



MEMORANDUM

TO: Federal Financial Analytics Clients
FROM: Karen Petrou
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As we've learned over the years, a memo written is a memo shared. So it was with my last note on what were then little-noticed links between the tumultuous cryptosphere and what regulators assured us was a banking sector aloof from these violent downdrafts. [Sens. Warren and Smith](#) then picked up the examples of several bank/crypto hot spots. The result of new facts combined with heightened political risk will surely lead the bank regulators to follow the tried-and-true strategy of slapping a lot of enforcement actions around before agency heads are hauled up to the Hill. Other than stablecoin legislation, new crypto law is uncertain, but after all the enforcement actions will also surely come new banking crypto regulation.

First, though, to incoming enforcement actions as these lay the groundwork for next-gen regulation. Any bank with big crypto exposures no matter how otherwise pristine is already under its examiner's gun in terms of immediate demands for an inventory of all crypto actions anytime for anyone. The senators include this in their asks, looking for names as well as activities and customers. But the banking agencies were surely already hot on this trail.

Any bank that failed to mind its prior-notice manners will surely get a public drubbing so that regulators can point to a host of cases that uncover all risks anywhere they lurk. [And banks](#) now casting covetous eyes on cheap crypto assets will get a talking to from Washington if their own internal risk managers haven't already shut this down.

What of policy for banks that are innocent crypto bystanders?

First to an issue targeted by Sens. Warren and Smith: how Alameda Trading gained what certainly looks like carefully-crafted de facto control over a tiny Washington State bank. I posited that this was to get access to the payment system and so it might well have been. I also said that this would force the Fed to provide more payment-system transparency, but I didn't see how fast this would happen via a new bill sure soon to be [new law](#).

However, the senators note another possible motive for FTX's stealth acquisition: using the bank to hide customer cash suborned into Alameda's own hands despite stalwart assurances in FTX's service agreements that nothing like this would ever, ever happen. Given what else we know of late, that's another good reason for FTX to want a bank and an even better one for never having gotten it.

The senators quite rightly want answers from the Fed on whether any change-in-control notices were filed or inquiries made that led to Fed assurances that none was needed. Our guess is that the file will be very, very bare. Creative as it was at acquiring a big stake in a very small bank of enormous convenience,

scrupulous attention to legal detail does not appear to have been FTX's forte.

The other issue my last memo noted and the senators highlight is deposit risk. Although Silvergate is mounting a strong defense against assertions that its 90 percent dependence on crypto deposits [risky](#), much remains unknown and Silvergate isn't the only bank with a lot of explaining to do and not just to regulators. The best next course would be enforcement orders on risky concentrations without sufficient KYC diligence, but it wouldn't surprise me a bit if the banking agencies add funding liabilities to their focus on concentrated counterparty exposures.

This week's double-barreled FTX hearings are only a boffo opening number before the hard work of crafting crypto legislation begins in the next Congress. As I've [noted before](#), stablecoin legislation is close to fully-conceived and thus it will be first to advance. The extent to which broader crypto standards along the CFTC's or anyone else's [lines](#) is far less certain not only because so many policy decisions are up in the air, but also because so many vital facts are unknown and more than a few crypto bankruptcies are still to come.