



Congressmembers Tried to Stop the SEC's Inquiry Into FTX

Description

The 'Blockchain Eight' wrote a bipartisan letter in March attempting to chill the SEC's information requests to crypto firms. FTX was one of those firms.

The Securities and Exchange Commission was seeking information from collapsed cryptocurrency exchange FTX earlier this year, the *Prospect* has confirmed, bringing a new perspective to an effort by a bipartisan group of congressmembers to slow down that investigation.

The [March letter](#) from eight House members—four Democrats and four Republicans—questioned the SEC's authority to make informal inquiries to crypto and blockchain companies, and intimated that the requests violated federal law.

Rep. Tom Emmer (R-MN), whom the Republican caucus just elected as majority whip, the number three position in the House GOP leadership, led the letter. In a contemporaneous [Twitter thread](#), Emmer wrote: "My office has received numerous tips from crypto and blockchain firms that SEC Chair [@GaryGensler](#)'s information reporting 'requests' to the crypto community are overburdensome, don't feel particularly ... voluntary ... and are stifling innovation."

We now know that FTX was one of those firms receiving information requests from the SEC, about the very activities that have brought down the firm. This raises the question of whether Emmer and the other congressmembers were acting on behalf of FTX (which has been credibly accused of snatching customer money to make risky bets) to try to chill an ongoing investigation from an independent regulatory and law enforcement agency.

Some of the "Blockchain Eight," as the *Prospect* termed them in March, have benefited from crypto largesse. Five of the eight members received campaign donations from FTX employees, ranging from \$2,900 to \$11,600. Rep. Ted Budd (R-NC), one of the signatories, received half a million dollars in support from a Super PAC [created by FTX co-CEO Ryan Salame](#).

More consequentially, Emmer was the head of the National Republican Congressional Committee, the campaign arm for House Republicans, this year. The NRCC's associated super PAC, the Congressional Leadership Fund, received \$2.75 million from FTX in the 2022 cycle; \$2 million from

Salame in late September, and \$750,000 from the company's political action committee.

That money helped House Republicans win the majority in 2022. Though FTX has been portrayed as a Democratic firm, thanks to the high profile of former co-CEO Sam Bankman-Fried, the company sprinkled around campaign donations fairly evenly, with a shade over 50 percent going directly to congressional Republicans and a shade under 50 percent to Democrats this cycle.

In an email, the SEC declined to comment. Six of the eight congressmembers have yet to respond to the *Prospect's* inquiries.

Rep. Byron Donalds (R-FL) said through a spokesperson that the congressman was not attempting to influence ongoing investigations at the SEC, and did not exchange any communications with FTX. He was merely concerned with the SEC's procedure and guidance with crypto firms, which some have described as "regulation by enforcement." Donalds was not one of the members who received donations from FTX.

Matt Corridoni, a spokesperson for Rep. Jake Auchincloss (D-MA), another of the signatories, told the *Prospect*, "The congressman has been clear from day one that crypto needs strong and clear laws from Congress. The SEC will need to explain to Congress why, despite claiming that it didn't need new laws for exchanges, it failed to foresee this meltdown." He added that FTX never directly lobbied Rep. Auchincloss's office to join the letter.

A source with knowledge of the situation confirmed to the *Prospect* that FTX and Coinbase were two of the firms receiving inquiries from the SEC.

REUTERS REPORTED LAST FRIDAY on an internal FTX document, showing that the SEC had made informal inquiries earlier this year to FTX and other firms about how they handled customer deposits. As we now know, FTX was funneling customer funds to its associated trading firm Alameda Research. The newly installed CEO of FTX, John Ray, told a bankruptcy court last week about a "complete lack of corporate controls" at the company.

The SEC also asked FTX about a rewards program that gave depositors interest on their crypto assets, which could make them a security. SEC chair Gary Gensler has [been adamant](#) that crypto platforms are trading and minting securities, and that these securities needed to be registered with the agency. Crypto firms have generally failed to register anything.

In response to the inquiry, FTX asserted that the rewards program did not involve any lending and was aboveboard. The SEC then replied that it did not need further information "at this time."

A source with knowledge of the situation confirmed to the *Prospect* that FTX and Coinbase, a U.S.-based crypto exchange, were two of the firms receiving inquiries from the SEC.

Emmer and his colleagues questioned the SEC's inquiries in March. The letter condemned the "recent trend toward employing ... investigative functions to gather information from unregulated cryptocurrency and blockchain industry participants in a manner inconsistent with the Commission's standards for initiating investigations," and intimated that the requests were in violation of the Paperwork Reduction Act, even though that law doesn't apply to enforcement investigations. It asked

the SEC detailed questions about the information requests.

The eight members were Reps. Emmer, Donalds, Auchincloss, Warren Davidson (R-OH), Ted Budd (R-NC), Darren Soto (D-FL), Josh Gottheimer (D-NJ), and Ritchie Torres (D-NY). Budd was elected this year to the U.S. Senate.

Emmer made clear in his March [Twitter thread](#) that the letter was based on complaints from crypto firms, and that his intent was to stop the SEC from making these inquiries. “Crypto startups must not be weighed down by extra-jurisdictional and burdensome reporting requirements,” Emmer wrote. “We will ensure our regulators do not kill American innovation and opportunities.”

On the flip side, Emmer was quick to laud Bankman-Fried for his integrity and compliance with the law. In December 2021, Bankman-Fried testified before Congress, and [Emmer told him](#), “Sounds like you’re doing a lot to make sure there is no fraud or other manipulation.”

Emmer and Gottheimer led the Blockchain Eight in donations from FTX with each receiving \$11,600. FTX was in the top 15 of Emmer’s biggest donors in the 2022 cycle. Auchincloss received \$6,800, and Budd and Torres received \$2,900.

Coinbase has also contributed to members of the Blockchain Eight. Emmer received \$2,900 from Coinbase’s PAC in 2022; Gottheimer got \$2,900 from a Coinbase employee, and Auchincloss got \$2,000.

Budd was the beneficiary of [roughly \\$517,000](#) in spending from co-CEO Salame’s Super PAC, American Dream Federal Action.

But the millions in funds from FTX’s PAC and Salame to the House Republicans’ Congressional Leadership Fund dwarf the spending to individual candidates. As the lead signatory of the letter and the member who said he’d received “tips” from crypto firms that informed that letter, and as the head of House Republicans’ campaign arm, Emmer had the most to gain from a large donation to help the GOP win the majority. “We delivered,” Emmer said after the majority was secured.

Salame gave \$23.6 million to exclusively Republican candidates and causes in the 2022 cycle, in contrast to Bankman-Fried, whose \$40 million went to Democrats. A handful of members, including Reps. Chuy García (D-IL) and Kevin Hern (R-OK), have returned FTX donations, and Sens. Dick Durbin (D-IL) and Kirsten Gillibrand (D-NY) have donated the contributions to charity. None of the Blockchain Eight have yet said what they would do with their own FTX donations.

The catastrophe at FTX hasn’t stopped Emmer from continuing to boost crypto.

THE UNORTHODOX LETTER IS ANALOGOUS to the 1987 “Keating Five” scandal. Then, five senators (including a young Arizona Republican named John McCain) pressured the Federal Home Loan Bank Board (FHLBB) into shutting down an investigation into Lincoln Savings and Loan and its chair Charles Keating Jr. Keating was a donor to all five senators, giving \$1.3 million over the years.

The FHLBB did close its investigation into Keating and Lincoln Savings and Loan, right before it failed, costing the federal government \$3.4 billion as part of the \$125 billion S&L bailout. Keating was convicted of fraud and served jail time. The Senate Ethics Committee found that three members

improperly interfered with a federal investigation; McCain was cleared while being found to exercise “poor judgment.”

The aftermath of the letter has also mirrored the Keating Five situation. While the SEC did conduct its informal inquiry, it did not uncover the potentially fraudulent activity at FTX. It’s at least possible that the pressure from members of Congress deterred the SEC from probing further. Then, like Lincoln Savings, FTX imploded, leaving depositors high and dry.

But the catastrophe at FTX hasn’t stopped Emmer from continuing to boost crypto. At an event with the crypto trade group the Blockchain Association just last week, Emmer told the assembled crypto honchos, “You are here to stay,” and that nobody should “rush in and put a huge wet blanket of regulation atop this industry just because something didn’t go right.”

In March, the Blockchain Association [applauded](#) the bipartisan letter, saying that “champions” like Emmer were making America “a crypto innovation leader.” The Blockchain Association’s director of government affairs, [Ron Hammond](#), was previously the financial services policy lead for Rep. Davidson, one of the letter’s signatories.

In the wake of the collapse, Emmer has [intimated](#) that the SEC’s Gensler and FTX were “work[ing] on legal loopholes to obtain a regulatory monopoly.” With such comments, Emmer is playing into conspiracy theories that Gensler had ties to the firm and was operating in its interest.

These claims are far-fetched. One “six degrees of separation” theory involves Gensler working briefly at MIT with the father of Caroline Ellison, Bankman-Fried’s onetime girlfriend and the CEO of Alameda Research. Another notes that Mark Wetjen, a former Commodity Futures Trading Commission member when Gensler was chair in the Obama years, was hired as FTX’s chief lobbyist, and met with Gensler once.

But Gensler and Wetjen didn’t see eye to eye on the CFTC, and FTX was actively trying to get legislation passed to strip Gensler and the SEC’s authority over crypto.

Other Blockchain Eight Republicans have also criticized Gensler. “At this point, it’s hard to believe that @SECgov hasn’t engaged in selective enforcement,” Rep. Davidson wrote on Twitter last week.

Given that FTX was under investigation by the SEC in March, when Davidson and Emmer actively worked in public to shut that investigation down, claiming that it was illegal for the SEC to investigate crypto firms in that manner, their subsequent claims that the SEC wasn’t doing its job are certainly interesting. The SEC was told not to investigate, and is now being told that it investigated selectively.

The House Financial Services Committee has announced hearings during the lame-duck session into the FTX collapse. Emmer, Torres, Gottheimer, Auchincloss, Davidson, and Budd are all members of that committee. Unfortunately, they won’t be the ones forced to answer the questions.

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Date Created
November 2022