

Andrew Hinkes Presents Arguments to SEC Crypto Task Force for Revised Interpretation of Securities Laws as They Pertain to Digital Assets

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On February 24, 2025, Winston & Strawn partner Andrew Hinkes, acting in his individual capacity, was among the first group of legal professionals to present arguments to the SEC's Crypto Task Force advocating for a revised interpretation of securities laws as they pertain to digital assets. The group suggested that the SEC, particularly under former Chairman Gary Gensler, has overextended its authority by misapplying the Howey Test—a legal standard that determines what constitutes an investment contract security—to various digital asset activities. The group's recommendations urged the SEC to reassess the applicability of the Howey Test to facets of the digital assets industry such as staking, airdrops, secondary trading of digital assets, and NFTs. Additionally, they proposed narrowing the definitions of "broker" and "dealer" within the context of securities assets, aiming to foster a more collaborative regulatory environment between digital assets and traditional financial exchanges. Attorneys Jason Gottlieb of Morrison Cohen and George Mason University Professor J.W. Verret joined Andrew to present to the Task Force.

Following the SEC's recent streak of crypto case dismissals, Drew told Decrypt that he believes crypto projects should only drop their guard if and when the SEC makes concrete declarations regarding specific tokens or token categories. "The industry needs more than vibes," Drew said. "I can't advise a client based on what I think somebody else might do in the future."

He contends that the dismissals have done little to determine the issue of how most individual tokens should be classified and regulated. For that reason, he considers the industry to currently be hovering "in a zone of uncertainty."

Drew noted that the meeting with the SEC's Crypto Task Force left him feeling more at ease than when he entered it, stating "It was an extremely encouraging and productive meeting. There was a lot of openness to ideas."

Read more about the meeting in coverage from [Unchained](#) and [Decrypt](#).

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