



Three years of DEF

At the DeFi Education Fund (DEF), our core mission is to achieve policy outcomes beneficial to DeFi through advocacy and education. As we celebrate our third anniversary, we're proud to reflect on the strides we've made in this rapidly evolving landscape.

The past three years have brought promising developments that signal a growing understanding of DeFi among policymakers and regulators, despite serious challenges to the industry. We are pleased to share this recap of some of our "greatest hits" over the past three years.

Some highlights of our work

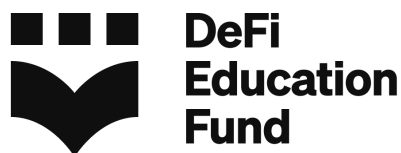
Legal Actions:

- **Suing the SEC:** In March 2024, DEF and Beba, a Waco, Texas-based apparel company, sued the SEC, seeking a court order that the SEC unlawfully adopted its "nearly all tokens are securities" policy and that \$BEBA token free airdrops are not securities transactions.
 - ◆ Looking to learn more? Check out a [blog](#) we wrote on our case.

- **Combatting Crypto Patent Abusers:** In September 2023, DEF took action to protect DeFi and crypto from invalid patent infringement claims. We filed a petition with the U.S. Patent and Trademark Office seeking to initiate an *inter partes* review and cancellation of all claims in a patent owned by True Return Systems LLC. In August of this year, [DEF purchased the patent](#) and dedicated it to the public, leading to dismissals in TRS's cases against MakerDAO and Compound Protocol.
 - ◆ Looking to learn more? Check out a [blog](#) we wrote on our case.

- **Filing of Amicus Briefs:**
 - ◆ *U.S. v. Roman Storm* - We submitted its [amicus brief](#) in the U.S. District Court for the Southern District of New York in support of Storm's Motion to Dismiss the Indictment. DEF's position in our brief was simple: the novel theories in the Indictment are unprecedented and not supported by allegations that reflect the reality of the technology.

 - ◆ *SEC v. Coinbase* - We filed an [amicus brief](#) in the U.S. District Court for the Southern District of New York in support of Coinbase's motion for judgment on the pleadings against the Securities and Exchange Commission (SEC). We explained how wallets and staking actually work and supported Coinbase's arguments that it is not a broker through its Wallet software, nor did it offer securities through its Staking program.



- ◆ *Harper v. Internal Revenue Service* - We filed an [amicus brief](#) to the U.S. Court of Appeals for the First Circuit in support of Harper's appeal of the lower court's order dismissing his case. This case involves Harper's challenge to a "John Doe" summons the IRS sent to Coinbase that resulted in the collection of information about 14,355 Americans (none of whom were accused of any wrongdoing prior to the summons) over a three-year period. Our brief explained the sweeping Fourth Amendment implications of indiscriminately collecting digital asset transaction information and how doing so is more revealing than in the context of TradFi.
- ◆ *Van Loon v. Treasury* - We filed an [amicus brief](#) in the U.S. Court of Appeals for the Fifth Circuit in support of the plaintiffs' appeal seeking to reverse the district court's dismissal of the suit. The plaintiffs are challenging the Office of Foreign Asset Control's (OFAC) assertion that it has the authority to designate smart contracts. We argued that the use of privacy-protecting technology is normal and not inherently illicit and that OFAC exceeded its statutory authority in issuing sanctions that included purely domestic transactions.

Regulatory Actions:

- DEF submits comment letters in response to proposed rulemakings by government agencies in the U.S. and abroad to advocate for outcomes welcoming of DeFi. Here are a few examples of that work:
 - ◆ DEF submitted a [comment letter](#) in response to FinCEN's NPRM "Proposal of Special Measure Regarding Convertible Virtual Currency Mixing, as a Class of Transactions of Primary Money Laundering Concern."
 - ◆ DEF filed three comment letters regarding the SEC's proposed "exchange" rulemaking. Our third and final brief made two primary arguments: first, the proposal improperly reads and misapplies the Exchange Act and exceeds the SEC's statutory authority and mandate under the Act; and second, the SEC has flatly failed to comply with numerous procedural and statutory rulemaking requirements.
 - [Link to first comment letter.](#)
 - [Link to second comment letter.](#)
 - ◆ We submitted a [response](#) to the Banque of France's Autorité de Contrôle Prudentiel et de Résolution (ACPR) regarding their discussion paper: "Decentralised' or 'Disintermediated' Finance: What Regulatory Response?" Our primary arguments included that ACPR should not directly regulate miners and validators by establishing standards for public blockchains; a policy that would



“force centralization” would eliminate the core innovations of public blockchains; and a framework for smart contract certification would require centralization and the inappropriate regulation of speech.

- ◆ We [responded](#) to a request for comment from the Senate Finance Committee regarding the taxation of digital assets. In our submission, we recommended the following:
 - Revise Section 6050I so that it does not “deputize recipients of digital assets to collect and report information about their payers.”
 - Do not tax staking rewards until a sale or other disposition.
 - Do not apply wash sale rules to taxpayers who utilize digital assets as a form of currency.
 - Ask Congress to explicitly extend the application of section 1058’s nonrecognition rule to “loans” of actively traded fungible tokens.

- ◆ We filed a [comment letter](#) regarding the Treasury Department’s proposed “broker” rulemaking. The proposed rule would introduce a brand new category of broker called a “digital asset middleman,” a new term that is essentially limitless in scope and creates brokers out of thin air and, as we argue, runs contrary to the statute and legislative history. Furthermore, we argued that the proposal violates the Fourth Amendment’s prohibition on warrantless searches and seizures of a person’s papers and effects because individuals do not voluntarily turn over their personal data to “digital asset middlemen” who themselves neither collect nor have any legitimate business reason to collect that information.
 - In June 2024, the rulemaking was finalized, but we were happy to see that the final rules did not include rules pertaining to DeFi, which the IRS says will come in the future.

→ Check out the [“Resources”](#) tab on the DEF website for a complete list of DEF’s comment letters.

Our work relies on support from you

These developments are clear indicators of progress in our field. While some may view this progress as slow, we understand that meaningful change takes time. We recognize that a long journey still lies ahead, and we remain committed to this cause for the long term.

To do our work effectively, we rely on support and donations from the community. If you believe, like us, in DeFi’s transformative potential for humankind, we hope you will support our work as we continue to make that case to our elected officials and federal regulators.



**DeFi
Education
Fund**

If you are interested in donating to DEF, please visit <https://www.defieducationfund.org/supportus> , or consider purchasing some “DeFi People” merchandise at <https://www.defieducationfund.org/category/all-products> so you can look legit while supporting a great cause. Please also consider following us on X (@fund_defi), joining our [Discord](#), and subscribing to our [newsletter](#).

Sincerely,
The DEF Team

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