Subject: File No. S7-04-23
From: Jakub Zawadzki

As an individual deeply involved in the cryptocurrency and digital asset space, I am deeply concerned about the proposed legislation by the SEC regarding the safeguarding of advisory client assets. While I understand the need for regulatory oversight to protect investors, I believe that the SEC is overreaching in its attempt to regulate this emerging industry. First and foremost, it is important to recognize that cryptocurrencies and digital assets are fundamentally different from traditional securities. They operate on decentralized networks and are not subject to the same rules and regulations as traditional financial instruments. Therefore, applying the same regulatory framework to these assets is not only impractical but also stifles innovation and growth in this space. Furthermore, the SEC's proposal fails to consider the existing laws and regulations that already govern cryptocurrencies and digital assets. For example, the Financial Crimes Enforcement Network (FinCEN) has already established guidelines for virtual currency businesses, requiring them to register as money services businesses and comply with anti-money laundering (AML) and know-your-customer (KYC) regulations. These regulations provide a robust framework for addressing the potential risks associated with cryptocurrencies without the need for additional SEC oversight. Additionally, the SEC's proposal could have unintended consequences for individual investors and small businesses operating in the cryptocurrency space. The burden of complying with the proposed regulations, such as increased reporting requirements and custody obligations, could disproportionately impact smaller players in the industry. This could create a barrier to entry for new startups and hinder competition, ultimately limiting consumer choice and innovation. Moreover, the SEC's approach to regulating cryptocurrencies and digital assets fails to recognize the unique characteristics of these assets. Unlike traditional securities, cryptocurrencies are often held in digital wallets and can be easily transferred between parties without the need for intermediaries. This decentralized nature of cryptocurrencies makes it challenging to apply traditional custody rules and raises questions about how the SEC's proposed regulations would be effectively enforced. Furthermore, it is important to note that the SEC already has the authority to take action against fraudulent activities in the cryptocurrency space under existing securities laws. The Securities Act of 1933 and the Securities Exchange Act of 1934 provide the SEC with ample power to prosecute individuals and entities engaged in fraudulent practices, such as offering unregistered securities or engaging in market manipulation. These laws have been successfully used by the SEC to address fraudulent initial coin offerings (ICOs) and other illicit activities in the past. Instead of imposing burdensome regulations on the entire industry, the SEC should focus its efforts on targeted enforcement actions against bad actors. By leveraging its existing authority and working in collaboration with other regulatory bodies, such as FinCEN, the SEC can effectively address the potential risks associated with cryptocurrencies and digital assets without stifling innovation and growth. In conclusion, while I acknowledge the importance of investor protection and regulatory oversight, I believe that the SEC's proposed legislation regarding the safeguarding of advisory client assets in the cryptocurrency and digital asset space is an overreach. Applying the same regulatory framework to these assets as traditional securities is impractical and hinders innovation. Existing laws and regulations, such as those established by FinCEN, already provide a robust framework for addressing potential risks. The SEC should focus on targeted enforcement actions against fraudulent activities rather than imposing burdensome regulations on the entire industry. This approach will strike a balance between protecting investors and fostering innovation in this emerging field. Kind regards Jakub Zawadzki