

Regulations Requiring DeFi Platforms to Report Tax Information Nullified by Congress

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March 12, 2025

On March 11, 2025, under the auspices of the Congressional Review Act (**CRA**), the U.S. House of Representatives approved a joint resolution (H.J. Res. 25) officially disapproving of recently finalized regulations that would have potentially imposed stringent tax reporting requirements on decentralized finance (**DeFi**) platforms, categorizing them as “brokers” under existing US tax laws (**DeFi Regulations**). Although the Senate passed S.J. Res. 3 similarly disapproving of the DeFi Regulations on March 4, 2025, the Senate will need to pass the joint resolution before it can be sent to President Trump, who is expected to sign it. As a result, the DeFi Regulations, which would have been effective for transactions beginning in 2027, will not take effect.

Background

In November 2021, the Infrastructure Investment and Jobs Act expanded Section 6045 of the Internal Revenue Code to require tax reporting by brokers of transactions involving the sale or exchange of digital assets. On July 9, 2024, the US Department of the Treasury (**Treasury**) and the Internal Revenue Service (**IRS**) finalized regulations implementing this new digital asset transaction reporting regime, but only with respect to custodial digital asset trading platforms (**Custodial Regulations**). The Custodial Regulations are effective for transactions occurring on or after January 1, 2025, with brokers required to file Forms 1099-DA (*Digital Asset Proceeds from Broker Transactions*) for such transactions beginning in 2026. At that time, the IRS and the Treasury Department deferred providing rules with respect to noncustodial DeFi transactions.

On December 27, 2024, the Treasury and the IRS finalized the DeFi Regulations, which would have implemented a new reporting regime for digital asset “brokers” focusing on DeFi transactions that utilize automatically executing software. The DeFi Regulations would require DeFi service providers that interface with users (so-called “front-end trading services”) to collect certain information from users, and report digital asset transactions to the IRS on new IRS Form 1099-DA. Importantly, reporting obligations for DeFi service providers would have begun for sales of digital assets occurring on or after January 1, 2027, two years later than for brokers subject to the Custodial Regulations. DeFi platforms argued that, unlike banks or custodial exchanges, they rely almost exclusively on smart contracts and lack the centralized control needed to collect the data required to be reported under the DeFi Regulations.

Congress exercised its power under the CRA to disapprove of the DeFi Regulations. Congress enacted the CRA on March 29, 1996 to enhance its oversight of federal agency rulemaking. The CRA requires agencies to submit their rules to Congress before they can take effect. It also provides Congress with a mechanism for disapproving (i.e., eliminating) final rules issued by federal agencies; only a simple majority vote is required in both houses to pass a disapproval. More interestingly, the CRA contains a lookback provision allowing a subsequent session of Congress to disapprove any rules issued by agencies during the final 60 working days of the previous Congress. The DeFi Regulations, finalized on December 27, 2024, were effectively repealed via this lookback mechanism. Accordingly, assuming presidential approval as expected, the DeFi Regulations will not take effect.

Moreover, the CRA provides that a rule may not be issued in “substantially the same form” as the disapproved rule unless it is specifically authorized by a subsequent law. The CRA does not define what would constitute a rule that is “substantially the same” as a nullified rule. Additionally, the statute prohibits judicial review of any “determination, finding, action, or

omission under" the CRA. Thus, the IRS would not be allowed to reissue or author new regulations that are substantially the same as DeFi Regulations, unless specifically authorized to do so by a subsequently-enacted law.

The Custodial Regulations, which address reporting of digital asset transactions by custodial brokers, are not affected by the above congressional actions, and are still slated to go into effect on schedule.

If you have any questions about this article, please contact **Thomas A. Geraghty** at tgeraghty@vedderprice.com or any other Vedder Price attorney with whom you have worked.

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