



441 G St. N.W.
Washington, DC 20548

B-338255

April 8, 2026

The Honorable Tim Scott
Chairman
The Honorable Elizabeth Warren
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable French Hill
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Commodity Futures Trading Commission; Securities and Exchange Commission: Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Commodity Futures Trading Commission and the Securities and Exchange Commission (collectively, the Agencies) entitled “Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets” (RINs: 3038-AF67 & 3235-AN56). We received the rule on March 25, 2026. It was published in the *Federal Register* on March 23, 2026. 91 Fed. Reg. 13714. The effective date of the rule is March 23, 2026.

According to the Agencies, this rule provides an interpretation of the definition of “security” as applied to crypto assets and transactions involving crypto assets as part of their efforts to provide greater clarity regarding their treatment of crypto assets under federal securities laws. The Agencies also stated that the rule classifies crypto assets into categories based on their characteristics, uses, and functions, and analyzes each category under the definition of “security.”

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date does not apply, however, if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. 5 U.S.C. § 808(2). The Agencies determined that the interpretation in this rule may take effect immediately pursuant to 5 U.S.C. § 808(2) because it is an interpretive rule and thus exempt from the Administrative Procedure Act’s notice and comment requirements. 91 Fed. Reg. 13731.

Enclosed is our assessment of the Agencies' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me (202) 512-8156.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Vanessa A. Countryman
Secretary
Securities and Exchange Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
COMMODITY FUTURES TRADING COMMISSION;
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
“APPLICATION OF THE FEDERAL SECURITIES LAWS TO CERTAIN TYPES
OF CRYPTO ASSETS AND CERTAIN TRANSACTIONS INVOLVING CRYPTO ASSETS”
(RINS: 3038-AF67 & 3235-AN56)

(i) Cost-benefit analysis

In their submission to us, the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) (collectively, the Agencies) indicated that preparation of an analysis of costs and benefits for this rule was not applicable. In the rule, the Agencies stated that the interpretation in the rule should reduce costs for issuers of digital securities and crypto asset-related securities, as well as other market participants and creators of non-security crypto assets, by reducing the cost of legal advice to determine their obligations consistent with SEC’s views on the application of federal securities laws to crypto assets and transactions involving crypto assets. 91 Fed. Reg. 13714, 13732 (Mar. 23, 2026).

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

In its submission to us, the Agencies indicated that RFA did not apply to this rule.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As independent regulatory agencies, CFTC and SEC are not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

In its submission to us, the Agencies indicated that they did not publish a proposed rule or solicit public comments.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

In its submission to us, the Agencies indicated that the Act did not apply to this rule.

Statutory authorization for the rule

The Agencies promulgated this rule pursuant to sections 77a *et seq.* and 78 *et seq.* of title 15, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

The Agencies stated that this rule is a significant regulatory action under the Order. 91 Fed. Reg. at 13731.

Executive Order No. 13132 (Federalism)

In its submission to us, the Agencies indicated that it did not discuss the Order in the preamble to the rule.