Securities Regulation Daily Wrap Up, SEC NEWS AND SPEECHES—SEC overhauls Reg Flex agenda with focus on crypto, deregulation, (Sep 4, 2025)

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The agenda aligns with Chairman Atkins's goal of clearing the way for crypto.

Among the 23 items on the SEC's spring 2025 Regulatory Flexibility Act agenda are rules on the offer and sale of crypto assets, modernization of the shareholder proposal process, and "rationalization" of disclosure. The agenda is a near-complete overhaul that retains only 3 of the 31 rules from the spring 2024 agenda. Chairman Paul Atkins said the withdrawn items "do not align with the goal that regulation should be smart, effective, and appropriately tailored within the confines of our statutory authority."

Crypto assets. In announcing the agenda, Atkins cited the SEC's "renewed focus on supporting innovation, capital formation, market efficiency, and investor protection." That statement appends "supporting innovation" to the traditional three prongs of the agency's mission.

Given this focus, a significant new item on the agenda is potential rulemaking relating to the offer and sale of crypto assets, which may involve exemptions and safe harbors. The agenda also contemplates a suite of rules amending the securities laws to facilitate crypto trading. These would include amending the Custody Rules under the 1940 Acts, updating the rules for transfer agents, amending the broker-dealer financial responsibility and recordkeeping and reporting rules, and amending the Exchange Act to account for the trading of crypto assets on ATSs and national securities exchanges.

Atkins said that these rules could help clarify the regulatory framework and provide market certainty around crypto assets. "A key priority of my Chairmanship is clear rules of the road for the issuance, custody, and trading of crypto assets while continuing to discourage bad actors from violating the law," he said.

Deregulation. Atkins also highlighted the agenda's deregulatory rule proposals. These include what the agenda calls "rationalization of disclosure practices … to facilitate material disclosure by companies and shareholders' access to that information." Another potential ruleset involves amendments to Exchange Act Rule 14a-8 to modernize the shareholder proposal process by reducing compliance burdens for registrants. The SEC is also contemplating amending Form N-Port to address disclosure burdens on registered investment companies.

Many of the agenda items would revise thresholds and expand exemptions for certain entities and transactions. These items pertain to foreign private issuer eligibility, the Rule 144 safe harbor, emerging growth company accommodations and filer status, the definition of "dealer," and the "small entity" definitions for purposes of the Regulatory Flexibility Act. The Commission is also foreseeing expanding the Investment Company Act Rule 17a-7 exemption to certain purchase or sale transactions between an investment company and certain affiliated persons and excluding certain types of over-the-counter securities from the Exchange Act Rule 15c2-11 requirements for publication of quotations.

Other items intended to facilitate capital formation include the opening of public comment on potential changes to facilitate registered offerings of asset-backed securities, including mortgage-backed securities. This item would include unspecified "disclosure enhancements." Rules to modernize the shelf registration process are on the list, as is updating the pathways for raising capital in exempt offerings.

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Consolidated Audit Trail. Another significant agenda item is the possible “comprehensive rethink” of the Consolidated Audit Trail. Atkins said that market participants and Congress were right to push back on the costs and risks of the CAT and cited a recent Eleventh Circuit decision vacating the CAT’s funding order.

The potential review would include examining the CAT’s design and functionality and the scope of collected information. Potential modifications would aim to address concerns over costs and data security “while supporting clearly defined regulatory objectives.”

What’s gone. Some of the items removed from the previous agenda are those relating to corporate board diversity, disclosure of payments by resource extraction issuers, human capital management disclosure, and disclosure of ESG investment practices. A rulemaking on conflicts of interest associated with predictive data analytics, which had been a pet issue for prior SEC Chair Gary Gensler, is also gone.

Other withdrawn rules include changes to EDGAR Next and rules on incentive-based compensation, safeguarding advisory client assets, Regulation ATS modernization, cybersecurity risk management, and fund fee disclosure and reform.

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