

Federal Reserve Issues Supervisory Letter on Crypto-Related Activities

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The Federal Reserve can now be added to the list of federal banking agencies that have issued some form of guidance on crypto-related activities. On August 16, 2022, the Federal Reserve Board issued a supervisory letter directed at Federal Reserve-supervised banking organizations engaged in or seeking to engage in crypto-asset-related activities. As discussed in April's FDIC Releases Financial Institution Letter on Notification Requirements for Crypto-Related Activities, this letter joins similar guidance issued in recent months by the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC).

In its letter, the Federal Reserve requests supervised banking organizations engaging or seeking to engage in crypto-asset-related activities to notify its lead supervisory point of contact at the Federal Reserve. For organizations already engaged in such activities, the letter requests they *promptly* notify their lead supervisory point of contact. The letter also encourage state member banks to reach out to their state regulator in a similar fashion.

The letter goes on to emphasize several Federal Reserve expectations for supervised banking organizations engaging or seeking to engage in crypto-asset-related activities. One is that it is incumbent on an organization to ensure any crypto-related activity is legally permissible. This should include an analysis of whether the activity is permissible under federal banking law and, accordingly, if any corresponding regulatory filings are necessary. The other supervisory expectation highlighted in the letter is that organizations engaging in crypto-related activities have appropriately tailored risk management systems in place to cover all areas of risk, including operational risk, financial risk, legal risk, and compliance risk, and that ensure the activities are conducted in a safe and sound manner in compliance with applicable laws.

The Federal Reserve's crypto activity guidance is similar to those recently issued by the OCC and FDIC, the notable difference being the OCC requires its written non-objection before a national bank can engage in crypto-related activities. What is abundantly consistent,

however, is the regulatory expectation from all three agencies that banking organizations engage their relevant regulator before undertaking any crypto-related activities.

Contact your Vorys lawyer if you have questions about the supervisory letter or its potential impact on your institution.