

Insights



Benjamin Sauter and David McGill on Kik's Defend Crypto fund, and taking on the SEC

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Kobre & Kim lawyers Benjamin Sauter and David McGill speak on the potential for legal action by the kin cryptocurrency company Kik against the United States Securities and Exchange Commission (SEC) in *Cointelegraph*.

Historically, the SEC has regarded digital tokens as securities, but is yet to test the argument out in a court setting. After Kik launched its own litigation fund following a series of inquiries and subpoenas from the SEC, many in the industry are wondering if the company will officially challenge the SEC.

"In most cases, companies will wait to see if the SEC follows through on the threat to bring an enforcement action," said Mr. Sauter. "Either way, Kik has put forward some credible arguments thus far, so the SEC will bear legitimate risk if it decides to follow through with an enforcement action."

Mr. McGill noted that "if the goal [of challenging the SEC] is to get a court to agree that, under the particular facts and circumstances at issue, KIN tokens don't constitute securities, I think Kik has a reasonable chance of achieving that outcome, which can then serve as foothold for other token issuers to push back against the SEC."

[Read the full article here.](#)