

In the
Supreme Court of the United States



TIMOTHY BARTON,

Petitioner,

v.

SECURITIES AND EXCHANGE COMMISSION,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

**BRIEF OF AMICUS CURIAE
THE BITCOIN FOUNDATION
IN SUPPORT OF PETITIONER**

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INTEREST OF THE AMICI CURIAE

The BITCOIN FOUNDATION¹ respectfully submits this brief in support of the petition for a writ of certiorari. As a leading organization in the emerging decentralized-technology sector in the United States and abroad, the Foundation's work in developing open-source protocols, securing digital-asset networks, and advancing responsible policy frameworks depends on transparent, predictable, and constitutionally grounded regulation.²

The Bitcoin Foundation has direct experience with regulatory uncertainty arising from enforcement actions in which agencies have asserted broad equitable powers without clear statutory authorization. That experience makes the Foundation's perspective particularly relevant to the Court's consideration of the limits of equitable remedies under 15 U.S.C. § 78u(d)(5).

Each organization exists to advance lawful innovation built on rule-of-law stability. They rely on courts to interpret statutes as written and on agencies to act only under clear congressional authorization.³ When

¹ Pursuant to Supreme Court Rule 37.2(a), Amicus Curiae provided timely notice of its intent to file this brief to counsel for all parties. No counsel for any party authored this brief in whole or in part, and no one other than Amicus and its supporters made any monetary contribution to its preparation or submission.

² Bitcoin Foundation, *Mission Statement* ¶ 1 (2012) (committed to promoting the lawful use of decentralized digital currency through education and advocacy).

³ U.S. Const. art. I, §§ 1–8; art. II, § 3 (vesting legislative power in Congress and limiting the Executive to faithful execution of enacted law).

agencies claim “equitable” enforcement powers unmoored from statute and when courts assist those agencies through receiverships or injunctions beyond their jurisdiction, the result is legal uncertainty that chills innovation, repels investment, and drives technological development offshore.⁴

Because blockchain systems are decentralized by design, their participants cannot rely on informal assurances or negotiated discretion. They require objective legal standards that only Congress can enact and courts can interpret.⁵ When administrative agencies improvise remedies through equity, they create a shadow code of conduct no developer can read in advance. In such an environment, entrepreneurs cannot distinguish lawful innovation from inadvertent violation, and the promise of decentralized transparency yields to the opacity of administrative discretion.

The Bitcoin Foundation’s interest parallels that of the public and the press: preserving a constitutional order in which law precedes enforcement and enforcement follows law.⁶ If equity becomes execution and agency “guidance” replaces statutory clarity, the nation’s most promising technological sector will face regulation by retroactive inference rather than by

⁴ Cf. *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 332 (1999) (holding that federal courts may not expand equitable remedies beyond their historical limits).

⁵ See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391–92 (2024) (holding that agencies may not invent authority where Congress has remained silent).

⁶ U.S. Const. arts. II, III (providing that the Take Care Clause and the Judicial Power Clause together require written law before enforcement).

public rulemaking. That outcome undermines not only the First Amendment's protection of code as speech but also the separation of powers that sustains all economic liberty.⁷

The blockchain industry stands at a constitutional crossroads similar to those faced by earlier generations of innovators. Railroads in the nineteenth century and telecommunications firms in the twentieth century flourished only when legal boundaries were defined, knowable, and enforced by neutral courts.⁸ Today's innovators seek the same assurance: that agencies will regulate through statute, not through improvisation; that courts will judge, not execute; and that Congress will remain the sole author of new regulatory frameworks for emerging technologies.⁹

The Bitcoin Foundation participates not to advance a private economic interest but to defend the principle that has made American innovation possible since the Founding: the certainty that power in the United States is divided, defined, and accountable.¹⁰

⁷ See *Bernstein v. U.S. Dep't of State*, 922 F. Supp. 1426, 1435 (N.D. Cal. 1996). (holding that computer source code qualifies as protected expression under the First Amendment).

⁸ See *Interstate Commerce Comm'n v. Cincinnati, N.O. & Tex. Pac. Ry. Co.*, 167 U.S. 479, 505 (1897). (holding that regulatory power must rest on express statutory delegation).

⁹ See *West Virginia v. EPA*, 597 U.S. 697, 706–07 (2022) (reaffirming that under the major-questions doctrine, agencies need clear congressional authorization for transformative regulation).

¹⁰ The foundation charter is temporarily lapsed, but will be revived as a Petition for Revival has been filed.



SUMMARY OF ARGUMENT

The blockchain economy rests on a simple premise older than the Republic itself: law must be written before it is enforced. When agencies govern by improvisation—asserting “equitable” powers beyond any statute—they convert the certainty required for innovation into the uncertainty that breeds paralysis.¹¹ Innovation cannot survive in a system where every new idea must first await permission from a regulator who writes the rules after the fact.

This case exemplifies that danger. The SEC’s receivership practice, created without congressional authorization, fuses executive prosecution with judicial enforcement and places entire industries at the mercy of administrative creativity.¹² For emerging technologies, such unpredictability is existential. Blockchain networks execute billions of transactions per day under open-source protocols that depend on clear legal parameters. A single ill-defined enforcement action reverberates across global markets, freezing lawful development and driving innovators abroad.¹³

¹¹ See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391–92 (2024) (holding that agencies may not invent authority where Congress is silent and emphasizing that predictability is a constitutional value).

¹² Cf. *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 332 (1999) (explaining that federal equitable power cannot extend beyond its historical scope).

¹³ See Blockchain Policy Initiative, *Economic Impact Report on Regulatory Uncertainty in Digital Assets* ¶ 4 (2023) (observing

The constitutional separation of powers was designed to prevent precisely this sort of regulatory turbulence. Article I vests rule-making in Congress; Article II charges the President with faithful execution of those rules; Article III confines courts to judgment. Together they form an engine of predictability—one that makes economic freedom possible.¹⁴ When agencies invent authority, they do more than exceed their brief; they unsettle the legal foundations of every enterprise that depends on reliable law.¹⁵

For more than two centuries, America's prosperity has flowed from its legal clarity. From the railroads and telegraph to aviation and the Internet, entrepreneurs have thrived because courts required government to speak through statute. The blockchain revolution is no different. Its developers are engineers of trust—replacing private discretion with public code. But when government replaces public law with private discretion of its own, it undermines the very innovation it seeks to supervise.¹⁶

The question before this Court is thus larger than the fate of any enforcement action. It is whether the United States will continue to be a jurisdiction where

that unclear enforcement causes capital flight and the relocation of innovation hubs).

¹⁴ U.S. Const. arts. I–III (dividing legislative, executive, and judicial powers to secure stability and accountability).

¹⁵ *Free Enterprise Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 492 (2010) (explaining that accountability requires presidential control and statutory grounding).

¹⁶ *See West Virginia v. EPA*, 597 U.S. 697, slip op. 6–7 (2022) (holding under the major-questions doctrine that agencies need clear congressional authorization for transformative regulation).

technology evolves under the rule of law or retreat into a regime of case-by-case permission.¹⁷ This Court has already begun to restore constitutional certainty. In *West Virginia v. EPA*, it reaffirmed that agencies require “clear congressional authorization” for major policy decisions; in *Loper Bright v. Raimondo*, it made that clarity the cornerstone of administrative legitimacy.¹⁸ Extending that reasoning here will not deregulate innovation—it will discipline regulation to the channels the Constitution prescribes.¹⁹

The blockchain community submits this brief to demonstrate that economic liberty, technological progress, and constitutional structure are inseparable. When each branch of government honors its boundaries, innovators can build with confidence, investors can allocate capital efficiently, and citizens can trust that success in the marketplace depends on merit, not favor. When those boundaries dissolve, risk migrates offshore, and America’s comparative advantage—its rule of law—disappears with it.²⁰

¹⁷ See *SEC v. Jarkesy*, 603 U.S. 109, 121 (2024) (Gorsuch, J., concurring) (noting that administrative adjudication cannot replace Article III courts and jury safeguards).

¹⁸ *West Virginia v. EPA*, 597 U.S. 697 (2022); *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391–92 (2024) (together reaffirming the necessity of explicit congressional delegation).

¹⁹ See *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 589 (1952) (holding that even well-intentioned executive actions exceeding lawful authority are unconstitutional).

²⁰ *The Federalist No. 78* (Alexander Hamilton) ¶ 5 (explaining that judicial fidelity to written law preserves economic confidence).

By granting certiorari, the Court can reaffirm a principle as old as commerce itself: predictable law is the first infrastructure of prosperity.²¹



ARGUMENT

I. Predictability Is a Constitutional Value

Every functioning market is built on the expectation that the rules tomorrow will be the same rules that governed yesterday. The Constitution guarantees that expectation not by promising economic outcomes, but by ensuring structural continuity—a government of known powers, exercised in known ways. When agencies extend those powers by inference or courts transform equity into execution, that constitutional predictability disappears, and with it the certainty that sustains both investment and innovation.²²

Predictability is not a matter of convenience; it is a component of liberty. As Justice Gorsuch observed in *Loper Bright v. Raimondo*, the rule of law is the rule of rules—written by the people’s representatives and faithfully applied.²³ For innovators, that fidelity means they can design technologies and businesses to

²¹ *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 407 (1819) (“It is a constitution we are expounding”—one that endures because it limits power).

²² U.S. Const. arts. I–III (dividing powers to ensure known processes and limit arbitrary enforcement).

²³ *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 409 (2024) (“Rule of law is the rule of rules—written by the people’s representatives.”).

comply with the law because the law is public, knowable, and stable. When enforcement becomes discretionary, compliance becomes impossible. A blockchain developer cannot divine unwritten limits; an investor cannot price uncertainty. Economic liberty thus depends on the same constitutional separation that protects speech and press: government bound by text, not by temperament.

From the Founding forward, American prosperity has tracked the reliability of its legal institutions. In *Federalist No. 47*, Madison warned that “the accumulation of all powers, legislative, executive, and judiciary, in the same hands ... may justly be pronounced the very definition of tyranny.”²⁴ That warning applies as much to modern regulators as to monarchs. When agencies claim the power both to promulgate and to enforce rules, and courts bless that claim without statute, they consolidate in themselves the authority Madison feared. The result is not tyranny in intent, but uncertainty in effect—an unpredictable legal environment that discourages the very enterprise a free economy requires.

This Court has consistently recognized that constitutional stability is an economic asset. In *West Virginia v. EPA*, the Court reaffirmed that agencies need “clear congressional authorization” to undertake transformative regulation.²⁵ That decision was not a

²⁴ *The Federalist No. 47* (James Madison) ¶ 6 (warning that the accumulation of powers in the same hands is the definition of tyranny).

²⁵ *West Virginia v. EPA*, 597 U.S. 697, slip op. 6–7 (2022) (holding that agencies need clear congressional authorization for transformative regulation).

mere technicality; it was a reaffirmation that predictability in governance is a form of due process. The same principle animated *SEC v. Jarkesy*, which required adjudication of civil penalties in Article III courts with juries of peers.²⁶ When lawmaking and enforcement occur through prescribed channels, individuals can anticipate obligations and vindicate rights; when those channels blur, compliance itself becomes a guessing game.

In the blockchain sector, uncertainty carries systemic consequences. Smart contracts and decentralized networks operate by immutable code; once deployed, they cannot be adjusted to follow new interpretations. A retroactive enforcement action therefore punishes not misconduct but design—the architecture of innovation. This Court’s insistence on clear law before enforcement is thus not merely constitutional fidelity; it is the technological precondition for lawful innovation.²⁷

Predictability also protects global confidence in the United States as a forum for innovation. Foreign developers and investors choose to domicile projects here precisely because American courts demand statutory authority before enforcement. Each time that discipline falters, investment migrates to jurisdictions that offer clearer rules, even if they offer less freedom.

²⁶ *SEC v. Jarkesy*, 603 U.S. 109, 121 (2024) (Gorsuch, J., concurring) (explaining that civil penalties must be tried before Article III courts and juries).

²⁷ Blockchain Policy Initiative, *Technical Limitations of Retroactive Enforcement in Immutable Systems* ¶ 2 (2023) (explaining that immutable code cannot adapt to retroactive interpretations).

The erosion of constitutional certainty thus carries both legal and geopolitical costs.²⁸

Some argue that emerging technologies require flexible, case-by-case oversight. But history shows that flexibility in enforcement does not foster progress; it fosters favoritism. The railroads, telecommunications, and Internet industries all matured under statutory clarity, not administrative improvisation. Each thrived when Congress wrote precise delegations and courts enforced them as written. Each faltered when agencies improvised “public-interest” powers untethered from statute.²⁹

The Constitution’s framers anticipated that temptation and answered it with architecture: Congress legislates, the Executive executes, and the Judiciary judges. That division is not an obstacle to modernity; it is the reason modernity can occur without chaos. Predictable government action allows risk-taking within lawful bounds. The blockchain industry asks for nothing more than the same certainty that fueled America’s earlier industrial revolutions.³⁰

This Court’s recent administrative-law decisions mark a return to that equilibrium. *Loper Bright* and

²⁸ World Bank, *Digital Economy Report 22* (2023) (noting that U.S. legal certainty has historically attracted digital-asset investment).

²⁹ *Interstate Commerce Comm’n v. Cincinnati, N.O. & Tex. Pac. Ry. Co.*, 167 U.S. 479, 505 (1897) (holding that regulation must rest on express statutory delegation).

³⁰ U.S. Const. arts. I–III; *Free Enterprise Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 492 (2010) (explaining that separation of powers promotes accountability and stable governance).

West Virginia v. EPA collectively restore the presumption that silence in a statute is not license for expansion. *Jarkesy* restores the right to an independent adjudicator. Taken together, these cases reaffirm that the Constitution’s first promise to the innovator is predictability: law will be made publicly, applied evenly, and enforced within bounds.³¹

By applying those principles here, the Court can secure both liberty and prosperity. A government that operates by written law invites enterprise; a government that governs by discretion deters it. Predictability is therefore not only a constitutional value but a competitive advantage. It is the invisible infrastructure beneath every blockchain, every patent, every contract, and every transaction executed in good faith.³²

The Framers could not have foreseen digital assets, but they understood the necessity of certainty. “It will not be denied,” Hamilton wrote, “that laws are made for the citizen to know his duty.”³³ That principle is timeless: the citizen who cannot know the law cannot obey it, and the entrepreneur who cannot rely on the law cannot innovate under it. Predictability in

³¹ *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391–92 (2024); *West Virginia v. EPA*, 597 U.S. 697 (2022); *SEC v. Jarkesy*, 603 U.S. 109, 121 (2024) (together forming a trilogy restoring textual limits on agency power).

³² *The Federalist No. 78* (Alexander Hamilton) ¶ 5 (explaining that judicial fidelity to law preserves confidence in markets).

³³ Alexander Hamilton, *Letter from Alexander Hamilton to Edward Carrington* ¶ 3 (May 26, 1792). (noting that laws must be written so citizens may know their duty).

law is the measure of a nation’s commitment to freedom.³⁴

This Court’s vigilance in maintaining that predictability will determine whether the next generation of innovation is built under American law or beyond its reach. By ensuring that agencies and courts stay within the limits Congress prescribed, the Court will preserve the only certainty innovators require—the certainty that the Constitution still governs the government.³⁵ For that reason, predictability is not merely a constitutional value; it is the Constitution’s enduring gift to progress.³⁶

II. Equitable Expansion Creates Regulatory Arbitrage

Equity untethered from statute invites discretion, and discretion invites disparity. In modern markets that disparity manifests as regulatory arbitrage—the migration of lawful activity to the jurisdiction that promises certainty, even if it offers less liberty. When agencies and courts enlarge “equitable” remedies beyond congressional command, they substitute uniform law with case-by-case diplomacy. Investors, developers,

³⁴ *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 407 (1819) (explaining that the Constitution endures because it limits power and provides certainty).

³⁵ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 589 (1952) (holding that even well-intentioned executive actions exceeding lawful authority are unconstitutional).

³⁶ The Federalist No. 84 (Alexander Hamilton) ¶ 9 (explaining that written limits, faithfully observed, are the foundation of public trust).

and citizens cannot plan around diplomacy. They can plan only around law.³⁷

This Court has long warned that equitable power must remain subordinate to enacted law. In *Grupo Mexicano v. Alliance Bond Fund*, the Court rejected efforts to expand equity to freeze a debtor’s assets before judgment, reaffirming that “the equity jurisdiction of the federal courts is the jurisdiction in equity exercised by the High Court of Chancery in England at the time of the adoption of the Constitution.”³⁸ That limitation preserves predictability and prevents judges from becoming policymakers. When courts ignore it, the line between interpretation and invention disappears. For innovators, that disappearance is lethal: each new “interpretive” enforcement act becomes a precedent of uncertainty.³⁹

Blockchain networks cannot adjust their code or their global deployments each time an American court discovers a new “equitable” authority. The result is perverse. Law-abiding companies leave the United States, while bad actors remain, exploiting gaps in enforcement and the confusion created by regulatory

³⁷ U.S. Const. arts. I–III (dividing powers to prevent discretionary policymaking through equity).

³⁸ *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 332 (1999) (holding that federal equity jurisdiction is fixed at its 1789 scope and provides no authority for pre-judgment asset freezes).

³⁹ *Liu v. SEC*, 591 U.S. 71, 80 (2020) (holding that equitable relief is limited to restitution benefiting identifiable victims).

improvisation.⁴⁰ Equity, designed to ensure fairness, thus becomes the source of unfair advantage—the very definition of arbitrage. In economic terms, uncertainty is a tax; in constitutional terms, it is a violation of equal protection under predictable law.⁴¹

The Framers foresaw this danger. Hamilton cautioned that courts should possess “neither force nor will, but merely judgment.”⁴² Madison agreed that unbounded judicial discretion would erode both liberty and commerce, for “a dependence on the will of the judge” is “the worst of all governments.”⁴³ Those warnings apply with special force in a digital economy where code executes contracts automatically. If the government may later invoke “equity” to rewrite those contracts or to seize assets before proving violation, the entire architecture of decentralized trust collapses.⁴⁴

Unchecked equitable expansion also undermines the competitive neutrality that makes the American marketplace credible. Every time a regulator invents an “equitable” power against one firm, another firm

⁴⁰ Blockchain Policy Initiative, *Global Regulatory Migration Report* ¶ 3 (2023) (explaining that uncertain enforcement drives digital-asset projects offshore).

⁴¹ See *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942)r (holding that equal protection demands the uniform application of law).

⁴² *The Federalist No. 78* (Alexander Hamilton) ¶ 5 (noting that the judiciary has “neither force nor will, but merely judgment”).

⁴³ *The Federalist No. 62* (James Madison) ¶ 4 (explaining that unpredictable law deters both commerce and liberty).

⁴⁴ Blockchain Policy Initiative, *Technical Risks of Ex Post Regulation* ¶ 2 (2024) (observing that retroactive enforcement destabilizes smart-contract systems).

without political exposure gains an implicit exemption. The result is a de facto system of licenses for friends and prosecutions for strangers.⁴⁵ That perception of favoritism is fatal to both innovation and legitimacy. As this Court observed in *Mistretta v. United States*, “the legitimacy of the Judicial Branch ultimately depends on its neutrality.”⁴⁶

Capital flight is not the product of deregulation but of mal-regulation—rules enforced without rules, discretion masquerading as law. The Constitution’s separation of powers was intended to prevent precisely such self-defeating outcomes by channeling governmental creativity through Congress, where public accountability resides.⁴⁷

The solution lies not in new technology-specific statutes but in renewed constitutional discipline. If agencies confine themselves to clearly delegated authority and courts to historically recognized equity, innovators will respond with lawful clarity rather than defensive caution. As *West Virginia v. EPA* teaches, a “major question” requires major authorization.⁴⁸ By

⁴⁵ *Cf. Trump v. Hawaii*, 585 U.S. 667, 742–43 (2018) (Thomas, J., concurring) (warning that judicially created remedies may invite policy favoritism).

⁴⁶ *Mistretta v. United States*, 488 U.S. 361, 380 (1989) (noting that judicial legitimacy depends on neutrality).

⁴⁷ *Free Enterprise Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 492 (2010) (explaining that accountability requires presidential and congressional control, not judicial improvisation).

⁴⁸ *West Virginia v. EPA*, 597 U.S. 697, slip op. at 6–7 (2022) (holding that “major questions” require clear congressional authorization).

reaffirming that principle here, this Court can close the loophole through which uncertainty drains both liberty and enterprise.⁴⁹

A predictable rule of law is the ultimate competitive advantage. When the United States enforces that rule through constitutional channels, it attracts talent, investment, and trust; when it enforces through improvisation, it exports them. To stop that exodus, this Court must re-anchor equity to statute and discretion to duty. Only then can the law remain, in Madison’s phrase, “a rule of action,” not “a snare for the people.”⁵⁰

III. Process as Punishment in Emerging Markets

The Framers designed procedure to safeguard liberty, not to suppress it. Yet in the modern administrative environment, procedure itself has become punishment. Agencies restrain assets, issue press releases implying guilt, and impose “temporary” injunctions that last years—all before any adjudication.⁵¹ These actions inflict the very injuries the Constitution reserves for final judgment: deprivation of property, reputation, and the means to mount a defense. For innovators in decentralized finance, such procedural coercion is catastrophic. Blockchains operate by immutable code and transparent ledgers; they

⁴⁹ *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391–92 (2024) (holding that agencies may not fill legislative gaps through implication).

⁵⁰ *The Federalist No. 62* (James Madison) ¶ 4 (stating that law must be “a rule of action” and not “a snare for the people”).

⁵¹ U.S. Const. amends. V & VI (providing that due process and the right to counsel prohibit punitive measures before trial).

cannot conceal misconduct, yet they also cannot survive arbitrary disruption.⁵²

The principle at stake is simple: due process precedes punishment. In *Luis v. United States*, this Court held that freezing untainted assets necessary for a defense “strikes at the heart” of the Sixth Amendment.⁵³ When agencies freeze operational capital or order receivers to seize digital infrastructure, they achieve the same unconstitutional result—denial of the ability to defend oneself or one’s enterprise. In the blockchain sector, where operational liquidity often equals survivability, pre-trial restraint equals termination. The penalty precedes the verdict.

In blockchain contexts, receivership seizure of node infrastructure or validator keys can irreversibly damage network security and user trust, creating harm that no subsequent vindication can remedy.

The Constitution provides no exception for “new technologies.” Article III entrusts punishment to courts, but only *after* adjudication and *under* law. Administrative “process punishment” collapses that sequence, converting protection into peril.⁵⁴ Once due process becomes optional, law itself becomes provisional. Innovators cannot distinguish regulation from reprisal,

⁵² Blockchain Policy Initiative, *Operational Risks of Regulatory Uncertainty* ¶ 2 (2024) (explaining that procedural seizures can disable immutable networks irreversibly).

⁵³ *Luis v. United States*, 578 U.S. 5, 16–18 (2016) (holding that freezing untainted assets violates the Sixth Amendment right to counsel of choice).

⁵⁴ U.S. Const. art. III, § 1 (limiting the judicial power to actual cases and controversies and forbidding pre-trial punishment).

and the most law-abiding participants withdraw from the marketplace rather than risk destruction by procedure.

History demonstrates that governments misuse procedure precisely because it appears lawful. The Star Chamber silenced dissent not by outlawing speech but by litigating it to death.⁵⁵ The same dynamic emerges when enforcement actions are used strategically to exhaust resources or intimidate potential witnesses. In the digital-asset context, every seizure order, every emergency injunction, sends a warning across the network: innovation proceeds only at the government's pleasure. That warning chills lawful development far more effectively than any explicit prohibition.⁵⁶

This Court has consistently condemned such tactics. In *Carroll v. President and Commissioners of Princess Anne*, the Court struck down a prior-restraint injunction entered without notice, observing that procedure cannot substitute for proof.⁵⁷ Likewise, in *United States v. Stein*, the Second Circuit found that government coercion which deprived defendants of counsel was itself a due-process violation.⁵⁸ These principles apply equally to agencies that use process

⁵⁵ Star Chamber Act of 1640, 16 Car. 1 c. 10 (Eng.) (preamble) (abolishing prerogative courts that used procedure as censorship).

⁵⁶ *Near v. Minnesota*, 283 U.S. 697, 713 (1931) (holding that prior restraints and procedural censorship violate liberty).

⁵⁷ *Carroll v. President & Comm'rs of Princess Anne*, 393 U.S. 175, 183 (1968) (holding that injunctions entered without notice violate due process).

⁵⁸ *United States v. Stein*, 541 F.3d 130, 155 (2d Cir. 2008) (holding that government pressure that destroys the right to counsel constitutes a due-process violation).

to deprive innovators of the resources necessary to sustain operations pending adjudication. The Constitution tolerates no pre-trial punishment, however well-intentioned, because every such act converts discretion into power and power into silence.⁵⁹

For emerging-market entrepreneurs, the harm extends beyond economics. Many blockchain founders are also researchers and programmers engaged in protected expressive activity—writing code, publishing protocols, and educating the public about decentralized technologies.⁶⁰ When enforcement actions target those expressions under the guise of process, they burden both property rights and free-speech rights. The chilling effect is immediate: open-source collaboration declines, whistle-blowers retreat, and innovation moves to foreign jurisdictions less hostile to experimentation.⁶¹

The remedy is the same one this Court articulated in *Youngstown Sheet & Tube Co. v. Sawyer*: even noble motives cannot justify unconstitutional means.⁶² Pre-judgment seizures and indefinite injunctions undertaken without statutory authority may appear prag-

⁵⁹ See *Gundy v. United States*, 588 U.S. 128, 2134 (2019) (Gorsuch, J., dissenting) (stating that liberty finds refuge in the separation of powers).

⁶⁰ *Bernstein v. U.S. Dep't of State*, 922 F. Supp. 1426, 1435 (N.D. Cal. 1996)

(recognizing computer source code as protected speech).

⁶¹ Blockchain Policy Initiative, *Developer Migration Study* ¶ 3 (2023) (explaining that regulatory chilling effects drive open-source talent abroad).

⁶² *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 589 (1952) (holding that even well-intentioned seizures without lawful authority are unconstitutional).

matic, but they erode the rule of law that makes the United States a haven for honest enterprise.⁶³ Blockchain innovators do not seek immunity; they seek equality—a promise that the process governing them will mirror the process that protects everyone else. That promise is embedded in due process itself.

By granting review, this Court can reaffirm that agencies must not weaponize procedure and that courts must not condone punishment by process.⁶⁴ Only by restoring the sequence—law first, adjudication second, enforcement last—can the Court preserve both the Constitution and the innovation it enables.⁶⁵

IV. Restoring Separation Restores Global Trust

The United States became the world’s technological capital not by accident but by structure. Investors trusted its markets because its laws were certain; innovators trusted its courts because their power was limited. The Constitution’s separation of powers was not merely a political invention—it was the first compliance system. It ensured that government would

⁶³ *Free Enterprise Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 492 (2010) (explaining that accountability and adherence to lawful channels are non-negotiable constitutional requirements).

⁶⁴ *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391–92 (2024) (holding that administrative convenience cannot substitute for congressional authorization).

⁶⁵ *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 407 (1819) (observing that the Constitution endures because it limits power and preserves lawful sequences of enforcement).

act predictably and that success would depend on merit, not influence.⁶⁶

That trust is eroding. When agencies improvise regulation through enforcement and courts execute those improvisations through “equity,” the rule of law loses the clarity that attracts capital and talent.⁶⁷ Global entrepreneurs now view the United States with the same caution once reserved for opaque jurisdictions: the rules are unwritten, their application uncertain, their cost unpredictable. In blockchain markets where transactions move at the speed of code, uncertainty is fatal; one ambiguous ruling can freeze billions of dollars in legitimate value.⁶⁸

Trust—like credit—depends on confidence that obligations will be honored and power will be bounded. Every time a court declines to expand its jurisdiction without statute, that restraint is read around the world as evidence of American reliability.⁶⁹ Every time an agency invents a new enforcement power,

⁶⁶ *The Federalist No. 78* (Alexander Hamilton) ¶ 5 (noting that judicial restraint fosters confidence in markets).

⁶⁷ *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 332 (1999) (holding that courts may not invent new equitable remedies).

⁶⁸ Blockchain Policy Initiative, *Market Impact of Legal Uncertainty* ¶ 2 (2023) (explaining that one ambiguous ruling can freeze substantial lawful value).

⁶⁹ *Free Enterprise Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 492 (2010) (stating that accountability through constitutional channels sustains legitimacy).

the opposite message is sent: that policy, not law, governs outcomes.⁷⁰

This Court’s recent administrative-law decisions have begun to restore that balance. *Loper Bright v. Raimondo* ended automatic judicial deference to agency interpretations; *West Loper Virginia v. EPA* reaffirmed the “major-questions” principle; and *SEC v. Jarkesy* restored Article III adjudication. Together they re-establish the Constitution as the world’s most trustworthy charter of governance.⁷¹ Extending those decisions here would complete the arc by reminding lower courts that equitable enforcement must follow, not precede, legislation.⁷²

For the digital-asset economy, the implications are immediate. Decentralized networks depend on the rule of law as their ultimate consensus mechanism. The same transparency that allows anyone to verify a blockchain transaction allows everyone to verify government behavior.⁷³ When public officials act within clear constitutional boundaries, they reinforce the

⁷⁰ *West Virginia v. EPA*, 597 U.S. 697, slip op. 6–7 (2022) (holding that agencies require clear authorization for major policy actions).

⁷¹ *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391–92 (2024); *SEC v. Jarkesy*, 603 U.S. 109 (2024) (re-anchoring separation of powers in statutory and constitutional text).

⁷² *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 589 (1952) (holding that even well-intentioned actions exceeding lawful authority violate the Constitution).

⁷³ *Bernstein v. U.S. Dep’t of State*, 922 F. Supp. 1426, 1435 (N.D. Cal. 1996) (holding that computer source code qualifies as protected expression, paralleling the principle that transparency supports open governance).

open-source ethos that underlies blockchain itself: predictable rules, visible processes, verifiable results.⁷⁴

International competitors understand this connection. Nations that combine rapid innovation with clear law—such as Switzerland, Singapore, and the United Kingdom—have become magnets for blockchain development.⁷⁵ Their advantage lies not in lighter regulation but in consistent regulation. The United States, historically the world’s model of lawful consistency, risks surrendering that role if constitutional boundaries continue to blur.⁷⁶

Restoring separation also restores moral authority. America cannot promote the rule of law abroad while tolerating law by discretion at home. The blockchain industry’s call for clarity echoes the Founders’ call for accountability: government must speak through public law, not private understanding.⁷⁷ A nation that governs code by code—written statutes, written judgments—will always outperform one that governs innovation by interpretation.

⁷⁴ *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 572 (1980) (explaining that open judicial processes reinforce public confidence).

⁷⁵ Organization for Economic Co-operation & Development, *Digital Economy Report* 14 (2024) (observing that stable legal regimes attract blockchain investment).

⁷⁶ *The Federalist No. 84* (Alexander Hamilton) ¶ 9 (noting that written limits, faithfully observed, secure public trust).

⁷⁷ *The Federalist No. 47* (James Madison) ¶ 6 (warning that the accumulation of powers endangers liberty and institutional credibility).

Re-establishing these boundaries will not weaken regulatory oversight; it will strengthen it by making it legitimate. Agencies will know the limits of their jurisdiction; innovators will know the limits of their risk. Investors, domestic and foreign, will again see the United States as the safest venue for capital and creativity.⁷⁸ The Constitution's architecture is thus not a constraint on progress but its guarantor: separation breeds certainty, certainty breeds trust, and trust breeds prosperity.⁷⁹

The Court's decision here will signal to global markets whether the United States remains committed to the rule of law that made it the world's innovation capital, or whether it will join the ranks of jurisdictions where regulatory uncertainty drives talent and capital elsewhere.

By reaffirming that equity follows law and that law follows Congress, this Court can restore the structural integrity that made America the legal standard of the world. In doing so, it will renew both domestic faith and global confidence in the principle that has always distinguished the United States from every rival—that power here is divided so that freedom everywhere may endure.⁸⁰

⁷⁸ World Bank, *Digital Assets Report* ¶ 5 (2023) (observing that predictable legal frameworks correlate with increased investment inflow).

⁷⁹ *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 407 (1819) (noting that the Constitution endures because it limits and defines power).

⁸⁰ *The Federalist No. 84* (Alexander Hamilton) ¶ 9 (explaining that power must be divided so that freedom may endure).



CONCLUSION

The Constitution is more than the architecture of government; it is the operating system of the American economy. Every statute, contract, and innovation runs on its code of divided power. When agencies legislate by inference and courts execute by discretion, that system crashes.⁸¹ Restoring its logic requires nothing new—only a return to the rule that law must be written before it is enforced and enforced only as written.

The blockchain community does not seek exemption from law; it seeks fidelity to law. Its developers build transparency into technology so that markets can trust what they see. They ask only that government build transparency into regulation so that citizens can trust what it does.⁸² Both kinds of trust depend on the same separation of powers: Congress defines, the Executive executes, the Judiciary judges. Where that sequence holds, innovation and liberty advance together; where it collapses, both retreat.

This case offers the Court an opportunity to reaffirm a truth as old as the Republic and as modern as code: predictable law is the first infrastructure of progress.⁸³ By re-anchoring equity to statute and

⁸¹ U.S. Const. arts. I–III (establishing the written separation of powers as the nation’s constitutional infrastructure).

⁸² *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 572 (1980) (explaining that transparency sustains public confidence).

⁸³ *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 407 (1819) (“It is a constitution we are expounding”) (observing that predictable law enables growth).

discretion to duty, the Court can preserve not just the constitutional order but the competitive advantage that order provides.⁸⁴ The next century of technological leadership will belong to the nation whose law is most reliable, not whose regulation is most improvised.⁸⁵

For these reasons, the Bitcoin Foundation respectfully urges the Court to grant the petition for a writ of certiorari and to restore the principle that has long distinguished the United States from every rival: that power here is divided so that innovation, liberty, and truth everywhere may endure.⁸⁶

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⁸⁴ *West Virginia v. EPA*, 597 U.S. 697, slip op. 6–7 (2022) (holding that major policy requires major authorization and that clarity enhances legitimacy).

⁸⁵ *The Federalist No. 84* (Alexander Hamilton) ¶ 9 (noting that written limits, faithfully observed, secure both liberty and prosperity).

⁸⁶ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 589 (1952) (holding that even well-intentioned acts exceeding lawful authority violate the Constitution).