Twitter Thread by Arturo Portilla

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Thread:

While the entire US crypto industry (exchanges, funds, associations, PsPs, lobbyists, etc) is currently focused on fighting the AML rules proposed by FinCEN, the XRP Community has been left ALONE fighting the securities battle FOR THE BENEFIT of the whole industry.

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The entire US crypto industry (excluding the XRP Community) has been miserably failing to acknowledge that, until now, all the SEC has had for purposes of characterising a blockchain-based token as a security under the Securities Act of 1933 ...

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... is a 75 year-old judicial precedent (i.e. 1946 Howey Test), and some non-binding internal guidance. That's it. Nothing more. No clear federal regulations and no clear binding precedents.

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Should the SEC definitively win the Complaint filed against Ripple, it would gain a contemporary (and *binding*) judicial precedent essentially defending the posture that it is rightful to apply a 75 year-old precedent to 2020's cutting edge technology, ...

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... giving the SEC's enforcement division a clear path moving forward within the crypto industry.

With such precedent (which the SEC hasn't been able to obtain so far, as a result of the early settlements reached with other crypto projects), the SEC would be ...

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... ultimately legitimized to go after every other crypto project whose characteristics could eventually fall under the prongs of a 75 year-old Test, i.e. probably all cryptocurrencies excluding Bitcoin and maybe Ether.

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This would eventually force all the US crypto industry participants to reduce the scope of their business models to only two digital assets, therefore limiting available revenue channels and freedom to innovate with new technological tools.

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However, the US crypto doesn't seem to care about that, and will rather go as far as throwing a single project under the bus (despite the destructive consequences potentially deriving from it), in an attempt to short-sightedly mitigate ...

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... a 'supposed' risk of being charged with liabilities associated with facilitating the sale of unregistered securities that haven't actually been definitively classified as such.

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The US crypto participants have failed to properly assess risks and have failed to identify the current aspects of the market that could derive, in the long-term, to material adverse effects in prejudice of their own businesses.

End.

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