

United States Senate

WASHINGTON, DC 20510

January 9, 2024

The Honorable Gary Gensler
Chair
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Dear Chairman Gensler,

We write to express concern and request clarity regarding the Securities and Exchange Commission's ("the Commission") social media communications about its approval of Bitcoin exchange-traded funds ("ETFs").

On January 9th at 4:11pm, the Commission's official X account announced that it had approved Bitcoin exchange-traded funds to be listed on all registered U.S. securities exchanges.¹ The announcement was immediately reported by major news outlets and shared widely on social media, resulting in the price of Bitcoin significantly spiking in value.² At 4:26pm, you posted on X that the Commission's account was compromised and made an unauthorized post, clarifying that the Commission had not approved the listing and trading of spot Bitcoin exchange-traded products.³ The news, introducing widespread confusion regarding the approval status of Bitcoin ETFs, caused the price of Bitcoin to plummet.⁴

These developments raise serious concerns regarding the Commission's internal cybersecurity procedures and are antithetical to the Commission's tripart mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. The announcement and subsequent reversal led to extreme volatility in the price of Bitcoin. Investors were, and remain, incredibly confused by the Commission's communications surrounding the long-awaited and consequential decision regarding Bitcoin ETFs. The United States is home to the world's deepest and most liquid capital markets and stability and soundness are imperative if investors are to maintain their trust in our markets. It is unacceptable that the agency entrusted with regulating the epicenter of the world's capital markets would make such a colossal error.

To better understand the nature of the breach and surrounding details, please provide a briefing to my staff as soon as possible, but no later than January 23, 2024. In addition, please respond to the following questions and information requests by no later than January 23, 2024 and we urge the Commission to provide clarity to the public expeditiously.

1. Please explain, in detail, the nature of the errant announcement. Was the post announcing the approval of Bitcoin exchange-traded products made by an SEC employee or an

¹ U.S. Securities and Exchange Commission (SEC), X post, January 9, 2024, 4:11pm.

² Bitcoin USD (BTC-USD), CoinMarketCap, accessed via YahooFinance, January 9, 2024, <https://finance.yahoo.com/quote/BTC-USD/>.

³ Gary Gensler, X post, January 9, 2024, 4:26pm, <https://twitter.com/GaryGensler/status/1744833049064288387>.

⁴ *Ibid.* 2.

outside entity?

2. Has the Commission made an official decision regarding the approval of Bitcoin exchange-traded products?
3. Do these developments change or otherwise complicate the Commission's timeline for issuing a final decision on the approval of Bitcoin exchange-traded products?
4. Please explain the Commission's plans to investigate the error.
5. How does the Commission plan to rectify any financial losses borne by investors as a result of the errant announcement?
6. The Commission recently finalized a rulemaking regarding cybersecurity disclosures that will require a business impacted by a cybersecurity breach to file forward looking disclosures detailing all impacts to their business within four business days of said breach. If this "compromised" social media post was indeed a result of a cybersecurity attack, would it be possible for the Commission to provide Congress with a report on the breach within four business days? If not, please explain why.

Thank you for your attention to this important matter.

Sincerely,



JD Vance
U.S. Senator



Thom Tillis
U.S. Senator