# SEC Approves In-Kind Creation and Redemption for Crypto Exchange-Traded Products

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The US Securities and Exchange Commission (SEC) approved the use of in-kind creation and redemption mechanisms for cryptocurrency exchange-traded product (ETP) shares on July 29.[1] This move aligns crypto-based ETPs with long-established practices for traditional commodity and equity ETPs.

## What Are Crypto ETPs?

ETPs are investment vehicles that track the performance of an underlying asset or index, and are traded on public exchanges.[2] In the context of digital assets, ETPs allow investors to gain exposure to cryptocurrencies such as Bitcoin or Ethereum in a more secure, regulated and brokerage-compatible format — without public investors needing to buy, custody or manage the cryptoassets directly.

## Creation and Redemption Mechanisms: In-Kind vs. Cash

One important feature of ETPs is the creation and redemption mechanism, which allows authorized participants (APs) — typically large financial institutions — to deliver or receive the underlying assets (or their cash equivalent) in exchange for shares of the ETP. This mechanism keeps the ETP's share price more closely aligned with the value of its underlying holdings. In most traditional ETPs, particularly those tracking commodities or equities, in-kind creation and redemption is the standard. In this in-kind model, APs deliver the actual underlying asset (such as physical gold or a basket of stocks) in exchange for ETP shares — or receive the physical underlying assets when redeeming shares. This system is tax-efficient, minimizes transaction costs and reduces the risk of market disruption during large inflows or outflows.

However, when the SEC first approved spot Bitcoin and Ether ETPs in early 2024, it imposed a cash-only structure for creations and redemptions.[3] This meant APs could only deliver or receive US dollars — never the underlying Bitcoin or Ether, respectively. The SEC cited several concerns: the lack of broker-dealer registration among many APs; uncertainty surrounding cryptoasset custody under existing securities laws; and risk management challenges for firms affiliated with banking organizations.

The SEC's refusal to allow in-kind structures contrasted with SEC policy for other asset classes and drew criticism for inconsistency.

## Key Developments Leading to Policy Change

Over the past year, several key developments appear to have provided the SEC with the comfort needed to revise its position:

### 1. New Leadership at the SEC

A major change came with the appointment of Chairman Atkins earlier in 2025.[4] Chairman Atkins has advocated for clearer, more balanced regulation of digital assets. He has publicly stated that "[i]t's a new day at the SEC, and a key priority of my chairmanship is developing a fit-for-purpose regulatory framework for cryptoasset markets," emphasizing that permitting in-kind creations and redemptions makes ETPs more efficient and cost-effective, and supports a deeper, more dynamic market.[5] Commissioner Mark Uyeda echoed this sentiment, stating in-kind redemptions will eliminate the market asymmetries and inefficiencies created by cash-only redemption and will enable cryptoasset ETPs to access the tools for managing exposure more cheaply, more transparently, and with better alignment to how asset managers and investors use ETPs in other markets.[6]

### 2. Revised SEC Guidance for Broker-Dealers

In May 2025, SEC staff withdrew its 2019 guidance that discouraged broker-dealers from engaging in cryptoasset activities[7] by creating significant compliance risks for APs, especially those seeking to directly handle cryptoassets. That guidance had placed substantial guardrails around broker-dealer involvement. In its place, the SEC issued a comprehensive, market-friendly FAQ that clarifies how broker-dealers can participate in crypto markets in a compliant manner.[8] The FAQ confirms broker-dealers may act as APs in crypto ETPs, including engaging in in-kind transactions, provided they meet certain custody, operational, and disclosure requirements.

### 3. Federal Reserve Withdrawal of Supervisory Guidance

Separately, the Federal Reserve removed a second layer of regulation. In April 2025, the Federal Reserve formally withdrew its 2022 supervisory guidance on crypto activities by "banking organizations," which applied to bank holding companies and financial holding companies.[9] This supervisory guidance had subjected crypto activities to heightened scrutiny and made in-kind participation in crypto ETPs especially difficult for broker-dealers affiliated with a bank holding company or a financial holding company. The withdrawal effectively leveled the playing field, removing barriers that previously made such transactions impractical.

## Impact and Outlook

The approval of in-kind redemption structures removes a significant barrier to institutional participation in crypto ETPs. Many financial institutions were reluctant to engage with cash-only redemption structures due to operational complexities and the need to maintain separate crypto trading and custody infrastructure alongside their traditional ETP operations. In-kind mechanisms allow these institutions to leverage their existing expertise and infrastructure, treating crypto ETPs similarly to commodity or equity products they already handle.

The approval of in-kind redemptions also coincides with President Trump's August 7, 2025, Executive Order directing federal agencies to facilitate access to alternative assets in 401(k) plans.[10] Together, these developments may accelerate institutional adoption of crypto products.

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1 Press Release, SEC Permits In-Kind Creations and Redemptions for Crypto ETPs, (July 29, 2025), available here.

2 Unlike exchange-traded funds (ETFs), which are registered under the Investment Company Act of 1940 (1940 Act) and benefit from additional investor protections, ETPs are a broader category of securities that may hold a single asset — such as spot Bitcoin — or a basket of assets but lack the 1940 Act safeguards that apply to ETFs. See Caroline A. Crenshaw, Comm'r, SEC, Statement Dissenting from Approval of Proposed Rule Changes to List and Trade Spot Bitcoin Exchange-Traded Products, US Securities & Exchange Commission (Jan. 10, 2024), available here.

3 See Katten's Quick Reads coverage of spot Bitcoin ETPs here and here.

4 See Katten's client advisory on this topic here.

5 Supra note 1.

6 Commissioner Mark T. Uyeda, Statement on the Commission's Approval of In-Kind Creations and Redemptions for Crypto Exchange-Traded Products, (July 29, 2025), available here.

7 See Katten's Quick Reads coverage of the withdrawal here.

8 Id.

9 See Katten's client advisory on this topic here.

10 Fact Sheet, White House, President Donald J. Trump Democratizes Access to Alternative Assets for 401(k) Investors (Aug. 2025), available here.

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