

PolicyPartner

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Look Ahead Calendar - PolicyPartner

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- PolicyPartner & Talos MiCA Call Series
 - Push begins for Floor Vote on Market Structure
 - EU moves forward with AML rules, which will impact crypto
 - CFTC Cyber Rule Aims to Mitigate Risks for Registered Firms
 - Figure Stablecoin offers a Novel Approach
 - OCC offers encouragement ahead of T+1
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PolicyPartner & Talos: February MiCA Call Series

In February, PolicyPartner will co-host a series of calls with Talos, a trading technology firm, to discuss key MiCA questions with country level regulators. We plan to host senior staff from the National Competent Authorities (NCAs) that will play the critical role of administering licenses to CASPs.

Talos is a trading technology firm that streamlines the digital asset trade lifecycle for buy-side and sell-side institutions by providing a single gateway connecting them with their various providers across the digital asset ecosystem.

[RSVP here](#) for the MiCA call series.

US Legislative outlook

While House Financial Services lost valuable preelection legislative time as senior members were roped into budget negotiations and speaker-pro-tempore duties, PolicyPartner believes there is still time to bring major crypto legislation to the House floor for a vote.

The key variable remains the Administration and Senate Democrats. While the spot market regulation is debated in the ongoing Coinbase, Binance, and Kraken suits, the administration has repeatedly acknowledged the existence of the regulatory gap.

[In an interview with CNBC today](#), HFS Chair Patrick McHenry stated that he intends to bring his key pieces of legislation to the House floor for a vote, which may nudge Senate Democrats and the administration to get onboard with the concepts – **especially if a bill is passed with Democratic support.**

Please [RSVP](#) to our call with the team from the House Financial Services Committee on February 8th for an excellent discussion with the key staff working on a market structure bill.

CFTC addresses cyber risk in new rule

[CFTC proposed a rule last week to require CFTC](#) registered firms to maintain an Operational Resilience Framework to prevent cyber attacks and IT failures. In addition to the framework, the Commission proposed additional guidance for firms to manage risk related to third-party relationships.

Three components of the framework

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- Information and technology security program
- A third-party relationship program
- A business continuity and disaster recovery plan

This rulemaking follows recommendations from IOSCO (international securities regulator org) that CASPs should put in “place sufficient measures to address cyber and system resiliency.”

Key risks / ideas for managing third-party relationship risk

- risk of exposure of customer information
- ION Markets cyber-attack resulted in 2-week disruption of sever FCMs
- absence of CFTC-specific requirements on IT security
- due diligence and monitoring requirements for third-party service providers needed

Figure files with the SEC to issue a stablecoin as a security

- The S-1 was filed October 24, 2023
- The Figure Transferable Certificates will be available for peer-to-peer transactions on the Provenance Blockchain
- Figure technologies is a transfer agent.
- Regulatory issues are cited as a major risk, specifically, the company states that “Provenance Blockchain, are not licensed under the virtual currency or money transmission regulations of any state in the United States or registered with the Financial Crimes Enforcement Network (“FinCEN”).”
- The use cases cited by S-1:
 - As a stablecoin alternative. Certificate holders may use the Figure Transferable Certificates as an alternative to currently available stablecoins that do not offer any yield, are not regulated under the Investment Company Act, and are in bearer form.
 - As a settlement currency. Certificate holders may use the Figure Transferable Certificates to settle securities transactions on regulated alternative trading systems (“ATSs”), including Figure Securities, Inc.’s ATS, which operates on the Provenance Blockchain.
 - As a payment rail. Certificate holders may use Figure Transferable Certificates to make peer-to-peer payments to one another, as an alternative to other currently available payment systems.

Although the Figure product does not aim to maintain a stable value, and mostly resembles stablecoins in the payment mechanism aspect, launching a stablecoin-like product as a security is an unconventional way to introduce it to the market.

Notably, in the world of DeFi, SEC reached a settlement with Banbridge on its yield bearing LP tokens that contained stablecoins. The Commission argued that pools should be classified as regulated investment vehicles and argued that it should treat staked or loaned stablecoins and LP tokens as securities, which could indicate the SEC’s general belief that stablecoins can be, at least partially considered securities. Moreover, the backing of stablecoins is a key consideration

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for the Commission and there is a long-standing thesis that if a stablecoin is backed by securities, it should be regulated as such.

EU AMLR – political agreement reached

On January 18, 2024, the Council of the European Union and the EU Parliament reached a provisional political agreement on a significant segment of the new anti-money laundering and counter-terrorism financing (AML/CTF) package. This regulation explicitly mentions digital assets and unhosted wallets and contains four main documents:

1. Information accompanying transfers of funds and certain crypto-assets - in particular transfers related to products, transactions or technologies with a high degree of anonymity, including privacy wallets, mixers or tumblers.
2. Establishment of the Authority for AML/CTF (AMLA), which was agreed provisionally on December 13, 2023.
3. Proposal for a Regulation aimed at preventing the use of the financial system for money laundering and terrorist financing (ML/TF).
4. Proposal for a Directive that creates mechanisms for Member States to prevent the financial system's use for money laundering.

The scope of the regulation is extended to new entities like CASPs given that MiCA will come into force by the time AMLR does and crypto companies are expected to be within the perimeter of European financial regulation.

OCC issues bulletin for banks to prepare for T+1 settlement.

As the transition to T+1 settlement cycle is set to come in May 2024, OCC issued [guidelines](#) for community banks to prepare with key recommendations including:

- Changes to investment, trust accounting and securities processing systems
- Reassessment of credit and counterparty risk management
- Adjustments to funding, liquidity activities as well as considerations of transactions involving foreign currencies
- Changes to client communication protocols, staffing and internal procedures.
- Encourages automation of workflows, surveillance and risk management systems.

The OCC also referenced DTCC's industry [playbook](#) as a comprehensive guide to adoption of T+1 settlement cycle.