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Congress Repeals Digital Asset Regulations Applicable to Decentralized Finance Platforms

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In a January 27 client alert, we discussed final regulations issued on December 30, 2024, covering tax reporting requirements applicable to certain decentralized finance (DeFi) platforms operating as noncustodial brokers of digital assets. These regulations would have applied to digital asset sales after January 1, 2027. On April 10, President Donald Trump signed a measure passed by Congress under the Congressional Review Act (CRA), House Joint Resolution 25, that disapproves and effectively repeals the reporting requirements for noncustodial digital asset brokers in DeFi transactions, and prohibits the IRS from issuing similar rules. In the absence of such broker reporting requirements, DeFi participants nevertheless will be required to track and report their own income, gains and losses, even though they will not receive information returns or other tax documents from their noncustodial digital asset brokers. The CRA allows Congress to repeal a regulation by a simple majority in both the Senate and the House of Representatives if the repeal measure is introduced within 60 days after the regulation's issuance.

Earlier final regulations issued on June 28, 2024, discussed in this July 2024 client alert, addressed industry participants that functionally resemble traditional securities brokers, in that they take custody of customers' digital assets and private keys. These regulations could not have been repealed in this measure because of the 60-day limitation under the CRA. The regulations covering tax reporting by noncustodial digital asset brokers were within the 60-day window, whereas the regulations for custodial digital asset brokers were not. It is unclear whether the Department of the Treasury and the IRS will take further action with respect to tax reporting by custodial digital asset brokers.

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