



Tax Insights
from Financial Services

SEC issues interpretation clarifying application of securities laws to crypto assets

April 30, 2026

In brief

What happened?

The Securities and Exchange Commission (SEC), in coordination with the Commodity Futures Trading Commission (CFTC), issued a long-awaited interpretation (*Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets*) clarifying the application of federal securities laws to crypto assets. The guidance provides a framework for classifying digital assets, clarifies when crypto assets may be subject to securities laws, and outlines how certain common crypto activities are treated for regulatory purposes. The SEC also released a corresponding fact sheet that explains its new guidance.

Why is it relevant?

This guidance signals a notable shift toward regulatory clarity in the treatment of digital assets. By acknowledging that many crypto assets are not inherently securities and that their status could evolve over time, the SEC has taken a step toward aligning regulatory treatment with the underlying economic realities of blockchain-based systems. At the same time, the continued reliance on investment contract analysis underscores that regulatory outcomes remain highly dependent on specific facts and circumstances.

Actions to consider

Taxpayers engaged in digital asset activities should evaluate how the SEC/CFTC guidance could affect their positions by reassessing the classification of digital assets and analyzing consistency between regulatory characterization and tax reporting. They should review how transactions such as staking, mining, airdrops, and token issuances are documented and reported, particularly with respect to income recognition and timing, and consider whether existing positions remain appropriate in light of the clarified framework. In addition, taxpayers should enhance tracking and reporting systems to distinguish between different types of digital assets and activities, monitor how this guidance could interact with current and future IRS rules, and reassess their overall risk and compliance posture, especially in areas involving high transaction volume or evolving business models.

In detail

The SEC, in coordination with the CFTC, issued a comprehensive interpretation clarifying how federal securities laws apply to crypto assets and related transactions, marking a shift from prior practice to provide a structured and transparent framework, including engaging with stakeholders. The guidance explains that while the statutory definition of a 'security' remains grounded in economic reality and existing precedent (particularly the *Howey test* for investment contracts), the unique characteristics of crypto assets, such as decentralization, technological variability, and evolving functionality, have created uncertainty that this guidance seeks to address.

To provide clarity, the SEC establishes a taxonomy of crypto assets based on their characteristics, uses, and functions, grouping them into five primary categories: digital commodities, digital collectibles, digital tools, stablecoins, and digital securities. Digital commodities (e.g., Bitcoin and Ether) derive value from the operation of decentralized blockchain systems and are not securities, while digital collectibles and tools similarly lack the economic characteristics of securities. Stablecoins may or may not be securities depending on their structure, although certain 'payment stablecoins' are statutorily excluded under the GENIUS Act. Digital securities, by contrast, are tokenized forms of traditional financial instruments and are treated as securities regardless of their blockchain-based format.

A central focus of the guidance is clarifying when a non-security crypto asset becomes subject to an investment contract under the *Howey test*. The SEC emphasizes that this determination depends heavily on how the asset is marketed, particularly whether issuers make representations or promises regarding essential managerial efforts that would lead purchasers to expect profits. Importantly, the SEC introduces the concept that a crypto asset can 'separate' from an investment contract over time, meaning that once the issuer fulfills (or abandons) its promised efforts, the asset may no longer be subject to securities laws, even if it was initially sold as part of a securities offering. However, any prior violations (e.g., failure to register or misleading disclosures) would still give rise to liability.

The guidance also provides detailed guidance on specific crypto-related activities. It concludes that protocol mining (proof-of-work) and protocol staking (proof-of-stake), when conducted as described, generally do not involve securities transactions because participants earn rewards through their own administrative or ministerial activities rather than relying on the managerial efforts of others. This conclusion extends to various participation structures, including solo mining, mining pools, self-staking, custodial staking, and liquid staking arrangements, provided they do not involve profit-sharing or discretionary management. Similarly, staking receipt tokens and wrapped tokens are generally not securities when they merely represent ownership of underlying non-security crypto assets and do not involve additional profit expectations or managerial efforts.

The SEC further clarifies that certain airdrops--specifically those involving no consideration from recipients--do not satisfy the 'investment of money' prong of the *Howey test* and therefore are not securities transactions. However, airdrops involving compensation or quid pro quo arrangements could fall outside this guidance.

Observation: From a regulatory perspective, the guidance underscores a coordinated approach between the SEC and CFTC, with the CFTC indicating that many non-security crypto assets could qualify as commodities under the Commodity Exchange Act. The agencies aim to provide clearer jurisdictional boundaries and harmonized oversight of crypto markets. Economically, the SEC expects the guidance to reduce regulatory uncertainty, lower compliance costs, improve pricing efficiency, and encourage innovation and capital formation within the United States, while potentially requiring some market participants to adjust existing practices to align with the clarified framework.

Observation: Overall, the guidance represents a significant development in US crypto regulation by formalizing a principles-based but structured approach that distinguishes between types of digital assets, clarifies when securities laws apply, and provides practical guidance on common blockchain activities, while maintaining reliance on established legal standards such as the *Howey test*.

Tax considerations

The SEC's 2026 crypto asset framework reinforces that classification is foundational to tax analysis, with distinctions between digital commodities, securities, and other token types directly driving the application of key tax regimes. This characterization informs whether assets are treated as capital assets or subject to ordinary treatment, the availability of trader status and mark-to-market elections under Section 475(f), and the application of anti-deferral provisions such as the straddle rules (Section 1092) and constructive sale rules (Section 1259) - particularly in hedged or arbitrage strategies (i.e., spot versus derivatives). The framework's lifecycle concept further introduces complexity, as assets could transition from security-like to commodity-like, requiring ongoing reassessment of tax positions without automatic reclassification.

From a transaction perspective, the guidance clarifies the regulatory treatment of common crypto activities while highlighting their distinct tax consequences. Staking and mining rewards are generally includible as ordinary income at fair market value upon receipt, with subsequent dispositions generating capital gain or loss, while airdrops could trigger income depending on dominion and control. At the same time, treating certain tokens as commodities could strengthen positions for Section 475(f) elections but also raises practical challenges around valuation, timing, and consistent pricing sourcing across fragmented markets. These issues are compounded in DeFi and multi-platform strategies, where identifying offsetting positions, determining 'substantially identical' exposures, and applying consistent valuation methodologies are critical to managing risk.

Overall, the framework highlights the need for a disciplined, facts-and-circumstances approach supported by robust tracking and documentation, particularly in areas of continued uncertainty such as wash sale applicability and evolving asset classification.

Let's talk

For a deeper discussion of how this SEC guidance might affect your business, please contact:

Taxation of Digital Assets

Mazhar Wani
(415) 515-4451
mazhar.wani@pwc.com

Joe Pahl
(203) 623-3809
joe.pahl@pwc.com

Neha Gupta
(646) 771-1077
neha.p.gupta@pwc.com

© 2026 PwC. All rights reserved. PwC refers to the US member firm or one of its subsidiaries or affiliates, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details.

This content is for general information purposes only and should not be used as a substitute for consultation with professional advisors.

Solicitation