

July 2023 Investor Update

Arguably, the biggest crypto-related development of the past few weeks was the federal district court's decision in the **Ripple** case.

A federal judge in New York (Judge Analisa Torres; SDNY) issued a [summary judgment](#) on the status of **XRP**, Ripple's token, in the SEC's case against Ripple.

- XRP is not necessarily a security.
 - The SEC's stance that all crypto assets, except for Bitcoin, are securities was definitely undermined.
 - A token, in and of itself, is not an investment contract and therefore not security.
 - If a token is sold as part of a contract, transaction, or scheme that "embodies the *Howey* requirements" then an investment contract is present; if not, then it is not a security.
 - Initial "institutional sales" are investment contracts and require disclosure and registration.
 - "Programmatic sales" sold on crypto exchanges to unknown retail buyers are not, absent facts proving otherwise, automatically investment contracts. Speculation on a higher value does not evidence an investment contract.
 - "Other in-kind Distributions" are not securities contacts.

Since that decision, Judge Jed Rakoff, also of the SNDY, in a suit regarding Terraform Labs, [rejected the reasoning of Judge Torres](#) and refused to make the distinctions summarized above.

It's unfortunate that already courts within the same (storied) federal district are at odds. However, as we've said in the past, regulatory and legal clarity will have to come from Congress and, in fact, US lawmakers have made very recent progress on crypto-related laws.

ProChain in the News

[MicroStrategy may raise an additional three-quarters of a billion dollars to buy more bitcoin](#); *CoinDesk*, Aug 2

[Bitcoin Could Reach \\$50K by Year End](#); *CoinDesk*, July 19

[Market expert warns Fed will 'crush' US housing in 'decade-long fallout' from rate hikes](#); *Fox Business*, July 7

1. Adoption

a. *Investment.*

- A close second to the importance of the *Ripple* decision, were the broadcast interviews of **BlackRock CEO, Larry Fink**.
 - Closely on the heels of BlackRock's Bitcoin ETF application, Fink gave a couple of momentous interviews.

- With >\$8.5 trillion assets under management, BlackRock is the world's largest asset manager, and wields considerable influence and power.
 - BlackRock owns the "iShares" series of ETFs.
- In stark contrast to Fink's previous comments, some as recent as 2020, relegating crypto to criminal activities, Fink now believes that [crypto is an international asset that will transcend every single currency](#).

b. *Currency and Use.*

2. **Regulation and Legal**

- **Senators Lummis and Gillibrand** have [re-introduced their bi-partisan crypto bill](#), with some important updates.
 - A new self-regulatory organization would govern industry standards and impose penalties for violations.
 - **Stablecoins** could only be issued by banks or credit unions regulated by the federal government or the states, but it would let existing issuers jump in line first to get newly established licensing for that role. It would set up a new kind of charter through the U.S. Comptroller of the Currency, for instance, to be a stablecoin issuer.
 - There are some significant tax benefits for crypto investors, including that they don't have to be taxed on crypto they get from mining, staking, forks or airdrops until the gains are realized. And any crypto for less than \$200 gets a tax exemption.
- The House Financial Services Committees [has advanced its own bipartisan stablecoin bill](#).
- In further support for the myriad of spot Bitcoin ETF applications, Grayscale has argued that [the SEC has previously approved an even riskier Bitcoin-related ETF product](#), a leveraged bitcoin-based exchange traded fund. Therefore, approval of a spot Bitcoin ETF should be a foregone conclusion.
- Some notable policymakers have recently written in support of cryptocurrency and against the recent US crypto-crackdown.
 - [Money and regulatory tyrants: Shutting down the cryptocurrency business - Washington Times](#); Richard W. Rahn, Chairman of the Institute for Global Economic Growth and MCon LLC.
 - [A Path Forward for Regulating Crypto Markets - WSJ](#); Jay Clayton, SEC chairman from 2017-20; Timothy Massad, CFTC chairman from 2014-17.

3. **Public Companies**

- **MicroStrategy (MSTR)**, the largest public holder of Bitcoin, is [planning to issue \\$750 million of new stock](#), possibly in a bid to acquire more Bitcoin. MicroStrategy currently owns ~\$4.5B of Bitcoin.



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