



Insights

David McGill and Benjamin Sauter in Law360: Crypto Firms Beware When Approaching U.S. Regulators

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With little congressional action, U.S. financial regulators are asserting – sometimes in aggressive fashion – their authorities over the crypto industry. Kobre & Kim’s David McGill and Benjamin Sauter, both of whom regularly defend firms in the digital asset sector from government enforcement, spoke with *Law360* about what the industry should expect from regulators.

Government agencies, especially the U.S. Securities and Exchange Commission (SEC), pay lip service to a “come in and talk to us” approach to regulation, but firms should be wary. “You don’t see many sophisticated lawyers recommending that you let the fox in the hen house,” Mr. McGill explained. “Particularly if you’re engaged in a business model where you are operating in spaces that there are some gray around, which pretty much covers almost the entirety of the crypto arena.” This does not mean firms should steer clear of their regulators altogether, but that considerations should be made about the ultimate outcome.

In addition, Mr. Sauter emphasized how “regulators kind of lost credibility” on the cooperative approach, particularly after the SEC shot down Coinbase’s lending program by threatening to file enforcement claims. “There just haven’t been a lot of, or any that I’m aware of, successes to date of industry participants going in with a creative idea and coming out happy with that discussion,” he added.

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