervisory standards and improving consistency in examination practices. Chair Hill highlighted recent work between the FDIC and the Office of the Comptroller of the Currency (OCC) to develop a **proposal** that would more clearly define key supervisory concepts, including what constitutes an "unsafe or unsound practice" and when examiners should issue supervisory findings such as Matters Requiring Attention (MRAs).

According to Chairman Hill, clearer definitions should help reduce uncertainty for banks while enabling examiners to concentrate supervisory attention on material financial risks and legal compliance issues. The FDIC has also begun reviewing existing supervisory recommendations to ensure they align with this more targeted approach.

Chairman Hill further indicated that the FDIC is working with the other federal banking agencies to evaluate potential updates to the CAMELS rating framework, which remains the primary system used by regulators to assess bank safety and soundness.

Chairman Hill also pointed to several recent changes to the FDIC's approach to consumer compliance supervision. Among other steps, the agency has reduced the frequency of consumer compliance examinations for certain smaller institutions and has sought to ensure that supervisory criticisms are tied directly to violations of law rather than broader critiques of internal processes.

Chairman Hill also confirmed that the FDIC has eliminated the use of disparate impact analysis in fair lending supervision, emphasizing that supervisory findings should be grounded in statutory or regulatory violations rather than more open-ended policy considerations.

In what may have been the most newsworthy announcement in Chairman Hill's remarks at the ABA, he stated that the FDIC plans to propose rules clarifying that payment stablecoins governed by the GENIUS Act would not qualify for pass-through deposit insurance, in order to avoid confusion regarding whether stablecoin arrangements provide access to insured deposits. At the same time, Chair Hill suggested that tokenized deposits—unlike stablecoins—should generally receive the same regulatory and deposit insurance treatment as traditional deposits where they satisfy the statutory definition of a "deposit."

Chairman Hill indicated that these initiatives are part of a broader effort to reassess elements of the FDIC's (and often the OCC's and FRB's) regulatory framework, including supervisory manuals, examiner training, and aspects of the agency's capital, liquidity, and bank resolution regimes.

Taken together, Chairman Hill said the objective is to "right-size" bank regulation—reducing unnecessary complexity while preserving strong safeguards for financial stability and depositor protection.

The European Banking Authority Issues Final Guidelines on Capital Endowment Requirements For Third-Country Branches Under CRD VI

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On 2 March 2026, the European Banking Authority (EBA) published its **Final Report on Guidelines Available For Third-Country Branches For Unrestricted and Immediate Use to Cover Risks or Losses Under Article 48E(2)(C) of Directive 2013/36/EU** (the Report). As a quick recap, amendments introduced in Directive 2013/36/EU in the form of CRD VI require non-EEA banks and large investment firms offering cross-border banking services to do so via a branch or subsidiary established in the EEA. New Article 48e of CRD VI requires all third country branches (**TCBs**) to maintain and have available for use a minimum capital requirement, calculated as a percentage of the TCB's liabilities booked, in case of the resolution of the TCB and for the purpose of winding it up in accordance with the relevant national law such that segregated assets are available to satisfy claims of local depositors. In this way, CRD VI harmonises what was previously fragmented practice across Europe, where some competent authorities required TCBs to hold capital locally, and others did not and instead relied on the third-country home authority's position.

Article 48e(2) sets out the forms of instruments that may be used in the event of a resolution or winding up, which assets must be placed in an escrow account. Article 48e(2) specifies that allowable instruments can include cash or cash assimilated instruments, debt securities issued by central governments or central banks of EU Member States and any other instrument that is available to the TCB for unrestricted and immediate use to cover risks or losses as soon as those occur and is available if needed for resolution and for the purposes of winding-up. TCBs are also subject to minimum liquidity requirements and must always maintain sufficient liquid and unencumbered assets to cover liquidity outflows over a minimum period of 30 days. These assets may not be counted towards the capital endowment requirement maintained in the escrow account, which are by definition encumbered.

Article 48e(4) of the Directive mandates the EBA to issue guidelines specifying the requirements for these "other instruments" (which, as noted, must be capable of being held in an escrow account). The guidelines: (1) set out the 'Eligible Instruments' described above (financial instruments issued or guaranteed by central, regional or local governments, central banks, public sector entities, multilateral development banks, or international organisations that would receive a 0% risk weight under the standardised approach for credit risk); (2) note that these should be listed on a recognised exchange and "*be easily monetised at any time";* and (3) require that eligible instruments may not be those issued by the TCB's head undertaking or a group company or special purpose entity with which the head undertaking has close links

The EBA's guidelines are minimum standards, and local competent authorities may apply more rigorous regimes, for example, by prohibiting the use of otherwise eligible instruments or by introducing operational requirements for the escrow accounts used. The guidelines apply from 11 January 2027.

SEC and CFTC Sign Updated MOU That Lays Groundwork for Joint Regulation of Crypto

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On March 11, 2026, the Securities and Exchange Commission ("**SEC**") and Commodity Futures Trading Commission ("**CFTC**") announced that they have entered into a new **Memorandum of Understanding** ("**MOU**") to coordinate rulemaking, supervision, examinations and enforcement across areas where the agencies' jurisdiction overlaps. The agreement replaces the agencies' **2018 coordination MOU** and is intended to address longstanding concerns about duplicative regulation and regulatory fragmentation across securities and derivatives markets.

The agreement focuses on the development of harmonized regulatory frameworks for crypto assets, novel derivative products and other emerging technologies. It also addresses reducing supervision of dually-regulated firms and market infrastructure.

1. Joint Rulemaking and Interpretations Regarding Crypto Are Explicitly on the Table

While Congress is struggling to pass the CLARITY Act, it appears as though the SEC and the CFTC are taking things into their own hands and are committing to working together to build a framework for crypto assets and other products where their missions overlap such that the agencies will "coordinate seamlessly, reduce duplicative regulation and provided needed clarity to market participants."

The MOU specifically identifies several priority areas:

- Providing a "fit-for-purpose" regulatory framework for crypto assets and emerging technologies;
- Paving the way for so-called "super-apps" to meet compliance obligations in alternative ways that would achieve a "minimum effective dose" of regulation;
    - Used in this manner, "super-app" refers to proposed platforms through which investors could access crypto and investments all in one place. So, a brokerage account could give customers access to not just securities, but also to digital assets and banking services. This concept builds upon SEC Chair Atkins' assertion that SEC-registered trading platforms can also list non-securities.
- Clarifying product definitions through joint interpretations and rulemakings;
- Modernizing clearing, margin and collateral frameworks;
- Reducing frictions affecting dually registered exchanges, trading venues and intermediaries; and
- Streamlining regulatory reporting for trade data, funds and intermediaries.

For market participants, this signals that the agencies may increasingly pursue joint policy initiatives rather than issuing separate (and potentially inconsistent) regulatory actions.

2. The MOU Targets Firms and Infrastructure Regulated by Both Agencies

The MOU is centered on "Covered Firms," entities that operate under both securities and derivatives regulatory regimes. These include, among others:

- Broker-dealers *that are also* futures commission merchants or introducing brokers;

- Investment advisers *that are also* commodity pool operators or commodity trading advisors; and
- Clearing agencies *that are also* derivatives clearing organizations.

3. Formal Coordination on Examinations and Enforcement

The MOU establishes detailed procedures for coordinated examinations and enforcement matters involving overlapping jurisdiction. The agencies state they will:

- coordinate examination planning and supervisory priorities for dually regulated firms;
- conduct joint or aligned examinations where both agencies plan to examine the same firm;
- share examination findings, risk assessments and supervisory insights; and
- consult on enforcement investigations involving overlapping jurisdiction.

4. Extensive Data Sharing Across Swap and Security-Based Swap Markets

The MOU also establishes expanded data sharing between the SEC and CFTC, particularly with respect to derivatives markets. The agencies will work to enable direct access to data from swap data repositories (CFTC- regulated) and security-based swap data repositories (SEC- regulated). They also commit to sharing analytics, risk monitoring tools and surveillance insights to improve visibility across interconnected derivatives markets. This cross-market surveillance effort is intended to improve regulators' ability to identify emerging risks across securities and derivatives markets that may otherwise appear fragmented across reporting regimes.