



**DeFi Education Fund: 1st DeFi State of the Union**

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**Participants**

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**Max Bernstein:** Welcome everyone to the DEF State of the Union. Thank you everyone for joining. We'll begin in a few minutes. If you feel that anyone in your network would be interested in joining, please feel free to send them the link. Additionally, there is a link to ask any questions. Should anyone want to ask questions throughout the event, if time permits, we will get to the questions at the end of the space.

**Miller Whitehouse-Levine:** Good afternoon, ladies and gentlemen. Thank you all for joining this lovely Tuesday afternoon, or at least lovely in Washington, D.C., for the first time in its history. Thank you for taking the time to join DEF's first annual State of the Union. We're going to use the next couple of minutes, a little more than that, to take stock of where things are and where they stand on DeFi policy in the United States, how they've developed in the last few years and run through outstanding major legislative, regulatory, and legal issues. I think that at the highest level of my assessment of the state of DeFi policy is that number one it exists - versus two years ago when really the only major legal, legislative, and regulatory action with respect to DeFi was an SEC rulemaking which we'll get into later on the definition of exchange. At the time, it was only our suspicion that the rulemaking covered DeFi. The SEC later clarified that it indeed did, but that was the only real domestic DeFi policy proposal that was actively being considered.

Fast forward to today and the landscape has completely changed. Just last month, legislation, comprehensive market structure legislation passed the US House via bipartisan super majority. That bill included explicit contemplation of how DeFi fits into things. We have several rulemakings, including the SEC exchange and dealer rule makings, the IRS broker rule making that are really focused on DeFi specifically. And several of the legal questions, the questions fundamental to the treatment of DeFi have either been in some cases already addressed, or are going to be addressed in short order. I think that overall things look much more positive than they did two years ago, because I think one of the challenges, one of the first challenges as DeFi advocates we have faced a couple of years ago was getting DeFi on the map. So when



people were thinking about crypto regulation and CeFi regulation, they thought about DeFi at all. We've progressed significantly since then. And while folks, meaning policymakers, don't necessarily agree with everything that we do on DeFi policy positions, DeFi is certainly central to the conversation, which is important and quite promising for its future development. So thank you all for joining, excited to get into it. - And we'll hand it over to Max for the run of the show.

**Max Bernstein:** Great, thanks Miller. And everyone, welcome again to the first annual DEF State of the Union. A quick introduction. My name is Max Bernstein, and I am the Communications and Operations Senior Manager here at DEF. And today, I have the pleasure of being your emcee. So I don't want to take too long, and we are very excited to get started, but I want to give a quick rundown of how today's program will go. First, we're going to hear from Miller and DEF's Policy Associate, Laz Pieper, about the state of policy and regulatory affairs, a deeper dive into some of the issues that Miller just mentioned. We'll then pass the baton over to DEF's Chief Legal Officer, Amanda Tuminelli, who will provide the state of affairs from a legal perspective. After Amanda, I will turn it over quickly to the newest member of the DEF team, Nathan Hennigh, who will talk about how everyone can engage with us. And then before we conclude, if time allows, we'll move into a brief Q&A session. If you would like to add a question throughout the session, we ask that you please add it to the Google form that Nathan will be pinning to this chat. And remember to please be respectful in your questions. Without further ado, again, I am happy to pass it along to Miller and Laz for the State of Policy.

### **Policy State of Affairs**

**Miller Whitehouse-Levine:** Thank you, Max. Laz and I are going to talk about legislative and regulatory developments. As far as Congress is concerned, we're going to focus on market structure efforts, stablecoin regulatory efforts, and bubbling AML/CFT efforts, many of which have been recently covered in the press and are certainly all live issues.

### *FIT21*

**Miller Whitehouse-Levine:** Starting with FIT 21. So this bill, which is called FIT for the 21st Century Act, attempts to do several important things and with respect to DeFi, the most important being - it attempts to clearly delineate the extent of the SEC's authority versus the CFTC's authority over or newly created authority over crypto commodity spot markets. So you can think about the world as far as this bill is concerned as assets that are securities and assets that are not securities. This is a debate that has been ongoing for several years. You know, where is the border between those two things and consequently the jurisdictional boundaries of the SEC's authority? FIT 21 tries to create a test that is less subjective than the one we currently are operating under, the Howey test - to answer that question definitively and clearly, which is certainly an important effort. And I think one that is important to be addressed in any market structure legislation that Congress moves into law. I think that this bill and its passage through the House is most important from a symbolic perspective. It was the first time either chamber of the US Congress voted on a comprehensive crypto market structure regulatory framework and that passed with a super majority of members from both the Democratic and Republican party. I



think that it's hard to over appreciate the uniqueness of that vote. Most controversial and crypto regulation has in some ways become controversial. Most controversial policy issues are decided on party line votes. And I think that it is a reflection and endorsement of crypto's commitment over the years to a non-partisan approach to policymakers that the bill passed again via supermajority, which is very unique.

**Miller Whitehouse-Levine:** I think that market structure legislation is unlikely to be signed into law by this Congress, but I do think FIT 21 serves as a good place to start the next Congress. It's imperfect, but it does address areas that I think are important for market structure when it comes to DeFi. Number one, it solves the jurisdictional issue that I was discussing. It also explicitly differentiates DeFi versus CeFi treatment, which is unique. Generally market structure bills contemplate regulating CeFi entities like centralized exchanges, and therefore have a regulatory framework attached to those definitions that are appropriate for centralized businesses in the crypto markets. This bill does the same, but also says this whole thing called DeFi is out there. It functions in a completely different way than CeFi, and we need to think about it differently, which is encouraging and important to have in market structure legislation. It also has explicit protections for self-custody. And as everyone listening to this call knows, self-custody is the foundation of the innovation of decentralized networks writ large, which means it's also important to protect for the purposes of people's and citizens' ability to use DeFi protocols. And I think it's very encouraging that a bipartisan supermajority passed those things through the House last month.

I also think it's a statement of the legislature with respect to the SEC's approach to this industry over the years. The bill rewrites the Exchange Act and the 33 Act in important ways. The SEC was vocally opposed to its enactment and again a bipartisan super majority said no Gary, SEC, you guys are wrong and we the lawmakers think that this should be done differently in the future. So I do think it's a fundamental repudiation of the status quo, which is not only encouraging for DeFi, but also for the crypto industry in the U.S.

#### Stablecoin Legislation

**Miller Whitehouse-Levine:** Moving on to stablecoin, which is less DeFi relevant, but at least directly, but secondarily relevant to the DeFi world is custodial stablecoin regulation. So this has, like market structure legislation, been percolating for several years. And I think from a crypto policy perspective, this is the issue on which there is most consensus between the executive, the legislature and crypto advocates. Generally, what these bills are attempting to do is regulate custodial stablecoin issuers, think of circle, think of tether. And as far as the requirements that would be applied to those issuers are concerned - generally try to address potential run risks. And the three core ways these bills try to get after that is by number one, mandating a minimum level of reserves. For each, for example, dollar stablecoin an issuer has out in the world, they need to have a dollar and two cents or something like that of assets held in reserve to back up the promise that dollar stablecoin is indeed redeemable for a dollar. Second, it mandates the composition of that reserve with an eye towards ensuring the reserve is liquid. If you own a



stablecoin and want to redeem it for a fiat dollar and that fiat dollar is backed by a highly illiquid asset, it's not much help to you because it would take a while to sell the asset, backing it up, and you would have to wait for your money. So liquidity of reserves is an important consideration in all of these bills. And then the third element is transparency requirements around custodial stablecoin reserves. The overcollateralized reserve and the highly liquid nature of that reserve are not that useful with respect to preventing run risks unless the market and holders of that dollar stablecoin are aware of that.

The remaining outstanding issue on this topic, which I think will hopefully-potentially will be solved this Congress, so maybe the Congress and administration get stablecoin legislation done - but the big remaining issue is not even a crypto issue. It's a state-versus-federal banking regulatory authority question. Meaning, who gets to (and when) regulate these custodial stablecoin issuers. Generally, the discussions are around perhaps below some issuance threshold, meaning the amount of outstanding stablecoins in circulation. State banking regulators can be primarily responsible for their regulation and over a certain threshold the Fed would be in charge. But there are many ideas about how to address that. [This is] a state-versus-federal regulatory authority question. Again, not a crypto issue. And the state-versus-federal banking system in this country has been around for over 150 years. And this is always a problem when something is touching either of those two groups' authorities. So not unique to crypto and not sure where things will land as far as that question is concerned. But of course, as I said at the top, custodial stablecoins are very important to how the DeFi markets operate today. And I think that custodial stablecoin legislation would be a net positive, not just for the U.S., but also for DeFi participants.

#### AML Legislation

**Miller Whitehouse-Levine:** The last that I want to discuss are the various AML efforts in Congress. Three big ones being Senator Warren's Digital Asset Anti-Money Laundering Act, the CANSEE Act, and the provision in the Intelligence Authorization Appropriations Act, which passed out of committee last month. All of these bills either attempt to expand the president's sanctions authority and apply them on a mandatory basis - or in the alternative, define non-financial institutions as financial institutions such that they would be subject to financial surveillance requirements. None of them are particularly good bills in my view because while they attempt to solve what is a serious problem, the solutions they propose would exacerbate the problem by effectively ending U.S. participation in decentralized networks and doing nothing about bad actors' access to them. So those are percolating. They don't seem to have major momentum, but this is a major issue and in the Fall [2023], I believe Laz, it was last the Deputy Treasury Secretary sent a letter to Congress asking for additional authorities on the sanctions and AML front. Laz, what was that about?

**Laz Pieper:** Yeah, so back in November, the Deputy Secretary to the Treasury Wally Adeyemo, he wrote a letter to Congress requesting additional powers to combat terrorist financing following those October 7 attacks in Israel. As many of you know, there were assertions that



crypto played a significant role in funding Hamas, which we found to be false claims and that the majority of funding really came from traditional money laundering methods with pretty significant backing from Iran.

Nonetheless, Adeyamo believes it necessary that Congress grant the Treasury [some] additional authorities that he proposed in his letter. These include redefining 'financial institution' under the Bank Secrecy Act to include exchanges, wallet providers, validators, and anything DeFi related so that they can all comply with BSA requirements like identifying customers and reporting transactions to the government. He also requested for a new type of sanction that would basically allow the treasury to impose sanctions on entities in the crypto space, even if they do not use traditional banking channels. So in other words, Adeyemo is requesting sanction authorities for DeFi, likely in response to all the legal challenges against the treasury sanctions on the Tornado Cash Smart contracts.

#### Tax Efforts

**Laz Pieper:** Which I think then brings us to tax efforts. So, moving on from all the AML/CFT stuff, there hasn't been too much with taxes in Congress. I think what we found to be pretty promising is this bill that would treat validator rewards as created property and not tax them until they're sold. You know, last September we submitted a comment letter in response to the Senate Finance Committee's consultation concerning the taxation of digital assets. And in there we address a variety of matters, but importantly we argue that validator rewards should not be taxed until they're sold. So we're pretty thrilled to see that get introduced into Congress.

We also addressed the changes made to Section 6050-I of the Internal Revenue Code, that would basically require anyone to receive more than \$10,000 in digital assets in a trade or business report, identifying information about the payer and the transaction itself, which raises a host of issues with privacy. And these changes were set to begin in July this year, but thankfully the IRS paused the provisions and announced they won't be effective until regulations are issued.

#### IRS Broker Rulemaking

**Laz Pieper:** So, yeah, that basically brings us to discussing agencies. and proposed regulations. And so I can start by talking about the IRS broker rulemaking, which is a pretty hefty beast. So overall, what it did or what it does, I guess it would extend existing broker reporting requirements to digital asset transactions by redefining what it means to be a broker. This includes gross proceeds, customer identifying information, etc. So how are they doing this? Well, the proposed rule does this by giving us some pretty broad definitions. The definitions that would make it so every participant in the blockchain technology stack would be treated as brokers under the proposed rule. That's everyone from front-end administrators and wallet providers to validators to smart contract developers, basically everyone.

So we have some constitutional concerns with all this. You know, we believe the proposed rule



violates the Fourth Amendment because users do not voluntarily provide identifying information to anyone in the blockchain stack under normal circumstances. And so the IRS would be imposing this information collection without a warrant. The second thing is we believe that the vagueness of this proposal violates the 5th amendment. It doesn't provide clear guidelines and allows for arbitrary and discriminatory enforcement. So what comes next? Well, we're left to speculation at this point. A few months ago the IRS released sample tax forms tied to the proposed rule indicating some eagerness to move forward with regulations, but we'll have to wait and see. We're actually sending another comment letter at the end of this month on the burdens imposed by the information collection, so you guys can just stay tuned for that. Miller, I'll send it right back to you for some SEC rulemakings.

### SEC Exchange Rulemaking

**Miller Whitehouse-Levine:** Thank you, Laz. And I just want to underscore that broker rulemaking is terrible alongside this next rule that I'm about to talk about, the exchange rule. They are both completely antagonistic to even the idea that decentralization has a place in our economy and society. They would mandate centralization in order to comply with them and need to be completely scrapped. The broker rulemaking and the SEC exchange rulemaking, which is what I will talk about now, that rulemaking would redefine what it means to be a securities exchange as defined in the 1934 act. Think about the New York Stock Exchange, which in 1934 was a place where people went and showed up to argue about prices on behalf of their customers in a room and then became a centralized digital exchange for securities that we know today. But it would redefine what a stock exchange is under the 34 Act to include "those persons who make available communication protocol systems that allow people to potentially express interest in maybe trading a security".

So we go from the New York Stock Exchange, you see the image of the facade on Wall Street in your mind, to a person making available a communication protocol system, a term that is helpfully undefined and can be in anything. This rulemaking is so broad that they specifically exempted chat platforms like Facebook Messenger from the definition because they would otherwise be captured as national securities exchanges. It's a total know it when you see it rule-by-law proposal that is intended to explicitly capture DeFi protocols. This was first proposed in January 2022. There have been three comment periods, one being the original, the second being the SEC's website was down during one of the comment periods and they didn't receive all of the submitted comment letters. And then there was a third for a 167 page addition addendum to the rulemaking that discussed its application to the DeFi space. Again, after the original proposal was purportedly unrelated to crypto and digital assets and didn't even mention them.

So that rule and like the broker rule is back in the agency's hands. They could be finalized. I'll leave it to Amanda to discuss what may or may not happen if they are finalized. But I think if you keep two potentially immediate threats in mind after this State of the Union, I would be thinking about broker and exchange. And Laz, you're gonna briefly discuss section 311 since I've talked



too much and we're pushing our time limit.

*FinCEN Proposed Rule*

**Laz Pieper:** Yeah, I got it. So in October, FinCEN proposed a rule that focuses on transactions involving what they call convertible virtual currency mixing, or CVC mixing for short. FinCEN would essentially require financial institutions to implement certain record keeping and reporting requirements for transactions that they know, suspect, or have reasons to suspect involve what they call CVC mixing within or involving foreign jurisdictions. So the problem is, As we've seen in many instances, the proposed rule provides definitions that are vague, overbroad and unworkable. It seems to be a trend with a lot of these rulemakings. So, first, the proposed rule defines a CVC mixer in a way that would sweep an entire trade industry and business activity into stringent regulatory reporting requirements. Basically, they include any group service code, tool or function that facilitates CVC mixing. So, it's pretty broad. And the definition for CVC mixing itself also sweeps in anything and everything that has to do with crypto. It goes into a list of methods for CVC mixing that don't actually obfuscate anything and just encompass a whole lot of other crypto activities and transactions. A couple of these methods include pooling or aggregating CVC from multiple persons wallets addresses, which is basically encompassing a wide range of activities that, you know, as I've said, don't obfuscate transactions at all. Another one, and one that I found most amusing, was using programmatic or algorithmic code to coordinate, manage, or manipulate the structure of a transaction, which is so vague, it's just unworkable. Using code to coordinate the structure of a transaction would potentially include all crypto transactions. So there's a lot more, but I'm not going to get into all of them. Basically, CVC mixing constitutes everything in crypto and financial institutions like centralized exchanges and would need to keep records and report on every transaction. And so to wrap that in one sentence, the proposed rule would require financial institutions to keep records and report in all crypto transactions, which includes reporting users' wallet addresses and we believe is an unreasonable intrusion into users' privacy and violates the Fourth Amendment. Essentially, this proposed rule introduces massive surveillance data collection for people who are not suspected of any wrongdoing. And as many of you know, a user's complete financial history can be viewed on a public blockchain. So we wrote a letter to FinCEN arguing that they should not finalize this proposal, and now we just wait.

**Max Bernstein:** Awesome. Thank you, Laz and Miller for the state of policy. It's my pleasure to bring up Amanda Tuminelli, Chief Legal Officer of the DeFi Education Fund to provide the state of legal.

**State of Legal**

**Amanda Tuminelli:** Thanks, Max. So there has been a lot going on in the litigation and criminal indictment world, unfortunately. But I think to understand where we are now, we should talk a little bit about how we got here over the past year, because I do think we're in a positive momentum and we, things are turning around. So to start a year ago is actually the Ripple decision. It's like hard to imagine that it was a year ago because it feels both forever ago and



also yesterday. But that was our first real win, right?

*SEC v. Ripple*

In SEC v. Ripple, which was in the Southern District of New York. Judge Torres ruled that the XRP tokens themselves were not securities and that certain sales to programmatic investors who did not know they were purchasing tokens from Ripple would not be considered investment contracts. And even though she didn't issue a larger holding about secondary market sales specifically, there was helpful language about secondary market sales, which became important because there were many other cases involving exchanges and therefore secondary market sales over the past year. And I just quickly mentioned this ruling because even though it did include some findings that were favorable to the SEC, it really was an important blow in the SEC's regulation by enforcement strategy that had been just going kind of unchecked up until that point.

*Risley v. Uniswap*

And there was actually a class action lawsuit, *Risley v. Uniswap*, which I think doesn't get enough attention. And it was shortly after the Ripple decision, Judge Failla, also the Southern District of New York made a really important distinction between the Uniswap protocol developers, the front end, and then the creators of the scam tokens that were at issue in the case. So in that case, plaintiffs, in one sentence, basically, plaintiffs were saying that these scam tokens caused them losses, and because the tokens were available for sale on Uniswap, Uniswap Labs should be responsible. Judge Failla completely rejected that theory, and in one of my favorite passages from the judiciary, Judge Failla responded to the plaintiff's arguments that she should have thought of this technology company, like a technology company that creates self-driving cars with flaws leading to harm or death, and that company should be liable for injuries regardless of whether they were responsible for manufacturing defects. And the court completely rejected that analogy and said that the case was less likely, less likely like a manufacturing defect and more like a suit attempting to hold an application like Venmo or Zelle liable for a drug deal that used the platform to facilitate a fund transfer. And she, in an opinion that was really affirming the rights of software developers to not be responsible for third party liability. She did such a great job of putting the liability on the wrongdoer and not the protocol or the developer of the protocol.

*SEC v. Coinbase*

And that concept became very key in the criminal case against tornado cash, which we'll talk about in a minute. And we actually cited this judge's language back to her in our amicus brief in the Tornado Cash case. But sticking with Judge Failla for just a minute, although we had been very hopeful after seeing the *Risley v. Uniswap* decision, we were not as pleased with her decision in the Coinbase case. So as you all know, the SEC sued Coinbase and accused it of failing to register as a securities exchange, broker, and clearinghouse, and alleged that many of the tokens available for trade on Coinbase were securities. These are the same allegations that you would see in the Kraken case and the Binance case. So while Judge Failla denied the





majority of Coinbase's motion for judgment on the pleadings, meaning she let the case continue to discovery and eventually more motions and possibly a trial, she did grant the motion in one really important respect for DeFi.

So, Judge Failla dismissed the SEC's allegation that Coinbase acted as a broker through its wallet app. And for those of you who haven't used wallet, it's a self-custodial wallet application that allows users to custody their own digital assets separate from the main Coinbase trading platform. Judge Failla held that wallet does not undertake routing activities. It has no control over a user's assets and the user is the sole decision maker when it comes to any swaps going in and out of the wallet. So she basically went against every single allegation that the SEC had made about Coinbase acting as a broker through its wallet app. And that was a real win for DeFi and for wallet developers. So, Coinbase moved to appeal the other parts of the decision, the less great parts of the decision, and the SEC opposed that motion, even though they themselves had asked for the exact same type of appeal in the Ripple case, just evidencing their hypocrisy and willingness to take different litigation positions when it suits them.

#### *Debt Box Case*

And in another case, that highlights the SEC's hypocrisy, there was the debt box case, which we've written about a lot in our weekly blog posts, and you can definitely get into the background, but the key point here in the Debt Box case is that the judge sanctioned the SEC for lying to the court, for making material misrepresentations to the court. So, while the SEC accuses our industry of being rife with hucksters, fraudsters, and scam artists, it turns out that the agency itself is so willing to be aggressive in their pursuit of this industry that they are willing to lie to a court. And in this 80-page opinion, the judge sanctioned the SEC, the word bad faith appeared 46 times, and Judge Shelby said that the SEC's conduct constituted a gross abuse of power entrusted to it by Congress and substantially undermined the integrity of the proceedings and the judicial process. After the opinion came out, two SEC lawyers who argued in court resigned and the branch office in Salt Lake City closed down. And all this is just to say that the SEC is fallible. They make serious mistakes and it is validating to see them be held accountable as they continue to sue industry participant after participant.

#### *Tornado Cash*

Moving on from the SEC for a minute, going to DOJ, one of the more unfortunate developments of this year is that the Department of Justice decided to play a more active role in this space with indictments where the technology was really not central to the drafting. So first up is the Tornado Cash case. As many of you know, in August 2023 in the Southern District of New York, Tornado Cash developers Roman Storm and Roman Semenov were charged with conspiracy to commit money laundering, conspiracy to operate an unlicensed money transmitting business, and conspiracy to violate IEEPA, which is just the federal law related to sanctions. And in that case, the government's theory is really unprecedented. It's really the very first time we have seen the government take this position, which is that software developers should be held responsible for conduct by third parties who they don't know and have no control over, for third



parties committing crimes using software that the developers created years prior. So in this case, we put in an amicus brief along with CoinCenter and Blockchain Association, and all of us worked together to take different issues that were presented by the case.

And I think one of the really important things to note here as the case moved into motions and briefing on the motion to dismiss the indictment is that the DOJ has seemingly abandoned the 2019 guidance that we all received from FinCEN. And that is the guidance that the industry has relied on for years and trying to determine what a software services provider is, what a money services business is. And the DOJ basically said in their opposition to the motion to dismiss, like that's just guidance and we're gonna follow the criminal code and sort of was hand-wavy about this guidance that we had all been relying on for the past five years. So that was alarming. And it was also alarming that they took the approach to sanctions that Tornado Cash developers could be responsible for violating sanctions through no conduct that they had actively engaged in. By merely putting out an immutable smart contract protocol, they could be responsible for third parties interacting with sanctioned entities or for sanctioned entities using the protocol. And like I said, that was the first time we had seen anything like that. And in our amicus brief, we went hard back in response at the indictment. And so did CoinCenter and the Blockchain Association. I would really encourage you to read the briefing in that case.

#### *Samurai Wallet Case*

We saw a similar trend continue in the Samurai Wallet case. There's a similar allegation that the Samurai developers were laundering criminal proceeds through Samurai's Whirlpool and Ricochet products and that they failed to implement KYC and AML programs into Samurai products. The DOJ in both cases has a theory of control, like of what constitutes control by developers that is just, that we have not seen before by any of the agencies or in any other civil cases by like the SEC. So there is a lot to focus on here. We are going to actively continue to fight for the rights of software developers in response to these cases.

#### *Pre-Enforcement Challenges*

And then on a positive note, I'll just highlight some of the pre-enforcement challenges that people have filed against the SEC. So instead of waiting and being defensive, people are taking proactive approaches and filing a case against the government in order to create positive law. So in our case, we filed a case against the government on March 25th, 2024 with our co-plaintiff, Beba, a Waco, Texas based apparel company. And we're seeking a court order that Beba's free airdrop was not a securities transaction and Beba's tokens are not securities. And this case is about unchecked agency power and overreach as you can tell is probably the theme of this entire spaces. And we are also challenging the SEC's regulation by enforcement pattern by bringing a claim under the Administrative Procedures Act and saying that the SEC actually has adopted a final rule. They do have a final rule about crypto. Just because they don't write it down and offer it for notice and comment does not mean it doesn't exist. And because they adopted that rule in secret behind closed doors, they violated the APA.



There, I'll just mention one more pre-enforcement action, although there are a few others out there. The Legilex case was filed in February. Legilex and the Crypto Freedom Alliance of Texas brought a pre-enforcement challenge against the SEC to ask a court to declare that transactions on Legilex's exchange were not securities transactions. And therefore, Legilex was not required to register as an exchange with the SEC. And this case is sort of like a corollary to all of the cases the SEC has brought against exchanges. Winning this action would mean that the court would rule that secondary market sales of digital assets that Legilex lists are not sales of securities and Legilex's exchange is not an unregistered securities exchange. So both of these cases and the other pre-enforcement challenges out there would represent a real barrier to the SEC's campaign of regulatory overreach. Of course, one ruling by one federal judge does not set law for the entire country, but this is how it starts, right? You start at the district court level and whatever happens, if you need to appeal it to the circuit, you do. And if we need to go to the Supreme Court, we will.

### **(Part 2 Begins)**

**Amanda Tuminelli:** I was just going to say that we are always looking for ways that we can partner with other people in the industry who are also interested in going on the offense or are worried about their rights and are looking for ways to affirm their rights in this space. Please reach out. And if you're hesitant to sue an agency, I can't imagine why, there are other ways to get involved, like filing an amicus brief or signing on to an amicus brief that we are writing. Amicus briefs are just friend-of-the-court briefs that go a long way toward educating the judiciary, and they can represent your personal interests, your company's interests, and explain why an issue is particularly important to you or particularly affects your project. So please reach out if you're interested in that.

And then just things on our radar in the next few months include our amicus brief that we will write in *Davidson v. SEC*, which is the litigation challenging the SEC's Consolidated Audit Trail, a massive, bigger than ever seen before database of securities transactions and personally identifiable customer information, where we are on the lookout for a case against Uniswap Labs. Of course, we hope one never comes. We read their Wells response and obviously think that if the SEC brings this case, they will lose, but I'm not sure they're so interested in what I personally think. So they may still sue Uniswap Labs in the next few months. And then as Miller alluded to earlier, if the SEC finalizes their amended exchange rule, we would definitely challenge that. And if the IRS finalizes their broker rule, we would also sue the IRS related to that. If you're interested in being involved in these efforts, please reach out. And now I'm going to pass it over to my colleague, Nathan, to just quickly chat about how the community can engage with us.

### *Community Engagement*

**Nathan Hennigh:** Yeah. What's up, everybody? My name is Nathan Hennick and I'm the newest member of the team. Super excited to be joining such an incredible group of people and fighting for such a worthy cause. So, yeah, I'm the new head of community engagement and my



main responsibility here is connecting with the community, that's developers, users, listening to them, hearing their concerns and really any issues they're facing. But mostly here to give a voice to DApps, to DeFi protocols, both large and small. We want to stand with you and I want to hear everything that's going on and how we can help. So I previously worked for a layer one blockchain foundation and I really care about seeing crypto and DeFi thrive. And I really believe in the world changing power that it has. So I mean, to start with, what I'm already doing here is we are making some changes to address a few concerns of the community regarding transparency in financials. So just clearing that up and providing more transparency on that front. And that ought to be coming in the coming weeks. And next, we're also doing monthly community calls, which will start two weeks from today. So really excited just to work more closely with our community and keep everyone more in touch with what's going on. I also wanted to let everybody know that my door is always open. Max is going to drop my Cal link. So feel free to reach out, schedule a meeting with me at really any point. Just try to drop me a DM so I know who I'm talking to and what we're talking about. But really would love to get to know everybody in this space and figure out ways that we can help each other out. And also, I mean, just keep up with whatever we're doing, following us on X, Warpcast and LinkedIn are the best places to do that. But with that, we're just incredibly grateful for our community. Really none of what we do is possible without the support from you. So please consider donating or buying merch through our merch store to continue supporting us. So thank you for being here today. Really, really appreciate y'all. And I'm going to pass it off to Max to close us out now.

#### Wrap up, Q&A

**Max Bernstein:** Thank you, Nathan. And thank you, Miller, Amanda, and Laz for an incredibly useful rundown of what all is going on down here in D.C. in policy land. And again, I want to apologize for the brief technical difficulties we experienced. it's 2024 And we can't always escape some Internet issues. It looks like all the questions that have been submitted we covered throughout our session. Oh, I just see one question live. One of the questions was, as the DeFi Education Fund focuses on achieving regulatory clarity in the U.S., how can the industry-native initiatives that emphasize standards of transparency, user protection, and accountability contribute to creating a baseline of user advocacy in DeFi? How do these combined efforts work together to foster and ensure ethical practices within the decentralized financial ecosystem? So that is a very good question. Team, anyone want to jump in and take that question?

**Miller Whitehouse-Levine:** Sure, happy to. And it is an excellent question. I think that no one knows the risks that should be addressed via regulatory proposals in DeFi better than developers and users of DeFi. And I think that those issues and risks will be most precisely and workably, meaning practically, addressed via industry self-enforcement and standards. My hope is that legislative and regulatory proposals can incorporate those industry-driven efforts, which are going to make the most sense compared to anything anyone, including us, comes up with in Washington. So we are 100 percent supportive. We have put out draft DeFi principles back in 2021 that tries to start getting at this issue. I think the creation of the, not just one, but two crypto



ISACs over the last 12 months has been extremely encouraging. And overall, I think that those efforts are one of the key, will be one of the key drivers of smart policy in the future. So I think that hopefully we will be able to learn from those efforts before acting at a federal level and hope to see them continue. Awesome.

**Max Bernstein:** Thanks, Miller. We have two more questions. The first question that just came in is, is it useful/possible for protocol governance organizations to contribute funding to individual lawsuits, example against the IRS for broker reporting rules or for SEC exchange rules?

**Amanda Tuminelli:** I'm happy to take this. Yeah. So I think that if you are particularly interested in learning more about a lawsuit or contributing funding to a lawsuit, you should definitely let us know that and you can earmark your donation. We're happy to consider attributing a donation to a specific lawsuit's fees.

**Max Bernstein:** Awesome. Well, thank you, Amanda. And thank you again, everyone, for taking the time and tuning in today. If you have any questions that we didn't have a chance to get to, please feel free to DM us, send Nathan an email. We have contact information on our site. And again, please, if you feel the need, please consider donating to the cause. Our work is not possible without the support of the community. And we do have some pretty sick merchandise that we just launched a few weeks back. So definitely head out over to our website and check that out. Again, thank you, everyone, for joining today. Hope everyone has a lovely rest of the week. And we will be in touch soon. Bye, everyone.

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