

# Regulatory Alert

Regulatory Insights for Financial Services

October 2026

# Crypto Markets: CFTC ANPR on Retail Crypto Transactions

### *KPMG Regulatory Insights*

- ***Federal Option:*** *Contemplates an option to allow crypto asset exchanges to offer margined, leveraged, or financed transactions alongside spot transactions within current laws and regs; alternative to a variety of potentially conflicting state laws.*
- ***Oversight Until Actual Delivery:*** *Asserts CFTC jurisdiction over covered transactions, including fully paid, until customers obtain "meaningful possession or control" of assets.*
- ***Early Days:*** *Comments will shape an eventual rule proposal; staff are also working with developers and founders of decentralized exchanges to better understand how current laws and regs apply to onchain venues and products.*

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The Commodity Futures Trading Commission (CFTC) issued an advanced notice of proposed rulemaking (ANPR) to outline and request comment on its plan to develop and establish, using its existing statutory authorities, a federal "comprehensive regulatory framework" for certain retail commodity transactions involving crypto assets. As presented, the framework would be comprised of two parts:

- Regulation Crypto Asset Transactions (or Regulation CTX), which would clarify the scope of crypto asset transactions (CTX) that would be covered by the framework; the CFTC offers its preliminary interpretation of "offer" and "actual delivery."
- Regulation Crypto Asset Markets (or Regulation CAM), which would provide for a new registration subcategory for a designated contract market (DCM) that would be limited to markets that trade only in transactions covered by Regulation CTX and include rules (e.g., core principles) tailored to CTX.

Comments on the ANPR are requested no later than December 14, 2026.

Note: The Securities and Exchange Commission (SEC) recently released a proposed rule that would set forth a new regulation, "Regulation Crypto Assets," to create a "tailored offering regime" for certain investment contracts involving crypto assets under the SEC's jurisdiction (see KPMG Regulatory Alert, here.)

## Regulation CTX

The Commodity Exchange Act (CEA) grants the CFTC authority to regulate retail commodity transactions that are "entered into, or offered (even if not entered into), on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis" (referred to as section 2(c)(2)(D) transactions).

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### *Scope of "Offer"*

As outlined in the ANPR, the CFTC "preliminarily believes" that under the contemplated framework for crypto assets transactions, a covered offer would result from:

- All agreements, contracts, or transactions entered into, or offered, on a leveraged, margined, or financed basis regardless of whether any individual transaction is entered into on one of those bases (i.e., executed as a fully paid, open CTX).
- Providing documentation that sets forth terms by which a customer may execute a CTX (e.g., onboarding documents, credit and margin requirements), which could then apply to all transactions available on an exchange, through a customer account, or in a product class or another class of transactions.
- Financing that is facilitated, arranged, or otherwise endorsed by the offeror or counterparty "acting in concert" with a third party.

### *Scope of "Actual Delivery"*

The CFTC contemplates adding an exception from the CFTC's jurisdiction for crypto transactions that otherwise would be covered as a CTX if they are contracts of sale that result in "actual delivery" of the crypto asset within 28 days or a longer period established by the CFTC.

The ANPR acknowledges that actual delivery generally requires the transfer of a "meaningful degree of possession or control" to the buyer or the buyer's agent and that the criteria for possession or control may depend on the specifics of a crypto asset. The CFTC states in the case of a CTX, it "preliminarily believes the act of providing real possession—actual delivery—involves the transfer of crypto assets from the crypto asset exchange to the digital wallet address or account associated with such crypto asset. In public remarks, the CFTC similarly indicated its intention to "clarify that delivery of a crypto asset to a user's external, non-custodial digital wallet within 28 days generally satisfies this exception."

With this in mind, the CFTC states that it "preliminarily believes" a fully paid, open CTX (as contemplated) would remain subject to the CFTC's jurisdiction under the CEA during the period the transaction is only recorded on the internal book entry of an exchange, prior to actual delivery.

## Regulation CAM

The CFTC states that it seeks to establish a federal option for crypto asset exchanges that would allow firms to offer retail customers the ability to trade crypto assets on a margined, leveraged, or financed basis. The agency contemplates creating a new sub-category of the DCM designation—the crypto asset market, or CAM—that would be available to exchanges that only offer CTXs. CAMs would be expected to adhere to a set of regulations—the CAM Core Principles—that implement the statutory DCM Core Principles, tailored to the specific risks posed by crypto markets. Exchanges already registered with the CFTC as a DCM would be permitted to offer trading in CTXs on their platforms without separately registering as a CAM while new registrants would be permitted to choose to register as either a DCM or CAM.

**CFTC Chairman describes potential framework for crypto asset exchanges**

| Exchanges | Offerings/Activities | Regulatory Framework |
|---|---|---|
| **Rung 1** | Ordinary spot trading, fully paid | Generally regulated under state money transmission laws; subject to CFTC anti-fraud and anti-manipulation authority |
| **Rung 2** | Spot trading and retail trading on a margined, leveraged, or financed basis (CTX) | Federally regulated<br>Registered with the CFTC as a DCM or CAM |
| **Rung 3** | Perpetual futures, futures, options, swaps, other crypto derivatives, and CTXs | Federally regulated<br>Registered as a DCM with tailored rules for CTX |

*Source: Derived from CFTC Chairman Selig speech, October 5, 2026*

Also, the CFTC "preliminarily believes," retail customers would benefit if crypto asset trading facilities were allowed to continue operating under certain integrated models (e.g., to facilitate listing, trading, settlement, and custody) around which crypto asset markets have historically formed. Accordingly, the considered framework contemplates the ability of a CAM to also register as a futures commission merchant (FCM) and/or derivatives clearing organization (DCO), or to permit affiliation between a CAM and an FCM and/or DCO.

### *CAM Core Principles*

The CFTC anticipates modifying obligations under the DCM Core Principles to accommodate the differences between the commercial realities of, and risks posed by, CTXs and standard futures contracts while still maintaining consumer protections and public trust. Areas under consideration include:

- Listing standards, disclosures regarding susceptibility to manipulation, surveillance and prevention of market disruptions.
- Position limits and accountability levels.

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- Trade information reporting and recordkeeping (considering blockchain technologies).
- Trade execution.
- Operational risk and system safeguards (given onchain infrastructure, including public and private blockchain).
- Proof of reserves.
- Other areas of interest such as leverage arrangements, margin requirements, FCM intermediation, and clearing and settling.

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