



The Daily Dish

Coming up Empty on Crypto

DOUGLAS HOLTZ-EAKIN | OCTOBER 3, 2022

If people aren't talking about inflation or recession, they are talking about crypto. And if they are talking crypto, inevitably the conversation turns to regulation. What is crypto, who will regulate it, who will be subject to regulation, and who will write the crypto rules? There has been a lot "activity" directed toward answering these questions. As Thomas Wade puts it in his new [summary](#) of the state of play: "the Biden Administration released an [executive order](#)? embarking on a? [whole-of-government, comprehensive approach](#) ?to the regulation of cryptocurrencies and other digital assets.?This was soon followed by [discussion drafts](#), [white papers](#), [bipartisan bills](#), and even a [sweeping proposal](#) seeking to establish a complete regulatory framework for cryptocurrencies."

Despite all of this, Congress has left Washington to campaign for the midterm elections without legislating a regulatory framework. Indeed, the area with the best chance was perceived to be [stablecoins](#). But after months of negotiating among Chairwoman of the House Financial Services Committee Maxine Waters, Ranking Member Patrick McHenry, and Treasury Secretary Janet Yellen, even this did not come to fruition.

Stablecoins, especially those pegged to the dollar, seem relatively straightforward. There are already more than \$100 billion in circulation and have become the preferred medium of exchange for the entire digital-asset economy. As stablecoins become more widely adopted, they will likely facilitate traditional commerce as well. Unlike other cryptos, stablecoins don't look like securities (at least to me), so it will be easier to decide who does the regulation. (In an earlier [piece](#), Wade noted: "The SEC defines a security as an '[investment contract](#)' and relies on the [Howey Test](#), established by a Supreme Court decision nearly a hundred years old. Any financial instrument (including potentially a cryptocurrency) is considered a security if it is: an investment of money; in a common enterprise; with a reasonable expectation of profits; and derived from the entrepreneurial or managerial efforts of others.")

Also, Congress has a blank slate and should not bolt stablecoin regulation onto the existing bank regulatory framework. Provided that the stablecoin market is transparent and there is adequate safety and soundness regulation, it really should not matter who issues the stablecoin. The regulatory framework should engender innovation and new entry of competitors and products.

It is important to clarify the ground rules for crypto and stablecoins are a promising place to start.