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Sounding the Alarm on the SEC's New Crypto Approach

By Kevin LaCroix on February 26, 2025



It was no secret that the crypto enforcement approach was going to change under the Trump administration. Indeed, one of Trump's first acts upon returning to the White House in January was to sign **an executive order** calculated to try to make the U.S. the "crypto capital of the world." The SEC has likewise made it clear that under the new administration the agency will also be taking a new approach to crypto. The acting SEC leadership has already made a number of crypto-friendly moves – among other things, the new leadership **disbanded the agency's Crypto Enforcement Task Force**. The SEC has also dismissed pending cases against Binance (**here**) and Coinbase (**here**). As discussed below, the agency recently has taken even further crypto friendly actions – all of which has at least one observer to ask whether the SEC crypto pull back has gone too far?

A February 26, 2025, *LinkedIn* post (**here**) by John Reed Stark, the Former Chief of the SEC's Office of Internet Enforcement, which is captioned with the provocative header "So This is How the SEC Dies," presents Stark's strenuous objection to the new crypto approach that the agency

has staked out.

The immediate trigger for Stark's dissenting statement is the February 26, 2025, news report that the SEC's pending investigation against decentralized exchange Uniswap Labs has been closed. The news article cites a statement from Uniswap as stating that the SEC's action to drop the investigation was "a major win for decentralized finance (DeFi)," adding that the investigation's closure is "a clear sign that decentralized technology can operate legally." The Uniswap news follows days after media reports that the SEC has also dropped its investigation of Opensea. Both firms had received Wells Notices under the prior administration.

With specific reference to the news about the termination of the Uniswap and Opensea investigations, Stark writes that "the rapid-fire demolition of the SEC's crypto-enforcement program continues."

And with respect to the larger question of the correct agency approach to cryptocurrency generally, Stark presents his view that cryptocurrencies are securities. As he puts it, "Whether an investment product acts as a stock token, is priced off of the value of securities and operates like derivative, is a stable value token backed by securities, or any other virtual product that provides synthetic exposure to underlying securities, the courts have consistently affirmed that every digital asset iteration is a security."

In that connection, Stark notes that the SEC has brought over 200 crypto-related enforcement actions, in which the agency has – at least up until now — consistently (and mostly successfully) argued that various "crypto-concoctions" are "securities" within the meaning of the federal securities laws.

There is no doubt, Stark observes, that "the promoters of digital assets claim to be champions of a digitally transformative technological revolution that is the future of finance and money" (while at the same time, he notes, trying to argue that the crypto assets are really no different than collectibles like Beanie Babies or baseball cards), and that "many digital asset enthusiasts honestly believe that crypto will usher in a bright future for us all."

Stark is clearly having none of that. In his *LinkedIn* post's money quote, Stark memorably states with respect to cryptocurrency:

[T]o me, the cryptoverse is a Walking-dead apocalyptical anarchical marketplace, enabling a plague of horrific and dire externalities (such as ransomware, terrorism, human trafficking and other horrendous crimes) while also creating a new epoch of

global financial systemic risk.

Stark adds that “by masquerading a perilous mixed metaphor of grift and illusion as some sort of newfangled fantasy of financial innovation, crypto-shills turn victims into victimizers and laugh all the way to the bank (to deposit their fiat).”

With all of that said, Stark then turns to the real nub of the issue, which is what approach the SEC *should* be taking with respect to cryptocurrency. As you might have guessed from Stark’s statements quoted above, he comes down on the side of the SEC taking an active enforcement approach. He says “there is nothing about the cryptoverse that suggests that investors are less deserving of the protections of US securities laws, and the SEC’s shameless abdication of its sacrosanct investor protection mandate sounds the death knell for a once proud, storied and vital financial watchdog.”

Wow. OK, then.

I have to admit that I have largely been ignoring the ongoing war over the cryptoverse. Honestly, I figured that after the FTX collapse, anybody that wants to fool around with crypto will simply get whatever they deserve, and the rest of us can happily go on with our lives. Pretty clearly, I need to start paying more attention. I certainly hope that the temperature of the rhetoric Stark deploys is representative of what we can expect in the coming debate on cryptocurrency, because if it is, this could get really interesting.

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