

Behind the post-election crypto bump

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00:24

Hello and welcome to the OMFIF podcast. My name is Lewis McClellan. I'm the editor of the digital monetary Institute here at OMFIF, and today we're going to be discussing the crypto industry and the effects on the crypto industry from the US election. Won't be a surprise to anyone to know that that's been absolutely seismic so far, Bitcoin is at all time highs over 90,000 and by the time you listen to this will probably be even higher. Actually, that's definitely not investment advice. Don't, don't buy but yeah, the I think it's fair to say that this is the first major election cycle in the US where crypto policy has been a serious plank of in some ways, both candidates platforms and yet, the effects are already being seen. So fortunately, I don't have to talk about this alone. I'm joined by some real experts on this topic who work in the industry and are exposed to a lot of the effects that we're kind of looking ahead to analyze. So I'll let them introduce themselves. Dorothy to go first.



01:32

Hi. My name is Dorothy DeWitt, and I want to thank Lewis and OMFIF for having all of us on and just as a brief background, I've been in trading in markets for a long time. Somewhat recently, I worked at Citadel securities. Then I joined as general counsel at Coinbase. I then became the Director of the Division of market oversight, the largest policy division that oversees all of the exchanges and also oversees market changes in emerging risks like new new types of markets, like and new market structures it develops, like crypto and prediction markets and other things. And one of the things I was most proud of during my time at the CFTC is, along with some other experts, helping the 700 person commission really understand crypto so they could get to the level that they needed to be, and that, you know, they're well beyond that. Now, afterwards, after I left the CFTC, I did a six month stint in the Senate, developing bipartisan legislation,

working as chief finance counsel for Senator Gillibrand, and the purpose of that was exclusively to develop policy, bipartisan policy, around cryptocurrency and payment stable coins. I now run my own company that is a consulting company that specializes in providing innovative solutions to emerging industries. That company is called Tolt strategies.



02:50

Fantastic. Thanks. Dorothy, Suzanne,



02:54

Hi everyone. I'm Suzanne Morse field and again, thank you as well. Tom fit for gathering all of us look going to talk with everyone about these topics, I should do a disclaimer at the front that the obvious one that these are my views and not the views of any of my current, past or future employers. And I also happen to be wearing a bright red blouse, which is not wardrobe advice or political advice, it is just what I happen to wear today. My background is also in tradition, a lot of traditional finance background and traditional accounting and tax background. I'm a PhD in accounting and tax and serve. Has been serving as the Global Head of accounting and tax solutions for Luca, which is a data and software company in the crypto industry. I also serve as a policy advisor for crypto UK, which is a UK centric, obviously, trade organization. And I'm looking forward to talking about, perhaps some of the cross across the ocean, sort of effects of some of what's going on in the US as well.



03:59

Fantastic. Thanks. Suzanne. Great to have you. Anna and Brian,



04:02

thanks, Louis. And also a pleasure to be here. Brian Whitehurst, I'm the head of Regulatory Affairs and Regulatory Council at Luca, as colleagues with Suzanne of enterprise data management and software solutions for anyone that has crypto assets on their books. Prior to joining Luca, almost two and a half years ago, I spent 12 years at the New York Attorney General's office doing securities and commodities fraud litigation, the last five of which were all in the digital asset space. I started, for lack of lack of a better word, the digital assets practice there at the New York Attorney General's office was the lead on such things as the tether investigation and Bucha and a number of other things throughout the years, at Luca, I spend a lot of my time speaking to global regulators to kind of see how they're developing their frameworks for digital assets and what they're doing. And globally and how they interact with other regulators, and spend quite a bit of time down in DC doing the same. And it's pleasure to be here. Fantastic.



05:07

Well, it's great to have you all. I mean, I think we've got a really good balance here. We've got some litigation experience, some accounting, some some regulation and legislation

some litigation experience, some accounting, some some regulation and legislation backgrounds. So Well, with that out of the way, let's, let's get straight into it. Obviously, we've seen a huge boost to crypto asset prices following Trump's election. Would that have how much of that is tied to Trump and his policy platform? I mean, obviously, in some ways, you know, you wait for just clarity, and I think that's that we've seen some of that in traditional assets, and maybe it would have gone similarly either way. So just how different were the candidates on this and how much of what we're seeing now is a reflection of what people are are expecting from from the Trump administration?



05:50

Well, I think you would have seen, ultimately, a bump from either candidate with either either candidate winning. However, I think you the more immediate and larger bump was going to always happen with Trump, there was going to take some a bit more time, I think, with Harris, had she won, because she was not as clear with what she thought about the industry during the campaign season. So I think ultimately would have come down. Her bump would have come from her decisions during the transition period. And if you know, for instance, if Gary Gensler would have stayed as chair of the SEC and other decisions that she could have made along the line, but ultimately, I do think you would have seen a bump, by the way, just a much bigger bump with Trump.



06:35

I would also add that I agree with what Brian said, but really that the trifecta is what gives the biggest bump that you have for for the crypto industry, that is President Trump winning the presidency and Republicans winning both the House and Senate. So that is really what enables legislative solutions around cryptocurrency, many of which have been proposed in the last session, but we're really lacking in Democrat support, with some few exceptions, including the time that I spent on the Senate with Senator Kirsten Gillibrand, who co sponsored a Gildan Lummis bill. But now that Republicans have control of both the House and the Senate, they are able to move the legislation forward. That can do a couple of things. The first thing it can do is it can expand the CFTC jurisdiction to spot crypto market. The CFTC has never had spot market jurisdiction. And you would think traditional Republicans would want to restrict jurisdiction, generally speaking. But crypto is unusual in a lot of ways. And crypto wants to be regulated. The industry wants to be regulated. It's been asking to be regulated so Congress can more quickly pass legislation, whether it's related to the current what was proposed in the current session that's about to expire, it'll need to be reintroduced, or maybe something slightly different. But that trifecta is really important for the crypto industry, and the crypto industry is cheering.



08:00

Yeah, I could add one, really, just little point to that from it's kind of from the academics world, which is what drives Bitcoin valuation in particular. So we've got decades and decades of understanding what drives and growing and understanding what drives equities markets. But Bitcoin, in particular, in crypto, we have less understanding of having said that there's some good academic research that's really starting to to come out that indicates it's mainly sentiment at the moment, right? So, because you don't have an underlying necessary thing

that it has built, or is, you know, is building on. It's not got a widget behind it, per se, though we could argue about that, but it's sentiment. And going back to both Brian and Dorothy's point, there's, there's a lot of positive sentiment now that has really come forth. And it's come forth because of the election and because of the trifecta, I think is that is a really sort of nice way to kind of get our arms around that.



08:57

Yeah, yeah. I think that's a really good point. I want to come back to the legislative action that you referred to Dorothy in a moment. But just before that, there's another component which I think is worth asking about, and that is the regulatory side of it, and the possible change in personnel. I think it's no secret that you know Trump, I think in his campaign, said firing Gary Gensler at the top of the SEC was, was a day one task. I don't know if it'll actually pan out like that, but we're certainly expecting a change in in personnel at some of the top regulators and yeah, how is that going to play into the the approach, and is that being factored into what we're seeing in crypto asset prices? All right,



09:44

ladies, first. Thank you.



09:47

Well, let's start with the easiest, for the hardest, and then throw in a couple complications, but I'll cover just a little of it, and maybe come in at the end if there's more to cover. So I don't, you know, don't, don't go too far. 50 under President Joe Biden, banking regulators have effectively precluded digital assets from being integrated into the banking system, and the SEC has applied a regulation through enforcement approach strategy to blockchain related enterprises. And both of those approaches are approaches that the new administration may or indeed are very likely, to curtail or reverse regulatory change is slow, although there is something called the Congressional Review Act that can be a little faster, where Congress in session can repeal recently finalized legislation. We can go into that in more detail, if you like, but we do expect that those things will change. There is sort of a big wild card, and this is the wild card that relates to the prior comment of where crypto is sort of counterintuitive. In some ways. It's an industry that wants more regulation, whereas most other industries, like energy and others might want less regulation. As you probably know, entrepreneurs Elon Musk and Vivek Ramaswamy have been designated to co head a new department of government efficiency Doge, which is sort of convened to enact changes that are significant and reduce the government significantly. It's hard to know how that will play out in the circumstances of cryptocurrency. They are generally crypto fans, and crypto generally wants to be regulated under expanded regulation by the CFTC. So that's one one variable there. I'll turn it over to you.



11:35

Yeah. I mean, I would just want to add that at the top, Donald Trump does not have the capability to fire Gary Gensler, because that's not how the Commission works. Generally, what he can do is remove him as chair of the SEC and then he can choose Gensler if he wants to

he can do is remove him as chair of the SEC, and then he can choose Gensler if he wants to stay on as a normal Commissioner, as the others are. But there would be a new chair. I think there were reports at the end of last week, maybe on Saturday even, that he potentially might Gary Gensler might step down and resign from the SEC before the end of the year, but we'll have to wait to see on that standpoint. But either way, I would expect a change in the chairmanship of the SEC. Now what I think that brings, from a regulatory standpoint or is a change in the philosophy back to what it normally is. When I was at the New York AGs office, we worked a lot with the SEC and typically the actions that you're seeing brought now against the likes of Coinbase and binance and Kraken and others, where they're looking at registration issues were usually handled through settlement, and they would say, hey, you need to come in and you need to register. These are, these are the things we we expect you to register as and you pay a fine and then find a path to registration. That's what they did, even as recently as with block five. Block five was fined \$100 million between the SEC and the 50 states Attorney General's Offices, but there was a path to registration, so I would expect that it goes back to that, and hopefully the SEC gets back to looking at real fraud from a litigation standpoint, and looking at how platforms are functioning and are they actually taking advantage of those customers, I think that will be the biggest regulatory change and litigation change coming out of the SEC under new leadership.



13:34

I'm really glad you said that, Ryan, because I think there's this sort of mistaken idea that you can just fire the chair. And there's not this understanding of that the commission is by bipartisan. The commissioners are a mixture of political parties on purpose, and that the chair is supposed to be sort of a first among equals, you know, almost similar to the supreme the US Supreme Court, in that sense. And so it isn't just, you know, as simple as it sounded, I think the the other thing I really appreciate that you know, kind of you, you both have touched on is that is that enforcement doesn't need to, isn't going to go completely away. It would be, but where will, you know, presumably, focus is on actions that are fraudulent and and that we just sort of return to the norm, return to, you know, maybe more of a sort of center, more balanced way, where the commission is operating in a way that we're we're more all more used to it, and probably is more healthy. Just my personal opinion on that last one,



14:36

let me add one thing on leadership. I do expect the SEC and the CFTC chairs to resign in the normal course before inauguration, and usually there's an interim chair that's appointed for each the interim chair often is a current Commissioner, but doesn't have to be. And then normally the Senate takes a process that can take months and even last in the. Administration took just about a year for the CFTC because it tends to be a lower priority than, say, the Treasury secretary or Fed chair. But normally you have a process where there are hearings in the Senate and approves nominees, so it can take time to put permanent chairs in place here in the US without going down a rabbit hole. There's some discussion about bypassing that process. But I'll leave that to reports for another day. That's generally how it works, and it with the SEC you might see kind of a reversal policy, even in the interim. For example, if Commissioner Hester purse, who's known as crypto mom and has proposed a safe harbor, if she becomes the acting chair. She has some things she can do immediately. For example, she can withdraw some rules, proposed rules, from the agenda. She can withdraw some staff guidance, which is not binding commission guidance, like sab 121, but the CFTC wouldn't as

much be reversing course on policy, because it's tended to make sure that it's ready and prepared to take on new jurisdiction it may be given. And there are a few small areas in enforcement, and some other other areas generally and kind of principally, where they there may be some change in course, but not as much as with the SEC with the new chair. I is my sense? Yeah,



16:21

yeah. No, that makes sense. Thank you guys. Um, we've, we've referred to quite a few different areas of policy here, and I think it would be helpful to just set out what the kind of key issues that the crypto industry is awaiting clarification on are. So it's become kind of old hat now, but I think it remains important the definition of securities, whether crypto assets or securities or not. And I guess overlapping with that is the regulator's jurisdiction. You know whether, whether CFTC or SEC is going to be supervising these primarily, Brian, you mentioned the having a clear path to registration for for service providers. And we should definitely talk about sab 121 the staff accounting bulletin. 121 which requires the custody of crypto assets to be treated as liabilities of the balance sheet, so you have to hold an asset against them as if it were a normal liability, rather than a custody liability, which is unique for the crypto industry and makes it very, very difficult for banks and other industry other institutions to provide crypto services, much more so than it is in Europe, for example. Have I missed anything key there? Can you talk a little bit about some of the other topics that I might that are sort of the key areas? And you clarified?



17:38

Yeah, I mean, I think top of mind, and apologize if you if you mentioned it, but I think stable coins is going to be one of the one of the big ones, and could ultimately be the first that comes along in the line of legislative actions and regular regulatory clarity. Stable coins, in my mind, are the underpinning of industry writ large. And I think what people need to start thinking about is how stable coins are going to end. Going to interact with, you know, the future of real world asset tokenization and and potentially CBDCs and everything down the line, and not just a mechanism to be able to execute regulatory arbitrage and and be a and trade in a trading mechanism. There's going to be a world where stable coins are going to be so much more involved in my mind, for for the day to day holder. And so I think getting that legislation and that regulatory clarity is vital. I do think sab 121, is, is going to be one of the top of mind things. I'll let Suzanne discuss that in more detail, how she is the resident accounting expert. But I would say those two are one of the bigger ones outside of, you know, overhaul, like of the market structure. Bill, yeah.



18:50

Well, Suzanne, let's come to you on sub 121 and then Dorothy, let's hear from you about what I've what I've missed.



18:57

Sure, and Dorothy touched on it. Sam, 121 is stands for staff accounting bulletin. It's the staff of

sure, and Dorothy touched on it. Sam, 121 is stands for staff accounting bulletin. It's the staff of the SEC that issue those they're meant to be interpretive guidance. You know that helps, especially publicly listed companies in the States, make sure they're interpreting, you know, the US accounting rules and reporting rules, properly. So with that one really quick historical note is that as far back as 2008 the SEC had its own advisory kind of commission looking at the role of how financial reporting rules are made and enforced in the US. And one of the big, big, big recommendations from that commission was, do not use sabs, overuse them or use them in an overreaching way that creates new accounting and new accounting rules by accident. And so they really cautioned with very strong words, it's paragraph 71 if you want to go look up that report. Um. Okay, and truly, since then, that has been the case where hardly any staff accounting bulletins have been issued that really kind of create new accounting, so to speak. Now this The Commission will sort of argue that's not what they've done, but it is really, truly they did cross over the normal accounting rule regulation process in the United States, which is to use the Financial Accounting Standards Board, which is a very transparent, open due process, written, you know, lots of lots of discussion, all in the public domain, live stream video recorded that that board literally tackles all of these things. And so the questions in that staff accounting bulletin are worthy of discussion, but they should be done in the probably the appropriate way to fast forward then and get off my little sort of history lesson. There is it did really put a freeze on the traditional custodians from custody crypto assets because the nature of the rule. And Dorothy touched it already, you know, it does make it kind of and you touched it too. Louis, where by having to record a liability in a place where you wouldn't normally have to record one if you're under prudential regulation in the banking industry, that has all sorts of knock on effects with the assets you have to hold. And it really kept the traditional custodians out of that arena, which is one big criticism of it. The other criticism of it was that it did cross some boundaries in terms of being a rule under sort of a US, you know, regulatory sort of environment where it probably shouldn't have happened the way it happened. And so there's, there's arguments about the process, but actually, some of the underlying issues in it are worthy of discussion. They just should have, should happen in the in the right way. There is every expectation that that that that sab will be rescinded and tossed out. It could become the issues, and it could become a project of the official Financial Accounting Standards Board, though, and so that's sort of a wait and see, but everyone expects then the rule to be that staff accounting bulletin, which isn't a rule, but was interpreted as a rule by by most traditional custodians and most traditional anybody that's publicly listed, it was interpreted as a rule, even if, technically it's meant just to be kind of an interpretation of some guidance. But if it goes away, it will bring more traditional custodians to the table, basically, is the punchline. So yeah,



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and just to, just to add a little bit of context there, there was already a talk, you know, an opportunity to rescind this guidance that was vetoed by Biden, right? So, so,



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I guess it's a good point, yeah, it's, yeah, it's a really good point, yeah,



22:52

yeah, I was gonna say on that. I think that would be a if not rescinded by by the FCC itself. And it's not to mention a legislative action. I think, think that will be a good first indication to see

it gets to needing a legislative action. I think, think that will be a good first indication to see where Democrats are lying within their thought of it. Because, I mean, you know, it was, it did pass both the House and the Senate, the first reception of it in a bipartisan way, in a very big bipartisan way. It was that somewhat of a political move, unknown, but it was, it was a chance for for the two parties to come together in the Congress. I think if it comes back up, and you see as much, if not more, Democratic support to rescind that, I think that will be a good sign, generally, for for future legislation coming out, to hopefully be also in a bipartisan manner, yeah,



23:39

yeah. That'd be really interesting to keep an eye on. Dorothy. Let's come to you. Is there anything you want to add on the sab 121 or other key issues that I didn't touch on yet?



23:47

Yeah, sure. So. I mean, my expectation is SAB 121 will be rescinded at the acting or a permanent Chairman level long before it it would go to Congress. So just to put it in context, because we have a US and global audience here. There are five commissioners at the CFTC and five commissioners at the SEC, like the FCA covers, both commodities and securities. We have it broken up. The CFTC cover has jurisdiction for commodity derivative exchanges, not the spot market, yet the SEC has jurisdiction for spot and derivatives on securities, so the chairperson can tell a division director, without the other four votes, please put out this advisory bulletin that says X, that's what it said, and it's not binding. You cannot be enforced for not following it, but a lot of entities will follow it just to mitigate their risk, especially listed entities. So I was just trying to double check this. Can my colleagues correct me? Does, does Coinbase follow sab 121, and it's publicly, you know, reporting actually



24:56

really glad you mentioned you asked that question. Yes. Because we've had a lot of focus on the the official custodians, but the exchangers are also caught up in it, which I'm really glad you mentioned. So yes,



25:08

so here's what to watch where I thought they did. I just want to make sure before I said it wrong. Here's what to watch for before anything is done, because there's just a lot of moving parts between now and the new Congress. It starts early January and inauguration of the new president, which is January 20. Let, let's see if Coinbase follows sab 121, for its fourth quarter reporting, reporting, and I think that's what I'm going to look for. But in any event, it's a non binding. It doesn't have, you know, majority vote in by the commissioners, and that's basically, you know, part and parcel of the big problem. What I would say I would add to your list, your original list, about what are the issues kind of at hand, you mentioned registration, and you're absolutely right to mention registration of entities like exchanges. You know, are they going to register with the CFTC if they trade derivatives? Are they going to register with the CFTC if

Congress passes legislation that expands crypto, non securities, commodities, to the CFTC, those are registration issues. And are they going to register with the SEC as broker dealers or exchanges or other types of intermediaries if they're dealing with securities. The second type of registration is an asset itself. So that might be there's been a lot of back and forth of whether tokens or securities or the way in which they're packaged, or securities as investment contracts. But what I want to say is that in a lot of the dissents that the SEC the Republicans, who will now be in the majority the Republican commissioners. They have not always said these are definitely not securities. What they've said, in my sense, is that they believe some of them, not all of them, as the current chair seems to approach the industry, that all of them are securities, but some of them are some of these digital assets are securities. There needs to be a mechanism, as Brian said, to register these tokens, to just to have disclosures around them. You know, that's key to listing and other other types of things the SEC oversees, and to have some protections around them. So Entity Registration, asset registration, if they're dealing in securities, and then kind of a counterpart without asset registration if they're dealing in commodities and that, I think that's just a key issue.



27:25

Yeah, I mean, one thing I'll say, say to the tokens themselves is, I don't, I don't know if there's a full appreciation out there of the amount of tokens, or token like things that would need to be registered under a potential registration issue, and how the SEC or the CFT is going to stay on top of all the dozens and dozens, dozens, if not hundreds, that are created literally every day. I mean, at Luca, we have a digital asset classification system, and it is tons and tons of man hours to understand, identify, classify each of these individual tokens to figure out what they are and whether they may be a security or not. So it is very, very difficult and time consuming, and I almost think it's bulls Erin to think that either agency would be able to stay up to speed on all this and enforce it in a way that is going to protect the market. And really that's what we need to get back to, is protecting the market from fraud. What should be done, in my opinion, is, rather than having to register every single token it they need to expand their their fraud divisions and their alleged litigation divisions to be able to keep up with those aspects and handle those cases. Because traditionally, the SEC and CFTC both are in settlement business, not necessarily the litigation business. So I think you're going to need an expansion of those teams with either one to be able to keep up with that, that portion of it?



29:02

Yeah, I guess it would be a move to something really principles based that can be applied broadly and yeah, otherwise, as you say, you'll be looking at hundreds, 1000s of tokens on a on a case by case basis, and the given the market cap of a lot of them, there's simply not the need for that. It doesn't make any sense from a resource perspective, I imagine.



29:26

Let me mention that that's the beauty of giving spot jurisdiction to the CFTC. At the CFTC, the SEC, you have to get SEC approval to list whatever stock or on a national securities exchange, the CFTC has a totally different mechanism, where you can self certify contracts. Contracts are what listed is listed. And I oversaw the division that oversaw all exchanges and all products,

and there are 10s of 1000s of them. There are gazillion crude contracts and some. Of them have zero volume, and so that mechanism of self certification, kind of a product like listing that the SEC that the CFTC doesn't necessarily approve, it can stay if there's a problem, and it can examine the exchanges, and it can, it can examine the principles governing products, and particular products, if it wants to. Indeed it does, sort of a sampling regularly to make sure. But that's the beauty of giving that jurisdiction to the CFTC, is it's sort of designed to handle it. The CFTC is generally very principles based. It doesn't fix it's not prescriptive. It gives examples of how to comply, which are safe harbors. The CFTC tends to have a much, much more prescriptive and much broader rule set. And so that's, you know, kind of what is behind a lot of the impetus, and why the industry itself thinks if it is going to need to be regulated and it will, to some degree for certainly, responsible innovation, consumer protection, anti illicit finance and market integrity. Why the cftcs ethos, mission, experience and kind of approach of disclosures and principles based is, is where they want to be. Yeah,



31:19

that makes sense for sure.



31:22

Louis, can I ask, actually? Can I ask Dorothy and Brian A question from the panel? So because, you know, in the UK, they don't spend as much time wrapping around the axle of, is it a commodity? Is it a security? It's about focus on the transactions, and they regulate the transaction and the activity, if you will. And that helps in a number of ways, including that a given crypto asset doesn't stay one thing necessarily through its entire life cycle. It has different use cases and and it makes me wonder. I'm wondering out loud at you, if you both, if then something like the CFTC approach is actually sort of more amenable to the underlying realities as well of how, how even at one given crypto asset may behave, that it captures sort of all the different sort of permutations it could take, all the different sort of economic uses it could take by being sort of Almost like you said, focus more on the contracts, and, if you will, the activities and the transactions, and not it is this, although sometimes we need to know it is this. But I don't know if my question is clear, necessarily clear, but



32:34

let me, let me just take a quick stab at that. So I just kind of set out front that I worked for Republican chairman Heath Harvard at the CFTC, who was appointed by President Trump, and for a Democrat, current chair Russ and Benin is appointed by Biden. And so I'm going to try to answer that in a way that's sort of apolitical as much as I can be. There are lots of people who wonder, why the heck we have two different financial, Federal Financial Trading and Markets regulators, and it's a not unreasonable question to ask, and that's when I bring up the doge Elon Musk, you know, very, very sophisticated people have called me recently to ask whether we think there will be a separate SEC or CFTC, or any at All. I think those are a little hopefully, those are a little extreme, but you can understand some of the ideas behind merging those two organizations. Politically, it's been impossible, because you have a Senate Banking Committee and a Senate Ag Committee, and the cynics say that donations are made to the Ag Committee and to the Banking Committee, and you wouldn't want to cut that in half by by combining same

in the house. That's a cynical view, but it's been around. They have different constituencies, and, frankly, different purposes. One is for investments, and the others for farmers and airlines to hedge their crops and their air you know, their fuel costs, different things. So that you know, one may query, you know, where this all stands. And I have laughed a couple times in my own head about whether, if those two agencies stay separate, the irony is, we may have crypto to credit for that, which is, you know, kind of Republican, responsible innovation. Bring all of innovation on shore, compete against Europe, very which I predict to be very successful, and the UK in making sure that innovation will take place responsible innovation will take place here, but one should query whether those are should stay separate or be combined. Those questions have been around for a really long time, but it's also been a really long time where those questions have been really posed in the you know, in the face of this Doge commission, who knows? We'll have to see.



34:45

Yeah, that is, is really interesting to think about how that's going to evolve. But Well, Brian, maybe you can speak the design. Dorothy was, was asking about the sort of slightly mutable nature of crypto assets in that at different times. And we've seen this in. In the judgments and various SEC cases, the critical asset is not always the same type of thing. Sometimes it might be security, and sometimes it might be something else. And maybe the CFTC is is slightly better equipped to handle that kind of, that kind of nuance.



35:18

Yeah, I mean from from just the principles based versus the rules base of the SEC. It definitely is. I think for myself, I agree with Dorothy in that it should be a self certification for these assets. I think there's a much, there's more greater issues than what, whether an individual token is or is not a security or commodity, or what it may become, what it could potentially go back to being. I mean, like sec, or, while they're trying to make the argument that that eth was a security then became a commodity, but then, because it went back to proof of stake, it could then be a security again. Like these are just arguments that are just made, just to drive their own, their own agendas. I think if you had a self certification policy and path forward, it would just create a lot of clarity. And then again, getting back to what is probably the more important question, of the regulation of where these activities are taking place, the registration of those and then looking at, you know, real fraud and trying to root that out. Think if you got beyond the tokens and looked at the activity, that's where we need to go. And for me, it definitely is under the CFTC, or at least that, that idea of self certification,



36:34

this is such a fascinating topic, and I'm sure we could go on for a very long time on this, but aware that we shouldn't do that. So I'm going to ask two more questions, and we can kind of wrap up with those. The first one, Suzanne, I wanted to come to you on the question of implications for taxation on crypto. And then just to give Dorothy and Brian a chance to think about this before I come to them on it, I want to talk a little bit about the international impact and under because of the SEC approach and maybe other factors as well, we were looking at a

crypto market that was kind of bifurcated between the US and the rest of the world. And I want to hear from everyone about about if that is going to end, or how we see that evolving. But before, let's talk about about the tax implications on the new administration for



37:27

crypto Sure, and I'll be really, I'll be really brief on this. I won't drag everybody down the tax rabbit hole as much as I love it down there. But right now, there are impending changes, some of which are it were meant to take effect January 1, 2025 around how typical brokers and exchanges do need to issue reports for each of us who is using their exchange to and to report back what the proceeds were. You know, kind of the basis of our you know, this thing called the basis for tax purposes that helps sort of figure out what your taxable gain or loss is at the end of the day. And so those are, there's a substantial set of changes meant to start, and they're, they're sort of staged, but are meant to start January 1. There's, there's one thing to mention that is common is that if regulations are sort of in the process and administration changes. There can be a delay in the effective date to give the new administration a chance to decide, do we want to keep these regulations the way they are? Do we want to make any changes? Do we need to go back to Congress and completely change everything and interpret, you know, do it a complete kind of overhaul or change. So there is speculation it's not final, you know, I don't have final word on it or inside, you know, sort of knowledge on it that even the existing regulations that were devised under the Biden administration made the effective date, at a minimum, may be delayed by a year. So what's supposed to start happening with that reporting? Gen one may be pushed to Jan 120, 26 which opens the door, as you might guess, for could there be a complete change to how crypto taxation operates in the US? And there are rumors about quite, you know, big changes, you know, and it is rumor at this point, and so I won't sort of go down the path of the rumor, but there could be substantial changes under the new administration, and that part, we just truly have to wait and see. But a thing that it could have really happened is a delay in the effective date of the current regulations that are in place.



39:40

I see, yeah, I'm sorry. I would just to echo that. I would be shocked if you don't see the Trump administration delay a lot of what has happened under Biden where they can. It just mo I think he did a lot of that last time too. So I. I would imagine that that would happen again, but Stranger things have happened.



40:05

I mean, it's something, you know, like Brian pointed that, you know, this is what Luca does, you know, day in and day out, we think about tax and accounting for these things, and we can, we handle it all and so, but we're watching this very, very closely, which is why we're, you know, super aware of the chance that this could be effectively to effective date could be delayed. So,



40:25

yeah it'd be very interesting to see. I guess there'll be some. Well it's a very politicized issue

year, it'd be very interesting to see. I guess there'll be some. Well, it's a very polarized issue on the on the tax front, right? I want to come to the final question on the international landscape, because, like I said, this idea of a sort of bifurcated world of the US and the rest of the world seems pretty detrimental to the US crypto industry. And I wonder if you see that changing.



40:51

I do so. One of the reasons I left the CFTC, one of the reasons I left Coinbase to go to the CFTC is to help move forward a path to responsible innovation, and we made some change, you know, internally, and you know, there's some incremental progress there. One of the reasons after I left the CFTC to go in the Senate for just a six month stint was to do exactly the same thing, and it was hard to get, particularly the Senate, Democratic support. But one of the things that everyone agreed on, well, there are a couple things. One is to national security, to prevent illicit finance. And the second thing, on a bipartisan basis, that everyone agreed on was we want innovation here in the US. I remember receiving a call from a huge endowment saying overseas, saying, We lost 100 gazillion dollars in FTX, but we want everything in the US. We want the private equity in the US. We want registration at the CTC or SEC in the US. We want bankruptcy in the US. We want it from beginning, you know, beginning to end in the US, because we trust the process. And I just hope the doge committee listens to that a little bit, because if you, you know, take it to its logical extreme and take all that regulation away, even the effective regulation that protects investors and consumers and supports responsible innovation, then you might limit that. You know, my hope is that the focus will be on back to the basics, streamlining and a focus on responsible innovation, and I think with that, you will have innovation coming back on shore in droves, and everyone on a bipartisan basis agrees with that. I just want to add one thing. I was at a speech about a week ago when one of the CTC commissioners, summer mercener, spoke about enforcement, and in effect, she said, let's stop with the statistics and let's focus on the risk. She also says, let's stop with regulation by enforcement. Let's focus on rules and fairness. She's a terrific person and Commissioner and policy thought leader, and one of the things she said is, instead of appointing, you know, having these huge, massive fines, why don't we have independent validators who companies hire when they're looking at potential enforcement, or even before, to to avoid it, and if they'd gone that far, why don't we give them credit for it, like they've been bad actors or not perfect actors. They brought in external, credible people to validate and fix it. They've told us about it because we either knocked on their door, they came to us, then they should be fine. Or, have you know, know if any fine low, if any fines. And I want to just mention that real quick, because I think that's an additional area where this may go. I also because it's self serving, and that's the work that I do, so a shameless plug for the work that we do. But I wanted to also mention that that's something coming



43:50

up. No, it's good to hear. But I mean, it's a very important, very important function that is going to be needed, I guess. Yep. Sorry, Brian, you were



43:57

going to say, Oh no. I was just going to say, I agree with Dorothy. I think the US has chances
want to make that investment. And I left the New York Attorney General's office to join the private

now to make that impact. And I left the New York Attorney General's office to join the private sector in order to be able to reach more regulators and to also be have the mind of like, understanding what, not just like state attorney generals are looking at, but also the my work with the SEC and the CFTC and other regulatory agencies, and it's a different mindset, and I get that and and I think global regulators understand that too, but I also believe in the industry, and I think they're the Future is there so so once the US opens up and and leads the way, and I think they have a very good chance to kind of make some changes in how they regulate. And you know, one of the beauties of of the digital asset industry is the vertical integration of it, the reduction of costs that it brings you. That needs to stay put, like, if we just split everything up like we have with with traditional finance, we're losing all of the cape, or a lot of the capabilities of what this industry brings and what blockchain really brings. And we always need to continue to remember that when we're building new legislation. And if the US does that correctly, we're going to see and, I mean, I mean, I think we see it either way, but we're going to see droves of companies coming here, other regulators following our path, even if they already have their own regulatory frameworks in place. But we can really be, as Trump said, the crypto capital of the world, and it's not going to take a ton. We just need to get on the same page and and thankfully, whether you agree or disagree with like the broader picture, having a unified government for our industry right now is probably the best thing that is going to happen that has happened for the industry in a long time. Yeah, totally



45:54

agree. I think it'll be very interesting to see how this all shakes out. But sadly, we're going to have to leave it there. I think guys really fascinating discussion. Much more to be discussed. We didn't even get to the Bitcoin stockpile question, but I have another one of these coming up. So what's the space? I'm sure we'll have more of these chats in the future, as as we get a little bit more clarity on on some of the points that we've raised today, but I hope you enjoyed it. Do follow us on social media. We're on LinkedIn, and what I will still try to call Twitter, but given Musk's new role in federal government, and I don't want to be extradited, I should probably call x and check out our website, omfif.org for news of our upcoming reports, events, commentaries, including one from Dorothy, which is already up there, I believe, on this topic. So yeah, what's this space for more? Thank you for listening. Goodbye.



46:53

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