
Cahill Files Amicus Brief on Behalf of The Digital Chamber

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In connection with *SEC v. Balina*, Cahill filed an amicus brief with the U.S. Court of Appeals for the Fifth Circuit on behalf of The Digital Chamber (TDC), the world's largest trade association for the digital assets and blockchain industry.

In the amicus brief, TDC urges the Court of Appeals to reverse a ruling by the Western District of Texas that improperly applied U.S. securities laws to transactions that are legally and factually extraterritorial. The brief also provides essential context on the far-reaching and negative implications of the district court's decision on the inherently cross-border digital assets industry.

In *Morrison v. National Australia Bank Ltd.*, 561 U.S. 247 (2010), the Supreme Court explained that there is a presumption against applying U.S. securities laws to extraterritorial transactions, and set forth a clear, bright-line rule that for securities that do not trade on U.S. exchanges, the "exclusive focus" for determining whether the U.S. securities laws apply is whether the challenged transactions involved "domestic purchases and sales." TDC argues that in contravention of *Morrison*, the district court did not analyze the location of the transactions at issue. Instead, the court held that for alleged sales under Section 5(a) of the Securities Act, domesticity turned on the location of the purchasers, and further supported its decision with policy concerns that participants in the global digital assets market may be able to "evade" U.S. regulation by operating abroad. TDC argues that this approach effectively nullifies *Morrison*, amounts to *ad hoc* judicial policymaking, and turns the presumption against extraterritoriality on its head.

TDC further argues that, of equal concern, the district court also held that *Morrison* does not apply at all with regard to alleged securities offers under Section 5(c) of the Securities Act. TDC submits that, in reaching this conclusion, the district court relied on a metaphysical distinction between the Securities Act's "offers" and "sales" provisions that (i) is at odds with the law's focus on transactions, and (ii) will likely enable any U.S.-based plaintiff to plead around *Morrison* as long as a so-called "United States social media platform" is involved. This approach eviscerates *Morrison* and severely weakens the presumption against extraterritoriality.

To read more about the brief, [click here](#).

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