

Testimony of
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Committee on Agriculture
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Development
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Chairman Johnson, Chairman Thompson, Ranking Member Caraveo, and Members of the Subcommittee, thank you for this opportunity to testify before you today. In my testimony, I will endeavor to provide FalconX's perspective on the current regulatory landscape for digital assets and the benefits of coordinated regulation and responsible innovation in this realm.

My name is Purvi Maniar, and I currently serve as the Deputy General Counsel of FalconX. In this role, I am responsible for providing legal guidance to FalconX regarding the development of products meeting the needs of our institutional clients in a manner that is compliant with governing regulations.

FalconX provides a platform for institutional clients to hedge risk or gain financial exposure to digital assets, through a variety of products and services. We are committed to orderly, fair markets in this arena for all market participants.

We are happy and eager to engage with policymakers and regulators to provide industry insights on this critical issue and recommend potential areas for further legislative clarity.

I. Background

A. FalconX

FalconX is a prime broker in the digital assets space for the world's leading institutions. FalconX Bravo is a Commodity Futures Trading Commission (CFTC)-registered swap dealer, and it is our mission to provide secure, efficient, and regulatory-compliant access for our clients. Our business includes regulated, over-the-counter (OTC) derivatives with digital asset underliers. Designed specifically for institutional clients, FalconX utilizes a market-risk-neutral approach. By leveraging our extensive expertise in this arena, state-of-the-art technology, and by employing time-tested OTC market structures, FalconX provides institutional-grade products that enable our customers to hedge risk or gain financial exposure within this space.

B. Digital Assets

Digital asset technology is underpinned by the blockchain and paves the way for innovative growth while offering more secure, transparent, and decentralized alternatives to traditional structures. The priority remains user privacy and control over personal information.

Blockchain is a transformative technology. The potential applications of this technology are vast and varied, and the industries that can benefit from their far-reaching power are numerous. By enabling decentralization, efficiency, and programmability, these technologies pave the way for innovation and growth while promoting security and transparency.

Blockchain technology enables individuals to control their data by storing it in a decentralized network of computers rather than a centralized server controlled by a single entity, such as a corporation. This means that users can access and manage their data using their private keys and grant permission for third-party access on a case-by-case basis, rather than granting unrestricted access to a central authority.

An example of this innovation can be seen in blockchain networks such as Ethereum, which have multiple significant uses and benefits. Ethereum's groundbreaking feature is smart contracts that operate on its blockchain. The Ethereum chain's ability to execute contracts automatically without intermediaries offers a more secure, efficient, and transparent alternative to traditional intermediated contract-based processes. By enabling developers to build decentralized applications, Ethereum offers limitless potential for entrepreneurs to create innovative solutions in diverse industries. The flexibility and programmability of the Ethereum blockchain allow for a wide range of possible use cases, and as the technology continues to mature and evolve, we can expect to see new and innovative applications emerge.

The platform's ability to enhance transparency and efficiency could transform sectors such as finance and technology, where a few prominent intermediaries have traditionally played a significant role. As Ethereum's use cases continue to evolve, it is evident that the existing rules and tools at our disposal are insufficient to address the unique challenges presented by this dynamic technology.

II. Current Regulatory Landscape

As the digital asset industry has evolved, different U.S. regulators have issued their own respective rules and regulations, oftentimes resulting in inconsistent enforcement and an opaque and sometimes conflicting regulatory regime.

There is no clear single regulator of digital assets in the United States. A constellation of regulators, including the Commodity Futures Trading Commission (CFTC), Federal Trade Commission (FTC), Securities and Exchange Commission (SEC), Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), along with the Federal Reserve Board, the US Treasury Department, and its Internal Revenue Service (IRS) and Financial Crime Enforcement Network (FinCEN), along with others have all claimed and asserted some form of jurisdiction.

Each regulator views the industry through its own unique lens and in the context of its own existing authority and enforcement priorities, oftentimes against the backdrop of competing jurisdiction. While multi-pronged regulation is common across industries, given the nascency of this sector,

the absence of clear oversight and jurisdictional lines has created confusing outcomes for industry participants and regulators alike.

A common sentiment in policy and media discussions around digital assets is that entities in this arena are trying to skirt regulatory oversight or sufficiently robust risk management and governance practices. The reality is that legitimate digital asset businesses do not want to circumvent regulation; they want clear rules of the road so that they can successfully grow their business. FalconX and other industry leaders have sought to foster policy discussions and serve as a resource to lawmakers on the technology, current market structure, and emerging risks in support of digital asset-specific regulation as the regulatory landscape continues to evolve in the United States.

Globally, major economies, including those of the U.K., Japan, China, and the EU, have achieved significant strides toward adopting regulatory frameworks tailored to digital assets. These frameworks not only evidence an increasing appreciation for the potential benefits of these technologies but also enable the industry to expand, resulting in substantial job growth, revenue generation, and tax receipts in these regions.

The absence of regulatory clarity in the U.S. has hindered its global competitiveness in this dynamic but still emerging sector. This moment calls for the United States to take resolute action.

Despite the current challenges, there remains continued interest for the United States to lead by enacting digital asset-specific regulation. We are a leader in global markets and policymaking. Blockchain technology presents an opportunity for our nation to, once again, forge clear, comprehensive, and forward-looking regulations.

We believe now is the right time for the United States to assert leadership in the development of unambiguous digital asset regulation. Clear legislation and accompanying regulation are necessary to keep existing companies from leaving the U.S. or to prevent startups from choosing to launch in other jurisdictions where the rules are clearer, and their businesses are welcomed. We should foster and attract innovation and aim to be leaders in the development of new technologies.

III. Many Digital Assets Are Commodities, Not Securities

Many digital assets are used and traded like commodities. Commodities have independent utility; their value is not typically tied to a revenue stream or annual earnings. Instead, commodities have a specific use (e.g., oil is used to power machinery, Ethereum is used as a building block for smart contract applications). Commodities usually are bought and sold according to certain specifications tied to their use. Their prices typically fluctuate based on their use and macroeconomic factors such as interest rates and inflation, not any disclosed event like quarterly earnings. It is for this reason that the CFTC regulatory architecture is better suited to regulating digital assets.

While some digital assets are undoubtedly securities, the securities regulatory architecture, in contrast, is ill-suited for most digital assets. Securities have no independent utility other than profit participation. As a result, securities regulations focus on robust disclosure of facts affecting that profit movement, such as earnings, cash flow, or material events affecting earnings. However, most securities law-mandated financial disclosures have little applicability to digital assets. Moreover, the requirement under securities laws that spot securities must be traded on a regulated

exchange using third-party intermediaries eliminates the benefits of peer-to-peer transactions. The ability to transfer spot assets instantly and safely on a peer-to-peer basis, one of the key benefits of digital assets, does not exist if one is required to place an order with a broker-dealer intermediary on a third-party exchange subject to a multi-day settlement cycle. As a result, few digital asset companies have sought registration or exemption under the securities laws; presumably, it is why few of those applications have been granted, given the difficulties of shoehorning digital assets into the securities law framework.

In part, this is why FalconX decided to actively pursue CFTC registration as the best-suited available regulatory framework for digital assets in which FalconX makes markets and trades.

CFTC registration comes with significant regulation, oversight, and compliance tailored to the derivative products it regulates. The CFTC also has fraud and manipulation authority over the spot markets underlying those derivatives. As a registered swap dealer, FalconX is subject to business conduct standards that require compliance with policies and procedures designed to ensure our clients are treated fairly and undertake obligations with us in an informed and prudent manner. Those standards require fair dealing, robust disclosure, and confidential handling of client information. CFTC swap dealer registration also obligates FalconX to maintain sufficient regulatory capital, implement margin and market risk policies, and provide complete, robust transaction reporting to the CFTC through a swap data repository. Registration also involves regular regulatory examinations through oversight by an SRO, the National Futures Association, as well as regular reviews and interactions with the CFTC. We undertook this registration voluntarily and at great expense because we believe a properly regulated industry will thrive in the United States and we want to be an active participant in its development.

IV. A Path Forward

The current U.S. regulatory framework is fragmented, and the risks to the U.S. from this lack of a cohesive regulatory approach already have pushed some companies founded in the U.S. to other jurisdictions with greater regulatory clarity. We believe that regulatory uncertainty constitutes a major impediment to U.S. innovation and investment. Until it is addressed, it will continue to lead to a loss of economic opportunity and technological advancement for the U.S.

As discussed above, FalconX has seen great benefits from the application of CFTC rules to its swap dealing business. There are aspects of the CFTC regime that can be applied to spot market trading of digital assets that would provide a regulatory framework to protect customers without stifling innovation.

FalconX believes that there are numerous benefits to applying certain rules from the CFTC's regulatory approach for derivatives markets to digital asset spot markets. The CFTC's rules are clear, tough, and fair. Spot markets would benefit from the application of some of the CFTC business conduct standards, in particular those focused on registration, reporting, and disclosure. At FalconX, we have found that these rules greatly enhance our ability to foster a transparent and orderly market for digital asset derivatives. Tailored to the unique characteristics of digital asset spot markets, they could greatly enhance market integrity, promote investor confidence, ensure investor protection, and facilitate innovation.

V. Conclusion

Many companies in the digital asset space, like FalconX, are voluntarily and eagerly seeking to conduct business in a compliant and transparent manner. We firmly believe that Congress and market regulators should work together to establish a framework for the digital asset ecosystem so that we can both ensure that digital asset markets are safe, transparent, and orderly for all participants.

Legislation like the Digital Commodity Exchange Act achieves just this. We applaud Chairman GT Thompson and the rest of the Committee for their leadership in this regard in the last Congress.

We look forward to this Committee's efforts to progress legislation in cooperation and coordination with the House Financial Services Committee. Chairman Thompson, Chairman Johnson, and Madam Ranking Member, let me reiterate FalconX's appreciation for this opportunity to testify in front of you this afternoon.

I look forward to answering any questions that you might have.