

CLIENT ALERT

CFTC Launches Digital Asset Collateral Pilot Program

Staff greenlights FCM acceptance of Bitcoin, Ether and payment stablecoins, issues tokenized collateral guidance, and withdraws 2020 advisory

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The Commodity Futures Trading Commission recently announced a pilot program to allow certain digital assets to be used as collateral in CFTC-regulated derivatives markets.¹ The Pilot Program, through a series of staff actions and guidance, opens a pathway for registered futures commission merchants (FCM) to accept certain digital assets as customer margin collateral, and to account for those assets under the CFTC's capital and segregation framework. The Pilot Program initially covers Bitcoin, Ether, and payment stablecoins such as USDC. In parallel, CFTC staff issued guidance setting expectations for the use of tokenized real-world assets as regulatory collateral, and withdrew a 2020 advisory that had constrained FCM handling of "virtual currencies" in segregation.

¹ Acting Chairman Pham Announces Launch of Digital Assets Pilot Program for Tokenized Collateral in Derivatives Markets, CFTC Release No. 9146-25 (Dec. 08, 2025), available [here](#) ("Pilot Program").

The Pilot Program and guidance, consistent with the CFTC's ongoing "crypto sprint"² and the SEC's "Project Crypto,"³ effect the CFTC's September initiative on tokenized collateral and stablecoins,⁴ and outline parameters and conditions for market participants related to the custody and use of tokenized collateral.

Staff Actions: CFTC Letters

The CFTC staff actions were accomplished via three coordinated releases:

- CFTC Letter No. 25-39: Cross-divisional staff guidance outlining how existing CFTC requirements apply when tokenized versions of already-eligible non-cash collateral (e.g., U.S. Treasury securities) are used for margin in the trading of futures and swaps. The guidance focuses on eligibility, legal enforceability, custody/segregation and control, haircuts/valuation, and operational risk.⁵
- CFTC Letter No. 25-40: A no-action letter, in response to Coinbase Financial Markets, Inc., allowing FCMs to: (a) accept non-securities digital assets that a derivatives clearing organization (DCO) identifies as eligible collateral, including payment stablecoins,⁶ Bitcoin, and Ether, as customer margin collateral, and take their value into account for under-margined account determinations and segregation calculations; and (b) post the FCM's own payment stablecoins as residual interest in customer segregated customer accounts.⁷
- CFTC Letter No. 25-41: Withdrawal of Staff Advisory 20-34 (2020), which previously cautioned FCMs on accepting "virtual currencies" as customer collateral.⁸

² For more information on the Crypto Sprint, see J. Christopher Giancarlo, Kari S. Larsen, A. Kristina Littman, Chelsea Pizzola and Jenna Fattah, CFTC's Spot Trading Crypto Initiative and Request for Comment (Aug. 11, 2025) available [here](#).

³ See, e.g., Division of Corporate Finance, SEC, "Statement on Stablecoins" (Apr. 4, 2025), available [here](#). In July 2025, the Guiding and Establishing National Innovation for U.S. Stablecoins Act, Pub. L. No. 119-27 (2025) became law ("**GENIUS Act**"). It provides a framework for regulatory payment stablecoins and licensed issuers in the U.S. For more information on stablecoins, see J. Christopher Giancarlo, Kari S. Larsen, A. Kristina Littman, Chelsea Pizzola, Jenna Fattah and Leanne Aban, The GENIUS Act: A New Pathway for Stablecoin Issuance (July 24, 2025), available [here](#).

⁴ Acting Chairman Pham Launches Tokenized Collateral and Stablecoins Initiative, CFTC Release No. 9130-25 (Sep. 23, 2025), available [here](#) ("**September Initiative**").

⁵ CFTC Staff Tokenized Collateral Guidance, CFTC Letter No. 25-39 (Dec. 08, 2025), available [here](#).

⁶ Prior to the effective date of the GENIUS Act, in order for a payment stablecoin to be eligible, its issuer must (i) be a state regulated money transmitter or trust company; (ii) maintain reserve assets limited to direct or indirect investments in cash, U.S. treasury securities or overnight U.S. Treasury repurchase agreements; and (iii) publish monthly attestations regarding the composition of the reserve assets and whether the fair value of the assets held in reserve is equal to the amount of stablecoins in circulation. Following the effective date of the GENIUS Act, the issuer must comply with all of the GENIUS Act's requirements.

⁷ CFTC Staff No-Action Position Regarding Digital Assets Accepted as Margin Collateral, CFTC Letter No. 25-40 (Dec. 08, 2025), available [here](#). For the first three months in which an FCM relies on this no-action relief, it may only accept Bitcoin, Ether, and eligible payment stablecoins ("**Authorized Assets**") as customer margin collateral and deposit only stablecoins as residual interest.

⁸ CFTC Staff Withdrawal of CFTC Staff Advisory 20-34 on Accepting Virtual Currencies from Customers into Segregation, CFTC Letter No. 25-41 (Dec. 08, 2025), available [here](#).

The Pilot Program provides FCMs with the ability to accept eligible digital assets as margin collateral, within a risk-based, DCO-anchored framework, and to begin deploying tokenized collateral under existing rules. FCMs are CFTC-registered intermediaries that solicit or accept orders for futures, options on futures, and swaps, accept customer money or other assets to support those trades, and connect customers to exchanges and derivatives clearing organizations as part of the cleared markets infrastructure. FCMs safeguard segregated customer funds and operate under a CFTC/National Futures Association regime that emphasizes capital adequacy, daily and periodic reporting, recordkeeping, and risk-management programs, with obligations calibrated to protect customer assets and cover customer defaults.⁹

Why does it matter?

The staff package removes key frictions that have kept digital asset collateral on the sidelines of U.S. derivatives markets:

- It permits FCMs to include the value of eligible digital assets in core calculations that drive daily liquidity and capital management. Previously, FCMs that accepted digital assets often had to use proprietary cash to cover deficits.
- It enables in-kind residual interest in payment stablecoins, reducing operational breaks when topping up customer accounts that are funded or margined in stablecoins.
- It provides a blueprint for tokenized versions of traditional non-cash collateral within existing risk-management and custody regimes, minimizing the need for new rulemaking to achieve near-term efficiencies.
- It aligns the CFTC regulatory regime with broader federal and international trends, including the GENIUS Act's stablecoin framework.

These changes look to enhance market accessibility and efficiencies, while preserving existing customer protections currently in CFTC regulations.

Who is affected?

The immediate impact falls on:

- FCMs evaluating acceptance of digital assets as customer margin collateral or considering use of payment stablecoins as residual interest.

⁹ For more information on futures commission merchants, see Rita M. Molesworth and Alexandra K. Calabro, *Do You Want to Run a Futures Commission Merchant?* (Aug. 25, 2025), available [here](#) and Rita M. Molesworth, Tamika P. Bent and Imani Martinez, *CFTC Amends Regulation on the Investment of Customer Funds* (Jan. 31, 2025), available [here](#).

- DCOs and designated contract markets (DCMs) assessing collateral eligibility, haircut methodologies, concentration limits, and product design where contracts reference or are denominated in digital assets.
- Swap dealers and major swap participants exploring the tokenization of already-eligible non-cash collateral for uncleared margin and related custodial arrangements.
- Custodians, wallet providers, and tokenization platforms supporting segregation, control, and settlement for tokenized real-world assets and digital asset collateral.
- Customers that may benefit from direct and indirect cost savings and operational flexibility.

What are some action items?

FCMs and clearing members should take near-term steps to operationalize the Pilot Program and tokenized collateral guidance responsibly:

- Determine scope and timing of reliance. File the required notice of intent before accepting digital assets as collateral. Plan for the initial three-month period, during which coverage is limited to Authorized Assets and weekly reporting,¹⁰ and significant incident notifications¹¹ are required.
- Map collateral eligibility to DCO frameworks. Where a DCO accepts digital assets as collateral or for settlement, adopt the DCO's valuation and haircut. Where multiple DCOs accept the asset, apply the most conservative haircut.¹²
- Update risk-management and control frameworks. Enhance policies and procedures to cover valuation methodologies, minimum haircuts, liquidity and concentration limits, settlement finality, cybersecurity, key management, and incident escalation.
- Calibrate residual interest and capital. If using the FCM's own payment stablecoins as residual interest, incorporate appropriate capital charges and align with treasury liquidity stress testing.

¹⁰ For the first three months of reliance on the no-action relief, FCMs must submit a weekly report showing the total amount of digital assets held in each of the futures, cleared swaps, and 30.7 customer funds accounts, with each digital asset type listed separately within each account class. This weekly reporting period begins with the calendar month after the FCM files its notice of intent to rely on the relief.

¹¹ During the initial three-month period, FCMs must also provide prompt written notice of any significant operational or system issue, disruption, or failure, including any cybersecurity incident, that affects the use of digital assets as customer margin collateral. "Significant" includes matters involving a significant financial amount, a significant number of customers, or a control weakness with potential to affect either.

¹² For positions in inverse contracts that are both based on and denominated in a digital asset, an FCM may apply only the relevant DCO haircut to that same asset when used to offset deficits in the same contract. For 30.7 accounts (segregated funds for customers' foreign futures/options), if a qualifying foreign clearing organization (CCP) accepts the digital asset as collateral or for settlement, apply that CCP's valuation methodology and haircut. If no such acceptance exists, apply a risk-based haircut under the FCM's Regulation 1.11 program, with at least a 20% baseline for non-security digital assets other than payment stablecoins.

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- Refresh customer and counterparty documentation. Address control over digital assets and tokenized collateral, perfection and priority of security interests, remedial rights, wallet governance, and dispute resolution.
- Coordinate with custodians and depositories. Confirm eligible depository status, segregation mechanics, access controls, and settlement workflows.

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The no-action letter is effective immediately, but is limited to Authorized Assets, and FCMs must file a notice before relying on the no-action relief. Governance, documentation, and control frameworks should be refreshed to support onboarding of payment stablecoins and/or tokenized versions of already eligible non cash collateral.

We expect continued coordination across the CFTC, other regulators, and the industry as stablecoin and tokenized collateral frameworks continue to evolve and converge.

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If you have any questions regarding this client alert or would like to submit input to the CFTC regarding this alert, please contact one of the authors, any member of our CFTC team listed below, or the Willkie attorney with whom you regularly work.

Willkie has a dedicated team of attorneys with extensive knowledge and experience in all aspects of the Commodity Exchange Act and the CFTC regulatory regime. We would be pleased to assist on your matters.

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