Are Your Crypto Tokens Securities?

By: www.ProfitableInvestingTips.com

A storm of regulation is descending on the world of cryptocurrencies. About a year ago President Biden issued an executive order regarding the **future of US money and payment systems**. He told the necessary government agencies to get themselves organized in regard to crypto regulations. Who should be in charge of what in this realm needed to be sorted out. While the **new EU crypto rules** are a comprehensive package of laws to regulate cryptocurrencies in the European Union, the US Congress has been dragging its feet and not providing regulators with any guidance.

So, folks like the SEC (Securities and Exchange Commission) and CFTC (Commodity Futures Trading Commission) are taking matters into their own hands by asserting that various parts of the crypto world fall into their regulatory domains. One of the issues that will soon be sorted out in court is this question. Are your crypto tokens securities?

SEC Case Against Coinbase

Bloomberg reports that the **Coinbase is being sued by the SEC**. Coinbase is the largest US crypto exchange and the SEC is already suing Binance, the largest crypto exchange in the world. In the absence of direction by Congress, the SEC is asserting, among other things, that crypto tokens are securities. Therefore they fall under the jurisdiction of the Securities and Exchange Commission. According to the SEC a large number of crypto tokens are unregistered securities. Because none of these tokens has been registered as a security, the SEC says that Coinbase has been breaking the law. According to the SEC, Coinbase has been acting as a broker-dealer, an exchange, and a clearinghouse for securities. All of these functions require registration as such and compliance with a whole set of rules that Coinbase and other exchanges have not been following.

How Is a Virtual Currency a Security?

The SEC is basing its argument on a 1946 US Supreme Court decision. The decision implies in this case that if people buy the virtual currency to fund a project or a company and intend to profit from their efforts, that makes the virtual currency a security. The other part of the decision was that the item under consideration is being offered by a third party issuer (in this case, Coinbase). In this regard, the SEC says that SOL, ADA, MATIC, FIL, SAND, AXS, CHZ, FLOW, ICP, NEAR, VGX, DASH, and NEXO are all securities. These crypto tokens are all offered on Coinbase.

Is Bitcoin a Security or a Commodity?

Gary Gensler, the head of the SEC, has previously noted that the SEC does not see Bitcoin as a security but rather as a commodity. Gensler has said that while Bitcoin is, and should be regulated as a commodity, pretty much every other crypto token should be treated as a security. The end goal is to protect investors. He notes that no matter if a crypto exchange calls itself that or says it is a lending or staking service, they need to be in

compliance with the rules that other financial markets follow. They should not commingle funds, mislead their clients or the public in general, or do things that traditional financial markets are not allowed to do. As an example, Gensler has noted that the New York Stock Exchange does not make markets, run hedge funds, act as a clearinghouse, or play with customer assets. All of these separate functions are separated out to prevent conflicts of interest and regulated separately no matter if they are considered **commodities or securities**.

Cryptocurrencies and Securities and the Future of Crypto

Doomsayers are stating that the common goal of the SEC and CFTC is to make crypto trading impossible in the USA. If the SEC and CFTC succeed in their efforts to bring cryptocurrencies under their regulatory wings, we expect that serious investors with very serious capital will become more interested in this investment arena. People who manage multi-billion-dollar investment funds expect to be able to control their risks. That generally means having a clear view of the inside workings of the companies they invest in and the markets in which they trade and invest. Crypto was on the doorstep of further growth before higher interest rates and the threat of recession drove markets, including crypto, down. The exposure of unexpected levels of poor business management and outright fraud was a greater blow to the legitimacy of crypto than the monetary losses of crypto winter. Getting crypto's regulatory house in order will be more likely to help than hurt over the long term.

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