The CLARITY Act Just Removed the Last Accounting Rule Keeping Every Major Bank Out of Crypto Custody

Section 310. SAB 121. SAB 122. The Balance Sheet Penalty That Kept JPMorgan Out. Why It Changes Everything When It Is in Federal Statute. -- Q2 2026

In March 2022, the Securities and Exchange Commission issued Staff Accounting Bulletin Number 121 -- a single page of accounting guidance that effectively banned every publicly traded bank in the United States from offering Bitcoin and cryptocurrency custody services to its customers. The mechanism was simple and devastating: SAB 121 required any SEC-reporting company that holds cryptocurrency on behalf of customers to record those customer cryptocurrency holdings as liabilities on its own balance sheet, and to hold dollar-for-dollar capital against those liabilities. Under the Basel III capital framework that governs bank capital requirements, Bitcoin held in custody attracted the maximum 1250% risk weight -- meaning a bank that custodied $1 million of Bitcoin for a customer had to hold $1 million in its own capital as a buffer against that liability. For a bank like JPMorgan, which processes $6 trillion in daily transactions, offering Bitcoin custody at any meaningful scale would have required holding tens of billions of dollars in additional capital against customer cryptocurrency holdings that the bank did not own, could not invest, and did not profit from beyond the custody fee. The capital cost was so operationally infeasible that most SEC-reporting banks chose to forgo providing crypto custody altogether. SAB 121 was the accounting rule that kept the entire US banking system out of crypto custody for three years. Section 310 of the CLARITY Act -- confirmed in the official House Financial Services Committee Section-by-Section analysis and the Congressional Research Service analysis -- prevents federal regulators from requiring financial institutions to include customers' assets as liabilities on their balance sheets or hold additional capital against these assets, except as necessary to mitigate operational risks. The SEC issued SAB 122 in January 2025, which rescinded SAB 121 as a staff guidance matter. But staff guidance can be reversed by future staff. Section 310 codifies the prohibition in permanent federal statute -- making it legally impossible for any future SEC, OCC, or Federal Reserve to reimpose the balance sheet penalty that kept the US banking system out of crypto custody for three years. The CLARITY Act is being covered as a market structure bill. Section 310 is the provision that makes bank crypto custody commercially viable at scale for the first time in American financial history.

01 -- SAB 121: THE SINGLE PAGE OF ACCOUNTING GUIDANCE THAT CHANGED EVERYTHING

Staff Accounting Bulletin Number 121 was issued by the SEC staff in March 2022 as interpretive guidance -- not a rule, not a regulation, not a statute, but a staff interpretation of how existing accounting standards should apply to a new situation. The new situation was the holding of cryptocurrency on behalf of customers by SEC-reporting companies. The staff interpretation that SAB 121 established had two components, both of which were operationally devastating for bank crypto custody.

The first component was the balance sheet classification. Under standard accounting practice, assets held in custody for customers are not recorded on the custodian's balance sheet -- they appear only in footnote disclosures as off-balance-sheet items. A bank that holds $10 billion in gold on behalf of its private wealth clients does not record that gold as an asset or a liability on its own balance sheet. The gold belongs to the clients, not the bank, and standard accounting reflects that ownership structure by keeping the gold off the bank's balance sheet entirely. SAB 121 reversed this standard practice for cryptocurrency: it required entities holding crypto in custody to record those holdings as both an asset representing the right to access the crypto and a corresponding liability representing the obligation to return it. The K2 Integrity analysis described this reversal as undermining existing accounting practice whereby assets held in custody were previously not required to be recorded on a custodian's balance sheet.

The second component was the capital requirement cascade. By recording customer cryptocurrency holdings as balance sheet liabilities, SAB 121 triggered the Basel III risk-based capital framework's treatment of those liabilities. Under the Basel III framework, different types of assets and exposures attract different risk weights -- the percentage of the exposure value that a bank must hold as capital. Bitcoin, classified as a speculative asset with extreme volatility, attracted a 1250% risk weight under the Basel III framework in its conservative interpretation. A 1250% risk weight means that for every $1 of Bitcoin held in custody for a customer, a bank must hold $12.50 of its own capital as a buffer. For a bank that held $100 million of Bitcoin for customers, the capital requirement was $1.25 billion -- capital that must be set aside, cannot be invested in higher-yielding assets, and generates no return beyond the custody fee charged to the client.

The combined effect of the balance sheet liability classification and the 1250% risk weight capital cascade was, as K2 Integrity's analysis confirmed, operationally infeasible for SEC-reporting banks. The capital cost of offering Bitcoin custody at meaningful scale made the business economically unviable. A custody fee of 0.5% annually on $100 million in Bitcoin generates $500,000 in annual revenue. Holding $1.25 billion in idle capital to support that $100 million custody service has an opportunity cost of approximately $56 million annually at a 4.5% risk-free rate. No business can operate profitably when the opportunity cost of the regulatory capital requirement is 112 times the annual revenue of the service. Most large publicly traded banks, including JPMorgan, Goldman Sachs, Bank of America, and Citigroup, chose to forgo crypto custody entirely rather than accept this capital penalty.

> ***SAB 121 CAPITAL MATH: Customer holds $100M Bitcoin in bank custody. SAB 121 requires bank to record $100M liability on its own balance sheet. 1250 percent risk weight requires $1.25B in bank capital held idle. Annual custody fee: $500K. Opportunity cost of $1.25B idle capital at 4.5 percent: $56M. Result: operationally infeasible. Every major publicly traded bank chose not to offer crypto custody.***

02 -- THE POLITICAL BATTLE OVER SAB 121: HOW A STAFF GUIDANCE SURVIVED FOR THREE YEARS

SAB 121's survival from March 2022 to January 2025 despite near-universal industry criticism, bipartisan congressional opposition, and a Government Accountability Office ruling that it should have gone through formal notice-and-comment rulemaking is one of the more illuminating examples of how financial regulation can persist through inertia and institutional entrenchment even when its policy rationale is contested.

In May 2024, the US House of Representatives passed House Joint Resolution 109 -- a Congressional Review Act resolution to overturn SAB 121 -- with a rare bipartisan majority of 228 to 182. The resolution attracted the votes of 21 Democratic members of Congress alongside the Republican majority, reflecting the bipartisan congressional judgment that SAB 121 was bad policy. In June 2024, the US Senate passed the same resolution 60 to 38 -- surpassing the 60-vote threshold that has blocked most crypto legislation. President Biden vetoed the resolution in May 2024, citing financial stability concerns and the risk that repealing SAB 121 would allow financial institutions to custody crypto assets without appropriate safeguards.

The Biden veto meant that a bipartisan congressional majority sufficient to pass the Senate's 60-vote filibuster threshold had voted to repeal SAB 121, but the repeal was blocked by a single presidential action. The Government Accountability Office had separately ruled in October 2023 that SAB 121 was a rule subject to the Congressional Review Act's procedures -- meaning the SEC had issued it without the required notice-and-comment rulemaking period and public comment process that significant regulatory guidance must follow. Despite the GAO ruling, the Biden-era SEC maintained SAB 121 as staff guidance through the end of the administration.

SAB 122, issued by the new SEC leadership on January 23, 2025 -- three days after President Trump took office -- rescinded SAB 121 and replaced it with the standard accounting treatment for custody liabilities that had applied before March 2022. Under SAB 122, financial institutions assess their crypto custody risks using the recognition and measurement requirements for liabilities arising from contingencies set forth in existing FASB and IAS guidance -- the same standards that apply to all other custody activities. The K2 Integrity analysis noted that SAB 122 opened the door for expanded crypto custody services from traditional financial institutions that SAB 121 had kept closed for nearly three years.

03 -- SECTION 310: WHY STAFF GUIDANCE IS NOT ENOUGH AND STATUTE IS REQUIRED

SAB 122 resolved the immediate operational problem of SAB 121 for the current administration. Section 310 of the CLARITY Act resolves the structural problem permanently -- by making it legally impossible for any future administration to reimpose the balance sheet penalty through staff guidance, formal rulemaking, or any other regulatory mechanism.

The distinction between SAB 122 as staff guidance and Section 310 as federal statute is the most commercially significant aspect of the CLARITY Act's custody provisions for institutional investors making long-term infrastructure decisions. A bank that decides to build out crypto custody infrastructure based on SAB 122 is making that decision in the knowledge that SAB 122 can be reversed by the next SEC administration in the same way that SAB 122 reversed SAB 121 -- by issuing a new staff guidance document. The operational cost of building crypto custody infrastructure is significant: custody systems, compliance frameworks, insurance arrangements, regulatory capital planning, client onboarding processes, and technology integration with blockchain networks all require multi-year investment commitments. No bank's board of directors will approve a multi-year infrastructure investment based on staff guidance that the next administration can reverse in three days.

The official House Financial Services Committee Section-by-Section analysis of the CLARITY Act confirmed the statutory scope of Section 310: it prevents federal regulators -- specifically identified as including the banking regulators and the SEC -- from requiring certain financial institutions that custody digital assets to treat such assets as balance sheet liabilities. The Congressional Research Service analysis confirmed the statutory comparison: aspects of this provision are similar to SEC Staff Accounting Bulletin SAB 122 that rescinded SEC SAB 121. The analytical significance of the CRS comparison is precise: Section 310 codifies in permanent federal statute the same accounting treatment that SAB 122 established through staff guidance. The codification makes the accounting treatment permanently stable regardless of future SEC staffing changes, administration changes, or regulatory philosophy shifts.

The exception that Section 310 preserves -- except as necessary to mitigate operational risks as determined by the appropriate federal or state regulator -- is the appropriate regulatory safety valve. Banking regulators retain the authority to impose capital requirements that are genuinely related to operational risk in crypto custody -- the risk of key management failures, cybersecurity breaches, or operational errors that could result in the loss of customer assets. What they cannot do under Section 310 is impose capital requirements based on the volatility of the underlying crypto assets or the theoretical credit exposure from treating customer holdings as balance sheet liabilities. The operational risk exception preserves prudential regulation while eliminating punitive balance sheet treatment.

> ***SECTION 310 vs SAB 122: SAB 122 rescinded SAB 121 through staff guidance in January 2025. Staff guidance can be reversed in three days by the next administration. Section 310 codifies the same prohibition in permanent federal statute. No future SEC can reimpose the SAB 121 balance sheet penalty without amending the CLARITY Act through Congress. The infrastructure investment becomes permanently viable.***

04 -- SECTION 312: THE BANK HOLDING COMPANY ACT AMENDMENT THAT ENABLES FULL-SERVICE BANK CRYPTO

Section 310's balance sheet liability prohibition works in conjunction with Section 312 of the CLARITY Act -- a narrowly crafted amendment to the Bank Holding Company Act that allows non-bank subsidiaries of bank holding companies to engage in digital commodity activities that are financial in nature.

The Bank Holding Company Act limits the activities that bank holding companies and their non-bank subsidiaries can engage in to activities that are so closely related to banking as to be a proper incident thereto. This limitation has historically prevented bank holding companies from engaging directly in commodity trading, commodity dealing, and certain other financial activities outside the narrow scope of traditional banking. Digital commodity custody, digital commodity brokerage, and digital commodity dealing could all theoretically have been challenged as activities outside the Bank Holding Company Act's permissible scope -- creating another regulatory barrier to bank entry into the digital asset market alongside SAB 121's balance sheet penalty.

Section 312's amendment to the Bank Holding Company Act explicitly classifies digital commodity activities as financial in nature -- placing them within the category of activities that bank holding company non-bank subsidiaries can engage in without triggering Bank Holding Company Act restrictions. This amendment enables the full-service bank crypto model that Section 310's balance sheet relief makes economically viable: a bank holding company can establish a non-bank subsidiary specifically for digital asset custody, brokerage, and dealing, fund it with appropriate capital, and offer the complete range of digital asset services to its clients through that subsidiary without the dual barriers of SAB 121's capital penalty and the Bank Holding Company Act's activity restrictions.

The practical implication of Section 310 and Section 312 operating together is that JPMorgan, Goldman Sachs, Morgan Stanley, Bank of America, Citigroup, and every other major US bank holding company can build out comprehensive digital asset custody and brokerage businesses through non-bank subsidiaries with permanent statutory authorization and without the balance sheet penalty that made such businesses economically unviable under SAB 121. The 11 OCC national trust bank charter applications documented in the Alain AI Lab banking takeover report -- Circle, Ripple, BitGo, Fidelity Digital Assets, Paxos, Bridge, Crypto.com, Zerohash, Morgan Stanley, EDX Markets, and Coinbase -- are the institutional custody race on the crypto-native side. Sections 310 and 312 are the provisions that enable incumbent bank holding companies to compete in that race on equal or superior commercial terms.

05 -- THE COMMERCIAL SCALE: WHAT FULL BANK CRYPTO CUSTODY MEANS FOR THE MARKET

The commercial scale of what Section 310 and Section 312 enable when combined with the broader CLARITY Act framework is the most important investment thesis in the institutional crypto adoption story -- because it transforms the question of whether banks will enter the crypto custody market from a regulatory question to a commercial question.

JPMorgan manages approximately $3 trillion in assets under management through its asset management division. Its private bank serves clients with a combined net worth exceeding $1 trillion. Its investment banking clients collectively manage trillions more. If even 5% of JPMorgan's asset management clients -- $150 billion -- want crypto custody exposure through a regulated bank custodian, and if the custody fee is 0.5% annually, that represents $750 million in annual custody revenue for JPMorgan's digital asset subsidiary. Under SAB 122 as staff guidance, JPMorgan's board would evaluate whether to commit the multi-year infrastructure investment to build that custody business

knowing that the next SEC administration could reverse SAB 122. Under Section 310 as permanent federal statute, JPMorgan's board evaluates the same investment with the assurance that the accounting treatment is permanently stable.

The aggregated commercial opportunity across all major US bank holding companies is substantially larger. Bank of America serves 68 million consumer and small business clients. Wells Fargo serves approximately 70 million customers. Citigroup serves institutional clients across 160 countries. Morgan Stanley manages $4.7 trillion in client assets. Goldman Sachs manages $2.8 trillion. The total AUM managed by or custodied at major US bank holding companies is measured in tens of trillions. The proportion of that client wealth that will migrate toward crypto custody as the asset class matures -- even at a conservative 1% to 2% allocation -- represents hundreds of billions of dollars in crypto assets seeking bank custody services. Section 310 is the provision that makes offering those custody services commercially viable for every bank holding company in the United States.

K2 Integrity's analysis of the SAB 122 transition noted that with banks poised to enter the realm of crypto custody, it is likely that digital asset native custody providers face increased competition. This competitive pressure from incumbent banks entering the crypto custody market -- enabled by Section 310's permanent statutory protection and Section 312's Bank Holding Company Act amendment -- is the commercial force that will drive the winner-take-most dynamics documented in the Alain AI Lab custody layer report. The race between crypto-native custodians like Fireblocks, BitGo, and Anchorage Digital and bank-affiliated custodians like Fidelity Digital Assets, EDX Trust, and the major bank holding company digital asset subsidiaries will be decided in the market that Section 310 opens permanently.

06 -- THE REGULATORY RESET: HOW SECTION 310 FITS THE COMPLETE PICTURE

Section 310 of the CLARITY Act does not operate in isolation. It is the statutory codification of the final piece of a comprehensive regulatory reset that began in January 2025 with the Trump administration's crypto executive order and has proceeded systematically through 2025 and 2026 to dismantle the regulatory barriers that kept the US banking system out of crypto.

The Ankura analysis documented the sequence of regulatory barrier removals: SAB 122 in January 2025 rescinded SAB 121's balance sheet penalty. In March 2025, the FDIC rescinded Financial Institution Letter-16-2022, which had required FDIC-supervised institutions to obtain supervisory feedback before engaging in crypto-related activities. The OCC issued interpretive letters confirming that nationally chartered banks can custody crypto assets, participate in blockchain networks, and issue stablecoins. The Federal Reserve, FDIC, and OCC issued joint guidance in March 2026 confirming that tokenized securities receive the same capital treatment as non-tokenized equivalents -- the technology-neutral capital treatment ruling that removed the balance sheet barrier for tokenized assets specifically. And Section 310 codifies the balance sheet liability prohibition for crypto custody in permanent federal statute.

Each of these regulatory actions removed a specific barrier to bank crypto adoption. SAB 122 removed the accounting liability barrier. The FDIC letter removal removed the prior approval barrier. The OCC interpretive letters removed the activity authorization barrier. The technology-neutral capital treatment

ruling removed the tokenized asset barrier. Section 310 makes all of these removals permanent by encoding the most commercially significant one -- the balance sheet liability prohibition -- in federal statute that cannot be reversed without congressional action.

07 -- CONCLUSION: THE PROVISION THAT UNLOCKS HUNDREDS OF MILLIONS OF CLIENTS

Section 310 of the CLARITY Act is the provision that transforms bank crypto custody from a regulatory question to a commercial question -- and in doing so, opens the path to crypto custody for the hundreds of millions of clients who bank with the largest financial institutions in the United States.

The three reports in this series have mapped three distinct CLARITY Act provisions that each address a different dimension of crypto adoption. Section 605 -- documented in Report 1 -- protects the individual's right to self-custody their own assets against future government restriction. Sections 309, 409, and 604 -- documented in Report 2 -- protect the developers and validators who build the blockchain infrastructure that makes crypto function. And Section 310 -- the subject of this report -- removes the accounting rule that prevented the largest financial institutions in the world from offering crypto custody to their clients.

Together these three provisions address the complete institutional adoption stack: the individual holding layer, the infrastructure building layer, and the institutional service layer. Section 605 ensures individuals can hold their own assets. Sections 309 and 604 ensure builders can build the infrastructure. Section 310 ensures banks can offer custody services to the clients who want institutional-grade access. When all three provisions are in force simultaneously -- when the CLARITY Act is signed -- the barriers to comprehensive crypto adoption from individual to infrastructure to institution are permanently removed by statute. The biggest financial institutions in the world are about to onboard hundreds of millions of people into crypto. Section 310 is the provision that makes it commercially viable for them to do it.

> ***SAB 121 March 2022: forced banks to record customer crypto as balance sheet liabilities with 1250 percent risk weight capital. Operationally infeasible. Every major bank declined crypto custody. SAB 122 January 2025: rescinded by staff guidance. Can be reversed in three days. Section 310 CLARITY Act: permanent federal statute. No future SEC can reimpose the balance sheet penalty. Hundreds of millions of bank clients gain access.***