Anja: Now for something completely different, we thought for the first time at the Aspen Security Forum, we should have a real conversation about cryptocurrencies and blockchain, because increasingly they are becoming a national security issue. And judging by the interest we're getting on Twitter and the more than 1000 people who are with us right now in the Zoom, many Americans feel that as well. We are very lucky to have with us, Gary Gensler, the chair of the Securities and Exchange Commission, I will introduce him in a minute. But let me just explain to our foreign policy audience, why we believe that there's a national security interest in cryptocurrency and blockchain.

For one, China is making rapid advances. They have their own central bank issued currency, the digital yuan. Chinese companies lead, many of them lead in the international payment space. And traditionally the United States has enforced our sanctions through the correspondent banking system through SWIFT. Increasingly their technologies, many of them, not Americans, many of them Chinese that are replacing that system. And in the US of course we've been waiting. It's difficult because the SEC has some equities here, the treasury department, the federal reserve. So I think many people in this space have been waiting for regulation from the Biden administration and from the key organizations that work on this, on the US government.

Well here to tell us more about how the Biden administration is thinking about this and actually to make a major pronouncements on the regulation of cryptocurrencies is Gary Gensler. He needs very little introduction. The current chair of the SEC. He was formally a professor at the MIT Sloan School of Management, and also a senior advisor to the MIT Media Labs Digital Currency Initiative, and actually taught a course on digital currency, so he's a true expert. And previously, of course, Gary was the chair of the US Commodity Futures Trading Commission, which also has some equities in this space and under secretary of the treasury for domestic finance, along with many, many other distinguished jobs, both in the US government and previously in the private sector, including at Goldman Sachs. We're very, very grateful to you, Gary, for being with us today.

And to moderate the discussion is one of the foremost journalists who work on cryptocurrencies, that's very new space, It's Paul Vigna a reporter at The Wall Street Journal. He's written three books, including one called The Age of Cryptocurrency, another one called The Truth Machine and also Guts. He's been featured in documentaries and I couldn't think of a better person. So thank you very much. And I'll let the two of you take it away. Thanks.

Gary Gensler: Thank you so much for that kind introduction, Anja I look forward to the discussion with Paul. Thank you, Nick and others who invited me to here to speak at the Aspen Security Forum. Now as is customary, I should note that these views are my own, and I'm not speaking on behalf of the commission or the SEC staff. All right. I got that out of the way.

Some might wonder, what does the SEC have to do with crypto? And further, why, as Anya just pointed out, did an organization like the Aspen Security Forum ask me to speak at all about crypto's intersection with national security.

Let me start at the beginning. Many of you might know it who are listening, but it was Halloween night in 2008 in the middle of the financial crisis when Satoshi Nakamoto published an eight-page paper on a Cypherpunks Mailing List. I don't mispronounce it, Cypherpunks Mailing List that had been around and run by cryptographers since 1992. A little off the grid, a little libertarian, Cypherpunks Mailing List. Now, Nakamoto, we still don't know who she, he or they were, if at the end of this talk, Paul wants to tell us, I'm looking forward to knowing who Paul thinks Nakamoto was, wrote, "I've been working on a new electronic cash system that's fully peer-to-peer with no trusted third party."

You say at the core Nakamoto was talking about some form of private money that didn't have central intermediaries. But Nakamoto had solved two riddles that had dogged these cryptographers and other technology experts for a couple of decades since the dawn of the internet. First was how to move something of value on the internet without a central intermediary. And that's where it can fit into national secure. And move something of value on the internet without a central intermediary and relatedly, how to prevent what's called double spending of that valuable digital token.

So subsequently her innovation, or his innovation spurred the development of crypto assets and what's called the underlying blockchain technology. About a dozen years later, where are we? Well, the crypto asset class has ballooned. As of yesterday, about $1.6 trillion of value. Of course, it goes up, it goes down. Over 75 tokens worth, at least a billion dollars, each 1600 worth, at least a million dollars of market capitalization. And while that $1.6 trillion is relatively small compared to the US capital markets of nearly a $100 trillion, it's still significant and of course it's larger than the capital markets of many jurisdictions that this security forum would discuss.

And before starting at the SEC, I was honored as Anja said, teaching about the intersection of finance and technology at MIT. This included courses in these various topics. And in that work, I came to believe that though there was a lot of hype masquerading as reality in the crypto field, Nakamoto's innovation is real. In some, in the public sector would say, well, no, almost like wishing it away. I really do think there's something real about the distributed ledger technology, moving value on the internet without a central intermediary.

Further, it has been and could continue to be a catalyst for change in the fields of finance and money. At its core, Nakamoto was trying to create private form of money with no central intermediary. We've had a long history since antiquity of private moneys competing with public moneys. So this is not necessarily new, but it was new how it was done and how it can live in a digital age.

Now, let me say, we already live in an age of digital public money. So dollar, euro, sterling, yen, and yes, yuan, all are digital. And if you had any doubt about that, it's obvious during the pandemic. I mean, who is actually using paper or coinage money in the these days?

So such public fiat monies fulfill the three function of money. Monetary economists have studied this for a long time, store of value, unit of account, medium of exchange. Why do I raise that? Because my opinion is no single crypto asset though, broadly fulfills all of the functions of money. Bitcoin has some of it, but not broadly fulfilling all three. Primarily, crypto assets provide a digital scarce vehicle for speculative investment. Thus, in a sense, one can say they are highly speculative stories of value. Buy Bitcoin, it goes up. Maybe I have something better for my future and my retirement, but it's not really being used as a unit of account. And we also haven't seen the crypto has been used much as a medium of exchange, except for what one [inaudible 00:08:05] exception, to the extent that it is being used as a medium of exchange. It's used usually to often [inaudible 00:08:12] our laws with respect to anti money laundering, sanctions, tax collection on the dark web and yes, also it's enabled extortion, be a ransomware as we had seen recently in colonial pipeline and elsewhere.

You see what the advent of the internet 40 years ago, and the movement from physical paper money to digital money, we nations states around the globe layered various public policy goals over our digital public money system. Sanctions regimes, any money laundering, tax compliance, we did that in this digital public money area. And that's what to some extent people are using a medium of exchange in crypto.

Now as a policy matter, I'm technology neutral. I would say as a personal matter, I wouldn't have gone to MIT if I weren't interested in how technology can expand access to finance and contribute to economic growth. And I wouldn't have spent so much time around the digital currency initiative at MIT and my colleagues there if I didn't think there was something here that could be a catalyst for real change. But I am anything but public policy neutral. In my current role, as new technologies come along, we need to be sure that we're achieving our core public policy goals. And in finance, what's that about? Protecting investors and consumers, guarding against illicit activity and ensuring financial stability. And that's where it fits in to national security interests. But how does the SEC fit into it? And I'll close with some thoughts on the national security, but the SEC.

Well, we have a three-part mission for those who aren't familiar: protecting investors, facilitated capital formation, and then in between maintaining fair, orderly and efficient markets. Investors, capital formation, and then the markets in between. We focus on financial stability as well as part of that fair, orderly and efficient markets, but at our core it's about investor protection.

And if you want to invest in a digital scare speculative store value, that's fine. Good faith actors, by the way, since antiquity have been speculating on the value of gold and silver. So that's been around for thousands of years. Right now though, in this digital scare speculative asset, Bitcoin and others, we just don't have enough investor protection. And frankly, at this time, it's more like the Wild West than some sort of a protection against fraud and manipulation in this space. This asset class is rife with fraud, scams and abuses in certain applications.

There's a great deal of hype and spin about how crypto assets work. And in many cases, investors aren't able to get rigorous, balanced, complete information. It doesn't mean there aren't good faith actors, and there are many of them, but investors really aren't getting the information to judge the risk and understand the risks. And I fear that if we don't address the issues, I worry a lot of people will be hurt.

Now, first about the tokens themselves. Those tokens being offered, many of them are offered in [inaudible 00:11:27] security. There's actually a lot of clarity on this front. So you see in the 1930s, Congress established the definition of a security, but they included like 20 different items. You'll be familiar with some of them, stock, bonds, notes, but one of the items is called an investment contract. In the following decade, the Supreme Court took up what's the definition of this term? Black-letter law investment contract. This case said an investment contract exists, now I'm going to quote for a moment, "A person invest his money in a common enterprise and is led to expect profits solely from the efforts of the promoter of a third party." You might've heard of it. It's called the Howey Test, related to an estate of William Howie. It actually was about orange groves in Florida. And what the orange groves in Florida have to do with cryptocurrency? Well the Supreme Court has upheld this test number of times subsequently. And so further, there were others tests. There are many other determinations what is comes under the federal securities laws.

Now my predecessor, SEC chairman Jay Clayton, I think said it well in 2018 in congressional testimony, he said to the extent that digital assets like, and I think he named Bitcoin, but he said to the extent that digital assets like initial coin offerings or ICO's are securities. And then he goes, and I believe every ICO I've seen is a security, we have jurisdiction, federal securities laws apply. I find myself agreeing with my predecessor, Chair Clayton.

You see generally folks are buying these tokens in anticipation of profits, that's the core thing the Supreme court said. And there's a small group of entrepreneurs and technologists standing up and nurturing the projects. Jeez, anticipation of profits, small group of entrepreneurs, standing up something, our federal securities law says there's a need for some protection.

And I believe we have crypto market now where many tokens may be unregistered without requiring the disclosures and the market oversight. This leaves price is open to manipulation, this leaves investors vulnerable. Now over the years, the SEC has brought dozens of cases, many of them during my predecessors time. I've only been here three months and yet having brought dozens of cases, we haven't lost a case. Having done all that., there are thousands of projects out there, thousands of tokens and so forth. I mentioned earlier, over 75 with a billion dollar market value or more.

There are also initiatives by of number of platforms and I'm going to mention three types of platforms: trading platforms, lending platforms and then there's a third type of platform, decentralized finance, which sometimes is doing one of the first two things. And there are many crypto tokens within these platforms priced off of the value of securities and operating in this space.

And so I would have to say that with regard to these three types of platforms, the world of crypto finance now has these venues. I believe these platforms not only can implicate securities laws, but some platforms also can implicate commodities laws and the banking laws. Now just thinking about a platform right now, many of them have 50, maybe a 100 different cryptocurrencies, crypto tokens trading on them. And while each tokens legal status depends on its own facts and circumstances, the probability is quite remote that with 50 plus token, that none of them are securities. It just sort of belie the arithmetic that I've learned and how I've learned to think about probabilities at MIT. You could have 50 or 100 tokens and none of them are securities.

Moreover, unlike other trading markets where investors go through a broker or some other intermediary to access, let's say the New York Stock Exchange or London Stock Exchange, or even the Shanghai Stock Exchange, people can trade crypto trading directly. They can do it 24 hours a day, seven days a week and from around the globe. And for those thinking about national security, this is very much a seven day a week, 24 by seven market with Asia retail participating with US retail, Latin America, Africa, and European. It's a truly worldwide market.

Further, well, many oversea platform state they don't allow you US investors into their platform. There are allegations that some unregulated foreign exchange facility, US investors tap again through virtual private networks. Paul, your paper just ran a [inaudible 00:16:31] story on this in the last week.

The American public is buying, selling and lending crypto or I'm trading, lending and these DeFi platforms and there's significant gaps in the investor protection. Now make no mistake, to the extent that there are securities on the platforms under our laws, the platforms have to register unless they meet some exemption. Make no mistake, if it's a lending platform, it's offering securities, it also falls within SEC jurisdiction.

Next, let me talk about stable value coins, which are crypto tokens, pegged or linked to the value of some public money, fiat money. Many of you may have heard about Facebook's efforts to stand up a stable coin called Diem, it was formally called Libra. And now due to the global reach of Facebook's platform, this has gotten a lot of attention, as you know, and imagined from central bankers and regulators around the globe. It's not only due to the general policies concerning crypto that I've mentioned about investor protection and guarding against illicit activity, but it's also due to Diem's potential impact on monetary policy, backing policy, financial stability and jurisdictions around the club.

But maybe less well-known to this audience is that we already had stable value points. In fact, the universe right now, the seven or eight major ones, little over $110 billion of value, including four large ones, some of which would have been around for seven or so years. Now, you might say, "Why is that? Hadn't heard of that?" Well, these stable coins are embedded in the trading and lending platforms and the DeFi platforms I just mentioned. You might say, "Why is that?" Well, most of those platforms, the majority of what happens there is cryptocurrency to cryptocurrency. It's not US dollar versus Bitcoin, but it's something called a stable value coin, maybe US dollar tether or USDC which was started by a couple of companies here in the US. But it's a stable value coin versus Bitcoin. Wonder why that is?

Now in July, nearly three quarters of the trading in all of crypto trading platforms occurred between a stable coin and some other crypto token. Thus, the use of stable coins have become just facilitating embedded in the crypto ecosystem. And why might that be? Well, you see, these platforms may facilitate those seeking to sidestep a host of public policy [inaudible 00:19:13]. Sidestepping our traditional banking system because you don't have to give them any bank account information. You're just going stable coin versus Bitcoin or another crypto. Potentially sidestepping any money laundering, tax compliance, sanction, which ought to be of interest to this audience and the like. So this affects national security, stable coins well before any Facebook Diem, are right now in the center of this marketplace.

Further, these stable coins may be securities and investment companies. To the extent they are, we at the SEC will apply full investor protection under what's called the Investment Company Act and other laws on these products. And I look forward to my colleagues when the president's working group led by Secretary Yellen, we're doing a project or report in this area.

Next, I just want to mention something about investment vehicles. Investors may want to exposure to this asset class, but not do it directly. Do it through some collective investment vehicle. We do it in the equity market, we do in the bond markets, people might want it here. Well, there are some vehicles that already exists. There's one that's been around for about eight years. It's over $20 billion in size. Also, there's a number of mutual funds that are investing in what's called Bitcoin Futures on the Chicago Mercantile Exchange and that's overseeing the Bitcoin futures by our sibling agency, the Commodity Futures Trading Commission. I anticipate they'll be filings with our agency with regard exchange traded funds, not we have some already, but I anticipate we'll have some new ones under what's called the Investment Company Act. And when combined with other federal laws, the 40 Act provides significant investor protections. And given these important productions, I look forward to seeing what staff says about these things filings coming forward related to these regulated Bitcoin trading on the Chicago Mercantile Exchange.

Let me say, we also have another little work stream at the SEC, but it's important, it's about custody of crypto assets. And the SEC put out to comment to the public to understand how best to ensure for custody protections because this is an area where there's a lot of theft. Let me just say before I conclude, I'd like to note that we have taken and will continue to take our authorities as far as they can go. And certain rules related to crypto assets are well-settled. For instance, the test to determine whether crypto assets as a security is clear. Now some of the industry would say, it's not clear enough, but I would say, I agree with Jay Clayton. It's clear in this regard.

There are some gaps in this space though. I do think we need additional congressional authorities to prevent transactions, products and platforms falling between regulatory cracks. I also think we need more resources. We could double or triple the number of people we have working on this at the SEC, and still, probably not fully covered this field. We stand ready to work with Congress, the administration, our fellow regulators around the globe and partner up. We stand ready to hear from the entrepreneurs and technologists in the field as to what's working and what's not. But in my view, the legislative priorities should be around these platforms to trading, lending, decentralized finance. Regulators would benefit from additional authorities in this space. We can also attach things around sanctions and tax collection and tax compliance and anti-money laundering. So it's about all the policy suites right there.

Now, right now, large parts of the field of crypto are sitting astride, not operating within regulatory frameworks that protect investors and consumers, guard against illicit activity, ensure for financial stability, and yes, protect national security. Standing astride isn't a sustainable place to be. Technologies for generations have come along. They might stand astride public policy for a while, but for those who want to encourage innovation in any field, but if you're encouraging in crypto, I'd like to note that financial innovations throughout history don't long thrive outside our public policy frameworks.

And I would also note to some that are thinking of investing in this space, private also often fail. And one could study a little bit of history in the US. We had a lot of private money store in the wildcat banking era of the mid 19th century. But back to the heart of this, the heart of finance is trust that's insurance for our national security here are financial security, but also around the globe and at the heart of the trust in our financial sector and in markets is investor protection. The field is going to continue or reach any of the potentials to be a catalyst for change that whether it was Nakamoto vision or any individual listener's vision, I think we better bring this into our public policy framework. So I thank you. I look forward to Paul's questions.

Paul Vigna: Great. Hi, Gary, [inaudible 00:24:38], how are you doing?

Gary Gensler: I'm doing well. It's good to see you again, by the way, Paul.

Paul Vigna: Yeah, you too. So I wanted to start off. I want to talk about all of those things, but one thing I think is really interesting, you becoming SEC chair at this exact moment. It seems to me that the market world that you're inheriting from your position is really, even in the last couple of months, is very different from the market world, that all of your predecessors inherited going back, almost a century of the SEC's existence. I mean, the barriers to entry for most investors have become extremely low, if not zero. You have the internet making markets completely international. Information is flowing now as much on Twitter, TikTok and YouTube, as it is through, I'm sorry to say, through the Wall Street Journal and The Economist and The FT. And with the crypto market, now the barriers to entry to creating entirely new asset classes are almost a zero. I mean, a lot of these software is basically off the shelf. So are you approaching your job differently? Do you think that other past SEC chairs... but what sort of new tools do you need to develop at the SEC to get your arms around all these?

Gary Gensler: So, Paul, I think you raised a great question. Technology has come along in every generation. And I think my predecessors have addressed technological change at each generation. Arthur Levitt in the 1990s, who was the longest serving SEC chair, really had to deal with the dawn of the internet. And what did that mean? And trading platforms that didn't quite look like exchanges, but they're a little different. By the way, it was pre the SEC, but there were debates in the 1920s whether to even allow a telephone on the floor of the New York Stock Exchange. Real debates, you can go back and look at.

So I think what's happening now is you're right. Technology is rapidly advancing. The cost of communication has come down. In the crypto era, you can trade without a broker directly on a crypto platform. But even in our regular equity and bond markets, I've asked staff, how do we move forward as the United States? We have, I really do believe the most efficient, the broadest capital markets, are debt and equity markets. But we can't take that for granted. It's a national heritage and I asked them, how can we update our equity market structure so that investors regular work and families get a better deal and we drive more efficiency. Investors do well, companies do well, maybe the folks in the middle get a little less economic rent, but the others do really well.

I think of the treasury markets. We've had some hiccups over the years in 2014 and 2019 and 2020, and that's for another discussion. But the treasury market 20 or so trillion dollar market, it's really important to the US, that that market is efficient and resilient as possible, the municipal bond market, the corporate bond market. So we have projects in every one of these trying to drive to what I would say, more efficiency, more transparency, and yes, competition, which will make it more resilient. But I couldn't agree with you more. Technology is a little faster and the lowering cost of communications. And as you mentioned, the global reach of the markets. I mean, we even last week, we're talking about companies related to China, issuing in the US and that global reach is part of this technology story.

Paul Vigna: Yeah. While we're on that topic, let's go there a little bit further. Securities and exchange commission is a United States federal agency. How do you deal [inaudible 00:28:34] crypto markets or global? And as you pointed out, most of these markets now have some international components to them. How do you, as a United States agency deal with a market that is international, both the traditional markets and especially the crypto markets where, look a lot of us, like you said, a lot of this is just to evade regulation, to evade laws. How far is your reach?

Gary Gensler: It's a great question, but we have this in the treasury market and the equity market as well. The treasury market is a global market. Our US stocks are issued here, and we have to focus on the transparency and the protection against fraud manipulation in our equity markets. Similarly, whether it's Bitcoin or other crypto assets, if US investors are getting exposure or buying or selling these, then our remit is to ensure for investor protection. And if we do that well, I think that not only do investors benefit, but if this innovation has any chance of surviving into the late 2020s and 2030s, it can't stay astride the public policy.

I mean, there's a lot of platforms that, again, probabilistically are trading or lending securities when those platforms. Come in, register, work with the SEC, if we need to work with Congress to get the appropriate you know authorities and add to our authorities. But I think this idea that this market can adjust because it's global, we shouldn't get involved or just because it's newish, I mean it's been around for 12 years, we shouldn't get involved. We still have core public policy goals. And to this audience, I mean, the core public policy goes to national security. I mean, crypto assets are being used for ransomware for dark web applications. And so how do we sort of frankly reign that in this new form of potential private money? It does not have the three attributes of money, but for the use of ransomware, then it becomes a medium of exchange.

Paul Vigna: Since we're back on national security, in 2019, when you were at MIT, you took part in an interesting dramatization that looked at a possible national security crisis. Where [inaudible 00:31:17], it's all hypothetical folks, I'm not talking real, where North Korea had been using China's digital renminbi to evade sanctions to finance its nuclear weapons program. And the United States just discovered this and it was a big question about how do we-

Gary Gensler: How I hope you've realize, the audience, this was a hypothetical in Harvard Kennedy School put together at this... Alright, simulation.

Paul Vigna: Right, right. Let me stress. Like I said, it was a hypothetical because it did not happen. But they were trying to show what could happen. And so within that, what are the rod national security implications of [inaudible 00:31:57] talking about private money, but China [inaudible 00:32:03] public money. So from the viewpoint of United States agencies, from the vantage point of here, you can't prevent it, but how do you keep it from overwhelming what the United States built?

Gary Gensler: So these are great questions and in fact I was invited to speak to day. One of the four invites came from Nick [Burns 00:32:28]. And Nick, I think, was part of that simulation if I remember. Look, I would say this, we have had public monies again since antiquity, but we did something 30 to 40 some years ago where we layered over our public money system, various national security imperatives. Sanctions in Europe, the UN the US and the like. We also layered over various law enforcement initiatives. We could, because it went digital. I don't think we will or should back away from those public policy. Those are important to a couple 100 countries around the globe, it's not just the US.

But now Satoshi's innovation, while a catalyst for change, when we think about payment systems, and when we think about good faith actors making payment systems more efficient, it's also challenging and it's being used to challenge those sanctions and law enforcement and guarding against illicit activity and tax compliance. And I think that's been a challenge in many nations. That simulation was about something different though. That simulation was about something about nation states saying in this digital age, how do we provide our currency, our sovereign fiat currency to the public. We used to do it with coinage and paper. It's actually linen in the US with paper money and providing that to the public. Now that we live in a digital age, our digital money is commercial bank money. But nations around the globe are saying maybe to do something a little different and I leave that to my colleagues at the federal reserve and treasury, and maybe in Congress to determine that. Our remit at the SEC is about investor protection in the market. But you're right. There is this national debate going on about how that fiat money is potentially directly provided in a digital form to the public.

Paul Vigna: Yeah. In your opening remarks, you had mentioned the word trust. And I think it's very interesting that that's a word that Nakamoto used when he introduced Bitcoin also, in terms of saying that that trust had often been betrayed by the existing system. You wanted to go around and want to find a way around that. And you look at what has emerged in the Bitcoin world, and like you said, a lot of it it's like the Wild West. There are myriad betrayals of that trust. I get emails all the time from people who have been scammed, [inaudible 00:35:20], how do you... it interesting because now you're coming in as the SEC and basically you're saying we're going to regulate trust. You're going to put in laws that will create a framework in which people can trust each other. So sort of ironic. How [crosstalk 00:35:43]

Gary Gensler: Well, here's a thing, Paul, I am who I am. I truly believe the innovations in the 1930s helped economic growth in America. What Franklin D. Roosevelt and that Congress, a series of Congress has put in place around our securities laws lifted economic growth because the American public can have a greater trust in the market and companies, good faith companies trying to raise money, could raise that money. We'd have basic bargain. Investors can take risks. Investors fine, but disclose the material information to them and protect them against fraud and manipulation. That's where we are. And that's where I am about Bitcoin and the crypto space. If somebody wants to invest, as they have in gold or silver, that might be a speculative play, but to layer over that investor protection. And I think that enhances economic activity, but also protects investors.

We wouldn't have the use of automobiles today if we didn't have some basic bargain. If we had no traffic lights, no stop signs, no cop on the beat, do you think Detroit or later other cities, great cities in the South that have a lot of the automobile factories now in America, would they be producing as many cars if we didn't feel safe on the roads or at least within some margin of error safe on the roads?

So, similarly, I deeply believe in markets, but I think as new technologies come along, we adjust, and we still have core public policy goals. Investor protection, financial stability guard against illicit activity, and yes, national security.

Paul Vigna: We're going to turn it over to Q&A, so I think I have basically one more question. I want to ask you in your [inaudible 00:37:32] congressional testimony, you had pointed out that, and you said it today too, that you could use more staff and you have [crosstalk 00:37:39]-

Gary Gensler: That's a bit of an understatement. Let me say, there's 1500 tokens that purport to be over a million dollars of value. There's dozens of platforms that say, "Come here, lend us your crypto." I mean, you could go on site right now and find some that are touting 4% return, 7% returns, 9% returns.

Paul Vigna: [crosstalk 00:38:01]

Gary Gensler: I am not touting any of them, for those eliciting in investing public. But who's looking after the investors is to those, are they good faith actors that are really there or are they Ponzi schemes? Are they somewhere in the middle? And so yes, we could definitely use more staff in this area.

Paul Vigna: Yeah.My question is how effective can the SEC be given staffing issues and given all your other responsibilities in the crypto markets of $1.6 trillion market, capital markets are a $100 trillion. I mean, how much attention can you really dedicate to the crypto market?

Gary Gensler: Now, look you're raising the right questions. It's a question... The authorities are largely there. I think working with Congress, we can get some additional authorities, particularly with regard to these platforms. But it's also quite a resource intensive area. And unfortunately their entrepreneurs and technologists are standing up platforms and maybe they're sitting in a jurisdiction in a small island nation. I mean, some of these are registered in the Seychelles, I'm sorry I'm not trying to start any national security issue with the Seychelles, but they're registered in Malta or is it Seychelles or the Cayman Islands. And so they're trying to sort of say, we don't take US investors, we don't take us persons, but then maybe as alleged it's coming through VPN. And so these cases take some time to put together. So it's a resource issue. We have a lot of authorities, but yes, I think working with Congress, we could get some additional ones around these platforms.

Paul Vigna: All right. Okay. We want to leave some time for Q&A. We know there's about a couple of 100 people out there and you all have questions I'm sure. So I'm going to turn it over to Anja and we can get some questions.

Anja: Thank you so much, Paul. That was fantastic. And thank you, Chair Gensler for all of your comments. As you might imagine, our Q&A function is exploding here. And so-

Gary Gensler: All right Anja, lets rock and roll.

Anja: Exactly what I will do is I'll combine various questions because they tend to be along a number of themes, and then I know we've got some distinguished members of the audience that will call up and ask as well. The first one is I noticed you made a comment early in your speech that said, the probability is that with 50 plus tokens, that most of them are securities. The Q&A exploded into understandably well, how do we know which one is security, which one isn't? Why did Ethereum and Bitcoin get a free pass? And do you believe that's still appropriate even though Ethereum, many people believe was an ICO? Are you going to keep doing this regulation through litigation, which is what currently is going on, or are you going to set some clear criteria so people in the market will know if they're issuing a security or if something has become a real currency or a commodity, because it has a real use case?

Gary Gensler: So it's a great set. I know you're combining different people's questions, it's a great set of questions. Let me say, I think there's actually a fair amount of clarity. And why did I quote Jay Clayton to say it crosses chairs, it crosses party lines, it crosses different philosophies. I mean, Jay and I really met as he was in this job, and he was in his job and I was at MIT. I think there's a lot of clarity, this Howey Test and these other [inaudible 00:41:44] Test, there's something called Gary Indiana, Gary Plastic, not Gary down slip. There's a number of tests that really is quite clear. What I'm trying to say about the platforms, and then I'll get to your point about regulation by litigation, I think was what Anja said.

Anja: Yeah. Actually it's a question that I think came from John Burton and Julie Glovis.

Gary Gensler: Oh, sure. They're John and Julie. But I think that the platforms... Look, if you have three or five tokens, I'm not going to judge any one token. It's facts and circumstances. I'm not going to judge any one token this open WebEx. It's possible. But when you get to 25, 50, 100 tokens, probabilities are, it's pretty unlikely that all 50, all 100 don't pass the Howey Test. And why is that? The Howey test it is core, three-part test, but the Howey test, did you give somebody money in anticipation of profits [inaudible 00:42:48] their efforts.

Now, usually there's a handful of people at the center of these XYZ project or ABC project, I'm not going to use names. There's usually a handful of entrepreneurs and technologists that in fact the investor is hoping those people do well. So that means anticipation of profits on the efforts of others. I think it's kind of just reasonably clear. I would say very clear-

Anja: So, sorry. Just to clarify [crosstalk 00:43:19]

Gary Gensler: Now in terms of the enforcement, yes, we're going to use our enforcement authorities as my predecessors did six or seven dozen times and we'll continue to do that. What I'm also saying to those platforms, come in and discuss it with us, get registered. Work with us and work with Congress if there's things that might be appropriately shifted in our laws, additional authorities or adjustments. That's what new technologies come along. Internet came along in the 1990s and they SEC did do some adjustments under a great leader, Arthur Levitt. And Congress also weighs in from time to time. It shouldn't just be stack, but I'm saying, I think a lot of this is clear than some of the entrepreneurs would like to think.

Anja: Understood.

Gary Gensler: With all respect, with all respect.

Anja: Yeah. So you're focusing on the part of the Howey Test that says a small group of people put this together?

Gary Gensler: Well, it's basically an anticipation of profits on the efforts of the sponsor or others and so forth. And that is... It depends on the facts and circumstance, but that is the story of a lot of these circumstances.

Anja: So by that definition, would you draw a different line because Ethereum of course is backed by a small group of people?

Gary Gensler: Good try, good try. You've tried a third and fourth time, but I'm not going to go into any one token.

Anja: Absolutely.

Gary Gensler: Gurbir Grewal would tell me I would shut, and he's our wonderful new head of enforcement, so.

Anja: Makes a lot of sense. I'll just disappoint the 100 plus people who have asked this question in different ways.

Gary Gensler: Right, right. Well I wouldn't want to disappoint [inaudible 00:45:00].

Anja: Absolutely. Here's another one that came from Emilio [Mojia 00:45:04] and several others and it was asked in several different ways. Bitcoin mining happens largely in China. A lot of that happens-

Gary Gensler: Now, that's starting to shift. That's starting to shift, but yes.

Anja: True. But the question is, it's done with a lot of electricity through dirty coal. Ethereum, also proof of work. The SEC has made a lot of emphasis on, in my view rightfully so on climate change and disclosures. Are you going to require companies for example, to disclose if they hold cryptocurrencies that have a big environmental impact? [crosstalk 00:45:43]

Gary Gensler: No, no, it's a really good question and you're right. Nakamoto's innovation back to the... By the way, I'm still waiting. Paul, you're going to tell me who Satoshi Nakamoto, who she is, right?

Anja: [inaudible 00:45:56]

Paul Vigna: I'll tell you after. I'll tell you after.

Gary Gensler: All right. All right. All right. But in all seriousness, if any of the 1000 listeners actually know, we all would like to know who. This is a foundational story that we don't know who the foundation is, that person. But back to that, that Nakamoto innovation relies on computers solving a small computational puzzle. And that takes electricity and the larger the network, the more electricity. And it is big. It takes a lot of electricity, as you say, in China and other countries, the proof of work.

I think we are at a time in the 2020s, that the SEC, right in our remit is to update because investors want information about climate risks of their issuers. If I'm investing in a company, I want to know and many investors want to know about the climate risks, the physical risks and the transition risk as countries and companies are committing to certain futures. Net zero is what people talk about but other futures in that in greenhouse gas emissions.

To your question, or to the questioner's questions, there is a really interesting intersection between climate risk disclosure, which hopefully the staff will propose to our convention. We haven't proposed a yet, so I don't want to get ahead of it and we'll take public comment. But there is an interesting intersection, if we are successful and have a climate risk disclosures for issuers and if some issuers is buying cryptocurrencies are making a lot of that space, what is their carbon footprint so to speak? What is their greenhouse gas emissions? And I hate to get a little technical, it relates to a part of what we will be seeking public comment on, is not only the greenhouse gas emissions of the issuer, but what's called Scope 3. What is the greenhouse gas emissions of their suppliers and their customers that they're affecting? And that's something we're going to, hopefully the staff will recommend to our commission and we'll see what the public says. So a lot yet to be thought through and we really do. We look forward to public comment on these intersections.

Anja: That's very helpful. Thank you. Let me now call on Bob Hormats, who is I think a veteran of five US presidential administration and senior levels at the statement US trade representatives office and elsewhere. Bob [crosstalk 00:48:36]

Gary Gensler: So let me just say first, Bob, it's terrific to see you, Bob. You've served our nation so admirably over so many administrations, but we also work together at a small wall street shop years ago.

Bob Hormats: We did. It's great to see you again, Gary. And my question, or really dual questions really go back, not just to the current job you've got, which are doing so admirably well, but in the past where we've had the pleasure of collaborating. And that is one of the reasons, not the only one for sure, but one of the reasons other countries or other governments are exploring the notion of cryptocurrencies or various types of digitization of currency relates to the fact that we have been using our capital markets and in effect the dollar as a source of leverage, you touched on this. Paul did as well. China's not the only one, some other countries are as well.

So the question I have is how are you in your current job and how should the US government be approaching the balance between using these financial weapons to impose leverage on countries and incentivizing them to develop vehicles of the kind you're talking about or others that are less regulated which Americans could have access to one way or another to find the right balance, because that is an actual security issue. At some point, the leverage we have might turn into dust if other countries are able to do this.

And the second question really relates to, if you look around the world, other countries, other agencies of other countries are grappling with the very same issue. How much collaboration have you had with other countries? And have you found other countries that are either further along or have different perspectives that you have found interesting and worth exploring in our context?

Gary Gensler: So I've only been in this job three months, but [inaudible 00:50:52] it's been a lot of collaboration, I'm going to do your second question first. There's a lot of collaboration with other nations through the financial stability board, through the usual forums what's called IOSCO and some bilaterals on a bunch of issues. I mean, what financial stability on money market funds, on climate risk and, yes, on something called the LIBOR transition, a lot of really good collaboration.

In crypto, my observation that goes beyond my three months in the job, but also my study of it at MIT, lot of collaboration around again, these financial forums around cryptocurrencies in terms of illicit activity, around stable coins, and the look at some big projects like this Facebook project, I'd say that in the investor protection space, it's been a little bit more jurisdictional focus than international focus. And I think that's one of the challenges. I mean, I've had really good conversations with other regulators, but I think this jurisdictional approach, basically some of the platforms are trying to play arbitrage between jurisdictions.

On your earlier question, and I can't help it thinking, how do you stay so young because the audience might not know that Bob, actually, if I remember was a young staffer in the state department in the opening up of China. Am I not mistaken that you were there-

Bob Hormats: That's correct Gary. That's correct.

Gary Gensler: You were a staffer with Henry Kissinger going to China.

Bob Hormats: I was his economic advisor and went with China. So anyone who has the China issue or a complaint call me up.

Gary Gensler: Oh my God, you were at the [crosstalk 00:52:41]

Bob Hormats: At that point there was no trade and no investment at all. So it shows you went to the point of how the world's changed.

Gary Gensler: But that's why I'm raising that just for a moment to say a lot's changing. And so we layered as nation states over our digital money system. Remember we went from paper to digital and we layered over sanctions, anti money laundering, tax compliance. So when Satoshi comes along in 2008, Halloween night, he writes this eight page paper, nobody's noticing. I mean, there was the crisis. But it's not all that surprising. It started to be used as a private form of sort of arbitrage to avoid and skirt some of the public policy goals of sanctions [inaudible 00:53:34] money laundering, tax compliance. You're asking a different question about nation states and how they would feel, and I'm going to try to leave that to others in the administration. I do have some personal views, but it's not really in the remit of the SEC, but I share your view that there's competition amongst digital forms of money, Satoshi's private money and the public monies, but you're also highlighting there's potential competition amongst public forums and money.

I think for the US, we've got an incredible capital market. We have really deep respect for the rule of law. We have open financial markets. And so I think one of the jobs I have as chair is to ensure that whatever years, God, and President Biden given me in this job, that I ensure that the capital markets are stronger when I leave it than when I got it and that's why I'm thinking about projects in the equity markets, the treasury markets, the corporate and municipal markets that we really ensure that they stay the shiny object that, the most efficient markets in the world. [crosstalk 00:54:43]

Bob Hormats: And that is the national security.

Gary Gensler: I think it's very much. I think the SEC is a domestic economic agency, but overseeing a $100 trillion capital markets, it's a national security. I think it's one of our real secret sources of the US.

Bob Hormats: I agree. I agree, very much so. Thanks. Thanks for the great job you're doing.

Anja: Thank you very much, Bob. And Gary, I'll just ask one final question, since there are many more in the Q&A. Neil Mulholland, Michael Davis, and several others asked this in various forms. And I think it goes to the timing of clarity on crypto regulation. So you said that you may need legislation. You said that you're doing an internal review. In the meantime, there are a lot of people relying on trying to figure out what to do in this space. And then there was another question that went to, well, Japan and the UK and others have been clearer about it. When can we expect a real pronouncement and regulatory clarity? I know you said-

Gary Gensler: So Neil and Michael, with all respect, we've been awfully clear on a bunch of this stuff. So I'm pushing back a little bit with all respect and is that, I think that Jay Clayton was pretty clear four years ago, or, no three and a half years ago. I think 75 cases in this area. And you can go to the SEC website and see them, have been clear. I think the [DOWA 00:56:16] report in 2017, the [inaudible 00:56:19] order late in 2017 and on and on.

I do think there's work that we're doing in custody. I doubt that's why Neil and Michael raise it. I do think there's work we're doing in custody that we can bring. I think that we're seeing some progression in the fund space. As I mentioned, we have some mutual funds and I anticipate we'll have some filings and being technical under the 40 Act for ETFs and just investing in Bitcoin futures.

But I think where we can use some additional work with Congress is one of these platforms. We're going to do everything we can. And I do encourage those platforms to come in and talk to us, register. I mean, probabilities are, you've got securities on your platforms. Maybe not, maybe not, but... And so I think we have these six or seven different work streams, so it sort of depends. But I think we've got a lot of clarity and it's not just the 75 cases we've brought. It's not, it's just it's the law. It's the law. If you follow what the law is, so.

Anja: [inaudible 00:57:31]. Thank you very much for taking the time to speak to us. Clearly, a huge amount of interest in this space, also from the national security community. And thank you for all the great and thoughtful work you're doing on this issue.

Gary Gensler: Thank you. Thank you so much, Paul and Nick for inviting [inaudible 00:57:47] Bob for the [inaudible 00:57:47], and all your questioners.

Anja: Yes, absolutely. Very enthusiastic. Thanks very much.

Bob Hormats: Thanks Gary. Thanks.

Anja: We now will turn without a break to a different part of the world entirely, and that is Saudi Arabia.