MEMORANDUM

To:	Crypto Task Force Meeting Log
From:	Crypto Task Force Staff
Re:	Meeting with Representatives of the Crypto Council for Innovation

On February 21, 2025, Crypto Task Force Staff met with representatives from the Crypto Council for Innovation.

The topic discussed was approaches to addressing issues related to regulation of crypto assets. The Crypto Council for Innovation provided the attached documents, which were discussed during the meeting.

SEC Crypto Task Force Discussion Agenda

(1) **Staking:** The SEC should issue guidance or no-action relief providing that bona fide [staking as a service](#) does not fall under the U.S. securities laws.
   ● This can include guidance clarifying that validators and other staking infrastructure providers are not financial intermediaries (but rather providers of ancillary technology services).
   ● **Crypto ETPs & Staking**: CCI would encourage the SEC to allow ETP issues to include protocol staking for S-1 filings (including allowing previously approved ETP issuers to amend any S-1 filings to include staking)

(2) **Relief for Passive Information Network Services in Web3**: Clarify that entities that provide access to blockchain protocols, blockchain exploration tools, and other passive information transmission are not brokers, exchanges, or ATSs under securities laws merely by virtue of providing such access.
   ● This would include, for example, non-custodial web3 marketplaces that allow users to browse fungible and non-fungible tokens (NFTs) and/or provide a UI where users can input information to initiate a purchase or sale of such tokens, but are not in the flow of funds.
   ● The SEC should issue no-action relief or guidance confirming that such passive interfaces—whether for NFTs or fungible tokens—do not trigger regulatory obligations designed for traditional financial intermediaries.
   ● In addition, it is important to define non-security status for non-fungible tokens (NFTs).
      ○ Issue guidance confirming that certain NFTs are not securities.
         ■ CCI recommends broad-ranging exclusions covering NFTs primarily used as artistic works, IP, collectibles, virtual land, loyalty rewards, video game assets, or other non-financial applications.

(3) **"Airdrops" and other "Incentive-Based Rewards"**
   ● SEC should provide interpretive guidance that airdrops or incentive based rewards, which meet certain criteria, from being characterized as securities offerings

(4) **Providing Needed Clarity and Guidance Regarding Custody of Digital Assets and Related Issues**

(5) **SEC & Regulatory Sandboxes**
   ● Consideration of a sandbox can serve as a powerful signal that the U.S. is serious about fostering responsible innovation in the digital assets space

The Crypto Council for Innovation (CCI) extends our appreciation for the U.S. Securities and Exchange Commission (SEC) Crypto Task Force's leadership and future efforts in best addressing the regulatory landscape surrounding crypto assets. We recognize the critical role that this Task Force will play in ensuring the crypto assets ecosystem has the required regulatory clarity to responsibly innovate while best protecting investors and ensuring market integrity. To that end, CCI respectfully submits a list of recommendations for your consideration. CCI and our members look forward to further discussing the below.

CCI Recommendations & Priorities

- **Further build on SAB122**: CCI appreciates the SEC's swift decision to rescind SAB121. CCI would encourage the SEC to build on the momentum created by SAB122 by permitting custodians to engage in staking and other economic or governance measures that benefit asset holders and the underlying blockchain.
- **Guidance on Key Issues:**
    - CCI would recommend additional guidance be published on (i) when crypto assets may qualify as securities; (ii) clarifying the manner in which a state chartered trust safeguarding crypto assets can satisfy Rule 206(4)-2; and (iii) providing for self-custody by RIAs for crypto assets that are **not** securities
- **Decentralization:** Modify the guidance in the SEC's 2019 Framework for Digital Assets and redefine decentralization to focus solely on control and **not** the ongoing efforts of developers/entrepreneurs.
- **Clarification on Stablecoins:** Clarification by way of statements and/or additional guidance from the SEC that stablecoins backed 1:1 by USD-denominated reserves do not constitute securities.
- **Staking:** The SEC should issue guidance or no-action relief providing that bona fide staking as a service does not fall under the U.S. securities laws.
    - This can include guidance clarifying that validators and other staking infrastructure providers are not financial intermediaries (but rather providers of ancillary technology services).
    - To the extent that certain unique, alternative activities involving staking do constitute an investment contract — as with all other areas involving crypto and the securities laws — the SEC should create a clear, workable path to registration.
- **Withdraw or Pause Compliance-Only Enforcement Actions:** Recommend that SEC withdraw or pause enforcement actions, investigations, and litigation focused solely on compliance violations under the Securities Act or Exchange Act, (e.g.*,* those involving registration and **not** those involving alleged fraud or other egregious conduct).
- **No-Action Letters**: Encourage the SEC and/or SEC staff to issue no-action letters, allowing firms to engage in certain crypto asset activities as a temporary measure until clear crypto asset rules (or legislation) are established.
    - This could include, for example, no-action letters on matters such as
        - (i) custody of crypto assets (both securities and nonsecurities) by broker-dealers,

- ■ (ii) carving out decentralized exchanges, which, among other things, do not have control over a user's crypto asset or transactions, from the broker-dealer definition, and
- ■ (iii) "airdrops" or "incentive-based rewards," which meet certain criteria, from being characterized as securities offerings.[1]
  - ● This can include affirmation that airdropping or otherwise distributing tokens without raising capital–such as through user rewards or ecosystem incentives–does not constitute a securities offering. When no funds are solicited or exchanged, and distribution serves a functional or network driven purpose rather than an investment inducement, such activities should not trigger registration or enforcement under securities laws.
- ● **Pause Certain Rulemaking that Seeks to Improperly Extend to Crypto:** Under Chair Gensler a number of SEC rule proposals were sought to be extended to crypto, without further examination of how, or even whether, these could work.
  - ○ Examples include the proposed Best Execution Rule, the proposed Safeguarding Rule, and the proposed Amendment to Rule 3b-16. We would ask the Commission to **not** adopt these rules as far as they apply to crypto, and to instead undertake the necessary data collection and study required for crypto-specific rulemaking.
- ● **Exemptive Authority:** Utilize the SEC's general exemptive authority under the Securities Act and Exchange Act to provide targeted relief from registration, reporting, and other general compliance requirements that may pose unique challenges for crypto asset market participants, accounting for the fundamental differences between crypto assets and traditional securities.
- ● **Crypto ETPs:**
  - ○ As immediate steps, CCI would respectfully recommend the SEC to:
    - ■ Approve amendments to Rule 19b-4 to enable authorized participants for spot crypto asset ETPs to directly purchase and sell crypto assets for share creation and redemptions. This would align U.S. practices with international standards and foster greater market efficiency;
    - ■ Allow ETP issuers to include protocol staking in S-1 filings (including allowing previously approved ETP issuers to amend any S-1 filings to include staking); and
    - ■ Undertake review process of ETPs for crypto assets beyond Bitcoin and Ethereum (e.g., Solana).
  - ○ The SEC should also expand the "Winklevoss Standard" and pave the way for new crypto ETPs.
    - ■ The Winklevoss standard currently permits exchanges to trade crypto based ETPs only if there is a market regulated by the SEC or CFTC for the crypto asset or its derivative. CCI would recommend expanding the concept of a

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[1] CCI would respectfully request the SEC to also provide guidance on how blockchain projects can distribute air drops or incentive based rewards without being characterized as securities offerings. For example, this can include providing criteria that crypto assets whose market value is substantially derived from (or reasonably expected to be substantially derived from) the programmatic functioning of any DLT or similar technology, that are not otherwise securities to be eligible for such distributions without being characterized as investment contracts under securities laws.

"regulated market" to cover a range of existing crypto trading platforms, potentially paving the way for a new wave of crypto ETPs.

- **Commence Needed Rulemaking Processes**:
  - *Disclosure Standards*: For the narrow category of crypto asset transactions that constitute investment contracts because they clearly satisfy *Howey*, conduct rulemaking process related to disclosure standards tailored to crypto assets, drawing on best practices from other regulatory frameworks but recognizing the unique aspect of crypto assets.
  - *Modernize Securities Laws*: In addition, CCI would request the commencement of rulemaking to better modernize securities laws to allow for the trading of crypto asset securities, including on-chain.
- **Permit Broker-Dealers to Operate in Crypto Assets and Securities:**
  - SEC should permit broker-dealers to engage in simultaneous trading of crypto commodities and crypto asset securities.
  - In connection, the SEC should enable FINRA to adopt an abbreviated procedure to approve New Membership Applications (NMA) and Continuing Membership Applications (CMA) for broker-dealers or ATSs to engage in business involving crypto assets (both securities and non-securities).
- **Relief for Passive Information Network Services in Web3**: Clarify that entities that provide access to blockchain protocols, blockchain exploration tools, and other passive information transmission are **not** brokers, exchanges, or ATSs under securities laws merely by virtue of providing such access.
  - This would include, for example, non-custodial web3 marketplaces that allow users to browse fungible and non-fungible tokens (NFTs) and/or provide a UI where users can input information to initiate a purchase or sale of such tokens, but are not in the flow of funds. Even if certain crypto assets qualify as securities, merely displaying listings, facilitating discovery, or enabling transaction composition does not equate to brokering. The SEC should issue no-action relief or guidance confirming that such passive interfaces—whether for NFTs or fungible tokens—do **not** trigger regulatory obligations designed for traditional financial intermediaries.
- **Define Non-Security Status for NFTs:** Issue guidance confirming that certain non-fungible tokens (NFTs) are not securities. For example, CCI recommends broad-ranging exclusions covering NFTs primarily used as artistic works, IP, collectibles, virtual land, loyalty rewards, video game assets, or other non-financial applications.
- **Reform the Custody Rule for Investment Advisers:** Advocate for development of clear and workable standards for crypto asset self-custody, as well as for custodial standards that optimize the economic and governance features of crypto assets held in custody, such as through staking and/or voting.
  - Provide guidance or no-action relief for RIAs to trade crypto assets over exchanges, regardless of an exchanges' registration status. Furthermore, this must include an allowance for the RIA's assets to temporarily reside in a trading account maintained by the exchange for the duration of a transaction.

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Crypto Council for Innovation (CCI) Participants for Meeting with SEC Crypto Task Force

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