

## MEMORANDUM

**To:** Crypto Task Force Meeting Log  
**From:** Crypto Task Force Staff  
**Re:** Meeting with Representatives of Everstake, Inc.

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On May 9, 2025, Crypto Task Force Staff met with representatives from Everstake, Inc.

The topic discussed was approaches to addressing issues related to regulation of crypto assets. Everstake, Inc. representatives provided the attached documents, which were discussed during the meeting.



# everstake

**BY ELECTRONIC SUBMISSION**

April 14, 2025

Commissioner Hester M. Peirce  
Chair, SEC Crypto Task Force  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-0213

Re: Request for Meeting with SEC Crypto Task Force – Follow-Up to April 8, 2025  
Submission on Non-Custodial Staking Services

Dear Commissioner Peirce and Members of the Crypto Task Force,

On behalf of Everstake, I would like to thank you for your leadership and ongoing efforts to address key regulatory questions facing the digital asset industry.

On April 8, 2025, Everstake submitted a letter in response to the Task Force's call for input on the regulatory treatment of blockchain-related technologies, including third-party staking providers. That letter outlined the technical, legal, and economic framework for non-custodial staking services—what we refer to as "validation-as-a-service"—and offered a clear rationale for why such services do not constitute the offer or sale of securities under the federal securities laws.

In support of continued dialogue, we respectfully request a meeting with the Task Force to further elaborate on the background of staking and non-custodial staking, and answer any questions your team may have. Everstake has been in the global staking business for over seven years and works to support most of the self-custody wallet providers in the ecosystem. We believe we could provide valuable insights into that area as well. Our hope is to have a constructive conversation that could assist the Commission in developing well-calibrated guidance on staking as well as self-custody.

Everstake's proposed attendees for the meeting include Sergii Vasylchuk (Chief Executive Officer), Bohdan Opryshko (Chief Operating Officer), and Margaret Rosenfeld (Chief Legal Officer). Together, they represent Everstake's strategic, operational, and legal leadership and are prepared to provide both technical and regulatory insight during the discussion.

Enclosed is a proposed agenda for our requested meeting. We are available at your convenience and will adjust to the Task Force's preferred time and format.



# everstake

We appreciate your consideration and look forward to the opportunity to collaborate further.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Rosenfeld', is written over the typed name.

Margaret Rosenfeld

Chief Legal Officer

Everstake, Inc.

Email: [m.rosefeld@everstake.one](mailto:m.rosefeld@everstake.one)

*Attachment: Proposed Agenda*



# everstake

## Proposed Agenda

### Everstake–SEC Crypto Task Force Meeting

**Duration:** 60 minutes

**Proposed Everstake Attendees:**

- Sergii Vasylychuk, Chief Executive Officer
- Bohdan Opryshko, Chief Operating Officer
- Margaret Rosenfeld, Chief Legal Officer

**1. Welcome and Introductions (5 min)**

- Overview of Everstake and its role as a non-custodial staking infrastructure provider

**2. Background of Staking (30 min)**

- Transition from proof-of-work to proof-of-stake
- Explanation of staking and non-custodial staking service providers

**3. Application of the Howey Test to Non-Custodial Staking (5 min)**

- Why staking and non-custodial staking service provision fails to meet the Howey criteria

**4. Proposed Criteria for Regulatory Clarity (5 min)**

- Suggested framework for confirming when staking and non-custodial staking services are not securities offerings

**5. Open Discussion and Q&A (15 min)**

- Dialogue with Task Force members and offer of additional materials or technical briefings



# **FOSTERING INNOVATION THROUGH CLARITY: A PATH FORWARD FOR NON-CUSTODIAL STAKING**

**MEETING WITH SEC CRYPTO TASKFORCE – MAY 9, 2025**



# 1. WELCOME AND INTRODUCTIONS

# EVERSTAKE MANAGEMENT TEAM MEMBERS AT MEETING TODAY

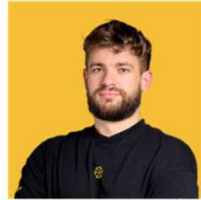
Everstake has a seasoned team of fintech and web3 engineers and professionals with 150+ blockchains launched as a genesis validator and currently running RPC nodes for 80+ networks. The management team members at today's meeting are:



**SERGEY VASYLCHUK**

FOUNDER & CEO

20+ years experience in web and software development; contributed to various industries such as finance, investment, banking, and blockchain



**BOHDAN OPRYSHKO**

COO

7+ years experience in product and project management in both domestic and international corporations. Expertise spans blockchain technology, IT, and UI/UX design



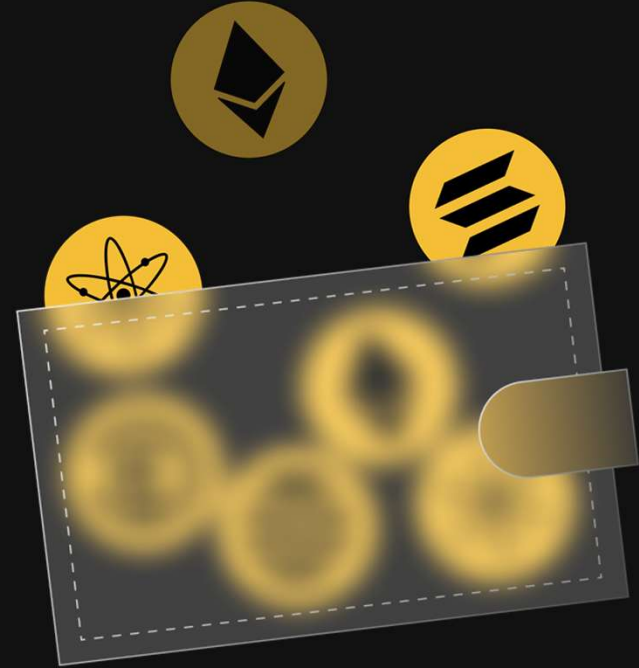
**MARGARET ROSENFELD**

CLO

25+ years as a corporate, securities and regulatory lawyer focused on public and private tech companies in global law firms. Founded one of the first legal practices focused on the then emerging Web3 industry in 2015

OUR MISSION



# BUILDING **WEB3.** BLOCK BY BLOCK.

















# A LEADING VALIDATOR ON 80+ BLOCKCHAINS

Everstake supports major established chains while also capturing market share on the emerging chains

## ESTABLISHED BLOCKCHAINS

 ETHEREU M	 BITCOI N	 SOLANA	 TEZOS
 APTOS	 SUI	 POLYGO N	 ATO M
 CARDAN O	 EIGEN LAYER	 SEI	AND 70 MORE

## EMERGING BLOCKCHAINS

 BABYLO N	 ALEO	 CHROMI A	 BERACHAI N	 PUFFER
 STORY PROTOCO L	 COREDAO	 PARTICLE NETWORK	 SYMBIOTI C	 NILLION
 EXSAT NETWORK	 WALRUS	 Lit LIT PROTOCOL	 MILKYWA Y	AND 20 MORE



## 2. BACKGROUND OF STAKING



# THE TRANSITION FROM PROOF-OF-WORK TO PROOF-OF STAKE

## BLOCKCHAIN NETWORKS

Consensus mechanisms determine how transactions are validated and how the network remains secure.

## PROOF-OF-WORK

Participants (miners) contribute computational power to validate transactions and are rewarded for doing so.

Model is energy-intensive and increasingly outdated.

## PROOF-OF-STAKE

Updated consensus mechanism that is more energy-efficient and environmentally sustainable.

Contributes “voting power” as opposed to “computational power” by staking tokens to secure the network and validate transactions.

# WHAT IS STAKING

Staking is a crypto process that allows network participants to earn rewards by locking their coins in wallets. These coins are then used to validate network transactions or as a liquidity source

**\$2.1T**

Market Cap of Top 50 Staked Assets

**\$183.6B**

Value of Staked Assets

**\$9.5B**

Annualized Staking Rewards

**78.3%**

Top 50 Staked Assets Share of Total Crypto Market Cap



Each new transaction in a blockchain using Proof of Stake (PoS) needs to be validated



Network participants delegate/stake their assets to validators, who are selected in a specialized manner to confirm transactions based on their position



After new coins are minted, the validator receives a reward, often in the network's native token, as an incentive for performing a service to the decentralized protocol

# ADVANTAGES OF NON-CUSTODIAL STAKING



**Permissionless Unstaking**



**Low-Risk Regulatory Profile**



**Reduced Counterparty Risk**



**Users Retain Full Control of Assets**



**Transparency and Protocol-Level Rewards**

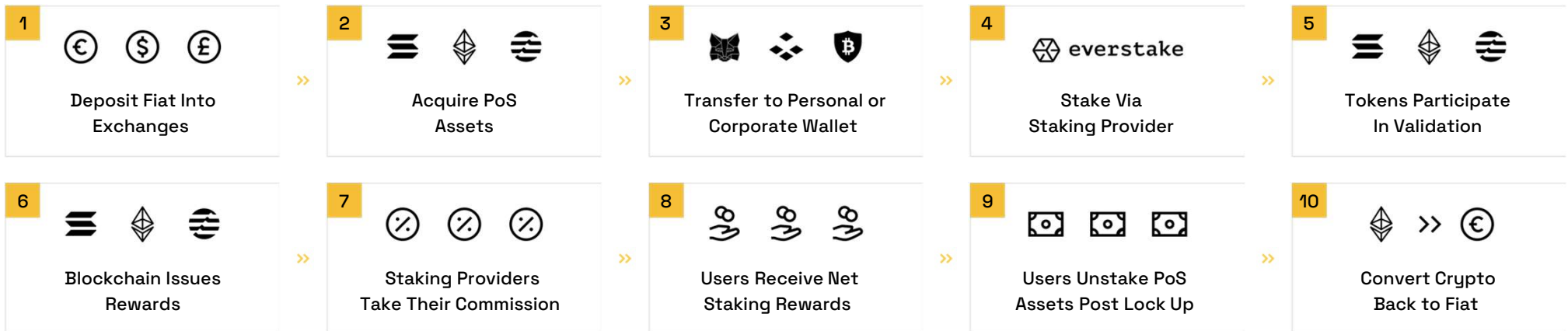


**Minimally Intermediated Participation**

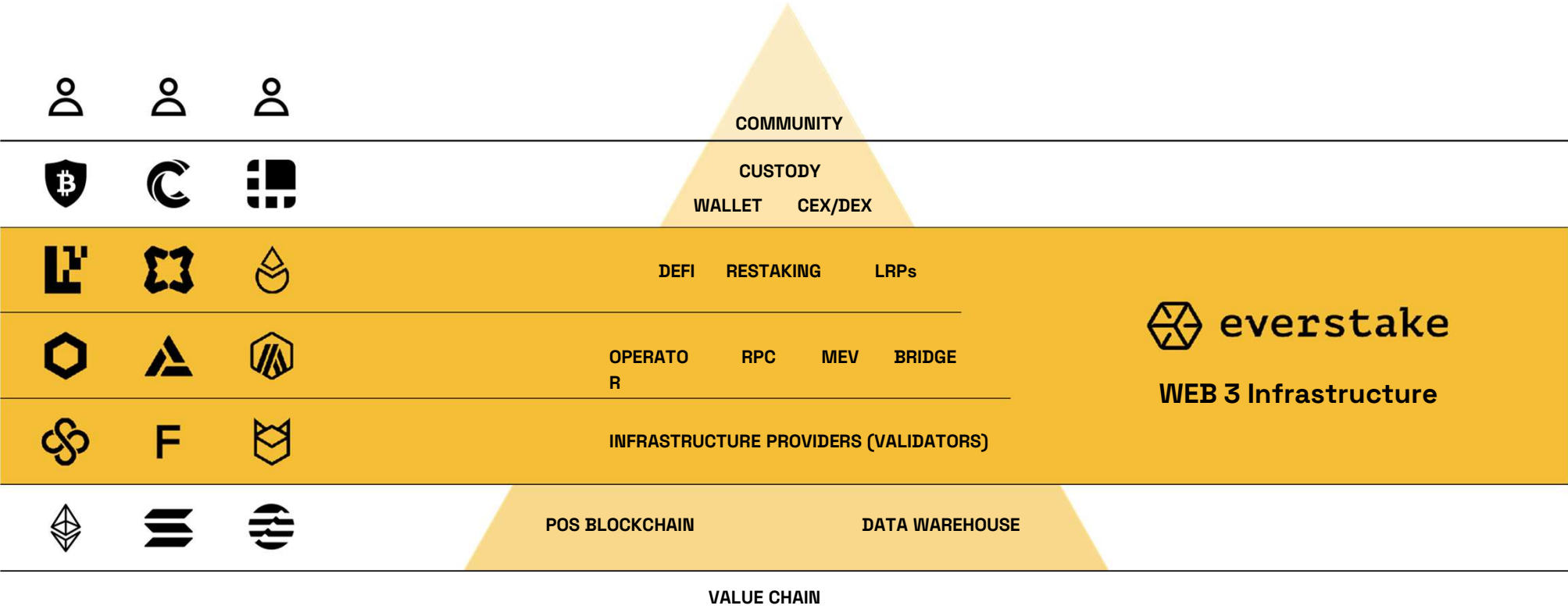
# THE NON-CUSTODIAL STAKING FLOW

## Overview of Non-Custodial Staking Process

<b>1. Entry Point:</b> Companies or individuals deposit fiat into centralized /decentralized exchanges or fiat on-ramps	<b>2. Acquisition &amp; Custody:</b> Proof-of-stake assets are acquired and kept on exchanges or withdrawn to non-custodial wallets	<b>3. Non-Custodial Staking:</b> Users select their validator directly within their wallet and stake (lock) their assets while maintaining full control over them
<b>4. Consensus &amp; Rewards:</b> Staked tokens contribute to blockchain validation. The chain issues rewards in exchange for validation	<b>5. Revenue Generation:</b> Staking providers charge a validator commission based on the total staking rewards	<b>5. Reward Distribution &amp; Exit:</b> Users receive their net staking reward. Upon contract expiry users can unstake assets and convert back to fiat if desired with properly licensed off-ramp







# EVERSTAKE'S POSITION IN THE STAKING ECOSYSTEM



# 3. APPLICATION OF THE HOWEY TEST TO NON-CUSTODIAL STAKING

# HOWEY PRONG 1: NO INVESTMENT OF MONEY

## Overview of Non-Custodial Staking Process

 <p>Do not transfer ownership of their digital assets to the staking service provider.</p>	 <p>Do not provide any consideration to the staking service provider in exchange for an expected return.</p>
 <p>Retain full title to, control over, and ownership of their digital assets.</p>	 <p>Simply pay a fee to the staking service provider for the technical service of operating a validator.</p>

### In sum, any risk faced by customers is entirely unrelated to the Everstake enterprise

Everstake’s solvency has no impact on the results achieved by its customers. As such, the “risk of loss” described in *Gary Plastic Packaging Corp. v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 756 F.2d 230, 239 (2d Cir. 1985) is not present.

# HOWEY PRONG 2: NO COMMON ENTERPRISE

Horizontal Commonality is  
Absent

1 No “pooling” of customers’ assets in a way that ties their fortunes to one another.

2 Stakers’ outcomes may be influenced by market factors, but not pooled—each customer’s rewards are independent and not tied to others.





3 Users do not receive greater rewards for using non-custodial staking providers like Everstake than they would if they staked independently.

**In sum, any potential horizontal commonality, therefore, is not linked to a shared pool of rewards or profits among Everstake’s customers**


But is tied to the broader digital asset network itself, where the price fluctuations of the asset and the overall network conditions impact all stakers, irrespective of their choice of staking service.

# HOWEY PRONG 2: NO COMMON ENTERPRISE

Vertical Commonality is  
Absent

 <p>A customer's fortunes depend on asset value and network rewards, not Everstake.</p>	 <p>Everstake's insolvency or cessation of operations doesn't impact a customer's ability to withdraw staked assets.</p>
 <p>Customers have no claim on Everstake's profits or business value—there is no ownership interest in Everstake's business that could appreciate in value.</p>	 <p>Everstake's fees are like a standard buyer-seller relationship, not a profit-sharing one</p>

**In sum, the fortunes of a customer are not tied to those of the non-custodial staking service provider**



# HOWEY PRONG 2: NO COMMON ENTERPRISE

1

## **No horizontal commonality**

Customer outcomes are not pooled or interdependent.

2

## **No vertical commonality**

Customer returns are not tied to Everstake's profits or performance.

3

## **Customer autonomy is preserved**

Each staker's rewards depend solely on their own actions and the network.

4

## **No pooling of assets or shared profits**

Essential elements of a common enterprise under Howey are absent.

## **Result**

Non-custodial staking services do not meet the common enterprise prong of the Howey Test.

# HOWEY PRONG 3: NO EXPECTATION OF PROFIT

What does profit mean under  
Howey?

According to **SEC v. Belmont Reid & Co.**, 794 F.2d 1388, 1391  
(9th Cir. 1986), Profit under the Howey Test means either:



Earnings from the use of investors' funds (e.g., interest or dividends)



Capital appreciation tied to the success or development of the  
enterprise.

**“Profit” must come from the efforts of  
others—not merely market fluctuations  
or protocol-level rewards.**

# HOWEY PRONG 3: NO EXPECTATION OF PROFIT

Applying Belmont  
Reid

**1 No equity or profit share**  
Customers hold no ownership in Everstake and have no claim on its earnings or losses.

**2 Rewards**  
Network-level fees, not enterprise profits – compensation comes from the blockchain, not Everstake.







**3 Everstake is a service provider**  
It facilitates access to protocol rewards, not investment returns.

**4 Any profit stems from market forces**  
Not managerial efforts – reward value may rise post-distribution, but that's due to token market dynamics.

## Result

Non-custodial staking services do not meet the common enterprise prong of the Howey Test.

# HOWEY PRONG 4: NO RELIANCE ON THE MANAGERIAL EFFORTS OF OTHERS


 <p>Original Howey Test required profits derived “solely” from the efforts of others.</p>	 <p>Later case law refined this to profits expected “primarily” from others’ efforts.</p>	 <p>SEC’s 2019 Framework for Investment Contract—Analysis of Digital Assets notes that price appreciation from market forces alone is not enough to create a security.</p>
 <p>Belmont Reid (9th Cir.) emphasized that managerial skill must be primary, not incidental, for Howey to apply.</p>	 <p>In non-custodial staking, customer returns depend on network emissions and token market prices, not provider efforts.</p>	 <p>While providers offer reliable infrastructure, profits are not driven by their managerial skill.</p>

# HOWEY PRONG 4: NO RELIANCE ON THE MANAGERIAL EFFORTS OF OTHERS

<p>1</p> <p>Validation services are ministerial, not managerial—Everstake runs infrastructure, not an investment strategy.</p>	<p>2</p> <p>Customer returns stem from protocol emissions and token prices, not Everstake’s discretion or decisions.</p>	<p>3</p> <p>Everstake acts as a facilitator, helping users access network rewards efficiently—not generating profit for them.</p>
<p>4</p> <p>Legal precedent (e.g., <i>Noa v. Key Futures</i>): profits depending on market factors, not service provider, fail the Howey test.</p>	<p>5</p> <p>Customers retain control—they can unstake and sell at will; Everstake plays no role in profit-triggering decisions.</p>	<p>6</p> <p>As in <i>Belmont Reid</i>, providing access to a valuable asset doesn’t turn a service into a security.</p>

**Result**

Customers do not rely primarily on Everstake’s managerial efforts—Howey’s third prong is unmet.



# 4. PROPOSED CRITERIA FOR REGULATORY CLARITY

# WHY IS SEC GUIDANCE NEEDED?



The Commission's Statement on Certain Proof-of-Work Mining Activities dated March 22, 2025 confirms mining rewards are not securities—earned through users' own efforts.



Non-custodial staking is analogous—users retain control, bear market risk, and are not reliant on promoter profits.



Commissioner Peirce's February 2025 Statement raised key questions about staking services and innovation barriers and Everstake offers a legal, technical, and economic perspective on staking that calls for a need for SEC Guidance.



Recent dismissals of SEC actions against Kraken, Coinbase, and Consensys were welcome—but not enough.



Dismissals without policy guidance leave uncertainty, chilling innovation and responsible participation.



A formal statement clarifying that non-custodial staking is not a securities offering is essential.



We propose specific criteria the Commission can adopt to define when staking does not implicate securities laws.

# GUIDANCE FOR STAKING REWARDS



Staking rewards are: (1) issued directly by protocol and (2) based on individual participation in securing and validating the network



Staking is analogous legally to PoW mining—rewards are earned through operational contributions not passive investment

**Given these parallels, Everstake submits that the Commission should issue guidance affirming that staking and related protocol rewards do not constitute a securities transaction**

# GUIDANCE FOR NON-CUSTODIAL STAKING SERVICES

**We also respectfully urge the Commission to confirm that the provision of non-custodial staking services does not constitute the offer or sale of securities, provided the following conditions are met:**

- 1 The staking provider's offering is limited to the provision of technology services, which may include bespoke software designed to maximize network rewards and fees, but does not involve the management of customer funds.
- 2 The staking provider does not take title to the customer's digital assets.
- 3 The customer retains the right to unstake their digital assets at any time, without intervention or approval from the staking provider.
- 4 The staking provider merely transmits rewards and fees generated by the relevant blockchain, without providing returns based on its own assets

# 5. OPEN DISCUSSION AND Q&A