

# SEC–CFTC ‘Historic’ MOU Signals New Phase of Harmonized Oversight and Innovation-Focused Regulation

## WRITTEN BY

Jay A. Dubow | Ghillaine A. Reid

---

On March 11, the Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC) signed a [memorandum of understanding](#) (MOU) that both agencies describe as “historic.” The MOU is intended to reset the relationship between the agencies by reducing turf battles, avoiding duplicative regulation, and providing clearer, technology-neutral oversight — particularly in markets where securities and derivatives regimes overlap, including crypto. While it does not change either agency’s statutory authority, it creates a formal framework for coordination that will materially affect how policy, examinations, and enforcement play out in practice.

## Background

The SEC and CFTC share oversight of increasingly convergent markets such as trading venues, clearinghouses, data repositories, pooled vehicles, intermediaries, and products that sit at the intersection of securities and derivatives. For years, market participants, especially dual registrants, have faced duplicative registrations, overlapping rules, and parallel exams or investigations. The agencies expressly acknowledge that this fragmentation has at times “stifled innovation and pushed market participants to other jurisdictions.”

To combat these challenges, the new MOU replaces the 2018 coordination MOU and builds on earlier efforts to forge a partnership between the agencies (including the 2004 security futures MOU). The new MOU emphasizes “minimum effective dose” regulation that supports lawful innovation, fair notice (as opposed to “regulation by enforcement), and a renewed commitment to collaboration. It is accompanied by a Joint Harmonization Initiative co-led by Robert Teply of the SEC and Meghan Tente of the CFTC, which will carry the coordination into concrete workstreams.

## Key Points

- **No Change to Statutory Authority, But Clearer Coordination Commitments**  
The MOU repeatedly states that it does not alter, expand, or limit either agency’s statutory jurisdiction. Instead, it commits each to abandon a “turf war” mentality and to coordinate where responsibilities intersect, with regular senior-level engagement and designated points of contact.
- **Guiding Principles: Efficiency, Clarity, Risk Focus, and Fair Notice**  
The agencies commit to regulatory efficiency (reducing gaps and duplication), regulatory clarity and consistency, and functional, risk-based oversight that focuses on economic reality rather than labels. They also

emphasize fair notice and expressly commit to “not regulating through enforcement,” signaling more transparent rulemaking and guidance.

- **Joint Harmonization Initiative and Six Priority Areas**

Through the Joint Harmonization Initiative, the SEC and CFTC will coordinate in six key areas: (1) clarifying product definitions via joint interpretations and rules; (2) modernizing clearing, margin, and collateral frameworks; (3) reducing frictions for dually registered venues and intermediaries; (4) providing fit-for-purpose frameworks for crypto and emerging technologies; (5) streamlining regulatory reporting; and (6) coordinating cross-market exams, economic analysis, risk monitoring, surveillance, and enforcement.

- **Impact on Dual Registrants and “Covered Firms”**

The MOU focuses heavily on “covered firms,” including dual-registrant investment advisers/commodity pool operators or CTAs, broker-dealers/FCMs or introducing brokers, clearing agencies/DCOs, swap and security-based swap infrastructures, and swap dealers/security-based swap dealers. For these firms, the agencies will share exam information, coordinate exam planning, and consider joint or aligned exams to reduce burdens and inconsistent expectations.

- **Crypto, Onchain Systems, and “Super-Apps”**

The MOU explicitly recognizes crypto assets, on-chain and automated systems, and new trading models as blurring traditional lines. The agencies commit to a “fit-for-purpose” framework for crypto and other emerging technologies and to exploring “alternative compliance” and appropriately regulated “super apps” where they can achieve regulatory objectives more efficiently while preserving investor and customer protection.

- **Data Sharing, Analytics, and Procurement Coordination**

Subject to confidentiality and information security standards, the agencies will share data and analyses on matters of common interest, including direct access to swap and security-based swap data from repositories under appropriate arrangements. They also plan to coordinate procurement (e.g., on-chain market data and analytical tools) and develop complementary analytical capabilities to improve cross-market risk monitoring.

- **Coordinated Enforcement to Avoid Duplicative Outcomes**

In enforcement, the SEC and CFTC will seek consultation in overlapping matters (including, where appropriate, before Wells notices), coordinate charges and remedies where parallel actions are filed, and align public communications. The aim is to promote consistent and proportional outcomes while avoiding conflicting obligations, though each agency retains full autonomy to enforce its own laws.

- **Robust Confidentiality Framework for Shared Information**

The MOU sets detailed rules for handling “nonpublic information,” preserving privilege, and responding to FOIA requests, subpoenas, and congressional demands. Information shared under the MOU is not deemed publicly disclosed and is intended not to waive confidentiality or privilege, while still allowing each agency to use it for exams, enforcement, risk analysis, and rulemaking.

- **Non-Binding Document With Practical Significance**

The MOU is expressly nonbinding and does not create enforceable rights for private parties. Nonetheless, by replacing the 2018 MOU and embedding recurring processes such as regular meetings, cross-training, and senior-level coordination, it is likely to shape how both agencies exercise their authority day to day.

## Our Take

For firms active in both SEC and CFTC markets, this MOU is a signal that overlapping oversight will become more coordinated, more data-driven, and less duplicative. Dual registrants should anticipate closer alignment in exams and enforcement and fewer instances of inconsistent messaging between the agencies. At the same time, the emphasis on “minimum effective dose” regulation, fair notice, and fit-for-purpose frameworks opens the door for constructive engagement on streamlining requirements and designing compliant, innovative products and platforms, particularly in crypto and other technology-heavy areas.

## RELATED INDUSTRIES + PRACTICES

- [Regulatory Investigations, Strategy + Enforcement](#)

- Securities Investigations + Enforcement
- White Collar Litigation + Investigations