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CryptoLink



December 2023

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CryptoLink is a compilation of news stories published by outside organizations. Akin aggregates the stories, but the information contained in them does not necessarily represent the beliefs or opinions of the firm. Akin's December CryptoLink update includes developments from November and December of 2023.

On the one hand, the year ended where it began. The legislation on stablecoins and market structure that would provide a regulatory framework for digital assets has still not been enacted into law. And Securities and Exchange Commission (**SEC**) Chairman Gary Gensler remains deeply skeptical of the industry, rejecting requests for a crypto-specific rulemaking and continuing his 'regulation by enforcement' effort. There have been even more bumps in the road, particularly revived by associations of crypto with illicit activity in the wake of reporting about the role of crypto in financing terrorist activity.

On the other hand, the year has been a very positive one for those in industry with Congress pursuing a statutory framework that would encourage growth of the industry in the United States in a way that is safe for consumers. Congress moves slowly, but if you look closely enough you can detect the movement. Most importantly, House Financial Services Committee Chairman Patrick McHenry (R-NC) successfully reported both stablecoin and market structure bills through his committee over the summer. While the gold standard of support from the Democratic Ranking Member Maxine Waters (D-CA) remained elusive, he was able to secure some bipartisan support for both bills. And Ranking Member Waters remains engaged in negotiating the stablecoin bill. Her eventual sign-off would deliver substantial Democratic votes on the House floor. When it comes to the market structure legislation—the FIT for the 21st Century Act—Democrats continue to follow the lead of Mr. Gensler and remain quite hostile to the bill. However, both the White House and the Department of the Treasury clearly appreciate the need for a regulatory regime around stablecoins, and they are very much in the game trying to fine tune McHenry's stablecoin bill. And of course, all of this activity is occurring with the further mainstreaming of crypto through the recent spot Bitcoin exchange-traded fund (**ETF**) approvals.

So, going into 2024, there is reason to be optimistic for legislation that would further solidify the place of digital assets in the U.S. financial system and benefit consumers and developers. With Mr. McHenry announcing his retirement at the end of this Congress, he will be full steam ahead in trying to land a negotiated settlement with Democrats that would allow him to attach legislation to some larger must-pass legislative vehicle, probably in the November or December Lame Duck session of Congress.

Still, Democrats (and some Republicans), particularly in the Senate, have not abandoned their efforts to rein in the digital assets industry. They are largely focused on the issue of illicit finance. Progressive Senator Elizabeth Warren (D-MA) has teamed up with conservative

Senator Roger Marshall (R-KS) on their Digital Asset Money Laundering Act. And the Crypto-Asset National Security Enhancement and Enforcement Act (**CANSEE**), which would apply the anti-money laundering and economic sanctions compliance obligations imposed on traditional finance onto decentralized finance services, has attracted even greater bipartisan interest in the Senate. While none of this legislation is likely to pass in the short-term, it is easy to see a situation where the pro-crypto efforts in the House require some negotiation with the Senate, where there is a push to first address the relationship between digital assets and illicit finance, and the White House.

Ultimately, the regulatory future of crypto will be dependent in large part on the outcome of the 2024 elections. Should the House flip to the Democrats, Chairwoman Waters will be far less sympathetic to the industry than a Republican Chair. Even with Mr. McHenry retiring, his most likely replacements are similarly positively disposed to the desire of industry to secure a stable and consistent regulatory regime around crypto. And should the Senate flip to the Republicans (there is a good chance this happens), the new Chairman of the Banking Committee, Tim Scott (R-SC), will be much friendlier to the concerns raised by digital assets advocates than his predecessor, Chairman Sherrod Brown (D-OH), one of the biggest crypto skeptics in Congress.

Overall, 2023 was an extremely active year for regulatory enforcement action in the U.S. in the digital asset space. In its [annual report](#) summarizing its record of enforcement actions, the Commodity Futures Trading Commission (**CFTC**) noted that nearly half of all cases it brought in 2023 involved conduct related to digital asset commodities. Meanwhile, the SEC highlighted in its [2023 results](#) that it continued to bring enforcement actions for “crypto-related misconduct, including fraud schemes, unregistered crypto assets and platforms, and illegal celebrity touting.” On the criminal enforcement front, the United States Attorney’s Office for the Southern District of New York continued to be a frontrunner in bringing high-profile prosecutions, most notably with respect to its successful result in the trial of former FTX chief executive, Sam Bankman-Fried. Further, the Department of Justice and other government agencies reached a \$4 billion dollar settlement involving Binance, which included criminal charges against the former CEO, Changpeng Zhao.

Looking ahead to 2024, the question of which digital assets are securities will continue to be a focus for the SEC and is the subject of several ongoing cases against digital asset trading platforms. The SEC’s ongoing actions against Ripple and Terraform reflect the agency’s continued stance that nearly all digital assets constitute securities under the “Howey” test. Judicial opinions issued in 2023 in each of these cases provided the SEC with mixed results—in *Ripple*, the court ruled that sales of the XRP token in the secondary market did not constitute unregistered sales of securities while other, direct sales did constitute unregistered sales of securities; in *Terraform*, a different judge in the same courthouse granted summary judgment for the SEC on its claims that the defendants sold unregistered crypto asset securities. In 2024, it will be important to monitor the SEC’s ongoing cases against Binance, Coinbase and Kraken. In each of these cases, the SEC alleged not only that the platforms offered unregistered crypto asset securities on their platforms, but also that the platforms operated as unregistered exchanges, broker-dealers, and clearing agencies.

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Spotlight on Celsius

Acting as special litigation counsel for Celsius Network Ltd. and its affiliated debtors, **Mitchell Hurley** and a team of Akin litigators secured a bankruptcy settlement at the end of the year in the Southern District of New York resulting in the immediate transfer by StakeHound to Celsius of more than 27,500 ETH, 47.9 million MATIC and 90,940,000 DOT—tokens worth approximately \$105 million at recent prices. The settlement also provides Celsius with a substantial interest in claims against a third party worth as much as an additional \$180 million or more. The settlement comes after the Akin team previously secured a series of litigation victories, culminating in a temporary restraining order freezing all of StakeHound’s assets. The Akin team also includes **Dean Chapman** and **Elizabeth Scott**; counsel **Nicholas Lombardi** and associates **Michael Chen**, **Kyle McGoey**, **Tina Jeffcoat**, **Michael Stanley** and **Patrick Glackin**, attorney **Russ Collins** and paralegal **Amy Laraaj**. The Akin team was recognized for its victory with an honorable mention in the January 5, 2024 edition of the American Lawyer’s Litigators of the Week column.

Key Developments

Treasury Deputy Secretary Speaks at Blockchain Association’s Policy Summit on Digital Asset Industry

On November 29, 2023, the U.S. Department of the Treasury’s Deputy Secretary Wally Adeyemo spoke at the 2023 Blockchain Association’s Policy Summit, where he noted that the digital asset industry has grown at an “exponential rate” and emphasized the importance of industry proactively taking steps to “prevent digital assets from being used by transnational criminal organizations, terrorists, and rogue states.” Deputy Secretary Adeyemo referred to the “common-sense recommendations” provided by the Treasury to Congress on November 28, 2023, to “expand our authorities and broaden our tools and resources to go after illicit actors in the digital asset space.” In particular, Deputy Secretary Adeyemo noted that the Treasury are pursuing the creation of new sanctions tools targeted towards actors in the digital asset ecosystem that allow terrorist groups and other illicit actors to move their assets and are calling on Congress to create a secondary sanction regime that will not only cut off a firm from the U.S. financial system, but will also expose any firm that continues to do business with the sanctioned entity to being cut off from the U.S. financial system. In addition, Deputy Secretary Adeyemo noted that the Treasury’s illicit finance authorities need to be updated to match the challenges of today, including those presented by the evolving digital asset ecosystem.

The remarks can be found [here](#).

Financial Accounting Standards Board Issues Standard to Improve Crypto Assets Accounting

On December 13, 2023, the Financial Accounting Standards Board (FASB) published an Accounting Standards Update (ASU) intended to improve the accounting for and disclosure of certain crypto assets. According to the FASB’s press release, the amendments in the ASU

(i) improve the accounting for certain crypto assets by requiring an entity to measure those crypto assets at fair value each reporting period with changes in fair value recognized in net income and (ii) improve the information provided to investors about an entity's crypto asset holdings by requiring disclosure about significant holdings, contractual sale restrictions and changes during the reporting period. The amendments in the ASU are effective for all entities for fiscal years beginning after December 15, 2024, including interim periods within those fiscal years.

The FASB's press release can be found [here](#) and the ASU can be found [here](#).

SEC Chair's Statement on the Denial of Coinbase Rulemaking Petition

On December 15, 2023, SEC Chair Gensler issued a statement following the SEC's denial of a Petition for Rulemaking filed on behalf of Coinbase Global Inc. According to Chair Gensler, existing laws and regulations apply to the crypto securities markets, the SEC addresses the crypto securities markets through rulemaking and it is important to maintain the SEC's discretion in setting its own rulemaking priorities. Chair Gensler noted that there "is nothing about the crypto securities markets that suggests that investors and issuers are less deserving of the protections of our securities laws" and the existing securities regime appropriately governs crypto asset securities. Nearly a year and a half ago, on July 21, 2022, Coinbase Global Inc. had filed a petition with the SEC requesting that the SEC propose and adopt rules to govern the regulation of securities that are offered and traded via digitally native methods, including rules to identify which digital assets are securities.

Chair Gensler's statement can be found [here](#) and Coinbase's petition for rulemaking can be found [here](#).

Key Enforcement Actions

Leader Of Miami Crew Sentenced To 63 Months In Prison For Defrauding Banks And Cryptocurrency Exchange Of More Than \$4 Million

On November 29, 2023, the United States Attorney's Office for the Southern District of New York (SDNY) announced that Esteban Cabrera Da Corte was sentenced to 63 months in prison by U.S. District Judge Katherine Polk Failla for organizing a scheme to steal millions of dollars' worth of cryptocurrency and trick U.S. banks into refunding the millions used to purchase that cryptocurrency by using, in part, stolen personal identifying information. According to the press release, from at least 2020 through March 2020, Da Corte and his co-conspirators engaged in a scheme to deceive U.S. banks and a leading cryptocurrency exchange platform by purchasing more than \$4 million in cryptocurrency and then falsely claiming that the cryptocurrency purchase transactions were unauthorized, deceiving the U.S. banks and the cryptocurrency exchange into reversing those transactions and redepositing the money into the bank accounts that the defendants controlled. The defendants then withdrew the money from the bank accounts while also keeping the cryptocurrency for themselves. The operation of the scheme resulted in U.S. banks processing more than \$4 million in fraudulent reversals and the cryptocurrency exchange losing more than \$3.5 million worth of cryptocurrency. In addition to his prison term, Da Corte was ordered to pay restitution of more than \$3.5 million and forfeiture of \$1.2 million.

The SDNY's press release can be found [here](#).

Treasury Sanctions Mixer Used by the DPRK to Launder Stolen Virtual Currency

On November 29, 2023, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) sanctioned Sinbad.io, a virtual currency mixer that serves as a key money-laundering tool of the OFAC-designated Lazarus Group, a state-sponsored cyber hacking group of the Democratic People's Republic of Korea (DPRK). According to OFAC's press release, Sinbad had processed millions of dollars' worth of virtual currency from Lazarus Group heists and was also used by cybercriminals to obfuscate transactions linked to malign activities such as sanctions evasion, drug trafficking, the purchase of child sexual abuse materials and additional illicit sales on darknet marketplaces. Deputy Secretary of the Treasury Wally Adeyemo stated that the "Treasury Department and its U.S. government partners stand ready to deploy all tools at their disposal to prevent virtual currency mixers, like Sinbad, from facilitating illicit activities."

OFAC's press release can be found [here](#).

Class Action Complaint Filed Against Block Assets, LLC

On November 30, 2023, a class action complaint was filed against Block Assets, LLC (doing business as Blockas.com, **Blockas**) for allegedly unjustifiably converting and keeping funds owed to users of its services in breach of contract. Plaintiff Michael Lynn Gabriel (on his behalf and on behalf of all others similarly situated) seeks to obtain possession of \$2.5 million that Blockas is holding for the plaintiff and to hold Blockas accountable for its allegedly fraudulent and unlawful practices.

The class action complaint can be found [here](#).

SEC and Terraform Submit Letters Regarding Whether Tokens are Securities and Judge Rules on Summary Judgement Motions

On December 4, 2023, the SEC and Terraform each submitted a letter to Judge Rakoff in the SEC's ongoing litigation against Terraform Labs. The letters follow the court's request on November 17, 2023, for the parties to submit their views on whether the crypto assets offered and sold by Terraform Labs are securities. In its letter, the SEC argued that the determination of whether the crypto assets were securities is a legal question to be determined by the court and not a factual question for the jury, in particular given there is "no genuine dispute of material fact" that Terraform's crypto asset offerings involved an investment of money with an expectation of profit (satisfying the *Howey* test). The SEC further argued that (i) courts routinely decide the question of whether an instrument is a security as a matter of law and (ii) the case presents no dispute as to any fact necessary to meet the *Howey* test and thus the issue is ripe for decision. In its letter, Terraform maintained that if the court denies summary judgment on the issue of whether the digital tokens at issue were securities, the Seventh Amendment to the U.S. Constitution would require a jury to decide whether each token is in fact a security. Terraform further argued that no trial is necessary for the reasons set out in their summary judgment motion (which seeks dismissal of all of the SEC's claims) and their constitutional right to a jury trial of the SEC's securities claims includes determination by the jury of all factual disputes relevant to the essential elements of those claims.

On December 28, 2023, U.S. District Judge Jed S. Rakoff of the SDNY issued an opinion and order in which it disposed of the parties' cross-motions for summary judgment, granted summary judgment for the SEC on the claim that Terraform offered and sold unregistered securities, granted summary judgment for Terraform on the claims involving offering and effecting transactions in security-based swaps, and denied both parties' cross-motions for summary judgment on the fraud claims. In the opinion and order, the court further

explained the reasons for its November 20, 2023 ruling denying Terraform's motions to exclude the testimony of the SEC's expert witnesses (Dr. Bruce Mizrach and Dr. Matthew Edman), denying the SEC's motion to exclude the testimony of the defenses expert (Dr. Terrence Hendershott), and granting the SEC's motions to exclude the testimony of two other defense experts (Mr. Raj Unny and Dr. Christine Parlour).

The trial date for the remaining claims is set for January 29, 2024, and the selection of the jury to hear the case will occur on January 24, 2024.

The SEC's letter can be found [here](#), Terraform Lab's letter can be found [here](#), and Judge Rakoff's order can be found [here](#). Akin's analysis of Judge Rakoff's opinion can be found [here](#).

Crowd Machine and Metavine Ordered to Pay \$26 Million to the SEC

On December 5, 2023, the U.S. District Court for the Northern District of California ordered defendants Crowd Machine Inc., Metavine Inc. and Craig Sproule and relief defendant Metavine Pty. Ltd. to pay approximately \$26 million to the SEC. In January 2022, the SEC announced charges against Craig Sproule, Crowd Machine Inc. and Metavine Inc. for making materially false and misleading statements in connection with an unregistered offer and sale of digital asset securities. The SEC then filed a motion seeking to disgorge the full amounts the defendants raised in the token sale or, alternatively, the full amount raised minus certain operational expenses. The court granted the SEC's motion in part and denied the motion in part. The court held that (i) the defendants are liable to disgorge, jointly and severally, \$19,676,401.27 plus pre-judgment interest, (ii) Metavine Pvt. Ltd. must disgorge \$5.5 million plus prejudgment interest and (iii) Crowd Machine Inc. and Metavine Inc. are each ordered to pay \$600,000 to the SEC within 14 days after entry of the order.

The court order can be found [here](#).

Founder and Majority Owner of Cryptocurrency Exchange Plead Guilty to Unlicensed Money Transmitting

On December 6, 2023, Anatoly Legkodymov, the founder and majority owner of Bitzlato Ltd., a cryptocurrency exchange that served as a primary conduit for dark market purchasers and sellers and a safe haven for illicit transactions by ransomware criminals, pleaded guilty to operating a money transmitting business that transmitted illicit funds. In connection with his plea agreement, Legkodymov agreed to dissolve Bitzlato and to release any claim over approximately \$23 million in seized assets of Bitzlato. According to court documents, Bitzlato, a Hong Kong-registered cryptocurrency exchange that operated globally, marketed itself as requiring minimal identification from its users and, due to these deficient know-your-customer procedures, Bitzlato allegedly became a haven for criminal proceeds and funds intended for use in criminal activity. Bitzlato's largest counterparty in cryptocurrency transactions was Hydra Market, an online marketplace for narcotics, stolen financial information, fraudulent identification documents and money laundering services that was the largest and longest running darknet market in the world. Hydra Market users exchanged more than \$700 million worth of cryptocurrency with Bitzlato, until Hydra Market was shut down in April 2022. Legkodymov faces a maximum penalty of five years in prison.

The DOJ's press release can be found [here](#).

Judge Orders Binance Founder Must Remain in U.S. Until Sentencing

On December 7, 2023, U.S. District Judge Richard A. Jones granted the government's motion and ordered that Binance founder Changpeng Zhao must remain in the United States during the period between his plea and sentencing and shall not be permitted to return to his home

in the United Arab Emirates. On November 21, 2023, Zhao entered a plea of guilty to the charge of failing to maintain an effective anti-money laundering program and sentencing for the matter is scheduled for February 23, 2024.

The order can be found [here](#).

Two Men Charged for Operating \$25M Cryptocurrency Ponzi Scheme

On December 12, 2023, the Department of Justice (DOJ) announced that a superseding indictment was unsealed charging David Gilbert Saffron and Vincent Anthony Mazzotta with operating a cryptocurrency Ponzi scheme that defrauded victims of more than \$25 million. The defendants allegedly conspired to operate a fraudulent scheme to induce victims to invest in various trading programs that falsely promised to employ an artificial intelligence automated trading bot to trade victims' investments in cryptocurrency markets and earn high-yield profits. In reality, however, Saffron and Mazzotta allegedly misappropriated victims' funds to pay for personal expenses including private chartered jet flights, luxury hotel accommodations, private mansion rentals, a personal chef and private security guards. If convicted, they each face a maximum penalty of 20 years in prison for each count of conspiracy to commit wire fraud and money laundering, 20 years in prison for each wire fraud count, 10 years for each money laundering count and five years for conspiracy to obstruct justice.

The DOJ's press release can be found [here](#).

New York Attorney General Secures More Than \$22 Million from Cryptocurrency Platform for Operating Illegally

On December 12, 2023, New York Attorney General Letitia James secured more than \$22 million from KuCoin, one of the largest cryptocurrency trading platforms, for failing to register as a securities and commodities broker-dealer and for falsely representing itself as a crypto exchange. The consent order resolves the lawsuit against KuCoin and requires the company to refund over 150,000 New York investors more than \$16.7 million and pay more than \$5.3 million to the state. KuCoin is further banned from trading securities and commodities in New York and is prohibited from making its platform available to New Yorkers. According to Attorney General James, "Crypto companies should understand that they must play by the same rules as other financial institutions, and my office will hold them accountable when they don't."

The New York Attorney General's press release can be found [here](#).

Binance Files Motion Regarding Settlement and Reply In Support of Motion to Dismiss In Ongoing Litigation Against SEC

On December 12, 2023, Binance Holdings Limited and Changpeng Zhao (the **Binance Defendants**) submitted a response to the Notice of Supplemental Authority filed by the SEC on December 8, 2023 (the **SEC Notice**), in which the Binance Defendants argued that the SEC failed to demonstrate the relevance of the settlement with the U.S. Department of Justice and Financial Crimes Enforcement Network (**FinCEN**) to the SEC's "defective claims" against the Binance Defendants. Furthermore, the Binance Defendants argued that the SEC's request to take notice of them should be rejected because the SEC is not providing new authority to the Court and is instead attempting to "introduce new factual information and arguments" through reliance on the settlement. The Binance Defendants further argued that the SEC's Notice does not support the SEC's claims because (1) the Binance settlement does not address whether the Binance Defendants were provided with fair notice of the SEC's theory that the assets at issue were securities and, (2) as relevant to extraterritoriality, the

SEC's jurisdictional admissions under the Bank Secrecy Act do not bring any of the SEC's claims within the reach of the securities laws.

Additionally, on the same date, the Binance Defendants, BAM Trading Services Inc. and BAM Management US Holdings Inc. filed their reply in support of the joint motion to dismiss the SEC's complaint and requested oral argument on the motion to dismiss.

The response to the SEC Notice can be found [here](#) and the reply in support of the motion to dismiss can be found [here](#).

OFAC Settles with CoinList Markets LLC for \$1.2 Million

On December 13, 2023, OFAC announced that CoinList Markets LLC, a California-based virtual currency exchange, agreed to pay \$1,207,830 to settle its potential civil liability arising from processing 989 transactions on behalf of users ordinarily resident in Crimea between April 2020 and May 2022, in apparent violation of OFAC's Russia/Ukraine sanctions. CoinList Markets LLC, a money services business founded in 2017, allows users to buy, sell and otherwise trade in crypto tokens and other crypto assets.

OFAC's enforcement release can be found [here](#).

Former Security Engineer For International Technology Company Pleads Guilty To Hacking Two Decentralized Cryptocurrency Exchanges

On December 14, 2023, the U.S. Attorney's Office for the SDNY announced the guilty plea of Shakeeb Ahmed in connection with his hack of two separate decentralized cryptocurrency exchanges. Ahmed pled guilty to computer fraud (which carries a maximum sentence of five years in prison) before U.S. Magistrate Judge Ona T. Wang and agreed to forfeit over \$12.3 million, including forfeiture of approximately \$5.6 million in fraudulently obtained cryptocurrency. According to U.S. attorney Damian Williams, "[f]ive months ago, my Office announced the first ever arrest involving an attack on a smart contract. Today, senior security engineer Shakeeb Ahmed pled guilty and agreed to return all of the stolen crypto to his victims. That arrest is now the first ever conviction for such a hack." According to the press release, in July 2022, Ahmed executed hacks on two separate decentralized cryptocurrency exchanges, an exchange referred to as the "Crypto Exchange" and Nirvana Finance. In July 2023, Ahmed was publicly charged with the hack of the Crypto Exchange. The guilty plea is the first public filing acknowledging Ahmed's responsibility for a second sophisticated, multi-million dollar hack he executed in July 2022 of Nirvana.

The SDNY's press release can be found [here](#).

Four Individuals Charged for Laundering Millions from Cryptocurrency Investment Scams

On December 14, 2023, the DOJ announced that a seven-count indictment was unsealed that charged Lu Zhang, Justin Walker, Joseph Wong and Hailong Zhu for their alleged roles in a scheme to launder the proceeds of cryptocurrency investment scams and other fraudulent schemes involving millions of dollars in victim funds. According to the DOJ, the four individuals were charged with conspiracy to commit money laundering, concealment money laundering and international money laundering. According to court documents, Zhang, Walker, Wong and Zhu allegedly conspired to open shell companies and bank accounts to launder victim proceeds of cryptocurrency investment scams, also known as "pig butchering," and other fraudulent schemes. The overall fraud scheme in the related pig-butcherer syndicate involved at least 284 transactions and resulted in more than \$80 million in victim losses. Zhang and Walker were arrested and made their initial appearances

in federal court on December 13, 2023, and, if convicted, face a maximum penalty of 20 years in prison.

The DOJ's press release can be found [here](#).

Federal Court Enters Order Against Binance and Zhao to Conclude CFTC Enforcement Action

On December 18, 2023, the CFTC announced that the U.S. District Court for the Northern District of Illinois approved the previously announced settlement and entered a consent order of permanent injunction, civil monetary penalty and equitable relief against Changpeng Zhao and his companies Binance Holdings Limited, Binance Holdings (IE) Limited and Binance (Services) Holdings Limited (together, **Binance**). In formalizing the settlement initially announced on November 21, 2023, the court found that Zhao and Binance violated the Commodity Exchange Act and CFTC regulations, imposed a \$150 million civil monetary penalty personally against Zhao and required Binance to disgorge \$1.35 billion of ill-gotten transaction fees and pay a \$1.35 billion penalty to the CFTC. The court order also ordered Zhao and Binance to make certifications as to the existence, application and efficacy of Binance's improved compliance controls, and permanently enjoins them from further violations as charged. A separate consent order requires Binance's former Chief Compliance Officer Samuel Lim to pay a \$1.5 million civil monetary penalty for aiding and abetting Binance's violations and engaging in activities outside of the U.S. to willfully evade or attempt to evade U.S. law.

The CFTC's press release can be found [here](#), the consent order against Zhao can be found [here](#) and the consent order against Lim can be found [here](#).

BarnBridge DAO Agrees to \$1.7 Million+ Settlement with SEC

On December 22, 2023, the SEC announced that BarnBridge DAO (a decentralized autonomous organization) and its two founders, Tyler Ward and Troy Murray, agreed to pay more than \$1.7 million to settle charges that they failed to register BarnBridge's offer and sale of structured crypto asset securities known as SMART Yield bonds. The SEC further charged the respondents with violations stemming from operating BarnBridge's SMART Yield pools as unregistered investment companies. In order to settle the SEC's charges, BarnBridge agreed to disgorge nearly \$1.5 million of proceeds from the sales, and Ward and Murray each agreed to pay \$125,000 civil penalties. Without admitting or denying the SEC's findings, BarnBridge, Ward and Murray agreed to cease-and-desist orders prohibiting them from violating and causing violations of the registration provisions of the Securities Act of 1933 and the Investment Company Act of 1940.

The SEC's press release can be found [here](#), the order against BarnBridge can be found [here](#) and the order against Ward and Murray can be found [here](#).

Founder Of Cryptocurrency Ponzi Scheme "IcomTech" Pleads Guilty

On December 22, 2023, the U.S. Attorney's Office for the SDNY announced the guilty plea of David Carmona for his role in founding and promoting a large-scale cryptocurrency Ponzi scheme known as IcomTech. Carmona pled guilty before U.S. District Judge Jennifer L. Rochon to one count of conspiracy to commit wire fraud, which carries a maximum sentence of 20 years in prison. According to the SDNY's press release, IcomTech was a purported cryptocurrency mining and trading company that promised to earn its victim-investors profits in exchange for their purchase of purported cryptocurrency-related investment products. However, Carmona and certain other promoters of IcomTech falsely promised that profits from the companies' cryptocurrency trading and mining would result in guaranteed daily returns on investments. In reality, IcomTech did not engage in cryptocurrency trading

or mining for its investors, and Carmona and Icomtech's other promoters used victim funds to pay other victims, to further promote the schemes and to enrich themselves.

The SDNY's press release can be found [here](#).

SEC Admits Inaccurate Statements In Litigation Against DEBT Box

On December 22, 2023, the SEC issued a response to the court's November 30, 2023, order to show cause in the SEC's ongoing litigation against Digital Licensing Inc. (doing business as DEBT Box). In its order, the court noted that the SEC is ordered to show why the court should not impose sanctions after the court found the SEC had misrepresented facts to obtain emergency measures against DEBT Box. In its response, the SEC acknowledged that SEC counsel made a representation during the July 28, 2023, hearing that, "unbeknownst to him at the time, was inaccurate," and SEC attorney's "failed to correct statements when they learned of the inaccuracy." The SEC noted that it deeply regretted the errors, and is taking steps to ensure those errors are not repeated. In addition, the SEC argued that the SEC staff have not engaged in any bad faith conduct that could support sanctions. The litigation follows the SEC obtaining a temporary asset freeze, restraining order, and other emergency relief against Utah based DEBT Box in August 2023 in connection with an allegedly fraudulent scheme to sell crypto asset securities to hundreds of U.S. investors that raised approximately \$50 million and unspecified amounts of Bitcoin and Ether.

The SEC's response can be found [here](#), the court's order can be found [here](#) and the SEC's prior press release can be found [here](#).

Akin Alerts

[Are Crypto Tokens Securities? Terraform Court Says 'Yes' in Extensive Decision, \(1/12/24\)](#)



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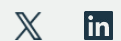
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