

Regulate Staking-as-a-Service by Rules, Guidance, Not Enforcement

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This article analyzes a recent Securities and Exchange Commission (SEC) settlement which espoused the SEC's view that a cryptoasset trading platform's staking-as-a-service program involved the offer and sale of an unregistered security. The article suggests that the SEC misapplied the "Howey" test used to determine when a public offering constitutes an investment contract and thus a security. "Even when customers' cryptoassets were bonded for staking, customers apparently still owned them. There was no investment." It is further argued that novel, counter-intuitive theories articulated by the SEC in the settlement would benefit from regulatory guidance rather than rules generated from enforcement actions.

["Regulate Staking-as-a-Service by Rules, Guidance, Not Enforcement,"](#) *Bloomberg Law*, February 14, 2023

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