Michelle S. Kallen (*Pro Hac Vice Pending*)
Coy Garrison (*Pro Hac Vice Forthcoming*)
Peyton Thomas (*Pro Hac Vice Forthcoming*)
STEPTOE LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
(202) 429-6415
mkallen@steptoe.com
cgarrison@steptoe.com
pthomas@steptoe.com

Attorneys for Blockchain Association
[Additional Counsel listed on Signature Page]

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND (3) DIVISION

THE STATE OF OREGON, EX REL, DAN RAYFIELD, Attorney General for the STATE OF OREGON, *Plaintiff*, v. COINBASE, INC. and COINBASE GLOBAL INC., *Defendants*.	Civil Case No.: 3:25-cv-00952-JR **Brief of *Amicus Curiae* Blockchain Association in Support of Defendants' Response in Opposition to Remand**

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

IDENTITY AND INTEREST OF *AMICUS CURIAE*[1]

Amicus Curiae Blockchain Association (BA) is a leading nonprofit membership organization dedicated to promoting a pro-innovation policy environment for digital assets. BA works to achieve regulatory clarity and to educate policymakers, regulators, courts, and the public on the transformative potential of blockchain technology in creating a more secure, competitive, and consumer-friendly digital marketplace. Representing more than 130 member companies—including software developers, infrastructure providers, exchanges, custodians, and investors—BA reflects the diversity and dynamism of the public blockchain ecosystem. It has a strong interest in ensuring that securities laws are applied consistently and predictably to digital assets across the United States.

The central legal issue in Plaintiff Oregon's Motion to Remand—whether state-law securities claims involving digital assets should be adjudicated in federal court—has far-reaching implications for national markets and innovation. The Blockchain Association supports Coinbase's opposition to Oregon's Motion; A fragmented, state-by-state approach to defining what constitutes a "security" would generate legal uncertainty and impede the development of digital financial

[1] No party or counsel for a party authored this brief in whole or in part and no person other than *Amicus*, its members, or its counsel made any monetary contributions intended to fund the preparation or submission of this brief.

infrastructure. Uniform application of securities laws is essential to fostering innovation, empowering consumers, and supporting economic growth.

SUMMARY OF THE ARGUMENT

This case presents a fundamentally federal issue: whether and when digital assets qualify as "investment contracts" under securities law. That question is governed by federal precedent and has sweeping implications for national markets, innovation policy, and the future of digital finance. Accordingly, the Blockchain Association supports Coinbase's opposition to Oregon's Motion to Remand.

For nearly a century, states looked to the federal definition of "investment contracts" to interpret the term under both state and federal law. As the securities markets developed and became national in scope, Congress enacted corresponding federal frameworks that provided cohesion and predictability for market participants. With the CLARITY and GENIUS Acts, Congress is poised to do so again with digital assets. The digital asset industry—valued at more than $3.5 trillion—is inherently global and decentralized. It cannot function under a patchwork of conflicting state laws.

The court should reject Oregon's effort to remand this case to state court—a federal forum facilitates predictability and consistency of securities law. Allowing Oregon to pursue a divergent interpretation of "investment contract" under state law in state court would fracture the federal framework, undermine federal authority, and create regulatory chaos in a borderless digital economy. This Court's ultimate merits

decision could influence regulatory methods and investment decisions far beyond Oregon's borders, impacting national and global markets. It is a federal issue that demands the consistency and expertise of a federal forum.

ARGUMENT

A decentralized digital economy demands centralized legal clarity. Participants in the digital economy are often dispersed across jurisdictions, rendering localized enforcement of certain legal schemes impractical and inconsistent. A patchwork of varying definitions of "investment contract" invites regulatory chaos, where the sale of the same token could be legal in one state and illegal in another. And yet, Oregon would have this Court remand the case to state court, adding to the patchwork regulation of digital assets that the federal government and industry experts all seek to unify. Federal court is the appropriate forum to ensure coherent application of securities laws nationwide.

Congress and federal agencies are designing a comprehensive national framework for digital asset regulation, including a specific definition for when a digital token is sold as part of an "investment contract." *See* H.R. 3633, 119th Cong. (2025). Indeed, just last week, the first such legislation was signed into law. S. 1582, 119th Cong. (2025).

Divergent state interpretations through isolated enforcement actions—like Oregon's here—undermine the coherence and authority of that emerging federal policy. The stakes are national. Therefore, federal court is the appropriate forum to ensure coherent application of securities laws nationwide.

I. The definition of "investment contract" is fundamentally a federal issue that demands a federal forum

For nearly a century, the definition of "investment contract" has been governed by federal law. Beginning with the Securities Act of 1933, the Securities Exchange Act of 1934, and the Supreme Court's decision in *SEC v. Howey*, 328 U.S. 293 (1946), states have looked to federal law to define "investment contract" under state law. 15 U.S.C. §§ 77a *et seq*. (2018); 15 U.S.C. §§ 78a *et seq*. (2018). The federal standard has thus become the backbone of securities regulation nationwide.

Around the turn of the twentieth century, state "blue sky" laws sought to combat fraud in local, intrastate offerings. *See* Paul G. Mahoney, *The Origins of the Blue-Sky Laws: A Test of Competing Authorities*, 46 J.L. & Econ. 229, 229 (2003). As financial markets—and market failures—transcended state borders, the state-by-state regulatory regime began to crack under the pressure.[2] Notwithstanding state blue-sky laws, fraudulent securities schemes flourished, often exploiting jurisdictional gaps between states.[3]

---

[2] *See* Kimball D. Parker, *A Historical Approach to Negligent Misrepresentation and Federal Rule of Civil Procedure 9(b)*, 80 U. Chi. L. Rev. 1461, 1472 (2013) ("The stock market crash of 1929 was the catalyst for federalizing securities regulation, as many perceived the crash to be at least partly the result of inadequacies in the state-law regimes.").

[3] *See* Edward J. Balleisen, FRAUD: AN AMERICAN HISTORY FROM BARNUM TO MADOFF 76 (2018).

The need for a federal framework became even more essential following the disastrous effects of the 1929 market crash. Parker, *A Historical Approach to Negligent Misrepresentation and Federal Rule of Civil Procedure 9(b)*, 80 U. Chi. L. Rev. at 1472. As the United States recovered from the Great Depression, Congress enacted the Securities Act of 1933 and the Securities Exchange Act of 1934. 15 U.S.C. §§77a *et seq*. (2018); 15 U.S.C. §§78a *et seq*. (2018). These acts established a comprehensive federal framework to regulate securities.

Building on that work, in 1956, Congress passed the Uniform Securities Act. Unif. Sec. Act (1956), 7B U.L.A. 509 (1968). This law provided a playbook through which states crafted powerful, cohesive securities legislation more responsive to the evolving financial landscape.

As markets continued to evolve throughout the 20th century, Congress recognized that an even stronger federal framework was necessary. It rooted its growing authority in the National Securities Markets Improvement Act of 1996 and the Securities Litigation Uniform Standards Act of 1998. Pub. L. No. 104-290, 110 Stat. 3416 (1996); Pub. L. No. 105-353, 112 Stat. 3227 (1998). These acts broadly preempted state authority in various areas of securities regulation, including private rights of action. The limited authority retained by the states to enforce what remains

of their own blue-sky laws did not invalidate Congress's attempts to streamline—instead, they were the exceptions that prove the rule.

Ceding to the federal government's unifying authority on this issue, a vast majority of states adopted definitions of "investment contract" that mirror the federal common law definitions of the term. *See, e.g.*, *Searsy v. Com. Trading Corp*., 560 S.W.2d 637, 640 (Tex. 1977) ("The [federal] definition [of 'investment contract'] has been widely accepted in state and federal cases."); *Mathews v. Cassidy Turley Md., Inc*., 80 A.3d 269, 280-81 (Md. 2013) ("A significant number of state courts that have construed the same phrase in state securities laws have also adopted the *Howey* definition of 'investment contract.'"); *McClellan v. Sundholm*, 574 P.2d 371, 373-74 (Wash. 1978) (en banc) (adopting the federal test because the state law was substantially derived from federal securities law and the federal test is widely used). Oregon exemplifies this trend, having adopted and consistently relied on a federal test to define an investment contract under its own laws. *See State v. Nistler*, 268 342 P.3d 1035, 1042 (Or. Ct. App. 2015); *Comput. Concepts, Inc. v. Brandt*, 801 P.2d 800, 804 n.7 (Or. 1990).[4]

[4] Plaintiff Oregon argues that the State of Oregon uses a modified version of the *Howey* test. *See* First Am. Compl., *State ex rel. Rayfield v. Coinbase, Inc*., No. 3:25-cv-00952 (D. Or. July 2, 2025). But Oregon's test is federal in nature, as it stemmed from the Oregon Supreme Court's interpretation of *Howey* in light of the United States Supreme Court's later decision in *United Hous. Found., Inc. v. Forman*, 421 U.S. 837, 852 (1975). *See Pratt v. Kross*, 555 P.2d 765, 772-73 (Or. 1976).

Even now, Congress continues its work to federalize securities. The CLARITY Act calls for a tailored federal framework to provide clarity and regulatory certainty to the evolving digital asset ecosystem. *See* H.R. 3633, 119th Cong. (2025); U.S. House Comm. on Fin. Servs., House Announces Week of July 14th as "Crypto Week" (July 21, 2025), https://tinyurl.com/2k9turct (deeming the week of July 14, 2025 "Crypto Week"). Similarly, the GENIUS Act, which was signed into law July 18, 2025, creates a comprehensive regulatory framework for payment stablecoins in the United States. S.394, 119th Congress (2025).

Time and again, Congress has emphasized the need for national consistency in securities enforcement, an objective that federal law is best positioned to fulfill. Retaining federal jurisdiction in this case supports Congress's goal of reducing regulatory fragmentation, especially as financial systems become increasingly interconnected. Oregon cannot decouple its definition of an investment contract from decades of federal law through a rogue enforcement action.

II. A uniform federal standard will protect financial innovation and national markets

For emerging technologies like digital assets—which are built on decentralized networks that operate globally, instantaneously, and span jurisdictions—a uniform national standard is essential. The cryptocurrency market is currently valued at $3.5 trillion and growing. *Cryptocurrency Prices*,

BLOCKCHAIN (last visited July 21, 2025). That value would be significantly hamstrung by a securities regime that varies dramatically state to state.

As access to digital assets expands, so, too, does their utility. In the CLARITY Act, Congress recognizes, "Blockchain systems and the digital commodities they empower provide control, enhance transparency, reduce transaction costs, and increase efficiency if proper protections are put in place for investors, consumers, our financial system, and our national security." H.R. 3633, 119th Cong. § 501 (2025). With weighty federal interest in increasing transparency, reducing transactions costs, and increasing efficiency, allowing individual states to develop divergent definitions of an "investment contract" makes little sense. If anything, it would upset the current federal balance and create an unpredictable and harmful legal landscape that will inevitably strangle innovation.

Under a piecemeal approach, the sale of a digital asset could be an investment contract in one state but not in another, or an investment contract under state law but not under federal law. This would trigger a chilling effect on innovation, as entrepreneurs and capital flee to jurisdictions outside the U.S. that offer greater clarity and uniformity.

Instead of fostering responsible growth, a fractured, state-focused legal landscape would paralyze the industry, discouraging experimentation, delaying

product launches, and ultimately ceding leadership in digital finance to more coordinated international competitors. Congress "has heard the calls for regulatory clarity and certainty in this ecosystem" but state-by-state enforcement undermines Congress's goal to provide that clarity and certainty. *House Announces Week of July 14th as "Crypto Week"*, *supra*.

Subjecting industry participants to fifty-one different legal interpretations of an "investment contract" would impose crushing compliance burdens on exchanges, investors, and developers, and hamper the United States's ability to lead in this critical industry. Many market participants lack the extraordinary resources needed to navigate inconsistent state interpretations of federal law. New market participants are discouraged by the uncertainty posed by such competing interpretations. Now that significant institutional actors have joined the digital asset market, even more is at stake. These threats demand a federal response.

III. The federal issue is both disputed and substantial

Uncertainty surrounding the application of securities laws to digital assets further underscores the need for federal jurisdiction. The United States is at a pivotal moment: Congress is actively crafting and debating crypto-specific legislation, while federal agencies reassess how various aspects of the digital asset industry fit within their regulatory mandates. In this delicate phase of national policymaking, Oregon's

intercession would throw a wrench into the gears of progress—disrupting the development of a consistent and coherent legal framework at the federal level.

Whether digital assets constitute investment contracts is one of the most actively debated topics in modern financial regulation. The SEC's approach over the last several years is paradigmatic of this issue. The Commission initially attempted to regulate digital assets through experimental enforcement actions, an effort that resulted "in confusion about what is legal" throughout the industry. *SEC Crypto 2.0: Acting Chairman Uyeda Announces Formation of New Crypto Task Force*, UNITED STATES SECURITIES & EXCHANGE COMMISSION (Jan. 21, 2025), https://www.sec.gov/newsroom/press-releases/2025-30 (last visited July 21, 2025). As a result, the SEC has been urged to, and currently is, re-evaluating its broader approach to digital assets, signaling the deep complexity and unresolved nature of the issue. *See Binance Holdings Ltd., et al*., Litigation Release No. 26316, 2025 WL 1546533 (May 29, 2025); U.S. Sec. and Exch. Comm'n: Div. of Corp. Fin., *Statement on Certain Proof-of-Work Mining Activities* (Mar. 20, 2025), https://tinyurl.com/42kssa6a. The Commission has gone so far as to rescind its previous guidance on digital assets as it plans its updated approach. *Staff Accounting Bulletin No. 122*, UNITED STATES SECURITIES & EXCHANGE COMMISSION (Jan. 30,

2025), https://www.sec.gov/rules-regulations/staff-guidance/staff-accounting-bulletins/staff-accounting-bulletin-122 (last visited July 21, 2025).

In this case, after the SEC dismissed its enforcement action against Coinbase in February 2025 to focus on revising its approach to crypto policy, Oregon's Attorney General stepped in, declaring that the State "must fill the enforcement vacuum left by federal regulators." *See* U.S. Securities and Exchange Commission, *SEC Announces Dismissal of Civil Enforcement Action Against Coinbase* (Feb. 27, 2025), https://tinyurl.com/52jv8khu (last visited July 21, 2025); Lene Powell, *Oregon AG Sues Coinbase, calls on states to "fill enforcement vacuum"* (April 21, 2025), https://tinyurl.com/5akntmbz (last visited July 21, 2025). But there is no vacuum. Not only has the SEC continued to prosecute fraud claims against digital asset companies who act in bad faith,[5] but the SEC has specifically stated that it created a Crypto Task Force to "develop a comprehensive and clear regulatory framework for crypto assets[.]" *SEC Announces Dismissal of Civil Enforcement Action Against Coinbase*, *supra*. This long-awaited work of the SEC should not be interrupted by states attempting to enforce actions which the SEC specifically has dismissed.

[5] *See, e.g.*, U.S. Securities & Exchange Comm'n, SEC Announces Dismissal of Civil Enforcement Action Against Coinbase, SEC Rel. No. 2025-47 (Feb. 27, 2025), https://www.sec.gov/newsroom/press-releases/2025-47.

Resolution of whether or when a token is an investment contract will have national implications for the entire digital asset industry, the scope of federal regulatory authority, and national economic policy. While the answer to this question is uncertain, the federal government's guiding role in addressing it is not.

CONCLUSION

For the foregoing reasons, *Amicus Curiae* the Blockchain Association respectfully urges the Court to retain jurisdiction over this case to ensure that this important federal question is addressed in the appropriate judicial forum, thereby promoting the necessary uniformity and predictability in our national securities markets.

Dated: July 21, 2025

Respectfully Submitted,

/s/ Michelle S. Kallen

Michelle S. Kallen (*Pro Hac Vice Pending*)
Coy Garrison (*Pro Hac Vice Forthcoming*)
Peyton Thomas (*Pro Hac Vice Forthcoming*)
STEPTOE LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
(202) 429-6415
mkallen@steptoe.com
cgarrison@steptoe.com
pthomas@steptoe.com

Evelyn M. Hudson (*Pro Hac Vice Forthcoming*)
STEPTOE LLP
717 Texas Avenue, Suite 2800
Houston, TX 77002
(713) 221-2304
ehudson@steptoe.com

Raymond Garcia (OSB No. 222008)
STEPTOE LLP
2029 Century Park East, Suite 980
Los Angeles, CA
(213) 439-9484
rgarcia@steptoe.com

Alexandra Scheibe (*Pro Hac Vice Forthcoming*)
STEPTOE LLP
1114 Avenue of the Americas
New York, NY 10036
(212) 508-8847
ascheibe@steptoe.com

Counsel for* Amicus Curiae *Blockchain Association