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In the last week, the House Financial Services Committee took small, but important, steps towards passing cryptocurrency legislation. Even if Congress does not enact crypto legislation in 2023 or 2024, the votes in the House could be important steps in a longer political process. Also, the Senate passed a new notice requirement for outbound investments in China and other countries. The new requirement, if adopted, goes farther than what the Biden administration has been working on and could set the stage for additional rules in the future.

CRYPTO BABY STEPS

The House Financial Services Committee passed two cryptocurrency bills last week. **Chances are low that either bill will be signed into law before the 2024 election, but the committee's actions were an important step for the bills' longer-term prospects.**

The "Financial Innovation and Technology for the 21st Century Act" (FIT bill) and the "Clarity for Payment Stablecoin Act" both passed with some bipartisan support. The Financial Services Committee passed the FIT bill, which would create a digital asset market structure framework appropriate for the unique characteristics of digital assets, by a vote of 35-15. The House Agriculture Committee (which shares jurisdiction over the bill) passed the bill by a voice vote. The stablecoin bill passed 34-16. The next step for both pieces of legislation will take place on the House floor, but floor votes for the bills are unlikely until late 2023 at the earliest since Congress has other items higher on its fall agenda. Passing the House version would also represent an important accomplishment for the long-term prospects of crypto legislation in general, as it forces Congress to work through some contentious issues.

Regardless of what happens in the House, it seems unlikely that the Senate will pass cryptocurrency legislation in 2023 or 2024. Although there is a bipartisan group of senators that is committed to passing crypto legislation, it is not a priority issue for many senators who will be spending time and political capital on the upcoming elections.

A key player in crypto legislation is Senate Banking Committee Chairman Sherrod Brown (D-Ohio). Chairman Brown, however, has previously shown only lukewarm interest in legislating on crypto and faces a competitive reelection campaign in 2024. There are numerous other issues that Senator Brown is likely to focus on in preparation for his campaign.

Also, there are numerous crypto skeptics among Senate Democrats (Senator Brown being one of them) and it is unlikely that Senate Majority Leader Charles Schumer (D-New York) will devote precious floor time to a crypto bill unless there is near unanimity among Democrats on the need to pass a bill. At this point in time, there is so little consensus among Senate Democrats on the topic of crypto legislation that it is hard to forecast that a bill can been enacted in the next 18 months.

In the context of playing the long game, passing crypto bills through the House Financial Services Committee, and possibly the full House, are accomplishments that crypto backers should view as important political wins. Short-term prospects for crypto legislation remain dim.

SENATE PASSES NEW CHINA INVESTMENT NOTIFICATION REQUIREMENT

As part of the National Defense Authorization Act (NDAA) legislation**, the Senate adopted an amendment that would create a notification requirement for certain outbound investments in certain countries such as China.** The House's version of the NDAA does not include this new program, but chances seem better than 50/50 that language similar to the Senate's proposal will be included in a compromise version of the NDAA.

The new requirement, if adopted, would require notification for investments in "countries of concern" (China, Russia, Iran, North Korea, etc.) involving the following "covered sectors":

- Advanced semiconductors and microelectronics;
- Artificial intelligence;
- Quantum information science and technology;
- Hypersonics;
- Satellite-based communications; and
- Networked laser scanning systems with dual-use applications.

The language in the Senate bill would require a notification to the Treasury Department within 14 days of the transaction, but it would not create a mechanism for the government to block such investments. Transactions subject to the proposed requirements could attract additional scrutiny and generate publicity when a notification becomes public.

Also, while the Senate proposal would start out as a notification requirement, **it is possible that a future Congress could change the requirement into an application process that requires government approval before proceeding. This would be similar to the current process under the Committee for Foreign Investment in the United States for inbound investments.**

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