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Virtual Event Series

Can the US Become Crypto-Competitive Again?

Guest Speaker:

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COO & General Counsel
NATION

Hosts:

Kenny Estes
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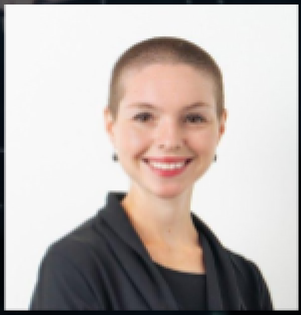

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DiffuseTap: Can the US Become Crypto-Competitive Again?

Last time on DiffuseTap, Gerald Gallagher, COO and General Counsel of NATION, talked to us about how the FIT Act could allow the US to catch up to other countries in crypto regulation, why the crypto bubble desperately needs to burst, and why the US is seemingly skeptical of all new technology.

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DiffuseTap

This networking session is part of our weekly virtual events series. Networking (you'll bump into at least a dozen high caliber fund managers) meets purposeful (you'll tap into brand-new sources of ideas)… straight from your armchair like a boss.

Meet the Speaker

GERALD GALLAGHER is a VC investor, attorney, and tech executive. Having been on all three sides of the venture ecosystem: startup, investor, and LP, Gerald manages teams, projects, and accounts in his role as COO and General Counsel at NATION, a platform that enables communities to raise funds through decentralized autonomous organizations. Gerald invests in the fintech, insurtech, and digital health sectors. LinkedIn: @gerald-gallagher

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KENNY ESTES: That's enough about us. Let's hear from Mr. Gallagher. Gerald, do you want to tell the folks a little bit about your background and what you're up to over at Nation?

GERALD GALLAGHER: Yeah. Hey Kenny, thanks for having me. Hi, everyone. I'm excited to talk about some interesting stuff today. I am the general counsel and CEO of Nation, and we are primarily a DAO infrastructure platform.

What that means is, on the regulatory and legal side, I spend a lot of time thinking about compliant pathways for crypto companies or projects that want to launch a token, or form some kind of a DAO, but essentially an entity that is going to involve some kind of decentralization over time, and the different governance mechanisms based on their purpose.

I have been in this space for a while, but not full time until 2020 or 2021. After having jumped over to the legal side, I was in venture working in heavily regulated industries, primarily in healthcare, fintech, and insuretech.

I was a VC working at home and I was getting a little bored with some of the aspects of that industry. And then, a couple of my buddies started a project where they wanted to try to buy a copy of the US Constitution. That became the Constitution DAO. I told them it was a terrible idea, but then it kind of worked. And so, I moved further into this space. That was a fun, weird path to where we are today.

KENNY: Love it. They didn't actually buy it, did they? Didn't it get revamped into something completely different?

GERALD: No. They lost. It was really interesting seeing it unwind. They returned a lot of the funds. Gas at the time was very high, so there were some interesting technical challenges. It was a weird path afterwards where the keys were burned, and then the token mooned. It was an interesting experience.

KENNY: Fair enough. I wouldn't know what to do with the constitution if I had it too. The title of the talk today is about regulation in the US specifically. I would say that pretty much every speaker we have ends up touching on this subject. So, maybe you could give folks the lay of the land. What is happening in Congress as it pertains to crypto regulation?

GERALD: Yeah. It's a really interesting time. I'm excited about some of the progress that is being made. One of the things I was just talking about with some of the individuals in the first breakout room was that crypto is approached as a sort of monolithic industry. The challenge is, it really depends on what you're talking about when you're talking about legislation in Congress.

There are the Bitcoin miners who are, from a legislative perspective, following an energy playbook. They are looking for capacity in terms of tax revenue or tax rebates in higher energy output states. That is one model. You have the NFT guys saying, “Hey, we're not like anything that you are regulating. We're just making JPEGs and baseball cards.”

You also have DeFi, which is a super interesting group. But largely, I think a lot of it has libertarian roots. It is really focused on a set of legislative goals. And then, you have what I would call everyone else, who just wants to maybe launch a token or even just understand what pathways they have for organizing in the US. Right now, there was a bill that I believe started out being called digital digital innovation or digital assets bill, but now it's called the FIT act, or the “Financial Innovation and Technology in the 21st Century” act.

That one just made it out of committee, which is very exciting. The biggest challenge that the US has right now is that legislators have a really hard time wrapping their heads around the fact that something could be a security, and then cease to be a security.

And so, what the FIT act actually does is codify that there is a dual registration process where, as a project, you would register with both the SEC and the CFTC. A lot of legislators have issues with the cost or time to implement this, which is typical of any kind of legislative issue, but that is probably the most promising piece of legislation.

And then, you have a lot of local legislation in various states trying to accommodate things like stablecoins or banking, or redefining things like narrow banking, which would allow a bank to issue a currency. You also have DAO laws. But the biggest federal momentum that we see is probably the FIT act. And then, there are a few stablecoin bills making their way through the pipes in DC.

KENNY: Well, let's focus on the FIT bill. After it goes out of the House Committee, it goes to the House floor, and then it goes to Senate. Reading the tea leaves and going back to your point about, let's just say, the geriatric skew of our representatives not necessarily understanding all of this, what do you think the odds are that this actually makes it through? What has to happen?

GERALD: It has a decent chance of making it through the house. It basically made it through the subcommittees, and the committees that are associated with CFTC and things like commodities and financial regulation. It has a decent chance of getting out of the house. It actually ended up picking up some bipartisan support.

That is one of the other odd things that has happened in the United States that has not necessarily happened as much elsewhere. I think it’s almost a microcosm of where we are on a lot of policy issues in the United States. It became heavily partisan. There was some support from democrats to move that bill out of committee.

Now, the other side to that is that Senator Warren has essentially declared the bill dead on arrival in the Senate. It will likely be heavily redlined if a version of that passes, but it's also probably the best thing going for the industry in the United States. I think it will just take efforts locally and nationally, and even some of the explanations of American brain drain and all the other things that we need to talk about to find support there.

KENNY: Alright. I have to say, the fact that the best thing going for crypto is a bill that is DOA when it hits the Senate probably speaks to something. Maybe we could compare and contrast. You mentioned other countries. Where does the US sit in its regulatory efforts compared to the rest of the world?

GERALD: Narrowing it down, DeFi has some really interesting objectives. I have a lot of respect for the industry. But I think that from a legislative perspective, they create some of their own challenges just in terms of stablecoins, and just being able to issue tokens and know what exactly they are.

The US is, and probably will continue to be for the foreseeable future, the largest financial market in the world. There is some desire of foreign investors or foreign entrepreneurs to be able to access that market. But in terms of what we're actually doing, I would say we are really shooting ourselves in the foot.

The problem with regulation by enforcement, which is what we have been going through in the United States, is that there is this guise of consumer protection. But it's all skipping out on things like due process, going after projects that actually are not hurting consumers, when projects that did hurt consumers have already failed.

In terms of where the gap filling is happening, it was really interesting that Andreessen just opened an office in London. London obviously saw a lot of their financial services industry shift to the continent post Brexit, and I think they are trying to figure out some of their identity there. So, there is some flexibility and some accommodation that I think they are willing to give the industry to create these sandboxes and things like that.

You have Singapore opening their doors to stablecoins. You have the Virtual Asset Regulatory Authority in Dubai, and you have it across the Middle East too. I think VARA has been the most outspoken in terms of accommodating entrepreneurs who want to do something in the field, because they are going through these massive cyclical shifts in terms of the way their economies are structured.

There are a lot of large markets, obviously not as large as the US, but very large markets trying to step in and fill the void. The other problematic piece of that is that if you have US customers, you are subject to US regulation. So, there is still further complication there.

KENNY: Painting with a broad brush, the answer is it varies, but there is generally a lot more positive reception internationally than domestically. We had one speaker two years ago at this point who had a soundbite that we got a lot of mileage out of. He said the US is at a severe risk of becoming a digital backwater.

Do you share that view with where things stand right now, and the fact that international or other countries are being more friendly to digital asset issuers and people working in that space?

GERALD: I think there is a risk. The interesting thing about the industry is, at the time of that sound bite, we were probably somewhere close to that $3 trillion market cap. And now, we're around 1.2 or whatever it is. I don't know, but that's not a small figure.

In terms of a 21 trillion GDP or whatever it is, I think one of the challenges that we have with crypto is that it's really just the bad actors who get highlighted. There is a lot of policy work to be done there, and I like to see the momentum in Washington from the private sector. But there is definitely a risk that we will lose that edge.

Also, right now the loss of that industry is not enough to be painful to the United States. I think by the time we figure it out, it could potentially be too late to fix it. If the UK or any one of these other jurisdictions really figures it out, then the United States is not going to be a destination for these technologies. You can even pair that in with the AI discussions going on. We are very skeptical of technology overall in the United States right now, which is a big generational challenge.

KENNY: Okay, you touched on this a little bit there. There is the concept of London and other countries being more friendly. It's almost like a first mover, "genie out of the bottle" type of thing, and the US cannot really catch up with that. You also earlier talked about how this interacts with the US financial services industry. Stablecoins are obviously trying to make a play on that.

Can you expand on your thoughts there? A quote from Matt Levine we use a lot is, every transaction today goes through New York. Every single one. That's because all of these massive things are regulated by New York. So, no matter where you are in the world, that all goes through New York in the US. Is this hegemonic? Do you see crypto changing that in a meaningful way? And is that part of the reason why there is a lot of hesitancy here? Where do you think the interplay is?

GERALD: That is a super interesting question. My other second favorite Matt Levine quote is probably that everything is securities fraud, maybe, which is weird in terms of how the US works from a regulatory perspective. But the big thing that I think digital assets and crypto promise from a technological perspective is disintermediation.

If you do use the analogy that every transaction goes through New York, well, what happens when transactions do not need to go through any institution? That makes it very scary to the people who do control the access points in the hubs. I was talking earlier with some folks about on ramps and off ramps. That's where you involve the US financial system. It's very easy to just play around in crypto all day, moving your money from token to token, and all that kind of stuff. But when you need to get it out, that's where the challenge starts to form from a regulatory perspective.

But what that also does is it adds a lot of flexibility to who can fill that hub or that model. If you do not need it to be New York, and you barely need it to be anyone, then I think you really opened the door to a lot of other jurisdictions to be able to fill those gaps.

KENNY: That actually brings us back to the question from June and Chris. I know who is for crypto regulation and for the FIT bill. It's basically the people in this room, and flavors thereof. But who's against it? You touched on financial institutions. I'm guessing that's one of the major lobbying arms against it. Who is trying to keep this from happening?

GERALD: It's interesting. I love this discussion because there are a lot of folks who maybe could have been considered kind of a “tin hat” crowd a couple of years ago, and who just keep seeming to be right on how the industry is being regulated. Talking about Operation Choke Point, where you have banks, you have the financial sort of powers that be, and the regulators cutting off access to some of these.

I think on an individual basis, there is obviously a huge challenge for anyone. This is on both sides of the aisle, but it did tend to get a lot more press on the left. Anyone who took money from FTX had a really hard time. I respect the position that they tried to trust someone who was the good guy and got severely burned, but I also think it has made them irrationally fearful of this sector and this technology.

And then, I think you have people who, frankly, just do not understand the technology and their constituents. That is another one of the mistakes that I think we make as an industry because let's be honest, crypto is a bit of a bubble. If you are in the industry, a lot of your information is on a loop and you see a lot of the same perspectives.

We tend to think of ourselves as a very large voting block, but we’re not at this moment. That is where a lot of work needs to be done. Whether it's in the lobbying space or trade associations, or whatever. I think anyone who has got a big lobby in their backyard is just not going to prioritize crypto.

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