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'Smart Contracts' Ruling Forces a Blockchain Development Rethink

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The article looks at the recent decision by the US Court of Appeals for the Fifth Circuit in the case of *Van Loon v. US Treasury* and its significant implications for blockchain technology, particularly concerning the distinction between mutable and immutable smart contracts. Smart contracts are self-executing programs on a blockchain that operate when specific conditions are met. The court clarified that immutable smart contracts, which cannot be altered once deployed, do not fall under the legal definition of property and are beyond the sanctioning authority of the Office of Foreign Assets Control (OFAC) under the International Emergency Economic Powers Act.

The concept of "mutable" smart contracts can be complex to understand. Blockchain's inherent immutability means that any perceived mutability is achieved through proxy contracts. Proxy contracts act as routing layers, directing user interactions to different implementation contracts, with new implementation contracts being deployed for upgrades or new features. This allows for system updates while maintaining the immutability of the blockchain.

The *Van Loon* ruling distinguishes truly immutable smart contracts, which cannot be modified post-deployment, from those using proxy patterns for upgradeability. This distinction has critical legal and regulatory implications, especially for protocols involved in cross-border transactions or privacy-focused services like crypto mixers.

Developers must now carefully consider the legal consequences of their architectural choices, particularly in jurisdictions that require smart contracts to be upgradeable, such as Wyoming and Tennessee. The decision demonstrates the need for a thorough analysis of the long-term legal impacts of smart contract design in the evolving regulatory landscape.

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