

SEC Responds to Warren's Letter on Authority to Regulate Crypto

WRITTEN BY

Keith J. Barnett | Carlin A. McCrory | Joseph C. Guagliardo

On August 5, Securities and Exchange Commission (SEC) Chair Gary Gensler responded to Senator Elizabeth Warren's July 7 letter regarding the SEC's authority to regulate cryptocurrencies, as discussed in our client advisory [here](#).

Gensler expressed his concerns over both centralized and decentralized finance (DeFi) platforms when he said: "I believe these various platforms not only can implicate the securities laws; some platforms can also implicate the commodities laws and the banking laws."

Moreover, Gensler stated that "[c]ertain rules related to crypto assets are well-settled. The test to determine whether a crypto asset is a security is clear. The SEC has taken and will continue to take our authorities as far as they go." He noted that the SEC has yet to lose a token-related case involving fraud or significant harm to investors. Nonetheless, he reasserted that the SEC's authority is limited, as he previously stated at the *Aspen Security Forum*, discussed [here](#). Gensler asked for "additional authorities to prevent transactions, products, and platforms from falling between the regulatory cracks," along with more resources to protect investors.

He reinforced that, to the extent there are securities on these platforms, the platforms must register with the SEC unless there is an exemption. Additionally, if the platform offers securities, it falls within the SEC's jurisdiction.

Gensler's letter also addressed stablecoins, which are crypto tokens linked to the value of fiat currencies. He noted that the stablecoin market is worth \$113 billion and nearly three-quarters of trading on all crypto platforms in July occurred between a stablecoin and another token. He added that stablecoins may be used to avoid regulatory requirements, such as anti-money laundering, tax compliance, sanctions, amongst other requirements.

Finally, Gensler requested legislative priority over crypto trading, lending, and DeFi platforms to ensure that regulatory gaps are addressed.

RELATED INDUSTRIES + PRACTICES

- [Digital Assets + Blockchain](#)
- [Financial Services](#)
- [Payments + Financial Technology](#)
- [Securities Investigations + Enforcement](#)