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Clarity Act Stokes Debate on Crypto

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Deborah Kovsky-Apap

Deborah Kovsky-Apap, a partner with Troutman Pepper Locke, was quoted in the March 9, 2026 *Payments Dive* article, "Clarity Act Stokes Debate on Crypto."

However, the Digital Asset Market Clarity Act — or simply just Clarity Act — "draws some lines on when a token is treated like a security and when it becomes a digital commodity," said Deborah Kovsky-Apap, a partner at the law firm Troutman Pepper Locke. "The law is more focused on a division of jurisdiction between the [Securities and Exchange Commission] and the [Commodity Futures Trading Commission]."

…

Those tests can be head-spinningly complex, but put simply, if a digital currency is specifically tied to the value of a company, it's an asset under the purview of the SEC, Kovsky-Apap said.

But cryptocurrencies and other digital tokens that are openly traded in marketplaces and are not tied to a specific company are more likely to be classified as commodities, she said.

And a specific cryptocurrency or stablecoin won't necessarily remain under the same category throughout its lifetime, Kovsky-Apap stressed.

A digital asset tied to the value of a specific company can become a commodity if it becomes available in a marketplace accessible to the general public, she said.

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The Genius Act specifically bars yields on stablecoins, but the law included loopholes that could allow stablecoin yields that the House version of the Clarity Act seeks to close, Kovsky-Apap said. Banks want that language included in the final version, while crypto supporters want it removed.

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