

The Regulatory Discount on Token Launches Is Closing

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Of 118 tokens launched in 2025, 84.7 percent now trade below their listing valuation. Among the 28 that debuted above \$1 billion FDV, *none* are in the green, with a median drawdown of 81 percent ([Memento Research, December 2025](#)). The usual reading attributes this to overvaluation, low float, and weak product-market fit. Those factors matter. They also obscure something more specific: the FDV crypto markets assign at launch carries an implicit discount for the regulatory risk attached to the token, and that discount has applied for years, including to launches with no obvious regulated activity. Between mid-2024 and mid-2026, the GENIUS Act, the proposed CLARITY Act, MiCA Article 58, the UK Cryptoasset Regulations 2026, and the Hong Kong Stablecoins Ordinance have set the perimeter inside which that discount will close, for one narrow class of launches, over the next 18 to 24 months. Which side of the perimeter a token sits on now determines what a high-FDV launch can plausibly defend.

I. The Architecture That Wasn't There Before

Four regulatory frameworks now define the perimeter inside which a digital-asset token can launch without an open-ended enforcement discount. The GENIUS Act, enacted July 18, 2025, defines the scope of permitted payment stablecoin issuance and (through § 4(a)(11)) prohibits issuer-paid yield. The CLARITY Act, marked up by the Senate Banking Committee on May 14, 2026, extends a parallel discipline to intermediated yield through Section 404 ([see Fan, Narrowing the Section 404 Prohibition](#)). MiCA Article 58 imposes EUR 200 million and one-million-transactions-per-day caps on non-EU-currency e-money tokens used as a means of exchange. The [UK Cryptoasset Regulations 2026 \(SI 2026/102\)](#), made February 4, 2026 and in force October 25, 2027, establish a parallel UK regime through nine new regulated cryptoasset activities. The Hong Kong Stablecoins Ordinance, effective August 2025, restricts non-HKD fiat-referenced stablecoins to professional investors only.

These frameworks describe the perimeter of clarity for one specific function: stablecoin issuance and the routing of value into and out of stablecoin balances. They do not establish a regime for tokens that govern a DeFi protocol, settle pre-IPO equities, or run a non-custodial perpetual-futures venue. Those tokens face the same Howey and Reves analysis they always did. What has changed is the backdrop. The contested perimeter is narrower than it was in 2024, and the SEC's residual enforcement priorities are sharper. The regulatory discount on FDV is continuous, priced into every launch regardless of whether the project is contemplating regulated activity, but the size of the discount now depends on which corner of the contested territory the token sits in.

The May 14 Senate Banking Committee markup is the operative test case for whether that perimeter holds. The Tillis–Alsobrooks Section 404 compromise, the most-contested clause in the bill, survived intact. The Reed–Smith amendment that would have replaced its "economically or functionally equivalent" comparator was ruled out of order before the session began. Its proposed substitute, "substantially similar to the manner in which banking organizations pay interest or yield," would have shifted the analysis from economic substance to payment form (Fan, *What the Reed–Smith Procedural Ruling Settled About Section 404*, CLS Blue Sky Blog, submitted May 15, 2026). The bill [cleared committee 15–9](#) with Senators Gallego and Alsobrooks crossing over.

The remaining path runs through a Senate Banking–Agriculture merger (the Agriculture Committee's Digital Commodity Intermediaries Act, the CFTC-side counterpart, passed 12–11 on January 29, 2026), a 60-vote floor threshold complicated by the unresolved Van Hollen ethics amendment, and House reconciliation. The White House targets July 4 signing; industry estimates put Senate passage in late summer 2026 with signing in the fall, and the joint § 404 SEC/CFTC/Treasury rulemaking would conclude mid-2027 at earliest. Founders launching over the next twelve to fourteen months are pricing against a perimeter whose substantive lines will not be drawn until then.

II. The Discount Hyperliquid Didn't Pay

Hyperliquid's HYPE launched November 29, 2024 at \$4.2 billion FDV, peaked at \$59.37 in September 2025 (FDV roughly \$59 billion), and currently trades around \$43–45 (FDV \$43–45 billion; circulating market cap \$10–12 billion), per [CoinGecko](#) and [CoinDesk](#). That is roughly 10× FDV expansion in eighteen months, against a cohort where 0 percent of \$1 billion+ FDV launches finished green. The usual story credits product fundamentals: 90,000-plus active users at TGE, cumulative trading volume above \$1 trillion, no venture capital. Those facts are accurate. They don't differentiate Hyperliquid from the median 2025 launch on dimensions founders typically pitch.

What separates them is regulatory exposure, in three positions. A token sits (a) inside a defined regulatory regime, paying compliance overhead for clarity; (b) outside any defined regime but inside an active SEC enforcement priority, where Howey and Reves analysis is unresolved and the market prices the discount; or (c) outside any defined regime and outside any active enforcement priority. The fee and staking token for a non-custodial perpetual-futures venue sits in (c). It does not represent a custodial claim. It does not promise yield. It is not obviously a security under any Howey or Reves reading the SEC has actually pursued in DeFi cases. The Reves analysis applied to routing-and-intermediation tokens is the subject of a companion piece in this portfolio (Fan, *When Wallets Become Brokers: Section 404, the Reves Boundary, and the Routing Problem in the CLARITY Act Compromise*, on submission).

Hyperliquid is the cleanest case in (c). Its TGE was priced for what the token is rather than for what it might be liable for. The structural absence of regulatory exposure, not the presence of revenue or volume,

distinguishes the launch from the \$1 billion+ FDV failures that followed. Category (c) is contingent, not stable: a CLARITY Act that takes effect could pull HYPE-like tokens into a defined digital-commodity regime (clarity at compliance cost, category (a)), and SEC enforcement posture is policy that a different administration could reverse. Starknet and Berachain, general-purpose L1/L2 tokens launched into a contested SEC posture on tokenized general computation, sit in (b), and the discount applied accordingly. Movement and Bio Protocol fit the same pattern.

III. What 2025's Wreckage Actually Shows

Memento's 118-launch dataset, partitioned by debut FDV, shows launches at \$25–200 million FDV in the green at 40 percent and launches above \$1 billion FDV in the green at 0 percent. Partitioned by regulatory exposure, the same dataset tells a tighter story. Starknet (currently approximately \$400 million FDV, -99 percent from a \$4.41 peak per [CoinGecko](#)) launched at a roughly \$50 billion implied opening FDV into an enforcement environment with no defined posture on tokenized general computation. Berachain, Movement, Bio Protocol, and Mira each launched into the same contested territory.

Plasma is a sharper case because its regulatory exposure is indirect. The XPL token is a network fee and governance token, not a stablecoin. GENIUS Act § 4(a)(11) does not apply, and neither does Section 404. But Plasma is a Layer-1 chain optimized for zero-fee USDT throughput, and Tether's US-facing pathway depends on a chain of pending actions: a Treasury Secretary § 18 comparability determination for Tether's home regulator under the GENIUS Act (bilateral and discretionary, with no public NPRM yet), followed by FPSI registration with the OCC, against the substantive PPSI standards now in NPRM at OCC (February 25, 2026), FDIC (April 7, 2026), and FinCEN-OFAC (April 10, 2026). None of those determinations is final. Whatever the chain ultimately produces constrains the throughput Plasma was built to service. Plasma debuted at approximately \$10.4 billion FDV on September 25, 2025, peaked at approximately \$17 billion at its September 28 ATH, and currently sits around \$1 billion per [CoinGecko](#). The drawdown reflects standard cohort dynamics plus an additional discount for indirect regulatory exposure Plasma cannot insulate itself from.

The most defensible reading is that the \$1 billion FDV ceiling on 2025 launches reflects regulatory carrying cost more than market-cycle dynamics. The standard alternatives — float and unlock pressure, insider sell-side flow, mean reversion on overvaluation — predict similar outcomes, and pieces of this length cannot adjudicate among them. What the regulatory frame adds is an account of why a \$4–5 billion FDV launch into ambiguity has no path to multiple expansion: the market will not pay a higher multiple for higher absolute regulatory exposure.

IV. The Founder Decision

Two pressures push founders to launch before regulatory clarity arrives. Token holders, including the founders' own seed investors, face vesting cliffs measured in months. Vesting from a \$4 billion FDV launch is an order of magnitude more valuable than vesting from a \$200 million FDV launch, even when the \$4 billion launch eventually draws down to \$200 million, because the investor sells into launch liquidity at the inflated valuation before the drawdown completes. Founders who recognize that seed investors are optimizing against a different objective function have a chance of resisting the pressure. Founders who do not, will not.

What has changed in 2026 is that the timing trade-off is observable. Pre-TGE allocations trade on private markets at fractions of expected launch prices, and prediction markets price FDV-after-launch contracts directly. A founder choosing between a Q3 2026 and a Q1 2027 launch can read the trade-off directly from the markets.

For a token whose function sits inside the GENIUS, CLARITY, MiCA, or HKMA perimeter, the question is when to launch against framework resolution. For a token whose function sits outside that perimeter but inside SEC enforcement territory, the question is which framework can reach over it, and post-CLARITY the answer is increasingly: none, in the near term. For a token in Hyperliquid's position, outside both, the question disappears. There is no discount to time against. The launch is priced for what the token is. It is also the rarest position. Founders building toward it accept a longer runway in exchange for a defensible TGE.

About This Post

I have received no compensation — direct, contingent, or otherwise — for this piece, the underlying research, my SEC Crypto Task Force submission of May 7, 2026, or any companion work in this portfolio. I am not currently engaged in advisory, consulting, employment, or other compensated relationships with any party having a financial interest in the projects discussed.

Companion work in this portfolio: [Narrowing the Section 404 Prohibition: A Quantitative Framework for Distinguishing User-Initiated Routing from Disguised Yield Under the Tillis-Alsobrooks Compromise to the Digital Asset Market Clarity Act](#) (SSRN, May 2026), filed with the SEC Crypto Task Force as [written input on May 7, 2026](#); *When Wallets Become Brokers: Section 404, the Reves Boundary, and the Routing Problem in the CLARITY Act Compromise* (under review at the Review of Banking and Financial Law, Berkeley Business Law Journal, Yale Journal on Regulation Bulletin, Texas Law Review Online, Stanford Journal of Blockchain Law & Policy, and Harvard Journal of Law & Public Policy); *Section 404 and the Routing Problem in the CLARITY Act Compromise* (Yale Journal on Regulation, Notice & Comment, guest submission acknowledged May 14, 2026); *What the Reed–Smith Procedural Ruling Settled About Section*

404 (CLS Blue Sky Blog, submitted May 15, 2026); *Three Currency Areas Are Forcing Stablecoins to Split* (under review at ProMarket); and the *Multi-Jurisdiction Stablecoin Compliance Matrix* (v0.9.3 pre-release draft, SSRN preliminary upload).

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