



## Rep. Tom Emmer on House Committee Hearing

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**CHAIRWOMAN:**

to be our guide star on this. I yield back. Thank you very much. The gentleman's time has gone by. The gentleman from Minnesota, Mr. Elmer, is now recognized.

**REP. TOM EMMER:**

Thank you, Madam Chair. Can you hear me?

**CHAIRWOMAN:**

Yes, I can hear you.

**REP. TOM EMMER:**

Thank you. Chairman Gensler, thanks, like everyone else. I want to thank you for appearing before the committee today. I appreciate your time. You've already covered this topic with some other members, but I want to go into it again. There are millions of Americans, as you know, who hold cryptocurrency. Specifically, over 55 million Americans are now engaged in this asset class. And the value of these cryptocurrencies, the value of the market, is approximately \$2 trillion. You've been outspoken in that you think most cryptocurrencies on the market are securities. I couldn't disagree with you more thoroughly. I believe most cryptocurrencies are commodities or currencies. Currency. But for the purpose of better understanding your perspective, I have several quick questions I'd like to run through during my time. And I'd appreciate quick responses to each question. Chair Gensler, let's say someone who issued a token agrees with you and thinks that their token is a security and they want to register it with the SEC. If they register it, can they trade it on the New York Stock Exchange or could they trade it on NASDAQ?

**CHAIRMAN GENSLER:**

It would somewhat depend on NASDAQ and New York Stock Exchange listing rules and how they register it. But there's multiple ways to register. If they registered and the New York Stock Exchange and NASDAQ said yes, that might facilitate it. Nobody's asked to do that as far as I understand.

**REP. TOM EMMER:**

Actually, the answer is no. Can a broker dealer like Charles Schwab, another question, deal in a digital asset that has gone through SEC registration? In other words, would they be able to trade these digital asset securities in custody?

**CHAIRMAN GENSLER:**

Well, the custody is really the issue that you've mentioned. We have not been able to sort through. There's a feature of crypto assets, which is that a private key transforms ownership. That's a feature, but it also creates challenges or some would say it's both a feature and a bug of the custody of those crypto assets.



**REP. TOM EMMER:**

Again, I believe the answer is no. And I think earlier today you used the term stable value coins. There's no such thing. Value is a term that you put in there. They are stable coins. Chair Gensler, as you know, there are about 100 tokens with a billion dollar market cap. Let's say you deem one of these coins with a billion dollar market cap and tens of thousands of investors as security. What happens to those investors, sir?

**CHAIRMAN GENSLER:**

Well, if the coin were to come in and to actually register, then those investors get the benefit of our securities law. Right now, they don't have the benefit of that. That basic bargain that we protect people against fraud and manipulation in our capital markets is they get full and fair disclosure. They're not getting that right now. And it's falling short and people are gonna get hurt.

**REP. TOM EMMER:**

Chair Gensler, actually, what will happen under that scenario is the value of the token will plummet and retail investors, the very people you were supposed to protect, will not be able to trade in it. So I guess where I'm gonna go with this, if there's no path for them to be traded anywhere, wouldn't investors be hurt by your enforcement actions? And what are you doing to solve this problem? What are you gonna do?

**CHAIRMAN GENSLER:**

What I've said publicly, and I mean this, is come in, work with us. If the rules that were written in other decades don't quite fit these digital investment contracts, and that's what many of these are. They're entrepreneurs, computer scientists that are raising money from the public and the public is anticipating profits. And that's why Congress painted with a broad brush and the investing public is relying on some group of entrepreneurs and computer scientists for their profits. And I'm glad to work with projects, work with Congress, if you wanna repeal the laws as they are so that fewer people are protected against fraud in these markets.

**REP. TOM EMMER:**

And actually, Chair, I appreciate the answer. I don't know that the end, that we still disagree on the securities aspect. I think the vast majority are currency or commodities, but this is why it's really important for the SEC to develop a framework that the crypto industry can operate in. Crypto is one of the highest performing asset classes in decades. Retail investors got into this space before institutional ones. And your job, the SEC's mandate, is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. When you make conclusory public statements and regulate through enforcement action, you jeopardize that mandate. I encourage everyone to take a look at my bipartisan bill, the Securities Clarity Act, which amends securities law with a new definition, the investment contract asset. So the SEC can work with issuers to swiftly determine when a token is offered as part of a securities contract, and when it's not. Thank you again, Chair Gensler, Madam Chair. I yield back the balance of my time.

**CHAIRWOMAN:**

Thank you. Thank you very much. And Mr. Gensler, I want you to know I appreciate your...



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