



Daniel Davis Discusses Crypto Regulatory Uncertainty With *Fortune*

September 21, 2022

In light of Securities and Exchange Commission (SEC) chair Gary Gensler's recent comments to the US Senate Committee on Banking, Housing, and Urban Affairs, Financial Markets and Funds partner and former general counsel at the Commodity Futures Trading Commission, Daniel Davis spoke with *Fortune* regarding all of the uncertainty surrounding cryptocurrency regulation.

Dan noted that determining which regulator should oversee cryptocurrency comes down to whether a particular cryptocurrency or token is a security under securities law. While there have been ad hoc statements about crypto, more guidance and official policy is needed. One area he feels needs greater clarity is on the small number of tokens that Chairman Gensler consistently describes as not being securities. Dan stated, "It would be great for the crypto industry if [he] would tell us why. It would give some more specific, concrete notions of what is and isn't a security."

The need for greater specificity holds particularly true as Chairman Gensler maintains that existing regulations are adequate, while seeking to update other rules. Dan added, "It certainly seems that the SEC, given the [amount] of rule making they've done over the past year, they certainly seem to have no hesitation in reaching for the rule-making bucket when they want to explore and address an issue." However, he noted, "It's easier to bring enforcement action than it is to engage in rule making. Notwithstanding that, there are enormous benefits to rule making and from giving the public a better idea of what the rules of the road are."

["Our rules have to evolve': The crypto industry is trapped in regulatory purgatory," *Fortune*](#), September 19, 2022

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