A Giant Step Forward: The SEC's Proposed Regulation Crypto Assets

Date: 09/02/26

External Link: A Giant Step Forward: The SEC's Proposed Regulation Crypto Assets

On August 18, 2026, the Securities and Exchange Commission proposed Regulation Crypto Assets, a framework that would, for the first time, create a potential pathway for public funding of blockchain projects through the sale of crypto assets. The Proposal builds on the Commission's March 2026 Interpretation and introduces two new offering exemptions, a principles-based disclosure framework, and a conditional Safe Harbor for establishing when an investment contract has ceased to exist.

The Proposal would create a Startup Exemption allowing issuers to raise up to $5 million over four years and a two-tiered Fundraising Exemption, modeled in part on Regulation A, permitting raises of up to $20 million (Tier 1) or $75 million (Tier 2) in a 12-month period. A conditional Safe Harbor would formalize the "separation" concept from the March 2026 Interpretation, providing a mechanism for issuers to establish that a covered investment contract has ceased to exist. Key features of the Proposal include broad preemption of state securities registration and qualification requirements, a new principles-based disclosure framework under proposed Rule 103, and a forward-looking statement safe harbor for Fundraising Exemption materials.

In Cahill's client alert, the authors examine the Proposal's architecture and key features, including the scope of both exemptions, the common disclosure requirements under proposed Rule 103, and the mechanics of the conditional Safe Harbor. The alert also identifies significant open questions that market participants may wish to address during the comment period, including the onshoring condition for the Fundraising Exemption, the definition and scope of "essential managerial efforts," the mechanics and effects of Form TR filings, whether secondary market participants can reliably determine if and when state-law preemption applies, and the durability of the framework in light of the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*. The alert concludes with practical considerations for token project teams, trading platforms, broker-dealers, and custodians navigating the Proposal.

The Proposal was published in the Federal Register on August 21, 2026. Comments are due October 20, 2026.

Read the full client alert below.

Attorneys

- Lewis Rinaudo Cohen
- Samson A. Enzer
- Gregory Strong
- Sarah Weiyang Chen
- Brian Farber
- Edward A. Leaf

Practice

- CahillNXT – Digital Assets, AI, and Frontier Technology