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Division of Corporation Finance Issues No Action Letter to DoubleZero Foundation

By [Liz Walsh](#) on October 2, 2025

On September 29, 2025, the Chief Counsel’s Office of the U.S. Securities and Exchange Commission’s (the “Commission”) Division of Corporation Finance issued a no action letter to the DoubleZero Foundation (the “Foundation”). In the no action letter, the Division agreed that it would not recommend enforcement action against the Foundation in connection with certain Programmatic Transfers (defined below) without registration under Section 5 of the Securities Act of 1933, as amended (the “Securities Act”). In addition, the Division agreed that ZZ tokens offered and sold in such Programmatic Transfers will not require registration as a class of equity securities under Section 12(g) of the Exchange Act, as amended. Issuance of the no action letter is noteworthy as a sign that the Commission staff is open to engagement with crypto market participants on the application of the federal securities laws to their activities.

Background

The Foundation was formed to support creation of the DoubleZero Network (the “Network”), a “purpose-built internet optimized for distributed systems, like blockchains.” In its letter to the

Commission (the “Letter”), the Foundation argues that, while software and computing capabilities continue to improve, the hardware supporting networks has stagnated, and blockchain traffic must compete with all other public internet traffic for network capacity. Since large technology companies also compete for network space, many have built their own fiber networks—and many of these networks have existing idle capacity, which, the Foundation believes, can be a source for additional network capacity for the blockchain. Therefore, the DoubleZero Protocol enables creation of a marketplace for this existing underutilized fiber capacity, which is then linked to form the Network. The more the Network grows by adding new participants, such as data center operators, with additional fiber links (“Network Providers”), the faster and more powerful it becomes. Importantly, there is no central promoter or sponsor responsible for operating the Network.

The Foundation and other Network participants launched a new Z token, which will be offered and sold as compensation to: (i) Network Providers for providing capacity to the Network (“Provider Payments”), as outlined above,^[1] and (ii) Resource Providers for their calculation of Provider Payment amounts (“Computation Payments” and together with Provider Payments, the “Programmatic Transfers”). Specifically, Resource Providers will perform maintenance and monitoring tasks, such as calculating Computation Payments, recording transactions on the “DoubleZero Ledger,” and validating the Ledger, in order to maintain the Network. According to the Letter, “Resource Providers are an unaffiliated and dispersed group of operators running open source software in a non-discretionary manner that operate similarly to network validators in a Proof of Stake network.”

Network users will be able to acquire Z tokens on the secondary market and use these to pay Network fees in order to access the Network. In addition, the Foundation plans to maintain a Token Treasury of Z Tokens to support the growth of the Network; for example, for community education, technical thought-leadership and advising, or information sharing with regulators and other public sector parties. The Foundation does not believe that Z tokens are an investment, will not promote the Network or Z as a way for Z token holders to earn passive investment returns, and publicizes the view that Z is a digital asset for use in connection with the Network, emphasizing its utility. As stated in the Letter, none of the Foundation’s activities “amount to management-level decision making that would impact the success or failure of any enterprise on which Network Providers, Resource Providers, or other Z token holders rely on for profits.”

Legal Analysis: The Offer and Sale of 2Z in the Programmatic Transfers

Similar to the Commission's recent guidance on crypto, the Letter analyzes the Programmatic Transfers under the *Howey* test, pursuant to which an investment contract, and thus a security, is deemed to arise from an investment of money in a common enterprise with a reasonable expectation of profit to be derived from the entrepreneurial or managerial efforts of others.^[2] The Letter focuses on the "entrepreneurial or managerial efforts of others" prong of the *Howey* test, concluding that this prong is not met with regard to the Programmatic Transfers.

Specifically, both Network Providers and Resource Providers put their own resources into tasks related to the Network, such that their own efforts are the "critical determinants of their success." Network Providers must commit substantial time and energy into contributing capacity to the Network, such as buying hardware and committing technical personnel to the project, and receive Provider Payments directly in proportion to their utility to the Network. Similarly, Resource Providers monitor and maintain the Network, record transactions on the DoubleZero Ledger and validate the Ledger, in addition to other tasks, in exchange for Computation Payments.

Neither Network Providers nor Resource Providers receive payment for Programmatic Transfers because of the Foundation's efforts, or the efforts of any third party. Even where the Foundation acts to "educate the industry, coordinate stakeholders or encourage the continued development of the Network," among other tasks, the Letter contends that these efforts do not rise to the level of "entrepreneurial or managerial efforts" necessary to satisfy the *Howey* test. Overall, the Letter stresses that fact that the Foundation's efforts with respect to the Network Providers and the Resource Providers are limited, and not connected to the benefit either stands to gain from participating in the Network. In other words, the actions of the Providers themselves determine the success of the Network, and therefore their potential profits, such that the *Howey* test is not met and the offer and sale of 2z tokens in Programmatic Transfers can proceed without registration under Section 5 of the Securities Act.

The Letter also addresses the fact that a secondary market is likely to develop with regard to the 2Z tokens, but contends that this does not change the above conclusion. The Foundation points out that many secondary purchasers will be buying 2Z for consumption (i.e., to pay Network fees), rather than for investment purposes. In other words, the value of 2Z is in its utility to the Network. The Foundation acknowledges that speculators may also buy and sell 2Z on such secondary markets; however, any "such speculation would not be based on a reasonable expectation of profit from the

entrepreneurial or managerial efforts of the Foundation, the Network Providers, the Resource Providers or any other third party.” The Network is decentralized and lacks a central control person or promoter, such that no single person can be responsible for “ ‘undeniably significant’ managerial efforts that determine the price of 2Z,” as would be required to meet the *Howey* test. Even where speculators purchase 2Z tokens hoping that they will appreciate in value due to the natural growth and expansion of the Network, this appreciation would not be due to the managerial efforts of the Foundation nor any other party, such that the tokens still should not be deemed to be securities. Therefore, neither the 2z tokens nor the Programmatic Transfers require registration under the federal securities laws.

Commissioner Peirce’s Statement

Commissioner Hester Peirce issued a statement supporting the no action letter, declaring that it “offers an opportunity to reflect on how we, as regulators, can foster innovation without expanding our reach beyond what Congress has mandated.” She highlighted the manner in which the Foundation’s use of 2Z tokens was “designed to facilitate the programmatic functioning of a decentralized physical infrastructure network,” in which tokens are used as incentives to encourage network participants to contribute to the network itself. In her view, not only do transactions of this type not satisfy the *Howey* test, they are fundamentally different than capital raising transactions and thus outside of the range of the type of activities the Commission should regulate. She concludes by advocating for how she believes the Commission should function as it continues to grapple with crypto and other challenging topics and innovations, “[o]ur job is to engage with innovators in good faith, listen carefully as they explain how their models work, and apply our statutory mandate thoughtfully and with precision. Today’s no-action letter exemplifies how performing that role can help infrastructure providers spend their time deep in the weeds of building out infrastructure, not knee-deep in parsing the nuances of securities laws.” Read the incoming letter [here](#), the Division’s response [here](#), and Commissioner Peirce’s statement [here](#).

[1] According to the Letter, “the amount of 2Z transferred to each Network Provider depends on that Network Provider’s own utility in the Network—not the amount of 2Z they hold, nor the entrepreneurial efforts of any third party.”

[2] See *SEC v. W.J. Howey Co.*, 328 U.S. 293, 301 (1946).

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