Digital Assets:

Rule Before Law - How the SEC, Treasury, and CFTC Are Writing the Crypto Regulatory Framework Without the CLARITY Act

The developments described in this edition reflect a pattern in which executive-branch agencies are building a de facto regulatory framework through rulemaking.

This edition focuses on three developments in August 2026 that may reflect advancing institutional infrastructure across regulatory, distribution, and protocol layers. On August 18, the Securities and Exchange Commission proposed Regulation Crypto Assets, which is a 402-page proposed rule creating the first tailored offering regime for investment contracts involving crypto assets, including two registration exemptions, a conditional safe harbor under which a covered investment contract may cease to exist, and federal preemption of state securities registration for qualifying offerings. The proposal arrived one day after the Treasury Department proposed the first GENIUS Act implementing rules governing stablecoin issuance. The CFTC's inaugural Innovation Advisory Committee, stacked with crypto executives from Coinbase, Kraken, Anchorage Digital, Grayscale, and OKX, met on August 20. Across the same month, Solana's real-world distribution footprint expanded materially: Charles Schwab announced plans to add SOL to Schwab Crypto, Western Union launched a Visa card backed by its Solana-issued USDPT stablecoin in 37 markets, and MoneyGram connected Solana applications to a cash network of nearly 500,000 locations. The XRP Ledger released XRPLd Version 3.3.0, which is an institutional upgrade package introducing transaction privacy, batch processing, and sponsored fees. Taken together, August 2026 demonstrated that digital asset infrastructure continues to advance at the regulatory, distribution, and protocol level, even while the CLARITY Act remained in limbo, though outcomes remain subject to regulatory rulemaking, legislative timelines, and market conditions.

The key announcements in August:

1. SEC Proposes "Regulation Crypto Assets" — The First Tailored Federal Offering Regime for Crypto

August 18, 2026

On August 18, 2026, the Securities and Exchange Commission proposed Regulation Crypto Assets (Reg CA), a 402-page proposed rule establishing the first tailored offering and disclosure regime for certain investment contracts involving crypto assets. SEC Chairman Paul Atkins called it a historic step to modernize securities rules for crypto while reaffirming that Congress must finish market-structure legislation. The proposal creates two new exemptions from Securities Act registration, a conditional investment-contract safe harbor, a principles-based disclosure framework, and federal preemption of state securities registration for qualifying offerings and certain secondary-market transactions.

The two registration exemptions are structured to address different stages of project development. The "startup exemption" permits offerings of up to $5 million over a four-year period, with general solicitation permitted, no bar on non-accredited investors, and tokens sold under this exemption classified as unrestricted securities rather than restricted securities. The "fundraising exemption," modeled on Regulation A, creates a two-tier structure: Tier 1 for offerings up to $20 million and Tier 2 for offerings up to $75 million, each within any 12-month period. Both exemptions require disclosure on a new "Form 1-CRYPTO" using principles-based narrative disclosure tailored to the issuer, the terms of the covered investment contract, the crypto asset, and the associated network or application.

The most consequential provision is proposed Rule 400, a conditional safe harbor under which a covered investment contract would be deemed to have ceased to exist — and the underlying crypto asset would no longer be classified as a security — when the issuer's essential managerial efforts are no longer present. This addresses the central legal question that has constrained crypto capital formation since the Howey test was first applied to digital assets: at what point does a token stop being a security? Rule 400 provides conditions under which that transition occurs, though the safe harbor is non-exclusive and does not prevent an issuer from arguing under the Howey test that an investment contract has ceased to exist without relying on the new rule.

The proposal sits within a broader week of coordinated executive-branch action. On August 17, the Treasury Department published the first Notice of Proposed Rulemaking implementing Section 3 of the GENIUS Act, defining who may lawfully issue, offer, sell, or make available payment stablecoins in the United States, with the Act's January 18, 2027, effective date creating a tight implementation timeline. The CFTC's inaugural Innovation Advisory Committee, convened by Chairman Selig on August 20, addressed crypto asset markets, AI integration, and prediction-market regulation, with a roster that includes executives from Coinbase, Kraken, Anchorage Digital, Grayscale, and OKX.

The combined signal is that executive-branch agencies are building a de facto regulatory framework through rulemaking, with Treasury on stablecoins, the SEC on token offerings, and the CFTC on derivatives and innovation, even while the CLARITY Act remained in limbo in Congress. This earlier joint SEC–CFTC interpretive work in 2026 that treats BTC, ETH, SOL, and XRP as digital commodities provides the jurisdictional foundation on which Regulation Crypto Assets and the CFTC Innovation Advisory Committee operate.

Implications:

1. **Regulation Crypto Assets Provides a Federal Offering Framework That Operates Independently of the CLARITY Act:** The proposed rule creates registration exemptions and a conditional safe harbor through SEC rulemaking rather than through congressional legislation. From an analytical perspective, this may be relevant to those evaluating the practical regulatory timeline for digital asset offerings, as the SEC can finalize Regulation Crypto Assets through a standard notice-and-comment process regardless of whether the CLARITY Act passes. The $5 million startup exemption with general solicitation and no accreditation bar is particularly notable, as it creates a low-friction pathway for early-stage crypto projects that have no equivalent in existing securities law.

2. **Rule 400's Investment-Contract Safe Harbor Addresses the Central Legal Question in Crypto Securities Law:** The proposed safe harbor specifies conditions under which a covered investment contract ceases to exist and the underlying crypto asset is no longer classified as a security. This directly addresses the legal uncertainty that has constrained institutional product development since the SEC first applied the Howey test to token sales. From a digital assets-market perspective, this may be relevant to how institutional issuers, exchanges, and custodians approach token-classification risk, though the rule is currently a proposal subject to public comment and potential modification before finalization.

3. **The August 17–20 Regulatory Cluster Demonstrates Coordinated Executive-Branch Action Across Three Agencies:** Treasury (stablecoin rules), the SEC (Regulation Crypto Assets), and the CFTC (Innovation Advisory Committee) all advanced crypto-specific frameworks within four days. From an analytical perspective, this may be relevant to those evaluating whether the U.S. regulatory framework for digital assets depends on congressional action or whether executive-branch rulemaking can provide sufficient institutional certainty on its own timeline.

Source: Venable LLP. New Crypto Rules Called "Regulation Crypto Assets" Even as the Clarity Act Remains Uncertain to Pass. August 21, 2026.

2. SOL: Solana's Real-World Distribution Rails Expand — Charles Schwab, Western Union Visa Card, and MoneyGram's 500,000 Cash Locations

August 2026

Three August developments materially expanded Solana's institutional and consumer distribution footprint, reinforcing a broader trend of major payments and brokerage platforms building on the Solana the network. This has been a consistent theme in prior editions of [Digital Assets Monthly].

First came the stablecoin using SOL and now comes the consumer card product. Western Union launched Stablecard, a digital wallet and Visa secured credit card developed in partnership with Rain. The card uses USDPT, Western Union's stablecoin issued by Anchorage Digital on Solana. It launched in 37 markets and works anywhere Visa is accepted. Western Union processes approximately $190 billion in annualized cross-border consumer payment volume. **The decision to issue a proprietary stablecoin on Solana and build a Visa-backed consumer card product on top of it represents one of the deepest integrations of traditional remittance infrastructure with public blockchain rails observed to date.**

MoneyGram introduced MoneyGram Ramps, a single API connecting Solana applications to a retail network of nearly 500,000 cash locations in more than 170 countries serving over 60 million customers. The integration gives Solana-native applications a direct bridge to physical cash infrastructure by enabling cash-to-crypto and crypto-to-cash flows through MoneyGram's existing retail footprint without requiring users to hold bank accounts or use traditional exchanges.

Charles Schwab announced plans to add SOL, alongside two others, to Schwab Crypto Direct. Schwab serves nearly 40 million active brokerage accounts. The addition follows Schwab's May 2026 launch of spot BTC and ETH trading and positions SOL as the third digital asset available through one of the largest retail brokerage platforms in the United States.

Across the month, Solana's on-chain metrics continued to set new highs as real-world asset value passed $4 billion, held across 350,000 addresses; xStocks crossed $500 million in assets under management across more than 700 tokenized stocks and ETFs; and Raydium cleared $4 billion in cumulative tokenized-stock volume.

Implications:

1. **Schwab's Addition of SOL Extends the Pattern of Major Brokerage Platforms Integrating Solana Alongside BTC and ETH:** Following E*TRADE's July launch and Schwab's own May BTC/ETH debut, the addition of SOL to Schwab Crypto Direct positions Solana as the third digital asset accessible through what is now one of the largest retail distribution channels in the United States. From a digital asset perspective, this may be relevant to those evaluating how the retail distribution footprint for SOL compares to BTC and ETH, though trading volumes and adoption rates on the platform remain subject to market conditions and consumer demand.

2. **Western Union's Stablecard and MoneyGram Ramps Represent Two Distinct Models of Traditional Payments Infrastructure Integrating with Public Blockchain Rails:** Western Union's model of a proprietary stablecoin issued on Solana, wrapped in a Visa card for 37 markets, gives the remittance company direct control over issuance, reserves, and settlement. MoneyGram's model of an API connecting Solana applications to 500,000 physical cash locations provides the fiat on/off-ramp infrastructure that Solana-native applications have historically lacked. From a digital asset's perspective, these two approaches illustrate how traditional cross-border payments companies are building multi-modal stablecoin strategies under the GENIUS Act framework, though specific reserve composition, regulatory treatment, and operational mechanics remain subject to ongoing implementation.

3. **Solana's On-Chain Metrics Continue to Set New Highs Alongside Expanding Institutional Distribution:** Real-world assets (RWAs) passing $4 billion across 350,000 addresses, $500 million in xStocks AUM, and $4 billion in cumulative Raydium tokenized-stock volume represent the most comprehensive single-month expansion of Solana's on-chain footprint observed to date. From a digital asset perspective, this may be relevant to those evaluating the price-utility divergence that has been a consistent theme, as fundamental metrics continue to advance while SOL price remains well below its early-2026 levels.

Source: Solana Foundation. Solana Ecosystem Roundup: August 2026. September 4, 2026.

3. XRP: XRPL 3.3.0 “Institutional Upgrade Package” — Privacy, Batch Transactions, and Sponsored Fees for Enterprise

August 2026

The XRP Ledger released XRPLd Version 3.3.0 in August 2026, described as a “major institutional upgrade package” introducing privacy features, batch transaction support, and sponsored fee functionality designed to make the ledger more enterprise friendly. The upgrade package also includes an enhanced AI-powered security framework implementing continuous AI-assisted code review and adversarial testing to harden the network.

Privacy additions are the most notable component. For the first time, XRPL supports confidential transaction metadata that allows institutional participants to transact without exposing counterparty or amount information to all ledger observers, a feature explicitly designed for the compliance-sensitive institutional settlement use cases that Ripple has been building toward with Kyobo Life, Kbank, the Mastercard pilot, and the DTCC working group participation covered in prior editions of Digital Assets Monthly.

Batch transaction support allows multiple operations to be executed atomically in a single ledger submission, reducing failure modes and simplifying complex settlement flows. In prior institutional pilots, including the May 6, 2026, cross-border tokenized U.S. Treasury redemption, multi-step settlement sequences required separate submissions with individual confirmation requirements. Atomic batch processing reduces that to a single submission with a single confirmation, directly addressing one of the most frequently cited operational friction points for institutional XRPL usage.

Sponsored fees allow an institution to pay transaction costs on behalf of its clients, removing the requirement for end users to hold XRP to interact with the ledger. This is structurally significant for the Ripple institutional thesis, as it allows banks and financial institutions to abstract the XRP gas requirement away from their clients entirely, making XRPL function more like traditional payment rails from the end-user perspective. The underlying protocol still requires XRP for transaction fees, as the sponsor pays in XRP on the user’s behalf, meaning indirect XRP demand is preserved at the protocol level even as the user-facing experience becomes XRP-agnostic.

Implications:

1. **The 3.3.0 Release Directly Addresses the Three Most Frequently Cited Institutional Objections to XRPL:** Transaction privacy, atomic multi-step settlement, and the requirement for end users to hold XRP for gas have been consistently identified as institutional adoption barriers in prior editions of this newsletter. Privacy additions enable confidential institutional transactions; batch processing simplifies multi-step settlement; and sponsored fees abstract the XRP requirement from end users while preserving it at the protocol level. From a digital asset perspective, this may be relevant to those evaluating how the XRPL institutional toolkit compares to competing settlement infrastructure, though adoption of these features by institutional participants remains subject to integration timelines and compliance review.

2. **Sponsored Fees Create a New Demand Channel for XRP That Is Invisible to End Users:** Under the sponsored-fee model, institutions pay XRP transaction fees on behalf of their clients, who may never interact with or hold XRP directly. This addresses the “infrastructure without token demand” tension that has been a recurring theme in XRP coverage across this newsletter series: RLUSD, not XRP, has settled institutional pilots to date, but XRP is still required at the protocol level for transaction fees. Sponsored fees formalize this indirect demand channel by allowing institutions to pre-fund XRP fee accounts that service client transactions at scale. From a digital asset perspective, this may be relevant to how XRP demand develops as institutional XRPL transaction volumes grow, though the magnitude of this demand channel depends on the volume of institutional activity that ultimately routes through the ledger.

Source: CoinMarketCap. Latest XRP (XRP) News Update. September 17, 2026.

Conclusion

August 2026 may be characterized as the month in which the executive branch demonstrated it would continue building the regulatory framework for digital assets regardless of whether Congress acted. The SEC's Regulation Crypto Assets proposal, with its registration exemptions, principles-based disclosure regime, and conditional investment-contract safe harbor, creates a federal offering framework for crypto tokens through standard rulemaking rather than through legislation. The Treasury Department's GENIUS Act implementing rules define the stablecoin issuance perimeter ahead of the January 2027 effective date. The CFTC's Innovation Advisory Committee provides institutional-grade engagement on derivatives, AI, and prediction markets. At the asset level, Solana's distribution footprint expanded across three of the most consequential channels available: a $13 trillion retail brokerage platform (Schwab), a Visa-backed consumer card product in 37 markets (Western Union Stablecard), and a cash-to-crypto bridge connecting to 500,000 physical locations (MoneyGram Ramps). The XRP Ledger shipped its most enterprise-significant protocol upgrade to date, addressing the three institutional objections of privacy, batch processing, and sponsored fees that have been identified across prior editions of this newsletter as the primary barriers to XRPL institutional adoption. Across all three developments, the dominant pattern is consistent with prior editions: digital asset infrastructure continues to be integrated into traditional financial market plumbing, with regulatory frameworks, payments networks, brokerage distribution, and settlement protocols at the institutional level. As with all digital asset developments, outcomes remain subject to regulatory approvals, legislative timelines, implementation outcomes, market conditions, and asset-specific risks.