

# **WHAT MAKES A CRYPTO ASSET A SECURITY IN THE US**

The SEC considers most cryptocurrencies to be securities. However, Bitcoin and Ether are considered to be assets. ICO tokens are mostly counted as securities if they are released by one company and function similarly to stocks. The SEC has provided some vague guidance on the characteristics of digital assets which are less likely to be considered securities.

To argue that crypto assets are securities, the SEC has relied on a U.S Supreme Court case from 1946. The court ruled that "an investment of money in a common enterprise with profits to come solely from the efforts of others" is a kind of security called an investment contract.

Many of SEC crypto-related cases have ended in settlements, with companies paying fines and agreeing to follow U.S law. In some cases, this has meant exiting the U.S market or closing a cryptocurrency project.

In the few cases that have been decided in court, judges have agreed with the SEC that specific crypto assets are securities. Those rulings said developers' statements tying the value of their digital assets to efforts to grow.

According to the SEC, the Ripple Labs team engaged in a series of unregistered securities offerings when it sold XRP tokens to the public over a multiyear period. According to Ripple Labs, XRP was never a security and is still not a security -- it's a cryptocurrency.



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