

STATEMENT

Flowdesk's Guiding Principles on the Legal Regulation of Blockchain Technology, Cryptocurrencies, and Decentralised Finance

Key points

Flowdesk, a key player in the crypto-financial, disintermediated finance space, wishes to contribute significantly to sectoral regulations to promote transparency, accountability, and fair competition in the blockchain industry. To give full context to our advocacy we outline the main values and principles we believe regulations should follow.

- **Proportionality:**
regulations should consider the current, relatively smaller size and impact of the blockchain industry – especially compared to traditional finance and Big Tech.
- **Fair competition:**
regulatory frameworks should balance the power and abilities of all DeFi players, with the Markets in Crypto-Assets Act (MiCA) and the Digital Services Act (DSA) serving as a foundation and as a model framework, respectively.
- **Incrementality:**
a temporally progressive regulatory framework is necessary to provide all stakeholders adequate time to adapt.
- **Transparency and accountability:**
regulations should prioritise comprehensive public disclosure of business information and transaction details.
- **Democracy, rule of law, and due process:**
the industry needs distributed supervision. The enforcement of existing laws should be prioritised before creating new rules.

Thus, the main goal of future regulations should be ensuring a fair playing field, free competition, and avoiding conflicts of interest and monopolies to form in finance.

Introduction

The current state of instability and uncertainty in the digital asset space, as well as in the traditional financial sector, and the global tech industry highlights the need for significant changes in DeFi regulations.

Our [founding values and mission](#) is to transform the crypto-financial industry by bringing more transparency and control to token issuers over their financial needs. Therefore, Flowdesk, in line with its [vision](#), welcomes all efforts to increase legal safeguards, certainty, and to redistribute rights and duties in a fair and transparent manner.

We believe that this also aligns with the [Digital Services Act \(DSA\)](#), an EU regulatory framework that we deem as a highly suitable model for DeFi regulation, particularly regarding the fair allocation of rights and responsibilities among industry participants.

Proportionality

While the aforementioned challenges are sweeping, it is important to keep in mind that the entire blockchain industry is dwarfed by both Big Tech and, naturally, traditional finance (TradFi). Given their immense scale and socio-economic

impact, it is reasonable and necessary to subject them to detailed regulation. However, blockchain technology's impact is still far from being comparable.

Flowdesk does not subscribe to the notion that blockchain technology is [still "nascent" or in its very early stages](#). In fact, it has taken far too long for the industry to develop contractual and legal safeguards. Nonetheless, it should be recognised that regulatory action has also been too slow in steering the sector in the right direction. This regulatory lag has created barriers for numerous honest and well-intentioned communities, start-ups, and established institutional actors. It impeded their entry to the market due to high reputational and operational risks – while leaving the ground wide open for dishonest players and bad business practices.

Addressing this shortcoming and rectifying the situation is an important and pressing task, and Flowdesk is committed to contributing to it to the best of our abilities.

Fair competition

Flowdesk advocates for regulations that create balanced rights and duties based on actors' relative power and effective capacities.

We see the EU's Markets in Crypto-Assets (MiCA) Act as a sweeping regulation that has laid the foundations for a more nuanced set of rules regarding DeFi. Hence it is fair and just to establish a system of rights and obligations that, similarly to the DSA, takes into account the capability, size, and significance of industry participants. This approach aims to create a level playing field among blockchain service providers, crypto-financial companies, and DeFi services.

Coupled with the principle of proportionality, we believe that a fair system would encourage best practices from the majority of players while imposing restrictions only on the largest ones. As the industry matures, more stringent rules can be introduced in the framework. Such a system would perhaps rely on public, transparent scoring and labelling mechanisms: providing clear indicators similar to semaphore signals, hotel star ratings, or credit ratings. This would guide (in line with [nudging in policymaking](#)) users, the industry, investors, and entrepreneurs alike towards understanding what constitutes best practices and discourage undesirable behaviour.

Incrementality

By incrementality, we mean more than the progressively increasing rights and duties of players. It also refers to the temporal dimension of the regulation.

There should be fair time limits for implementing the different rules. This applies to users, participants in DeFi, traditional industries interacting with DeFi, and regulators. All stakeholders need adequate time to develop the necessary capabilities, both in terms of human resources and technology.

Overregulation and hasty measures that forcefully connect DeFi to TradFi – such as mandating bank deposits for certain crypto projects – may inadvertently create more problems they solve. Instead, a progressive regulatory framework that rewards early adoption should be established, allowing sufficient time for all parties involved to adapt to new requirements and make necessary adjustments.

This approach ensures a smooth transition and minimizes potential disruptions in the industry.

Transparency and accountability

These values do not only underpin Flowdesk's vision and mission but are also the fundamental principles of blockchain technology. Decentralisation is a (rather technical) means to the moral as well as economic end to achieve transparency and accountability.

Hence, we believe that the baseline for all measures should be the disclosure of reasonably in-depth information on personal and corporate identity, business, technological details of services, and significant transactions. We hold it for important to identify responsible and liable individuals in the cases of DeFi services.

It is important to note that such identification does not preclude the protection of privacy features like pseudonymity or even anonymity. Blockchain technology offers [zero-knowledge solutions](#) to satisfy identification requirements while preserving actors' sensitive personal data by default.

Combining transparency and accountability with fair competition, we advocate for a focus on robust regulation of actors who possess or control multiple business lines, product and service verticals (sometimes referred to as "crypto conglomerates") rather than implementing blanket regulations. Such regulations – in line with the *raison d'être* of blockchain technology of itself – should seek to eliminate concentration of power as well as conflicts of interest within and among crypto organisations and their users, customers.

Democracy, the rule of law, and due process

These values constitute the backbone of our societies. Blockchain technology was conceived to empower and develop them – not, by any means, to replace them. These virtues have very tangible consequences to DeFi regulation.

Firstly, decisions regarding DeFi should not be made by a single entity. There needs to be proper, distributed supervision of the industry by adequate institutions with advanced technological capabilities. Europe must strive to build a sophisticated digital infrastructure, taking inspiration from examples such as the "[India Stack](#)", to serve its citizens, maintain and improve its global competitiveness. Smart blockchain regulations should keep in mind that most innovation currently happens in the US. Hence making the EU a more attractive – and more sovereign – place for DeFi innovation should be an explicit goal.

Secondly and perhaps more practically, it is essential to prioritise the adherence, application, and enforcement of existing rules and laws over the creation of new, specific regulations. Blockchain technology presents both unprecedented complexity and opportunities. As a compliant crypto-financial company, Flowdesk recognizes that DeFi necessitates innovative regulatory approaches in a number of cases. However, European and many international legal frameworks already in force on company governance, market competition, data protection, taxation, etc. (as well as planned ones like that on Artificial Intelligence) could already be reasonably well applied in a proportionate, fair manner – benefitting all stakeholders.

We are also very familiar with the challenges of operating a crypto-financial business in numerous jurisdictions with diverging laws and, at times, unclear or byzantine rules. However, we believe that European and international regulators can do more with less. This entails consolidating and summarising essential rule sets, creating sandboxes, sharing data with trusted industry participants, providing compliance tools, and openly monitoring developments. This consultation exemplifies such an endeavour, and Flowdesk expresses its sincere gratitude for it.

Thirdly, it is important to note that while DeFi needs regulation inspired by "traditional" sectors, the ultimate goal is to update "traditional" sectors' regulations, too, with what works and what does not in DeFi. Decentralised – or disintermediated – finance was not intended to be a disparate field, but a new financial technology to make the economy work fairer and more efficiently. One of its key purposes includes exerting a progressive influence on traditional financial regulations, along with updating rules on conflict of interest and transparency. Hence the ultimate purpose of DeFi regulations is to achieve synchronisation between rules governing TradFi and DeFi in the long run.

Outlook

Flowdesk believes that decentralisation is a technological means to make the economy fairer and more democratic. The role of the law should not so much focus on technology, but rather on its application by very human individuals and entities who develop, deploy, use, and benefit from the technology. Hence the regulation's objective should be to ensure a level, ethical playing field, free and fair competition, and preclude conflicts of interest and monopolisation from happening in finance.

Such a rules-based system, we believe, is what positions the EU and its member states as a global economic powerhouse today and will continue to render it a source of prosperity and good for all, not only its citizens and inhabitants.

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