

OCC Confirms National Banks May Execute and Settle Digital Asset Trades

MAY 7, 2025

On May 7, 2025, the Office of the Comptroller of the Currency (OCC) published Interpretive Letter 1184 (“IL 1184”), which confirms that national banks may execute and settle digital asset trades on behalf of their customers, so long as the bank acts in an agency capacity and the activity is conducted in a safe and sound manner.^[1] National banks, however, would not be permitted to act as a trading counterparty or take principal positions in digital assets.

This development reinforces the OCC’s position as the most forward-looking U.S. federal banking regulator on digital asset matters and underscores the OCC’s continued commitment to enabling bank participation in digital asset markets within the boundaries of prudential oversight.

FACILITATION OF TRADING THROUGH BANK’S CUSTOMER INTERFACE

IL 1184 provides welcome clarity on the permissibility of trade execution and post-trade settlement services involving digital assets that national banks hold in custody on behalf of their customers. IL 1184 also confirms that national banks may use sub-custodians to provide custody services, including the trade execution and post-trade settlement services described above, subject to appropriate third-party risk management practices.

The combination of these authorities opens the door to a long-anticipated new product option: a national bank can offer its own customers the functionality and feel of a digital asset wallet and trading capabilities through the national bank’s website or mobile app by entering into a relationship with a third-party sub-custodian that offers support for trading.^[2] We expect this product to be in high demand from banks’ customers, and many banks will look to implement this product in short order. Banks that do so should understand that designing and implementing this type of interface will require close attention to several different sources of compliance and operational risks.

THIRD-PARTY RISK MANAGEMENT

We expect regulators will hold banks to a high standard for selection, due diligence, and ongoing monitoring of third-party custodians.^[3] Particular points of supervisory emphasis are likely to include the licensing status of the sub-custodian, the sub-custodian’s procedures for maintaining appropriate titling and segregation of accounts, and the allocation of responsibilities for resolving customer complaints, among others.

COMPLIANCE REQUIREMENTS FOR DESIGN OF CUSTOMER INTERFACE AND ADVERTISEMENTS

We also expect regulators to pay particularly close attention to the design of advertisements and the user-facing interfaces. The Federal Deposit Insurance Corporation (FDIC) has regulations that impose specific requirements for visual presentation of deposit products and non-deposit products in advertising and user interfaces, and those regulations specifically address digital assets.^[4] Principles from the OCC’s guidance on retail non-deposit investment products may also be relevant.^[5]

SUPERVISORY EXPECTATIONS FOR STRATEGIC PLANNING, RISK ASSESSMENTS, AND GOVERNANCE

Although prior supervisory non-objection of digital asset-related activities is no longer required, national banks should expect that the next scheduled examination will involve close attention to digital asset products and services. The OCC and other regulators expect banks to apply a formal procedure to identify the potential risks with a new product and implement appropriate controls for those risks.^[6] Because of the novelty of digital asset activities within the banking system, banks should expect that examiners will look for robust documentation of this process.

Winston & Strawn advises national banks, trust companies, and financial market infrastructure providers on the full range of bank-permissible digital asset activities. We can assist in structuring compliant digital asset trading arrangements tailored to your business objectives and risk appetite. For more information, please contact your Winston relationship attorney or a member of our Digital Assets Group.

[1] See Interpretive Letter 1184, “Clarification of Bank Authority Regarding Crypto-Asset Custody Services” (May 7, 2025).

[2] The basis for permissibility is the activities recognized in IL 1184 and a national bank’s authority to act as a “finder” under 12 C.F.R. § 7.1002.

[3] See OCC Bulletin 2023-17, “Third-Party Relationships: Interagency Guidance on Risk Management” (June 6, 2023).

[4] 12 C.F.R. Part 328.

[5] See OCC Comptroller’s Handbook, “Retail Non-Deposit Investment Products” (June 2024).

[6] See OCC Bulletin 2017-43, “New, Modified, or Expanded Bank Products and Services: Risk Management Principles” (Oct. 20, 2017).

3 Min Read

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