



November 2, 2023

Wyoming Legislative Select Committee on Blockchain,  
Financial Technology, and Digital Innovation Technology

**Re: Testimony on DAOs' Token Issuance Clarification:  
A Non-Security Scenario Was Defined by A Federal Judge's Ruling in *SEC v. Ripple***

Dear Chairman Rothfuss, Chairman Western, and Members of the Select Committee:

Thank you for the opportunity for American CryptoFed DAO ("CryptoFed") to provide public testimony for the Decentralized Autonomous Organizations (DAO) session during the Select Committee's November 20, 2023 meeting. We will attend the session in person to provide oral public comments, based on this written testimony.

CryptoFed petitions the Committee to consider adding a paragraph similar to the following proposed paragraph to the Wyoming Decentralized Autonomous Organizations Supplement ("Wyoming DAO Law"):

*If recipients of a DAO's token distribution do not pay **money or 'tangible and definable consideration'** to the DAO, the said token distribution will not constitute the offer and sale of securities.*

The background is that any DAO cannot start its operation via smart contracts without token issuances, but token issuances may inadvertently violate securities laws of Wyoming. This is a **Catch-22 issue** which makes it impossible for Wyoming DAO to grow on a large scale, unless there are clear definitions of securities or non-securities. We previously raised this issue during the May 16, 2023 meeting of the Select Committee.

On July 13, 2023 and October 3, 2023, Judge Analisa Torres of the U.S. District Court for the Southern District of New York issued two orders respectively in *SEC v. Ripple Labs*, which make it clear that if recipients of tokens do not pay **money or 'some tangible and definable consideration'** to the issuing entity, the token distribution is not a security. By



denying the SEC's request for certifying interlocutory appeal, the October 3, 2023 Order<sup>1</sup> confirmed the July 3, 2023 Order<sup>2</sup>.

The July 3, 2023 Order states (Emphasis added, p.26 and 27):

These Other Distributions include **distributions to employees as compensation and to third parties** as part of Ripple's Xpring initiative to develop new applications for XRP and the XRP Ledger. (p.26).

Here, the record shows that recipients of the Other Distributions **did not pay money or "some tangible and definable consideration" to Ripple. To the contrary, Ripple paid XRP to these employees and companies.** (p.26).

Therefore, having considered the economic reality and totality of circumstances, the Court concludes that Ripple's Other Distributions did not constitute the offer and sale of investment contracts. (p.27).

The October 3, 2023 Order states (Emphasis added, p.8):

Applying that standard, the Court concluded that "the record shows that recipients of the Other Distributions **did not pay money or 'some tangible and definable consideration' to Ripple.**" Order at 26 (emphasis added).

Currently, Wyoming DAO Law enables a DAO to be registered, but it does not provide Wyoming DAOs with sufficient room to deploy smart contracts by issuing tokens. This fundamentally limits the potential of DAOs. **A viable and practical methodology for Wyoming DAO Law to overcome this shortcoming is to gradually add these scenarios of non-securities which have been confirmed by rulings of U.S. District Courts.** If CryptoFed's proposal above is adopted in one way or another, we anticipate that a new, positive momentum will be created for Wyoming DAOs.

For all the reasons set forth above, CryptoFed respectfully petitions this Committee to consider its proposal. CryptoFed appreciates the pioneering efforts of Wyoming's lawmakers to

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<sup>1</sup>For October 3, 2023 Order, *see* [https://storage.courtlistener.com/recap/gov.uscourts.nysd.551082/gov.uscourts.nysd.551082.917.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.nysd.551082/gov.uscourts.nysd.551082.917.0_1.pdf)

<sup>2</sup> For July 13, 2023 Order, *see*, <https://www.nysd.uscourts.gov/sites/default/files/2023-07/SEC%20vs%20Ripple%207-13-23.pdf>



explore the potential of cryptocurrencies in the real world, beyond speculative use cases. We look forward to an ongoing dialogue with Wyoming’s legislators.

Sincerely,

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