SEC Regulations Killing Innovation: Major Stablecoin Shuts Down Due to Regulatory Risk

Let me start today's article by saying, I think most people that work for the SEC are good people who genuinely want to make society better. I've met many SEC lawyers over the years and they have all been smart, competent and concerned about doing things right.

And while I haven't fully agreed with the SEC's approach to crypto regulation to date, I do understand the difficult situation its faced with. On the one hand, the SEC wants to protect investors. On the other hand, the SEC wants to encourage capital formation and efficient markets. This is a tough balancing act to get right and its difficulty should not be ignored or dismissed.

And until now, one could say that the SEC has done a mainly acceptable job of going after bad actors without stifling innovation. I should note, this is in stark contrast to other US federal agencies that spend their time arresting people for the "crime" of buying and selling bitcoin.

But last month, something happened that changed my opinion about the SEC's approach to crypto regulation and its ability to manage a conflicting mandate. Read on to find out what happened and why I've never been more pessimistic about the SEC's ability to effectively regulate crypto.

2. Describe Basis and why it shut down

Let's take a look at a once promising crypto project under the name of Basis. Basis was a stablecoin with a relatively straightforward means of pegging its prices: when demand for Basis would rise, the blockchain would create more Basis, when demand fell, the blockchain would buy back more Basis. This would effectively prevent harsh fluctuations in price.

Basis was devised of three separate tokens, all taking an important role within its ecosystem. Basis Tokens were at the core, they were to be pegged to the US dollar. Bond Tokens allowed for the seamless and safe auctioning of finances. And finally, Share Tokens were used to help redeem Bond Tokens while deriving their value from dividends.

Essentially, Basis had crafted a serious and sophisticated stablecoin ecosystem which had the potential to rival the likes of giants such as Tether and MakerDAO. However, the SEC saw issue with certain aspects of Basis, and subsequently led the company to prematurely end its project. The team were informed that their Bond and Share Tokens would inevitably be categorised as securities by the SEC, this would make them subject to restrictions regarding transfers, and that their supply would have to be limited. Transfer restrictions would then lead to there being a "centralized whitelist, meaning [their] system would not only lose its censorship resistance, but also that on-chain auctions would have significantly less liquidity" as noted on their homepage. The SEC had forced Basis into a deadlock as transfer restrictions would dismantle the fundamentals of the project, so the team was left with no other option but to shut it down. Just to make it clear, if the SEC had not been so heavy-handed in their decision-making, Basis would have had the opportunity to thrive. The project did not shut down due to anything dubious such as poor management or poor finances, it was shut down simply because the SEC's rules are archaic and unfit for a decentralised financial ecosystem such as theirs.

3. SEC is Killing Innovation

Basis was not a shady operator, they were not attempting any fraudulent behaviour (to my knowledge). Their finances were raised via venture capitalists, not via an ICO. They treated the project and its investors with the utmost respect, never tried to deceive, and while doing so they produced something truly innovative. These are the types of projects that we both want and *need* within the cryptocurrency and blockchain industry. This is what makes the story so tragic. They are not shutting down on their own accord. They were effectively forced to for not fitting within the rigid constraints of the SEC's unnecessary definitions. The SEC argue that they do this to protect others, but that makes no sense in this case as Basis' investors were VC's who understood the stablecoin project and actively *wanted* to put their money into it.

This is a clear case of how poorly designed regulations can stifle innovation, and how the actual enforcement of these laws can dismantle impressive new projects. The SEC's rules are not fit for the age of crypto. They seem to be unable to fathom the concept that not every token offering can be a security.

This is a perfect example of why I disagree with the SEC's current approach. Make no mistake, I am all for SEC regulation in regards to shutting down fraudulent activity and closing scams, but I draw the line when they punish companies for being innovative and for thinking outside the box to try to bring much needed solutions to the market.

This isn't even all the damage that the SEC has performed, when they begin to arrest people within this field it makes CEOs and upper-management nervous. It makes them tread lightly, but most importantly, it makes them avoid innovation. It makes them stay away from thinking outside the box, for fear of unfair regulatory behaviour.

Interestingly, when asked whether they believe that they are stifling innovation, the SEC offered no response. Case studies such as Basis reveal to us that regulation has gone too far, and that the SEC is not fit to command the nature of the crypto and blockchain ecosystem. Their rules are archaic and ill-designed. They do not translate into this age of contemporary finance.

4. What does this mean for *Crypto law enthusiasts?*

Enthusiasts need to understand the rules and play within them. Despite how much we disagree with the SEC's approach, there is no point fighting the system. Crypto law enthusiasts are interested in crypto businesses and investments. If you want to make money and be successful you'll need to play within the rules set by the SEC.

Some enthusiasts I've spoken to have said that the SEC is going to "hammer" projects that underwent ICOs. Its already sent out numerous subpoenas to industry participants. Basis clear got the message. Innovative financial systems are not welcome in the US. So its leadership took the painful and disheartening act of voluntarily shutting down and returning $130M to investors.

On a personal note, I do hold out hope that legislators will see money and businesses leaving the US and decide to enact new laws that will do a better balancing job than those set by the SEC. But I'm not holding my breath. Instead, I'm helping people find jurisdictions that want crypto innovators. The world is big. Go where you're wanted.