



## Rep. Tom Emmer on remarks on his FSGG Amendment

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### **\*\*REP. TOM EMMER:**

\*\* Thank you, Mr. Speaker. Regulation by enforcement is a practice all too common with this administration. This is particularly the case at the SEC, and Chair Gary Gensler's approach towards our capital markets and financial services industry, but especially with our emerging digital assets community. My amendment seeks to put an end to Chair Gensler's pattern of regulatory abuse, a pattern that is crushing American innovation and capital formation without undermining our ability to go after criminals and fraudsters. Specifically, my amendment prohibits the SEC from using funds for enforcement activities related to digital asset transactions until Congress passes legislation that gives the SEC jurisdiction over this asset class. This will keep Chair Gensler, who has proven himself to be ineffective and incompetent, in check while Congress continues working to give this industry a chance to grow and develop right here in the United States. Let's just look at the facts. Under Gensler's leadership, the SEC has pursued dozens of enforcement actions against the digital asset industry, despite never finalizing a single rule or regulation for the industry to follow. Chair Gensler refuses to provide the marketplace with clear criteria for digital assets that he would consider to be a security. How can this industry comply if there are no rules or guidelines to follow? On top of that, Chair Gensler has developed a track record of going after actors like Coinbase, a publicly traded company desperately trying to survive and innovate right here in the United States instead of going offshore like so many are forced to do. Gensler has done this while missing bad actors like FTX and Terra Luna. At a time when clear guidance is desperately needed, Chair Gensler instead spends taxpayer resources praising himself for targeting celebrities like Kim Kardashian, while Sam Bankman-Fried was running a Ponzi scheme right under his nose. What's worse is the SEC doesn't even have jurisdiction from Congress over this asset class to begin with. Yet, the SEC has no shame in trying to expand their jurisdiction to swallow and destroy the digital assets industry through regulation by enforcement. Last year, the SEC's Director of Enforcement admitted during a House Financial Services Committee hearing that the SEC pursues enforcement actions on entities that are actually outside of its jurisdiction. One of these extra-jurisdictional enforcement cases was the SEC's landmark crypto-enforcement case against Ripple, alleging that XRP is a security. In July, the Southern District of New York sided against the SEC, asserting that XRP is not itself a security. In August, the United States Court of Appeals for the District of Columbia Circuit found the SEC to be acting arbitrarily and capriciously in its refusal to approve Grayscale's Bitcoin spot ETF application. And last month, just last month, the Government Accountability Office found the SEC to have created an illegal crypto-accounting rule that is actually out of compliance with the Administrative Procedure Act and the Congressional Review Act. The unique characteristics of digital assets make it hard to fit this asset class into any existing regulatory framework. That doesn't mean crypto is up for grabs by whatever federal bureaucratic agency has the most taxpayer-funded enforcement resources to burn. Congress is working on legislation to establish a framework for how we classify specific digital assets as a security or a commodity, which will dictate the regulator of jurisdiction. Importantly, while Congress works to pass this necessary legislation, my amendment will not prevent future bad actors like FTX from being pursued and punished to the fullest extent of the law. The Department of Justice, the Treasury, and the Office of Foreign Asset Control all have the existing and sufficient authority to prosecute criminal acts of fraud, abuse, tax, or sanctions evasion. Some would even argue that these entities have done a better job of attacking fraud and criminal activity in this



space than Gary Gensler and the SEC. This amendment is designed to send an important signal, not just to the SEC, but to every regulatory entity in the federal government. Congress will hold unelected bureaucrats accountable. SEC Chair Gensler cannot continue to abuse the powers of his agency to fulfill a political agenda of driving the new and promising digital asset industry offshore. Congress must be allowed to finish its legislative work so the future of digital asset innovation is determined by Americans, not by unelected bureaucrats in D.C.

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