BRENNA BIRD
ATTORNEY GENERAL

IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

1305 E. WALNUT ST.
DES MOINES, IA 50319
515-281-5164

October 20, 2025

Hester M. Peirce
Commissioner
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Statement "There Must Be Some Way Out of Here" – Request for Public Input on Crypto-Related Issues

Dear Commissioner Peirce:

We, the undersigned Attorneys General of 21 States, submit this comment letter in response to your statement titled "There Must Be Some Way Out of Here," published on February 1, 2025, which solicits public input on a range of issues related to cryptocurrency and digital assets.[1]

Your statement includes 48 questions to guide discussion but emphasizes that commenters are not limited to those questions and may address other relevant topics. We appreciate the opportunity to provide our perspectives as state chief legal officers responsible for protecting

[1] Hester M. Peirce, *There Must Be Some Way Out of Here* (Statement of Commissioner, Sec. & Exch. Comm'n, Wash., D.C., Feb. 21, 2025), available at https://www.sec.gov/newsroom/speeches-statements/peirce-statement-rfi-022125; "Submit Written Input to the Crypto Task Force," U.S. Securities & Exchange Commission, SEC.GOV (last visited Sept. 23, 2025), https://www.sec.gov/about/crypto-task-force/submit-written-input.

consumers, enforcing state laws, and promoting economic growth within our jurisdictions.

Our comments focus primarily on Question No. 1, which seeks input on "determining the security status of crypto assets and [related] transactions."[2] We urge the Securities and Exchange Commission ("SEC") to give clear, narrowly tailored definitions regarding when a digital asset or related transaction constitutes a security under federal securities laws. Such clarity is essential to prevent federal overreach that could preempt vital state authorities, ensure effective consumer protection, and support States' operational needs in areas like unclaimed property administration.

I. States Are Looking for Clarity Around Definitions Related to What Constitutes a Security

Clear and precise federal definitions are critical to maintaining the balance of power between federal and state governments, protecting consumers from harm, and allowing States to innovate in regulating emerging technologies. Without those definitions, ambiguity in federal securities law risks undermining state sovereignty and consumer safeguards.

Our recommendations build on President Trump's leadership and role in ensuring America remains at the cutting edge of digital financial technology.[3] Beyond President Trump's work on this, it builds on recent

---

[2] Hester M. Peirce, *Statement Regarding Request for Information*, Commissioner, U.S. Securities & Exchange Commission (Feb. 21, 2025), available at https://www.sec.gov/newsroom/speeches-statements/peirce-statement-rfi-022125.

[3] *See Strengthening American Leadership in Digital Financial Technology*, Exec. Order No. 14178, Report of the President's Working Group on Digital Asset Markets, 1 (July 2025), https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf

developments from Congress—including passing the GENIUS Act.[4] Each of these play a role in ensuring a safe, stable, and friendly environment across the country to ensure the growth of digital assets while protecting everyday Americans.

A. Clear Definitions Will Prevent the Federal Government from Improperly Preempting State Authority

Under principles of federalism, States have broad authority to enact legislation for the public good, while the national government possesses only limited powers that are specified in the Constitution.[5] That foundational structure ensures that States retain primary responsibility for policing local matters, including consumer protection and economic regulation.

The absence of clear legal definitions surrounding digital assets can lead to federal overreach that infringes on States' legitimate police power and prevents states from fulfilling their role as laboratories for devising solutions to difficult legal problems.[6] If the SEC oversteps its authority in this area, many important state laws could be preempted to the detriment of consumers.[7] Congress acting intentionally to effectuate preemption in a manner consistent with a federal policy towards digital assets consistent with their constitutional role is appropriate. But overbroad preemption would not only disrupt established state regulatory schemes but also leave gaps in consumer protection, as federal laws may not address the nuanced, localized risks associated with digital assets. Evidence of that can be seen in the recent *Kentucky v. SEC*

---

[4] Guiding and Establishing National Innovation for U.S. Stablecoins Act ("GENIUS Act"), Pub. L. No. 119-27, 139 Stat. 419 (2025).

[5] *See*, *e.g.*, *Bond v. United States*, 572 U.S. 844, 854 (2014).

[6] *See*, *e.g.*, *Oregon v. Ice*, 555 U.S. 160, 171 (2009).

[7] *See* 15 U.S.C. §§ 77r(a)–(b) (limiting state regulation of federally covered securities), 78o(i)(1) (limiting state regulation of broker-dealers).

lawsuit in which 18 States challenged the SEC's digital asset enforcement policies for overreaching into state domains.[8]

First, federal overreach could preempt States' regulatory frameworks that are specifically tailored to digital assets. Many States have developed flexible regulatory frameworks that encourage the growth of the digital-asset industry by offering predictability, while also protecting consumers and helping states to increase their tax base and diversify their economy.

For example, as of 2025, at least 40 States have introduced or enacted legislation on digital assets, including Kentucky's House Bill 701, which establishes a comprehensive framework for blockchain and crypto activities; Wyoming's special-purpose depository institutions; New York's BitLicense regime; and Montana's Financial Freedom and Innovation Act.[9]

These state initiatives provide regulatory certainty that fosters innovation, attracts businesses, and generates economic benefits like job creation and increased tax revenues. Preempting via regulation those laws, and laws like it, undermines States' sovereign authority to regulate the emerging digital-asset industry within their own economies.

---

[8] *Kentucky v. SEC*, No. 3:24-cv-00069 (E.D. Ky. Nov. 14, 2024)

[9] *See*, *e.g.*, Digital Assets – Nebraska Department of Banking & Finance, *Neb. Dep't of Banking & Finance*, Digital Assets (last visited Sept. 23, 2025), https://ndbf.nebraska.gov/industries/digital-assets; Shelby Stewart, *Cryptocurrency Gets Warm Texas Welcome From Gov. Abbott*, *Chron.* (June 22, 2021), https://www.chron.com/business/article/bitcoin-texas-banks-cryptocurrency-16246017.php; *Gov. DeSantis Seeks 'Crypto Friendly' Florida*, CBS Miami (Dec. 10, 2021), https://www.cbsnews.com/miami/news/gov-desantis-seeks-crypto-friendly-florida/; Special Purpose Depository Institutions, *Wyoming Banking Division* (last visited Sept. 23, 2025), https://wyomingbankingdivision.wyo.gov/banks-and-trust-companies/special-purpose-depository-institutions

Second, federal overreach could inadvertently preempt State money-transmitter statutes that many States use to regulate digital assets. Some states' statutes define money transmission to include virtual currencies.[10] For example, states like Idaho, North Dakota, Pennsylvania, and many others explicitly require licensing for virtual currency transmission under their money transmitter laws, with recent updates in 2025 including Pennsylvania's Senate Bill 202 and Mississippi's HB1428.

These statutes impose standards of conduct, bonding and licensing requirements, and recordkeeping and reporting requirements that are designed to facilitate money transfers while protecting consumers from fraud and other harm.[11] Such measures ensure that transmitters maintain financial stability, conduct thorough customer due diligence, and report suspicious activities, thereby mitigating risks like money laundering and consumer exploitation in digital asset transfers. Preempting States' money-transmitter statutes could impede effective state regulation of digital-asset transfers and undermine or eliminate related protections for consumers. Without those state-level safeguards, consumers might face increased vulnerability to scams and financial losses, as federal oversight may not be as agile or comprehensive in addressing state-specific issues.

Third, federal overreach could even potentially preempt state criminal laws that protect consumers from harm in the context of digital-asset transactions. Many state laws prohibit commonplace theft that may

---

[10] *See, e.g.*, Ala. Code § 8-7A-2; Fla. Stat. § 560.204; Ga. Code § 7 1 680(30); *see also United States v. Harmon*, 474 F. Supp. 3d 76, 89 (D.D.C. 2020) (explaining that cryptocurrency assets are "money" under the D.C. money-transmitter statutes); *State v. Espinoza*, 264 So. 3d 1055, 1064 (Fla. Dist. Ct. App. 2019) (holding that virtual currencies fall within money-service businesses).

[11] *See, e.g.*, Fla. Stat. § 560.114; W. Va. Code §§ 32A-2-2, 32A-2-8b, 32A 2-11.

not be specifically prohibited under federal standards. For example, New Jersey, Florida, and California apply general theft statutes to cryptocurrency crimes, including unauthorized transfers, hacking, and deceptive access to wallets, with cases in 2025 involving civil forfeiture and money laundering charges under statutes like California's Penal Code § 186.10.

If those state laws are preempted when a theft involves digital assets, then the theft may escape prosecution and criminal liability. That could create enforcement gaps, allowing perpetrators to evade justice if federal thresholds for prosecution are not met. Further, it would be easy to misread preemption law to determine that state RICO statutes may be preempted if the predicate crime involves digital assets that are treated as securities subject to federal securities laws.[12] Although certain federal securities statutes permit states to enforce laws against "fraud or deceit," not all digital-asset crimes and thefts may fit within that exception, and states should be free to exercise broad police powers to address the variety of crimes in this emerging industry.[13]

Preempting state criminal laws in the digital-asset context could significantly weaken states' ability to protect consumers from financial loss. It would limit states' capacity to respond swiftly to local threats, potentially leading to increased victimization in rapidly evolving crypto scams.

Fourth, federal overreach could preempt state consumer-protection statutes that prohibit unfair or deceptive acts or practices. Every state has statutes prohibiting unfair or deceptive acts or practices (commonly

---

[12] *See, e.g.*, *Thompson v. State*, 440 S.E.2d 670, 672 (Ga. App. 1994) (citing Ga. Code § 16-4-1 et seq.).

[13] *See* 15 U.S.C. § 77r(c)(1)(A).

known as Consumer Fraud Acts or "UDAP" statutes).[14] As discussed below, state UDAP statutes may provide more robust consumer protection than federal securities laws do, yet consumers may be deprived of that protection if UDAP statutes are found to be preempted within the growing industry of digital assets. Those statutes empower state attorneys general to investigate and prosecute a wide range of deceptive practices, offering remedies like restitution and injunctions that may exceed federal options.

B. It Is Unnecessary and Counter-Productive to Adopt Expansive Definitions to Prevent Fraud, Since State UDAP Statutes Are Better Suited to That End.

State UDAP statutes broadly prohibit unfair and deceptive acts and practices in the conduct of trade or commerce—which may include deceptive acts or practices involving digital assets—and these statutes are often easier to enforce than federal securities laws.

Unlike federal securities laws, which require proving elements like investment contracts under the *Howey* test, state UDAP laws focus on general consumer harm and deception, allowing for quicker interventions without complex classifications. Also, many state UDAP statutes prohibit "unfair" acts that are not necessarily deceptive but nonetheless cause substantial injury to consumers, and these statutes could provide important consumer protections that federal securities laws do not provide.[15]

This broader scope captures practices like exploitative fees or misleading marketing in crypto platforms that might not qualify as securities violations. To illustrate the application of UDAP statutes in

---

[14] *See, e.g.*, Iowa Code § 714; Ala. Code § 8-19-5; Fla. Stat. § 501.204; Mo. Stat. § 407.020; Tex. Bus. & Com. Code § 17.46.

[15] *See, e.g.*, Fla. Stat. § 501.204(1); Mo. Stat. § 407.020(1).

the context of digital assets: Iowa's attorney general recently brought a civil enforcement action alleging UDAP violations by Iowa's two largest cryptocurrency ATM operators that resulted in Iowans transferring tens of millions of dollars to scammers.[16] The SEC's earlier attempt to regulate cryptocurrencies and digital assets through enforcement actions has also been criticized as bypassing proper procedures and risking inadvertently preempting state laws.[17]

To ensure that states retain the authority to protect consumers under UDAP statutes, the federal government should adopt clear, narrowly tailored legal definitions specifying when a digital asset or related transaction does or is not a security that is subject to federal securities laws. Expansive federal definitions unnecessarily duplicate or override these effective state tools, potentially reducing overall enforcement efficiency. That position is supported by State-led efforts, including the amicus brief filed by multiple States in *Lejilex v. SEC*, emphasizing the importance of preserving state authority for consumer protection in digital asset regulations.

Expansive federal definitions will unnecessarily duplicate or override these effective State tools, potentially reducing overall enforcement efficiency.

---

[16] Iowa Attorney General Brenna Bird, *Attorney General Bird Sues Crypto ATM Companies for Costing Iowans More Than $20 Million*, Iowa Attorney General (Feb. 26, 2025), https://www.iowaattorneygeneral.gov/newsroom/attorney-general-bird-sues-crypto-atm-companies-for-costing-iowans-more-than-20-million.

[17] Eric Wessan & Phil Pillari, *Problems with Rulemaking by District Court Enforcement Action: The SEC's Improper Cryptocurrency Regulation*, 45 Harv. J.L. & Pub. Pol'y (JLPP) ___ (2024), available at https://journals.law.harvard.edu/jlpp/problems-with-rulemaking-by-district-court-enforcement-action-the-secs-improper-cryptocurrency-regulation.

C. Clear Definitions Are Necessary for States' Own Operations

For example, clear definitions are necessary so that States can determine whether it is lawful for them to enforce their unclaimed-property statutes by claiming abandoned digital assets as property. Many States have enacted unclaimed-property statutes that treat abandoned virtual currency (which is one type of digital asset) as escheatable property that must be remitted to the state.[18]

As of 2025, states like Arizona, Delaware, Illinois, New York, South Dakota, and Utah have updated their laws to explicitly include virtual currency, with dormancy periods such as New York's five-year rule. But it appears that the States that have enacted these unclaimed-property statutes do not have digital wallets that would allow them to take control of abandoned virtual currency in its digital format.[19] Thus, states require the holder of unclaimed digital assets to "liquidate" those assets (by selling them for U.S. currency) and then to remit the cash proceeds over to the state.[20]

---

[18] *See, e.g.*, Idaho Code § 14-5-102(24)(b)(i) & (32); Fla. Stat. § 717.119(4); Ind. Code § 32-34-1.5-3(24)(B)(i) & (31); Mont. Code § 70-9-809(3); Ky. Rev. Stat. § 393A.010(24)(c), (32); Tenn. Code § 66-29-102(24)(B)(i); W. Va. Code § 36-8-1.

[19] *Escheatment and Unclaimed Funds*, *Coinbase Help Center* (last visited Sept. 23, 2025), https://help.coinbase.com/en/coinbase/managing-my-account/other/escheatment-and-unclaimed-funds (Coinbase stating (with regard to unclaimed-property laws) that "no state has yet put a system in place" to accommodate "digital currency in its native format").

[20] *See, e.g.*, Ky. Rev. Stat. § 393A.330(9)(a); Ind. Code § 32-34-1.5-19(e); W. Va. Code § 36-8-8(e); *see also Nevada Holder Reporting Manual*, Nevada Secretary of State (last visited Sept. 23, 2025), https://www.nvup.gov/docs/NV_Holder_Reporting_Manual.pdf ("As Nevada does not currently have the capability to receive virtual currency in native form, it is to be liquidated prior to submitting the [unclaimed-property] report, with the cash value on the date of liquidation included on and remitted with the report.").

If all digital assets are subject to federal securities laws—which is uncertain due to the lack of clear definitions in this area—then states that force the liquidation of digital assets may be liable for the unlawful sale of unregistered securities.[21] As a result of the current ambiguity of the law, States with unclaimed-property statutes may be forced to forgo taking control of valuable digital assets (and to make related statutory changes) to avoid violating federal securities laws.[22]

Alternatively, these states could try to acquire a digital wallet (and make related statutory changes) that would allow them to take direct control of abandoned digital assets without liquidation. Either of the preceding two alternatives would be costly for States, and those costs could be avoided if the federal government defines the circumstances in which a digital asset is or is not a security.

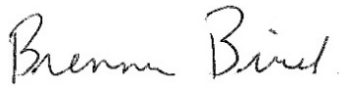
In conclusion, we urge the SEC to prioritize establishing clear definitions for the security status of digital assets, ones that are workable and clear on a forward-looking basis. This approach respects federalism, enhances consumer protection through state laws, and facilitates efficient state operations. We applaud the SEC's taking a leadership role in charting the path of the cryptocurrency future and stand ready to provide more information or engage in further dialogue on these matters.

Respectfully submitted,

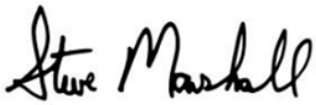
---

[21] *See* 15 U.S.C. § 77e; *SEC v. Coinbase, Inc.*, 726 F. Supp. 3d 260, 281 (S.D.N.Y. 2024)

[22] *States Have $70 Billion in Unclaimed Assets: How to Check If Any Is Yours*, CNBC (Feb. 1, 2023), https://www.cnbc.com/2023/02/01/how-to-check-if-youre-owed-a-share-of-70-billion-in-unclaimed-assets.html (reporting that there is "an estimated $70 billion worth of unclaimed property being held by state treasurers, according to the National Association of Unclaimed Property Administrators").



Brenna Bird
Attorney General of Iowa



Steve Marshall
Attorney General of Alabama

Stephen J. Cox
Attorney General of Alaska

Tim Griffin
Attorney General of Arkansas

James Uthmeier
Attorney General of Florida

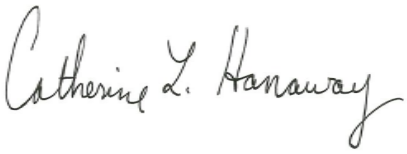
Raúl R. Labrador
Attorney General of Idaho

Todd Rokita
Attorney General of Indiana

Kris Kobach
Attorney General of Kansas

Liz Murrill
Attorney General of Louisiana

Lynn Fitch
Attorney General of Mississippi

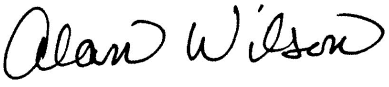


Catherine Hanaway
Attorney General of Missouri

Austin Knudsen
Attorney General of Montana

Mike Hilgers
Attorney General of Nebraska

Gentner Drummond
Attorney General of Oklahoma



Alan Wilson
Attorney General of South Carolina

Marty Jackley
Attorney General of South Dakota

Jonathan Skrmetti
Attorney General of Tennessee

Ken Paxton
Attorney General of Texas

Derek E. Brown
Attorney General of Utah

John B. McCuskey
Attorney General of West Virginia