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CLASSIFICATION OF DIGITAL ASSETS

In Accordance with the FIT21 Act

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PYOR's View of Likely Classification

Token	Decentralized	Programmatic Functioning	Broad Distribution	Control of Issuer	Initial Coin Offering	Classification
Bitcoin	☑	☑	☑	☒	☒	Digital Commodity
Ethereum	☑	☑	☑	☒	☑	Digital Commodity
Tether	-	-	-	-	-	Stablecoin
BNB	☒	☒	☒	☑	☑	Security
Solana	☑	☑	☑	☒	☑	Digital Commodity
USDC	-	-	-	-	-	Stablecoin
XRP	☑	☑	☒	☒	☑	Digital Commodity
Toncoin	☑	☑	☑	☒	☒	Digital Commodity
Dogecoin	☑	☑	☑	☒	☒	Digital Commodity
Cardano	☑	☑	☑	☒	☑	Digital Commodity
Tron	☑	☑	☑	☒	☑	Digital Commodity
Shiba Inu	☑	☑	☑	☒	☒	Digital Commodity
Avalanche	☑	☑	☑	☒	☑	Digital Commodity

PYOR's View of Likely Classification

Token	Decentralized	Programmatic Functioning	Broad Distribution	Control of Issuer	Initial Coin Offering	Classification
Polkadot	☑	☑	☑	☒	☑	Digital Commodity
Chainlink	☑	☑	☑	☒	☑	Digital Commodity
Bitcoin Cash	☑	☑	☑	☒	☒	Digital Commodity
Uniswap	☑	☑	☑	☒	☒	Digital Commodity
Litecoin	☑	☑	☑	☒	☒	Digital Commodity
Polygon	☑	☑	☑	☒	☑	Digital Commodity
Unus Sed Leo	☒	☒	☒	☑	☑	Security
DAI	-	-	-	-	-	Stablecoin
Pepe	☑	☑	☑	☒	☑	Digital Commodity
Kaspa	☑	☑	☑	☒	☒	Digital Commodity
Internet Computer	☑	☑	☑	☒	☑	Digital Commodity
Ethereum Classic	☑	☑	☒	☒	☒	Digital Commodity

PYOR's View of Likely Classification

Token	Decentralized	Programmatic Functioning	Broad Distribution	Control of Issuer	Initial Coin Offering	Classification
Artificial Super intelligence Alliance	☑	☑	☑	☒	☑	Digital Commodity
Monero	☑	☑	☑	☑	☒	Digital Commodity
Aptos	☑	☑	☒	☒	☑	Digital Commodity
Render	☑	☑	☑	☒	☑	Digital Commodity

Table of Contents

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CLASSIFICATION CRITERIA FOR DIGITAL ASSETS

We have classified the digital assets based on the following steps:

Step 1 **Identification as a Digital Asset Issuer**	*Determine if the entity is a digital asset issuer, which is defined as any person that issues or causes to be issued a unit of such digital asset in exchange for consideration or offers a right to a future issuance of a unit of such digital asset.*
Step 2 **Investment Contract Analysis**	*Assess if the digital asset is offered or sold pursuant to an investment contract, bearing in mind that this does not automatically classify it as a security.*
Step 3 **Programmatic Functioning and Automation**	*Check if the digital asset's value is primarily generated by the programmatic functioning of the blockchain system, including automated processes and smart contracts.*
Step 4 **Voting Rights and Governance**	*Determine if the digital asset grants voting rights within a decentralized governance system, evaluating the extent of participation in governance decisions.*
Step 5 **Issuance Mechanism**	*Evaluate if the digital asset is issued through the programmatic functioning of the blockchain system, which involves automated issuance based on pre-defined blockchain rules and algorithms.*
Step 6 **Digital Asset Economics**	*Understand the purpose of the blockchain system and the operation details, including the launch, supply process, consensus mechanism, and governance structure.*
Step 7 **End User Distribution**	*Verify if the digital asset is distributed broadly, equitably, and non-discretionarily, without substantial exchange of value, aimed at incentivizing network participants.*

Step 8 **Maturity Date and Circulation**	*Identify if the digital asset has reached its maturity date, defined as when 20% or more of the total units are either digital commodities or registered digital assets.*
Step 9 **Certification and Disclosure Compliance**	*Ensure the digital asset and its blockchain system meet certification and disclosure requirements set by regulatory bodies, including quarterly verification by the issuer or related parties to the Commodity Futures Trading Commission and the Securities and Exchange Commission that the information is true and correct.*
Step 10 **Prohibition on Evasion**	*Ensure there is no attempt to evade classification as a digital asset issuer or the associated regulatory requirements, ensuring compliance with the FIT 21 Act.*

Applying The Classification Criteria

Applying these classification criteria to a specific type of digital asset can help determine whether the asset qualifies as a digital commodity or security.

Digital Commodity	Digital Security
• The digital asset is primarily governed by the programmatic functioning of the blockchain • It provides voting rights within a decentralized governance system. • It is issued through automated blockchain processes. • It is distributed broadly and equitably to end users without significant exchange of value.	• The digital asset is offered or sold pursuant to an investment contract. • It involves a significant exchange of value. • It does not align with decentralized governance and automated issuance characteristics.

By evaluating each criterion and referencing the applicable sections of the FIT 21 Act, the classification of a digital asset as either a security or a digital commodity can be determined.

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DIGITAL ASSETS CLASSIFICATION FAQS

DIGITAL ASSETS CLASSIFICATION FAQ

1. WHAT IS THE PURPOSE OF THE FIT 21 ACT IN RELATION TO DIGITAL ASSETS?

The Financial Innovation and Technology for the 21st Century Act (or FIT 21 Act) marks a major advancement in the U.S. effort to establish comprehensive regulations for digital assets. Designed to provide clarity and structure, FIT21 seeks to resolve the lingering uncertainties that have hampered the growth and innovation of the digital asset sector. This legislation is considered a landmark achievement for the cryptocurrency industry, which has long struggled with unclear regulations and inconsistent enforcement. The Act was developed in response to the growing need for regulations that protect investors while promoting innovation in the cryptocurrency and digital asset industry, which has been plagued with uncertainty due to the absence of a clear regulatory statute since the launch of the first blockchain network known as Bitcoin in 2009.

The primary objective of the FIT 21 is the classification of digital assets, based on their characteristics, into securities and commodities, in order to affix the task of governing the assets by the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) respectively. FIT21 aims to define the distinct roles of the SEC and CFTC in regulating digital assets, clarifying which agency oversees securities and which handles commodities and securities. This clarification addresses a longstanding source of ambiguity in the regulatory landscape.

The Act also prioritizes consumer protection by mandating stringent measures against fraud and market manipulation. It requires digital asset issuers to provide comprehensive disclosures and sets clear guidelines for market participants to ensure a fair and transparent environment for digital asset trading. As countries work on their regulatory frameworks amidst the rise in popularity of digital assets, this legislation places the U.S as a leader in the innovation and advancement of the Fintech Industry, with upcoming legislation with regards to digital assets across various jurisdictions expected to be heavily influenced by the FIT 21 Act, due to the US's stronghold on the industry.

2. How does the FIT 21 Act aim to resolve regulatory uncertainties in the cryptocurrency industry?

The FIT 21 Act aims to resolve regulatory uncertainties in the cryptocurrency industry by providing clear definitions, establishing jurisdictional clarity, mandating certification and compliance, safeguarding innovation, enforcing anti-fraud measures, promoting interagency coordination, ensuring transparency, and including safe harbour provisions. These measures collectively create a more predictable and supportive regulatory environment for digital assets and their issuers.

3. What are the primary regulatory bodies involved in governing digital assets according to the FIT 21 Act?

According to the Act, the primary regulatory bodies that are involved in governing digital assets are the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC). The CFTC is responsible for overseeing digital commodities, which include assets that function primarily through decentralized blockchain technology and automated processes. On the other hand, the SEC regulates digital securities, which are assets offered or sold as investment contracts with an expectation of profit derived from the efforts of others. This clear division of responsibilities helps to ensure that digital assets are regulated appropriately based on their specific characteristics and functions.

4. What criteria does the FIT 21 Act use to classify digital assets as securities or commodities?

The FIT 21 Act classifies digital assets as securities or commodities based on a set of clearly defined criteria. In order to be classified as a security, a digital asset must typically be associated with an investment contract, where there is an expectation of profit primarily derived from the efforts of others, indicating it functions as an investment vehicle. This classification considers factors such as the marketing of the asset, the pooling of resources in a common enterprise, and the involvement of a promoter or third party in driving profits.

A digital asset is classified as a commodity if its value is generated through the programmatic functioning of a decentralized blockchain system, including automated processes and smart contracts. Additional criteria for a commodity classification include the asset granting voting rights within a decentralized governance system, being issued through automated blockchain mechanisms, and being distributed equitably without a significant exchange of value. The asset must also meet maturity and circulation requirements, such as having 20% or more of its total units designated as digital commodities or registered digital assets. By examining these aspects, the Act provides a structured approach to determine the appropriate regulatory category for digital assets.

5. What are the implications for investors if a digital asset is classified as a security versus a commodity under US law?

If a digital asset is classified as a security under US law, it is subject to the regulatory oversight of the Securities and Exchange Commission (SEC). This classification requires the asset issuer to comply with strict registration, disclosure, and reporting requirements designed to protect investors by ensuring transparency and accountability. Investors benefit from these protections, as they receive detailed information about the asset, its risks, and the financial health of the issuer. However, the compliance burden can be significant, potentially impacting the availability and liquidity of the asset.

If a digital asset is classified as a commodity, it falls under the regulatory purview of the Commodity Futures Trading Commission (CFTC). This classification generally involves fewer regulatory hurdles compared to securities, focusing on preventing fraud and market manipulation. Commodities are often traded on more flexible terms, which can result in higher volatility and risk for investors. While the regulatory environment for commodities is less stringent, it provides a framework that encourages innovation and growth within the decentralized and programmatically driven blockchain ecosystem. Thus, the classification has profound implications for investor protection, market accessibility, and the operational flexibility of the asset.

The tax implications for digital assets classified as securities versus commodities under U.S. law are quite different. If a digital asset is considered a security, any gains or losses from its sale or exchange are subject to capital gains tax. Short-term capital gains, from assets held for one year or less, are taxed as ordinary income. Long-term capital gains, from assets held for more than a year, are taxed at a lower rate. This treatment aligns with how traditional securities like stocks and bonds are taxed.

In contrast, if a digital asset is classified as a commodity, any gains or losses are generally treated as ordinary income, regardless of how long the asset was held. This means the gains would be taxed at the investor's marginal income tax rate, rather than the potentially lower capital gains rate. The character of the gain or loss - whether it's short-term or long-term - also differs between securities and commodities. For securities, this distinction matters for the applicable tax rate. But for commodities, the holding period does not impact the tax treatment in the same way.

6. What are the regulatory requirements for digital assets classified as securities under the FIT 21 Act.

Under the FIT 21 Act, digital assets classified as securities are subject to a comprehensive regulatory framework designed to ensure transparency, investor protection, and market integrity. Issuers of such digital securities must register their offerings with the Securities and Exchange Commission (SEC), providing detailed disclosures about the asset, its underlying technology, the business model, and associated risks. This includes submitting regular financial reports, offering documents, and adhering to stringent accounting standards. Issuers are also required to maintain ongoing communication with investors through periodic disclosures and updates on any significant developments. Compliance with anti-fraud and anti-manipulation provisions is mandatory, ensuring that the market remains fair and free from deceptive practices.

Additionally, issuers must verify the identity of investors to prevent illicit activities such as money laundering and ensure adherence to investor suitability standards. The registration and continuous disclosure requirements aim to create a transparent environment where investors are well-informed, thereby fostering trust and confidence in digital securities markets.

7. What role does decentralization play in determining whether a digital asset is classified as a commodity or a security under the FIT 21 Act?

Decentralization plays a crucial role in determining whether a digital asset is classified as a commodity or a security under the FIT 21 Act. For an asset to be classified as a commodity, it must primarily operate through a decentralized blockchain system, meaning its value and functionality are driven by programmatic, automated processes rather than a central authority or entity. Decentralized governance is another key factor, where decision-making power is distributed among the asset holders, allowing for community-based management and operation of the asset. This lack of reliance on a central entity to generate profits or manage operations aligns the asset more closely with commodities, which are typically subject to less stringent regulatory requirements compared to securities.

In contrast, a digital asset is more likely to be classified as a security if it involves a centralized entity whose efforts are critical to generating profits for investors. This centralization is indicative of an investment contract, where investors expect to earn returns based on the managerial and entrepreneurial efforts of a central party or promoter. The presence of a central issuer or manager who drives the value and success of the digital asset creates a dependency that aligns with the characteristics of securities. Therefore, the degree of decentralization in a digital asset's governance, issuance, and operational mechanisms is a key determinant in its classification under the FIT 21 Act, guiding whether it falls under the regulatory scope of the CFTC as a commodity or the SEC as a security.

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8. How does the FIT 21 Act change the approach to classifying digital assets compared to the previous use of the Howey Test?

The FIT 21 Act introduces a more nuanced and comprehensive framework for classifying digital assets compared to the traditional reliance on the Howey Test. While the Howey Test focuses on determining whether an asset constitutes an investment contract by examining factors such as the expectation of profits derived from the efforts of others within a common enterprise, the FIT 21 Act goes further by incorporating specific criteria tailored to the unique characteristics of digital assets. This includes evaluating the degree of decentralization, the nature of the asset's issuance and governance, and the role of programmatic functions within the blockchain ecosystem.

The Act explicitly defines what constitutes a digital commodity versus a digital security, providing clearer guidelines for classification based on technological and operational attributes. By addressing the distinct aspects of blockchain technology and automated processes, the FIT 21 Act aims to reduce regulatory uncertainty and offer a more structured approach, ensuring that digital assets are regulated in a manner that reflects their true nature and functionality. This shift from the broad and sometimes ambiguous criteria of the Howey Test to a more specific and detailed regulatory framework helps to create a clearer and more predictable regulatory environment for digital asset issuers and investors.

9. What are the tax implications for investors depending on whether a digital asset is classified as a security or a commodity?

The tax treatment of digital assets varies greatly depending on their classification as a security or commodity. Securities are taxed as per the Securities Exchange Act whereas commodities are taxed according to the provisions of the Commodities Exchange Act. For digital securities, investors are liable for capital gains tax, the rate of which depends on the holding period, and ordinary income tax on any dividends or interest earned. They can potentially deduct investment-related expenses.

In contrast, digital commodity investors also face capital gains tax, but with specific rules, and must report income from mining or staking as ordinary income. They might be eligible to deduct trading fees as business expenses if their activity qualifies. Understanding these tax differences is crucial for investors to make informed decisions and comply with regulations to avoid penalties and optimize their after-tax gains.

10. How does the FIT 21 Act position the United States in the global regulatory landscape for digital assets?

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ANALYSIS AND CLASSIFICATION OF INDIVIDUAL TOKENS

Analysis And Classification Of Individual Tokens*

(Analysis is of the top 30 tokens according to market capitalization as of June 10 2024)

The following is our first-principles assessment of how top cryptocurrencies will be classified as digital commodities, securities, and stablecoins according to the Financial Innovation and Technology for the 21st Century Act.

This is not meant to be legal advice or opinion. The classification does not represent the opinion/declaration of any regulatory body.

Bitcoin [BTC]

A digital commodity is defined as any unit of a digital asset held by a person, other than the digital asset issuer, a related person, or an affiliated person, after the first date on which each blockchain system to which the digital asset relates is a functional system and certified to be a decentralized system under section 44 of the Securities Exchange Act of 1934. Bitcoin meets this definition because it is a digital asset that is not issued or controlled by any single entity, and its blockchain is a functional and decentralized system. The Bitcoin blockchain is considered functional because it allows network participants to use Bitcoin for the transmission and storage of value, participation in services, and participation in the decentralized governance system of the blockchain. It is considered decentralized because no single person or entity has control over it.

Reasons for classification as a Digital Commodity

According to the provisions of the FIT 21 Act, Bitcoin would be classified as a digital commodity, rather than a security. The following are the reasons for this classification along with the relevant provisions of the Act:

Decentralization

Bitcoin operates on a decentralized blockchain network where the system is not controlled by a single entity. Governance is achieved through a consensus mechanism, with transactions being validated by a distributed network of miners. Mining is a distributed consensus system that is used to confirm pending transactions by including them in the block chain.

FIT 21 Section 101: The term ‘decentralized governance system’ means, with respect to a blockchain system, any rules-based system permitting persons using the blockchain system or the digital assets related to such blockchain system to form consensus or reach agreement in the development, provision, publication, management, or administration of such blockchain system.

Programmatic Functioning

The value and operations of Bitcoin are maintained through automated processes such as mining and cryptographic algorithms, without the need for central management or control.

FIT 21 Act Section 101(26): A digital asset is considered to relate to a blockchain system if the digital asset is intrinsically linked to the blockchain system, including:

- *“where the digital asset’s value is reasonably expected to be generated by the programmatic functioning of the blockchain system.”*

- *“where the digital asset has voting rights with respect to the decentralized governance system of the blockchain system; or”*

- *“where the digital asset is issued through the programmatic functioning of the blockchain system.”*

No Central Issuer

Bitcoin was created by an anonymous entity (Satoshi Nakamoto) and has no central authority or issuer managing its distribution or ongoing operations. Bitcoin transactions occur directly between users (peer-to-peer) without the need for intermediaries like banks or payment processors. New Bitcoins are created through a process called mining, where powerful computers solve complex mathematical problems to validate and record transactions on the blockchain. This decentralized issuance ensures no single entity can control the supply of Bitcoin or manipulate its value through arbitrary printing.

Broad and Equitable Distribution

FIT 21 defines an "end user distribution" as an issuance of a digital asset that does not involve an exchange of more than a nominal value of cash, property, or other assets and is distributed in a broad, equitable, and non-discretionary manner. This provision aims to ensure that the initial distribution of a digital asset is not concentrated in the hands of a few insiders or early adopters but is instead spread widely among a diverse group of participants. This is in line with the broader goals of the FIT 21 Act to promote fair and equitable access to the digital asset market.

Bitcoin's distribution aligns with this aspect of the definition because it was initially distributed through mining, a process in which anyone could participate by contributing computing power to the network. Miners were rewarded with Bitcoin for their efforts, and this process ensured a broad and relatively equitable initial distribution of the cryptocurrency. Section 101 emphasizes broad, equitable distribution without significant value exchange, indicating a commodity nature.

FIT 21 Section 101: The term 'end user distribution' means an issuance of a unit of a digital asset that—

- *"(i) does not involve an exchange of more than a nominal value of cash, property, or other assets; and"*

- *"(ii) is distributed in a broad, equitable, and non-discretionary manner based on conditions capable of being satisfied by any participant in the blockchain system, including, as incentive-based rewards—"*

- *"(I) to users of the digital asset or any blockchain system to which the digital asset relates;"*

- *"(II) for activities directly related to the operation of the blockchain system, such as mining, validating, staking, or other activity directly tied to the operation of the blockchain system; or"*

- *"(III) to the existing holders of another digital asset, in proportion to the total units of such other digital asset as are held by each person."*

Decentralized Governance:

Bitcoin's decentralized governance system is a key factor in its classification as a commodity under this definition. The Act defines a "decentralized system" as one where no single person or entity has control over the blockchain system. This includes not having the unilateral authority to alter the system's functionality, exclude others from using it, or control a significant portion of the digital asset's ownership or voting power.

Bitcoin's decentralized governance is facilitated through its consensus mechanism, the process where network participants validate transactions and agree on the state of the blockchain. This process ensures that no single entity can control the network or manipulate the Bitcoin supply.

The Act also requires that a blockchain system be certified as decentralized under Section 44 of the Securities Exchange Act of 1934 to be considered a digital commodity. This certification process involves a review of the blockchain's governance structure, transaction history, and other factors to ensure it meets the decentralization criteria.

CLASSIFICATION

Bitcoin's decentralized nature, reliance on programmatic functioning, lack of a central issuer, equitable distribution, and decentralized governance align with the criteria set forth in the FIT 21 Act for classifying an asset as a digital commodity. These factors collectively ensure that Bitcoin does not meet the definition of a security, which would require a central entity whose efforts are critical to the generation of profits for investors, as well as an investment contract framework involving expectations of profits derived from the efforts of others.

Therefore, under the FIT 21 Act, Bitcoin would be classified as a digital commodity and would be placed under the regulatory oversight of the Commodity Futures Trading Commission (CFTC) rather than the Securities and Exchange Commission (SEC).

Ethereum [ETH]

Ether, the cryptocurrency of the Ethereum blockchain network IS classified as a digital commodity despite a few characteristics that are synonymous to those of securities, and these are further discussed below. The characteristics of this digital asset are predominantly in compliance with the conditions for digital commodities.

Reasons for classification as a Digital Commodity

Decentralization

Ether operates on the Ethereum blockchain network, which is a decentralized platform where no single entity has control over the entire network. The Ethereum network is maintained by a distributed network of nodes and miners. No government or single entity controls Ether or its underlying technology. FIT 21 underscores the importance of decentralization in classifying an asset as a digital commodity.

Programmatic Functioning

The functioning if Ether is embedded in the Ethereum protocol, which supports smart contracts and decentralized applications (dApps). Its value is derived from its utility within the Ethereum ecosystem rather than the efforts of a central entity. FIT 21 highlights the role of automated, programmatic functions in the classification of digital commodities.

No Central Issuer

Ether was initially distributed through an Initial Coin Offering (ICO) by the Ethereum Foundation in 2014, but the network now operates independently with no single organization controlling its supply or governance. The issuance of new Ether is governed by a predetermined algorithm, making it a deflationary asset with a finite supply. The FIT 21 Act favours classification as a commodity when there is no central issuer whose efforts are critical to the asset's value.

Decentralized Governance

Governance of the Ethereum network is decentralized, and this involves a community of developers, node operators, and stakeholders who participate in decision-making processes through proposals and consensus mechanisms. Changes and upgrades to the Ethereum network are proposed and debated by the community of Ether holders and developers. Ether holders can participate in governance decisions through voting mechanisms, ensuring that the network evolves in a way that benefits the majority of its users. The Act states that decentralized governance is one of the key aspects in determining commodity status.

Broad and Equitable Distribution

Ether has a broad and wide distribution system, with the tokens being available through various processes such as mining, trading on exchanges, and direct transactions, and this wide distribution fits the commodity profile provided for by the FIT 21 Act.

These characteristics of Ether align it more closely with the criteria for digital commodities outlined in the FIT 21 Act. However, it does exhibit some characteristics that would align it with securities, particularly from its early stages and certain ongoing aspects. Here are the key characteristics of a security that Ether possesses:

Initial Coin Offering

Ether was initially distributed through an Initial Coin Offering (ICO) in 2014 by the Ethereum Foundation, and investors purchased Ether with the expectation that it would appreciate in value as the Ethereum network developed and gained adoption. This ICO involved the sale of Ether in exchange for value, creating an expectation of profit from the success of the Ethereum network, which aligns with the Howey Test for securities.

Central Development Team

The Ethereum Foundation and a group of developers have played and continue to play a large role in the development and direction of the blockchain network. This reliance on a group of developers to drive the success of the network could be seen as a characteristic of a security, where investors might expect the efforts of these developers to increase the value of Ether.

Expectations of Profit

Due to the ongoing developments of the platform such as new DeFi functions and the launch of Ethereum, the holders and investors of Ether may have the expectation of the asset increasing, and this expectation of profit based on the development and efforts of the Ethereum team could be interpreted as meeting the criteria of an investment contract under the Howey Test.

CLASSIFICATION

Despite these characteristics, Ether's transition to a more decentralized model, its widespread distribution, and the extensive use of its platform for decentralized applications (dApps) and smart contracts support its classification as a digital commodity under the FIT 21 Act. The Act places significant emphasis on decentralization and programmatic functioning, which are core to Ethereum's current operation. Additionally, on 18th June 2024, the SEC closed its ongoing investigation into Ethereum being classified as a security, and now that the SEC has concluded its investigations, businesses providing services built on the Ethereum blockchain can rest assured they won't be penalized for not registering their offerings as securities.

The FIT 21 Act's emphasis on decentralization and automated and programmatic functioning of the blockchain network cement Ether's classification as a digital commodity despite some of its features overlapping with those of securities.

Tether [USDT]

Tether is a stablecoin that is pegged to the U.S dollar, fluctuating in value with the dollar, and backed by its dollar reserves. It is the largest stablecoin in the world by market cap, and the third largest cryptocurrency, following Bitcoin and Ether. FIT 21 defines permitted stablecoins as digital assets designed to be used as a means of payment or settlement, that are obligated to maintain a stable value relative to a fixed amount of monetary value, and Tether fits this description as it is pegged 1:1 to the U.S. dollar.

The Act explicitly excludes permitted payment stablecoins from the definition of both "digital asset security" and "digital commodity." This means that Tether would not be classified as either a security or a commodity under this Act. However, under specific circumstances, the SEC and CFTC have been granted the regulatory authority by the Act, specifically by the SEC when Tether is offered or sold as part of an investment contract, and the CTFC' jurisdiction would come into play if Tether were used in transactions involving commodities or derivatives. Although Tether is classified neither as a digital commodity nor as a security, the CTFC and SEC may subject it to regulatory oversight based on the facts and circumstances of the case.

BNB (previously known as Binance Coin)

BNB is the cryptocurrency coin that is used to power the BNB chain ecosystem and is one of the world's most popular utility tokens, that can not only be traded like other cryptocurrencies, but can also be used in a wide range of applications. It was created and issued by the cryptocurrency exchange known as Binance as an ERC-20 token on the Ethereum blockchain, following which it migrated and became the native coin of the BNB Smart Chain. Based on the FIT 21 Act, BNB would likely be classified as a digital security and placed in the regulatory oversight of the Securities Exchange Commission owing to its characteristics.

Reasons for classification as a Digital Commodity

Central Issuer and Control

BNB was initially issued by a centralized cryptocurrency exchange, Binance. Binance continues to exert significant control over BNB, including its distribution and use within the Binance ecosystem. It controls the flow and the supply of BNB through processes such as burning, to regulate its value. The FIT 21 Act highlights the fact that a digital asset is likely to be a surety if there exists a central entity whose action are critical to the asset's value, and Binance's control over BNB suggests that there exists centralization, which is a key characteristic of a security.

Initial Coin Offering (ICO)

BNB was launched through an Initial Coin Offering in July 2017. Investors purchased the tokens with the expectation that their value would increase as Binance grew and succeeded. The sale of tokens through an Initial Coin Offering with an expectation of profits based on the efforts of Binance aligns with the criteria of an investment contract, therefore making BNB a security under the FIT 21 Act.

Expectation of Profit

Those who invest in BNB typically do so with the expectation that value of the token will increase over time, driven by Binance's growth, the success of its platform, and the utility of BNB within the Binance ecosystem. The FIT 21 Act classifies investments with the expectation of earning profits as a security.

Burn Mechanism

In order to increase the value of the asset, based on its profits, Binance buys some of the BNB tokens on a quarterly basis and burns or destroys them in order to increase the value of the remaining tokens. This mechanism is a profit sharing characteristic, with the value of the token being tied to the actions of the issuer or the central entity, further indicating the characteristics of a security under the Act.

Utility and Use Cases

BNB can be used to pay transaction fees on Binance as well as participate in token sales on the Binance Launchpad, and other uses. Although the tokens have some utility, this utility is tightly integrated with Binance's services. While utility tokens can sometimes be classified as commodities, the heavy integration with and dependence on a central entity's platform for value creation aligns more with the characteristics of a security.

CLASSIFICATION

Unlike digital commodities like Bitcoin or Ether, BNB is not decentralized and relies heavily on the central control and operations of Binance. The value of BNB is not derived from automated, decentralized processes but from Binance's business activities and strategic decisions. Given these characteristics, BNB would be classified as a digital security under the FIT 21 Act. Its reliance on a central issuer, the expectation of profit from Binance's efforts, and the integration of its utility within the Binance ecosystem align it with the criteria for digital securities. This classification places BNB under the regulatory oversight of the Securities and Exchange Commission (SEC), ensuring that it adheres to the regulations and protections applicable to securities.

Solana (SOL)

SOL is the native cryptocurrency of the Solana network and is used to pay transaction fees, stake to secure the network, and participate in governance. Solana is a high-performance blockchain platform designed to facilitate decentralized application (DApp) development and support cryptocurrency transactions. Launched in March 2020 by the Solana Foundation, it aims to address scalability issues plaguing other blockchains by offering fast and efficient transaction processing. Solana boasts a unique architecture that allows it to process a massive number of transactions per second (TPS), claiming to reach up to 65,000 TPS. This scalability makes it suitable for various applications, from decentralized finance (DeFi) to gaming and non-fungible tokens (NFTs). Based on its features, it is likely to be classified as a digital commodity under the FIT 21 Act.

Reasons for classification as a Digital Commodity

Decentralization

Solana operates on a decentralized blockchain network where no single entity controls the entire network. The validation of transactions and network security are managed by a distributed network of validators. The FIT 21 Act emphasizes the importance of decentralization in classifying an asset as a digital commodity.

Programmatic Functioning

Solana's value is driven by its high-performance blockchain, which supports a wide range of decentralized applications (dApps) and services. The network's operations are automated and programmatic, relying on its Proof of History (PoH) and Proof of Stake (PoS) mechanisms. Proof of History works by creating a historical record that proves the existence of data at a specific time and this method allows the Solana network to process transactions incredibly fast. Proof of Stake (PoS) is a system for verifying transactions on the blockchain where validators are chosen based on how much Solana they have staked. The Act highlights the role of automated, programmatic functions in the classification of digital commodities.

Broad and Equitable Distribution

SOL tokens are widely distributed among network participants, validators, and users. While there was an initial token sale, SOL has since been broadly distributed through various means, including staking rewards and market trading. The FIT 21 Act supports classification as a commodity when the asset is distributed equitably without significant exchange of value favouring a central entity.

Utility and Ecosystem

SOL is used within the Solana ecosystem to pay for transaction fees, participate in governance, and stake in order to secure the network. Its primary value comes from its utility within this decentralized ecosystem. Utility within a decentralized ecosystem without reliance on a central issuer aligns with the characteristics of a digital commodity.

Community and Decentralized Governance

Solana's development and governance involve a broad community of developers and stakeholders who propose and vote on protocol upgrades and changes. While the Solana Foundation plays a role, the network governance is increasingly decentralized.

Comparison with Digital Securities:

Initial Token Sale

Although Solana had an initial token sale, the subsequent decentralization of its network and distribution of tokens through staking and market participation differentiate it from typical securities. FIT 21 defines digital securities as assets where there is an expectation of profits primarily from the efforts of others. Solana's current state of decentralized operation and community involvement reduces the reliance on a central entity's efforts.

Expectations of Profit

While some investors may expect the value of SOL to increase, this expectation is based on the overall success and adoption of the decentralized Solana network rather than the efforts of a specific central entity. The expectation of profit derived from the broader network's success and decentralized nature supports its classification as a commodity.

CLASSIFICATION

Solana's characteristics of decentralization, automated programmatic functioning, broad and equitable distribution, utility within a decentralized ecosystem, and decentralized governance align it more closely with the criteria for digital commodities outlined in the FIT 21 Act. These attributes distinguish Solana from digital securities, which typically involve centralized control and expectations of profit from a central entity's efforts.

USDC (USD Coin)

USDC, or USD Coin, given its characteristics, would be classified as a permitted stablecoin under the FIT 21 Act. USDC is issued by Circle, in partnership with Coinbase, and is governed by the Centre Consortium. USDC is fully backed by a reserve of assets, typically U.S. dollars held in segregated accounts with regulated financial institutions. The value of USDC is pegged 1:1 to the U.S. dollar, ensuring price stability. USDC undergoes regular attestations by third-party auditing firms to verify the reserve backing. USDC is used for payments, remittances, trading, and as a stable store of value in the cryptocurrency market.

Since its value is stable, it can be a useful way to transfer money quickly and cheaply. It can also be a safe way to store value in the crypto world. Permitted payment stablecoins are exempt from being classified as securities or commodities under certain conditions, focusing on their role in payment systems rather than as investment vehicles. Stablecoin issuers must provide regular reports and undergo audits to ensure the stablecoin is fully backed by reserve assets, maintaining transparency with regulators and the public.

Reasons for Classification as Permitted Stablecoin.

Compliance with Definition
USDC fits the definition of a permitted payment stablecoin as it is backed 1:1 by U.S. dollars held in reserve and meets the stability and transparency requirements.

Regulatory Compliance
USDC operates within a regulated framework, with regular attestations and audits, aligning with the regulatory oversight provisions of the FIT 21 Act.

Exemption from Security Classification
USDC is primarily used as a payment instrument and a store of value, rather than as an investment, which supports its classification as a permitted payment stablecoin rather than a security.

Transparency and Audit Practices
The regular attestations and transparency measures adopted by USDC ensure compliance with the audit and transparency requirements outlined in the FIT 21 Act.

Consumer Protections

USDC transactions are subject to anti-fraud, anti-manipulation, and insider trading rules, ensuring consumer protection in line with the FIT 21 Act.

CLASSIFICATION

Given its characteristics and adherence to the regulatory requirements, USDC can be classified as a permitted stablecoin under the FIT 21 Act. It meets the necessary criteria related to backing, stability, transparency, regulatory compliance, and consumer protection.

XRP

XRP is a cryptocurrency designed for fast and cheap international payments. It's the native token of the XRP Ledger (XRPL), an open source blockchain created by Ripple. The XRP Ledger (XRPL) is a peer to peer distributed ledger technology designed by Ripple to facilitate seamless cross-border payments and Central Bank Digital Currency (CBDC) integration. Unlike many traditional blockchains, XRPL leverages a Byzantine Fault Tolerance (BFT) consensus mechanism, specifically the Ripple Protocol Consensus Algorithm (RPCA), rather than relying on Proof-of-Work (PoW) or Proof-of-Stake (PoS) for transaction validation. This consensus mechanism ensures efficient and secure operation even in the presence of potential network issues.

XRP qualifies as a digital asset because it is a fungible digital representation of value, can be possessed and transferred person-to-person, and is recorded on a cryptographically secured public distributed ledger. Based on its characteristics, XRP is likely to be classified as a digital commodity under the FIT 21 Act. Additionally, the U.S. District Judge Analisa Torres of the Southern District of New York in 2023 held that Ripple Labs, Inc.'s (Ripple) XRP token is not, in and of itself, a security requiring registration.

Reasons for Classification as a Digital Commodity

Decentralization

The XRP Ledger is a public and decentralized blockchain network that requires the consensus of at least 80% of its users to validate a transaction. Although Ripple is a contributor to this network, it has the same rights as the other contributors and does not by itself control the network. This is in line with the decentralization provisions for digital commodities a outlined in the FIT 21 Act. However, to run a validator on Ripple, one needs to signup via their websites, which diminishes the extent of decentralization.

Utility

XRP is used as a bridge currency in cross-border transactions and provides liquidity on the XRPL network. Its utility is primarily in facilitating faster and cheaper international payments, which supports its classification as a digital commodity under the Act.

Expectation of Profits

Although this has largely been debated, it was recently held in a court ruling by U.S. District Court Judge Phyllis Hamilton that XRP is not a security because traders have no expectation of profits due to the efforts of others, one of the four prongs of the Howey Test, and that

Ripple's conduct does not lead a reasonable investor to have an expectation of profit due to the efforts of others.

Significant Exchange of Value

Although a large portion of XRP was initially held by Ripple, most XRP ends up in circulation through cryptocurrency exchanges. Users need to trade other assets (like Bitcoin or fiat currency) to acquire XRP. There have been instances of XRP airdrops, where small amounts were distributed for free to promote specific projects or wallets. However, these airdrops typically represent a tiny fraction of total XRP. Ripple has allocated some XRP to support development projects on the XRP Ledger. However, these funds are likely not distributed broadly to individual users. This does not entirely support the prerequisite of free and fair distribution to the end users without a significant exchange of value. However, this characteristic of XRP is superseded by the others in its classification as a digital commodity.

CLASSIFICATION

Given its characteristics such as decentralization and programmatic functioning on the XRP Ledger, and the recent court rulings, XRP is classified as a digital commodity due to its characteristics predominantly aligning with those of digital commodities under the FIT 21 Act.

Toncoin (TON)

Toncoin (TON) is the native cryptocurrency powering The Open Network (TON), a layer-1, decentralized blockchain. TON serves as the lifeblood of The Open Network, facilitating various functionalities within the ecosystem. It is a utility token, meaning it fuels transactions, staking, and governance processes on the TON blockchain. The network includes ON Blockchain, TON DNS, TON Storage, and TON Sites. It is focused on achieving widespread cross-chain interoperability, while operating in a highly scalable secure framework and is designed to process millions of transactions per second (TPS). Based on its characteristics it would be classified as a digital commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

The TON blockchain was originally developed by Telegram but is now maintained by the open-source community. This community-driven approach suggests that the network is decentralized. No single entity has significant control over the TON blockchain, supporting the criteria for decentralization.

Programmatic Functioning

After Telegram abandoned the project, the issuance of Toncoin has been managed by the community. The distribution appears to be broad, with efforts to ensure equitable access to the digital asset. There are no indications that a single entity or a small group holds a disproportionate amount of Toncoin, supporting the criterion of broad and equitable issuance.

Control of Issuer

Telegram, the original developer, no longer controls the project. The community now controls the TON blockchain and the issuance of Toncoin. The absence of significant control by the issuer or any affiliated person meets the criteria for lack of control.

CLASSIFICATION

Based on the application of the conditions of decentralization, programmatic functioning, broad and equitable issuance to end users, and control of the issuer, Toncoin aligns with the characteristics of a digital commodity under the FIT 21 Act.

Dogecoin (DOGE)

Dogecoin (DOGE) is a cryptocurrency that started as a joke in 2013, featuring the image of a Shiba Inu dog from a popular meme. It was created in 2013 by Billy Markus and Jackson Palmer as a satirical response to the hype surrounding cryptocurrencies at the time and gained rapid popularity due to its light-hearted and approachable nature, attracting a passionate online community. Dogecoin is based on the code of Litecoin, a derivative of Bitcoin, and employs a proof-of-work (PoW) consensus mechanism for transaction validation, similar to Bitcoin.

However, Dogecoin has a much faster block time (the time it takes to generate a new block) compared to Bitcoin. There is np cap on the total supply of DOGE, unlike some other cryptocurrencies like Bitcoin. This means new DOGE are continuously mined, potentially leading to inflation over time. Based on its characteristics, it would be classified as a digital commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

Dogecoin is maintained by a decentralized community of developers and operates on a decentralized blockchain network. There is no central entity that controls the Dogecoin network or its development, meeting the decentralization criteria.

Programmatic Functioning

Dogecoin operates according to its programmed rules without needing significant intervention from a central authority. Dogecoin utilizes a proof-of-work (PoW) consensus mechanism, which requires miners to solve complex mathematical problems to validate transactions and secure the network. The system functions autonomously, which meets the criteria for programmatic functioning.

Broad and Equitable Issuance to End Users

Dogecoin was issued through mining, which allowed broad and equitable distribution among users. There is no evidence of a single entity or a small group holding a disproportionate amount of Dogecoin, supporting the criterion of broad and equitable issuance.

Control of Issuer

The original creators, Billy Markus and Jackson Palmer, no longer have control over Dogecoin, and the development is managed by a decentralized community. The absence of significant control by the issuer or any affiliated person meets the criteria for lack of control.

CLASSIFICATION

Given the characteristics of Dogecoin such as decentralization, programmatic functioning, the absence of a central issuer, and broad and equitable distribution, and the provisions of the FIT 21 Act, Dogecoin aligns with the characteristics of a digital commodity.

Cardano (ADA)

Cardano (ADA) has emerged as a prominent player within the cryptocurrency landscape, positioned as a next-generation evolution of the smart contract platform concept pioneered by Ethereum. Cardano's blockchain architecture is designed to be secure, scalable, and sustainable, addressing the limitations of proof-of-work consensus mechanisms employed by some established blockchains. This focus on sustainability is achieved through Cardano's unique proof-of-stake consensus mechanism, Ouroboros. By facilitating the development of decentralized finance (DeFi) applications, new crypto tokens, and innovative functionalities, Cardano aims to establish itself as a versatile platform for a broad range of use cases.

Cardano is a blockchain platform with its native cryptocurrency ADA. It aims to provide a secure and scalable infrastructure for decentralized applications and smart contracts. ADA is used for staking, transaction fees, and governance on the Cardano network. Based on its characteristics, ADA would be classified as a digital commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

Cardano is designed to be a highly decentralized blockchain platform, with a focus on community governance and participation. Cardano has systematically adjusted its network parameters over time to gradually shift control from the founding entities to the community. This structured approach aims to achieve a high degree of decentralization upon completion of its roadmap.

Programmatic Functioning

Cardano uses the Ouroboros proof-of-stake consensus protocol, which is designed to be secure, scalable, and energy-efficient. Ouroboros divides time into epochs, each consisting of slots. In each slot, a slot leader is elected based on the amount of ADA staked to validate transactions and add them to the blockchain.

Broad and Equitable Issuance to End Users

Cardano's PoS consensus, decentralized governance, and interoperability features position it to enable broad and equitable issuance of ADA to a wide range of end users, in contrast to the concentration of mining power seen in proof-of-work blockchains like Bitcoin. This aligns with the prerequisites prescribed for a digital commodity under the FIT 21 Act.

Control of Issuer

The Cardano platform is designed to promote decentralization and limit the control that token issuers can exert over their assets. Cardano does not natively support features like "greenlisting" access, freezing assets, or clawback capabilities that would give issuers extensive control over their tokens. These types of issuer controls are seen as problematic for Cardano's principles of decentralization. While token issuers can create and manage their own native tokens on Cardano, the platform is designed to limit the degree of control and oversight that issuers can exert over those tokens and the overall network. The focus is on decentralization rather than centralized control by issuers.

CLASSIFICATION

Cardano’s characteristics of decentralization, automated programmatic functioning, broad and equitable distribution, utility within a decentralized ecosystem, and decentralized governance align it more closely with the criteria for digital commodities outlined in the FIT 21 Act. These attributes distinguish Cardano from digital securities, which typically involve centralized control and expectations of profit from a central entity's efforts.

TRON (TRX)

Tron (TRX) is a decentralized blockchain platform designed for developing and deploying decentralized applications (dApps). Its native cryptocurrency, TRX, is used to power the network and reward participants. Key features of Tron include high transaction speed, with over 2,000 transactions per second, faster than Bitcoin and Ethereum, low transaction fees to enable growth of dApps, and scalable smart contract functionality for efficient dApp deployment. Tron uses a Delegated Proof-of-Stake (DPoS) consensus mechanism where TRX holders can vote for "super representatives" who validate transactions and maintain the network.

TRX cannot be mined and must be obtained through exchanges or by staking existing TRX holdings. The FIT 21 Act outlines several key criteria for determining whether a digital asset should be classified as a commodity or a security. Applying these criteria to TRON (TRX) suggests that it would likely be classified as a digital commodity.

Reasons for Classification as a Digital Commodity

Decentralized Governance and Programmatic Functioning

The TRON network operates in a decentralized manner, with TRX token holders participating in governance decisions through voting rights. The value and functionality of TRX are primarily driven by the programmatic, automated processes of the TRON blockchain, rather than a central authority. This aligns with the Act's definition of a digital commodity.

Automated Issuance

TRX tokens are issued through the automated processes of the TRON blockchain, not by a central entity. This automated issuance mechanism, without significant involvement from a central party, is another characteristic of a digital commodity under the Act.

Broad and Equitable Issuance to End Users

TRX tokens are distributed broadly and equitably to network participants, such as through airdrops and rewards for contributing computing power. This distribution does not involve a significant exchange of value, which is typical of securities offerings.

Maturity and Circulation

TRON has reached maturity, with over 20% of its total TRX supply in circulation. This further supports its classification as a digital commodity under the Act's criteria.

CLASSIFICATION

In summary, the decentralized governance, automated issuance, broad distribution, and maturity of the TRON network and TRX token align TRON more closely with the Act's definition of a digital commodity, rather than a digital security.

Shiba Inu (SHIB)

The Shiba Inu coin (SHIB) is a decentralized cryptocurrency inspired by Dogecoin (DOGE), featuring the image of a Shiba Inu dog as its mascot. Launched in August 2020 by an anonymous person or group under the pseudonym "Ryoshi," SHIB has grown from a meme-based coin to a project with its own ecosystem. SHIB has spawned a mini-ecosystem of its own, including two other tokens: LEASH and BONE. LEASH has a limited supply and is intended for incentives within the ShibaSwap decentralized exchange (DEX). BONE serves as the governance token for the Shiba Inu ecosystem, allowing holders to participate in voting on proposals. Shibarium is a planned Layer 2 blockchain specifically designed for the Shiba Inu ecosystem, aiming to address scalability issues on the Ethereum network.

The Shiba Inu coin has carved a niche for itself in the cryptocurrency world, leveraging its meme coin heritage to build a loyal community and a developing ecosystem. Based on its features, SHIB is likely to be classified as a digital commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

Shiba Inu (SHIB) is an Ethereum-based ERC-20 token. Ethereum itself is a decentralized platform. The Shiba Inu token leverages the decentralized nature of the Ethereum blockchain.

Transferability

SHIB can be transferred directly between users without relying on intermediaries. Transactions occur on the Ethereum blockchain, ensuring the independence of transfers.

Ledger

SHIB transactions are recorded on the Ethereum public distributed ledger, which is cryptographically secured. This ensures transparency and immutability.

Based on these points, Shiba Inu (SHIB) meets the criteria for a digital commodity in terms of functionality.

Investment Contract

To determine if SHIB is sold or marketed as part of an investment contract, we need to examine its distribution and promotional strategies. Shiba Inu was initially distributed for free, with a large portion sent to Vitalik Buterin (who later donated a significant amount to charity). It was also marketed as a "Dogecoin Killer," appealing to retail investors with the potential for price appreciation. While there is an element of speculative investment, the project itself does not promise returns based on the efforts of a central organization. The price movement is largely driven by market speculation and community activity rather than the development team's explicit efforts.

Reliance

Investors in SHIB do not necessarily rely on the Shiba Inu development team to derive profits. The token's value is highly speculative and driven by market dynamics, similar to other cryptocurrencies like Bitcoin or Dogecoin.

Based on these points, it appears that SHIB does not strictly meet the criteria of an investment contract, as it lacks the central managerial efforts promising returns.

CLASSIFICATION

Based on the detailed application of the classification framework, Shiba Inu (SHIB) should be classified as a digital commodity under the FIT 21 Act. The token's decentralized nature, independent transferability, and recording on a public ledger align with the characteristics of a digital commodity. Moreover, the absence of reliance on a central organization to generate profits supports this classification, distinguishing it from digital securities.

Avalanche (AVAX)

Avalanche (AVAX) is a layer-one blockchain platform designed to address the scalability limitations of previous blockchain technologies. It aims to provide a fast, secure, and reliable foundation for decentralized applications (dApps), smart contracts, and custom blockchains. Avalanche boasts a unique architecture with three separate blockchains working together. This allows for a high transaction throughput, potentially processing thousands of transactions per second.

Avalanche leverages a proof-of-stake consensus mechanism to secure the network. Additionally, its subnet design isolates potential security breaches, preventing them from affecting the entire network.

Reasons for Classification as a Digital Commodity

Decentralization

Avalanche (AVAX) operates on the Avalanche blockchain, a decentralized platform designed to host decentralized applications (dApps) and custom blockchain networks. The platform uses a novel consensus protocol that supports high transaction throughput and low latency, ensuring decentralization. The network consists of validators who participate in the consensus protocol to secure the network. No single entity controls the network, reinforcing its decentralized nature.

Programmatic Functioning

The platform allows for self-executing code (smart contracts) that runs automatically based on predefined conditions. The Avalanche consensus protocol operates autonomously, without central control, and the issuance and distribution of AVAX tokens are governed by programmatic rules set in the protocol. While Ava Labs and the Avalanche Foundation play important roles in development and ecosystem growth, the core functioning of the network is programmatic and decentralized. The central issuer (if we consider Ava Labs as such) does not have direct control over network operations, user funds, or transaction processing.

Distribution

The initial token distribution included allocations to the team and early investors, followed by a public sale requiring purchase. Ongoing distribution primarily occurs through staking rewards, which benefits existing token holders. There's no evidence of large-scale free distribution to a wide user base, such as significant airdrops. Most users acquire AVAX by

purchasing on exchanges or by participating in network activities that require existing token ownership or financial investment. The minimum stake required to become a validator creates an additional barrier for smaller participants.

Reasons for Classification as a Security/ Investment Contract

Initial Coin Offering (ICO)

AVAX was distributed through a series of private and public sales during its ICO. This included investors purchasing tokens with the expectation of potential appreciation in value. Marketing and promotional materials likely emphasized the innovative features of the Avalanche platform and the potential for ecosystem growth, which can imply an investment opportunity.

Expectation of Profits

The success and value appreciation of AVAX are closely tied to the development and adoption of the Avalanche network. Investors might expect profits from holding AVAX due to the development team's efforts in expanding the platform and increasing its utility. This expectation aligns with the Howey Test, which is used to determine if an asset is an investment contract. The Howey Test criteria include investment of money, expectation of profits, investment in a common enterprise, and profits derived from the efforts of others.

Reliance on Efforts of the Avalanche Team

The value of AVAX is significantly influenced by the continuous development, upgrades, and ecosystem growth driven by Ava Labs, the primary organization behind Avalanche. This reliance on the team's efforts is a key characteristic of a security. Community involvement and third-party development also contribute to the ecosystem, but the central role of Ava Labs remains crucial.

CLASSIFICATION

To avoid any issues with the US Securities and Exchange Commission (SEC), Ava Labs took two key steps during their AVAX token sale:

US Investor Exclusion

They deliberately excluded US investors from participating in the sale.

SEC Filing

They registered their intent to hold an Initial Coin Offering (ICO) with the SEC, seeking an exemption from classifying AVAX as a security.

The reliance on the Avalanche team's efforts, the nature of the ICO, and the expectation of profits from the token's appreciation align AVAX with the characteristics of a digital security. However, AVAX's decentralized nature and the ability to be transferred independently are synonymous with the features of a digital commodity. Although one would be able to make a strong case for AVAX to be classified as a security, the fulfilment of the primary conditions of decentralization and programmatic functioning would make it more likely to be classified as a digital security under the FIT 21 Act.

Polkadot (DOT)

Polkadot is a next generation blockchain protocol designed to enable multiple blockchains to interoperate and share information securely and seamlessly. Developed by the Web3 Foundation and Parity Technologies, Polkadot aims to solve many of the scalability and governance issues that plague existing blockchain networks. It enables different blockchains, known as parachains, to interoperate and share information and assets. This is achieved through the relay chain, the central chain of the Polkadot network. DOT is the native token of the Polkadot network, and has purposes such as governance by the DOT holders through voting, staking, and the bonding of parachains through DOT.

Following meetings with the SEC, the Web3 foundation in 2022 announced that Polkadot is not a security and is a software. The Web3 Foundation, which supports Polkadot, argues that DOT has "morphed" and is no longer a security. They emphasize its utility within the Polkadot network for functions like parachain bidding and governance.

As of June 2024, the US Securities and Exchange Commission (SEC) has not explicitly classified DOT as a security. However, the SEC has not explicitly said it's not a security either. Notably, DOT was not listed among the cryptocurrencies identified as securities in a recent SEC lawsuit against Binance and Coinbase. This is seen as a positive sign for Polkadot. Although DOT shares characteristics with securities, such as representing an investment in a future project with the expectation of profits, its classification remains unclear. However, here is an analysis of the factors that could potentially impact the decision of classification.

Reasons for Classification as a Digital Commodity

Decentralization

Polkadot is a decentralized multi-chain platform enabling different blockchains to interoperate. It uses a heterogeneous multi-chain framework called Substrate. The network consists of validators, nominators, collators, and fishermen who participate in the consensus protocol to secure the network and process transactions. This decentralized governance model distributes control among a broad base of participants.

Transferability

DOT tokens can be transferred directly between users without intermediaries. Transactions are processed on the Polkadot network, ensuring autonomy in transfer processes.

Polkadot's design allows for cross-chain transfers of any type of data or asset, not just tokens, enhancing the transferability and functionality of the DOT token.

Programmatic Functioning

Transactions involving DOT are recorded on Polkadot's public distributed ledger, which is cryptographically secured. This ensures transparency, security, and immutability of transaction records.

Reasons for Classification as a Digital Commodity

Investment Contract

Polkadot (DOT) was initially distributed through several private and public sales. These included a significant initial token sale in 2017 and subsequent sales, which helped fund the development of the Polkadot network. Promotional materials and the whitepaper likely highlighted the potential for network growth and the increased value of DOT as the network develops, which could attract investors looking for appreciation in value.

Expectation of Profits

The value of DOT is intrinsically linked to the growth and success of the Polkadot network. Investors may expect profits from holding DOT due to the network's expansion, adoption, and the efforts of Web3 Foundation and Parity Technologies, the key organizations behind Polkadot. This expectation aligns with the Howey Test, which determines if an asset is an investment contract based on the investment of money, expectation of profits, investment in a common enterprise, and profits derived from the efforts of others.

Reliance on the Efforts of the Development Team

The success and value appreciation of DOT are closely tied to the efforts of the Web3 Foundation and Parity Technologies, which are responsible for the development, promotion, and ongoing improvements of the Polkadot network. The central role of these organizations and the reliance on their efforts to enhance the platform's functionality and ecosystem contribute to the characteristics of a security.

CLASSIFICATION

Applying the classification framework to Polkadot (DOT) leads to the following conclusion:

Functionality

DOT meets the criteria of a digital commodity due to its decentralized nature, direct transferability, and use of a public distributed ledger.

Offering and Reliance

The initial sale of DOT through private and public sales, the expectation of profits driven by the development team's efforts, and reliance on the Web3 Foundation and Parity Technologies for ongoing development align DOT more closely with the characteristics of a digital security.

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Therefore, the classification of this token remains unclear.

Chainlink (LINK)

Chainlink is a decentralized oracle network that enables smart contracts on blockchain platforms to securely interact with external data sources, APIs, and traditional banking systems. It aims to bridge the gap between blockchain technology and real-world data by providing reliable, tamper-proof inputs and outputs for complex smart contracts. Oracles are entities that connect blockchain smart contracts with external data. Chainlink's decentralized oracle network ensures that the data provided to smart contracts is accurate and resistant to manipulation.

LINK is the native cryptocurrency of the Chainlink network. It is used to pay node operators for retrieving data, converting it into a blockchain-compatible format, off-chain computation, and uptime guarantees. Node operators must also stake LINK as collateral to ensure honest behavior and service quality. The LINK token exhibits the properties of both digital commodities as well as securities as under the FIT 21 Act, and an analysis and comparison of the weightage of these properties is essential to determining the category under which these tokens would fall.

Reasons for Classification as a Digital Commodity

Decentralization

Chainlink operates as a decentralized network of oracles. It allows multiple independent node operators to provide data to smart contracts, minimizing central points of failure and promoting decentralization. A diverse set of node operators run Chainlink nodes, further contributing to the network's decentralization. These operators are independent entities providing data and computation services. LINK tokens can be transferred directly between users without intermediaries. Transactions are processed on the Ethereum blockchain, ensuring autonomy in transfer processes.

Programmatic Functioning

Chainlink's primary function is to provide decentralized oracles for smart contracts, allowing them to interact with external data sources. This is a key aspect of its programmatic functionality. Chainlink employs multiple oracles to fetch and aggregate data, ensuring its accuracy and reliability. This decentralized approach enhances the trustworthiness of smart contracts relying on external data.

Broad and Equitable End-User Distribution

The initial distribution of LINK tokens through an ICO was aimed at a wide range of investors, allowing broad participation in the token sale. LINK tokens are traded on numerous cryptocurrency exchanges, providing broad access to end-users and ensuring equitable distribution across a diverse group of holders. LINK token holders can stake their tokens to become node operators, participate in the network, and earn rewards. This incentivizes a wide range of participants to contribute to the network's security and functionality.

Decentralized Governance

While not as prominent as some other platforms, Chainlink's community can propose and vote on network upgrades and changes, promoting broad participation in governance.

Reasons for Classification as a Security

Initial Coin Offering (ICO)

LINK tokens were initially sold through an ICO in 2017. This included investors purchasing tokens with the expectation of potential appreciation in value. Marketing materials and the whitepaper likely emphasized the innovative features of Chainlink and its potential to become a critical infrastructure for blockchain applications, attracting investors seeking returns. However, an important point to note was that the ICO was not open to citizens of the US, in order to safeguard it against future regulatory hurdles from the SEC.

Expectation of Profits

The value of LINK is closely tied to the adoption and success of the Chainlink network. Investors might expect profits from holding LINK due to the network's expansion and the increasing demand for decentralized oracles. This expectation aligns with the Howey Test, which is used to determine if an asset is an investment contract.

Reliance on the Efforts of the Development Team

The value and success of LINK are significantly influenced by the continuous development, partnerships, and ecosystem growth driven by SmartContract Ltd., the primary organization behind Chainlink. Community involvement and third-party development also contribute to the ecosystem, but the central role of SmartContract Ltd. remains crucial.

CLASSIFICATION

Although the reliance on the development team's efforts, the nature of the ICO, and the expectation of profits from the token's appreciation align LINK with the characteristics of a digital security, LINK's decentralized nature and the ability to be transferred independently align with the features of a digital commodity, and these are the primary factors for classification under the Act. LINK meets the criteria of a digital commodity due to its decentralized nature, direct transferability, use of a public distributed ledger, and programmatic functioning as a decentralized oracle network, and is therefore classified as such under the FIT 21 Act.

Bitcoin Cash (BCH)

Bitcoin Cash (BCH) is a cryptocurrency with a rich history, emerging from a hard fork of the Bitcoin (BTC) blockchain in November 2018. BCH's creation stemmed from scalability concerns within the Bitcoin network. The core issue centred on block size limitations, restricting the number of transactions the network could process per second. This resulted in slower transaction times and rising fees. Proponents of BCH believed larger block sizes were necessary to address these limitations and enhance overall network throughput.

Both BCH and BTC rely on a proof-of-work mechanism to secure the network and validate transactions. Miners compete to solve complex mathematical problems, with the winner adding a new block of transactions to the blockchain. Similar to Bitcoin, BCH has a capped total supply of 21 million coins, fostering scarcity and potential value appreciation. Bitcoin Cash has a smaller user base and adoption rate compared to Bitcoin. This can impact its liquidity and overall network effect. Based on its features, Bitcoin Cash is likely to be classified as a digital commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

Bitcoin Cash operates on a decentralized network where no single entity controls the protocol. It uses a proof-of-work (PoW) consensus mechanism similar to Bitcoin, with miners distributed globally. Bitcoin Cash has a decentralized development process, with multiple independent developer teams working on the protocol. This decentralization reduces the risk of central points of control or failure.

Transferability

BCH tokens can be transferred directly between users without intermediaries. Transactions are processed on the Bitcoin Cash blockchain, ensuring autonomy in transfer processes. Bitcoin Cash is designed to offer low transaction fees and faster confirmation times compared to Bitcoin, enhancing its transferability for everyday transactions.

Programmatic Functioning

Bitcoin Cash primarily focuses on being a peer-to-peer electronic cash system. While it supports basic scripting capabilities, it does not natively support complex smart contracts or oracle integrations like platforms such as Ethereum or Chainlink. The Bitcoin Cash network does not rely on off-chain computation for its core functionality. Its primary purpose is to facilitate fast and low-cost transactions on-chain.

Broad and Equitable End-User Distribution

The initial distribution of BCH through a fork ensured that existing Bitcoin holders received an equivalent amount of BCH, promoting broad and equitable distribution. BCH is widely traded on numerous cryptocurrency exchanges, providing broad access to end-users and ensuring equitable distribution across a diverse group of holders. Bitcoin Cash does not have a native staking mechanism. Instead, it relies on proof-of-work mining, where miners are rewarded for validating transactions and securing the network.

CLASSIFICATION

Applying the comprehensive classification framework to Bitcoin Cash (BCH) leads to the conclusion that Bitcoin Cash would be classified as a digital commodity under the FIT 21 Act.

Uniswap (UNI)

Uniswap (UNI) has become a prominent name in the cryptocurrency world, particularly within the Decentralized Finance (DeFi) space. It is a decentralized exchange (DEX) protocol built on the Ethereum blockchain. Unlike traditional exchanges controlled by a central authority, Uniswap operates on an automated and permissionless basis. UNI is the native token of the Uniswap protocol, and UNI token holders have governance rights, allowing them to vote on proposals that shape the future development of the Uniswap protocol.

Reasons for Classification as a Digital Commodity

Decentralization

Uniswap operates as a decentralized finance (DeFi) protocol on the Ethereum blockchain, allowing users to swap ERC-20 tokens directly without intermediaries. UNI token holders govern the protocol, voting on proposals and changes. This decentralized governance model distributes control among a wide range of stakeholders. The core functionality of Uniswap is handled by decentralized smart contracts on the Ethereum blockchain, reducing reliance on a central entity.

Transferability

UNI tokens can be transferred directly between users on the Ethereum network, providing autonomy in transfer processes. As an ERC-20 token, UNI benefits from the broad compatibility and interoperability within the Ethereum ecosystem, enhancing its transferability. Transactions involving UNI are recorded on the Ethereum blockchain, ensuring transparency, security, and immutability of transaction records.

Programmatic Functioning

Uniswap uses an AMM model, which relies on smart contracts to facilitate token swaps. This programmatic functionality is central to the protocol's operation. Uniswap's AMM model derives prices algorithmically from the liquidity pools, without needing external oracles for price feeds.

Broad and Equitable End-User Distribution

A significant portion of UNI tokens was distributed retroactively to early users of the Uniswap protocol, ensuring a broad and equitable distribution. UNI tokens are distributed to liquidity providers, incentivizing participation and broadening the distribution of tokens among active

users, and these tokens are widely traded on numerous cryptocurrency exchanges, providing broad access to end-users.

Initial Distribution

UNI tokens were distributed through a combination of retroactive airdrops to early users of the Uniswap protocol and liquidity mining programs. These methods did not involve a traditional ICO but incentivized early adopters and liquidity providers.

Expectation of Profits

UNI holders may expect the token's value to appreciate due to increased usage of the Uniswap protocol and its governance capabilities. However, the primary utility of UNI is for governance and incentivizing liquidity provision, not directly as an investment vehicle.

Reliance on the Efforts of the Development Team

While Uniswap Labs played a crucial role in developing the protocol, its governance has been decentralized to UNI holders. The continued success of the protocol relies on the broader community and decentralized governance, not solely on the founding team.

CLASSIFICATION

UNI's decentralized nature and the ability to be transferred independently align with the features of a digital commodity. Therefore, Uniswap (UNI) is primarily classified as a digital commodity under the FIT 21 Act. This classification aligns with UNI's decentralized functionality, broad distribution mechanisms, and primary use for governance and incentivizing participation within the Uniswap protocol.

Litecoin (LTC)

Litecoin (LTC) is a decentralized, peer-to-peer cryptocurrency that was created in 2011 as an alternative to Bitcoin. Litecoin was developed by former Google engineer Charlie Lee as a "lite version of Bitcoin" with faster transaction times and lower fees. Like Bitcoin, Litecoin is an open-source software project based on blockchain technology that allows for secure, transparent, and decentralized transactions. It has a faster block generation time of 2.5 minutes compared to Bitcoin's 10 minutes, allowing for quicker transaction confirmations.

Litecoin uses the Scrypt proof-of-work algorithm, which is more memory-hard than Bitcoin's SHA-256, making it more resistant to ASIC-based mining. This was intended to allow regular computers and GPUs to mine Litecoin more effectively. The total supply of Litecoin is capped at 84 million coins, four times the 21 million Bitcoin supply. Based on its characteristics, Litecoin would be classified as a Digital Commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

Litecoin is a decentralized cryptocurrency that operates on a peer-to-peer network without a central authority. It is an open-source software project, meaning its code is publicly available and anyone can view, use, modify and distribute it. This allows for decentralized development by a global community of contributors. Litecoin transactions are verified by network nodes and recorded in a public distributed ledger called a blockchain. This distributed network of nodes maintains the Litecoin blockchain without a central authority.

Programmatic Functioning

All transactions on the Litecoin network are recorded in the blockchain through a programmatic process. Litecoin uses a proof-of-work (PoW) consensus mechanism to validate transactions and add new blocks to the blockchain. This process is governed by the Scrypt algorithm, which is programmed into the Litecoin software. Miners compete to solve complex mathematical problems to validate transactions, a process that is automated and programmatic. Litecoin transactions are processed and validated through the network's programmatic rules and protocols.

Control of the Issuer

The issuer has limited control over Litecoin tokens once they are issued and released into circulation. The total supply of Litecoin is capped at 84 million coins, which is predetermined by the Litecoin protocol and cannot be changed by the issuer. The Litecoin protocol defines

the rules for creating new tokens through mining, transaction processing, and other network functions. The issuer has no ability to alter these programmatic rules. Once Litecoin tokens are issued, they can be freely traded on exchanges by anyone. The issuer has no control over the trading or ownership of the tokens after issuance.

Broad and Equitable Distribution

Litecoin is primarily distributed to end users through the decentralized mining process, wallet security features, cryptocurrency exchanges, and direct peer-to-peer transactions on the Litecoin network. The issuer has limited control over the distribution once the tokens are released into circulation. This ensures broad and equitable distribution to the end users without significant exchange of value.

CLASSIFICATION

LTC's decentralized nature and the ability to be transferred independently align with the features of a digital commodity. Therefore, Litecoin is primarily classified as a digital commodity under the FIT 21 Act. This classification aligns with LTC's decentralized functionality, broad distribution mechanisms, and programmatic functioning.

Polygon (MATIC)

Polygon (formerly Matic Network) has become a prominent player in the realm of Ethereum scaling solutions. Sidechains enable Polygon to handle a significantly higher transaction volume compared to the base layer of Ethereum. By distributing the workload across multiple sidechains, Polygon facilitates quicker transaction processing times. Reduced congestion on the Ethereum network translates to lower transaction fees for users on Polygon.

Polygon bridges connect to the Ethereum mainnet and other blockchains, allowing seamless transfer of assets between them. MATIC is the native token of the Polygon network. It serves several purposes such as using it as transaction fees, staking and for governance mechanisms. Based on its characteristics, Polygon's MATIC token would be classified as a Digital Commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

The Polygon network is decentralized through its proof-of-stake consensus, validator system, and governance model that allows MATIC token holders to participate in decision-making. The overall goal is to create a decentralized multi-chain ecosystem built on Ethereum. However, to run a validator on Polygon, one needs to signup via their websites, which diminishes the extent of decentralization.

Programmatic Functioning

Polygon uses Ethereum Virtual Machine (EVM) compatible smart contracts to enable decentralized applications (dApps) to be built on top of the network. The Polygon network is built using a combination of smart contracts, SDKs, consensus mechanisms, bridges, and wallets to enable a scalable and programmable Ethereum-compatible ecosystem. The MATIC token powers this programmatic functionality across the network.

Control of the Issuer

While the Polygon team created the network, the MATIC token and overall Polygon ecosystem are designed to be decentralized and not controlled by the issuer through the use of proof-of-stake consensus, token holder governance, and an open, programmable architecture. The goal is to create a decentralized scaling solution for Ethereum.

Broad and Equitable Distribution

The MATIC token can be purchased on major centralized exchanges as well as decentralized exchanges. Users can store their MATIC tokens in various wallets, including hot wallets, software wallets, and hardware wallets for secure offline storage. The MATIC token distribution is divided between private/public sales, the Polygon team and advisors, network operations, the foundation, and the broader ecosystem - with the goal of incentivizing participation and decentralization across the Polygon network. This ensures that there is broad and equitable distribution of these tokens to the end users without a significant exchange of value.

CLASSIFICATION

The aforementioned characteristics suggest that the MATIC token would be classified as a digital commodity under the FIT 21 Act and could be governed by the CTFC due to its decentralized nature and programmatic functioning.

UNUS SED LEO (LEO)

UNUS SED LEO (LEO) is a utility token that serves a central role within the iFinex ecosystem, encompassing the Bitfinex cryptocurrency exchange and Tether, a popular stablecoin. LEO was launched in May 2019 by iFinex to incentivize users and inject liquidity into the Bitfinex exchange. The name "UNUS SED LEO" is a Latin phrase translating to "One Lion Alone," signifying the token's unique position within the iFinex ecosystem. LEO holders on Bitfinex enjoy tiered discounts on trading fees. The more LEO a user holds, the greater the discount they receive. This incentivizes users to hold LEO and participate in the Bitfinex platform.

LEO can be used as collateral for margin trading on Bitfinex, allowing users to leverage their holdings to potentially amplify returns (with higher risks involved). Based on its centralized control and issuance, LEO would be classified as a security under the FIT 21 Act and the classification framework that it has developed.

Reasons for Classification as a Security

Centralized Control

Unus Sed Leo is considered a centralized cryptocurrency token, as the majority of its key functions and decision-making processes are controlled by the issuing company, iFinex. LEO was created and issued by iFinex, the parent company of Bitfinex exchange and Tether. iFinex maintains full control over the token's issuance, distribution, and buy-back/burn mechanisms.

The primary utility of LEO is within the Bitfinex ecosystem, providing trading fee discounts and access to exclusive services. This tight integration with a single centralized platform limits LEO's decentralization. There is no decentralized governance model for LEO. All major decisions, such as the token's use cases, buy-back schedule, and burn rate, are made solely by iFinex leadership.

Lack of Programmatic Functioning

The primary utility of LEO is within the Bitfinex ecosystem, providing trading fee discounts and access to exclusive services for Bitfinex users. There is no decentralized governance model for LEO - all major decisions are made solely by iFinex leadership. It is a centralized utility token tied to the Bitfinex platform, without the kind of programmatic, decentralized architecture seen in cryptocurrencies like Bitcoin or Ethereum. The LEO token seems to derive its value and utility primarily from its integration with the Bitfinex exchange, rather than any inherent programmatic features.

Issuance of Tokens

A significant portion of the total LEO token supply (reported to be around 66%) was distributed through a private sale to institutional investors and select individuals. This raised capital for iFinex, the company behind Bitfinex and Tether. The remaining LEO tokens were made available to the public through an Initial Exchange Offering (IEO) on the Bitfinex platform. This allowed a wider audience to participate and acquire LEO tokens. The IEO was conducted over a 10-day period, raising approximately $1 billion for iFinex. On the whole, a majority of the issuance of the tokens has been made through a private sale rather than a broad and equitable distribution process to the end users.

Howey Test Analysis

Based on the Howey Test criteria, it appears that the Unus Sed Leo (LEO) token issued by iFinex would be considered an investment contract and therefore a security. Here is an analysis of LEO using the four-part Howey Test:

1. **Investment of Money**
   - LEO tokens were sold in an initial exchange offering (IEO) by iFinex, with each token pegged to 1 USDT and sold at $1 per token. This raised a total of $1 billion.
   - This satisfies the "investment of money" prong of the Howey Test.

2. **Common Enterprise**
   - iFinex maintains full control over the LEO token's issuance, distribution, and buy-back/burn mechanisms.
   - The primary utility of LEO is within the centralized Bitfinex ecosystem, providing trading fee discounts and access to exclusive services for Bitfinex users.
   - This tight integration with a single centralized platform could potentially be interpreted as a "common enterprise" under the Howey Test.

3. **Expectation of Profits**
   - The ongoing buy-back and burn mechanism funded by iFinex's revenues is intended to reduce the circulating supply of LEO over time, potentially increasing the value of remaining tokens.
   - Investors in LEO may have a reasonable expectation that the token will appreciate in value due to this supply reduction, satisfying the "expectation of profits" criteria.

4. **Efforts of Others**
   - All major decisions about LEO, such as its use cases and the buy-back schedule, are made solely by iFinex leadership.
   - The value of LEO is largely dependent on the efforts and success of iFinex in operating the Bitfinex exchange and implementing the token's utility.

CLASSIFICATION

While LEO has utility within the Bitfinex ecosystem, its centralized issuance, iFinex's control over the token's value, and the potential for investors to profit from the buy-back program could lead to LEO being classified as an investment contract under the Howey Test. Based on the Howey Test criteria, LEO possesses all four elements. This suggests a strong case for LEO being classified as a security under US law.

Dai (DAI) Token

DAI is a decentralized stablecoin, meaning it's a cryptocurrency that aims to maintain a stable value relative to a particular asset, in this case, the US dollar. Unlike some stablecoins backed by actual dollars in a bank, DAI is backed by collateral deposited on the Maker platform. DAI runs on the Ethereum blockchain and is managed by the MakerDAO decentralized autonomous organization (DAO). Users can generate DAI by locking up crypto assets as collateral in a Maker Vault on the Maker Protocol. Given its characteristics, the DAI token would qualify as a permitted stablecoin under the FIT 21 Act.

Reasons for Classification as a Security

Backing and Stability

DAI is fully backed by collateral held in Maker Vaults. The over-collateralization model ensures that there are sufficient assets backing the issued DAI. DAI is designed to maintain a stable value pegged to the US dollar. The collateralization and liquidation mechanisms are in place to manage price stability effectively.

Transparency and Reporting

The MakerDAO protocol provides real-time transparency into the collateral backing DAI through on-chain data accessible to anyone. All transactions and collateralization details are publicly available on the Ethereum blockchain. Regular audits and real-time data feeds from decentralized oracles ensure that the collateral levels and stability mechanisms are transparent and verifiable.

Redemption and Convertibility

Users can redeem DAI by unlocking their collateral in Maker Vaults, ensuring that DAI is always convertible back into the collateral assets. This mechanism provides assurance of convertibility and stability. DAI is widely traded on numerous cryptocurrency exchanges and DeFi platforms, ensuring high liquidity and ease of redemption.

Governance and Risk Management

The MakerDAO protocol is governed by MKR token holders who participate in decentralized governance. This ensures that decisions about the protocol are made collectively and transparently. The protocol includes risk management mechanisms such as over-collateralization, stability fees, and automated liquidations to manage the stability and security of DAI.

Compliance with Regulatory Standards

As a decentralized protocol, MakerDAO strives to comply with relevant regulations by ensuring transparency, stability, and security of the DAI stablecoin. The governance model allows for adjustments to comply with evolving regulatory requirements.

CLASSIFICATION

Given these characteristics, DAI aligns well with the criteria for a permitted stablecoin under the FIT 21 Act.

Pepe (PEPE)

PEPE is a meme cryptocurrency that burst onto the scene in April 2023, quickly capturing the attention of the crypto community. Named after the iconic internet meme character Pepe the Frog, this digital asset was created by anonymous developers and built on the Ethereum blockchain as an ERC-20 token. Unlike many cryptocurrencies with purported utility, PEPE was primarily launched as a joke or meme coin, following in the footsteps of predecessors like Dogecoin and Shiba Inu. Despite its light-hearted origins, PEPE experienced a meteoric rise in popularity, achieving a market capitalization exceeding $1 billion within weeks of its launch. Based on its characteristics, the Pepe Coin would be classified as a Digital Commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

PEPE operates on the Ethereum blockchain, adhering to the ERC-20 token standard. This provides it with the decentralized infrastructure of the Ethereum network. PEPE does not appear to have a decentralized autonomous organization (DAO) or a significant decentralized governance structure.

Programmatic Functioning

As an ERC-20 token, PEPE functions within the smart contract framework of the Ethereum blockchain. This allows for automated transactions and interactions within the Ethereum ecosystem. The primary utility of PEPE may be speculative in nature, given the lack of detailed information on specific functionalities or use cases beyond trading.

Transferability

As an ERC-20 token, PEPE can be transferred directly between users on the Ethereum network. This is a standard feature of tokens built on Ethereum, ensuring broad compatibility and ease of transfer. PEPE can be traded on various cryptocurrency exchanges, providing liquidity and opportunities for user transactions.

Broad and Equitable Distribution

A majority of the coins were allocated to the liquidity pool to ensure market liquidity and stability and a portion of it has been burned since to maintain scarcity.

Given its decentralized nature and functioning along with free transferability between users, PEPE would likely be classified as a Digital Commodity under the FIT 21 Act.

Kaspa (KAS)

Kaspa is a cryptocurrency designed for high transaction speeds and security, using a unique approach called GHOSTDAG. Like Bitcoin, Kaspa uses a mining mechanism to secure the network and validate transactions. Miners compete to solve puzzles to earn rewards in KAS tokens. Unlike traditional blockchains, GHOSTDAG allows multiple blocks to be created simultaneously. These blocks then compete for inclusion in the final ledger, ensuring security and faster transaction processing.

Kaspa is a community-driven project, emphasizing transparency and open-source development. The Kaspa network launched without any pre-mining or allocation of coins to founders, promoting a fair distribution. An analysis of its characteristics suggests that this asset will be classified as a digital commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

Kaspa operates on its own unique proof-of-work blockchain known as the BlockDAG (Directed Acyclic Graph). This design aims to combine the security of proof-of-work with the scalability of DAG technology. Kaspa is governed by its community and developers without a centralized control structure, indicating a high degree of decentralization.

Transferability

Users can transfer KAS directly between wallets. This facilitates peer-to-peer transactions without intermediary involvement. As a unique blockchain, KAS does not inherently align with Ethereum standards like ERC-20 but has its own infrastructure for compatibility and transactions. Transactions involving KAS are recorded on the Kaspa blockchain, ensuring transparency, security, and immutability of transaction records.

Programmatic Functioning

While Kaspa primarily focuses on its BlockDAG technology, any smart contract functionality would be unique to its blockchain and not inherently interoperable with Ethereum or other platforms. The primary utility of KAS appears to be within the Kaspa blockchain for transactions and potentially future decentralized applications (dApps). Transactions and operations are executed on the Kaspa blockchain, ensuring transparency and security.

Broad and Equitable Distribution

Kaspa (KAS) opted for a fair launch approach, meaning there was no initial distribution of coins through pre-mining, allocation to founders, or token sales. This stands in contrast to many cryptocurrency launches where a significant portion of coins are set aside for these purposes. Kaspa miners compete to solve cryptographic puzzles to validate transactions and secure the network. As a reward for their work, successful miners receive newly minted KAS tokens. This is the primary way new KAS enters circulation and is distributed to users. Once KAS tokens are mined, they can be traded on cryptocurrency exchanges. Users can purchase KAS on these platforms using other cryptocurrencies or fiat (government-issued currency).

CLASSIFICATION

Applying the framework to the token demonstrates the clear alignment of the token with the standards of a digital commodity. Therefore, KAS is primarily classified as a digital commodity under the FIT 21 Act due to its decentralized infrastructure and use for value transfer within its unique blockchain.

Internet Computer (ICP)

The Internet Computer (ICP) is a blockchain project with a lofty goal: to become a "World Computer." It aspires to create a platform for building and deploying powerful, scalable software applications entirely on the blockchain, without relying on traditional cloud providers. ICP aims to overcome the scalability limitations of many blockchains by distributing computations across multiple machines. The Internet Computer is designed to be open and integrate seamlessly with existing web technologies. Based on its characteristics, it is likely to be classified as a digital commodity.

Reasons for Classification as a Digital Commodity

Decentralization

The Internet Computer operates on the Internet Computer Protocol, developed by the DFINITY Foundation. It aims to extend the functionality of the public internet so it can host backend software, transforming it into a global computing platform. The Internet Computer is governed by the Network Nervous System (NNS), a decentralized autonomous organization (DAO) that allows ICP token holders to vote on governance proposals.

Transferability

ICP tokens can be transferred directly between users on the Internet Computer blockchain. This supports peer-to-peer transactions without intermediary involvement. As a unique blockchain, ICP does not adhere to Ethereum standards like ERC-20 but has its own protocols for transactions and interoperability.

Programmatic Functioning

The Internet Computer supports smart contracts, called “canisters,” which can run on its blockchain. These canisters allow developers to build and deploy decentralized applications (dApps) on the Internet Computer. ICP tokens are used for governance, staking, and transaction fees within the Internet Computer ecosystem, providing a broad range of utilities beyond mere speculation.

Broad and Equitable Distribution

The tokens have been distributed through a seed round, a strategic round, a presale and airdrops, ensuring that end users have an equal opportunity of acquiring them.

CLASSIFICATION

ICP is primarily classified as a digital commodity under the FIT 21 Act due to its decentralized infrastructure, utility within the Internet Computer ecosystem, and use for value transfer.

Ethereum Classic (ETC)

Like its counterpart, Ethereum Classic supports the development of decentralized applications (dApps) and the execution of smart contracts. It uses a proof-of-work consensus mechanism, though discussions about transitioning to proof-of-stake have occurred within its community. ETC has its own native cryptocurrency, also called Ethereum Classic, which is used for transaction fees, smart contract operations, and as a store of value. While it shares much of its technical foundation with Ethereum, Ethereum Classic has a smaller ecosystem and market capitalization. Based on its characteristics, Ethereum Classic would be classified as a digital commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

Ethereum Classic is a decentralized, blockchain-based computing platform that allows developers to build and deploy smart contracts and decentralized applications (dApps). It follows a "decentralization maximalism" approach, prioritizing decentralization over other factors to prevent the network from being captured by special interests.

Transferability

ETC tokens can be transferred directly between users on the Ethereum Classic blockchain, facilitating peer-to-peer transactions without intermediary involvement. As a blockchain compatible with Ethereum Virtual Machine (EVM), ETC can interact with smart contracts and dApps built for Ethereum.

Programmatic Functioning

Ethereum Classic uses a Proof of Work (PoW) consensus mechanism, which relies on programmatic rules to validate transactions and maintain the integrity of the blockchain. Its core functionality is driven by its ability to execute programmatic code in the form of smart contracts and dApps on the EVM, making it a decentralized, programmable blockchain platform.

Broad and Equitable Distribution

Ethereum Classic's token distribution is a combination of an initial pre-distribution inherited from Ethereum and an ongoing algorithmic distribution to miners, capped at a maximum total supply. While Ethereum Classic has a capped token supply, the distribution is not

necessarily broad or equitable. The algorithmic distribution rewards miners, but the concentration of tokens in the top addresses implies that the distribution may be skewed towards early participants and large miners.

CLASSIFICATION

Although the initial distribution method and reliance on the development team's efforts, combined with the expectation of profits, align it more closely with the characteristics of a digital security, ETC meets the criteria of a digital commodity due to its decentralized nature, direct transferability, and programmatic functioning. Therefore, ETC is primarily classified as a digital commodity under the FIT 21 Act due to its decentralized infrastructure, utility within the Ethereum Classic ecosystem, and use for value transfer.

Artificial Superintelligence Alliance (FET)

The Fetch.ai token (FET) is the native cryptocurrency of the Fetch.ai network, a platform aiming to revolutionize the way artificial intelligence (AI) interacts with the digital world. Fetch.ai builds a decentralized machine learning network that facilitates secure and autonomous interactions between AI agents and various data sources. It essentially provides the infrastructure for AI applications to find, share, and utilize data in a trusted and transparent manner. Users pay FET tokens to access and utilize various functionalities of the Fetch.ai network. This includes deploying AI models, accessing data marketplaces, and utilizing the network's communication infrastructure. Based on its characteristics, the FET token would be classified as a digital commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

The FET token is part of the Fetch.ai network, which uses a combination of machine learning (ML), artificial intelligence (AI), and decentralized ledger technology (DLT) to create autonomous economic agents. Fetch.ai has a decentralized governance structure where FET token holders can participate in decision-making processes through proposals and voting mechanisms.

Transferability

While the Fetch.ai network aims to enable decentralized applications, the native FET token itself is currently traded on centralized exchanges that serve as intermediaries between buyers and sellers.

Programmatic Functioning

The FET token is designed to operate based on programmatic, algorithmic functioning within the Fetch.ai decentralized network and its autonomous economic agents. The token's utility is tied to the network's programmatic capabilities powered by advanced machine learning and multi-agent systems.

Broad and Equitable Distribution

The initial distribution of FET tokens occurred through an ICO and subsequent trading on exchanges. The ICO was widely accessible, supporting equitable distribution. FET tokens are traded on various cryptocurrency exchanges, providing broad access to end-users.

CLASSIFICATION

FET's decentralized nature, compatibility with various blockchains, and the ability to be transferred independently align with features of a digital commodity. Therefore, FET is primarily classified as a digital commodity under the FIT 21 Act due to its decentralized infrastructure, utility within the Fetch.ai ecosystem, and use for value transfer.

Monero (XMR)

Monero is a decentralized, open-source cryptocurrency that prioritizes anonymity and censorship resistance for its users. Unlike Bitcoin or Ethereum, where transactions are publicly viewable on the blockchain, Monero transactions are obfuscated, making it difficult to trace the origin, destination, and amount of funds involved.

Monero was launched in 2014 and is an open-source project developed by an anonymous team. Its key privacy features include Ring Signatures, Stealth Addresses and Ring Confidential Transactions. Monero uses a proof-of-work algorithm called RandomX, which is designed to be resistant to ASIC mining in order to maintain decentralization. It is quite evident from these features and characteristics that Monero is likely to be classified as a digital commodity under the FIT 21 Act and the classification framework that underlies it.

Reasons for Classification as a Digital Commodity

Decentralization

Monero is designed to be a decentralized cryptocurrency with a focus on privacy and anonymity. It uses the RandomX proof-of-work algorithm, which is optimized for general-purpose CPUs and GPUs rather than specialized ASIC miners. Monero is an open-source project developed through grassroots initiatives, with no pre-mine or venture capital funding. This decentralized development model contrasts with some other cryptocurrencies.

Transferability

Monero tokens are directly traded between users without the need for an intermediary. Monero transactions leverage advanced cryptography to provide a high degree of privacy and fungibility compared to many other cryptocurrencies. The process is designed to be secure, private, and resistant to tracing.

Programmatic Functioning

Monero's programmatic design focuses heavily on privacy and decentralization, leveraging advanced cryptographic techniques like ring signatures, stealth addresses, and RingCT to obscure transaction details. These tokens are transferred through the programmatic functioning of the blockchain network.

Control of the Issuer

While the Monero project controls the issuance of new XMR tokens through the protocol, it has very limited control over the circulating supply once tokens are issued to miners. The decentralized nature of the network and its privacy features prevent the project from easily tracking or controlling XMR tokens after they enter circulation.

Broad and Equitable Distribution

New XMR tokens enter circulation solely through mining rewards. Miners compete to solve cryptographic puzzles and secure the Monero network. As a reward for their efforts, they receive newly minted XMR tokens. Unlike most cryptos, XMR launched fairly, with no pre-mined coins or special allocations. New XMR enters circulation solely through mining rewards. This approach fosters a more decentralized distribution and avoids concentrating wealth in the hands of a few, encouraging broad and equitable distribution.

CLASSIFICATION

XMR meets the criteria of a digital commodity due to its decentralized nature, direct transferability, and use of a public distributed ledger with privacy features. The broad and equitable distribution of XMR through mining supports the classification as a digital commodity. Therefore, XMR is primarily classified as a digital commodity under the FIT 21 Act due to its decentralized infrastructure, strong privacy features, and use for value transfer.

Aptos (APT)

Aptos is a new layer-1 blockchain developed by former Facebook employees, with a focus on delivering high throughput, robust security, and upgradability. It focuses on scalability, security, and user experience to enable the development of high-performance dApps. Aptos aims to provide a highly scalable, secure, and upgradable blockchain infrastructure to support the next generation of decentralized applications.

The project's technical innovations and high-profile team have generated significant interest in the crypto community since its launch in 2022. To determine whether the Aptos (APT) token is a digital commodity or a security under the FIT 21 Act, the established classification framework is applied, and this points to the conclusion that Aptos is a digital commodity.

Reasons for Classification as a Digital Commodity

Decentralization

Aptos claims to be a decentralized network, prioritizing new and novel innovations in consensus, smart contract design, system security, performance, and decentralization. The Aptos blockchain codebase is open source, allowing anyone to inspect and contribute to its development. This fosters transparency and community involvement. APT token holders can participate in network governance by staking their tokens. This allows the community to have a say in the future development of the platform.

Transferability

Aptos aims for a high degree of freedom in APT transfers. While Aptos provides flexibility in how tokens are transferred, including direct transfers between accounts, there are some safeguards in place to protect users and prevent certain types of issues. The native APT token is freely transferable as needed to pay network fees.

Programmatic Functioning

Aptos relies heavily on well-defined programs and algorithms for various aspects of its functionality. This programmatic approach aims to achieve security, scalability, and a user-friendly experience for developers building dApps on the Aptos blockchain. The Aptos blockchain is built upon the programmatic foundations of the Move language, which enables enhanced security, resource control, data abstraction, and parallel transaction execution to achieve high throughput and scalability.

Control of the Issuer

Aptos, the Aptos Foundation, or any other single entity doesn't have direct control over APT token transfers on the network itself. The design prioritizes free movement of tokens between accounts. However, there are situations where transferability might be indirectly affected, such as smart contracts and exchange restrictions. Overall, Aptos strives for a decentralized system where token transfers happen freely on the blockchain.

Broad and Equitable Distribution

Initially, the tokens were distributed among the community, the core contributors, foundation and investors, with a majority of the tokens being distributed among the community. A significant portion allocated to the community can be used for initiatives to promote ecosystem growth, developer grants, and other community-driven projects. This is beneficial for decentralization and broader participation. There was an initial airdrop of APT tokens to early network participants, aiming to incentivize early adoption and engagement. Although the equitability and fairness of the distribution can be argued for, the fact that a majority of the tokens were distributed among the community leans towards broad and equitable distribution of the tokens.

CLASSIFICATION

APT meets the criteria of a digital commodity due to its decentralized nature, direct transferability, and use of a public distributed ledger. Therefore, APT is primarily classified as a digital commodity under the FIT 21 Act due to its decentralized infrastructure, utility within the Aptos ecosystem, and use for value transfer.

Render (RNDR)

Render Token (RNDR) is the native utility token of the Render Network, a decentralized platform that provides GPU-based rendering solutions. Render Network is a peer-to-peer network that allows users to contribute their unused GPU power to help render 3D graphics, motion graphics, and visual effects. In exchange, they earn RNDR tokens. RNDR is used to pay for rendering services on the Render Network.

Creators upload their projects and pay RNDR to have them rendered by the network's GPU providers. The token has use cases in paying for rendering services, governance, and staking, making it an integral part of the Render ecosystem. Based on its characteristics, the Render token would be classified as a digital commodity under the FIT 21 Act.

Reasons for Classification as a Digital Commodity

Decentralization

The Render Network is built on blockchain technology, which allows it to operate in a decentralized manner without a central authority controlling the system. The key aspects of the Render Network - the marketplace, consensus mechanism, and governance - are all built on decentralized blockchain technology, making it a truly decentralized platform for GPU-based rendering services. The decentralized nature is a core part of Render's design and value proposition. The Render network primarily consists of creators, node operators, and the GPU Cloud.

Transferability

The Render Network has transitioned to a new Solana-based token called RENDER, which can be transferred between user wallets and traded on some centralized exchanges. But the migration process from the old RNDR token is one-way, and the availability of RENDER trading pairs is dependent on the decisions of cryptocurrency exchanges.

Programmatic Functioning

The Render Network relies heavily on programmatic processes and algorithms to efficiently coordinate the decentralized rendering of graphics using the network's GPU resources. The entire workflow, from job assignment to pricing to consensus, is highly automated and programmatic in nature. The Render Network's operation is facilitated by smart contracts on the blockchain that broadcast job requirements and payment terms to the network in a programmatic manner.

Control of the Issuer

While the Render Network has designed the RNDR/RENDER token ecosystem, it does not have absolute control over the transferability, trading, and adoption of the tokens. The network is dependent on the decisions of exchanges, wallets, and the broader Solana ecosystem to facilitate the usage and liquidity of its tokens. The issuer's control is limited to the internal governance process and technical aspects of the token migration. Emissions currently come from one single wallet which makes the level of issuer control higher than some other chains.

Broad and Equitable Distribution

The initial distribution of RNDR tokens occurred through an ICO in 2017 and subsequent trading on exchanges. The ICO, while small portion of total tokens, was widely accessible, supporting equitable distribution. RNDR tokens are traded on various cryptocurrency exchanges, providing broad access to end-users.

CLASSIFICATION

The Render Network is a decentralized platform built on blockchain technology that connects creators who need GPU-based rendering services with a network of node operators who contribute their idle GPU computing power. The network relies on programmatic processes and algorithms to efficiently coordinate the rendering workflow, from job assignment to pricing to consensus verification.

While the Render Network has designed its RNDR/RENDER token ecosystem, it does not have absolute control over the transferability, trading, and adoption of the tokens, as it is dependent on the decisions of exchanges, wallets, and the broader Solana ecosystem. The decentralized nature and programmatic functioning are core to Render's design and value proposition. Therefore, RNDR is primarily classified as a digital commodity under the FIT 21 Act due to its decentralized infrastructure, utility within the Render network, and use for value transfer.

PYOR

An Interpretation Layer For Digital Assets.

This report is created by **PYOR** a digital assets data company for institutional investors and hedge funds.
Our investors include – Castle Island Ventures, Hash3 Capital, Coinbase Ventures, and Balaji Srinivasan, among others.