HL INFLUENCERS: DIGITAL ASSETS AND BLOCKCHAIN SUMMIT

TRANSCRIPT

ELISE SOUCIE WATTS
SENATOR SINEMA

John Salmon	00:00:16	Hello there. It's John Salmon here, partner at Hogan Lovells and co-lead of our global digital assets and blockchain practice at the Digital Assets and Blockchain Summit. And welcome to a very special edition of *The Influencers*.
Elise Soucie Watts	00:00:32	Well, hi everyone and welcome. I'm Elise Soucie Watts, Executive Director at Global Digital Finance, and I'm delighted to be joined today by Senator Sinema, who's also a senior advisor at Hogan Lovells. Thank you so much for joining us.
Senator Sinema	00:00:43	It is such a pleasure to be with you.
Elise Soucie Watts	00:00:45	So we have so much to cover because it has been a crazy year in terms of legislative developments for digital.
Senator Sinema	00:00:53	But good crazy.
Elise Soucie Watts	00:00:54	Good crazy.
Senator Sinema	00:00:54	After years of nothing.
Elise Soucie Watts	00:00:56	Exactly. We've suddenly seen a flurry of developments in terms of legislation, rulemaking, statements from the regulators. Can you just briefly catch us up to speed on some of those really significant developments we've seen?
Senator Sinema	00:01:09	Sure. Well, I mean, this all really started with the election. So after President Trump was elected to a second term, he took office, as we know, in late January and within several days, you saw just a 180 degree change from the regulatory scheme. So in the Biden years with Gary Gensler as the head of the SEC, you saw a four-year regime of regulation through enforcement. So rather than stating regulations or creating a regulatory process, the Biden administration chose to enact enforcement mechanisms against a variety of American companies really without warning and without

		guardrails or saying, here were the rules if you broke them. They were just kind of making it up as they went along.
Elise Soucie Watts	00:01:54	It was dire for industry and it was really hard to navigate as well if you were a firm.
Senator Sinema	00:01:58	It's actually just a horrible way to make public policy. So you had kind of two approaches in America. You had the kind of the Coinbase approach, which was defiant. We know what we're doing is right. You can sue us. We will fight your actions. Bring it. And then you had others in the market who were just afraid and so would kind of hunker down or restrict their behavior, engage in the most conservative actions to avoid potential enforcement. It was not effective. So one of the first things you saw was that the new administration dropped the lawsuits, stopped the enforcement actions, really just turned 180 degrees around and that allowed the marketplace to begin to flourish. The second thing you saw was a very aggressive and coordinated approach by the Trump administration to pass legislation to enable a regulatory framework.
Elise Soucie Watts	00:02:49	Which gives that clarity and the certainty that firms actually needed. So how can we operate? What's the right business model, etc., which they definitely didn't have before.
Senator Sinema	00:02:57	No, before it was a fear-based market, where you just had no idea if you were going to face an enforcement action. Now we're on a path to a much more clear regulatory scheme. So President Trump installed David Sacks as his czar for crypto and David is highly regarded in the country. He is an expert on this issue. And his job is to bring together all the agencies to ensure that agencies are working together in a coordinated fashion. That is unusual in American politics.
Elise Soucie Watts	00:03:27	And we've seen that. We've actually seen so many joint statements from the SEC, from the CFTC saying that we're going to work together. We're going to bring this certainty to the market, which is crazy.
Senator Sinema	00:03:38	Which is incredible. In the past, you would see those agencies kind of internally fighting with each other over who had jurisdiction or who had primacy, and you don't have that problem anymore. And then of course, Congress passed the Genius Act.
Elise Soucie Watts	00:03:52	Yes.
Senator Sinema	00:03:52	Which is a huge deal.

Elise Soucie Watts	00:03:54	A huge deal. I think it's been probably one of the most talked about pieces of legislation, not just in the US, but globally as well. It's had ripple effects around the world. But one thing that I think is kind of funny is that you occasionally see some critics saying, well, you know, we're missing some of the specificities from Genius. And what about all those rules? And so actually, I would love for you to talk about this process of actually what's coming next. Because yes, we did pass Genius, but that doesn't mean that the work is actually done for Genius. So can you tell us what's happening now as we move to rulemaking?
Senator Sinema	00:04:27	Sure. I think that just might be a lack of understanding of how the American government process works. So Congress passes legislation which is designed to enable specific actions and make legal activities, that prior to the passage of the law were either illegal or undefined. But after Congress passes a law, it is then the regulatory process that is incredibly important. So the administrative branch of the government, which is the Trump administration's job, they must now promulgate rules to actually enact the Genius Act. That is not Congress' job. And that's the process that is underway right now. So the Department of the Treasury has been given primacy over this. They've got a 15-step regulatory process that is currently in process. And in fact, just earlier this week, a number of traditional banks sent a letter to the government saying, we'd like a little more time to respond in this public comment period, because the Department of Treasury said, here's our first draft at some enabling regulation. You have 30 days to respond.
Elise Soucie Watts	00:05:32	Which is pretty quick, actually, when you consider everything that's in there. But at the same time, you do, I guess, understand the pressure that they're under to get through that process and get the rules out to the market quickly. So it's tricky.
Senator Sinema	00:05:43	It is tricky. But what's interesting is that it's traditional banks that have asked for more time because they're newer to the space, whereas folks in the kind of the fintech space are like fired up and ready to go.
Elise Soucie Watts	00:05:51	Yes, because we're already thinking about this for ages.
Senator Sinema	00:06:00	That's right. So they're like, we've had our 30-day comment stuff written for two years.
Elise Soucie Watts	00:06:04	Yeah, they're ready.

Senator Sinema	00:06:05	So it remains to be seen whether the administration will extend. I don't like to make predictions because you never know what's going to occur, but a small extension could be possible, and that would allow a little bit more time for the traditional financial institutions to participate in the comment period. But it is moving along very quickly. Historically, the rulemaking process in the United States government is a very tiresome, long, burdensome process. So this is moving at warp speed compared to normal. But I will say this again, with David Sacks as the czar and the coordination across all these agencies, you're not seeing this as like kind of one-off siloed action. This is highly coordinated, deeply thought out, very well structured. You know, this is, I've not seen a regulatory process as organized and as helpful as the Genius process in many years.
Elise Soucie Watts	00:06:59	But certainly, and I would really agree with that. I think that, you know, when we look across the piece at global regulations around the world, the ones that are the most successful in not only getting out to market quickly, but also being comprehensive and workable for markets are those ones that have a joined up approach. And so coming back to what you said, having David Sacks at the helm and all of this coordination, getting everybody in order across all of the regulators, it does make a really big difference.
Senator Sinema	00:07:22	It makes a huge difference. And when you add to that, the fact that the heads of the regulatory bodies are now aligned on crypto, makes it easier as well. So you've now got folks who are, you know, CFTC and SEC who not only are pro-crypto, but they actually like understand it, which is really helpful.
Elise Soucie Watts	00:07:40	Yes.
Senator Sinema	00:07:40	And so what I think you'll see in the next 90 to 120 days is a rollout of regulatory actions that come from the Genius Act that stack upon each other, that are coordinated, organized, and that create a more holistic structure. And it will move quickly, right? As we know, the marketplace moves much faster than government. So to see government moving this quickly is actually wonderful for not just the US market, but the global market.
Elise Soucie Watts	00:08:06	It's really exciting. And especially because obviously, as all of these products and technologies are cross-border as well, what the US is doing does have those ripple effects. But Genius is obviously not the only piece of legislation on the table. As Genius passed, we also saw the Clarity Act pass the House. And then we've seen other proposals for market structure coming out of Senate. And I know that you've been tracking really closely that there are some key differences between Republicans and Democrats on this. So could

		you talk us through where are we at with Clarity? What's going on right now, and what are those really crucial differences that have led to some tensions across party?
Senator Sinema	00:08:42	Well, first, I think it's important to set the political table. And folks outside the US, frankly, folks inside the US, may not understand how important the impact of other political considerations are on the negotiations of market structure.
Elise Soucie Watts	00:08:59	This isn't the only thing that's occupying brain space right.
Senator Sinema	00:09:02	Oh, no, there's a lot of other stuff on the table. And as we all know, there's high tension between Democrats and Republicans right now in Congress on a number of issues. The tax bill that was recently passed, the debate around healthcare and healthcare extensions, the funding that runs out in the government just next week, those are all very, very highly tense situations. And the tension is so high that it pushes the bipartisan conversations on issues like market structure kind of off to the side. And so I think that's why you see a pause in the Senate right now, is that while there are some differences between Senate Republicans and Senate Democrats on what a market structure bill should look like, it's difficult for them to even have the conversations around resolving those differences, which are resolvable. They can't really have that conversation effectively right now because they're very busy fighting about other things.
Elise Soucie Watts	00:09:55	Yeah, and this could be one piece of those negotiations as well.
Senator Sinema	00:09:58	It could be. But I think the negotiations around government funding are breaking down, not building up.
Elise Soucie Watts	00:10:06	Oh, dear.
Senator Sinema	00:10:07	So it's likely that there's a government shutdown of some period of time that initiates on October 1st. Congress will need to get through that. Like, they'll need to get through that. It will need to get resolved. People will need to lick their wounds, and then they can come back to market structure. Now, the House passed a market structure bill, Clarity. It had some modest bipartisan support, but it was largely a Republican product. That's how the House works. The party in charge works its will. The Senate, as we know, is a very different creature. You must have pretty broad bipartisan support to pass any meaningful legislation. And while there are 12 Senate Democrats who want to pass a market structure bill, they have a few priorities that differ from Senate Republicans. One, they

		really want CFTC to be the homebase for market structure. They're also very concerned about gaps in the market structure legislation for consumer protections, illicit finance. They want to make sure it has enough funding inside government to administer it appropriately. So the concerns are, frankly, standard Democratic concerns, right? Nothing in there is new or unexpected. But again, the appetite to resolve those and find a bipartisan solution probably doesn't pick up until after the kind of the drama of the government shutdown is resolved.
Elise Soucie Watts	00:11:30	And I think that this is like a really helpful framing and important context to remember, because often when you speak to people in the crypto and digital assets industry, there's so much energy and excitement and they sort of forget that actually there's this broader political and geopolitical landscape that influences these issues passing and moving forward. So I'm personally really excited to see what happens with market structure in the future. I remain very hopeful that it will get.
Senator Sinema	00:11:56	It will.
Elise Soucie Watts	00:11:57	But obviously, as you say, there's likely to be a little bit of a time lag before we get there.
Senator Sinema	00:12:02	So I feel confident that market structure will happen because there is a strong impetus for both pro-business Democrats and pro-crypto Democrats and the Republican conference to get this done. The thing for folks to remember is that while they might spend their entire life breathing and thinking and working on crypto, for Congress this is just one small part. And passing legislation is absolutely crucial and important but it can pale in the short-term comparison to things such as keeping the government open.
Elise Soucie Watts	00:12:32	Very fair.
Senator Sinema	00:12:33	And so what I would say is to just take a little bit of a breather, recognize that this is an important item on the table, but that it is at the moment, not the main dish. But it doesn't mean it's off the table. It's still there. It's going to happen. Folks have to get through the emotional difficulty of the government funding fights and the larger rifts between Democrats and Republicans in terms of funding and in terms of priorities and in terms of the way that the Trump administration is spending or not spending appropriated dollars. Folks have to get through that. And then market structure is there waiting, ready to be worked on. I do feel confident it will get done.
Elise Soucie Watts	00:13:13	That's great to hear. And so overall, what would your view be then, in terms of incoming, I guess this comes back to a bit of what you

		were saying at the beginning. Overall, do you think that the tone for this market is positive?
Senator Sinema	00:13:26	Yes.
Elise Soucie Watts	00:13:26	That these developments have actually helped the industry to make significant progress as well, because as you say, once legislation is set, that actually gives much more long-term certainty than what we were seeing before. And so you say the industry is now on a good trajectory because of these legislative changes that we've seen?
Senator Sinema	00:13:43	Well, I think the industry is on a good trajectory from really two reasons. One, of course, is the passage of legislation and the rapid movement towards a regulatory framework that enables rather than restricts activity. But the other element, which I think is equally important, is the feeling that there is government support for digital assets, for crypto and for opportunity within the marketplace rather than restrictions. And that culture change is perhaps the most important thing that could have happened in America. For companies, like Coinbase or Ripple or Circle, etc., to now feel like they are supported by a government rather than attacked changes the whole worldview for the industry. And I would say that's equally important to the actual nuts and bolts of legislation and a regulatory framework.
Elise Soucie Watts	00:14:36	I completely agree. I'm very excited about it as well. But a couple of last questions. First, looking to the future beyond Genius, Clarity, any other kind of key pieces of digital legislation or rulemaking that you think that we should be thinking about looking out for?
Senator Sinema	00:14:51	Well, the Trump administration has basically said that once Genius and Clarity, in whatever form it passes, once those two get passed and they have finished their regulatory efforts, both the SEC and CFTC have said that they don't think that they need anything more. That those two pieces of legislation will provide enough of the space for them to create a regulatory market that allows the industry to move forward and be clear.
Elise Soucie Watts	00:15:15	Which is great.
Senator Sinema	00:15:16	Yes.
Elise Soucie Watts	00:15:16	Because that's also quicker as well.
Senator Sinema	00:15:17	Yes. And when you've got an administration that is seeking to enable rather than restrict, to be able to move quickly on the regulatory front with just two pieces of legislation makes it much

		easier and faster. So frankly, after Clarity gets to the president's desk and the regulatory scheme unrolls, I don't think you'll see much more from Congress on this issue because they will have completed their job.
Elise Soucie Watts	00:15:41	Which is amazing.
Senator Sinema	00:15:41	It is.
Elise Soucie Watts	00:15:42	And I think it's actually, we're kind of in the final hurdles now. And so maybe just last question for you then, because this was super helpful and I think having that political context when thinking about legislative progress is so important. Do you have any words of advice for firms or industry practitioners who are trying to navigate this complicated space? What's the best way to kind of stay on top of what's happening and really kind of lean in to following legislative and regulatory developments?
Senator Sinema	00:16:08	Well, sometimes that can be really difficult in the U.S. I mean, even for U.S. companies, it can be hard. But outside of the U.S., I can understand how challenging it would be because it's such a unique structure. And frankly, each administration handles it very differently, as we've seen. So the first thing I would say is to pay attention to what's happening in Congress, right? But when you see something, quote, stalled, like some would say market structure stalled in the Senate, ask deeper questions about that. I don't think market structure is stalled in the Senate. Again, we're in a political moment where they need to deal with other things that are more pressing and partisan and then can come back to it. So talking with folks who understand the legislative process would be really helpful rather than just freaking out. And then when you get to the regulatory process, talking with folks who have an expertise in dealing with the regulatory scheme in the United States would be very helpful. Learning how to participate in the comment process, reading comments, all of which are public, that others have submitted. You can even adjust your own comments, submit more during that period based on other comments you see. There's lots of opportunities for inputs during the process. Take advantage of those. You know, less than 1% of Americans ever participate in the comment process in the regulatory scheme.
Elise Soucie Watts	00:17:30	That is so low.
Senator Sinema	00:17:31	Yes, it is. Because most people think, oh, well, once Congress passes the law, it's done. It's the regulatory process where the rubber hits the road. And so participating in that process, both reading the comments, submitting comments, learning about it,

		really allows you to get into the meat of the work before the regulations come out in the final scheme. And getting involved in that process only helps you become more prepared. Even if you choose not to participate in the comment process, reading them as they're submitted allows you to prepare for what's going to ultimately be decided.
Elise Soucie Watts	00:18:09	And then, you know, people don't have to necessarily just complain about regulation as it comes out and say, we don't like this.
Senator Sinema	00:18:15	You can be a part of it.
Elise Soucie Watts	00:18:16	You can be a part of it and actually help shape the future-based framework.
Senator Sinema	00:18:19	Any citizen, anyone can be a part of it.
Elise Soucie Watts	00:18:21	I love that. So a call to get involved. Well, thank you so much. This was a wonderful conversation, a whistle-stop tour through U.S. legislative developments. Thank you for joining us on the podcast.
Senator Sinema	00:18:30	It's been such a pleasure.
John Salmon	00:18:33	I hope you've enjoyed our very special edition of The Influencers at the Digital Assets and Blockchain Summit. And thank you very much for watching and listening. See you next time.
Outro	00:18:40	To explore more insights and resources on emerging technologies, visit digital-transformation-academy.com. Follow the podcast on your preferred platform to hear future episodes as soon as they're released.