



Financial Services Management

Stablecoin/Tokenization Activities

Cite

FRB, SR 23-8 / CA 23-5, Supervisory Nonobjection Process for State Member Banks Seeking to Engage in Certain Activities Involving Dollar Tokens

Recommended Distribution:

Cryptoassets, Payment Services, Technology Development, Policy, Legal, Government Relations

Websites:

<https://www.federalreserve.gov/supervisionreg/srletters/SR2308.htm>

Impact Assessment

- State member banks now have a clear path to join national banks in stablecoin and dollar-tokenization activities after prior notice and under an array of conditions.

Overview

In conjunction with issuing a new supervisory policy for “novel” activities,¹ the FRB has instituted a new process requiring non-objection letters before state member banks proceed with stablecoin or dollar-tokenization activities. Although the new non-objection process makes it clear that Fed approval will require clear adherence to a raft of policy and legal obligations, the non-objection process clears the way for state member banks to offer products with a growing role in retail and wholesale payment, settlement, and clearing activities.

Impact

The novel-activity supervisory protocol noted above covers stablecoins and dollar tokenization, in conjunction with other DLT and fintech activities but the non-objection letter framework is directed specifically only to stablecoins and dollar-tokenization. It builds also on the Board’s crypto policy,² which limits state member banks from engaging in activities not allowed national banks. The OCC has an outstanding interpretive letter allowing DLT-based stablecoin and dollar-tokenization activities despite the current Acting Comptroller’s concern about these activities.³ This interpretive letter conditions national-bank activities in this area by imposing additional safety-and-soundness standards; the Board’s non-objection letter process is designed to do the same for state member banks. This leaves only state non-member banks as institutions with payment-system access

¹ See **FINTECH32**, *Financial Services Management*, August 9, 2023.

² See **CHARTER29**, *Financial Services Management*, February 1, 2023.

³ See **CRYPTO31**, *Financial Services Management*, August 22, 2022.

outside the reach of federal regulation in this sector, although the Board's authority to limit master accounts may circumscribe ambitions.⁴

Interestingly, this supervisory letter comes not only from Fed supervisors, but also those responsible for consumer protection. It thus precedes any action from the CFPB which, despite stated concerns from its director, has yet to issue any formal stablecoin policy. This likely stems in part from the Bureau's lack of safety-and-soundness authority as well as from the fact that stablecoins and, to an even greater extent, dollar tokenization have many purposes that do not directly involve consumers.

What's Next

The new requirement was put in place on August 8; it was effective immediately.

Analysis

The non-objection letter process covers state member banks seeking to engage in stablecoin or dollar-tokenization activities permissible for national banks. It requires demonstration that the state member bank has internal controls in place sufficient to ensure safety and soundness, with banks required to receive written permission before engaging in covered activities even if the activity is only a testing exercise, i.e., a "sandbox." Should a non-objection be granted, then the activity will fall under the novel-activity construct noted above.

Fed staff review of supervising these activities will look specifically at:

- operational risk, including that of the network;
- accountability;
- the transaction-validation process;
- cyber-security;
- liquidity risk;
- illicit-finance risk;
- consumer compliance; and
- legal compliance.

⁴ See PAYMENT26, *Financial Services Management*, November 9, 2022.