
OCC Permits National Banks to Enter Stablecoin Arena

The Office of the Comptroller of the Currency's recent interpretative letter focuses on how national banks can participate in independent node verification networks and use cryptocurrency stablecoins for payments, Pryor Cashman LLP attorneys explain. They say the guidance is important because of huge growth in the value of the asset class and possibility of widespread adoption as a transaction technology.

The Office of the Comptroller of the Currency (OCC) issued an [interpretative letter](#) on Jan. 4 clarifying that national banks and federal savings associations (national banks) may use cryptocurrency stablecoins for payments and participate in independent blockchain node verification networks.

This development has the potential to enable national banks to start actively participating in cryptocurrency projects that many bankers thought were outside the scope of permissible banking activity. It also creates the opportunity for national banks to partner with cryptocurrency financial technology companies on joint endeavors that could be lucrative to both.

The OCC's guidance is important in part because of recent growth in the supply of stablecoins. The total value of stablecoin assets has increased exponentially to over \$35 billion at the time of this writing.

Stablecoins may offer greater possibilities of widespread adoption as a transaction technology than more well-known cryptocurrencies such as Bitcoin that have experienced significant price volatility because stablecoins are pegged to fiat currencies, such as the U.S. dollar.

Independent Node Verification Networks

The OCC's interpretative letter focuses on how national banks can participate in independent node verification networks and use stablecoins.

An independent node verification network (INVN) is a shared electronic database, such as a distributed ledger, where copies of the same information are stored on multiple computers. An INVN's participants, known as "nodes," validate transactions, store transaction history, and broadcast data to other nodes.

A stablecoin is a cryptocurrency that is designed to have a stable value. Stablecoins are often tied to the value of a fiat currency, such as the U.S. dollar, but also can be tied to the value of other assets. Fiat-based stablecoins are typically redeemable for the underlying fiat currency.

The OCC's new interpretative letter promises to allow national banks full entry to the stablecoin arena. According to the OCC, national banks may "serve as a node on an INVN and use INVNs and related stablecoins to conduct permissible banking activities, including authorized payment activities."

Pursuant to the interpretive letter, national banks may serve as a node on an INVN to facilitate payments transactions. They may also issue their own stablecoins to facilitate payments on an INVN. Additionally, they may exchange stablecoins for fiat currency (and vice versa) and buy and sell stablecoins to facilitate payments.

Cross-Border Remittance Use Case

The OCC's interpretative letter suggests that one appropriate use of this national bank authority may be in the area of cross-border remittances, where the use of stablecoins may provide a "cheaper, faster, and more efficient means" of effecting cross-border payments.

National banks may serve several roles in this scenario, including issuing the stablecoin, validating the international transaction as a node on the INVN/distributed ledger, and facilitating conversions to and from U.S. dollars.

Considerations for National Banks

National banks should be aware of several considerations. First, the OCC insists that banks seeking to conduct stablecoin activities must conduct those activities in a "safe and sound" manner, including by having adequate and appropriate internal controls.

Second, the bank's activities must be consistent with all applicable laws and regulations, including those pertaining to anti-money laundering laws, consumer protection (presumably, e.g., Regulation E), and securities regulation (if the bank is transacting in a stablecoin that would qualify as a security). In particular, the OCC expects banks that are engaged in providing cryptocurrency services to "adapt and expand their BSA[Bank Secrecy Act] compliance programs" to address the particular risks of cryptocurrency transactions.

Third, banks should be aware of increased operational risks, including fraud risks and liquidity risks that may accompany obligations to maintain stablecoin reserves.

Fourth, banks that are custodians of cryptocurrency assets must comply with all laws and regulations that govern fiduciary custody relationships.

Fifth, banks should consult with OCC supervisors "as appropriate" before engaging in stablecoin payment activities.

Sixth, and significantly, the OCC's interpretative letter indicates that banks should only participate in stablecoin transactions or arrangements when the stablecoin arrangements "have the capability to obtain and verify the identity of all transacting parties, including for those using unhosted wallets."

Benefits to Banks and Fintechs

The OCC's interpretative letter provide obvious benefits to national (and potentially state) banks, but it may also benefit fintech companies. For example, while national banks now have the option to issue their own stablecoins, they may also choose to conduct payment activities involving stablecoins issued by another party, such as a fintech company.

In other words, national banks' entry into the stablecoin arena may increase the usage of non-bank issued stablecoins. It is also possible that national banks will chose to partner with existing fintech companies in connection with making payments using stablecoins.

In short, by "clarifying" the authority of national banks to enter the stablecoin arena under existing statutes, the OCC has provided new opportunities to banks, and, potentially, to fintechs.

One issue to watch will be whether the OCC will continue to be supportive of national banks' entry into the cryptocurrency arena in the Biden administration.

The interpretative letter was issued while Brian Brooks, formerly the chief legal officer of Coinbase, still served as acting comptroller of the OCC. Brooks [resigned](#) from the OCC effective Jan. 14, and President Biden will soon have the opportunity to [nominate a new OCC comptroller](#).

With the OCC currently embroiled in many cutting- edge legal disputes involving national banks and fintechs, including disputes over the legality of its "Fintech Charter" and its recently promulgated permissible interest rate and true lender regulations, both banks and fintechs await the nomination of a new OCC comptroller with a high degree of interest.

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The above article was originally published in [Bloomberg Law](#). It was co-written by partner and co-chair of Pryor Cashman's Financial Institutions Group [Jeffrey Alberts](#) and counsel [Dustin Nofziger](#).

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