

Gensler Speaks on Crypto at Aspen Security Forum

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On August 3, Securities and Exchange Commission (SEC) Chairman Gary Gensler spoke on cryptocurrencies at the *Aspen Security Forum* — his first significant remarks regarding cryptocurrency since his confirmation in April.

Gensler said that the growing asset class, currently thought to be valued at more than \$1.5 trillion, lacked the typical investor protection guardrails that the SEC is commissioned with providing and had become “rife with fraud scams and abuse in certain applications.”

He further expressed his belief that “many of these tokens are offered and sold as securities.” Gensler also made clear that the cryptocurrency market, particularly crypto trading and lending platforms, will continue to be a major focus of the SEC’s enforcement division, which has brought 75 lawsuits related to digital assets in the past decade.

Chairman Gensler also stated, while the SEC will continue overseeing the crypto market within the scope of its current regulatory authority, the SEC needs Congress to grant it additional authority to ensure certain activities in the market do not fall between regulatory cracks. Gensler said, “The American public is buying, selling, and lending crypto on these trading, lending, and DeFi platforms, and there are significant gaps in investor protection.” While the test to determine whether a crypto asset is a security is clear, Gensler noted that “[t]here are some gaps in this space, though: We need additional Congressional authorities to prevent transactions, products, and platforms from falling between regulatory cracks. We also need more resources to protect investors in this growing and volatile sector.”

On July 7, Senator Elizabeth Warren wrote a letter to Gensler, asking specific questions about the SEC’s authority to regulate cryptocurrencies and noted many consumer protection issues, as we discussed [here](#). Gensler has yet to reply to Warren, but his remarks at the forum address some of the gaps in regulation that Warren questioned.

Gensler further recognized that many crypto coins are being traded like securities and should fall under the purview of the SEC, and he agreed with his predecessor, former SEC Chairman Jay Clayton, who previously opined that any initial coin offering (ICO) is a security. Gensler said, “I believe we have a crypto market now where many tokens may be unregistered securities, without required disclosures or market oversight.” He also encouraged DeFi platforms to register with the SEC and noted the overlap between the platform’s offerings and securities laws.

Lastly, Gensler did not offer comment on the potential for approving a bitcoin exchange-traded fund — a pending decision that many in the crypto market are awaiting.

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