Testimony prepared for the United States House Committee on Ways and Means Subcommittee on Oversight

Congressional Hearing July 16, 2025

Making America the Crypto Capital of the World: Ensuring Digital Asset Policy Built for the 21st Century

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Summary

"Let me explain. No, there is too much. Let me sum up." – Inigo Montoya, The Princess Bride

From a novel tech experiment to a $3 trillion industry, crypto has evolved significantly over 15 years. It has been proposed to be used as a currency, to improve back-office efficiency, to act as a decentralized network provider, to revolutionize cross-border payments, and to provide a hedge against inflation and the stock market. These uses have not been fully realized, and crypto assets have yet to see widespread adoption. However, the technology underlying crypto assets has, with some caveats, succeeded at allowing settlement of direct transfers between crypto owners without the need for a central intermediary. This unique distinction from traditional financial instruments should be the focus of market structure legislation and regulation. That distinction – an impressive technological feat - has also come with challenges. Though designed as decentralized, peer-to-peer systems, today's crypto markets share more in common with their traditional counterparts that rely on centralized intermediaries. While much of the crypto argues it must operate outside of current law, there are a number of established crypto firms that demonstrate harnessing this technology can be done in full compliance with existing securities and banking regulations. Still, more could be done to improve regulation that would benefit investors as well as the crypto markets themselves.

In this testimony I hope to provide Congress with 1) a brief history of crypto assets and decentralized distributed ledger technology, 2) an explanation of its evolution into the parallel financial market that exists today, 3) a list of suggestions that would ensure crypto has a fair opportunity to compete on its merits as part of our current financial system and 4) a call to preserve investor protection, fair competition, and financial stability across crypto markets as well as the entire $150 trillion securities and banking marketplace.

The Origin Story

"We didn't start the fire." – Billy Joel

To understand crypto assets and crypto asset markets, we need to understand their relationship to the financial crisis of 2008. That crisis was an explicit catalyst for Satoshi Nakamoto's launch of the Bitcoin network when mining the "genesis" block on January 3rd, 2009. The original Bitcoin block contains a text string referencing a news article from the same day.[1]

The Times, 03/Jan/2009 Chancellor on brink of second bailout for banks

Crypto's original reason for being stems from a justifiable and righteous anger directed at Wall Street and the shadow banks' recklessness, global regulators' failure to prevent the 2008 crisis, and financial industry bailouts that left the rest of us to fend for ourselves.

Crypto's proposal for a new and better financial system in response to these injustices rests on two pillars – trustless-ness and transparency. How can this be achieved? First, create a community-governed financial system where transactions don't rely on trust in opaque intermediaries like Wall Street banks or the shadow banking system that cratered the economy. Second, keep the system out of the reach of regulators and the traditional markets whose recklessness might condemn crypto to the same fate. Third, record transactions on a ledger where anyone can view them while at the same time protecting the anonymity of those transactions. Fourth, ensure that those transactions are final and irreversible. These ideas often go by other names like "distributed ledgers", "blockchains" "immutability," "censorship resistance," "pseudonymity" and "decentralization," to name a few.

While these aims may be simple, their implementation is not – the idea faces a critical vulnerability. Without trusted intermediaries there would be no way to ensure that network participants didn't try to spend their crypto in two places at once. This is known as the "double spend" problem and it's the crypto equivalent of check-kiting. Because transactions are settled in batches, a participant could make several transactions at once which would all be irreversibly settled to the blockchain in a single batch. Thus, an individual could spend more money than they have.

Satoshi Nakamoto's Bitcoin whitepaper, shared publicly on Halloween 2008, introduced a solution.[2] It's objectively creative and impressive, though somewhat complex. Satoshi proposed a way to ensure that the Bitcoin community would have to come to consensus on every batch of transactions – the process of validation by consensus. That required creating a system to ensure that no single participant could hijack the ledger where transactions were recorded.

[1] Sarkar, Arijit. "From Genesis to Global: The Evolution of Bitcoin since Block 0." *Cointelegraph*, 3 Jan. 2025, cointelegraph.com/news/bitcoin-genesis-block-anniversary-network-growth-2025.

[2] Nakamoto, Satoshi, Bitcoin: A Peer-to-Peer Electronic Cash System (August 21, 2008). Available at SSRN: https://ssrn.com/abstract=3440802 or http://dx.doi.org/10.2139/ssrn.3440802

The Validation Process

Digital money, distributed digital ledgers, and digital securities have existed for decades. The money in your bank account is a digital entry on a digital ledger. Google spreadsheets are a distributed digital ledger. Paper securities certificates are no longer wheelbarrowed by preteens between exchanges and clearinghouses. Using cryptography, and cryptographic methods, to secure accounts and protect communication is a staple of everything from web browsing (HTTPS) to logging into a bank account, to making online payments. The unique technological distinction between crypto assets and every other digital asset is just their ability to be digitally transferred peer-to-peer – with no intermediary required.

There are a number of consensus validation methods – the secret sauce that allows for peer-to-peer transactions. Bitcoin's is the easiest to understand – others are a variation on that theme.

Validating a set of transactions is the responsibility of a particular type of bitcoin network participants called miners. In simple English, what miners do is attempt to solve incredibly complex guess-and-check math problems whose solutions are extremely hard to find but also extremely easy to verify.

Imagine trying to guess someone's laptop password without any hints at all. A simple, but incredibly inefficient solution, would be to write a program that just tries every possible password, one at a time. Discovering that password through brute force is going to take a whole lot of time and a whole lot of energy. But once you do find it, it's easy to prove you did. You just give that password to a friend and if they successfully log in to the laptop, they know you found the right password. That's essentially what happens on a blockchain for every single batch of transactions that gets verified.

Let's say you wanted to have a race between two people to see who can guess the right password first. We can easily guess who's most likely to win – the person with the fastest computer. They can perform more computations per second, making more guesses more quickly. Their computer can do more work. In jargon, they have more compute.

The Bitcoin network relies on no individual controlling more than 50% of the total amount of computing power on its network. By ensuring that many people are competing to solve the same problem, the network ensures that no individual has enough power to overrule everybody else and manipulate the network. In order to incentivize people to spend the time and energy necessary to be a miner, the network rewards whoever solves the problem fastest – which can be easily verified by other network participants - with some amount of bitcoin.

To be sure – a large participant could have far more computing power than an individual mining bitcoin out of their garage and is therefore more likely to come up with a solution the fastest. But due to some randomness in the guess-and-check problem, individuals can from time to time beat out the biggest mining companies despite the long odds.[3] Regardless of the likelihood that the largest player

[3] Hunt, James. "Lucky Solo Bitcoin Miner Beats the Odds to Win $350,000 Block Reward." *The Block*, 4 July 2025, www.theblock.co/post/361109/lucky-solo-bitcoin-miner-beats-odds-to-win-block-reward.

will win the most races, they still can't unilaterally validate transactions on the blockchain and therefore hijack the system. A plurality of the computing power on the network is required to validate the work and start a new batch of transactions. Hence a term you may be familiar with, "proof-of-work."

Other crypto validation schemes are similar – like proof of stake, proof of authority or proof of elapsed time, to name a few.[4] They all have their benefits and weaknesses – typically a tradeoff between centralization and efficiency. Generally, the more centralized systems are more efficient and the more decentralized are less efficient. That same tradeoff is applicable to crypto versus traditional markets. Trusted intermediaries – centralized institutions – process transactions unilaterally but efficiently. Crypto trades away that efficiency for exactly one thing – the ability to credibly exchange crypto assets peer-to-peer.

You don't need to understand the complex programming that allows this to happen to understand crypto any more than you need to be a programmer to browse the internet. All you need to understand is that inefficiency is a design feature of crypto assets and protocols. Congress exemplifies this design: decisions by committee are inefficient and a cornerstone of our democracy at the same time. It's also a valid design choice for the goal of decentralizing financial markets. It's impressive as a technological solution to a unique problem. But, like any design choice, it comes at a cost.

Centralization and Crypto Markets

"You either die a hero or live long enough to become the villain." – Harvey Dent, The Dark Knight

You might already be asking yourself – "if crypto technology was developed to allow people to make transactions without intermediaries, why are there so many crypto intermediaries?"

The simple answer is that centralization is more efficient and more profitable.[5] If you're willing to trust a centralized actor, they won't have to spend resources establishing consensus. Crypto isn't a niche hobby anymore, it's a $3 trillion market. Time is money.

That's why Coinbase settles its customers' orders on a traditional ledger like most financial institutions rather than on a blockchain.[6] Counter to the original vision of crypto, it requires that their customers trust that Coinbase is being honest about transactions and that Coinbase is not going to run away with their money.

Legal compliance is another factor in the centralization of crypto markets. Circle's stablecoin (USDC) smart contract allows them to unilaterally block transactions and freeze funds.[7]

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[4] Blockchain Lab. "List of 10 Types of Consensus Mechanism with Examples." *Medium*, 15 Jan. 2024, medium.com/@theblockchains/list-of-10-types-of-consensus-mechanism-with-examples-bf65bd752967.

[5] Arner, Douglas, et al. "Centralization in Decentralized Finance: Systemic Risk in the Crypto Ecosytem and Crypto's Future as a Regulated Industry ." *Duke Law: Law and Contemporary Problems*, vol. 87, no. 2, Apr. 2025, pp. 185–210, scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5163&context=lcp.

[6] United States Securities and Exchange Commission. *Securities and Exchange Commission against Coinbase, Inc. And Coinbase Global, Inc.* www.sec.gov/files/litigation/complaints/2023/comp-pr2023-102.pdf.

[7] Circle Mint User Agreement, Circle Inc. "19. Blocked Addresses and Forfeited Assets." Available at: https://www.circle.com/legal/user-agreement

This is arrangement shares more in common with traditional digital ledgers than it does with the trustless-ness that defined early crypto development.

Unintuitively, crypto intermediaries often centralize more functions than their traditional counterparts.[8] By being so vertically integrated they can unilaterally engage in activities that are typically performed at arm's length. That integration undermines protection of investors and protection of the markets themselves. The arrangement may be profitable but it's incredibly dangerous. FTX, for example, ran both a crypto exchange and a proprietary trading fund. FTX's fund was allowed to play by different rules than its other customers. It also custodied assets. Housing all these functions and more under one roof allowed FTX to dig its own grave and drag its customers down with it.[9] Crypto investors lost $8 billion and the fallout ultimately led to the largest bank failure since the 2008 financial crisis.[10] ($3.3 billion of the federal rescue went to Circle's uninsured USDC stablecoin reserves at Silicon Valley Bank).[11]

All of that said, there's nothing inherently wrong with crypto markets opting toward centralization. It's a perfectly valid choice. But it's important to understand that regardless of the underlying technology, crypto markets face the same incentives toward centralization as any financial market.

That has ultimately created a market that looks a whole lot like our traditional financial system. Further, the crypto industry has pressed for the mainstreaming of crypto assets into the traditional financial system. Exchange-traded products based on Bitcoin and Ethereum are offered by financial giants like BlackRock and Fidelity.[12] Companies like Strategy whose shares trade on traditional exchanges have converted themselves into bitcoin treasuries.[13] Rather than replace the "old" financial system, crypto has aggressively nestled itself into it. Crypto assets can reach more investors through large, centralized firms.

Not even crypto was able to hold fast against centralization of financial markets. Maybe that centralization was pre-ordained. Maybe a democratized financial market elected it. Either way, its centralization was driven by market forces, not its underlying technology.

A Consistent Approach to Market Regulation

"It's the same picture." – Pam Beesly, The Office

As I have hopefully demonstrated, the vast majority of the crypto market has evolved to be nearly identical in structure and function to our traditional financial markets. While it may not be Satoshi Nakamoto's intended outcome, from a regulatory perspective it's a pretty good

[8] Financial Stability Oversight Council. *Report on Digital Asset Financial Stability Risks and Regulation*. 2022.
[9] Wallerstein, Eric. "FTX and Sam Bankman-Fried: Your Guide to the Crypto Crash." *WSJ*, 19 Jan. 2023, www.wsj.com/articles/ftx-and-sam-bankman-fried-your-guide-to-the-crypto-crash-11669375609.
[10] Kelly, Steven and Rose, Jonathan, Rushing to Judgment and the Banking Crisis of 2023 (March 04, 2025). FRB of Chicago Working Paper No. 2025-04, Available at SSRN: https://ssrn.com/abstract=5164978 or http://dx.doi.org/10.2139/ssrn.5164978
[11] Egan, Matt. "FDIC Accidentally Reveals Details about Silicon Valley Bank's Biggest Customers." *CNN*, 23 June 2023, www.cnn.com/2023/06/23/investing/svb-bank-fdic.
[12] See Fidelity: https://www.fidelity.com/etfs/crypto-funds and Blackrock: https://www.blackrock.com/us/financial-professionals/investments/products/bitcoin-investing
[13] See: Strategy.com – Investor Relations. Available at: https://www.strategy.com/investor-relations

outcome. The United States has 90 years of experience governing complex financial markets that have evolved through enormous changes in global economics and through rapid technological innovation. We can disagree about the particulars of that regime but its general principles have inarguably yielded the deepest, most liquid and most trusted markets in the world.

A foundational principle of that regime is the mantra "same activity, same risk, same regulation." Said differently, the correct way to regulate crypto assets and crypto markets is to determine how they differ from traditional assets and tailor regulations to those differences.

Crypto markets should have the opportunity to compete on a level playing field. Financial regulators should be technology neutral in their treatment of financial instruments and financial intermediaries. Failing to do both would, inappropriately, give federal regulators the ability to pick winners and losers and create confusion and price dislocations in the marketplace. Technology neutral regulations are critical to the well-functioning of our financial system. Imagine if one instrument were treated as a security if was traded via a phone call or open outcry system but not as a security if it were traded electronically.

A call for fair treatment isn't unique to investor advocates. It is shared by many in the traditional financial industry, parts of the crypto asset industry, and by financial regulators appointed by Democratic and Republican administrations. Jay Clayton, President Trump's first appointee to chair the Securities and Exchange Commission, took on more than 100 enforcement actions against crypto market participants.[14] Biden's appointee, Gary Gensler, continued that work and expanded it to unregistered intermediaries trading crypto securities.[15] (Disclosure: I was Chair Gensler's Senior Advisor on Crypto Asset Markets and Financial Stability). Current SEC Commissioner Hester Peirce, known as Crypto Mom by the industry, declared that tokenized versions of securities should be treated the same as their equivalent, traditional instruments.[16] Trade groups like the Securities Industry and Financial Markets Association (SIFMA) have written letters to the SEC urging consistent treatment of crypto assets with their traditional counterparts.[17] The Independent Community Bankers of America urged that the GENIUS act should require that stablecoin issuers entering into the payments industry be held to the same rigorous standards as banks.[18] In short, much of what the crypto industry does is indistinguishable from traditional financial activities. It's unfair to other market players to hold crypto to a different standard.

Even crypto companies themselves have acknowledged that, in fact, the laws and regulations applicable to traditional activities are applicable to crypto. For example:

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[14] Mola, Simona. *Cornerstone Research: SEC Cryptocurrency Enforcement: 2021 Update*. *Cornerstone.com*, 2022, www.cornerstone.com/wp-content/uploads/2023/01/SEC-Cryptocurrency-Enforcement-2021-Update.pdf.

[15] Mola, Simona. *Cornerstone Research: SEC Cryptocurrency Enforcement: 2024 Update*. *Cornerstone.com*, 2025, www.cornerstone.com/wp-content/uploads/2025/01/SEC-Cryptocurrency-Enforcement-2024-Update.pdf.

[16] SEC Commissioner Hester Peirce. "SEC.gov | Enchanting, but Not Magical: A Statement on the Tokenization of Securities." *Sec.gov*, 9 July 2025, www.sec.gov/newsroom/speeches-statements/peirce-statement-tokenized-securities-070925.

[17] Securities Industry and Financial Markets Association. *Request for Comment on There Must Be Some Way out of Here*. 11 June 2025, www.sec.gov/files/ctf-written-input-sifma-061125.pdf.

[18] Independent Community Bankers of America. *Community Bank Statement for GENIUS Act Markup*. 12 Mar. 2025, www.icba.org/docs/default-source/icba/advocacy-documents/testimony/community-bank-statement-for-genius-act-markup.pdf?sfvrsn=5f4fe017_0.

"Regulatory uncertainty is just a euphemism for 'we wish we could ignore SEC regulations'." – Bradley Garlinghouse, Chief Executive Officer, Ripple[19]

And much more explicitly:

"we are operating as a fking unlicensed securities exchange in the USA bro" – Chief Compliance Officer, Binance[20]

Further, there are many firms that are registered with the SEC that operate trading platforms, issue fund shares on the blockchain and that issue and trade crypto securities in compliance with current law. A non-comprehensive list includes both traditional institutions and crypto industry players: large firms like BlackRock[21] and Franklin Templeton[22] offer tokenized funds on multiple blockchains. Securitize issues tokenized securities pursuant to an exemption available to any issuer and are a registered broker-dealer and alternative trading system (ATS).[23] Crypto tokens like STX were offered and sold as securities under offering statements submitted to the SEC as early as 2019.[24]

This demonstrates the most important concepts to understand when crafting crypto-specific rules and regulations. There is nothing about crypto assets or blockchain technology that requires crypto intermediaries to be more concentrated or more vertically integrated than traditional institutions. There is nothing about the technology that changes the economic reality of the financial instruments offered and traded. There is nothing about the technology that requires abbreviated disclosures or justifies fewer investor protections than traditional markets.

Where Do We Go From Here?

"Don't just stand there, do something!" – Draco Malfoy, Harry Potter and the Prisoner of Azkaban

There is nothing about crypto assets that make them incompatible with the securities laws, which is one reason there is broad consensus that they should receive the same treatment as their traditional counterparts. We can achieve this by focusing efforts on regulating the unique difference between crypto assets and other financial instruments as laid out above. That is their settlement process. Policymaking with regard to crypto asset market structure should focus on this sole distinction, which may raise the need for targeted clarification and for additional authorities for regulators. These could include:

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[19] US Securities and Exchange Commission. *Securities and Exchange Commission against Ripple Labs, Inc., Bradley Garlinghouse, : And Christian A. Larsen. Plaintiff Securities and Exchange Commission's Memorandum of Law in Support of Its Motion for Summary Judgment*. 17 Sept. 2022, storage.courtlistener.com/recap/gov.uscourts.nysd.551082/gov.uscourts.nysd.551082.640.0.pdf.

[20] US Securities and Exchange Commission. *Securities and Exchange Commission against Binance Holdings Limited; BAM Trading Services, Inc.; BAM Management US Holdings Inc.; and Changpeng Zao*. 5 June 2023, www.sec.gov/files/litigation/complaints/2023/comp-pr2023-101.pdf.

[21] Sandor, Krisztian. "BlackRock Expands Tokenized Fund BUIDL beyond Ethereum to 5 New Blockchains." *CoinDesk*, 13 Nov. 2024, www.coindesk.com/business/2024/11/13/blackrock-expands-tokenized-fund-buidl-beyond-ethereum-to-five-new-blockchains.

[22] Braun, Helene. "Franklin Templeton Takes Its Tokenized Treasury Fund to Base, Becomes First Asset Manager on the Layer 2." *CoinDesk*, 31 Oct. 2024, www.coindesk.com/business/2024/10/31/franklin-templeton-takes-its-tokenized-treasury-fund-to-base-becomes-first-asset-manager-on-the-layer-2.

[23] See: https://securitize.io/

[24] "Blockstack Announces SEC Filing for $50M Regulated Token Offering." *SEC.gov*, 11 Apr. 2019, www.sec.gov/Archives/edgar/data/1693656/000110465919039476/a18-15736_1ex1a13tstwtrsd10.htm.

Potential Congressional Action

1) Congress should provide the SEC or CFTC the authority to oversee spot markets for non-security crypto assets. If the CFTC, that legislation should be modeled after the Securities Exchange Act of 1934.

2) Congress should provide the SEC full authority over crypto payment instruments if they are used on SEC registered exchanges and alternative trading systems – including explicit authority for critical oversight requirements such as the books and records rule.

3) Congress should clarify the appropriate disposition of customer crypto assets in the event of a bankruptcy or bank resolution.

Potential Regulatory Action

4) The SEC should clarify whether any future crypto asset rulemakings should apply to those that trade on permissioned, private blockchains.

5) The SEC and CFTC should propose guidance or rulemaking regarding the settlement of crypto assets that can be traded on public, permissionless blockchains.

6) The SEC should propose guidance or rulemaking regarding the definition of a "good control location," the maintaining of "exclusive control over customer securities", and other issues related to custody of crypto asset securities.

7) The SEC should propose guidance or rulemaking regarding the treatment of crypto asset securities for purposes of the Net Capital Rule for broker-dealers.

8) The SEC should establish a task force to review crypto asset disclosure filings and provide any necessary guidance for modifying such disclosures.

9) Federal Banking Regulators should propose guidance or rulemaking regarding the custody of crypto assets in federally chartered banks.

While nothing stands in the way of the crypto industry's compliance with the law, crypto's unique settlement structure creates myriad regulatory challenges regarding privacy, cybersecurity, enforcement of anti-money laundering laws, and tax collection – among other others. These issues are beyond the scope of this testimony but demand scrutiny by Congress and regulators.

Conclusion

"It's all just a little bit of history repeating." – Shirely Bassey

Just as the financial crisis of 2008 was a catalyst for crypto markets, it was also a warning. Throughout the history of financial innovation, strong regulation has been met with vehement criticism. Opponents of the creation of the SEC called the Securities Exchange Act of 1934 "vicious" and "paternalistic", claiming it would destroy securities exchanges.[25] The United States went on to establish itself as the deepest, most liquid, and most trusted financial market in the world.

In 1998 Brooksley Born, Chair of the Commodity Futures Trading Commission, presciently warned that innovations in derivatives markets called for strong regulations from her agency.[26] Much as the crypto industry does today, the financial industry vehemently opposed those stronger laws, often citing their potential negative impacts on innovation and the competitiveness of US financial markets.[27] Born was ultimately ignored. Congress passed the Commodity Futures Modernization Act (CFMA) in 2000, undermining her ability to take action. Just 8 years after that legislation was passed, we experienced the most devastating financial crash since the Great Depression. It cost tens of millions of working Americans their jobs and their homes. The Financial Crisis Inquiry Commission found that the CFMA "…contributed significantly to [the] crisis."[28] 10 years after Brooksley Born's warning – 10 years too late – strong financial reforms for derivatives markets were adopted. Those markets are deep, liquid and competitive to this day.

The lessons of history are simple and stark. Exemptions and weak regulation of crypto markets will end in devastating economic destruction. Strong regulation informed by experience will provide crypto markets the opportunity to flourish on their merits while protecting the American public.

Crises are avoidable.

[25] National Archives: Letters to Congress regarding the Securities Exchange Act of 1934. https://www.archives.gov/files/legislative/resources/education/pecora/facsimiles.pdf

[26] "Testimony of Brooksley Born, Chairperson - Commodity Futures Trading Commission, Concerning the Over-The-Counter Derivatives Market before the US Senate Committee on Agriculture, Nutrition and Forestry." *www.cftc.gov*, 30 July 1998, www.cftc.gov/sites/default/files/opa/speeches/opaborn-34.htm.

[27] Jickling, Mark. *The Commodity Futures Modernization Act of 2000: Derivatives Regulation Reconsidered*. Congressional Research Service, 9 Jan. 2003

[28] The Financial Crisis Inquiry Commission. *The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States*. Jan. 2011, www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf.