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Blockchain Bites: SEC Chair charts course for Wall Street to go on-chain; Staking Success: SEC's Sensible Stance Finally Stakes Out Clarity; Darting from the blocks, the CFTC's crypto sprint begins; and Guilty Verdict Generates DeFi Developer Despair: Is Storm's Split Verdict a Forecast of Coding Chill?

Steven Pettigrove, Luke Higgins and Emma Assaf of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.

SEC Chair charts course for Wall Street to go on-chain

The Securities and Exchanges Commission chair Paul Atkins today announced "Project Crypto" which is said to be the SEC's "North Star" in seeking to make the US the crypto capital of the world. This will be a SEC-wide initiative to modernize securities which Chair Atkins says will:

> *enable America's financial markets to move on-chain*

Tokenisation of stocks and real world assets has been moving forward, but changes such as this would dramatically increase the speed with which blockchain technology integrates into or replaces the traditional financial sector's rails. Chair Atkin went on to say:

> *I have directed the Commission staff to draft clear and simple rules of the road for crypto asset distributions, custody, and trading for public notice and comment. While the Commission staff works to finalize these regulations, the Commission and its staff will in the coming months consider using interpretative, exemptive, and other authorities to make sure that archaic rules and regulations do not smother innovation and entrepreneurship in America. Many of the Commission's legacy rules and regulations do not make sense in the twenty-first century—let alone for on-chain markets.*

The speech then went on to talk about "onshoring" to "bring crypto asset distributions back to America" with "confusion over security status" over. This is well needed clarity from the SEC, and for projects which avoided the US due to securities law concerns, this will be welcome news indeed.

Choosing to structure offshore is a more nuanced consideration, and one used by most global companies, so increased certainty in securities laws in the US will help unlock the value of proper structuring.

The speech also sought to mark the end of regulation-by-enforcement:

> *Despite what the SEC has said in the past, most crypto assets are not securities. But confusion over the application of the "Howey test" has led some innovators to prophylactically treat all crypto assets as such.*

He went on to say that "it should not be a scarlet letter to be deemed a security" and that he had asked staff to "propose purpose-fit disclosures, exemptions and safe harbors, including for so-called 'initial coin offerings,' 'airdrops' and network rewards, where crypto asset transactions were subject to securities laws. This might mean that SAFTs and other early stage fund-raising mechanisms become much simpler for projects to deploy.

On the topic of tokenised stocks, which are currently only really tokenised via a synthetic derivative offering, Chair Atkins said he had asked:

> *the Commission staff to work with firms seeking to distribute tokenized securities within the United States and to provide relief where appropriate to assure that Americans are not left behind.*

and

> *I have directed the Commission staff to update antiquated agency rules and regulations to unleash the potential of on-chain software systems in our securities markets.*

An innovation exemption was floated to let businesses quickly go to market where their model does not fit the existing law neatly. This will be music to the ears of many entrepreneurs seeking to start up a businesses quickly and raise funds swiftly, so long as they are raising debt or securities.

Chair Atkins also commented on the need to provide further clarity on the line between permissible software development and regulated financial services activity. These comments will be well received by the DeFi community. The Chair's comments were taken up this week in a separate speech by Commissioner Peirce in which she defended the importance of privacy for financial transactions in the internet age.

A point not addressed in the speech is that non-security crypto-assets are likely treated as assets or trading stock for tax purposes, meaning great care is needed in considering how they should be offered in an overall corporate structure. It is unlikely that structures wholly within the US will be able to offer effective tax treatment for non-US buyers of tokens, and the "Cambrian explosion" of activity which Chair Atkins predicts will no doubt lead to many businesses looking for suitable locations to structure their projects, including offshore.

Australia and other jurisdictions would be well placed to note this continued acceleration of innovation in the USA, and the Chair's embrace of blockchain as a tool to upgrade and modernise the financial system. The US is such a large market that there is a very real risk of making laws which are out of step with the US approach, locking out the benefits of coming interoperability – regulators and policymakers don't face these kinds of technological challenges often and it will require a partnership with industry to help navigate a sensible approach.

Written by Steven Pettigrove

Staking Success: SEC's Sensible Stance Finally Stakes Out Clarity

The SEC's Division of Corporation Finance has dropped some surprisingly sensible guidance on liquid staking that has the crypto world cautiously optimistic. After years of regulation by enforcement under former Chair Gary Gensler, the SEC under new Chair Paul Atkins has acknowledged what many have been arguing all along: not every crypto mechanism is a security under US law.

The 5 August statement clarifies that certain liquid staking activities should not fall under the SEC's jurisdiction when they're truly protocol-driven without active third-party management or return guarantees, even when the staking is offered by a third-party. This means that participants in those activities are not required to register their transactions under existing federal securities laws. The latest statement follows earlier guidance that covered protocol staking, including self-staking, self-custodian staking through third parties and custodial staking.

This is bright line guidance which previously was absent (and in many countries remains absent). Gone are the days when projects were told they just needed to 'come in and register' when it was impossible to survive the process, as the current SEC is on track with 'Project Crypto' to give the industry clear guidance.

Liquid what?

Liquid staking lets users lock up their crypto for staking rewards while receiving in return receipt tokens they can use elsewhere, such as in other DeFi smart contracts. These tokens serve as proof of the depositor's ownership of the staked assets and entitle the holder to any staking rewards that accrue. Receipt tokens are issued on a one-for-one basis and are redeemable for the underlying crypto assets and accrued rewards. The key feature of liquid staking is that it allows token holders to retain liquidity while their assets remain locked in staking.

The new guidance suggests that when these mechanisms are purely protocol-based—think algorithmic rather than actively managed—they ought to escape securities regulation entirely in the US. The SEC's position hinges on the application of the Howey test, which determines which transactions constitute an "investment contract" and would be subject to US securities laws. Under that test, an arrangement qualifies as a security where there is an investment of money in a common enterprise premised on a reasonable expectation of profits to be derived from the entrepreneurial or managerial efforts of others.

The Division found that the "efforts of others" prong is not satisfied because liquid staking providers do not offer entrepreneurial or managerial efforts to depositors. Instead, their activities are administrative or ministerial in nature and do not guarantee or set rewards. However, the statement specifically excludes liquid staking provider activities that go beyond administrative and ministerial activities, or the offer, sale or issuance of staking receipt tokens that are inconsistent with the descriptions set out in the statement.

The crypto community's reaction has been mixed but largely positive. Lido Finance, one of the biggest liquid staking protocols, said:

> *This guidance provides much-needed clarity for the liquid staking ecosystem. We're encouraged by the SEC's nuanced approach to protocol-driven activities.*

Jesse Pollak, co-founder of Kraken, referenced a previous $30 million settlement with the SEC in relation to its custodial staking service, saying:

> *Can I get a $30M refund?*

Although the statement has no legal force, US SEC Commissioner Caroline Crenshaw has criticised the statement saying it only "muddies the waters". According to Crenshaw, the statement relies on several factual assumptions that creates what she calls a "wobbly wall of facts without an anchor in industry reality".

The Devil's in the Details

Of course the guidance comes with plenty of caveats. The agency emphasizes this is not a formal rule or binding decision—rather it is more like regulatory tea leaves that industry participants need to interpret carefully.

Key points include, from the guidance:

> *In a Liquid Staking arrangement, the Liquid Staking Provider (whether a Node Operator or not) does not provide entrepreneurial or managerial efforts to Depositors for whom it provides this service. These arrangements are similar to those discussed in the Protocol Staking Statement with respect to "Custodial Arrangements." The Liquid Staking Provider does not decide whether, when, or how much of a Depositor's Covered Crypto Assets to stake and is simply acting as an agent in connection with staking the Covered Crypto Assets on behalf of the Depositor.*

The key factors seem to be:

- A Staking Receipt Token is not a security, because the thing for which it is a receipt, what the SEC calls a Covered Crypto Asset, is itself not a security.
- Protocol-driven operations without human intervention remove managerial efforts which would trigger the *Howey*

TradFi Strikes back

Naturally crypto clarity in regulation doesn't come without the criticism with the former chief-of-staff of the SEC making a wild comparison to Lehman Brothers rehypothecation:

> *The SEC's latest crypto giveaway is to bless the same type of rehypothecation that cratered Lehman Brothers – only in crypto it's worse because you can do it without any SEC or Fed oversight.*

Austin Campbell of Zero Knowledge Consulting politely said:

> *They live in a world that is centralized and intermediated, because that was the only way to do things effectively in the 1970s when these systems were designed…[t]hey don't realize that they think of everything as centralized, so automated systems really throw them.*

Joe Doll of Magic Eden was more brutal, calling the statement a deliberate mischaracterization, and saying:

> *I'm always happy to provide "swift backlash" to those leveraging their pedigree to LARP as experts to impede technological innovation and regulatory progress.*

What comes next?

For staking providers and DeFi platforms, this guidance offers a roadmap but also requires careful compliance work. Projects will need to review their offerings against the criteria set by the SEC, noting that it does not have the force of law, so plaintiff lawyers are still at liberty to allege that liquid staking is a security. In addition, foreign laws may still apply to liquid staking services which means the SEC guidance will provide only limited comfort.

The broader direction of this statement and 'Project Crypto' are real, practical and largely sensible bright line guidance which the industry can rely on to grow. With the UK clarifying that staking is not a collective investment scheme earlier this year, regulators are doing the hard work to draw lines, while others continue a regulation by enforcement position, often with mixed results.

The liquid staking sector, which has grown to billions in total value locked, can finally operate with a degree of clarity in the United States. More clarifications from Project Crypto are expected in the US, and as the largest financial market, these policy directives are likely to have significant influence in global development and may persuade other regulators to adopt fit for purpose rules and guidance over time.

Written by Steven Pettigrove and Emma Assaf

Darting from the blocks, the CFTC's crypto sprint begins

Last week, Commodity Futures Trading Commission (**CFTC**) Acting Chair Caroline Pham announced a "crypto sprint" to implement the recommendations of President Trump's Working Group on Digital Asset Markets 166-page report. The announcement was timed to align with the SEC Chair's announcement of Project Crypto and a wave regulatory and policy reforms under a broader vision to upgrade the US financial system bringing it on chain.

> *The CFTC is wasting no time in fulfilling President Trump's vision to make America the crypto capital of the world. We will work closely with SEC Chairman Paul Atkins and Commissioner Hester Peirce to achieve Project Crypto. Providing regulatory clarity now and fostering innovation in digital asset markets will deliver on the Administration's promise to usher in a Golden Age of Crypto.*

Building on that announcement, the CFTC unveiled its first initiative under the "crypto sprint" for trading spot crypto asset contracts that are listed on a CFTC-registered futures exchange (designated contract market or DCM).

Acting Chair Pham stated:

> *…the CFTC is full speed ahead on enabling immediate trading of digital assets at the Federal level in coordination with the SEC's Project Crypto. There is a clear and simple solution the CFTC can implement now. The Commodity Exchange Act currently requires that retail trading of commodities with leverage, margin, or financing must be conducted on a DCM. Starting today, we invite all stakeholders to work with us on providing regulatory clarity on how to list spot crypto asset contracts on a DCM using our existing*

authority, as I have previously proposed since 2022. ***Together, we will make America the crypto capital of the world****.*

CFTC seeks input from stakeholders

As part of its spot trading initiative, the CFTC is seeking input from interested stakeholders. The agency is encouraging feedback on how best to approach the listing of spot crypto asset contracts on DCMs. Key areas for comment include:

- Section 2(c)(2)(D) of the Commodity Exchange Act, which mandates that retail commodity trades involving leverage, margin or financing must take place on a registered DCM.
- Part 40 of the CFTC's regulations, which outlines the procedural and compliance standards that DCMs must follow when listing new products and enforcing market rules.
- Whether there are any implications under the securities laws or regulations with respect to an SEC framework for trading of non-security assets that are part of an investment contract.

Interested parties can submit comments by 18 August 2025 via the CFTC's website. All submissions will be published on CFTC.gov. If any past consultations are a guide, we expect a raft of submissions from industry, which has never been so engaged with regulators.

A coordinated regulatory shift

The crypto sprint builds on the Working Group's digital asset policy report, which recommended that Congress close existing regulatory gaps by granting the CFTC authority to oversee spot markets for non-security digital assets. The report also called on both the SEC and CFTC to use their existing powers to immediately support digital asset trading at the federal level by providing clearer guidance on registration, custody, trading and recordkeeping. It further encouraged the use of tools like safe harbours and regulatory sandboxes to help innovative financial products reach consumers.

The CFTC's crypto sprint complements the SEC's own initiative, "Project Crypto". With growing alignment between the two agencies, US digital asset regulation is moving toward greater clarity that gives developers, businesses and consumers clearer rules and fewer barriers.

These coordinated efforts represent a clear departure from the sceptical stance of the previous administration. Under the Biden administration, the SEC pursued enforcement actions against several crypto exchanges (many of which have since been dropped). While not yet finalised, these new developments reflect the Trump administration's continued swift work to bring digital assets into the financial mainstream.

Written by Steven Pettigrove and Emma Assaf

Guilty Verdict Generates DeFi Developer Despair: Is Storm's Split Verdict a Forecast of Coding Chill?

The closely followed verdict in the criminal prosecution of Roman Storm, Tornado Cash's founder, has finally been handed down. This action has a long history, after sanctions were imposed in 2022 on the Tornado Cash smart contracts, which provide a privacy tool not under the control of any individual (and so may be used by the criminals and innocent, freedom fighters and terrorists to render transactions more private).

This saga commenced with the prosecution of a Tornado Cash developer in the Netherlands, then OFAC seeking to sanction the Tornado Cash code, which sanctions were thrown out by the Courts, with Roman Storm being prosecuted alongside his co-founder in the United States. An attempt to dismiss the case was rejected and a full jury trial has now reached a verdict, with Mr Storm found guilty of conspiring to operate an unlicensed money transmission business. The other two charges, relating to money laundering and sanctions breaches, were hung, meaning the jury could not reach a unanimous verdict.

There has been criticisms of how the case has been run by the prosecution including that one of the prosecution witnesses recounted a scam they suffered, in which none of the proceeds of the scam ever touched the Tornado Cash smart contracts. and that one of the expert witnesses, not being allowed to mention AML/KYC, was still permitted to testify that Mr Storm could have implemented a "registry of authorised users to allow the service to confirm the identity of the people making deposits and withdrawals". Given the nature of Tornado cash as a privacy tool, this is quite surprising."

Mr Storm had been released on bail, and despite the verdict and the relatively short potential sentence, the US Government still sought to revoke Mr Storm's bail and asserted he was a flight-risk. The Judge rejected that, reportedly saying:

> *There is a lot of fighting left in this case before sentencing, and I think Mr. Storm will stay to fight it.*

Lawyers in the crypto space have denounced the decision, with Jason Gottlieb saying:

> *Roman Storm's conviction for operating an unlicensed money transmission business is dangerous for all defi developers… It's also just wrong as a matter of law…*

The Solana Policy institute said:

> *Today's decision sets a dangerous precedent threatening every developer building decentralized technologies.*

The DeFi Education Fund promised to keep backing Storm, saying:

> *The government's case targeting a software developer should have never been brought in the first place and remains fundamentally flawed: Tornado Cash is non-custodial software through which people engage in self-directed, p2p transactions. Even the government acknowledges that Tornado Cash developers did not and could not exercise control or custody over user assets.*

This case deals with the fundamental question of whether a software developer who deploys immutable and ownerless smart contracts should be held liable for the actions of its users. On one view, the technical and legal issues in this case are complex and not well suited to determination via jury trial. In any event, Mr Storm avoided a verdict on the most serious charges of money laundering and sanctions violations.

The case also raises questions over the legitimate use of technology to protect the privacy of financial transactions and information (something which Commissioner Peirce of the Securities and Exchange Commission weighed in to defend in a speech this week).

What comes next?

The outcome is not perhaps the cloud over software developers or DeFi that some fear, as the Blockchain Regulatory Certainty Act, which is travelling with the CLARITY Act in the US Congress, would make clear that developers who don't control smart contracts cannot be operating a money transmission service, meaning no other developers should face similar prosecutions as Mr Storm.

In addition, while the prosecution may choose to retry the two counts on which the jury were hung, the prosecution commenced under the Biden Administration, and the Trump Department of Justice may elect not to re-try the case given the ongoing regulatory changes under way.

Written by Steven Pettigrove