



Insights

David McGill on Growing Uncertainty for Crypto Industry Amid U.S. “Regulatory Scrum”

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Even as the cryptocurrency and digital asset industry continues to grow, a vast regulatory gulf persists even in the U.S., and the uncertainty this creates is only set to intensify. Kobre & Kim’s David McGill, who represents clients in the finance and crypto industries against government enforcement, explains when he spoke with *Orbit TRC*.

U.S. regulators from the Securities and Exchange Commission (SEC) to the Commodity Futures Trading Commission (CFTC) are scrambling to establish jurisdiction over the crypto industry. “All of these regulatory agencies in the U.S. are flexing their muscles so they can get a bigger piece of the budget pie,” Mr. McGill observed. “It was a regulatory scrum from the beginning and now it’s only going to get more intense – everybody is talking tough and there are a lot of cops on the beat.” This will hinder some industry calls for a specialist regulator focused on cryptocurrency. “There are just way too many regulatory agencies that have skin in the game and juice behind the scenes,” Mr. McGill explained.

With all these agencies fighting for space, industry participants see no clarity on what rules they need to follow and how laws might be applied. “There is a lot of gray shading in this industry right now in terms of how people trade, how people utilize the technology, and how money flows through exchanges,” Mr. McGill said, with much left up to the discretion of regulators. Adding to the scrum is the U.S. Department of Justice (DOJ), which has formed a new task force focused on crypto fraud. Notably, Mr. McGill points out, “the DOJ has in its toolbox a wire fraud statute that gives it a 10-year look-back period, so it has the ability to go back to the very beginning of the crypto explosion.”

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