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Before the United States Senate Committee on Banking, Housing, and Urban Affairs
Subcommittee on Digital Assets
Exploring Bipartisan Legislative Frameworks for Digital Asset Market Structure
June 24, 2025

Chairwoman Lummis, Ranking Member Gallego, and distinguished Members of the Subcommittee:

Thank you for the opportunity to testify today on the important and timely subject of market structure regulation for digital assets.[1] I appear before you in my personal capacity, informed by my professional experience as General Counsel of Multicoin Capital Management, LLC ("Multicoin"), an investment adviser registered with the U.S. Securities and Exchange Commission (the "SEC"), and as a Director of both the Blockchain Association and the DeFi Education Foundation, an affiliate of the DeFi Education Fund. I also serve as a Senior Lecturing Fellow at Duke University School of Law, where I have the privilege of engaging with the next generation of legal minds on financial innovation.

Multicoin invests in both liquid token and venture strategies across the digital asset ecosystem. Through our venture activity, we work with and support founders seeking to build projects that generate economic and commercial activity in the U.S. and abroad. These founders have been challenged by the lack of regulatory clarity and increasing costs of operating in the United States, unfortunately driving many to build offshore and to make their products inaccessible to U.S. persons altogether. The 119th Congress has the opportunity to finally provide certainty, promote responsible innovation, and maintain the U.S.'s position as the leader of global financial markets.

As a firm that provides early-stage capital to transformative crypto projects, Multicoin views policy through a dual lens: one that values responsible risk-taking and bold entrepreneurship, and another that appreciates the benefits of well-calibrated regulation in unlocking institutional capital, improving consumer outcomes, and aligning incentives for long-term value creation. Indeed, bold entrepreneurial spirits are only maximized when met with legal clarity and reasonable regulations.

I. Support for Bipartisan Legislative Action

I commend the bipartisan work of both chambers in advancing legislation to address digital asset market structure. The House's Digital Asset Market Clarity Act (the "CLARITY Act")[2] and the

[1] Throughout this testimony, I intend to use terms that may be generic in scope but should be broadly understood to have an intended meaning. This includes "digital assets" when discussing cryptographic tokens that operate on distributed ledger networks; legislation to date generally uses digital assets as a broader term that would include digital representations of value, regardless of whether associated with distributed ledger or blockchain ecosystems.
[2] U.S. Digital Asset Market Clarity Act, 119th Congress, available at https://www.congress.gov/bill/119th-congress/house-bill/3633.

Senate's earlier Responsible Financial Innovation Act (the "RFIA")[3] reflect serious engagement with the nuances of blockchain technology and represent a move away from regulation by enforcement. The CLARITY Act provides a functional maturity test centered on decentralization and the degree of third-party reliance—an approach that, if implemented, would materially improve predictability for both builders and market participants.[4] The RFIA's ancillary asset concept acknowledges a legal truth long apparent to industry participants and increasingly recognized by courts: the digital asset itself is not the security; rather, the investment contract under which it may initially be sold determines whether and when securities laws apply to a transaction in the token.

These proposals are not mutually exclusive. In fact, they are complementary. The combination of a bright line test (as in the CLARITY Act) and a formal recognition that the digital asset is distinct from an investment contract (as in the RFIA) provides an analytically coherent and administratively workable regime. Navigating the connection between these two frameworks is critical to providing clarity and a legally-coherent framework for those seeking to engage with digital assets.

Moreover, both the CLARITY Act and the RFIA provide a robust framework for centralized intermediaries in digital asset markets. We support this endeavor, and the framework for federal preemption of state law for applicable crypto market activities. Bipartisan, bicameral efforts to refine and pass these frameworks is one of the most important tasks for the 119th Congress.

II. A Venture Capitalist's Perspective: Regulation as a Catalyst for Growth

As a venture investor, I know firsthand that uncertainty kills momentum. It deters capital, paralyzes builders, and prevents ambitious ideas from gaining the traction needed to prove product-market fit. In the digital asset space, the lack of a clear and reliable regulatory regime has become the most significant barrier to innovation.

Ironically, the absence of statutory clarity has produced not a regulatory vacuum, but an adversarial regulatory climate, one where success is penalized by surprise enforcement, and ambiguity is used as a gatekeeping mechanism.[5] This environment is unsustainable. Startups and protocols are forced to route around the U.S. entirely, limiting access for American consumers, stalling domestic job creation, and eroding our leadership in this critical technology domain. This hostile environment has also chilled participation from established financial and technology companies, preventing them from adopting new technologies with the potential to improve services and foster economic growth.

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[3] Lummis-Gillibrand Responsible Financial Innovation Act, 117th Congress, available at https://www.congress.gov/bill/117th-congress/senate-bill/4356, and 118th Congress, available at https://www.congress.gov/bill/118th-congress/senate-bill/2281.

[4] The CLARITY Act's maturity test also benefits from the work done by SEC Commissioner Hester Peirce in iterating on a regulatory safe harbor for token-based projects. See Github, CommissionerPeirce/Safe Harbor 2.0, available at https://github.com/CommissionerPeirce/SafeHarbor2.0.

[5] As has been noted before this committee and its corollary in the House, virtually every major project seeking to build correctly and compliantly in the United States has been denied clear guidance and met with regulatory inquiries and enforcement. See Justin Slaughter, et al., "Lessons from Crypto Projects' Failed Attempts to Register with the SEC," (2023) available at https://www.paradigm.xyz/2023/03/secs-path-to-registration-part-ii.

But we should not mistake the industry's call for clarity as a desire for deregulation. Rather, the industry wants real rules. It wants clear boundaries, fair disclosures, and standardized pathways to compliance.

I was brought into crypto 12.5 years ago by the Winklevoss brothers, who introduced me to Bitcoin and hired me and my colleagues to figure out how to bring digital assets to both main street and Wall Street through ETFs and an exchange. Central to that mandate – and core to most of the engagements I have entered into as a "crypto" lawyer – was seeking and advocating for regulatory clarity and a path toward consumer protection, market access, and protections against manipulation, illicit activity and casualty. I am not unique; there is a robust community of legal advocates that have been working – sometimes with frustration – to guide our clients in responsible innovation, and we are thrilled to be a resource for the 119th Congress as it seeks to deliver that clarity.

Regulatory certainty unlocks growth. When teams know what rules apply and how to follow them, they can operate confidently. For asset allocators, understanding how to assess risks – including legal and regulatory risks – is essential. Finding regulatory clarity in markets, in turn, builds trust with users, institutional allocators, and the public at large. While other global regulators have initiated standard setting, licensing and registration regimes, the United States remains the dominant force to shape global financial and commercial markets and must not cede this authority to others.

III. Principles-Based and Forward-Looking Regulation

One of the great challenges in this space is legislative over-specification. Business models, token distribution mechanisms, and governance structures are evolving rapidly. The best digital asset regulation will define guardrails, not create blueprints. Rather than dictating forms, legislation should articulate outcomes: protection against fraud, transparency of protocol rules, mechanisms for recourse, and the ability to exit systems.

Flexibility does not mean a lack of rigor. It means recognizing that best practices are still emerging and that open competition among structures should be allowed to flourish. Congress succeeded in fomenting the growth of the Internet by allowing business practices to develop. Attempts to legislate which digital asset models are acceptable today will invariably lock in yesterday's assumptions – many of which were birthed from regulatory uncertainty – and lock out tomorrow's innovations.

To illustrate: in the last five years alone, we have seen emergent innovations in token distribution, from airdrops to community-driven DAOs to permissionless liquidity bootstrapping pools. These approaches did not originate from regulatory mandates. Rather, they emerged from iterative experimentation and the natural incentives of decentralized networks and their participants.[6] If

[6] The introduction of automated market maker ("AMM") pools and functions is a good example of product innovation that sought to solve hard technical and coordination problems in decentralized finance execution, including for decentralized trading platforms. For a short explanation of AMMs, see "The Uniswap Protocol,"

legislation today mandates fixed taxonomies or specific launch models, it will entrench the status quo, favor incumbent players, and effectively foreclose better approaches that have not yet been imagined.

Instead, we should favor frameworks that define desired ends: transparency of token supply and governance, fair and open participation, and protection against information asymmetries. We get there through principles, not prescriptions. The market and regulators will chart the path toward Congress' established North Star.

IV. The Need for Bright-Line Rules

For too long, market participants have had to operate under the shadow of vague standards, mixed guidance and shifting regulatory interpretations. Nearly all legal determinations – whether by founders, funds, custodians, or exchanges – require significant legal spend and risk tolerance; absent Congressional action, this invisible tax does not even provide true certainty. This should not be the case for a market that is increasingly mainstream and global in scope, and one identified as a core area of growth for the US economy.[7]

Bright-line tests, including those presented in the CLARITY Act and RFIA frameworks, allow most token developers, exchanges, custodians, and end-users to confidently assess legal obligations without requiring bespoke legal opinions or costly negotiations with federal or state regulators. These tests largely circulate around whether a token is a security or a token transaction a securities transaction, on the one hand, and whether the distributed application with which a token is associated is controlled by a person or group of persons on the other hand.

When assessing whether a token is a commodity or a security (or a token transaction a commodity transaction or security transaction), these tests should focus on core indicia: whether the party selling a token is engaging in fundraising to support the development of a protocol, whether the protocol is functional, whether the protocol is decentralized or sufficiently resilient to no longer rely on the managerial or promotional efforts of a single team, and whether the token itself resembles the enumerated types of securities set forth in the federal securities laws.[8] In particular, I believe an appropriate legal framework will assess whether a token or a transaction therein provides a legal right

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available at https://docs.uniswap.org/concepts/uniswap-protocol. The advent of AMMs was a step function upgrade to DeFi exchanges and may have practical implications for broader markets. See, *e.g.*, Katya Malinova, "Learning from DeFi: Would Automated Market Makers Improve Equity Trading?" (2024), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4531670.

[7] Executive Order, Strengthening American Leadership in Digital Financial Technology (Jan. 23, 2025), https://www.whitehouse.gov/presidential-actions/2025/01/strengthening-american-leadership-in-digital-financial-technology/.

[8] See, *e.g.*, Section 2(a) of the Securities Act of 1933 and *Tcherepnin v. Knight*, 389 U.S. 332 (1967). "Securities" includes broad categories of instruments, including the flexible category of "investment contract," which has been central to attempts at digital asset analysis. While focus is appropriately placed, we caution Congress against solely considering investment contract analysis that flows from *SEC v. W. J. Howey Co.*, 328 U.S. 293 (1946).

or obligation against an "issuer" of the digital asset.[9] This analysis was best laid out in *The Ineluctable Modality of Securities Law: Why Fungible Crypto Assets Are Not Securities*.[10] In this work, the co-authors clarify the importance of creating bright lines tests around the nature of the *transaction* involving a digital asset, rather than solely discussing the digital asset itself.

In the case of determining whether a distributed application – which may broadly be interpreted to include everything from blockchain networks to smart contract applications that autonomously govern a narrow financial or commercial transaction – is truly decentralized, we must determine what constitutes control by a person or group of persons. The CLARITY Act's maturity test provides a high level framework for some key considerations; however, it is imperative that Congress instruct the SEC to conduct notice-and-comment rulemaking to further define concepts such as "unilateral control" and what a group of persons means in the context of digital asset systems. While control will be fact specific on the edges, creating clear frameworks and tests for what is definitely decentralized or decidedly not will assist developers and users – and also will identify where risks of participation have moved from counterparty-focused to code-focused.

Such clarity is essential not only for orderly markets but for investor protection. When market participants know the rules, they can build and use safe, compliant products. When rules are murky or ad hoc, only those with the largest compliance budgets can operate—and even then, at constant risk.

V. Dual Agency Oversight and the Role of Intermediaries

I strongly support a dual-agency framework in which the SEC and the Commodity Futures Trading Commission ("CFTC") work in parallel. The SEC is well-positioned to oversee token fundraising mechanisms and disclosures where traditional investment contract principles apply. The CFTC, meanwhile, is best suited to oversee commodity-like spot markets and ensure robust integrity in secondary trading.

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[9] At Multicoin, our co-founder is fond of saying that reasoning by analogy actively leads to the wrong conclusion. Unfortunately, this is often true when trying to pair traditional financial regulatory concepts to the crypto economy. Most digital asset "issuers" neither resemble nor stand in the same shoes as a security issuer. The exceptions are limited to operating models where the holder of the token has contractual rights against the issuer. Non-security and security examples of such models include Circle Internet Finance's US Dollar Coin (USDC), which offers commercial users a conditional right to redemption, and Blackrock's BlackRock USD Institutional Digital Liquidity Fund (BUIDL), which offers investors exposure to a yield bearing fund. For most digital assets, a token holder has *powers* within a blockchain protocol (i.e., holding a token enables a user to receive access to a system perform functions such as paying gas for transactions), but these tokens do not generally grant a person a legal right or contractual obligation from another party. As we assess the application of securities laws to the parties that launch, support or otherwise create digital assets, we must acknowledge that a crypto "issuer" is not analogous to the issuer of a security, and may be hard to identify or hold responsible for issues such as disclosure obligations.

[10] Lewis Cohen, et. al. "The Ineluctable Modality of Securities Law: Why Fungible Crypto Assets Are Not Securities" (2022), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4282385. See also the testimony of Mr. Cohen before the full Senate Banking Committee this past February, available at https://www.banking.senate.gov/imo/media/doc/cohen_testimony_2-26-25.pdf.

Crucially, centralized intermediaries – including exchanges, custodians, and payment stablecoin issuers – must be regulated to protect consumers. That regulation should focus on essential principles: segregation of customer assets, cybersecurity and technical safeguards, AML/KYC compliance, auditability of reserves (particularly for stablecoins), and robust disclosure standards.

Such regulation should be rigorous, but not prescriptive. Overly rigid applications of securities laws—particularly through enforcement-first strategies—have not resulted in better consumer outcomes. Instead, they have driven both talent and capital offshore.

In addition, we must not assume that regulation applicable to digital asset intermediaries should closely mimic that applied to traditional financial institutions – this is true even where the functions look like or rhyme with traditional finance. For example, we assume that the use of third party custodians is table stakes for regulated financial institutions; however, the commercial and technical realities mean that certain digital assets – or certain activities with digital assets – will not be available on commercially reasonable terms. Similarly, we must acknowledge that the life cycle of digital asset transactions, including the custody of digital assets, is not analogous to that of traditional securities; costs and settlement functions differ and market rules must be promulgated that don't limit functionality or force intermediation where it is not required or actually beneficial to consumer and investor protection.

While the legislative mandate is the focus of this hearing, rule promulgation by the SEC and CFTC will be essential in fine tuning and implementing the framework you endeavor to build.

VI. DeFi and Self-Custody as Foundations of Innovation

Decentralized finance ("DeFi")[11] and self-custody are not merely edge cases. They are foundational design features of digital asset ecosystems and essential for the introduction of new tokens and smart contract applications. They allow innovation with new primitives, enable direct peer-to-protocol engagement, and lower the barrier to entry for both developers and users. They are also a core design feature and innovation within blockchain systems and have the power to broaden participation in financial systems.

In practical terms, self-custody is a prerequisite for most users interacting permissionlessly with the digital asset ecosystem. Blockchain systems are predicated upon this direct access, and for almost all new assets and protocol functions, centralized or intermediated access is not available at launch. Moreover, for many market participants, direct access is preferred. Likewise, DeFi serves as the launch pad for many innovations that centralized actors will only support after significant liquidity or

[11] Decentralized finance refers to "an open source, blockchain-based, software-based system that empowers users to engage in economic transactions without the need for [traditional] intermediaries". Rettig, Rebecca, Mosier, Michael et al. "Genuine DeFi as Critical Infrastructure: A Conceptual Framework for Combating Illicit Finance Activity in Decentralized Finance," *Journal of Fin'l Regulation* (2025), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4607332.

usage is proven.[12] If we limit or chill DeFi and self-custody, we limit the entire lifecycle of innovation. As such, any legislation that fails to preserve legal space for decentralized systems will be incomplete and, ultimately, ineffective.

We must also be careful not to subject these decentralized systems to frameworks built for traditional intermediaries. Open-source smart contracts and self-custodial software cannot and should not be regulated as if they are banks, broker-dealers or other financial institutions. Truly decentralized systems operate in a transparent, rules-based manner that empowers and gives agency to users, instead of our traditionally regulated middle men. There are of course risks to mitigate with these new systems, but they vary greatly from the risks of traditional financial intermediaries. The core question is what constitutes a truly decentralized system. The answer will require guidance and notice and comment rulemaking – potentially from multiple regulators – after consultation with technical experts.

VII. Disclosure Reform Tailored to Token Networks

Disclosure is foundational to investor protection—but we must adapt disclosure expectations to this novel context. In many digital asset ecosystems, there is no "issuer" (in the sense used in our federal securities laws), no controlling entity, and no profit-seeking enterprise. Once created by deploying code to a blockchain network, there is generally no legal entity on whose existence a digital asset depends, thus changing the disclosure landscape substantially.[13] Rather, information relevant to users and purchasers pertains to protocol design, transparent network activity, token economics, consensus mechanisms, upgradeability, security audits, and the roadmap for future governance.

This information is often technical, decentralized, and shared across a globally distributed developer community. Disclosures, if they are to be effective, must be tailored not only to the subject matter but also to the realities of who is in a position to produce and verify them.

There is strong precedent for tailored disclosures in emerging markets. The JOBS Act's provisions for Reg CF and Reg A+ created frameworks for lighter, risk-adjusted disclosures for smaller issuers. Similarly, disclosures for mutual funds differ from those for public operating companies. Congress should take a similarly nuanced approach here. Digital asset disclosures should be useful, relevant, and realistically producible for the particular asset.

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[12] For novel digital assets and digital asset protocols, this permissionless, self-custodial access is essential. Intermediaries go through technical and diligence testing before engaging with new assets and primitives. This means that for all but a handful of assets and protocol functions, going through a Coinbase, Kraken, Gemini, Paxos, Anchorage or BitGo will not be an option. Those entities support these assets after seeing client demand, which requires giving new assets and protocol functions the opportunity to grow through DeFi and self-custodial access. In addition, centralized intermediaries may seek to avoid DeFi and self-custody because it is anathema to their product focus or business model.

[13] The exceptions that prove the rule include tokenizing centralized services or products, such as Circle's USDC and Blackrock's BUIDL. See footnote 9, *supra*.

Moreover, disclosures should reflect the non-linear evolution of many projects. As protocols mature, decentralize, and transition from development-stage projects to community-run networks, the sources of material information also change. Legislation should enable disclosures that evolve over time and sunset when the protocol reaches a sufficiently decentralized state or the party making such disclosures ceases to be materially involved. In this regard, we strongly support the categories of disclosure articulated in both the RFIA and the CLARITY Act. These proposals sensibly focus on token functionality, governance mechanisms, network security, and tokenomics—rather than on outdated corporate metrics that often bear little relevance to blockchain networks. Both bills provide flexible yet structured templates for informing market participants about the characteristics of digital assets and their associated ecosystems. This approach, which aligns with both the RFIA's ancillary asset framework and the CLARITY Act's maturity model, balances protection with practicality.

Congress must also consider the liability standards for these disclosures, understanding that information regarding an open-source, distributed protocol and the assets related to it are not typically personal to any founder, developer or "issuer," or to an exchange making an asset or service available to consumers. I encourage the legislators and subsequent regulators considering these standards to adopt a "constructive knowledge" standard for digital asset disclosure regimes.[14] This will shield parties making disclosures from liability for material facts that they do not and often cannot know due to the open, permissionless development of digital asset protocols.

Without tailored, principles-based disclosures, we risk creating a paperwork exercise that burdens developers without serving end users. If our goal is transparency and informed participation, then the disclosures must meet users where they are and evolve with the technology they aim to describe.

VIII. Economic Competitiveness and the Global Stakes

The stakes are high. Jurisdictions across the globe—most notably the European Union (including its Markets in Crypto Assets regime), the UK, Singapore, the United Arab Emirates, and Hong Kong—are moving aggressively to define clear rules, welcome compliant participants, and foster local innovation. The United States must not cede leadership in foundational internet-era technologies.[15] Legislative clarity is not only a matter of investor protection—it is a matter of global competitiveness, national security, and economic sovereignty.

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[14] Constructive knowledge is a legal doctrine by which a person or entity is deemed to have knowledge of a fact, whether or not they actually possessed it, if they could have discovered it through reasonable diligence. See *Ernst & Ernst v. Hochfelder,* 425 U.S. 185 (1976).

[15] It is an important distinction that we do not advocate for a no holds barred environment. Where appropriate, we want tough rules that set a high bar. A good example of this is the GENIUS Act passed by the Senate last week. Available at https://www.congress.gov/bill/119th-congress/senate-bill/394/text. This bill would create bank-like regulation of stablecoin issuers and robust requirements and protections for permitted payment stablecoins. Not being left behind is not a race to the bottom, but an important opportunity to define the nature of regulation globally, preferably without creating competitive disadvantages, impossible compliance or commercially unreasonable compliance costs on American businesses. We encourage Congress, the SEC and CFTC to continue to work with global peers to harmonize and promote global regulatory cooperation.

Yet this is not just about having a regulatory framework. It is equally a matter of how practical and implementable that framework is in the real world. If legislation mandates business models that deviate significantly from commercially viable structures or imposes compliance obligations so costly or ambiguous that startups and midsize projects cannot meet them, we will not protect consumers—we will simply drive the market overseas.

Indeed, there is already evidence of this flight. According to the 2024 Electric Capital Developer Report, the United States experienced a decline in its share of blockchain developer activity, with the relative percentage of U.S.-based developers dropping from 42% in 2018 to just 24% by 2024. Meanwhile, other jurisdictions that have embraced clear digital asset regulation, such as the EU and certain Asian markets, have seen a corresponding rise in talent concentration and project formation.[16] This erosion is especially troubling given that blockchain developers serve as a proxy for future innovation. A nation's share of open-source contributors today is likely to correlate with its share of foundational companies tomorrow.

Congress is thus charged with a nuanced task: to establish clear, enforceable table-stakes protections — around custody, disclosures, anti-money laundering, and conflict management — without stifling the economic dynamism that characterizes this sector. Aristotle called this the Golden Mean, a balance between two extremes, in this case prescriptive rules and unrestrained freedom. Our Golden Mean should provide core principles that allow for changing norms and business models to promote future growth, to enable the daughter to be greater than the mother and the son to be greater than the father.

IX. Conclusion

Digital assets and blockchains are not simply a new class of instruments and data networks. They are an important technology with the potential to reshape how value is stored, transmitted, and governed, and how Americans interact with each other. Congress has an opportunity to set the tone for a generation of responsible innovation. I urge you to enact legislation that provides clarity, preserves consumer choice, and ensures that the United States remains the global home of crypto innovation.

Thank you for your leadership, and I look forward to your questions.

[16] Electric Capital, "2024 Crypto Developer Report: Geographic Trends," https://www.developerreport.com/geography.