

OPENING STATEMENTS

Opening Statement: Chairman K. Michael Conaway: Committee on Agriculture Full Committee Hearing: Cryptocurrencies: Oversight of New Assets in the Digital Age

Washington, July 18, 2018

Remarks as prepared for delivery:

Good morning. I see a lot of new faces today as we tackle a cutting-edge topic for the committee: digital assets.

For those of you who have not joined us before, welcome. We are happy to have you as we discuss an emerging policy area that is of deep interest to our members, to the emerging cryptocurrency industry, and...we hope...to Americans of all stripes.

Digital assets like Bitcoin and Ether, but also like hundreds of other token-based projects that are being developed, represent a new way for people to interact and engage in commerce with one another. While digital assets are often thought of as “payment systems” or “digital gold” I believe the promise that token networks hold is more universal – and more exciting – than that.

For the first time, we have a tool that enables individuals to reliably exchange value in the digital realm, without an intermediary. We can have assets that exist – and can be created, exchanged and consumed – in digital form. The promise of being able to secure property rights in a digital space may fundamentally change how people interact with one another. This technology holds the potential to bring enormous benefits to each of us, if we are willing to give it the space to grow.

Providing a strong, clear legal and regulatory framework for digital assets is essential. To that end, there are several questions before us about how laws should govern the issuance, trade and utilization of digital assets.

Perhaps no question has generated greater uncertainty than how to determine if a particular token is a security. We generally know what to do if a commonly traded asset is deemed a security – we apply the securities laws. And if it is not a security, there is a good chance it’s a commodity and subject to the requirements of the Commodity Exchange Act.

The problem seems to be in making that determination. The Howie Test, which concerns the sale of orange groves and service contracts in the 1940s, is often presented as the standard test to determine if the securities laws govern a token, yet they have proved challenging to analyze under the test.

A related question is whether or not the current laws are appropriate for these new digital assets. If a token is determined to be a security or a commodity or something else, our regulatory regime need not be static. If it’s necessary, Congress and regulators may want to consider developing a new framework that takes into account the diverse characteristics and unique economic relationships embedded in the many types of digital assets that can be represented by tokens.

Providing clear guidance to enable developers to determine the nature of their token and then suitable rules to enable them to develop their project, is essential to both protecting the public and promoting innovation. How we regulate these products and those who develop them won't determine if they are developed and used, but it will determine if they are developed and used in our country.

As we consider changes to the law or new regulations, the Committee on Agriculture will be a part of the conversation. Within the House, we have a vested interest in the definition of a security, because it directly impacts the definition of a commodity.

Similar to our work in agricultural commodities, as well as futures and swaps markets, the committee has a strong interest in promoting safe, efficient and transparent markets for those who use these new token markets. Properly regulated markets promote innovation and foster economic growth, and I don't believe that will be any different with digital assets. Of course, "proper regulation" does not mean "intrusive regulation." It means, regulation appropriate to the nature of the activities and the participants, and in some cases, it might even mean no regulation at all.

Before I turn to our ranking member, I want to thank all of our witnesses for making the time to prepare and testify. We have an incredibly qualified panel to present all sides of a fascinating and complex set of issues. I am pleased to welcome you all, and I look forward to our conversation today.