

More clarity about digital assets must precede unified regulation

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Davis Polk partner Joe Hall authored “More clarity about digital assets must precede unified regulation” in *Bloomberg Law*. In the article, Joe discusses the Financial Innovation and Technology for the 21st Century Act (FIT 21) and how the bill could be refined. Joe explains that this much-needed legislation would assign primary regulatory authority for digital assets to the CFTC, which would position most digital asset activity away from the SEC. However, Joe highlights that a basic problem with FIT 21 is that it includes legacy concepts such as an “investment contract,” which could give the SEC latitude to claim that almost all digital assets are securities and therefore not subject to the bill’s tailored solution.

Joe notes that the bill should define digital assets functionally, without using concepts encrusted with decades of case law, as this would provide clarity that consumers and businesses need.

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