



Statement for the Record
Senate Banking, Housing, and Urban Affairs Committee Hearing
“Crypto Crash: Why Financial System Safeguards are Needed for Digital Assets”

February 14, 2023

Chairman Brown, Ranking Member Scott, and Members of the Committee,

Thank you for the opportunity for Chamber of Progress to provide a written statement for the record for the Senate Banking, Housing, and Urban Affairs Committee Hearing entitled, “Crypto Crash: Why Financial System Safeguards are Needed for Digital Assets.”

Chamber of Progress is a tech industry coalition promoting technology’s progressive future. Our organization works to ensure that all Americans benefit from technological leaps. Our corporate partners include several leading crypto and web3 companies, but our partner companies don’t have a vote or veto over our positions.

After the major collapses of bad actors like FTX and Terra/Luna due to fraud, bankruptcy and improper business models, this industry needs thoughtful regulation that gives companies clear rules of the road and gives consumers more confidence. The SEC has used regulation by enforcement to sow seeds of fear and uncertainty in the digital asset industry, as companies brace to discover new interpretations of securities law via social media and television¹²³.

In light of recent enforcement actions by the SEC, we continue to call on Congress to direct the SEC and other regulatory bodies to establish clear rules and regulations for the digital asset industry. A public rulemaking process around proposed digital asset

¹ <https://www.politico.com/newsletters/digital-future-daily/2023/02/13/cryptos-crisis-gets-existential-00082620>

² <https://decrypt.co/121069/sec-gary-gensler-kraken>

³

<https://www.forbes.com/sites/mariagraciasantillanalinares/2022/06/27/sec-chairman-gary-gensler-implies-that-ether-is-a-security-and-falls-under-his-jurisdiction/?sh=6ad8ea0d7775>

regulation is a necessity to ensure that all stakeholders have the opportunity to participate in the public notice and comment period. The coordinated actions by the SEC and other agencies to choke-off⁴ digital assets from the marketplace may have the intention to protect investors, but the lack of regulatory clarity via the proper rulemaking process leaves consumers at risk of being left behind by the rest of the world. Limiting access may spur an increase in American consumers investing abroad, which will leave them with little to no protection if they trade with unregistered firms outside of the US.⁵ Furthermore, banning cryptocurrency in the United States could cause financial harm to the 34 million Americans who own it currently⁶, and the 46 million Americans who are likely to purchase it this year.⁷ An outright ban would make it difficult for Americans to transact using crypto within our borders, and may propel an increase in underbanked populations.

The 117th Congress featured a number of crypto-related bills introduced with the intention of laying a proper framework for the industry. We applaud the bipartisan efforts made by the House and Senate to advance legislation that could positively impact the future of payments and digital assets. With the 118th Congress underway, we encourage continued bicameral collaboration to develop a robust crypto regulatory structure.

We believe that Congress should pass legislation that will provide the proper financial safeguards for the digital asset industry:

- **Clarification of a digital security vs. digital commodity.** Congress should designate a clear line in the sand where a token stops being a commodity. The SEC and CFTC have determined that Bitcoin⁸ and (sometimes) Ether⁹ are commodities; however, this determination has not included the conditions upon which the respective digital asset is considered a commodity or security. Contributing to the lack of clarity is a recent appeal in SEC's case against LBRY, Inc., which revealed the secondary sales of LBRY's token did not qualify as the sale of a security.¹⁰ Congress should also take into account the classification of future cryptocurrencies using other consensus algorithms other than Proof of Work (PoW), which the Bitcoin and Ethereum blockchains were built on.

⁴ <https://www.piratewires.com/p/crypto-choke-point>

⁵ <https://www.wsj.com/articles/u-s-crypto-traders-evade-offshore-exchange-bans-11627637401>

⁶ <https://www.insiderintelligence.com/insights/us-adults-cryptocurrency-ownership-stats/>

⁷ <https://www.fool.com/the-ascent/research/study-americans-cryptocurrency/>

⁸ <https://www.coindesk.com/layer2/2022/06/28/secs-gensler-reiterates-bitcoin-alone-is-a-commodity-is-he-right/>

⁹ <https://www.coindesk.com/markets/2019/10/10/cftc-chairman-confirms-ether-cryptocurrency-is-a-commodity/>

¹⁰ <https://finance.yahoo.com/news/judge-rules-secondary-sale-lbc-032057654.html>

- **Public disclosures to ensure investor confidence in the cryptocurrency markets.** Congress should require that all crypto exchanges or companies receiving customer deposits to publicly disclose audited financial statements and documents that truthfully represent the company's health. This will help investors and consumers make informed decisions about which exchanges and platforms work best for them.
- **Preventing "bank runs."** Congress can grant jurisdiction to the SEC and CFTC to establish reserve requirements for digital asset exchanges and companies accepting customer deposits. This could avoid sudden delays from companies rushing to satisfy customer withdrawals in response to a market fluctuation. Reserve requirements can be held in an appropriately-backed stablecoin or fiat currency.

In the aftermath of the collapses in the digital asset industry, Congress must not lose sight of the opportunities the digital asset industry is bringing to the table of American innovation. Cryptocurrencies are improving the way payments are processed, cutting down the amount of time consumers wait for payments to clear from days to seconds. Due to the industry being so nascent, people of all generations are investing in digital assets, because they are looking towards a more progressive future.

Congress must work expeditiously to stop future abuses of the digital asset industry by bad actors, and instill secure guardrails for investors to trust the markets once again.

Respectfully,



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