

Keith Miller Quoted in Law360—Gensler Is Ready to Make SEC the Crypto Cop. But How?

Partner Keith Miller was quoted in "[Gensler Is Ready to Make SEC the Crypto Cop. But How?](#)" an article in *Law360*,* regarding the U.S. Securities and Exchange Commission (SEC) Chairman Gary Gensler's message that the agency will play a big role in policing the cryptocurrency market.

Gensler also said he's seeking additional authorities from Congress to "prevent transactions, products and platforms from falling between regulatory cracks," which further raises the prospect of looming enforcement efforts, Perkins Coie LLP partner and former SEC enforcement attorney Keith Miller told Law360.

Even just the proliferation of cryptocurrencies, trading platforms and other participants seen in the last few years suggests that more enforcement activity is on the horizon, Keith said. But he said he suspects the enforcement division will be primarily going after outright fraud and "more egregious cases" of misconduct rather than registration cases, since the "the SEC has been unclear in providing guidance to market participants regarding what is a security."

"The guidance they provided, frankly, I think is helpful but ... if you have two commissioners saying that the application of digital assets to the Howey case is unclear, then how can a reasonable person of ordinary intelligence decipher the securities laws in this context?" Keith said. "We pride ourselves on the rule of law, and the rule of law requires that people who are charged have a reasonable opportunity to understand what they're being charged with and why it's a violation of the law."

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