TechScape: The US is clamping down on cryptocurrency – is the UK next?

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Rishi Sunak's techno-moment has come. Unfortunately for him, it might be too late. Last week, the US Securities and Exchange Commission (SEC) launched a pair of lawsuits against the country's biggest cryptocurrency exchanges, Binance and Coinbase. The lawsuit against Binance, which had been previewed in an earlier action by the CFTC, the US commodities regulator, was juicy: The SEC complaint alleges that [CEO Changpeng Zhao] directed Binance to conceal the access of high-spending US customers to Binance.com. In one piece of evidence included in the lawsuit, the Binance chief compliance officer messaged a colleague saying: "We are operating as a fking unlicensed securities exchange in the USA bro." Elsewhere in the lawsuit, Binance's CCO is quoted as saying: "We do not want [Binance].com to be regulated ever." The company runs two supposedly separate exchanges: a regulated US one and an anything-goes international one. A substantial chunk of each lawsuit focuses on the allegation that the company was knowingly helping traders who should only have been allowed on the regulated exchange to skip over to the international one. A Binance spokesperson said: "While we take the allegations in the SEC's complaint seriously, they should not be the subject of an SEC enforcement action, let alone on an expedited basis. They are unjustified." But it's the lawsuit against Coinbase that is sending shivers through America's cryptocurrency industry: "Since at least 2019, through the Coinbase platform, Coinbase has operated as an unregistered broker … an unregistered exchange … and an unregistered clearing agency," the SEC said in its complaint. "Coinbase has for years defied the regulatory structures and evaded the disclosure requirements that Congress and the SEC have constructed for the protection of the national securities markets and investors." Paul Grewal, the chief legal officer and general counsel of Coinbase, said: "The SEC's reliance on an enforcement-only approach in the absence of clear rules for the digital asset industry is hurting America's economic competitiveness and companies like Coinbase that have a demonstrated commitment to compliance. The case against Binance is a clear allegation of clear wrongdoing: if you were to run a crypto exchange that you accept can't service American customers and then you were to secretly help American customers to trade on it, you aren't going to be too stunned when regulatory action follows. But the case against Coinbase is more fundamental. It is the SEC arguing that it is illegal to run a cryptocurrency exchange per se. Specifically, that some unknown number of crypto tokens are, in fact, regulated securities (the SEC names 13 in its suit against Coinbase, including Solana, Cardano and Polygon) and that, even if those projects are not illegal in and of themselves, helping people trade in them is. It's a controversial assessment. During the ICO boom of 2017, the SEC took action against specific crypto projects that veered too close to the sun, and generally won on the merits: selling a token to investors that looks and acts like a unit of stock, while telling them “buy this and you’ll get rich”, is quite easy for a financial regulator to take action on. But it is less clear that a cryptocurrency exchange where users trade tokens that aren’t illegal could nonetheless function as an illegal stock exchange. Nonetheless, the industry is hedging its bets and looking for an escape hatch. Enter the UK: California-based Andreessen Horowitz (A16Z) said Britain was on “the right path to becoming a leader in crypto regulation”. The venture capital firm’s new office will open later this year and will be dedicated to investing in crypto and tech startups in the UK and Europe. Chris Dixon, the head of crypto investing at Andreessen Horowitz, wrote in a blogpost: “While there is still work to be done, we believe that the UK is on the right path to becoming a leader in crypto regulation. “The UK also has deep pools of talent, world-leading academic institutions, and a strong entrepreneurial culture.” Rishi Sunak said he was thrilled that the firm had chosen the UK, a move he said was “testament to our world-class universities and talent and our strong competitive business environment”. Although the A16Z office is technically targeting “the crypto and startup ecosystem in the UK”, it will functionally be extremely focused on the crypto part of that mix. The company’s latest UK investment is modish crypto-AI startup Gensyn, the office is led by crypto-focused investor Sriram Krishnan, and, well, there’s this statement by Sunak: As we cement the UK’s place as a science and tech superpower, we must embrace new innovations like Web3, powered by blockchain technology, which will enable start-ups to flourish here and grow the economy. “That success is founded on having the right regulation and guardrails in place to protect consumers and foster innovation. While there’s still work to do, I’m determined to unlock opportunities for this technology and turn the UK into the world’s Web3 centre. It’s been a long time coming for the prime minister, who first tried to attach himself to crypto’s rising star when he was the chancellor. In 2021, he launched a taskforce to explore a Bank of England digital currency, and a year later, he tasked the Royal Mint with creating an NFT, just as the market imploded. (The plans were dropped just under a year later). The UK had already been benefiting from the regulatory uncertainty in the US before last week’s actions, with crypto founders viewing it as a comfortable middle-ground between the risk of remaining in the US and the upheaval of relocating to a fully low-touch regime like the UAE. But a one-two punch of a gleefully optimistic prime minister in Britain and the long-awaited arrival of a true crackdown in America could be the impetus needed to spark a substantial relocation. Of course, there is one problem: Sunak’s regime is not long for this world. You would need a higher risk appetite than even your typical angel investor to bet on him staying in power past 2024, and Labour is somewhat less enthusiastic about cryptocurrencies. The gamble, from those in the space with whom I’ve spoken to, is less that Sunak will be able to pass friendly laws in the 18 months he has left in office, and more that when he’s replaced as prime minister, a crypto clampdown will be extremely low on the list of priorities of whoever replaces him. A programming note I’m heading off on parental leave next week, to see my son through to his first birthday. I won’t be fully absent – you’ll hear from me about once a month for the rest of the year – but I’ll be joined by a rotating cast of guest writers from around the Guardian and beyond, led by my partner in tech, our global technology editor Dan Milmo. If you want to read the complete version of the newsletter please subscribe to receive TechScape in your inbox every Tuesday.