AMERICAN INNOVATION AND THE FUTURE OF DIGITAL ASSETS ALIGNING THE U.S. SECURITIES LAWS FOR THE DIGITAL AGE

HEARING

BEFORE THE

SUBCOMMITTEE ON DIGITAL ASSETS, FINANCIAL TECHNOLOGY, AND ARTIFICIAL INTELLIGENCE

OF THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

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Wednesday, April 9, 2025

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AMERICAN INNOVATION AND THE FUTURE OF DIGITAL ASSETS ALIGNING THE U.S. SECURITIES LAWS FOR THE DIGITAL AGE

Wednesday, April 9, 2025

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DIGITAL ASSETS,
FINANCIAL TECHNOLOGY AND,
ARTIFICIAL INTELLIGENCE,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:01 a.m., in room 2128, Rayburn House Office Building, Hon. Bryan Steil [chairman of the subcommittee] presiding.

Present: Representatives Steil, Hill, Huizenga, Davidson, Rose, Timmons, Stutzman, Donalds, Nunn, Downing, Haridopolos, Moore, Lynch, Waters, Sherman, Foster, Gottheimer, Garcia, and Liccardo.

Also present: Representatives Flood and Casten.

Chairman STEIL. The Subcommittee on Digital Assets, Financial Technology, and Artificial Intelligence will come to order.

Without objection, the chair is authorized to declare a recess at any time.

The hearing is titled "American Innovation and the Future of Digital Assets Aligning the U.S. Securities Law for the Digital Age."

Without objection, all members will have 5 legislative days within which to submit additional material to the chair for inclusion in the record.

I will now recognize myself for 4 minutes for an opening statement.

OPENING STATEMENT OF HON. BRYAN STEIL, CHAIRMAN OF THE SUBCOMMITTEE ON DIGITAL ASSETS, FINANCIAL TECHNOLOGY AND ARTIFICIAL INTELLIGENCE, A U.S. REPRESENTATIVE FROM WISCONSIN

Good morning, and welcome to the first digital assets market structure hearing for this Congress. Last week, we successfully passed the Stablecoin Transparency and Accountability for a Better Ledger Economy (STABLE) Act of 2025 out of this committee, marking a significant step forward in advancing the first half of President Trump's digital asset agenda. Today, we will resume our

efforts on advancing the second half of the agenda: comprehensive digital asset market structure legislation.

Recently, Chairman Hill and House Agriculture (Ag) Committee Chairman GT Thompson outlined their vision for digital asset market structure legislation in an op-ed titled, "A Blueprint for Digital Assets in America." In that piece, the chairman emphasized the transformative potential of digital assets and the urgent need for a clear, regulatory framework, one that fosters innovation, development, and market structure legislation.

The chairman also outlined six core principles. The United States has been a global leader in financial innovation, balancing market growth with investor protection. However, as digital assets and blockchain technology gain prominence, the Biden-Harris Administration's hostile approach drove the digital asset ecosystem to jurisdictions with already established frameworks. Now we have an opportunity to correct course and make the United States the epicenter of this ecosystem.

Our goal today is to examine what aspects of the ecosystem are implicated by securities laws and analyze the challenges of applying these laws. Let me be clear, the House Financial Services Committee recognizes that digital assets have use cases beyond financial markets. At the same time, the committee feels strongly that there is a role for the U.S. Securities and Exchange Commission to play in the digital assets ecosystem.

For example, the committee believes that issuers raising capital through the sale of new digital assets should fall under the jurisdiction of the Securities and Exchange Commission. Issuers should be required to disclose relevant information that helps users understand the unique characteristics of the digital asset networks they are investing in.

Today, we will explore how we can modernize our securities law to better accommodate the unique characteristics of digital assets. This includes examining classifications of digital assets, the adequacy of current disclosure requirements, and the applicability of various requirements for intermediaries.

It is crucial for this committee to enact legislation that provides clear guidelines for issuers and market participants, facilitates capital formation, and maintains the integrity of both the digital asset ecosystem and the traditional finance system. Through this process we must ensure that American innovators and entrepreneurs can thrive at home.

We are fortunate to be joined today by a distinguished panel of esteemed experts in securities laws, digital assets, and financial technology. Their insights will be invaluable as we deliberate on these complex issues and consider how best to address technology and legislation. Thank you for your time and for being with us today, and I look forward to your testimony.

The chair now recognizes the ranking member of the subcommittee, Mr. Lynch, for 4 minutes for an opening statement.

OPENING STATEMENT OF HON. STEPHEN F. LYNCH, RANKING MEMBER OF THE SUBCOMMITTEE ON DIGITAL ASSETS, FINANCIAL TECHNOLOGY AND ARTIFICIAL INTELLIGENCE, A U.S. REPRESENTATIVE FROM MASSACHUSETTS

Mr. LYNCH. Good morning. Thank you, Mr. Chairman. I want to thank you, and I want to thank our witnesses for their willingness to help the committee with its work.

On the heels of last week's markup hearing which considered stablecoin legislation, the committee is now quick to move on to fulfilling the crypto industry's next request: addressing the crypto market structure.

This hearing includes "aligning the U.S. securities laws for the digital age" in its title. I interpret this to mean lowering regulatory standards and removing securities laws that protect consumers and investors which are viewed as obstacles to the crypto industry.

The United States has had a long, outstanding history of robust securities laws designed to protect investors, encourage competition, and ensure financial stability. At a time when our country faces high inflation and President Trump's reckless tariffs send our markets into a tailspin, this committee should be working to preserve market integrity, not grant an industry wish list.

Just this week, crypto prices dropped in line with the stock market dips following tariff announcements. Bitcoin's price plummeted to under $77,000, down more than 10 percent from its high last week. If these speculative products resemble in their activity traditional security products, they should be treated the same way.

For the last several years, the crypto industry has launched a campaign against the Securities and Exchange Commission (SEC) claiming it has been unfairly targeted and that it is unable to comply with securities laws. Rather than adjust their practices or acknowledge that their products do come under the jurisdiction of existing securities laws, the industry has fought to elect and appoint crypto-friendly policymakers.

As we speak, crypto firms are fighting amongst themselves to craft legislation that favors their business models and ensures they can maximize their profits. It is also notable that, under the Trump Administration, the SEC has dropped almost every lawsuit against some of the worst offenders in the crypto industry. These include Crypto.com, Ripple, Kraken, Gemeni—Gemini, excuse me, Finance, Coinbase, Robinhood, and Uniswap. I assume that under the nominated Chair, Paul Atkins, who has advised several crypto firms, the SEC will continue in this direction. These are companies that have a proven history of irresponsible, illegal, and predatory practices.

Yesterday, the U.S. Justice Department announced it is disbanding the National Cryptocurrency Enforcement Team, which had been charged with combatting fraud and illicit finance. This is deeply concerning. Cryptocurrencies have been in existence for 17 years but still lack any meaningful use cases. Crypto assets are only needed to trade crypto. They are speculative products similar to securities that can make a handful of investors and firms handsome returns.

These products also come with a myriad of risks, including investor loss, lack of adequate disclosures, volatility and more. Regu-

latory investors saving for retirement or pension funds that serve retired teachers, firefighters, and nurses should not be exposed to these risky products.

While promises of faster payment and greater financial inclusion have remained unfulfilled, the only proven use cases have been for money laundering, terrorist financing, and illicit finance. I remind my colleagues that the crypto winter following the collapse of FTX, BlockFi, and several others was not too long ago. Despite multiple incidents in which crypto firms have failed, my Republican colleagues seem determined to pass legislation that would essentially legalize crypto crime and allow President Trump to add to the $350 million he has already made off his own meme coin.

We cannot continue to ignore the clear conflicts of interest between the President's personal crypto ventures and his support of industry friendly legislation. This committee has a long history of advancing policies that protect consumers, investors, and our financial stability. We should not undermine those practices by allowing the crypto industry to write its own rules.

Thank you, Mr. Chairman, and I yield back.

Chairman STEIL. The gentleman yields back.

The chair now recognizes the chair of the full committee, Mr. Hill, for 1 minute.

STATEMENT OF HON. FRENCH HILL, CHAIRMAN OF THE COMMITTEE ON FINANCIAL SERVICES, A U.S. REPRESENTATIVE FROM ARKANSAS

Chairman HILL. Thank you, Chairman Steil. I appreciate the opportunity to have our good panel before us today.

Last week, the committee took an important step in delivering real legislative certainty for payment stablecoins by advancing Chairman Steil's STABLE Act. It is incumbent upon us to build on that momentum and continue working toward a comprehensive, regulatory framework that establishes clear rules of the road for digital asset markets. I want to acknowledge this committee's strong bipartisan efforts to bring clarity and stability to the digital asset ecosystem.

In the 118th Congress, we made significant progress with the passage of the Financial Innovation and Technology for the 21st Century (FIT21) Act, which aimed to establish clear, fit-for-purpose Federal standards for digital assets. Since then, the committee has engaged with a wide range of stakeholders from government agencies to leaders in the ecosystem to identify ways market structure legislation can be further refined and strengthened. We are actively working to release a legislative discussion draft that reflects that feedback from members and market participants.

I look forward to hearing from our witnesses today and working with my colleagues to get this across the finish line this year.

Thank you, Chairman Steil. I yield back.

Chairman STEIL. Thank you, Chairman Hill.

Today, we welcome the testimony of Rodrigo Seira, Special Counsel at Cooley, where he serves as outside counsel to digital asset focused startup and investment funds.

Ms. Tiffany Smith is a Partner at WilmerHale, where she is a member of the Securities and Finance Service Department and Co-Chair of the firm's Blockchain and Cryptocurrency Working Group.

Mr. Jake Werrett is the Legal Officer at Polygon Labs, a software development company building blockchain infrastructure.

Ms. Alexandra Thornton, who is the Senior Director for Financial Regulation, for Inclusive Economy at the Center for American Progress.

We thank you for taking the time to be here. You will each be recognized for 5 minutes to give an oral presentation of your testimony.

Without objection, your written statements will be made part of the record.

Mr. Seira, you are now recognized for 5 minutes for oral remarks.

STATEMENT OF RODRIGO SEIRA, SPECIAL COUNSEL, COOLEY LLP

Mr. SEIRA. Thank you, Chair Steil, Ranking Member Lynch, and members of the subcommittee, for the opportunity to testify before you today. I am appearing here today in my personal capacity and not on behalf of my firm or any client.

My testimony will make three interrelated points. First, crypto represents a new technological paradigm that will reshape how we interact and organize in the digital age. Second, in my opinion, the current securities law framework is not fit for purpose in regulating crypto and attempts to force crypto into this regime without significant overhaul are counterproductive. Third, we have an opportunity to develop a new regulatory framework that protects crypto consumers and our capital markets while allowing crypto to flourish. My goal here today is to help us capitalize on this opportunity.

I have always been fascinated by the forces that bring groups of people together or push them apart, which is how I find myself here today speaking about crypto. At its core, crypto is a social coordination technology that enables individuals to organize, interact, and collaborate based on rules enforced by transparent code rather than intermediaries or centralized policies.

While many of crypto's early use cases have been financial, crypto is a general-purpose technology with countless applications. Crypto provides new ways for individuals to be economically rewarded for their contribution to networks and other public goods, opening the door to people around the country that lack the traditional advantages of capital and credentials.

Regulation, technological development, and the flows of financial capital are tightly intertwined and interact in a recurring pattern throughout history. As new technological paradigms such as crypto emerge, they operate on the fringes of the old regulatory regime where they attract capital which can lead to a speculative frenzy. This frenzy often ends up in a rupture that exposes the need for a regulatory realignment.

We are living through that moment now. It is clear that the current securities regulatory framework is not a viable option to regulate crypto and fails to achieve its stated policy goals.

Critics often portray the crypto industry as a collection of willful law breakers refusing to follow straightforward rules. Fraud and abuse have undoubtedly occurred in crypto, as they have in any emerging technology sector. However, the idea that crypto projects can simply come in and register with the SEC is demonstrably false.

I believe that if promoters are raising capital to fundraise for a new business enterprise by preselling crypto assets, those fundraising transactions should be subject to the securities laws. In practice, however, virtually no crypto projects have successfully registered their tokens under Federal securities laws and lived to tell the tale. Projects that tried to comply with SEC's current regulatory requirements expended significant resources and effort, only to fail or survive in a state of regulatory uncertainty.

Moreover, registration is not a simple, one-time process. Registering a token in the same manner as stock triggers an ongoing obligation to operate as a publicly reporting company subject to extensive requirements like Exchange Act reports, proxy rules, tender offers, and more. Even if a project manages to register a token, its ability to trade is severely constrained. Tokens that are registered as securities can only be traded on national securities exchanges, through ATSs, or broker-dealers over-the-counter, all of which impose significant additional regulatory burdens or intermediaries and are fundamentally incompatible with the disintermediated trading models that crypto enables.

The SEC disclosure framework, designed in the 1930s to regulate companies issuing securities like stocks and bonds, is intended to ameliorate information asymmetries and agency problems that develop between security issuers and the investing public. This regime is relevant when applied to initial fundraising transactions described above or to tokenize securities.

However, certain types of crypto assets, such as the native tokens of decentralized networks, differ from securities in fundamental ways. Network tokens can persist independent of any corporate issuer; network tokens confer technological abilities in the network rather than legal claims against an issuer; and network tokens often accrue value based on network utility and market forces rather than a company's profits.

As applied to network tokens, the current securities disclosure forms focus on irrelevant corporate and financial information while ignoring critical crypto-specific aspects like governance mechanisms, network design, tokenomics, cybersecurity, and network utility of the assets. As a result, forcing crypto into the traditional securities disclosure regime is harmful to the very public securities laws that are intended to protect because it fails to provide purchasers with the material information they need to determine the value and risks of their crypto holdings.

FIT 21, which passed with broad bipartisan support by the House last year, marked a significant step towards regulatory clarity in the digital space. It would provide much-needed clarity for participants to foster innovation within a structured regulatory environment.

Thank you. I look forward to your questions.

[The prepared statement of Mr. Seira follows:]

Written Testimony of Rodrigo Seira
Hearing before the United States House of Representatives
Committee on Financial Services
Subcommittee on Digital Assets, Financial Technology, and Artificial Intelligence

"American Innovation and the Future of Digital Assets:
Aligning the U.S. Securities Laws for the Digital Age"
April 9, 2025

Thank you, Chair Steil, Ranking Member Lynch, and Members of the Subcommittee, for the opportunity to testify before you today. I am appearing here in my personal capacity and not on behalf of my firm or any client.

My testimony will make three interrelated points. First, crypto represents a new technological paradigm that will reshape how we interact and organize in the digital age. Second, in my opinion, the current securities law framework is not fit for purpose in regulating crypto, and attempts to force crypto into this regime without a significant overhaul are counterproductive. Third, we have an opportunity to develop a new regulatory framework that protects crypto consumers and our capital markets, while allowing crypto to flourish. My goal today is to help us capitalize on this opportunity.

The Promise of Crypto

I have always been fascinated by the forces that bring groups of people together or push them apart, which is how I find myself here today speaking about crypto.

At its core, crypto is a social coordination technology. It enables individuals to organize, interact, and collaborate based on rules enforced by transparent code, rather than by intermediaries or centralized policies. While many of crypto's early use cases have been financial, crypto is a general-purpose technology with countless applications. Crypto provides new ways for individuals to be economically rewarded for their contribution to networks and other public goods, opening the door to people around the country that lack the traditional advantages of capital and credentials.[1]

Crypto Needs a New Regulatory Regime

Regulation, technological development, and the flows of financial capital are tightly intertwined and interact in a recurring pattern throughout history.[2] As new technological paradigms such as crypto emerge, they operate in the fringes of the old regulatory regime, where they attract capital which can lead to a speculative frenzy. This frenzy often ends in a rupture that exposes the need for a regulatory realignment.

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[1] Dixon, Chris. *Read Write Own: Building the Next Era of the Internet*. Random House, 2024.
[2] Perez, Carlota, *Technological Revolutions and Financial Capital: The Dynamics of Bubbles and Golden Ages*. Edward Elgar, 2003.

We are living through that moment: it is clear that the current securities regulatory framework in not a viable option to regulate crypto and fails to achieve its stated policy goals.

a. The current securities regime doesn't present a viable option to regulate crypto.

Critics often portray the crypto industry as a collection of willful lawbreakers, refusing to follow straightforward rules. Fraud and abuse have undoubtedly occurred in crypto—as they have in any emerging technology sector. However, the idea that crypto projects can simply "come in and register" with the SEC is demonstrably false.

I believe that if promoters are raising capital to fundraise for a new business enterprise by pre-selling crypto assets, those initial fundraising transactions should be subject to the securities laws. In practice, however, virtually no crypto projects have successfully registered their tokens under federal securities laws and lived to tell the tale. Projects that tried to comply with the SEC's current requirements expended significant resources and effort, only to fail or survive in a state of regulatory uncertainty.[3]

Moreover, registration is not a simple, one-time process. Registering a token in the same manner as stock triggers an ongoing obligation to operate as a publicly reporting company, subject to extensive requirements like Exchange Act reports, proxy rules, tender offer regulations, and more. Even if a project manages to register a token, its ability to trade is severely constrained. Tokens that are registered as securities can only be traded on National Securities Exchanges, through Alternative Trading Systems, or via broker-dealers over-the-counter—all of which impose significant additional regulatory burdens on intermediaries and are fundamentally incompatible with the disintermediated trading models that crypto enables.

The current securities regime is not a realistic or viable option for crypto projects.

b. The current securities regime does not achieve its intended regulatory goals when applied to certain types of crypto assets.

The SEC disclosure framework, designed in the 1930s to regulate companies issuing securities like stocks and bonds, is intended to ameliorate information asymmetries and agency problems that develop between security issuers and the investing public. This regime is relevant when applied to initial fundraising transactions described above, or to tokenized securities. However, certain types of crypto assets, such as the native tokens of decentralized networks,[4] differ from securities in fundamental ways:

- network tokens can persist independent of any corporate issuer;
- network tokens confer holders technological abilities in a network, rather than legal claims against an issuer; and

[3] Justin Slaughter, Katie Biber, and Rodrigo Seira, *Lessons from Crypto Projects' Failed Attempts to Register with the SEC*. Paradigm Policy Blog, 2023.
[4] Miles Jennings, Scott Duke Kominers, Eddy Lazzarin, *Defining tokens*, a16z crypto blog, 2025.

- network tokens often accrue value based on network utility rather than a company's profits.

As applied to network tokens, the current securities disclosure forms focus on irrelevant corporate and financial information while ignoring critical crypto-specific aspects like governance mechanisms, network design, tokenomics, cybersecurity, and the network utility of the assets. As a result, forcing crypto into the traditional securities disclosure regime is harmful to the very public securities laws are intended to protect because it fails to provide purchasers with the material information they need to determine the value and risks of their crypto holdings.

The Opportunity

The Financial Innovation and Technology for the 21st Century Act, which was passed with broad bipartisan support by the House of Representatives last year, marked a significant step toward regulatory clarity in the digital asset space. If enacted, FIT21 would provide much-needed clarity for market participants and foster innovation within a structured regulatory environment. A predictable framework will protect users by requiring appropriate disclosures and consumer protections while ensuring that companies can innovate without the constant fear of arbitrary enforcement actions. With the right balance, FIT21 can help establish the United States as the global leader in digital asset innovation, safeguarding both economic competitiveness and protect consumers without stifling technological progress.

Chairman STEIL. Thank you very much, Mr. Seira.

Ms. Smith, you are now recognized for 5 minutes.

STATEMENT OF TIFFANY SMITH, PARTNER AND CO-CHAIR OF THE BLOCKCHAIN AND CRYPTOCURRENCY WORKING GROUP, WILMERHALE

Ms. SMITH. Subcommittee Chair Steil, Ranking Member Lynch, and distinguished members of the——

Chairman STEIL. The microphone may still not be on there, Ms. Smith.

Ms. SMITH. Is it working now?

Chairman STEIL. You might have to point it directly. The microphone is very directional.

Ms. SMITH. Better now?

Chairman STEIL. No. There is a little red light.

Ms. SMITH. Yes, it is not coming on.

Chairman STEIL. Maybe you can borrow one of your colleague's mics.

Nothing like a hearing about technology to have little technology errors. Congress is at the forefront of technology yet again.

You are now recognized, Ms. Smith, if that works.

Ms. SMITH. Thank you.

Chairman STEIL. Thank you.

Ms. SMITH. Subcommittee Chair Steil, Ranking Member Lynch, and distinguished members of the subcommittee, thank you for the opportunity to present at today's hearing.

My name is Tiffany J. Smith, and I am a Partner at the law firm WilmerHale and Co-Chair of the firm's Blockchain and Cryptocurrency Working Group. The views I share today are my own and do not represent those of my colleagues, my law firm, or our clients.

I would like to start by commending the subcommittee for the important and necessary work it is doing to provide regulatory clarity to the digital assets industry in the U.S. markets. A critical starting point is understanding the current state of securities market structure to evaluate the changes that may be necessary. While the SEC has taken steps within its jurisdiction to provide regulatory clarity, I believe that congressional action is also necessary to have true regulatory clarity for the digital assets industry.

I would like to briefly highlight three topics, which I cover in more detail in my written testimony. First, Federal securities law compliance challenges for digital assets; second, SEC-specific digital asset guidance; and third, why congressional action is necessary.

First, the decentralized nature of certain digital assets presents unique challenges to Federal securities law compliance. Broadly speaking, the Federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934 are, in their current form, challenging to apply to digital assets and digital asset market participants.

At the same time, a diverse set of market participants in the United States, including crypto native and traditional financial services firms implementing merging technologies, have significant interests in achieving regulatory clarity. Indeed, the lack of regu-

latory clarity has led to the expenditure of significant resources to determine how to comply or, in other cases, defending enforcement actions. Some entities have decided to discontinue product offerings, cease operations in the United States, or for highly regulated financial services firms in particular, some have decided not to offer digital asset products altogether.

With concrete action to provide clarity for the industry, Congress can help ensure that this industry can flourish and thrive in the United States, while ensuring market integrity and the protection of investors and consumers alike.

Second, putting aside the guidance that was recently issued in 2025, the SEC has not issued specific guidance related to digital assets since 2020. I believe it is critical to provide concrete guidance to market participants in the near term. This guidance should do two things.

First, help market participants identify the circumstances when a digital asset is offered and sold as a security so market participants can understand when the Federal securities laws apply.

Second, when these laws do apply, provide guidance to market participants on how to comply with the Federal securities laws given the differences between digital assets and traditional securities. Any formal guidance or rulemaking must take into account these key differences, including the specific risk related to digital assets that may not be of concern for traditional securities, so compliance is feasible, and regulation is effective.

Third, notwithstanding the progress that the SEC's Crypto Task Force is making, the SEC and other Federal agencies have jurisdictional limits such that agency action alone is not sufficient to provide regulatory clarity for digital assets. A patchwork approach across agencies and States has created the regulatory uncertainty that currently exists. A comprehensive and clear regulatory framework for digital assets is needed, something that these agencies cannot undertake.

This Congress has the opportunity to help steer the path for digital assets for years to come and help ensure responsible development of digital assets in the digital asset marketplace.

Thank you for your leadership on these important issues. I look forward to our discussion.

[The prepared statement of Ms. Smith follows:]

Hearing Before the Digital Assets, Financial Technology, and Artificial Intelligence Subcommittee

American Innovation and the Future of Digital Assets: Aligning the U.S. Securities Laws for the Digital Age

Testimony of Tiffany J. Smith
Partner, WilmerHale

April 9, 2025

Subcommittee Chair Steil, Ranking Member Lynch, and distinguished members of the Subcommittee, thank you for the invitation to participate in today's hearing. My name is Tiffany J. Smith, and I'm a partner at the law firm WilmerHale. I am a member of the Securities and Financial Services Department and Co-Chair of the firm's Blockchain and Cryptocurrency Working Group. I have been at the firm my entire legal career, for over 16 years, and have advised a wide variety of financial services firms including broker-dealers, exchanges, and other financial institutions on compliance with the federal securities laws and the rules of the Financial Industry Regulatory Authority ("FINRA"), a self-regulatory organization ("SRO"). My clients include both traditional financial institutions as well as financial technology ("Fintech") and crypto-native firms.[1]

The views I share today are my own, and do not represent those of my colleagues, my law firm, our clients, or any other person or organization.

I commend the Digital Assets, Financial Technology, and Artificial Intelligence Subcommittee for the important and necessary work it is doing to understand the current state of securities market structure to evaluate the changes that may be necessary to bring regulatory clarity to the digital assets industry and U.S. markets.

While the Securities and Exchange Commission ("SEC") has taken steps within its jurisdiction to provide regulatory clarity, these actions alone are not sufficient. I believe that Congressional action is necessary to have true regulatory clarity for the digital assets[2] industry. Indeed, the current lack of regulatory clarity has caused harm to both crypto-native and traditional financial services firms. Crypto-native firms have expended significant resources trying to determine, first, if they were required to register with the SEC, and if so, how they could comply with the

[1] The term "crypto-native" generally refers to firms and businesses that are formed to operate in the crypto ecosystem.

[2] The SEC has defined the term "digital asset" to mean an asset that is issued and/or transferred using distributed ledger or blockchain technology, including, but not limited to "virtual currencies," "coins," and "tokens." *See* Custody of Digital Assets by Special Purpose Broker-Dealers, Securities Exchange Act Release No. 90788 (Dec. 23, 2020), https://www.sec.gov/files/rules/policy/2020/34-90788.pdf. The SEC also uses the term digital asset and crypto asset interchangeably. *See* Proposed Regulation Best Execution, Securities Exchange Act Release No. 96496 (Dec. 14, 2022), https://www.sec.gov/files/rules/proposed/2022/34-96496.pdf. As further described herein, the assets within this category may warrant different treatment.

applicable complex regulatory requirements. More recently, a number of crypto firms have been the subject of SEC investigations and spent significant resources defending these actions. Some have decided to settle these actions by discontinuing a product line, or worse, ceasing operations in the United States. Many traditional financial services firms, which are heavily regulated, have decided not to offer digital asset products or services altogether because of this regulatory uncertainty.

In furtherance of the title of this hearing "Aligning the U.S. Securities Laws for the Digital Age," I want to cover three topics:

- Why the decentralized nature of certain digital assets presents unique challenges to federal securities law compliance
- The digital asset-specific guidance previously issued by the SEC
- Limits to the SEC's jurisdiction and why congressional action is necessary

I. Why the decentralized nature of certain digital assets presents unique challenges to federal securities law compliance

Broadly speaking, the federal securities laws, including the Securities Act of 1933 (the "Securities Act") and the Securities Exchange Act of 1934 (the "Exchange Act") are premised on, respectively, the disclosures that issuers are required to provide when raising capital from others and the registration framework for intermediaries that facilitate transactions between parties. In their current form, many of these statutes are challenging to apply to digital assets and digital assets market participants.

a. The Securities Act

The Securities Act is often referred to as the "truth in securities law" and has two basic objectives:

- Require that investors receive financial and other significant information concerning securities being offered for public sale; and
- Prohibit deceit, misrepresentations, and other fraud in the offer and sale of securities.[3]

According to the SEC, the "primary means of accomplishing these goals is the disclosure of important financial information through the registration of securities."[4] The registration process requires issuers of securities to provide certain information including, in relevant part: a description of the company's business, a description of the security to be offered or sold, risk

[3] *See Statutes and Regulations*, SEC (last reviewed or updated Oct. 1, 2013), https://www.sec.gov/rules-regulations/statutes-regulations.
[4] *Id.*

factors, and information about the management of the company and financial statements certified by independent accountants.[5]

b. The Exchange Act

The Exchange Act empowers the SEC with broad authority over all aspects of the federal securities laws, including the power to register, regulate and oversee brokerage firms, transfer agents, clearing agencies, securities exchanges, and national securities associations.[6] By its terms, the Exchange Act segregates and regulates these functions individually. The Exchange Act also authorizes the SEC to require periodic reporting of information by companies with publicly traded securities.[7]

c. Application to Digital Assets

The Securities Act and Exchange Act only apply to transactions in securities, thus, in order to determine whether these statues apply, the threshold question is whether a proposed product or service involves a security. The investment contract test articulated in *SEC v. Howey*[8] has been used by the SEC to determine whether digital assets were offered or sold as securities. In particular, *Howey* applies to a contract, scheme, or transaction and focuses on the circumstances surrounding the digital asset and the manner in which it was sold.[9]

The term "digital assets" has broadly been used by the SEC to refer to "an asset that is issued and transferred using distributed ledger or blockchain technology" and includes virtual currency, coins, and tokens.[10] The SEC also used the term "crypto asset security" to refer to digital assets that meet the definition of "security" under the federal securities laws and that rely on cryptographic protocols.[11] Importantly, these broad terms combined with the expansive past views of SEC officials that most digital assets are offered and sold as securities[12], failed to distinguish between different types of digital assets, including those that are intended to be offered and sold as securities, like tokenized securities and security tokens, versus assets that were not intended to be offered and sold as securities, like many other types of crypto assets such

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[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946). The test for an investment contract, as described in *Howey* and subsequent case law, provides that an investment contract exists when there is (i) an investment of money (ii) in a common enterprise (iii) with a reasonable expectation of profits to be derived from the efforts of others.
[9] *See* SEC Division of Corporation Finance, *Framework for "Investment Contract" Analysis of Digital Assets*, SEC (last reviewed or updated July 5, 2024), https://www.sec.gov/about/divisions-offices/division-corporation-finance/framework-investment-contract-analysis-digital-assets.
[10] *See* Custody of Digital Assets by Special Purpose Broker-Dealers, Securities Exchange Act Release No. 90788 (Dec. 23, 2020), https://www.sec.gov/files/rules/policy/2020/34-90788.pdf.
[11] Proposed Regulation Best Execution, Securities Exchange Act Release No. 96496 (Dec. 14, 2022), https://www.sec.gov/files/rules/proposed/2022/34-96496.pdf.
[12] *See, e.g.*, Former SEC Chair Gary Gensler, Speech, *Car Keys, Football, and Effective Administration* (Nov. 14, 2024), https://www.sec.gov/newsroom/speeches-statements/gensler-remarks-pli-s-56th-annual-institute-securities-regulation-111424.

as tokens. I believe this distinction is important because separate compliance considerations apply to these different categories of assets.

Importantly, today, a diverse set of market participants in the United States, including crypto-native and traditional financial services companies implementing emerging technologies, have a significant interest in achieving regulatory clarity. Both Congress and the SEC should consider taking prompt, concrete steps to provide clarity for this industry to flourish and to ensure market integrity and the protection of investors. To be clear, my comments today are not about tokenized securities or other types of digital assets that are clearly securities. Instead, my comments are focused on crypto assets that were not initially offered and sold as securities. With respect to these assets, there are many complex challenges to complying with the federal securities laws, and I want to highlight a few.

- Information Required by the Securities Act May Be Both Overinclusive and Underinclusive for Crypto Assets: As noted above, the Securities Act requires information about the issuer of the securities, including a description of its business, management of the company, financial statements certified by independent accountants and risks associated with the offering. Notably, crypto assets offered and sold as securities, as distinguished from traditional securities, do not represent an interest in an enterprise like stock, so it may be impractical or impossible to satisfy disclosure requirements. Additionally, traditional disclosures may not provide materially important information to purchasers such as the governance model for the network, ongoing role of the network development team and any plans for decentralization, among others. In a similar vein, crypto assets may not have an identifiable "issuer"[13] to comply with the registration requirements. Even if there is an identifiable person or persons who may be an "issuer" of crypto assets, the person or persons likely do not have financial statements certified by an independent accountant. As crypto assets often do not represent an interest in the "issuer's" enterprise, the burden imposed on obtaining audited financial statements does not equate with the value that an updated and appropriately tailored disclosure would provide a potential investor in the offered crypto assets.

- Securities Intermediaries Cannot Offer or Sell Crypto Assets That Were Not Sold in Compliance with the Securities Act: National securities exchanges and broker-dealers cannot sell or transact in securities that did not comply with the Securities Act when they were offered and sold. National securities exchanges are prohibited from selling any security that is not registered under the Securities Act. Broker-dealers may sell assets that are either registered under the Securities Act or that complied with an

[13] Prior SEC guidance stated whether a digital asset that was initially offered and sold as a security still remains a security is based on whether ownership and control of such asset was decentralized. *See* Former SEC Director of the Division of Corporation Finance William Hinman, Speech, *Digital Assets Transactions: When Howey Met Gary (Plastic)* (Jun. 14, 2018), https://www.sec.gov/newsroom/speeches-statements/speech-hinman-061418. As a result, in my experience, many crypto projects have focused on decentralizing ownership and control following this guidance, which by nature made it more difficult to identify an issuer for the token.

applicable exemption from registration but would face material compliance risk for offering or selling assets that did not meet either of these requirements. These compliance obligations on both national securities exchanges and broker-dealers are the reasons why neither intermediary can easily begin offering and selling crypto assets that the SEC deems to be securities. Moreover, there are rules, such as Rule 144[14] and Rule 15c2-11[15] that permit broker-dealers to facilitate secondary market transactions in securities, that are dependent on the issuer of the securities making certain information available such as financial records, which are generally not available for, or relevant to, crypto assets, as discussed above.

- Market Structure for Crypto Differs from Traditional Securities: The federal securities laws are premised on there being multiple intermediaries involved in a securities transaction. Investors directly interact with a broker-dealer. Only broker-dealers can be members of a national securities exchange.[16] Transactions executed on a national securities exchange in turn clear through registered clearing agencies, and banks and larger broker-dealers are participants of the clearing agencies. Conversely, many crypto asset companies perform all of these functions in a single entity either through the use of blockchain technology or in a decentralized manner using smart contracts. Individual users can directly access a blockchain network through a front-end interface or a company's platform to submit trading interest. The individual's trading interest is generally prefunded and will match with counterparty interest either on a company's platform or directly on the blockchain network. Through blockchain technology, settlement occurs near real-time, and the individual's assets are either custodied at the company's platform or through a self-custodial solution onchain. I express no opinion on the separate models, but instead only note that there are distinctions that must be addressed before crypto assets can be offered in compliance with the Exchange Act.

- Custody Practices for Crypto Assets Differ from Traditional Securities: Broker-dealers are required to comply with Rule 15c3-3 under the Exchange Act, also known as the Customer Protection Rule, which was adopted at a time when physical securities existed. The purpose of the Customer Protection Rule is to safeguard customer securities and funds held by a broker-dealer, to prevent investor loss or

[14] SEC Rule 144 permits the public resale of restricted and control securities, provided that certain conditions are met. *See* 17 C.F.R. § 230.144. One of these conditions is that "[a]dequate current public information with respect to the issuer of the securities must be available." 17 C.F.R. § 230.144(c). This includes, for example, certain financial reports concerning the issuer. *See id.*

[15] SEC Rule 15c2-11 generally prohibits broker-dealers from publishing OTC quotations for securities unless the broker-dealer has satisfied certain conditions. *See* 17 C.F.R. § 240.15c2-11. Relevant here, Rule 15c2-11 permits broker-dealers to publish quotations if the broker-dealer has reviewed current and publicly available information about the issuer who is the subject of the quotation, including certain financial reports, and the broker-dealer reasonably believes that this information is accurate. *See* 17 C.F.R. § 240.15c2-11(a)(1)(i).

[16] *See* 15 U.S.C. § 78f(c).

harm in the event of a broker-dealer's failure[17], and to enhance the SEC's ability to monitor and prevent unsound business practices.[18] Pursuant to the rule, broker-dealers are required to physically hold customers' fully paid for and excess margin securities or maintain them free of lien at a good control location.[19] In joint guidance with FINRA, the SEC staff has previously noted the "differences in the mechanics and risks associated with custodying traditional securities and digital asset securities" and that broker-dealers may have trouble complying with the rule.[20] Of particular concern, the SEC staff noted a broker-dealer may face challenges evidencing it has exclusive control over digital assets – which exist solely on the blockchain and are safeguarded via a private cryptographic key – and evidencing that the broker-dealer has the ability to reverse or cancel mistaken or unauthorized transactions.[21] Subsequently, the Commission issued the Special Purpose Broker-Dealer Statement, which provided time-limited relief for broker-dealers to maintain custody over digital asset securities if certain conditions were satisfied.[22] In addition to being time limited, the guidance was restrictive as it limited "special purpose broker-dealers" to only transacting in digital asset securities.[23] This effectively meant established broker-dealers would need to register a new entity to transact in digital asset securities. In addition, operations involving Bitcoin, the most liquid crypto asset and a commodity that falls outside of SEC jurisdiction, would have to be offered from a separate entity. Despite being in effect for four years, only two firms have

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[17] The Customer Protection Rule requires broker-dealers to safeguard customer assets and to keep customer assets separate from the firm's assets, thus increasing the likelihood that customers' securities and cash can be returned to them in the event of the broker-dealer's failure. *See* SEC Division of Trading and Markets and FINRA Office of General Counsel, Statement, *Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities* (July 8, 2019), https://www.sec.gov/newsroom/speeches-statements/joint-staff-statement-broker-dealer-custody-digital-asset-securities.

[18] *See* SEC Division of Trading and Markets and FINRA Office of General Counsel, Statement, *Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities* (July 8, 2019), https://www.sec.gov/newsroom/speeches-statements/joint-staff-statement-broker-dealer-custody-digital-asset-securities.

[19] *See* paragraphs (b) and (c) of Rule 15c3-3. 17 C.F.R. § 240.15c3-3(b); 17 C.F.R. § 240.15c3-3(c). An entity's designation as a good control location is based, in part, on its ability to maintain exclusive control over customer securities. *See, e.g.*, paragraph (c)(5) of Rule 15c3-3 (deeming a "bank" as defined in Section 3(a)(6) of the Exchange Act to be a good control location so long as, among other things, the bank has acknowledged that customer securities "are not subject to any right, charge, security interest, lien or claim of any kind in favor of a bank or any person claiming through the bank"). 17 C.F.R. § 240.15c3-3(c)(5).

[20] *See* SEC Division of Trading and Markets and FINRA Office of General Counsel, Statement, *Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities* (July 8, 2019), https://www.sec.gov/newsroom/speeches-statements/joint-staff-statement-broker-dealer-custody-digital-asset-securities.

[21] *Id.*

[22] *See Custody of Digital Assets by Special Purpose Broker-Dealers*, 86 Fed. Reg. 11627 (Feb. 26., 2021), https://www.federalregister.gov/documents/2021/02/26/2020-28847/custody-of-digital-asset-securities-by-special-purpose-broker-dealers.

[23] Of note, broker-dealers are not generally limited to solely offering securities. *See, e.g.*, FINRA Regulatory Notice 08-66, *FINRA Addresses Firms' Retail Foreign Currency Exchange Activities* (Nov. 4, 2008), https://www.finra.org/rules-guidance/notices/08-66 (explaining broker-dealer obligations for their retail foreign exchange activities).

successfully obtained this relief.[24] Most recently, Commissioner Hester Peirce, who leads the SEC's Crypto Task Force, stated that the Task Force will explore possible updates to the Statement, "which in its current form has not been a success."[25]

II. The Digital Asset-Specific Guidance Previously Issued by the SEC

As a result of the differences between traditional securities and digital assets offered and sold as securities, I believe it is critical to provide concrete guidance to market participants in the near-term. This guidance should: (i) help market participants identify the circumstances when a digital asset is offered and sold as a security so market participants can understand when the federal securities laws apply, and (ii) when the federal securities laws do apply, provide guidance to market participants on how to comply with the federal securities laws given the differences between traditional securities and digital assets.

The SEC has previously issued guidance on these topics, however, putting aside the guidance that was recently issued in 2025[26], the SEC had not issued specific guidance related to digital assets since 2020. Instead, in various speeches, market participants were urged to register with the SEC without a clear path, a number of enforcement actions were brought against market participants[27], and, in the context of the SEC's general rulemaking agenda, digital assets were identified in certain proposals but final rules were never adopted.[28] Nonetheless these proposals were generally criticized by digital asset market participants because they did not provide clarity on when the federal securities laws apply to digital asset transactions and did not account for

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[24] *See* Gaurav Roy, *Special Purpose Broker-Dealer for Digital Asset Securities (SPBD): Why Are They Divisive?*, Securities.io (Sept. 17, 2024), https://www.securities.io/special-purpose-broker-dealer-for-digital-asset-securities-spbd-why-are-they-divisive/.

[25] SEC Commissioner Hester M. Peirce, Statement, *The Journey Begins* (Feb. 4, 2025), https://www.sec.gov/newsroom/speeches-statements/peirce-journey-begins-020425. Commissioner Peirce noted "[a]n initial change we may suggest is that the statement be expanded to cover broker-dealers that custody crypto asset securities alongside crypto assets that are not securities. We will work with the public to identify other obstacles to registration." *Id.*

[26] *See* SEC Division of Corporation Finance, Statement, *Staff Statement on Meme Coins* (Feb. 27, 2025), https://www.sec.gov/newsroom/speeches-statements/staff-statement-meme-coins; *see also* SEC Division of Corporation Finance, Statement, *Statement on Certain Proof-of-Work Mining Activities* (Mar. 20, 2025), https://www.sec.gov/newsroom/speeches-statements/statement-certain-proof-work-mining-activities-032025; SEC Division of Corporation Finance, Statement, *Statement on Stablecoins* (Apr. 4, 2025), https://www.sec.gov/newsroom/speeches-statements/statement-stablecoins-040425.

[27] *See, e.g.*, Cornerstone Research, SEC Cryptocurrency Enforcement Reports, https://www.cornerstone.com/insights/reports/sec-cryptocurrency-enforcement/.

[28] *See* Tiffany Smith and Kyle Swan, *Potential Impact of the SEC's Rulemaking Agenda on Crypto*, 57 The Review of Securities & Commodities Regulation No. 5 (Mar. 6, 2024), https://www.civicresearchinstitute.com/online/PDF/RSCR-5705-20240306-Smith.pdf (describing general SEC proposals that would apply to digital assets securities as well as traditional securities, including proposed amendments regarding the definition of "exchange," the definition of "dealer," Best Execution, proposed rule 223-1, and the predictive data analytics rule). Note that the amendments regarding the definition of "dealer" were ultimately finalized before being struck down in court on the grounds that the amendments exceeded the SEC's statutory authority. *See National Association of Private Fund Managers v. SEC*, 4:24-cv-00250 (N.D.T.X. 2024).

differences between traditional and digital assets.[29] As a result of the differences described above, I believe it is critical for any formal guidance or rulemaking to take into account the key differences between traditional securities and crypto assets so compliance is feasible and regulation is effective. Such formal guidance or rulemaking should consider the specific risks related to digital assets that may not be of concern for traditional securities (e.g., network security or tokenomics[30]).

The following are examples of guidance the SEC issued prior to 2025 that may require updating as a result of the changes in the digital asset industry over the years.

- Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO: The SEC issued an investigative report (the "DAO Report") explaining that digital tokens issued in the context of an initial coin offering ("ICO") may be securities and therefore subject to the agency's jurisdiction.[31] The investigative report was issued under Section 21(a) of the Exchange Act, which provides the SEC with a mechanism to issue its findings after an investigation instead of bringing an enforcement action. As noted, the DAO Report was issued in the context of ICOs. A funding and distribution mechanism that is not frequently used today. Given the developments in the digital assets market since 2017 and how rapidly the industry changes, 21(a) Reports are tools the SEC can consider using to explain its views when identifying novel applications of the federal securities laws.

- Framework for "Investment Contract" Analysis of Digital Assets: This guidance, initially published in 2019, provides a framework for analyzing whether a digital asset is offered and sold as an investment contract.[32] The Framework identifies the *Howey* factors and provides considerations for each prong of the test. While the guidance was well-intentioned, stakeholders have noted the difficulties in applying the various factors of the guidance.[33] In addition, significant changes to

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[29] *See, e.g.*, Lydia Beyoud, *SEC's Gensler Takes on Crypto Defi Exchanges with Refreshed Rule Plan,* Bloomberg L.P. (Apr. 14, 2023), https://www.bloomberg.com/news/articles/2023-04-14/gensler-takes-on-crypto-defi-exchanges-with-refreshed-rule-plan (describing industry criticism of the SEC's proposed amendments regarding the definition of "exchange").

[30] Generally, tokenomics refers to the factors that go into the value of cryptocurrency. Relevant factors include the maximum token supply, how tokens are added and removed from circulation, incentives for token holders, and the project's utility. *See What is Tokenomics?* The Motley Fool (last updated Feb. 22, 2025), https://www.fool.com/terms/t/tokenomics/.

[31] *See* Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO, Securities Exchange Act Release No. 81207 (July 25, 2017), https://www.sec.gov/files/litigation/investreport/34-81207.pdf.

[32] *See Framework for "Investment Contract" Analysis of Digital Assets* (last reviewed or updated July 5, 2024), https://www.sec.gov/about/divisions-offices/division-corporation-finance/framework-investment-contract-analysis-digital-assets.

[33] *See* SEC Commissioner Hester M. Peirce, Speech, *Paper, Plastic, Peer-to-Peer* (Mar. 15, 2021), https://www.sec.gov/newsroom/speeches-statements/peirce-paper-plastic-peer-peer-031521#_ftnref27 (stating that the SEC's framework "is difficult to apply").

the digital assets market have occurred in the six years since this guidance was issued, e.g., the guidance mentions ICOs, which are no longer popular[34]; there is no mention of proof-of-stake networks[35] and how to evaluate them. Moreover, there is no guidance on how to evaluate secondary market transactions, which was the crux of the litigation cases the SEC brought against crypto platforms.[36] Since the federal securities laws only apply to securities transactions and a determination that an asset is a security triggers a number of regulatory requirements, I believe it is critical to have as much clarity as possible about the circumstances under which digital assets are securities.[37]

- Peirce Safe Harbor: In 2021, SEC Commissioner Peirce published a proposed safe harbor that sought "to provide network developers with a three-year grace period within which, under certain conditions, they can facilitate participation in and the development of a functional or decentralized network, exempted from the registration provisions of the federal securities laws."[38] While there have been different views about the conditions of the proposed safe harbor,[39] I believe its overall purpose to provide clarity for network developers is important. The SEC's Crypto Task Force is currently seeking feedback on the safe harbor,[40] including whether it can be available retroactively for projects that comply with its disclosure requirements. I believe this is a step in the right direction to bring clarity for developers launching new protocols and encourages development and investment in the United States.

- Special Purpose Broker-Dealer Statement: The Special Purpose Broker-Dealer Statement went into effect in 2021 and as noted above, is restrictive in terms of business activities and timing, and only two firms met the conditions for this

[34] *See* Mayank Joshipura et al., *ICOs Conceptual Unveiled: Scholarly Review of an Entrepreneurial Finance Innovation*, 11 Financial Innovation Article No. 26, (2025), https://jfinswufe.springeropen.com/counter/pdf/10.1186/s40854-024-00721-4.pdf.

[35] Proof-of-stake is a system of agreement used to validate cryptocurrency transactions. It was created to improve upon perceived flaws of proof-of-work consensus mechanism. *See* Tessa Campbell and Brian Nibley, *What is Proof of Stake (PoS)?* Business Insider (last updated Nov. 22, 2024), https://www.businessinsider.com/personal-finance/investing/proof-of-stake.

[36] *See* Cornerstone Research, *SEC Cryptocurrency Enforcement 2023 Update*, https://www.cornerstone.com/insights/research/sec-cryptocurrency-enforcement-june-2023-update/.

[37] On April 5, 2025, SEC Acting Chairman Uyeda announced that he has asked SEC staff to review the Framework for an "Investment Contract" guidance pursuant to Executive Order 14192. *See* SEC Acting Chairman Mark T. Uyeda, Statement Regarding Executive Order 14192 (Apr. 5, 2025), https://x.com/SECGov/status/1908546943686492633.

[38] *See* SEC Commissioner Hester M. Peirce, Statement, *Token Safe Harbor Proposal 2.0* (Apr. 13, 2021), https://www.sec.gov/newsroom/speeches-statements/peirce-statement-token-safe-harbor-proposal-20.

[39] *See, e.g.*, Barbara Piro, *SEC Cmr. Hester Peirce's Token Safe Harbor Proposal 2.0: First Impressions*, SLS Blogs (Apr. 15, 2021), https://law.stanford.edu/2021/04/15/sec-cmr-hester-peirces-token-safe-harbor-proposal-2-0-first-impressions/; Miles Jennings et al., *The Return of the Token Safe Harbor*, Latham & Watkins Global Fintech & Digital Assets Blog (Apr. 29, 2021), https://www.fintechanddigitalassets.com/2021/04/the-return-of-the-token-safe-harbor/.

[40] *See* Commissioner Hester M. Peirce, Statement, *There Must Be Some Way Out of Here* (Feb. 21, 2025), https://www.sec.gov/newsroom/speeches-statements/peirce-statement-rfi-022125.

> relief. As a result, I believe the Statement should be evaluated to reflect feedback the SEC has received from market participants and to take into account changes in the industry over the last four years. The Crypto Task Force is currently seeking input on the Statement and specifically asked whether the statement should be withdrawn or modified. I take no position on which approach is preferred, but I do believe clarity is necessary so broker-dealers can provide custody for digital asset securities.

III. Limits to the SEC's Jurisdiction and Why Congressional Action is Necessary

Acting Chairman Uyeda recently formed the Crypto Task Force, which is "dedicated to developing a comprehensive and clear regulatory framework for crypto assets."[41] Since its formation in January, the SEC has agreed to pause, withdraw or dismiss several actions against digital asset firms for violations of the federal securities laws[42], closed seven investigations against crypto market participants[43], issued three statements about the priorities of the Task Force including 48 specific questions on which it is seeking feedback[44], announced five roundtables on various digital asset related topics[45], and issued three staff statements providing clarity on digital asset products or services.[46]

Despite the progress the Crypto Task Force is making, SEC action alone is not sufficient to provide regulatory clarity for digital assets. As noted by Acting Chair Uyeda:

> [t]he Task Force will operate within the statutory framework provided by Congress and will coordinate the provision of technical assistance to Congress as it makes changes to that framework. The Task Force will coordinate with federal departments and agencies, including the Commodity Futures Trading Commission, and state and international counterparts.[47]

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[41] *See* Press Release, *SEC Crypto 2.0: Acting Chairman Uyeda Announces Formation of New Crypto Task Force*, SEC (Jan. 21, 2025), https://www.sec.gov/newsroom/press-releases/2025-30.
[42] *See,* Nikhilesh De, *Where All the SEC Cases Are*, CoinDesk (updated Mar. 31, 2025), https://www.coindesk.com/policy/2025/03/29/where-all-the-sec-cases-are.
[43] *See id.*
[44] *See* SEC Commissioner Hester M. Peirce, Statement, *There Must be Some Way out of Here* (Feb. 21, 2025), https://www.sec.gov/newsroom/speeches-statements/peirce-statement-rfi-022125.
[45] *See Crypto Task Force Roundtables*, SEC (last reviewed or updated Mar. 26, 2025), https://www.sec.gov/about/crypto-task-force/crypto-task-force-roundtables.
[46] *See* SEC Division of Corporation Finance, Statement, *Staff Statement on Meme Coins* (Feb. 27, 2025), https://www.sec.gov/newsroom/speeches-statements/staff-statement-meme-coins; SEC Division of Corporation Finance, Statement, *Statement on Certain Proof-of-Work Mining Activities* (Mar. 20, 2025), https://www.sec.gov/newsroom/speeches-statements/statement-certain-proof-work-mining-activities-032025; SEC Division of Corporation Finance, Statement, *Statement on Stablecoins* (Apr. 4, 2025), https://www.sec.gov/newsroom/speeches-statements/statement-stablecoins-040425.
[47] *See* Press Release, *SEC Crypto 2.0: Acting Chairman Uyeda Announces Formation of New Crypto Task Force* (Jan. 21, 2025), https://www.sec.gov/newsroom/press-releases/2025-30.

Because the jurisdiction of the SEC and other federal agencies is limited, Congressional intervention is necessary to create a comprehensive and clear regulatory framework for digital assets. In addition, Congress should consider codifying guidance of the SEC and other agencies to create regulatory certainty. As seen through recent actions, guidance issued by agencies can be proposed and rescinded, thus Congressional action could provide more regulatory certainty and consistency.[48]

IV. Conclusion

I appreciate your attention to these important issues, and I look forward to discussing them with you.

[48] *See, e.g.*, *Staff Accounting Bulletin No. 122*, SEC (Jan. 23, 2025), https://www.sec.gov/rules-regulations/staff-guidance/staff-accounting-bulletins/staff-accounting-bulletin-122#_ftn1.

Chairman STEIL. Thank you very much, Ms. Smith.
Mr. Werrett, you are now recognized for 5 minutes.

STATEMENT OF JACOB WERRETT, CHIEF LEGAL OFFICER, POLYGON

Mr. WERRETT. Chairman Hill, Ranking Member Waters, Chairman Steil, Ranking Member Lynch, and members of the subcommittee, thank you for inviting me to speak with you about digital assets and blockchain technology.

My name is Jacob Werrett. I am Chief Legal Officer at Polygon, a software development company that builds blockchain infrastructure.

Today, I invite you to imagine a world where access to financial systems is permissionless, without respect to one's ability to pay fees or maintain balances. To imagine a world where a simple $100 payment to your grandmother in Tokyo does not require a $40 bank fee from you and a $41 bank fee from your grandmother, netting only $19 after a 3-day delay.

Imagine a world where title companies and title insurance become obsolete, saving consumers $7 billion annually. Imagine a world where your online funds can be custodied by you on your terms, and if your funds are leveraged or traded, it will not be by an intermediary that captures the value; it will be by you. Imagine a world where your identification and your healthcare records can be locked in a vault and custodied by you, and seemingly daily requests to confirm your identity or your creditworthiness can be displayed in limited fashion on your terms via cryptography.

In short, I invite you to imagine a world centered around technology that already exists today. Each of these applications and many more have already been developed in various stages. The question is not whether this technology is the future; the question is whether the United States itself will be a part of that future. While other countries have developed and adopted frameworks to entice innovators, we have not. We should act swiftly and thoughtfully to empower software developers to innovate inside the United States.

Turning to decentralized finance, or decentralized finance (DeFi), technological decentralization is among the most transformative advancements in modern memory. The internet illustrates the critical value of decentralization, which is itself a network of decentralized servers and websites infinitely scaleable, owned by independent actors across the globe coordinating to connect and reveal information.

Blockchains are likewise networks of decentralized validators owned and controlled by independent actors across the globe, coordinating to connect and validate transactions. Similar to the revolutionary advent of decentralized information on the internet, decentralized blockchains facilitate global coordination, enabling self-custody, user governance, and transparency.

Perhaps greatest of all and inextricably tethered to the founding principles of our Nation is the power of digital asset holder self-governance to decide day-to-day activities such as fee structures, user fairness, grants, and leadership. Decentralization is inherently democratic. Decentralized technology facilitates self-governance

and allows individuals the freedom to control their own property. In short, decentralization is uniquely American.

As we contemplate policy that will govern this innovation, I urge you to consider three points. First, we should not allow legislation enticing innovation for blockchains offshore to outpace legislation enticing innovation inside the United States; second, we should not assume that archaic security structures cannot be refreshed to address innovative technologies; and, third, we should not allow stablecoins pegged to foreign assets or foreign currencies to outperform stablecoins pegged to the U.S. dollar.

Decentralized blockchain technology is built for the people, by the people, and of the people. We look forward to working with you in collaboration and with the members of this committee to achieve these common goals. Thank you.

[The prepared statement of Mr. Werrett follows:]

Written Testimony
of
Jacob Werrett

Chief Legal Officer
Representing Polygon Labs, a Software Development Company

Before the U.S. House Financial Services Committee Subcommittee on
Digital Assets, Financial Technology, and Artificial Intelligence

April 9, 2025

Biography

Jacob Werrett is the Chief Legal Officer at Polygon Labs, a software development company building blockchain infrastructure and an aggregated blockchain network.

During the first decade of his career, Jacob practiced corporate and M&A law, initially working at a large law firm in Delaware, and then a large law firm in California. In recent years, Jacob has served as legal counsel at various companies: JMA Ventures, as General Counsel (private equity, focused on commercial real estate); Sonicwall, as Deputy General Counsel (cybersecurity); dYdX Trading, as General Counsel (crypto derivatives software developer); and Polygon, as Chief Legal Officer (blockchain infrastructure developer).

Jacob has published numerous legal and academic articles in various publications, including Law360, Corporation, The Business Lawyer, Business Court Insider, The American Bar Association, and UConn Law Review.

Jacob received a Master of Business Administration from the University of California Berkeley (M.B.A.), and Juris Doctor from the University of Connecticut Law School (J.D.).

Testimony

Chairman Hill, Ranking Member Waters, and Members of the Subcommittee:

The Internet is one of the greatest technological achievements in modern memory. It has led to advancements that would not have been comprehensible without this important infrastructure.

The Internet has evolved over time. In the early years, a few computers used the original design of the Internet to pass simple messages. Only after the creation of a standard, known as TCP/IP, could computers use a common language at scale. Thereafter, users of the Internet globally could access extensive information about almost any topic via websites.

As the Internet matured, websites emerged that democratized contribution and encouraged the decentralized public to publish data (e.g., Wikipedia), scholarly articles (e.g., SSRN), informal content (e.g., Reddit), personal pictures and statements (e.g., Instagram, Facebook, blogs), open-source software (e.g., GitHub), and personal videos (e.g., YouTube). Anyone with an Internet connection was enabled to write and publish to mass audiences through posts on social networks and other services. But the Internet experience became increasingly centralized over time as large corporations began to seize control, collect private information, and decide how and when information would be reflected on the Internet.

In recent years, blockchains have emerged as one of the most transformative architectures of the Internet. In 2008, Bitcoin marked the first decentralized Internet-native currency. Since then, the evolution of blockchain — accelerated by Ethereum and countless networks that followed — has expanded far beyond digital currency. What began as a monetary innovation has become a foundation for decentralizing all forms of native digital assets, shifting control over information, ownership, and privacy back to individuals.

1. Digital Assets Enable Beneficial Use Cases

There are numerous compelling use cases for blockchain technology — far too many to be described here. This testimony explores a small sample of promising use cases, some nascent and others that have been developed over years. Polygon Labs has worked with numerous industry participants to compile a database of valuable use cases utilizing blockchain infrastructure, which can be found at TheValueProp.[1] Use cases highlighted on TheValueProp range from financial use cases, such as DeFi, to non-financial use cases, such as media, gaming, education, healthcare, social impact, and loyalty programs.[2]

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[1] www.thevalueprop.io.

[2] The descriptions herein (as well as the descriptions included in TheValueProp) are subject to the descriptions, disclosures, and terms and conditions made available via the owners and/or operators of each project. Polygon develops open-source software for blockchain infrastructure, and although certain projects referenced herein may utilize Polygon open-source software, such projects are not owned by Polygon, may not be affiliated with Polygon, and have not granted representation rights to Polygon.

a. Decentralized Finance

Decentralized Finance (DeFi) represents a financial protocol built on blockchain technology that enables individuals to interact directly with one another without relying on traditional intermediaries, such as banks or brokers. DeFi leverages public blockchain networks, allowing participants to access financial services, like lending, borrowing, trading, and investing using cryptocurrencies and smart contracts. This open infrastructure is available to anyone with an Internet connection, creating a more transparent, inclusive, and efficient alternative to conventional finance.

b. Gaming on Blockchain

Blockchain technology is revolutionizing gaming by offering true ownership of in-game assets, allowing players to own, trade, or use digital items across multiple games.[3] Transparency and security prevent cheating and fraud, ensuring players' assets are safe and verifiable. The play-to-earn model creates new revenue streams, aligning players' efforts with real-world value, while blockchain's interoperability allows assets to be used across different games, fostering cross-game innovation. Blockchain also introduces community governance, enabling players to shape game development and updates, making gaming more democratic. Smart contracts ensure fair, automated rewards that enhance gameplay experiences, while the technology's transparency combats fraud and piracy by securing ownership. Blockchains transform gaming by providing ownership, security, rewarding economies, and immersive environments, transforming the way we play and interact with games.

c. Title and Certificates

Blockchains are now being integrated into real estate and certificate transfer systems. Increasingly, property titles will be securely recorded on the blockchain, providing an immutable and transparent history of ownership. This eliminates the risks of fraud, double-selling, and disputes over ownership. For instance, in countries like Estonia, property transactions may be completed on the blockchain, offering buyers and sellers an efficient, fraud-proof process that can be transacted entirely online. Sweden's land registry authority is at the forefront of integrating blockchain technology into property transactions. In collaboration with various partners, Sweden's land registry authority has conducted a pilot project demonstrating the use of blockchain for recording property-related transactions to enhance transparency, reduce manual errors, and expedite the property transfer process.[4]

d. Collectibles, Baseball Cards, Pokémon, Video Highlights

Baseball, basketball, and Pokémon cards hold significant cultural value, and blockchains are revolutionizing how these collectibles are managed, and authenticated, preventing counterfeits and

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[3] https://polygon.technology/blog-tags/gaming.

[4] www.cointelegraph.com/learn/articles/how-governments-use-blockchain-for-public-services; www.forbes.com/sites/laurashin/2017/02/07/the-first-government-to-secure-land-titles-on-the-bitcoin-blockchain-expands-project/; www.idefy.ai/estonias-blockchain-based-digital-identity-system-a-model-for-the-world.

enabling better liquidity. Blockchains provide proof of ownership through NFTs, allowing for more secure and efficient transactions without the need for intermediaries. For instance, Topps released digital baseball card collectibles as NFTs, ensuring authenticity and ownership.[5] Similarly, Pokémon cards have been tokenized by platforms like Courtyard.io, ensuring secure trading and ownership verification.[6] Blockchains enhance security, transparency, and ease of transfer, making it ideal for the collectibles market, including baseball and Pokémon cards.

e. Identification

Privado ID is a decentralized identity solution built on the Polygon blockchain, designed to provide users with secure and privacy-focused identification.[7] By leveraging blockchain technology, it enables individuals to control and manage their personal data without relying on centralized authorities or third-party services. Privado ID uses cryptographic techniques to ensure that users' information remains private, while still being verifiable by trusted entities when necessary. This approach aims to give users greater control over their identity, ensuring that personal data is protected and shared only when explicitly allowed, contributing to a more secure and privacy-centric digital ecosystem.

f. Real World Assets

Real-world assets (RWAs) on the blockchain enable efficiency, fractional ownership, and increased liquidity. Blockchain technology offers unparalleled transparency, security, and efficiency, making it easier for investors to buy, sell, and trade tangible assets. Platforms like Securitize are at the forefront of this advancement, enabling the issuance and management of tokenized RWA that offer greater access to previously illiquid markets.[8] By reducing reliance on intermediaries and ensuring transparency through immutable records, these platforms make asset ownership more efficient, accessible, and secure.

2. Key Blockchain Features That Must Be Preserved in Future Legislation

Important characteristics of blockchain technology include permissionless participation, transparency, self-custody, open-source code, transactional control, and governance control. These benefits of blockchains are typically achieved on a spectrum. At one end of the spectrum blockchains may be very decentralized. At the other end of the spectrum, blockchains, protocols, and tokens may reflect some (or many) centralized attributes.

a. Permissionless

A major advantage of decentralized blockchains is the permissionless nature of the technology, meaning anyone with an Internet connection can access and transact on the blockchain. Unlike traditional financial services, blockchains do not typically require users to meet specific eligibility criteria such as credit checks, geographic restrictions, or minimum financial thresholds. This

[5] www.topps.com.
[6] www.courtyard.io.
[7] www.privado.io.
[8] www.securitize.io

inclusivity allows people from underserved or unbanked communities, often excluded from traditional financial systems, to access financial products and services. Whether for saving, investing, or borrowing, blockchains offer the opportunity for greater financial freedom and access, particularly in regions where traditional banking infrastructure is lacking or unavailable.

b. Transparency

Transparency is a foundational characteristic of blockchains. Blockchain transactions are permanently recorded and widely accessible to the public, making the blockchain verifiable and auditable. This transparency eliminates the need for trust in intermediaries and allows participants to independently verify transactions, balances, and activities within the ecosystem. The open nature of blockchain records fosters confidence among users, as they can monitor and trace all actions in real time without relying on the oversight of a centralized authority.

c. Immutability

Blockchain's immutable ledger ensures that once a transaction is completed, and the data is validated and recorded, it cannot be altered or deleted, providing a high level of trust and accountability.

d. Self-Custody

Self-custody is a core feature of blockchain, which provides users complete control over their digital assets. In a traditional financial system, assets may be held by banks or custodial platforms, which may control, leverage, and hypothecate user funds. In blockchains, however, users may retain ownership, control, and custody of their assets, which are only accessible to the user. By using self-custodial wallets and decentralized protocols, individuals have the autonomy to manage their own funds and maintain full control over their digital assets. This not only reduces the risks associated with relying on third-party custodians, but also promotes greater financial freedom and security, as users are not vulnerable to centralized entities' actions, failures, or fraud.

e. Open Source Code

A key advantage to blockchain technology is that much or all underlying code is open source or source available. This means that the software used is freely accessible to anyone, enabling users and developers to examine, verify, and even improve upon the code. Built upon open source software, blockchains and protocols offer a level of transparency that fosters trust within the ecosystem. Anyone can audit the code to ensure that it functions as promised and does not contain vulnerabilities or malicious features. This openness also encourages innovation, as developers can contribute to the codebase, introduce new features, or even fork the code to create custom versions. Ultimately, open-source code makes the entire ecosystem more secure, collaborative, and resistant to manipulation, as no single party has exclusive control over the system's design or functionality.

f. Transactional Control

Decentralized blockchains and protocols typically place transactional control in the hands of validators and stakers. Unlike traditional finance systems, where intermediaries such as banks or payment processors act as the middlemen to verify and execute transactions, decentralized protocols rely on smart contracts to automatically execute transactions once certain conditions are met. This system offers individuals more autonomy over their financial actions, allowing for faster, cheaper, and more secure transactions. Additionally, since these transactions are programmed and automatically enforced by smart contracts, they reduce the risk of human error, subjectivity, fraud, or the delays typically associated with centralized financial institutions.

g. Governance Control

Control over the material aspects of a protocol is often held by a decentralized group of digital asset holders that may take action to manage the protocol, direct fees, or make other governance decisions. The voting threshold for causing a material change to a protocol varies, but often requires a supermajority vote. Routine decisions often require a simple majority vote.

3. Guiding Tenets for Drafting Digital Asset Legislation

To preserve the use cases and important blockchain features discussed above, successful legislation should accommodate and encourage decentralization. In some cases, thoughtful legislation could actually strengthen decentralization in projects, increasing the benefits of the technology to digital asset holders, and users.

Various tests can be applied to determine whether a blockchain, protocol or token are decentralized. Legislation should consider all parts of the technology stack, such as blockchains, protocols built on those blockchains, applications associated with various protocols, and governance of blockchains and protocols.

Legislation pertaining to decentralized blockchains should contemplate that decentralization is a process, and some blockchains or protocols may require a certain amount of time before successfully achieving key decentralization milestones.

4. Conclusion

By following the suggestions set forth herein, we can enact legislation that preserves the potential of blockchain technology and benefits those for whom the technology was created. Conversely, legislation that forces decentralized technology into centralized structures could undermine the benefits of this important technology.

Decentralized blockchain technology, and the protocols thereon, are uniquely "of the people, by the people, and for the people". The core tenets of decentralized blockchain invoke the most important principles of our nation: the right to representation, the right to participate in democratic governance structures, the right to custody and control one's own property, freedom of speech (by expression of code, or otherwise), and the right to privacy.

We have an opportunity to enact law that embraces innovation, while protecting investors, encouraging capital formation, and maintaining fair, efficient, and orderly markets. We cannot afford to be left behind, or to push valuable innovation offshore. Drafting and passing thoughtful blockchain legislation will maintain the strength of our economy, shore up the dollar as the global currency via dollar-backed stablecoins, and maintain our country's position as a global leader.

Chairman STEIL. Thank you very much, Mr. Werrett.

Ms. Thornton, you are now recognized for 5 minutes.

STATEMENT OF ALEXANDRA THORNTON, SENIOR DIRECTOR, FINANCIAL REGULATION, CENTER FOR AMERICAN PROGRESS

Ms. THORNTON. Thank you.

Thank you, Chairman Steil, Ranking Member Lynch, and members of the subcommittee. Thank you for the opportunity to comment on digital assets and the U.S. securities laws.

Congress seems determined to pass legislation creating a light regulatory regime for stablecoins and now other digital assets, the topic today. Significant risks are at stake. First, the digital asset markets have not functioned well so far, with massive asset value swings, billion-dollar losses to investors from hacks that are ongoing, and billions more from frauds. At the same time, these markets have fueled incredible profit margins for trading firms and compensation for their executives. These are not simply the growing pains of a nascent industry but rather the result from the absence of longstanding market protections.

Congress and regulators have been down this path before. The Commodity Futures Modernization Act of 2000 exempted swaps from its regulatory regime for the over-the-counter derivatives market, where financial contracts are traded directly between two parties without a centralized exchange. Those markets remained opaque, expanded by trillions of dollars and ultimately contributed to the great financial crisis which devastated the U.S. financial system and the economy.

Lack of transparency and lack of regulatory oversight resulted in an inefficient market in which end users were prevented from making informed trades and dealers could increase their profits. What the crypto industry now seeks is eerily similar and, if enacted, could cause serious harm not just to crypto investors but also to the tradeable—also to the U.S. financial system.

Second, President Donald Trump and his Department of Government Efficiency have been crippling the regulators that protect investors and borrowers from scams and manipulation and that ensure the stability of the U.S. financial system, including the SEC and the Consumer Financial Protection Bureau (CFPB). These actions raise enormous risks and uncertainties that cry out for a cautious approach to any new regulatory regime for an industry plagued by scams, thefts, and hacks.

With this in mind, I have outlined in my written testimony some hallmarks of healthy capital markets, and I strongly urge the committee to ensure that any new rules for crypto look a lot like the existing rules for U.S. capital markets. I will highlight a few.

First, regulation of asset creators should match the asset's tradeable life. The securities laws in the Commodity Exchange Act do not regulate definition of an asset but generally regulate the offering and trading of securities and commodities and related disclosures, meaning reporting.

The initial disclosure of physical commodities, say, a metric ton of aluminum at the time a derivative is created on it, should remain accurate for the entirety of its tradeable life. The aluminum holder does not vote to suddenly transform the aluminum into

nickel, for example. So the disclosure regime for a physical commodity is tailored to when it is most useful to the investor at the time of the offering.

For securities, the characteristics and risks of the asset change significantly over the securities' tradeable lifespan as companies grow, contract, develop new businesses, merge, and have spinoffs. The securities tied to them may change fundamentally. That is why the securities laws require public issuers of securities to make initial disclosures and ongoing disclosures throughout the tradeable lifetimes of their securities.

Second, capital market intermediaries perform different functions, and each function must be effectively regulated. These players include broker-dealers, investment advisers, exchanges, and many more. Each has different incentives and responsibilities, and each is in natural conflict with the next.

Nearly all of these functions exist in the trading of digital assets, but top industry players have often merged functions together. They may remove some potential burdens and cost, but it also eliminates the longstanding checks and balances and profit motives and offsetting conflicts of interest that promote fair competition and protect investors in market integrity. Moreover, a significant amount of crypto trading occurs off the blockchain. Crypto rules should apply both off chain and on chain.

Congress also should take extreme care to avoid upending the traditional securities markets upon which the United States relies. This could come up in an attempt to create a regulatory regime based on the definition of the asset in question rather than on the market function.

Such harm could also arise with tokenization of securities, whereby a corporate bond or stock has an associated token. If the token is not subject to the securities rules, there would be two assets that look economically similar and would trade together, but one would be free of effective regulation. A situation ripe for abuse and risks that could blow up the existing stock and bond markets. The result might look something like the Archegos disaster, in which an investor seeking to manipulate the markets took massive positions in several companies by purchasing assets on margin through the use of derivatives, which effectively hid the investor's identity.

Position reporting rules now prevent this situation in public and private securities markets, but without similar rules in crypto markets, there would be no need for fraud to accomplish this since identities can be hidden on and off the blockchain. Congress has neglected to put in place a sufficiently robust regulatory framework before, and that has ended very poorly.

Thank you. I look forward to answering your questions.

[The prepared statement of Ms. Thornton follows:]

Written Testimony of

Alexandra Thornton, Senior Director

Center for American Progress

Before the United States House of Representatives Financial Services Committee

Subcommittee on Digital Assets, Financial Technology, and Artificial Intelligence

For a Hearing on

"American innovation and the Future of Digital Assets: Aligning the U.S. Securities Laws for the Digital Age"

April 9, 2025, 10am

Chairman Steil, Ranking Member Lynch, and members of the subcommittee, thank you for the opportunity to appear before you today to discuss digital assets and the U.S. securities laws.

My name is Alexandra Thornton. I am senior director of financial regulation at the Center for American Progress, an independent, nonpartisan policy institute that is dedicated to improving the lives of all Americans through bold, progressive ideas, as well as strong leadership and concerted action.

Congress appears determined to pass legislation establishing a light regulatory regime for stablecoins and now for other digital assets—the topic of discussion today. I will comment on what the latter regime should include later in my testimony, but first I would urge this subcommittee and the rest of congress to consider the risks at stake.

First, the digital asset markets have not functioned well so far, with massive asset value swings, billion-dollar losses to investors from hacks, and billions more from frauds. At the same time, these markets have fueled incredible profit margins for trading firms and compensation for their executives, many of

whom are seasoned veterans from traditional financial firms, market makers, or high frequency trading firms.

The billion-dollar frauds and hacks and wide profit margins are not simply the growing pains of a nascent industry but rather are from the absence of longstanding market protections.[1]

Of course, some trading firms could have heftier profits if they didn't have to abide by existing leverage restrictions; more digital assets could be sold to retail investors if firms didn't have to abide by FINRA's advertising restrictions.; profits could be faster and possibly higher if firms weren't required to survey the market for the best prices and seek best execution for their customers' orders; and margins for insiders could be bigger if transparency were not required in orders and trades.

But Congress and regulators have been down this path before. The Commodity Futures Modernization Act (CFMA) was enacted in 2000 ostensibly to regulate the previously unregulated over-the-counter (OTC) derivatives market, where financial contracts are traded directly between two parties without a centralized exchange.[2] Congress effectively exempted OTC swaps from both Commodity Futures Trading Commission (CFTC) and Securities and Exchange Commission (SEC) jurisdiction.[3] Those markets remained opaque, and investors were inadequately informed. In the run-up to the 2008 financial crisis, the swap market expanded by trillions of dollars and ultimately contributed to the crash.[4] Lack of transparency and regulatory oversight resulted in an inefficient market in which end users were prevented from making informed trades and dealers could increase their profits.[5]

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[1] Financial Stability Oversight Council, *Report on Digital Asset Financial Stability Risks and Regulation 2022*, available at https://home.treasury.gov/system/files/261/FSOC-Digital-Assets-Report-2022.pdf.
[2] Michael S. Barr, Howell E. Jackson, and Margaret E. Tahyar, *Financial Regulation Law and Policy, Third Edition* (St.Paul, 2021), at 1259-1262.
[3] Ibid.
[4] Ibid.
[5] Ibid.

Opaque and unregulated bilateral trading under the weak CFMA regime sounds eerily similar to what the crypto industry is seeking in the name of innovation today. The risks posed by inadequate digital asset regulation, such as many of the proposals advanced by the industry,[6] could go far beyond harm to crypto investors and threaten the U.S. financial system.[7]

Second, it is important to acknowledge key risks and uncertainties in the current moment.

President Donald Trump and his Department of Government Efficiency have been crippling the regulators that protect investors and borrowers from scams and manipulation, as well as the stability of our financial system.

The Trump administration has fired staff and tried to stop all work at the Consumer Financial Protection Bureau, an agency whose sole mission is to enforce laws that protect individuals and businesses from fraud and abuses in their borrowing and their financial transactions.[8] The Trump administration's Federal Deposit Insurance Corporation (FDIC), which ensures that bank depositors don't lose their money if the bank collapses, has made substantial job cuts and reportedly will be reorganized.[9] And over 10 percent of staff at the SEC are on their way out the door,[10] imperiling that agency's ability to perform

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[6] See, e.g., Letter to Commissioner Hester M. Peirce from Paul Grewal, Coinbase Global, Inc., March 19, 2025, available at https://www.sec.gov/files/ctf-input-grewal-2025-3-19.pdf.

[7] See, Press Release and opening statement, "Warren: Current Stablecoin Bill Risks Americans' Money, our Economy, and our National Security," U.S. Senate Committee on Banking, Housing, and Urban Affairs, March 13, 2025, available at https://www.banking.senate.gov/newsroom/minority/warren-current-stablecoin-bill-risks-americans-money-our-economy-and-our-national-security.

[8] See, CFPB website, "The CFPB," available at https://www.consumerfinance.gov/about-us/the-bureau/ ; and CFPB website, "Small Business Lending," available at https://www.consumerfinance.gov/rules-policy/small-business-lending/.

[9] Maria Aspan, "The FDIC's goal is to prevent another banking crisis. It's now also a Trump target," NPR, February 27, 2025, available at https://www.npr.org/2025/02/27/nx-s1-5307239/fdic-jobs-bank-regulator-trump-doge-elon-musk.

[10] Declan Harty, "SEC set to see hundreds leave through buyout, retirement offers," Politico, March 21, 2025, available at https://www.politico.com/news/2025/03/21/sec-buyouts-retirement-offers-departures-00243673.

its basic functions, including examining compliance of market participants, bringing enforcement actions, and reviewing new product filings or filings for initial public offerings.

The influence of the crypto industry is sweeping across the Trump administration. The SEC has dropped enforcement actions against crypto firms.[11] The CFPB, which likely would have overseen payment systems for digital platforms, has been kneecapped.[12] Trump's Department of Housing and Urban Development has proposed incorporating cryptocurrency and blockchain into routine spending and accounting practices,[13] and President Trump has called for the establishment of a crypto reserve at the Treasury Department.[14]

All of these risks and uncertainties today would counsel a much more cautious approach to adoption of a regulatory regime for an industry plagued by scams, theft, and hacks.

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[11] See, e.g., Olga Kharif and Sonali Basak, "Ripple's Garlinghouse Says SEC Dropped Landmark Crypto Case," Yahoo Finance, March 19, 2025, available at https://finance.yahoo.com/news/ripple-garlinghouse-says-sec-dropped-133307516.html; Press Release, "SEC Announces Dismissal of Civil Enforcement Action Against Coinbase," U.S. Securities and Exchange Commission, February 27, 2025, available at https://www.sec.gov/newsroom/press-releases/2025-47; and Ben Schiffrin, "Having Won Almost 100% of Its Cases Against the Crypto Industry, the SEC Baselessly Surrenders," Better Markets, March 12, 2025, available at https://bettermarkets.org/wp-content/uploads/2025/03/Better_Markets_Fact_Sheet_Crypto_Enforcement-3.12.25.pdf. For Commissioner Crenshaw's response, see Statement of Commissioner Caroline A. Crenshaw, "Crypto 2.0: Regulatory Whiplash," U.S. Securities and Exchange Commission, February 27, 2025, available at https://www.sec.gov/newsroom/speeches-statements/crenshaw-remarks-crypto-2-0-regulatory-whiplash-022725?utm_medium=email&utm_source=govdelivery.

[12] See, Stacy Cowley, Jessica Silver-Greenberg, and Kate Congre, "With Attack on Consumer Bureau, Musk Removes Obstacle to His 'X Money' Vision," The New York Times, February 12, 2025, available at https://www.nytimes.com/2025/02/12/business/elon-musk-cfpb-x-money.html; and Lilith Fellowes-Granda and Alexandra Thornton, "The Trump Administration Is Hurting Consumers' Wallets by Kneecapping the CFPB," Center for American Progress, March 20, 2025, available at https://www.americanprogress.org/article/the-trump-administration-is-hurting-consumers-wallets-by-kneecapping-the-cfpb/.

[13] Jesse Coburn, "U.S. Housing Agency Considers Launching Crypto Experiment," ProPublica, March 7, 2025, available at https://www.propublica.org/article/hud-considers-crypto-blockchain-stablecoin-housing-urban-development.

[14] Executive Order, "Establishment of the Strategic Bitcoin Reserve and United States Digital Asset Stockpile," The White House, March 6, 2025, available at https://www.whitehouse.gov/presidential-actions/2025/03/establishment-of-the-strategic-bitcoin-reserve-and-united-states-digital-asset-stockpile/.

Hallmarks of a healthy capital market

With this perspective in mind, below are some hallmarks of healthy capital markets that the United States and other countries have developed over decades—and, in some cases, centuries—of trial and error. I strongly urge the committee to ensure that the new rules for crypto look a lot like the existing rules for U.S. capital markets.

Regulation of asset creators should match the assets' tradeable life

The securities laws and the Commodity Exchange Act generally do not regulate securities or commodities. Rather, they regulate the offering and trading of those financial products. And they regulate the disclosures related to them. Many have argued that digital assets are commodities, but a metric tonne of aluminum in a warehouse that meets specified characteristics does not change over time, like many digital assets can. The initial disclosure of the product at the time a derivative is created on the aluminum should remain accurate for the entirety of its tradeable life. The aluminum holder doesn't vote to suddenly transform the aluminum into nickel, for example. So, the disclosure regime for a physical commodity is tailored to when it is most useful to the investor—at the time of the offering.

For securities, the characteristics and risks of the asset change significantly over the securities' tradeable lifespan. Companies grow, contract, develop new businesses, merge, and have spin-offs. The securities tied to them may change fundamentally. That is why the securities laws require the public issuers of securities to make not just initial disclosures but also ongoing disclosures throughout the tradeable lifetimes of their securities.

Any effective digital asset regulatory regime should tailor the oversight of the asset creator to match its control over the tradeable life of the asset.

Market intermediaries perform different functions, and each function must be effectively regulated

In the capital markets, different players perform different functions, such as broker-dealers, investment advisers, and exchanges. These players each have different incentives and responsibilities. For example, an investment adviser has a fiduciary duty to its customer, the underlying asset owner. Part of that duty is to ensure that their brokers do a good job for their customers. Brokers, in turn, are hired to help buy and sell securities. Regulations impose duties on them to seek best executions for their customers and not take advantage of them. Brokers are not only subject to rules against misleading their customers, but also basic abuses that their customers might not otherwise see, such as capital regulations, prohibitions on front running, anti-money laundering protections, and detailed business continuity plans.

Brokers often turn to other market intermediaries for trading, including registered securities exchanges, alternative trading systems (ATSs), and dedicated markets. Those entities are required to make disclosures about their operations and activities.

Orders and trades in the markets are publicly disseminated via regulated public tapes, informing market participants, the public, and regulators about prices in real time. Transfer agents, clearinghouses, and dozens of other entities and business functions are also clearly prescribed and regulated.

Nearly all these functions exist in the trading of digital assets. An investor may still want an expert to act as an investment adviser, to help make investment decisions. An investor may still want someone to safely and securely hold their assets as a custodian. They will still want to have an expert broker help them trade the digital asset. A broker will still need to find somewhere to source liquidity, such as an exchange or other off-exchange trading center, like market makers. And there will still be a need for tapes that attempt to keep track of orders and executions in digital assets.

All these functions are highly specialized, and each is in natural conflict with the next function. For example, while the broker wants to maximize its trading profit, the investment adviser choosing the broker would naturally want to minimize that.

A key problem right now for the digital asset industry is that, in the absence of effective regulation, top industry players have often merged functions together. Removing intermediaries may remove another layer of potential burdens and cost for the intermediary, but it also eliminates the longstanding checks and balances in profit motives and offsetting conflicts of interest that promote fair competition and protect investors and market integrity. Moreover, a significant amount of crypto trading occurs off the blockchain. Securities rules should apply both off-chain and on-chain.

The importance of these rules was highlighted in the Financial Stability Oversight Council's (FSOC) 2022 report on digital assets. In pointing to the "runs, withdrawal restrictions, failures, and panics" that have occurred in crypto-asset markets at a high frequency, the FSOC said measures that American financial regulators have developed over generations to reduce the frequency of runs are needed in crypto markets. Those measures include "implementing capital and financial reporting, engaging in prudent governance, risk management, and audit and internal control practices," and "subjecting firms to liquidity regulations,...."[15]

Brokers

Someone who helps people buy or sell securities is a broker and subject to basic rules relating to that role. They must register with the Financial Industry Regulatory Authority (FINRA) and are subject to examinations and enforcement actions, including being kicked out of the industry if they commit fraud.

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[15] Financial Stability Oversight Council, *Report on Digital Asset Financial Stability Risks and Regulation 2022*, available at https://home.treasury.gov/system/files/261/FSOC-Digital-Assets-Report-2022.pdf, at 46.

Brokers must meet basic operational minimum standards, including having certain job functions and having key personnel pass actual substantive tests on expertise. They must have detailed policies and procedures to cover everything about their business. They must comply with capital rules to ensure that, if they fail, their customers do not lose their assets. They must prepare for hacks and floods and other disasters, including having detailed business continuity plans.

Brokers must also strive to achieve the best execution (usually meaning the best price) when they buy and sell on behalf of their customers.[16] And they cannot trade ahead of their customers (known as "front running").

Brokers are required to provide their customers with detailed reports on their trades, as well as reports on how they handled their customers' orders. They must know their customers and maintain robust anti-money laundering practices. And brokers cannot trick their customers with misleading advertising or make recommendations that are not commensurate with their customers' risk tolerances and resources.

All of these protections are essential for trading digital assets. But none of these rules generally apply to crypto brokers, and they should.

Trading platforms

Securities trading platforms must register as a national securities exchange or qualify for an exemption, such as an Alternative Trading System. They must follow rules designed to prevent them from cheating their customers, discriminating against them, burdening competition, or charging excessive fees. These venues must have strict rules for how they take in orders, disseminate them, and execute them. They

[16] Rule 5310: Best Execution and Interpositioning, FINRA, available at https://www.finra.org/rules-guidance/rulebooks/finra-rules/5310.

are subject to business continuity obligations. They have rules to prevent market free falls, such as the Limit Up, Limit Down Plan.[17] And they are obligated to police their markets for abuses: how they treat their customers' data is regulated; orders and trades are publicly disseminated so market participants and regulators know the best prices and can compete based on transparency, while also identifying abuses and manipulation.

The blockchain is not a substitute for these rules.

Bipartisan recognition for effective broker and trading platform regulation

Under the leadership of Chair Jay Clayton during the first Trump administration, the SEC updated Regulation ATS rules, order routing disclosures required by brokers, and execution disclosures required by exchanges. In addition, Chair Clayton led enhancements for the public market data tapes and the Consolidated Audit Trail. All of these enhancements to the role of brokers and trading venues should be applied to digital asset trading.

Under Chair Gary Gensler, the SEC unanimously voted to lower access fees that exchanges can charge and reduced the minimum trading increments to a half penny for many stocks.[18] These moves, when implemented, will improve the competitiveness and efficiencies of the markets.

Under both heads of the SEC, Republican and Democratic commissioners alike knew these trading issues were essential to healthy capital markets and pushed them forward.

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[17] "What is the Limit Up-Limit Down Rule?" The Securities Institute of America, Inc., December 6, 2018, available at https://securitiesce.com/blog/what-is-the-limit-up-limit-down-rule/?srsltid=AfmBOoqbPqrr_0W3m_Sasvvt2GY7y4V1r3G9G8z_28HRiswOcHl0Dqb4.

[18] Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders, U.S. Securities and Exchange Commission, September 18, 2024, available at https://www.sec.gov/files/rules/final/2024/34-101070.pdf.

All of those issues are also essential for digital asset trading. None of them effectively exist now.[19]

Harm to securities law and U.S. capital markets

Finally, returning to risk and uncertainty, Congress must take extreme care to avoid upending U.S. capital markets by rendering long-settled existing definitions unclear or creating a loophole in the existing securities laws. A definition or structure that seems suitable for the crypto market could have adverse ramifications for the longstanding, traditional securities markets upon which the U.S. economy relies.

This could come up in an attempt to create a regulatory regime based on the definition of the asset in question. This was tried but never adequately settled in the last congress in either the Senate or House versions of crypto market structure legislation. Getting it wrong could have devastating consequences for U.S. capital markets.

Another way such harm could arise is with tokenization of securities, whereby a corporate bond or stock has an associated token. If the token is not subject to the securities rules discussed above, this would allow the creation of something that is like a stock but not subject to the rules that apply to stocks. There would be two assets that look economically similar and would trade together, but one would be free of effective regulation. This two-tiered, inextricably linked market structure would be ripe for abuse and risks and could blow up the existing stock and bond markets.

For example, in the securities markets, there are rules to limit leverage customers can take, and rules to limit how much exposure the brokers can take. But those do not exist with digital assets now. So, if a digital asset tied to a traditional security were to be treated differently than the security, an investor or

[19] Some private market proxies have come into existence but are inferior to what is needed.

broker could effectively avoid those protections. And, while there are rules in the securities markets to limit the fallout, there aren't in the digital asset markets.

Imagine a disaster like Archegos[20] but without any of the regulatory backstops that now make it so rare. Without similar rules in crypto, there would be no need for fraud. Someone could just amass huge positions on margin without reporting them and in hidden transactions that are off the blockchain, creating enormous risks.

Adopting the regulatory approach being advocated by many in the digital asset industry now would be inviting many more Archegos-like disruptions into our markets—without any need for fraud.

Tokenizing of securities may create efficiencies, but that should not create an entirely new regulatory regime that lacks the essential elements of the equivalent securities that were not tokenized. Tokenized securities and their securities analogs should be treated similarly, or else invite an end-run around the traditional securities markets. And in the name of effective regulation of crypto, one of the nation's bedrock competitive advantages would be destroyed—the most robust and reliable capital markets in the world.

Conclusion

The Trump administration is already creating turmoil in the financial markets and weakening key financial regulators. Many items on the digital asset industry's lengthy and ambitious wish lists from Congress and regulators would poorly regulate that industry, while jeopardizing investor and market protections in the existing securities markets by creating loopholes and end-runs around effective

[20] Dennis Kelleher, "Trial of Former Archegos Trader and Historic Stock Manipulator Bill Hwang," Better Markets, May 6, 2024, available at https://bettermarkets.org/newsroom/memo-to-interested-parties-re-trial-of-former-archegos-trader-and-historic-stock-manipulator-bill-hwang/.

regulation of similar products and market actors. This will create even more risk and uncertainty in the financial system and the economy.

Congress has neglected to put in place a sufficiently robust regulatory framework before, and it has ended very poorly.

Thank you again for inviting me to testify today. I look forward to answering your questions.

Chairman STEIL. The gentlewoman yields back.

Ms. Smith, is your microphone up and running?

Ms. SMITH. Yes, it is. Thank you.

Chairman STEIL. All right. We appreciate the quick work by the team at the Chief Administrative Office (CAO). Duly noted by the Chairman of the Committee on House Administration.

I want to begin—I am going to now recognize myself for 5 minutes for the purpose of asking questions.

I want to stage set, because I think it is really important that we are talking about why we are Crafting legislation for digital assets market structure a little bit in the first place.

I want to start with you, Mr. Seira, if I can. I want to walk this through in three stages. Who is involved in that early phase to get projects off the ground, are there founders, engineers, lawyers, investors, community leads? Is that kind of the broad structure of who is involved?

Mr. SEIRA. Thank you for the question.

When I usually get the first call or email, it is from a couple of developers that have a new idea to develop a new protocol. The first decisions that we go through are, where are we going to form a legal entity, what structure is it, is it in the United States or elsewhere. The second question is usually, how are we going to finance this, right. There are two basic approaches. Most projects will raise funds from venture capital funds; other projects try to do more grassroots fundraising where they try to distribute tokens. However, the current regulatory regime makes getting those tokens into a distributed token holder base close to impossible.

Chairman STEIL. Okay. So, then, let us say you navigate through that. I am going to let that hang for a second and now let us shift into the issuance phase. Talk to me about how this is different than traditional securities, kind of think about—let us maybe start with centralized intermediaries, digital assets space, how does that play out?

Mr. SEIRA. I think in the context of securities, it is usually thought of as a fundraising transaction, right. It is like some promoter wants to do a business and then they raise capital from the public to go and do that business. In the context of crypto, the token issuances are largely permissionless and are usually intended and set up for capital raising to distribute the governance and the token holders—to the token holder base.

Chairman STEIL. How is the recording different between securities and digital assets?

Mr. SEIRA. Most digital assets are native to blockchain, right, so it is an entry on a ledger. Most securities today are digital securities and custodied by big custodians like Depository Trust & Clearing Corporation (DTCC) and reflected in brokerage accounts.

Chairman STEIL. Talk to me about how long the process can take in traditional securities and in digital assets.

Mr. SEIRA. In traditional securities, it really depends on whether you are doing a registered offering or an exempt offering. A registered offering, which is commonly known as an initial public offering (IPO), is a—close to a year's-long process where an issuer would pay a firm like mine or Ms. Smith's hundreds of thousands of dollars, maybe millions of dollars, and then fill out a form that

has—refers to a bunch of other forms and includes voluminous disclosure, and then get that approved by the SEC.

If you are doing an exempt offering, you can do that much quicker, usually a matter of a couple of weeks. In the context of crypto, that can be almost instantaneous and permissionless.

Chairman STEIL. Let us build on that. Let us go to the next phase, if I can.

I will go to you, Ms. Smith. When we think about the secondary market, traditional finance (TradFi) rely on dealers and brokers. Digital assets rely on what, Ms. Smith?

Ms. SMITH. Digital assets rely on either centralized platforms or decentralized protocols.

Chairman STEIL. How is the timing different between traditional securities and digital assets for those to be—for those settlements to occur?

Ms. SMITH. As far as settlements go, most securities transactions settle on T-plus–1 to the next day. Digital asset transactions typically settle immediately.

Chairman STEIL. What are the trading hours between digital assets and traditional securities?

Ms. SMITH. Traditional securities trade—the markets are open from 9 to 5 in the U.S. Digital assets trade 24/7 globally.

Chairman STEIL. Which is more opaque? Which provides more visibility, the traditional securities model or the digital asset model that is available on the blockchain?

Ms. SMITH. Arguably, the digital assets model, which is available via the blockchain, as you stated in your question, would be more visible because you can view everything that is happening on the blockchain.

Chairman STEIL. I want to use this kind of as a stage setting. What we are seeing is significant difference between traditional securities and digital assets, which builds on this need for a framework to be put in place from a legislative side.

Let me come to you, Mr. Werrett, because you have a lot of experience with looking at some of these nonfinancial projects on the Polygon network. Briefly, can you just explain your thoughts on why a one-size-fits-all approach may not work?

Mr. WERRETT. Yes. So many projects——

Chairman STEIL. Your microphone may not be on.

Mr. WERRETT. Yes. So many projects provide, for example, the ability to register and log the titles for real estate abdicating—or make it unnecessary to have title companies review titles and make sure transfer is correct or healthcare records or your own identification can all transfer on the blockchain.

Chairman STEIL. Thank you very much. I think all of your testimony shows the need for market structure legislation from Congress.

I now will yield to the gentleman, Mr. Lynch, the ranking member, for 5 minutes.

Mr. LYNCH. Thank you, Mr. Chairman.

Two days before his inauguration, President Donald Trump launched his Trump meme coin. A Financial Times analysis estimated that Trump's meme coin earned $350 million from sales and fees in the 3 weeks after it was launched. Early traders made mil-

lions while a much larger number of investors lost more than $2 billion after the coin crashed. A few weeks after that, the Trump SEC stated that meme coins are not subject to the SEC's regulatory oversight, and that neither meme coin purchasers nor holders are protected by the Federal securities laws because they are not considered securities.

Do any of the witnesses have a problem with that?

Do you see a problem with that, Mr. Seira?

Ms. Smith?

Mr. Werrett?

Mr. SEIRA. I mean, without commenting on any specific project——

Mr. LYNCH. Why? Do you see an inherent problem in that arrangement?

Mr. SEIRA. Again, without commenting on any specific project, I think there is nothing inherent——

Mr. LYNCH. All right. I am going to reclaim my time.

Ms. Thornton, additionally, in March, the SEC also announced that crypto mining does not fall under securities laws and therefore will not be regulated by the SEC. Just a few days after that, members of the Trump family launched a bitcoin mining firm. These are clear examples of conflicts of interest and President Trump leveraging the Office of the President for financial gain by launching crypto ventures outside of the oversight of critical agencies.

Mr. Werrett, can you imagine—can you imagine a problem with those arrangements?

Mr. WERRETT. Yes. I think—thank you for your question, and I will say——

Mr. LYNCH. Okay. That is all. I am happy to hear that. Happy to hear that.

Ms. Thornton, could you discuss how you believe policymakers should respond to this rejection of conflict of interest standards, especially at the White House?

Ms. THORNTON. I am not an expert on the President, his personal involvement or anything like that, so I cannot comment on that, but I can say that there have been a number of things that the Trump Administration has done that have favored crypto. They include many that you mentioned but also letting go of many enforcement staff, dropping many cases against crypto. The Department of Justice (DOJ) just announced that it was planning on dropping some crypto cases just this morning.

These ideas of a crypto reserve or incorporating cryptocurrency in blockchain into routine spending and accounting practices at agencies, all of these things are very concerning because they will introduce an enormous amount of risk into the Federal Government and, of course, the U.S. financial system.

Mr. LYNCH. Thank you.

Ms. Smith, the President issued an executive order against your firm because you had done some work in the past that they were unhappy with. I know your firm has sued the Trump Administration for their executive order for doing that. Do you feel any pressure in terms of being asked by my Republican colleagues to come here and testify on behalf of the majority with the fact that the President of the United States issued an executive order that you

had to defend against in order to carry your mission out as a law firm, and a very good law firm if that matters?

Ms. SMITH. Thank you for the question. I am here to testify about digital assets in my personal capacity.

Mr. LYNCH. You have no comment in terms of the presidential executive order against your firm, the firm—you are a partner there, are you not? Are you a partner there?

Ms. SMITH. Yes, I am a partner.

Mr. LYNCH. Okay. So——

Ms. SMITH. I am here today to testify in my personal capacity, not as a partner of WilmerHale.

Mr. LYNCH. Yes, I am asking a personal question. The executive order has gone after your firm, where you are a partner, directly after you, because he was unhappy with the work that your firm did in the past. You had to sue the President of the United States to defend your firm, and I applaud that. I think it was wrongful, but this is a unique opportunity for you to describe the circumstances that you find yourself under and how that pressure against an outstanding law firm that has done a lot of good work over its history—I am giving you the opportunity to defend yourself.

Ms. SMITH. Respectfully, I am not here to talk about WilmerHale.

Mr. LYNCH. That is unfortunate.

Mr. Chairman, I yield back.

Chairman STEIL. The gentleman yields back.

The gentleman from Arkansas, the chairman of the full committee, Mr. Hill, is recognized for 5 minutes for questions.

Chairman HILL. Thank you, Chairman. I appreciate that.

I want to say to my friend from Massachusetts that if we want to make sure that both stablecoins and digital assets are well regulated, well overseen, subject to the full force of both State and Federal law enforcement and supervision, that we need to come together and pass our stablecoin legislation as well as the revised version of a market structure bill that we are setting out on today with this good hearing. Appreciate both Mr. Lynch and Mr. Steil's work.

I would also say, as it relates to meme coins, this is not some breaking news thing. The decision to say that meme coins, which do not have any utility and are just deemed collectibles by some was Gary Gensler. The Gary Gensler SEC approved that meme coins were not securities at the same time that Gary Gensler and the former SEC were not overseeing in any way, shape, or form how to protect Americans from FTX's offshore mischief.

So the key thing about this is that we are trying to get this right on a bipartisan basis, bicameral basis here on the Hill to have both a dollar-backed stablecoin legislation and a market structure legislation. I thank both my ranking member and chair for their work on this.

One thing that we are exploring today is the SEC's terminology around digital assets that has been so inconsistent, particularly under Chairman Gensler. Just to illustrate this point, the SEC has used the word crypto tokens, crypto security tokens, crypto assets,

crypto asset securities, digital asset securities, and digit digital asset securities that are investment contracts.

This past February, SEC Commissioner Peirce outlined a potential taxonomy to clear up some of this confusion for the past 4 years. Her ideas were broken into four buckets. First, crypto assets that are just securities because they have the intrinsic characteristics of a security; secondly, crypto assets that are offered and sold as part of an investment contract even though the crypto asset itself is not a security; thirdly, tokenized securities; and, finally, the fourth category she outlined were all other crypto assets, which are not securities and not transacted pursuant to a securities transaction. So this second and fourth category is at the heart of where the subcommittee worked all last Congress on FIT 21.

Ms. Smith, can you describe the distinctions between these categories to help the committee in its work?

Ms. SMITH. Sure. So the first category—sorry. So would you like clarification on the second and fourth or all of the categories?

Chairman HILL. Yes. Well, start with the second and fourth on the work that we are doing, but you can comment on the balance, yes.

Ms. SMITH. The second category is for an asset that is offered and sold, an investment contract that is not a security itself. This has been a lot of work has because that is where most clarity is needed. Since 2017, the SEC has been applying the Howey test, which is a three-part test to determine whether or not a digital asset is a security. Because the actual asset is not a security, so in a securities transaction there have been lots of questions under which it becomes a securities transaction. A lot of work has been in that particular area, because that is where questions arise.

The last category, all other crypto assets, would include assets such as bitcoin, an asset that is uncontroversially not a security. There has been a lot of work in that area because there is no Federal regulatory authority for—that has authority over that particular market, so there have been questions about who should have that regulatory authority.

Chairman HILL. That is the work that Congress has done on where those tokens should be treated as under the purview of the SEC or the Commodity Futures Trading Commission (CFTC). Is that what we were trying to work on?

Ms. SMITH. That is correct, sir.

Chairman HILL. So bitcoin is not a security, so you view it would be, if it is in its—we are trying to have a spot market for bitcoin that would be under the CFTC's regulatory authority. Is that right?

Ms. SMITH. That is the open question.

Chairman HILL. Open question, yes. That is sort of the direction that we took with the House Agriculture Committee in the last Congress, and this will be a key question for Chairman Steil as we go forward.

Mr. Werrett, Polygon Labs is leveraging its use case data base to showcase real-world applications of its technology. Can you highlight an example for us, and then maybe you could submit some more for the record?

Mr. WERRETT. Thank you for your question.

Yes, so one example would be Privado ID, which provides an opportunity for a person to work with the issuer of identification or an organization that certifies information, such as maybe as a graduate school. That organization uses an application programming interface (API) link to essentially, like, transact for that person's wallet through zero-knowledge proof and show essentially and verify that thing exists. My age is X. My birthday is Y.

Chairman HILL. Give us some examples so that we can show the utility in the use of blockchain, and I yield back to the chairman.

Chairman STEIL. The gentleman yields back.

The gentlewoman from California, Ms. Waters, the ranking member of the full committee, is recognized for 5 minutes for questions.

Ms. WATERS. Thank you very much.

Before I get started, I would like to thank Ms. Smith for being here representing WilmerHale law firm. I would like to send a message to your law firm that I appreciate fighting back against Trump who is attempting to strip the law firm from their security clearances. Many of our law firms are weak and spineless, and they are succumbing to his threats, and they are cutting deals that are not in the best interest of this country or the people. So I thank you for being here.

Let me just start by saying, I must highlight, over 2 days, Americans lost $6.6 trillion due to Trump's failed tariff policies. As Americans wonder how they will afford retirement or afford groceries, Trump is sitting pretty. In 1 year, he has doubled his wealth through various crypto schemes and is using the power of the President to make himself richer.

Ladies and gentlemen, members of this committee, you know that Mr. McHenry and I worked in a bipartisan way to try to come to some consensus about the guardrails that were needed to protect our investors as it relates to crypto, but this committee is helping Trump. Last week, this committee voted to take Trump—make him the king of crypto by passing legislation that lets him corner the market on stablecoins, kick George Washington off the dollar, and make his own stablecoin U.S. legal tender, instead of stopping this grift. You enable it, Mr. Chairman. We need to stop Trump before he takes any steps further on crypto legislation.

In just 1 year—Ms. Thornton, I would like to direct this towards you—President Trump has doubled his wealth from $2.3 billion to $5.1 billion. His fraudulent meme coin lost investors $2 billion while he and his family pocketed at least $350 million. His complex well of companies and revenue, including the Trump meme coin, his decentralized finance platform, World Liberty Financial, pending stablecoin and bitcoin mining venture, have all massively contributed to his wealth.

I am deeply concerned that these ventures have created an avenue for interested parties, whether they are allies or adversaries, to anonymously transfer money to him and his inner circle. At the same time, it is no coincidence that the Trump Administration's Securities and Exchange Commission has issued guidance saying meme coins, stablecoins, and crypto mining are not securities and therefore are not subject to the agency's oversight and investor protections.

Additionally, this week, the Department of Justice dismantled the National Cryptocurrency Enforcement Team and directed the Market Integrity and Major Frauds Unit to cease crypto enforcement and not charge regulatory violations in cases involving digital assets, such as violations of the Bank Secrecy Act.

What will these conflicts of interest and dismantle enforcement mean for investors, especially if the SEC is not overseeing Trump's marred crypto businesses?

Ms. THORNTON. Thank you for the question, Congresswoman Waters.

I am not an ethics lawyer, so—expert, so I cannot comment on that personally about President Trump, but it is definitely true that this industry continues to have thefts, frauds, hacks, and that should be very concerning because it raises a lot of risks. Unfortunately——

Ms. WATERS. Excuse me.

Ms. THORNTON. Sure.

Ms. WATERS. Do you think the President of the United States should own crypto and meme coins and interfere with us while we are negotiating on stablecoins and trying to get guardrails? Do you think the President should be doing that?

Ms. THORNTON. The Commission is an independent branch of government that should do what it needs to do, and it has oversight over this area of legislation. It is very important, because many of the functions that the other folks on this panel have talked about are also functions in securities law. There are many similarities between what happens in the crypto business and what happens in other——

Ms. WATERS. Do you understand that Mr. McHenry and I were getting very close to some agreement on having guardrails when we have been interfered by the President of the United States of America? Do you know that?

Ms. THORNTON. I was not aware of the interview, but I was aware of the legislation, yes.

Ms. WATERS. Thank you very much. I yield back.

Chairman STEIL. The gentlewoman yields back.

The gentleman from Michigan, the vice chair of the full committee, Mr. Huizenga, is recognized for 5 minutes.

Mr. HUIZENGA. Thank you, Mr. Chairman.

I know this is the Subcommittee on Digital Assets, Financial Technology, and Artificial Intelligence, but it feels today like it is the committee of ironies and befuddlements. First irony is that Gary Gensler, while he was head of the CFTC, declared that anything that was digital was clearly a commodity. Now, he should know; he is the smartest guy dealing with crypto assets, that he knows, but then again, when he became Chair of the SEC, suddenly everything magically turned into a security.

Now, you have to understand, Washington likes to declare things either fish or fowl. We want very clear lines on things. Turns out that crypto assets are actually more of a platypus. It has a lot of characteristics, and it depends on where it is as to how it should be regulated.

Mr. Chairman, the second irony in all this is that seems to me that the Center for American Progress is rather ironically named,

since it does not seem very progressive on this. I have to tell you, nothing says progress like a, quote, cautious approach that stopped short of pushing into new frontiers.

The third thing, Mr. Chair, is that some here on this committee believe it is far better for the general public and America writ large to do nothing, to sit back and just watch the realities of the world pass us by. Now, how dumb can we possibly be? We know that these are issues that we have to address.

Now, I am going to get to my questions, and I actually changed my question based on our subcommittee ranking member's insinuation in his opening remarks that the crypto industry was, quote, writing their own rules.

Mr. Werrett, Ms. Smith, Mr. Seira, do you believe that is the case? I mean, if you guys are writing your own rules, you are doing a terrible job at it, because, Ms. Smith, you mentioned in your comments about a patchwork of regulations that exist across the country. If an industry—it just seems to me, if an industry was writing its own rules, you guys would have your act together or are you actually asking us to get our act together? I am curious.

Mr. Seira.

Mr. SEIRA. I think this Congress has a real opportunity to pass legislation that will address the core issues that everybody here cares about, which include consumer protection and the ability of crypto founders and entrepreneurs to be able to keep this technology here at home.

Mr. HUIZENGA. Ms. Smith, I am going to kind of move on to this a little bit, but feel free to ask—answer that about writing your own rules, but I am going to roll it into this. The SEC's response to digital assets often have resulted in using enforcement measures against many of the companies that you have worked with, some 100 in total, I believe. I am curious, can you describe a few of the rulemakings that came out of the Gensler SEC that—and what were their impacts on the digital asset ecosystem?

Ms. SMITH. During the Gensler SEC, there were a number of rulemakings that happened to mention digital assets, so it was a broader topic. For example, they covered the definition of exchange. The purpose was to modify the rules with respect to the Treasury markets, but they also mentioned digital—they also mentioned digital assets, and there were implications for DeFi protocols. That rule was proposed but not finalized. Had it been finalized, commenters to that rule mentioned that it would have resulted in them going offshore, because DeFi protocols, as the name suggests, do not have a central intermediary that can comply with compliance requirements.

Mr. HUIZENGA. Sticking with you, last week during our debate on stablecoins, I said that Congress and regulators should recognize the unique nature of these innovations and establish a regulatory framework that targets the activity and not the technology. Can you describe the importance of Congress using rules for the custody of crypto assets in the legislation that it moves?

Ms. SMITH. Thank you for the question.

With respect to custody, the rules anticipate that there is physical custody, meaning there is a paper asset. That is obviously not the case for digital assets, and so the rules need to incorporate how

you can have good custody, meaning possession or control of an asset, that only exists in digital form.

Mr. HUIZENGA. Thank you.

Mr. Werrett, in my last 30 seconds here, you noted in your testimony that your company developed software for blockchain infrastructure and aggregated networks. Does the importance of the underlying technology which you described in your testimony get lost in this kind of debate?

Mr. WERRETT. Yes. The technology is important. Self-custody is crucial to decentralized blockchains, decentralized protocols. It is the entirety of it. It would be great if this committee could protect that right to own property and to control one's own property on chain.

Mr. HUIZENGA. I yield back.

Chairman STEIL. The gentleman yields back.

The gentleman from California, Mr. Sherman, the Ranking Member of the Subcommittee on Capital Markets, is recognized for 5 minutes.

Mr. SHERMAN. Yes. I will point out, normally a hearing on capital markets would be in that Capital Markets Subcommittee. I would also point out that meme coins were determined by the SEC not to be securities only after Gary Gensler left, and that decision was made under the Trump Administration.

I will agree with a lot of the pro-crypto folks here who have said it is kind of silly that we are determining how to regulate crypto based on a 1940s case involving orange groves interpreting a law written in the 1930s. We ought to have, if we could write it, a good crypto regulation law designed for this century. The problem is that all the money and power in this town is on one side.

There is no lobby for effective enforcement of our tax laws or enforcing our sanctions laws or dealing with drug dealing. I fear that while determining what our policy should be by having brilliant lawyers look at magnifying glasses and footnotes from the 1940s, looking at a case and determining on that basis how to regulate crypto is an absolutely absurd thing for a society to do. Passing a bad law would be even worse.

Mr. Huizenga says that your industry would not like a patchwork. Many industries would like a patchwork, because then they pick which patch they want to be in. If we had a system where any crypto entity could go to Wyoming, and then Wyoming would say, well, we are going to leave this at the county, if you just find one county in somewhere in Wyoming that will give you everything you want and you give them some jobs and some economic activity that is significant to that county.

I want to focus—I also want to say that there is really a battle inside crypto that has not quite broken out yet between the old coins and the new coins. Most of our testimony here is in favor of making it easier to create new coins. I think that what will be the undoing of crypto is more crypto. I am on the side of the new coins versus the old coins, although we really should have people investing in businesses that employ people and build things in the United States.

We have some brilliant lawyers here, and I want to focus on really easy legal questions, since I stopped practicing law last century.

Mr. SHERMAN. Mr. Seira, if—and I realize you are not representing your firm here, but you are a lawyer. If a powerful politician in this State or that State came to your firm and said, we are going to prevent your firm from practicing law in our State unless you give me a million dollars, would that be legal?

Mr. SEIRA. Thank you for the question.

Like I said in my opening, I am here in my individual capacity, and I am——

Mr. SHERMAN. You are individually a lawyer, a pretty good one. Can you give me an answer?

Mr. SEIRA. Thank you. I would like to contribute to the conversation about how we need to come up with a new regulatory framework for keeping——

Mr. SHERMAN. I know, but you are here in Congress, and this is my time, and I am asking you a question, which is your obligation to answer. Can you answer?

Mr. SEIRA. Yes, sir.

Mr. SHERMAN. So that would be illegal?

Mr. SEIRA. I am not an ethics expert, but that sounds coercive, yes.

Mr. SHERMAN. Okay. If instead of a million dollars going to the politician, the million dollars was going to some political organization the politician was aligned with, would that change the answer?

Mr. SEIRA. I am not clear on the question. I am sorry.

Mr. SHERMAN. The question is a powerful politician comes to your firm and says, we are going to make it impossible to practice in our State, unless the firm gives a million dollars to a political organization aligned with that politician.

Mr. SEIRA. I cannot comment on the legality of that. I am not a—I am a corporate lawyer.

Mr. SHERMAN. This is 1L stuff here. You choose not to.

Ms. Smith—and I want to ask you both. You could be giving us testimony that was adverse to the interests of Donald Trump coin. Then your whole firm could find that it is disqualified to do anything, and you lose all the security clearances.

How can you assure us that your testimony is not affected by the knowledge that you could have a billion dollar—that the issues we are discussing here could have a billion-dollar effect on a President willing to disqualify firms that displease him?

Ms. Smith.

Ms. SMITH. As I mentioned, I am here today in my personal capacity, so my testimony——

Mr. SHERMAN. Right. We need to know that you are representing what you really believe and not fear of Trump. Can you do that?

Ms. SMITH. My testimony is in my personal capacity, so I am representing my own views today.

Chairman STEIL. The gentleman's time has expired.

The gentleman from Ohio, Mr. Davidson, the Chair of the Subcommittee on National Security, Illicit Finance, and International Financial Institutions, is now recognized for 5 minutes.

Mr. DAVIDSON. Thank you, Chairman. I thank our witnesses for coming here to talk about the digital assets space today, and I intend to devote my time to talking about digital assets, the subject of today's hearing.

If we have learned anything from the last several Congresses, the next market structure bill must explicitly include a bright-line test, so that whether Gary Gensler is looking at it, or Warren Davidson is looking at it, or someone else is, they know this is intended to be a security or it is intended to be something other than a security.

The FIT 21 Act did do that, but I hope it does a little more than that, because some things we intend to tokenize securities, and we need to give a path for the SEC to do that and provide guidance for how to tokenize a security. Some things will be intended to be tokenized commodities, and we need to provide that guidance. The last bill went a long way to doing that.

Frankly, the void that I hope we fill is yet another committee of jurisdiction here in Congress, is Energy and Commerce, because some things are really Federal Trade Commission (FTC)-regulated utility tokens, and they are really different things.

The idea that you can jam everything into either this or that, the reality is it is more segmented, just like the real-world assets are more segmented today. Hopefully we will keep making progress on the bill.

I wanted to talk first about one of the most essential things to the entire industry, whether it is meant to be a means of payment, like our stablecoin bill, or these other tokens that are out there in the market, self-custody is incredibly important.

I would like to submit three documents for the record. One is the White House's executive order on digital assets.

Chairman STEIL. Without objection.

[The information referred to can be found in the appendix.]

Mr. DAVIDSON. The other is an amendment protecting self-custody I offered related to stablecoins. Of course, this relates to stablecoins. I am going to talk about why similar language is essential for market structure.

The other is the underlying bill, which is the Keep Your Coins Act, which is broadly applicable.

Chairman STEIL. Without objection.

[The information referred to can be found in the appendix.]

Mr. DAVIDSON. All right. So those things, in essence—we must have ironclad protections for self-custody. We do not have to theorize that people want to wreck the industry. We are listening to colleagues here. They spent about 10 hours during the stablecoin bill trying to stop us from passing a stablecoin bill. The ranking member opened up, basically, with Elizabeth Warren's anti-crypto army rants about the segment—sector, and we know that regulator after regulator, as recently as January, tried to make self-custody nearly illegal, like the CFPB's self-custody rule.

Mr. Werrett, can you comment on the need for legislation to prevent Federal regulators from issuing any rule or regulation that would impair an individual from maintaining custody?

Mr. WERRETT. Yes. Thank you for your question.

Self-custody is at the core of decentralized finance. It is at the core of decentralized blockchains. Custodying one's assets is also a core principle of our Constitution, to control and own your property and to not be deprived of life, liberty, or property.

In pairing, as you asked, someone's right to own and send their own asset, digital assets are—at their base form are not commodities or securities. Both the commodities and securities laws have frameworks that explain what it takes to make an asset into one of those other categories. Absent of that, they are just property. They are just assets.

I would think that lawmakers need to balance risks against benefits. Here, the benefit of owning and controlling one's property, significantly I would argue, outweighs the risks of possible misuse, i.e., like——

Mr. DAVIDSON. Thank you for that. I think that is really the tension. Of course some of my colleagues, they want, just to keep it safe, the government to be the real custodian. That is the premise behind this Central Bank Digital Currency. Everything about transactions becomes permissioned and kind of their check-down position is, well, we will use a third-party institution, and the future they promise is an account-based crypto.

So that is the law. If we do not take action and we do not overtly protect self-custody, regulators in some future regulatory environment will infringe upon it. That is where the word "impair" is so important versus "restrict." If it just says they shall not restrict it, they can put every condition in the world on it, which effectively bans it, and that is what a lot of those folks seek. We have to win this fight.

I yield back.

Chairman STEIL. The gentleman yields back.

The gentlewoman from Texas, Ms. Garcia, is recognized for 5 minutes.

Ms. GARCIA. Thank you, Mr. Chairman and thank you to all the witnesses for being here today.

On Monday, Deputy Attorney General Todd Blanche sent a memo to the Justice Department staff directing prosecutors to limit—limit their pursuit of certain cryptocurrency crimes. Instead, prosecutors were told to narrow crypto investigations to focus on drug cartels and terrorist groups.

The memo also disbanded the National Cryptocurrency Enforcement Team, which was established in 2022 to combat fraud and illicit finance in the new industry. The Enforcement Team has investigated and coordinated multiple cases, including a case against Binance and its founder who pleaded guilty to violating money laundering laws.

Deputy Attorney General (AG) Blanche said the Justice Department is not a digital assets regulator. Well, if they are not, then who is, and what does that leave?

The Securities Exchange Commission under the new administration has already dropped—dropped more than a dozen cases against cryptocurrency firms. All these actions are taking place as the Trump crypto cartel continues to launch crypto ventures that are conveniently—conveniently just outside of critical agencies' oversight.

Ms. Thornton, as Trump continues to leverage the Office of the President to further enrich himself and his billionaire buddies, what actions can Congress take to rein in these obvious—obvious conflicts of interest that even the average American can see?

Ms. THORNTON. I think that, basically, the Department of Justice and the SEC should do what is in their mission. That involves prosecuting crimes that happen, and they should be—broaden their view of what crimes happen based on the facts and circumstances.

The SEC should not be making its enforcement team smaller, as it has done. It should have even more people there given the risks that we are imposing on the financial system now and are likely to if stablecoin and market structure crypto legislation passes. I think it is very important for the SEC to be gearing up, not cutting back, and also the DOJ.

Ms. GARCIA. Thank you. Ms. Thornton, do you agree?

No. I am sorry. It is so far, I cannot really read it. My eyesight is not that great.

Ms. SMITH. Ms. Smith.

Ms. GARCIA. Yes, ma'am.

Ms. SMITH. I think, so today, we are here talking about regulatory clarity. I agree that if you have regulatory clarity, it is good for market participants, facilitates innovation, and protects investors.

Ms. GARCIA. What should we do about the obvious potential of interest? As I said, the average American can see—and I am sure that you can, since we have both been through law school. We both probably took ethics. I know I did.

Ms. SMITH. I am not an expert on ethics law, so I cannot comment on the ethics of it, but I can tell you that regulatory clarity——

Ms. GARCIA. You did take ethics in law school?

Ms. SMITH. Yes.

Ms. GARCIA. Based on your knowledge of ethics as you learned in law school, what do you think?

Ms. SMITH. I think it is a complicated question that I do not know all the facts, so I would like to know them before I opine. I can tell you, if we had regulatory clarity, it would alleviate some of the ethical concerns that we have.

Ms. GARCIA. All right. Thank you.

Now, we have all heard about Trump's meme coin. I will not go through all the details again, except for the fact that the coin earned $350 million, and the people who lost money lost a lot.

Meme coins can decrease investor confidence and trust significantly. A significant crash like this would historically have been investigated and regulated by the SEC. However, a staff statement on February 27 clarified that meme coins purchasers are holders and not protected by Federal securities laws.

Again, Ms. Thornton, what is the ripple effect of this clarification, and what impact will it have on the larger enforcement and oversight of cryptocurrencies, especially oversight over meme coins?

Ms. THORNTON. I think that it would basically create a loophole. If you use a meme coin, you do not have to follow the laws, the securities rules and if you do not, maybe you do. Using a meme coin would then become a loophole. That is what I imagine would happen from that.

I forget the second part of your question.

Ms. GARCIA. Just that what does that do to confidence for further investments?

Ms. THORNTON. Obviously, investors could not—would not have all the protections that the securities rules provide. It would be just sort of out here unregulated, and we have seen time and time and time again what happens. Through history we have seen examples of what happens. The people who lose are the people who buy the meme coins, who invest. They are the ones who tend to lose. The people who create them often profit or enrich greatly.

Ms. GARCIA. Always about winners and losers.

Ms. THORNTON. Yes.

Ms. GARCIA. Thank you. I yield back.

Chairman STEIL. The gentlewoman's time has expired. The gentlewoman yields back.

The gentleman from Tennessee, Mr. Rose, is recognized for 5 minutes.

Mr. ROSE. Thank you, Chairman Steil, and thank you, Ranking Member Lynch, for holding this hearing.

As my time is limited, I will dive right in. Thank you to the witnesses for being with us.

Last year, I had the privilege of attending the bitcoin conference in Nashville, Tennessee, my home State, and very near my district. President Trump there expressed his ambition to establish the United States as the, quote, "crypto capital of the planet and bitcoin superpower of the world," close quote.

Ms. Smith, could you outline specific steps the Securities and Exchange Commission and, for that matter, Congress should take to support this vision and foster a conducive environment for cryptocurrency growth and innovation?

Ms. SMITH. Thank you for the question.

First, Congress should clarify when the SEC has jurisdiction and who has jurisdiction when the SEC does not, meaning the spot commodities markets.

Second, when the SEC—when it is clear about its jurisdiction, as it is already doing with the Crypto Task Force, needs to clarify how the rules apply to digital assets securities because those assets have some fundamental differences from traditional securities.

Mr. ROSE. Thank you.

Mr. Seira, I would like to ask you, basically, the same question. What specific steps should the SEC and Congress take to foster a conducive environment for cryptocurrency growth and innovation.

Mr. SEIRA. I think it starts with a recognition that the status quo is not working for U.S. consumers or industry. In terms of legislation they need to pass, I think market structure would be key. We have a regulatory gap, like Ms. Smith identified, in spot markets of digital commodities that are currently unregulated. I think Congress needs to step in and clarify when exactly digital assets become digital commodities and who is going to regulate that spot market.

Mr. ROSE. I assume you are familiar with the market structure legislation that this committee passed in the last Congress. If you were rating that on a 100 percent scale, how close did we get to having the right mix there, in your opinion?

Mr. SEIRA. It is a very complicated subject, and I think reasonable minds can disagree. I think FIT 21 would be a great step forward overall. I think it can do more on a couple of factors. If I

maybe offer some suggestions, I think the dual market that it creates for tokens could be regulated both by the SEC and CFTC would introduce some complexity. I think fixing that would be helpful. I think it could also do more to bring activity that has gone offshore back onshore. I think overall, it is a great step forward and would bring much needed clarity.

Mr. ROSE. Thank you. I appreciate it.

Ms. Smith—and we have already kind of delved into this—as you know, most traditional financial instruments fall under the jurisdiction of either the SEC or the CFTC, depending on their nature. For certain complex or hybrid instruments, both agencies may assert oversight, creating dual registration or compliance obligations.

In your view, can the digital asset ecosystem be cleanly divided between regulators or will effective oversight likely require coordinated multiagency involvement going forward?

Ms. SMITH. That is a very good question. I think it is too early to tell because we do not have clear jurisdictional bounds between CFTC and SEC jurisdiction, we have regulatory uncertainty. It is unclear whether or not, if we had that certainty, whether there would still be an overlap or whether you can clearly define who has jurisdiction when.

As you noted in your question, there are assets like securities indices and securities futures which are regulated by both regulators. I think until we have that initial clarity, it is too early to determine the amount of coordination that would be necessary.

Mr. ROSE. Mr. Seira, in your testimony, you highlight the nightmarish difficulty of registering under Federal securities laws for crypto projects. In fact, you state, quote, Virtually no crypto projects have successfully registered their tokens under Federal securities laws and lived to tell the tale, close quote.

Mr. Seira, can you expand on why it is so difficult for crypto projects to successfully register under the Federal Securities Law, and what steps would you recommend that Congress take to fix the problem?

Mr. SEIRA. Sure. I will start by clarifying that I think that if you are selling crypto assets as part of a fundraising transaction, I think those transactions should be covered under the securities laws and should be either registered or exempt. Most of them today are exempt.

The real issue that projects have had I think is twofold. One is the disclosures that the securities laws currently require do not surface the material information that purchasers of these digital assets need. Issuers are basically forced to disclose information that is not helpful.

Second, there is no real off-ramp or no real way to distinguish the initial capital raising transactions from transactions in those digital assets once the network is decentralized and not under the control of any——

Mr. ROSE. Thank you. Mr. Chairman, my time has expired. I yield back.

Chairman STEIL. The gentleman yields back.

The gentleman from Illinois, Dr. Foster, who is the Ranking Member on the Subcommittee on Financial Institutions, is recognized for 5 minutes.

Mr. FOSTER. Thank you, Mr. Chair, and to our witnesses.

As we think further about the regulatory finality for crypto assets, we are going to be struggling with the same three issues we have been struggling with the last decade; that is, anonymity, finality, and prevention of criminal activity.

Until we get our arms around these, we need, I think, frankly, the same Senate considerations that have taken many decades to develop in our regulated financial markets, and we are going to make the crypto markets a success. We are going to have to come to terms with those three issues.

Our regulated markets have become the envy of the world, and that position has only strengthened as we strengthen the oversight of those markets. There are reasons why people do not like to trade in Chinese markets, just to pick on China again.

Then, this stability has been driven, in large part, because investors believe that bad actors will be held accountable for fraud, market manipulation, and other abuses. This committee has struggled with how to create similar trust and digital assets, and I believe the vast majority of these issues come down to these three issues of anonymity, finality, and prevention of criminal assets.

In 2024, the blockchain analytics from Chainalysis identified nearly 74,000 tokens issued that were likely associated with pump-and-dump schemes and estimated more than $51 billion in crypto was received by illicit addresses, including those associated with scammers, criminal organizations, sanctions evaders, and other bad actors, but our regulated markets continue to do very well.

In contrast, just consider for a moment the Non-Fungible Token (NFT) market, the crypto NFT market, which has sort of collapsed in a heap of wash trades, front-running, and other market abuses. So I wonder—I have been thinking of how we can actually rescue that. What are the things we are going to have to do to make the NFT markets, for example—how do we, in those markets, prevent front-running and all the other ancient frauds.

This collapse was driven by lack of regulation. If you look at, what is it about our regulated markets that really makes them work well, the starting point is you cannot be truly anonymous. You need a trader ID if you are going to trade nickel futures. All right. It is because you do not—when you are trading those, you do not need to know who is on the other side of the trade, but you need to know that if that person does something illegal—market manipulation or something—there is a regulator that will be able to see that this trade that you thought was a fair market price was, in fact, a wash trade. They will identify that and drag you into—drag them into court and make them accountable.

Until we get that—and I do not think there is any hope that things like the NFT markets will really be able to survive and thrive.

For the last decade, I have been asking, is there any way in a truly anonymous, self-hosted wallet system to prevent wash trades, for example? Does anyone—I have been asking that. The answer has been no for a decade. Unless any of you have new information, it is still no and that is a fundamental problem we have to fix.

I believe there are ways to do this, and it would be interesting to hear your reaction to a proposal that would essentially allow a

kind of NFT, for example, that would have license plates on all participants. You can think of it as an automobile license plate where you are driving down the highway, you do not know—have no idea who it is, but you know they have a valid license plate. If they do something illegal, that can happen. That means you have to register your wallets with a regulator who can see the true identity and thereby detect front-running, wash trades, the whole list of market abuses.

My question to everyone on our panel: If such a thing was an option for someone issuing NFTs into a market, would that have a chance of making more of a success of the NFT market, for example? Ms. Thornton?

Ms. THORNTON. Yes. I think it depends. The information has to go in all directions. Currently with securities, we have tapes, alternative trading systems, and all kinds of things that help you know what orders are being placed by whom, how much. It is hard for me to tell based on what you said whether so-called license plates would achieve all of that, but I do think there needs to be a central place where everyone can see what is being traded, by whom, how much.

Mr. FOSTER. Ms. Smith?

Ms. SMITH. I agree with Ms. Thornton that is a—it is a complicated question to unpack. I do think, to one of her earlier questions, there are types of data analytics that do give some—not direct identity but give you some idea of who owns particular wallets.

Mr. FOSTER. Unless they can identify that it is a wash trade, that these are the same beneficial owner behind both, it will not work. I believe that is true and my time is up. I yield back.

Chairman STEIL. The gentleman yields back.

The gentleman from Iowa, Mr. Nunn, who is also the Vice Chair on the Subcommittee on National Security, Illicit Finance, and Institutions, is now recognized for 5 minutes.

Mr. NUNN. Thank you, Chairman Steil.

I believe not only is this an important hearing to hold but to evaluate where we are going in the future. We all know over the last decade innovators have built a powerful decentralized network that is transforming how our country operates. Digital assets are going to open the door to endless possibilities for anyone in both the financial and, candidly, the nonfinancial services, and provide possibilities for economic growth domestically produced right here in the United States.

I am proud that, last week, Chairman Steil led meaningful steps toward clarity by passing the STABLE Act. Today, we turn our focus to the broader digital asset market.

As a member of both the House Ag Committee and the Financial Services Committee, I have had the privilege of working with both the CFTC and the SEC for the last 2 years. In my home State of Iowa, we know world commodities very well: corn, soybean, hogs. The CFTC does a great job of these things. Equally, in downtown Des Moines, we have our banking industry that knows very well: stocks, bonds, and things that the SEC does very well in.

Unfortunately, we have had an SEC Chairman for the last 4 years that believes everything, maybe other than bitcoin, should be traded like an SEC stock or commodity—or a stock, something that

is a vast overreach of regulatory power by the SEC and actually stifles innovation.

Last Congress, we passed a bill to provide a clear jurisdictional guidance for both the SEC and the CFTC.

I would like to begin today with you, Ms. Smith. Can you explain how the SEC currently determines what qualifies as a security and some of the challenges to this approach, and how we can maybe clarify that through legislation, starting with this committee?

Ms. SMITH. Today, since 2017, the SEC has been using the digital assets test as defined in Howey to define when a digital assets transaction is a securities transaction. That test, from a 1946 case, is a three-part test. One of the issues with using that test is that market participants found it difficult to apply.

In 2019, the SEC issued guidance providing some direction as to how to apply that test to digital asset transactions. Nonetheless, market participants still found it challenging to apply.

The second issue with using that test is that how we apply sub-primary market transaction, meaning a transaction between an issuer and an investor. It does not apply to secondary market transactions, transactions between two different investors, and that is the bulk of the transactions that occur in crypto platforms today.

Mr. NUNN. Thank you, Ms. Smith. That is a good one-on-one on this. What we saw last time using this Howey test is that good innovators in this space came to the SEC with their ideas, with their recommendations, and their SEC Chairman went into good faith meetings and used that information to aggressively, I would say, go after innovators in this space.

Mr. Seira, you were at one of these meetings. Could you talk to us about how your experience went trying to share information with the Federal Government?

Mr. SEIRA. I am sorry, but I am not going to comment on any specific meetings or any advice that I gave to my clients.

Mr. NUNN. Would you say that the government was helpful with providing clarity to you or did they use information that you may have provided to further make it difficult for you?

Mr. SEIRA. I am not specifically clear about what meeting you are referring to. I can speak in general terms and say that it has been a frustrating experience for entrepreneurs that have tried in good faith to comply with the laws and have found that it is not really a viable option.

Mr. NUNN. Mr. Werrett, I am going to turn to you then. When we talk about American innovation in this space, are we ceding this opportunity to other nations, other innovators offshore because the Federal Government has made it difficult for those domestically to be competitive?

Mr. WERRETT. Thank you for your question.

Yes. One of the big issues is, without clarity, it is clear that a digital asset is not a security without something more on the day that it is created. You can wrap it in a security, potentially. You can wrap it in promises that cause others to rely on those promises and expect profits based on the efforts of others. Absent that, it is not a security.

Now, the issue is it is, again, not a security at the outset, but innovators look to backstop their actions by, like, relying on Reg S,

for example. Reg S causes innovation to move offshore. It causes these tokens to be pushed offshore. That causes the protocols and the use of the protocols offshore. So innovation plus the use of this technology is all being pushed offshore and that is one reason why, of many.

Mr. NUNN. Ms. Smith, I want to use the last seconds here. The CFTC maybe has a different approach. You opened up with how we do on the SEC side. How has the CFTC looked at approaching regulating commodities like bitcoin or Ether?

Ms. SMITH. The CFTC has jurisdiction over the futures and derivatives markets. It does not have jurisdiction over the spot market, and so they do not have the ability today to make rules or regulations for that market.

Mr. NUNN. Thank you, Mr. Chair. We need to fix and close that gap. I yield the remainder of my time.

Chairman STEIL. The gentleman yields back.

The gentleman from California, Mr. Liccardo, is recognized for 5 minutes.

Mr. LICCARDO. Thank you, Mr. Chair and thanks to all the witnesses for helping to guide us and inform us.

Mr. Seira, I appreciate the fundamental concern I think that all of the witnesses have shared, which is a need for regulatory clarity. You point out in your written testimony—I think you said something similar verbally—that current securities disclosure rules are really focusing on irrelevant information.

Also in your written testimony, you identify what you believe might be relevant as we think about crypto regulation: governance mechanisms, network design, tokenomics, which I cannot say I fully understand but I look forward to getting up to speed on, cyber security, network utility of assets.

Is the CFTC equipped to regulate disclosure of those features of digital assets to ensure that those disclosures are full and fair and accurate?

Mr. SEIRA. Thank you for your question.

I think the core point that I am trying to get across is the securities laws framework are designed under the premise that the value and existence of a security is dependent on an issuer. In many contexts, for tokens that relate to decentralized networks where there is no issuer that is controlling the token, that premise is false and it is not surfacing the right information.

I think we would have to update the disclosure regimes under either the SEC or the CFTC to be able to fully account for this. The issuer-centric model has a wrong focus and a wrong approach to really get at what consumers of these digital assets need to be protected.

Mr. LICCARDO. Regardless, then—and I certainly understand and appreciate the point you are making. CFTC would need substantial—I mean, this is not the same as regulating pork bellies. Clearly, it would need perhaps more expertise, more staff, et cetera. Is that right?

Mr. SEIRA. I think that is right. The CFTC has not historically regulated retail markets. It has been more of a regulator of sophisticated markets, but I think with the right funding and the right team, I do not see a reason why they would not be able to do it.

Mr. LICCARDO. Ms. Smith, I also want to express my appreciation that WilmerHale has taken what I would regard to be an ethical response to the administration's efforts to force law firms to capitulate, so thank you to your firm.

I appreciate your call for regulatory clarity, and I would agree that we do not want regulation by litigation.

We have seen, though, in just the last 24 hours, as was earlier suggested, an announcement from the Deputy Attorney General that the National Cryptocurrency Enforcement Team would be disbanded. We had earlier announcements from the Department of Justice that the Market Integrity and Major Fraud Unit would no longer handle criminal cases involving crypto.

Is it fair to say that there are significant criminal uses of cryptocurrency that we should be concerned about?

Ms. SMITH. I think that there may be criminal uses in crypto, but there are criminal uses in all types of financial markets.

Mr. LICCARDO. You say there may be. You do not believe that there are criminal uses today of cryptocurrency?

Ms. SMITH. There are some criminal uses, but my broader point is that they are not unique to crypto.

Mr. LICCARDO. Agreed, but there are certainly aspects of crypto, particularly with regard to anonymity, that may facilitate criminal activity more easily. Is that fair to say?

Ms. SMITH. I am not sure if I would agree with that statement.

Mr. LICCARDO. For example, North Korean hackers using Tornado Cash, just to take one of many examples. Anonymity is, in fact, a tool that helps criminals, is it not?

Ms. SMITH. It is a factor. On the other hand, there have been instances where there have been hacks and the hackers have been identified because of the blockchain transactions.

Mr. LICCARDO. Undoubtedly, if there are criminal uses or perhaps fraudulent uses which maybe—may cross over the line to criminal activity, a rug pull, pump-and-dump scheme that is clearly intended to defraud, someone should investigate and prosecute those criminal cases, should they not?

Ms. SMITH. Yes, those cases should be prosecuted.

Mr. LICCARDO. SEC, CFTC, none of those agencies have criminal prosecutorial authority, do they?

Ms. SMITH. I do not believe so.

Mr. LICCARDO. So it would have to fall on the DOJ, Justice Department, would it not?

Ms. SMITH. Yes, or perhaps other regulators.

Mr. LICCARDO. We need the Department of Justice to step up.

All right. Thank you. No further questions.

Chairman STEIL. The gentleman yields back.

The gentleman from Montana, Mr. Downing, is recognized for 5 minutes.

Mr. DOWNING. Thank you, Mr. Chairman, and thank you to the witnesses for being here.

As a former Securities Commissioner for the State of Montana, Gary Gensler's name has come up a bunch of my life in issues what I really saw as, in some instances, a lack of guidance and, in some instances, just a hostility towards digital assets.

I just want to start out because there have been some comments about meme coins in this chamber. I just want to point out that meme coins are a product of the Gensler SEC and its failure to provide the digital asset industry with clear guidelines around what makes a digital asset a security.

I also want to point out that under the former Chair Gensler, the SEC routinely asserted that everything other than bitcoin is a security and issued enforcement actions against legitimate projects seeking to build or facilitate markets in digital ecosystems, underpinned and maintained by digital assets.

For some, creating digital assets with no stated value or profit potential was one available path to operate without the SEC breathing down their backs.

Again, about this guidance, Gary Gensler, had he worked with the industry and with Congress to put out guidance identifying the aspects of digital asset projects that would implicate the securities laws, there is a good chance we would not have seen such explosive growth of meme coins in relation to other projects with practical utility. I just wanted to start with that.

I am going to transition quickly, before I get into questions, on blockchain. I am really excited about the potential of blockchain. I think in terms of fraud elimination, proof of ownership—there are so many—the immutable nature, the distributable nature. I am really excited about it. These benefits should not be limited just to tech hubs.

I am going to start with Mr. Werrett. Can you explain what benefits blockchain technology can bring to rural areas?

Mr. WERRETT. Thank you for your question.

Yes. Blockchain technology allows users to custody their own funds and send payments to others without the use of intermediaries. Rural areas do not have the same access to banks. They do not have the same access to payment structures and systems and so that is a significant benefit.

Another benefit would be, for example, in a past State that I lived in—most States keep their property records State by State and, oftentimes, it is even in paper form. Having property titles kept on a chain where they can be audited and tracked and then also would eliminate the need for title companies and structures that in a lot of rural areas they do not have access to.

Mr. DOWNING. Thank you.

Switching, Ms. Smith, much of the debate on digital assets has been whether they should be classified as securities and what should be classified as commodities. We have already talked a little bit about the Securities Act of 1933 and of the Howey test that supposedly provides a clear definition of an investment contract. Regulators have relied on this 1946 Supreme Court decision.

One thing I want to ask you is, how should Congress seek to address the differences between assets that are inherently securities and digital assets that are not inherently securities but may be offered as part of a securities transaction?

Ms. SMITH. The first part of providing clarity is just what you stated, that the issue of whether or not the underlying asset is a security itself or so pursuant to investment contract has been

something that has been misunderstood over the years. That is a key question where clarity is needed.

Mr. DOWNING. All right. Thank you.

Moving on, Mr. Seira, the SEC, under former Chairman Gensler, pursued an aggressive enforcement regulatory agenda that sought to extend the SEC's authority over the integrity of the digital asset ecosystem. Treating every digital asset as a security regardless of its purpose risks the United States forfeiting its leadership in financial technology. I think about United States being leaders here. Rather than ensuring the United States remains a hotbed for innovation, Gary Gensler seemed more focused on waging an ideological crusade against an industry he fundamentally distrusted.

Can you think of a single action taken by the SEC under Gary Gensler that made the United States a more attractive place to innovate?

Mr. SEIRA. I do agree with your premise that Chair Gensler focused on enforcement, and I think that had an effect to draw a lot of the activity outside of the United States.

Mr. DOWNING. Thank you. I have run out of time. Mr. Chairman, I yield.

Chairman STEIL. The gentleman yields back.

The gentleman from Illinois, Mr. Casten, is recognized for 5 minutes.

Mr. CASTEN. Thank you, Mr. Chair.

There is something very surreal about this hearing. We are sitting here in the wake of a massive collapse in global equities around the world triggered by a really dumb decision from the White House. You have Jamie Dimon saying today that we are approaching a recession. Massive sell-off of Treasuries and the Financial Services Committee, the committee of jurisdiction, and historians are going to look back and say, What did we do today? This is what they are going to read about.

They are going to read that a bunch of good lawyers, members of the bar in good standing, ducked every single question about whether they could defend basic ethics because they did not want to make a bully angry.

I am not going to dwell on that. Others have done it. I would point out only that bullies only back down if you punch them back. If you disagree with that point, you should ask my Republican colleagues what their cowardice has bought them.

Let us talk about crypto because that is what we are doing today.

Since "Liberation Day," as the President called it, we have seen a collapse in global equities. We have also seen a collapse in crypto. Bitcoin and Ethereum are down 9 percent. We have seen margin calls at institutional investors that have caused people to run out of crypto. In one 24-hour period after liberation day, $401 million of bitcoin was converted into dollars, $340 million of Ethereum.

Ms. Thornton, do you agree with the point that many of the crypto advocates have made that crypto is a hedge against instability in markets.

Ms. THORNTON. No, I would not agree with that.

Mr. CASTEN. If you were facing a liquidity squeeze, could you pay your bank in crypto or would you want dollars.

Ms. THORNTON. You would want dollars.

Mr. CASTEN. I am reminded of the old Robin Williams joke that cocaine is a sign that—is God's way of telling you you have too much money. When liquidity is short, people are running away from this asset class.

Ms. Smith, in the exchange with Mr. Steil earlier, he had asked you if the blockchain makes transparency more likely. You agreed with that. I noted he used the singular. How many blockchains are there?

Ms. SMITH. There are multiple——

Mr. CASTEN. More than one?

Ms. SMITH. Yes.

Mr. CASTEN. More than 10?

Ms. SMITH. I do not know the exact number, but I would say more than 10.

Mr. CASTEN. Mr. Werrett, I know you have your Polygon blockchain. How many blockchains—what is your guess? How many do we have?

Mr. WERRETT. Thousands.

Mr. CASTEN. Thousands. Okay. Within your Polygon blockchain, you can—people can run from chain to chain. They can bounce on, you can buy Polygon, you can move it into some other chain, correct?

Mr. WERRETT. Correct.

Mr. CASTEN. That is a really good way to hide your paper trail, right? Because you need a bunch of additional details to figure out—you have to have exact details, the time stamps, everything else. Do you guys track that to make sure that the bad guys are not hopping chains?

Mr. WERRETT. Thank you for your question. So——

Mr. CASTEN. I am just wondering yes or no right now. Do you track that to keep the bad guys from chain hopping to hide their trail?

Mr. WERRETT. Yes.

Mr. CASTEN. Do you shut things down when people do bad things?

Mr. WERRETT. The answer is that there are established companies—TRM, Chainalysis, Elliptic——

Mr. CASTEN. I am not asking what other people do.

Ms. Smith said that the blockchain—singular—creates transparency. We have now acknowledged that there are hundreds of blockchains. When you hop a chain, it is harder to track, right? That is the opposite of transparency.

Mr. WERRETT. It is not harder to track. All blockchains are discoverable and auditable. You are right that you can move from one blockchain to another blockchain.

Mr. CASTEN. Would you support more rigor around making sure that we block people from moving? Because the North Koreans seem to really like chain hopping. When we see these hacks, the Bybit hacked, they said, what—$300 billion immediately disappeared because they were able to hop a chain, and all of a sudden it was untraceable. We had Chainalysis in here the other day. They could not do it.

Mr. WERRETT. My understanding is that on all blockchain—blockchains are auditable and blockchains are visible to the public. That is——

Mr. CASTEN. Look, there is the story—the amount—there is this massive ratio of theoretically legit cases—theoretically legit use cases for crypto offset against the massive number of actual illegal activities. Every time we ask a question about why they are using these illegal activities, they say, well, the blockchain makes everything traceable but it is anonymous. Well, yes, it also is anonymous and we defunded the damn police, as Mr. Liccardo ably pointed out.

Ms. Thornton, if you were a bad actor, you were a child trafficker, a drug trafficker, a North Korean nuclear smuggler, are you happier or sadder since Donald Trump has taken office?

Ms. THORNTON. I can just answer that I would be happy today seeing that crypto is being favored so much in the Trump Administration.

Mr. CASTEN. Thank you. I yield back.

Chairman STEIL. The gentleman yields back.

The gentleman from Florida, Mr. Haridopolos, is recognized for 5 minutes.

Mr. HARIDOPOLOS. Thank you, Mr. Chairman. I appreciate everyone being here today.

I know these are interesting times, and your valuable expertise is very much appreciated as we get under the hood. Especially as new members of the committee, it has been very helpful to understand different people's perspectives and how we improve the marketplace so that people who choose to invest in crypto technology and currency, et cetera, have a better understanding of how we might create a regulatory structure that gives them peace of mind. Also if you are a company, of course, knowing how you will be regulated.

As I try to keep up with the moving parts here, it is very frustrating to me if I was thinking—I always try to think of, if I was in your shoes or if I was in a company's shoes trying to get into this marketplace and do the right thing, the last 4 years has been a lot of confusion and frustration as they have attempted to work with the government to try to come up with a regulatory model only to be hit by, let us just say, some unique reactions by the government, which caused even more chaos, or at least confusion, and in some cases, charges—or at least situations where they feel like the government was not there to assist but just kind of playing a game with them.

With that in mind, I wanted to get into the disclosure regime at the SEC. Obviously, a disclosure regime is designed to protect consumers. The idea that if you are going to invest, you want to have the confidence that they have been vetted in such a way that they can go and make these decisions with confidence.

Let me start with Mr. Seira, if I could. Can you describe what the existing disclosure regime actually looks like currently at the SEC?

Mr. SEIRA. Yes and thank you for the question.

The existing SEC disclosure regime is intended to ameliorate information asymmetries between the issuers of securities on the one hand and the investors on the other.

Unless an offer of sale of securities qualifies for an exemption, every offer of sale needs to be registered. This process entails an issuer filling out a form that, again, refers to very many other forms and calls for voluminous information that the SEC has to approve. It includes things that are related to the issuer, right. It is things like financial information, operational results, information of the executives of the issuer, which drive the value of the security.

Mr. HARIDOPOLOS. Ms. Smith, if we could maybe follow up with this questioning. This current regime, to me, is hard to follow. To me, if I was running a company, I would not know exactly how to kind of get through this morass.

What would be the qualities of a regulatory regime being put in place by the SEC that you think would help consumers make better decisions should they choose to get into this line?

Ms. SMITH. Because of the differences between digital assets and traditional assets, I think a more tailored regulatory regime would be helpful. An example of this is what happened with asset-backed securities. The SEC came up with a tailored regulation disclosure for that particular asset class.

Mr. HARIDOPOLOS. In some of the proposals you have seen in years past—and, of course, we are working on our bill today—are those found in the bill today that you think are moving in that right direction?

Ms. SMITH. I think we are moving towards the right direction, but I think the engagement that the SEC Crypto Task Force is doing today and currently with the industry is important and necessary to make sure that the disclosure regime is fully comprehensive of the key elements that would be important to consumers.

Mr. HARIDOPOLOS. With that, Mr. Chairman, I will yield back.

Chairman STEIL. The gentleman yields back.

The gentleman from South Carolina, Mr. Timmons, is recognized for 5 minutes.

Mr. TIMMONS. Thank you, Mr. Chairman. I want to thank the witnesses for joining us today.

The tokenization of real world assets has the potential to fundamentally transform our financial systems. More importantly, it offers a powerful tool to reduce waste, fraud, and abuse in government operations. I have had countless meetings with innovators who have developed technologies that, if implemented at scale, could reshape how we think about blockchain and payment systems.

This is a long-term effort, but it begins with Congress getting this legislation right. We must provide blockchain innovators with the space to build, supported by clear and fair guardrails. This is what true international leadership in the digital asset space looks like: crafting legislation that ensures a level playing field and encourages innovation right here in America.

Mr. Werrett, beyond financial applications, can you highlight any use cases being built on the Polygon blockchain that, if adopted by the Federal Government, could significantly improve efficiency across various sectors?

Mr. WERRETT. Yes. We spoke earlier about Privado ID, which provides services to allow someone to intake and provide access to their ID but in a way that is protected by cryptography. When you are asked to verify your age, you are asked to verify your identity, that can be done, essentially, through this noncustodial wallet that is burned or imaged into that wallet—the confirmation that you are who you say you are.

Another is the movement of titles of property across the blockchain. Healthcare—allowing your healthcare records to be custodied by you instead of having to ask one doctor to send another doctor x-rays and then get specific requests fulfilled, but instead you can actually have control of your healthcare records, and also control in a self-custody wallet of your assets or your crypto. So, yes, numerous.

Mr. TIMMONS. Really, all of those things involve reducing or removing intermediaries. It is very exciting, even something as simple as voting. I mean we have this issue with knowing who people are and them being who they say they are. The technology can solve these challenges and really create a lot of efficiencies.

A follow up to that question: How might the upcoming market structure legislation support or potentially impact the future integration of blockchain technology in the government systems?

Mr. WERRETT. Thank you for your question.

I think a market structure bill is a great start. It is very encouraging to see this legislative body taking crypto seriously and trying to solve for blockchains. I think that a few of the things that need to be addressed are the Howey test issued by the Supreme Court in the 1940s should be refreshed, not abolished but refreshed, given a gloss or—there should be an additional test that looks at the decentralization of a project.

It is relevant, right. Whether something is a security or not deals with whether there is a promise, whether there was reliance on that promise, and whether there is an expectation of profits based on the efforts of others. That goes to the center of what—is this a centralized—is there a centralized intermediary or a centralized promoter or manager that is running this project that the investor is relying on to provide information.

It makes sense that this topic of decentralization would be a part of the securities analysis. That is one way.

Mr. TIMMONS. That leads into my next question perfectly.

Ms. Smith, in your testimony, you stated that the decentralized nature of certain digital assets presents unique challenges to Federal securities law compliance. Could you explain why decentralization makes it more difficult to apply U.S. securities laws to the digital asset ecosystem.

Ms. SMITH. Sure. Decentralization at its core assumes there is no central intermediary. The Federal securities laws are based on there being the presence of a central intermediary. In some respects they are a little bit inconsistent. That is why regulatory clarity is necessary.

Mr. TIMMONS. Thank you for that. When you talk about decentralization, are you referring to the blockchain network that these projects are built on, the digital asset project itself, or both?

Ms. SMITH. That is a great question. I am referring to both. As Mr. Seira explained, some token projects themselves are decentralized, and then once the token is issued, they can trade on a decentralized protocol. It is both the issuer and then the mechanism for trading.

Mr. TIMMONS. Thank you. One of the more complex issues in securities law today involves NFTs and how they can be effectively and fairly regulated here in the United States. That is why my colleague, Congressman Ritchie Torres, and I are working on the New Frontiers in Technology Act to establish clear and equitable guardrails for NFT creators operating within our borders.

We have seen the SEC take the position that some NFTs are securities. In extreme cases, like the Stoner Cats example, instruct artists to destroy their own work. That is deeply concerning, and we need to ensure that this technology is not subject to shifting political winds depending on which party is in power.

I appreciate the work of this committee. With that, Mr. Chairman, I yield back.

Chairman STEIL. The gentleman yields back.

The gentleman from North Carolina, Mr. Moore, is recognized for 5 minutes.

Mr. MOORE. Thank you, Mr. Chairman, and thank you to the witnesses today for this testimony. It has been very informative.

Digital assets have demonstrated the ability to be the foundation of a new decentralized digital ecosystem. Unfortunately, our regulatory posture just has not kept pace. Instead of clarity and consistent rules, innovators have been met with ambiguity and enforcement first approaches. Rather than providing a roadmap for compliance, agencies during the last administration largely offered roadblocks, pushing talent and capital overseas.

Mr. Seira, you were asked a question earlier by Mr. Haridopolos that I want to follow up on: that had to do with the—in the existing security laws which—foundation was never designed to account for decentralized open source systems powered by millions of users, validators, and developers, et cetera, worldwide.

We talked about—he asked you a question about the registration with the SEC, and you went through that. It seems that the former Chair, Mr. Gensler, took an expansive view of the jurisdictional authority over the digital asset ecosystem.

In terms of the registration, if you—and I do not know that you had a chance to really delve into more of it. What suggestions would you have, if any, in terms of ways to improve that registration system?

Mr. SEIRA. I think for distributions of digital assets that are fundraising transactions, those fall under the securities laws and should be either registered or exempt. I think as a general matter, registered offerings—so IPOs—have gone down a lot over the last 10, 15 years. There was something like 7,000 public companies in the 1990s. We are about 4,000 right now. That is because of compliance costs of being a public company and the associated liabilities with the disclosures.

I think making it easier for companies to go public and making the information that those companies have provided more useful to consumers and investors would be a great step forward.

Mr. MOORE. In terms of moving forward on that, would you feel comfortable at some point submitting a detailed roadmap? I want to invite, frankly, the other witnesses as well to that same thing—a detailed plan that could be shared with the administration as they move forward that this committee could also have.

Mr. SEIRA. Yes. I would be happy to.

Mr. MOORE. Same with the other witnesses?

Ms. SMITH. Yes.

Mr. WERRETT. Thanks. Happy to work with your staff, yes.

Mr. MOORE. Okay.

Ms. THORNTON. [Nonverbal response.]

Mr. MOORE. Okay. Great.

This was referenced earlier, where Mr. Gensler would come before the committee in prior years and assert that everything other than bitcoin is a security and that projects simply needed to come in and register. I think, Mr. Seira, you have referenced this.

Ms. Smith, I would say there—how is your response? Do you think it is really that simple, or would you—do you think these other projects are simply putting their heads in the sand to avoid regulation? What are your thoughts on that?

Ms. SMITH. I agree with Mr. Seira. It is difficult because of the differences between traditional assets and digital assets. That is why regulatory clarity is needed.

Mr. MOORE. The proposals that I am hoping you all will submit to us as well would detail—would maybe offer some new language that we would be able to work with the administration on. Thank you for that.

With that, Mr. Chairman, I yield.

Chairman STEIL. The gentleman yields back.

The gentleman from Florida, Mr. Donalds, is recognized for 5 minutes.

Mr. DONALDS. Thank you, Mr. Chairman. I want to thank all the witnesses for being here.

Mr. Seira, in your testimony, you explain that certain types of crypto assets, such as the native tokens of decentralized networks, differ from securities in fundamental ways. Can you explain what a native token—what a native token of a decentralized network is, and describe why it is fundamentally different than a security?

Mr. SEIRA. Yes. Thank you for the question.

The taxonomy of digital assets is still being worked out, but I think the easiest way to understand it is to first understand what I mean by decentralized networks.

As people, we all like to organize in groups, and most of those groups are hierarchical and centralized. Decentralized networks are just another way to organize as a group, but instead of being centralized and hierarchical, they are spread out.

Tokens are basically a tool that enables participants in these networks to have economic incentives, and therefore it either incentivizes or can penalize certain types of activities. The key concept here is that these tokens in decentralized networks are not deriving their value from any specific centralized issuer. They do not even derive their existence from a centralized issuer.

For example, Satoshi, the pseudonymous founder of bitcoin, disappeared and bitcoin has continued to exist and thrive. That could

not happen in the context of a security, right. If a company goes bankrupt, you cannot think of a share of stock persisting after that. So they are fundamentally different.

Mr. DONALDS. Let me ask you this question. Are all digital assets native tokens—are all digital assets native tokens of decentralized networks, and what functions and roles do these other types of digital assets serve?

Mr. SEIRA. No. I think digital assets encompass a wide range of uses. Hester Peirce, for example, Commissioner Peirce, put forth her taxonomy, and there have been other taxonomies. I think meme coins are different. I think NFTs are different. I think you can also have things like tokenized securities, just a share of stock on blockchain rails, which should not be treated any differently than if it was on a piece of paper.

Mr. DONALDS. Mr. Werrett, can you describe blockchain uses and applications outside of the crypto ecosystem, such as the tokenizing of real-world assets?

Mr. WERRETT. Yes. Thank you for your question. I can speak about real-world assets. Was that your question?

Mr. DONALDS. Yes.

Mr. WERRETT. Yes. Yes, sure. So real-world assets are difficult to sometimes transfer or to lend against or to trade, and so the tokenization of real-world assets allows—for example, a piece of real estate can be fractionalized, let us say, into 10 different fractions, and then those 10 owners of that one piece of real estate then can have a reflection of that asset memorialized on the blockchain, and then that title can be transferred from owner to owner or it can be lent from one owner to another. That is one example of the tokenization of a real-world asset.

Mr. DONALDS. To simplify it, I would say, for people who watch this hearing, is it safe to say that tokenizing real-world assets is essentially a more efficient form of a limited partnership where you might have a general partner but then you have a suite of limited partners who have a piece of that investment?

Mr. WERRETT. Yes.

Mr. DONALDS. Is that a fair——

Mr. WERRETT. Yes, that is—exactly, that is another example of a way to tokenize an investment in a fund, for example. Your ownership in that fund could be reflected by a token on the blockchain, and then you could lend against it, or you could transfer it via the blockchain.

Mr. DONALDS. Ms. Smith, how will the current accredited investor rule impede retail investing in tokenized securities?

Ms. SMITH. I am going to unpack the question a little bit.

Mr. DONALDS. Of course.

Ms. SMITH. Retail investors are not accredited investors, so they cannot participate in any offerings that are restricted or private placements. Separately, tokenized securities, that market is still developing—so if we are talking about tokenizing public shares, then presumably those would be available to retail investors.

Mr. DONALDS. What if we were in a position to tokenize restricted offerings?

Ms. SMITH. If you tokenize restricted offerings, assuming that the token behaved like the actual underlying stock, it would be restricted to retail investors as well.

Mr. DONALDS. What is the limiting principle would that create, if you have a more efficient way to fund restricted offerings but retail investors are limited because of the accredited investor rule?

Ms. SMITH. The restriction would be the accredited investor rule, right. You would make the offering more efficient, but because the rule which goes to the offering, because it is a securities transaction, retail investors would still not be able to participate.

Mr. DONALDS. All right. Chairman, I know I am over time. This is one of the reasons why I think the time has now since come to get rid of the accredited investor rule or make some modifications to expand the ability for investors at the retail level to be engaged in all forms of finance.

With that, I yield back.

Chairman STEIL. The gentleman yields back.

The gentleman from Nebraska, Mr. Flood, who is also the Chair of the Subcommittee on Housing and Insurance, is recognized for 5 minutes.

Mr. FLOOD. Thank you, Mr. Chairman.

One of the reasons digital asset market structure legislation is so important is that it is not just important to digital assets—is that it is not just important to digital assets used for speculative purposes. There is a whole group of blockchain applications, many of which are not primarily for financial or capital raising uses.

Under former SEC Chairman Gensler, the rigid interpretation of securities law, with no allowance for reexamination or serious thought put into this technology, it was stifling creation and innovation with blockchain technology. Thankfully, with President Trump's victory, those days are over. We now have an administration that is going to work to regulate blockchain and digital assets, not seeking to destroy them.

We also have a place to start with legislation for this Congress. Chairman McHenry and then-Subcommittee Chairman Hill set a great foundation with FIT 21. Now we need to work with the new regulators and the new administration to put together legislation that can be passed into law.

Ms. Smith, in your testimony, you touched on some of the challenges applying traditional custody standards for securities to digital assets. Can you highlight ways in which traditional custody is at odds with digital assets and identify certain aspects of custody regulation that can and should apply to this space?

Ms. SMITH. Thank you for the question.

Traditional custody rules are premised on there being a physical asset. There needs to be physical stock certificates. That is no longer the case, but the rules were drafted when that was the case, and so there is some tension with native digital assets and physical assets, which do not exist for digital assets.

With respect to the framework for custody, what is key to any framework is the separation between customer assets and proprietary assets. Customer assets should be segregated so that, if the firm goes bankrupt, they can be easily identifiable and given back to the customers.

Mr. FLOOD. Next, I would like to highlight some of the non-financial uses for blockchain technology that are really exciting.

Mr. Werrett, I recently read Chris Dixon's book, "Read Write Own," with great interest last year. Can you describe what a potential Web 3.0 future would look like, particularly taking into account how it might affect social media and media more broadly?

Mr. WERRETT. Yes. Thank you for your question.

Now, in our current infrastructure with Web 2 the internet evolved essentially from central companies providing information, then it evolved to a state where like YouTube and Wikipedia and different platforms, social media platforms gave folks the ability to contribute their own information. The problem is all of that information contributed in a decentralized way was funneled through centralized actors, who then tapped into privacy and used that information for their own gain. Also, this is not—this is similar to how banks use our money. Banks also, like central intermediaries, use our money to lend against or whatever.

Anyway, the nice thing about Web 3 is it unlocks that need for an intermediary. Folks can lend to one person and to the other through their noncustodial wallets that they have full control over. You control and own your own assets. They are not held by an intermediary. Just like on YouTube and Web 2, this—and Web 3, but in Web 2, your videos are held by YouTube. The blockchain allows you to host your own videos, host your own information, host your own—essentially, everything on the blockchain and the title to that property is held there and controlled by your wallet.

Mr. FLOOD. Following up, this is more of just, help me understand, what are decentralized physical infrastructure networks, and what role could they play in the future?

Mr. WERRETT. Yes. Decentralized networks, for example, are—you think about the internet as a lot of different servers that are decentralized, and they work together to—they are not owned by one company, but all of these different servers communicate with each other. Computers communicate with each other, and that is how blockchains work and the various distributed validators.

A single blockchain can have hundreds of validators in it, and those validators work together in a decentralized way across the globe to validate transactions. Once they are kind of burned onto that blockchain, block by block, they build a ledger together in a unified way, though they are decentralized in their validating work. That is a decentralized network.

Mr. FLOOD. Thank you so much. I have no more time left. I yield back.

Chairman STEIL. The gentleman yields back.

With no further members in the queue, I would like to thank our witnesses for their testimony today.

Without objection, all members will have 5 legislative days to submit additional written questions for the witnesses to the chair. The questions will be forwarded to the witnesses for their response. Witnesses will, please, respond no later than May 14.

[The information referred to can be found in the appendix.]

The hearing is adjourned.

[Whereupon, at 12:09 p.m., the subcommittee was adjourned.]

APPENDIX

MATERIALS SUBMITTED FOR THE RECORD

STRENGTHENING AMERICAN LEADERSHIP IN DIGITAL FINANCIAL TECHNOLOGY

The White House

January 23, 2025

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote United States leadership in digital assets and financial technology while protecting economic liberty, it is hereby ordered as follows:

Section 1. Purpose and Policies. (a) The digital asset industry plays a crucial role in innovation and economic development in the United States, as well as our Nation's international leadership. It is therefore the policy of my Administration to support the responsible growth and use of digital assets, blockchain technology, and related technologies across all sectors of the economy, including by:

(i) protecting and promoting the ability of individual citizens and private-sector entities alike to access and use for lawful purposes open public blockchain networks without persecution, including the ability to develop and deploy software, to participate in mining and validating, to transact with other persons without unlawful censorship, and to maintain self-custody of digital assets;

(ii) promoting and protecting the sovereignty of the United States dollar, including through actions to promote the development and growth of lawful and legitimate dollar-backed stablecoins worldwide;

(iii) protecting and promoting fair and open access to banking services for all law-abiding individual citizens and private-sector entities alike;

(iv) providing regulatory clarity and certainty built on technology-neutral regulations, frameworks that account for emerging technologies, transparent decision making, and well-defined jurisdictional regulatory boundaries, all of which are essential to supporting a vibrant and inclusive digital economy and innovation in digital assets, permissionless blockchains, and distributed ledger technologies; and

(v) taking measures to protect Americans from the risks of Central Bank Digital Currencies (CBDCs), which threaten the stability of the financial system, individual privacy, and the sovereignty of the United States, including by prohibiting the establishment, issuance, circulation, and use of a CBDC within the jurisdiction of the United States.

Sec. 2. Definitions. (a) For the purpose of this order, the term "digital asset" refers to any digital representation of value that is recorded on a distributed ledger, including cryptocurrencies, digital tokens, and stablecoins.

(b) The term "blockchain" means any technology where data is:

(i) shared across a network to create a public ledger of verified transactions or information among network participants;

(ii) linked using cryptography to maintain the integrity of the public ledger and to execute other functions;

(iii) distributed among network participants in an automated fashion to concurrently update network participants on the state of the public ledger and any other functions; and

(iv) composed of source code that is publicly available.

(c) "Central Bank Digital Currency" means a form of digital money or monetary value, denominated in the national unit of account, that is a direct liability of the central bank.

Sec. 3. Revocation of Executive Order 14067 and Department of the Treasury Framework of July 7, 2022. (a) Executive Order 14067 of March 9, 2022 (Ensuring Responsible Development of Digital Assets) is hereby revoked.

(b) The Secretary of the Treasury is directed to immediately revoke the Department of the Treasury's "Framework for International Engagement on Digital Assets," issued on July 7, 2022.

(c) All policies, directives, and guidance issued pursuant to Executive Order 14067 and the Department of the Treasury's Framework for International Engagement on Digital Assets are hereby rescinded or shall be rescinded by the Secretary of the Treasury, as appropriate, to the extent they are inconsistent with the provisions of this order.

(d) The Secretary of the Treasury shall take all appropriate measures to ensure compliance with the policies set forth in this order.

Sec. 4. Establishment of the President's Working Group on Digital Asset Markets. (a) There is hereby established within the National Economic Council the President's Working Group on Digital Asset Markets (Working Group). The Working Group shall be chaired by the Special Advisor for AI and Crypto (Chair). In addition to the Chair, the Working Group shall include the following officials, or their designees:

(i) the Secretary of the Treasury;

(ii) the Attorney General;

(iii) the Secretary of Commerce;

(iv) the Secretary of Homeland Security;

(v) the Director of the Office of Management and Budget;

(vi) the Assistant to the President for National Security Affairs;

(vii) the Assistant to the President for National Economic Policy (APEP);

(viii) the Assistant to the President for Science and Technology;

(ix) the Homeland Security Advisor;

(x) the Chairman of the Securities and Exchange Commission; and

(xi) the Chairman of the Commodity Futures Trading Commission.

(xii) As appropriate and consistent with applicable law, the Chair may invite the heads of other executive departments and agencies (agencies), or other senior officials within the Executive Office of the President, to attend meetings of the Working Group, based on the relevance of their expertise and responsibilities.

(b) Within 30 days of the date of this order, the Department of the Treasury, the

regulations, guidance documents, orders, or other items that affect the digital asset sector. Within 60 days of the date of this order, each agency shall submit to the Chair recommendations with respect to whether each identified regulation, guidance document, order, or other item should be rescinded or modified, or, for items other than regulations, adopted in a regulation.

(c) Within 180 days of the date of this order, the Working Group shall submit a report to the President, through the APEP, which shall recommend regulatory and legislative

proposals that advance the policies established in this order. In particular, the report shall focus on the following:

(i) The Working Group shall propose a Federal regulatory framework governing the issuance and operation of digital assets, including stablecoins, in the United States. The Working Group's report shall consider provisions for market structure, oversight, consumer protection, and risk management.

(ii) The Working Group shall evaluate the potential creation and maintenance of a national digital asset stockpile and propose criteria for establishing such a stockpile, potentially derived from cryptocurrencies lawfully seized by the Federal Government through its law enforcement efforts.

(d) The Chair shall designate an Executive Director of the Working Group, who shall be responsible for coordinating its day-to-day functions. On issues affecting the national security, the Working Group shall consult with the National Security Council.

(e) As appropriate and consistent with law, the Working Group shall hold public hearings and receive individual expertise from leaders in digital assets and digital markets.

Sec. 5. Prohibition of Central Bank Digital Currencies.

(a) Except to the extent required by law, agencies are hereby prohibited from undertaking any action to establish, issue, or promote CBDCs within the jurisdiction of the United States or abroad.

(b) Except to the extent required by law, any ongoing plans or initiatives at any agency related to the creation of a CBDC within the jurisdiction of the United States shall be immediately terminated, and no further actions may be taken to develop or implement such plans or initiatives.

Sec. 6. Severability. (a) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

Sec. 7. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,

January 23, 2025.

1600 Pennsylvania Ave NW
Washington, DC 20500

WH.GOV

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2392 OFFERED BY MR. DAVIDSON OF OHIO

Add at the end the following:

SEC. 16. PROTECTION OF SELF-CUSTODY.

(a) IN GENERAL.—The Secretary of the Treasury, the Financial Crimes Enforcement Network, and the primary Federal payment stablecoin regulators may not issue any rule or order that would impair—

(1) a U.S. individual from maintaining a hardware wallet or software wallet to facilitate such individual's own lawful custody of digital assets; or

(2) a U.S. individual's direct transactions in digital assets for such individual's own lawful purposes with another individual by means of a hardware or software wallet, if neither individual is—

(A) a financial institution, as defined in section 5312 of title 31, United States Code; or

(B) subject to United States sanctions prohibitions.

(b) RULE OF CONSTRUCTION.—Subsection (a) may not be construed to limit the ability of the Secretary of the Treasury, the Financial Crimes Enforcement Network,

and the primary Federal payment stablecoin regulators to carry out any enforcement action authorized by—

(1) the Bank Secrecy Act;

(2) section 9714 of the Combating Russian Money Laundering Act (31 U.S.C. 5318 note);

(3) the Anti-Money Laundering Act of 2020;

(4) the International Emergency Economic Powers Act;

(5) the Foreign Narcotics Kingpin Designation Act;

(6) the Global Magnitsky Human Rights Accountability Act;

(7) the Trading with the enemy Act; and

(8) other applicable laws.

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119TH CONGRESS
1ST SESSION

H. R. 148

To prohibit Federal agencies from restricting the use of convertible virtual currency by a person to purchase goods or services for the person's own use, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2025

Mr. DAVIDSON introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To prohibit Federal agencies from restricting the use of convertible virtual currency by a person to purchase goods or services for the person's own use, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Keep Your Coins Act of 2025".

SEC. 2. PROHIBITION ON RESTRICTING USE OF CONVERTIBLE VIRTUAL CURRENCY BY A PERSON TO RETAIN FULL CONTROL OVER CONVERTIBLE VIRTUAL CURRENCY.

(a) IN GENERAL.—The head of a Federal agency may not prohibit, restrict, or otherwise impair the ability of a covered user to—

(1) use convertible virtual currency or its equivalent for such user's own purposes, such as to purchase real or virtual goods and services for the user's own use; or

(2) self-custody digital assets using a self-hosted wallet or other means to conduct transactions for any lawful purpose.

(b) DEFINITIONS.—In this section:

(1) CONVERTIBLE VIRTUAL CURRENCIES.—The term "convertible virtual currency" means a medium of exchange that—

(A) has an equivalent value as currency (as defined in section 1010.100 of title 31, Code of Federal Regulations (or successor regulations)); or

(B) acts as a substitute for currency but may not possess all the attributes (including legal tender status) specified under such section 1010.100 (or successor regulations).

(2) COVERED USER.—The term "covered user" means a person that obtains convertible virtual currency to purchase goods or services on that person's own behalf, without regard to the method in which such covered user obtained such convertible virtual currency.

(3) SELF-HOSTED WALLET.—The term "self-hosted wallet" means a digital interface—

(A) used to secure and transfer convertible virtual currency; and

(B) under which the owner of convertible virtual currency retains independent control over such convertible virtual currency that is secured by such digital interface.

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FRENCH HILL, AR
CHAIRMAN

MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
One Hundred Nineteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Questions for the Record
Subcommittee on Digital Assets, Financial Technology, and Artificial Technology Hearing, entitled:
"American Innovation and the Future of Digital Assets: Aligning the U.S. Securities Laws for the Digital Age"
April 09, 2025

Ranking Member Waters:

1. Which of the following options best describes your self-identified race? (You may choose more than one.)
    a. White or Caucasian
    b. Black or African American
    c. Hispanic/Latinx
    d. Asian
    e. Middle Eastern/North African
    f. Choose not to answer
    g. Prefer to self-describe (please specify)

2. Which of the following options best describes your gender identity?
    a. Woman
    b. Man
    c. Non-binary
    d. Transgender Man
    e. Transgender Woman
    f. Choose not to answer
    g. Prefer to self-describe (please specify)

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