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SEC Proposes Crypto Custody Framework and Broad Custody Rule Updates

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On October 1, 2026, the SEC proposed a broad update to the custody rules under the Advisers Act and the Investment Company Act. The headline is a new pathway for advisers and funds to custody crypto assets. But the proposal reaches well beyond crypto: it renumbers the custody rule, adds new exceptions, revises the audit provision, and changes how every adviser with custody reports on Form ADV.

If you manage private funds or SMAs, parts of this proposal will likely affect you even if you never touch a digital asset. Below we highlight the changes we think matter most.

Form ADV: the changes most advisers will feel

Item 9 (Custody) would be restructured, and several of the changes apply whether or not you hold crypto.

- **Answering “yes” to custody.** Today, an adviser with custody solely because it deducts fees, or because an operationally independent related person has custody, answers “no” to Item 9.A.(1). Under the proposal, you would answer “yes” whenever you have custody, even if an exception applies. The SEC views the current instruction as a source of inconsistent reporting.
- **New exception checklist.** A new Item 9.A.(2) would ask which custody rule exceptions you rely on: privately offered securities, fee deduction, operationally independent related person, standing letters of authorization (SLOAs), discretionary trading authority, and inadvertent custody.
- **Clearer custody amounts.** Item 9.A.(3) would report assets and clients where you have custody, including through related persons. Item 9.B.(2) would cover only custody that exists solely through a related person. Amounts tied to most exceptions would be excluded.
- **Tokenized funds, including for ERAs.** Schedule D, Section 7.B.(1) would ask whether each private fund, or any series or class, is tokenized, and which crypto networks record ownership. Exempt reporting advisers would answer this too.
- **PCAOB questions removed.** The questions asking whether your auditor is PCAOB-registered and inspected would be deleted, consistent with the rule change described below.
- **Crypto reporting.** Advisers that self-custody crypto would report dollar amounts, client counts and wallet address counts in Item 9, with breakouts for SMAs and each private fund. Use of a state trust company would also be reported.

Custody rule updates for private fund managers

The custody rule would move from Rule 206(4)-2 to new Rule 223-1, and several changes would ease long-standing pain points.

- **No PCAOB requirement.** Auditors performing custody rule audits and exams would no longer need to be PCAOB-registered and inspected.
- **Audit delivery deadlines.** Audited financials would be due within 180 days for funds of funds and 260 days for funds of funds of funds, instead of 120 days. Funds formed late in their fiscal year would get modified timing, and statements could go to an investor’s designated independent representative.

- **U.S. GAAP.** Audited financial statements would have to be prepared under U.S. GAAP, with an exception for foreign pooled vehicles.
- **New exceptions.** Custody arising solely from discretionary trading authority or inadvertent custody would fall outside the rule, subject to conditions. Custody arising solely from an SLOA would be excepted from the surprise examination.
- **Smaller items.** The client notice sent when a custodian account is opened would need to include the account number. BDCs would join registered funds under the investment company exception.

Adviser self-custody and state trust companies: new routes for crypto custody

The proposal covers crypto assets that are funds or securities, and offers two routes beyond traditional qualified custodians.

Adviser self-custody. Advisers could hold client crypto themselves, but only when no permitted custodian is available. That determination would be made before taking custody and every quarter after. Other key conditions include documented safeguarding expertise, private key controls with two-person authorization, a separate wallet address for each client, annual reviews of safeguarding and cybersecurity, an accountant's internal control report within six months and annually after, quarterly client statements, and a written agreement treating the assets as "financial assets" under state law. For registered funds and BDCs, the board would oversee the arrangement.

- The question we anticipate being asked the most - what is the reasonable determination to make that judgement call? How would an adviser track this?
- The "no custodian available" determination is still open to question. The proposal requires a reasonable basis, after due inquiry, that no qualified custodian will hold the asset, but it does not say what that inquiry must include. The SEC has asked for comment on whether to specify required elements, and we expect new amendments will be drawn up post commentary.

State trust companies. Advisers and funds could use a state-chartered trust company as custodian. Before engaging one and annually after, you would need a reasonable basis to believe it is authorized by its state banking regulator and has adequate safeguarding policies, and you would review its audited financials and internal control report.

The SEC also signals what it expects to see in Form ADV Part 2A: self-custody arrangements, related conflicts and fees, wallet storage methods, staking risks, and the absence of FDIC or SIPC-type protections.

Recordkeeping, timing and what's next

For most advisers, the key new record is the SLOA file. If you rely on the new SLOA exception, you would keep each SLOA and related records while it is in effect and for five years after.

Advisers using the crypto pathways would keep the supporting documentation: determination memos, internal control reports, annual reviews, client statements, and records sufficient to reconstruct every client crypto

position and transaction. Crypto-related records could also be kept on a crypto network, as long as you can produce them to SEC staff promptly in a human-readable format and supplement them with offchain records, such as which wallet belongs to which client.

Timing. Advisers and funds could rely on the new custody rules once they take effect, even before Form ADV and Form N-CEN are updated. The new information would be filed once IARD or EDGAR can accept it, within each form's normal amendment deadlines, and SEC staff would publish a notice when the updated forms are available.

Questions to watch. The SEC also asked for comment on whether advisers should confidentially report crypto loss events to the SEC, and whether Form ADV Part 2A Item 15 should expressly require self-custody disclosure. Neither is part of the proposal, but both signal where a final rule could go.

What to do now

This is a proposal, so nothing changes yet. Still, a little preparation now will make adoption much smoother.

1. **Map your custody footprint.** List each source of custody (fee deduction, SLOAs, GP or managing member authority, related persons) and the exceptions you rely on. The new Item 9 questions will ask for exactly this.
2. **Inventory your SLOAs.** If you plan to rely on the SLOA exception, confirm where your letters are kept and how long you keep them.
3. **Check your fund structures.** Funds of funds may benefit from the longer audit deadlines. Flag any tokenized funds, series or share classes, since the new Schedule D question would apply to ERAs as well.
4. **Assess crypto exposure.** If you hold or plan to hold crypto, consider which custody pathway fits and what your Part 2A disclosures would need to say.
5. **Consider commenting.** If any part of the proposal would be burdensome for your firm, the comment period is the time to say so. Comments are due 60 days after the proposal is published in the Federal Register.

We will keep you posted as the proposal moves forward. Please reach out to your Optima Partners team with any questions.

Sources: [SEC press release 2026-100](#) | [SEC fact sheet](#) | [Proposing release, IA-7023](#)