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CryptoLink



April 2023

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

In a single stroke, the March bank failures upended months of sustained efforts by lawmakers to come to a consensus on digital assets legislation. Heading into the summer, a looming debt ceiling crisis is certain to take up most of the oxygen in Washington. However, feeling vindicated in their skepticism of crypto following the collapse of FTX—and possibly by the bank failures as well—regulators such as Securities and Exchange Commission (SEC) Chair Gensler will feel more empowered than ever to continue to regulate crypto largely through enforcement actions.

The bank failures not only threatened to destabilize the banking sector, they also effectively quashed any nascent crypto bills for the foreseeable future. The exposure large crypto firms like Circle had in Silicon Valley Bank (SVB), coupled, in turn, with the exposed position SVB and Signature Bank found themselves in holding a large proportion of volatile crypto assets were two of several contentious points that made up the larger debate in Washington immediately following the bank failures. Some Republican lawmakers voiced concerns that regulators could take advantage of the failures to crack down on crypto firms even harder, part of “Operation ChokePoint 2.0,” an alleged coordinated effort by the administration and certain Democrat lawmakers to kill the crypto industry. Then, in April, during a committee hearing, Ranking Member Waters confirmed that because of the FTX collapse along with the bank failures, the committee would need to “start from scratch” on drafting crypto legislation, shattering the fragile censuses both sides had apparently reached at the end of the 117th Congress on stablecoins legislation (Waters blamed FTX and the bank failures, but also the fact that Republicans were apparently working on a crypto bill without Democratic input).

This issue of CryptoLink provides the latest background and news on all facets of digital assets. It also provides a recap of key legislation being considered by various congressional committees.

In this issue

- [Key Developments](#)
- [Key Recent Enforcement Actions](#)

Key Developments

Utah Legislature Passes Utah Decentralized Autonomous Organization Act

On March 1, 2023, the Utah legislature enrolled into law the Utah Decentralized Autonomous Organizations Act HB0357. The bill allows a decentralized autonomous organization that has not registered as a for-profit corporate entity or a non-profit entity to be treated as the legal equivalent of a domestic limited liability company.

The Decentralized Autonomous Organizations Act can be found [here](#).

McHenry and Lummis Send Letter to Banking Regulators Regarding Accounting Treatment of Digital Assets

On March 2, 2023, Rep. McHenry and Sen. Cynthia Lummis sent a letter to the Federal Reserve Board, the Federal Deposit Insurance Corp., the Office of the Comptroller of the Currency and the National Credit Union Administration raising concerns regarding the SEC Staff Accounting Bulletin 121 (**SAB 121**). The letter notes that the effect of SAB 121 is to “deny millions of Americans access to safe and secure custodial arrangements for digital assets” and therefore requested that the regulators respond to a series of questions regarding the impact of SAB 121 on banks, credit unions and other financial institutions.

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

McHenry, Emmer and Others Reintroduce Crypto Tax Bill

On March 7, 2023, House Majority Whip Tom Emmer, Chairman of the House Financial Services Committee Patrick McHenry and Rep. Ritchie Torres announced plans to reintroduce a bill that would scale back tax reporting requirements for cryptocurrency firms. McHenry’s press release notes that the Keep Innovation in America Act would “fix the digital asset reporting provisions in the Infrastructure Investment and Jobs Act, now law (**PL 117-58**), and provide much needed clarity to technology innovators and entrepreneur.” Emmer noted that the Keep Innovation in America Act seeks to “clarify the U.S. Tax Code’s definition of ‘Broker’ so the future of the digital asset ecosystem reflects American values.” Chairman McHenry similarly noted that the Keep Innovation in America Act would “fix the poorly constructed digital asset reporting requirements included in the Infrastructure Investment and Jobs Act.”

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

PCAOB Issues Investor Advisory Recommending Caution on Third-Party Verification and Proof of Reserve Reports

On March 8, 2023, the Public Company Accounting Oversight Board’s (**PCAOB**) Office of the Investor Advocate issued an Investor Advisory, noting that it is aware of some service providers, including PCAOB-registered audit firms, issuing proof of reserve reports (**Reports**) to certain crypto entities (such as crypto exchanges and stablecoin issuers) and that crypto entities may engage a service provider to issue a Report in an attempt to reassure customers. The Office of the Investor Advocate stated that it was issuing the Investor

Advisory because of concerns that investors and others may place undue reliance on the Reports, which are not within the PCAOB's oversight authority.

The Investor Advisory can be found [here](#).

President Biden's FY 2024 Budget Eliminate Tax Subsidies for Cryptocurrency Transactions

On March 9, 2023, the White House issued a fact sheet regarding President Biden's fiscal year (FY) 2024 budget, noting that the budget laid out President Biden's "plan to invest in America, lower costs for families, protect and strengthen Social Security and Medicare, and reduce the deficit." In particular, according to the fact sheet, the budget saves \$24 billion by eliminating a special tax subsidy for crypto currency and certain other transactions. The budget eliminates the tax subsidy for crypto currencies by modernizing the tax code's anti-abuse rules to apply to crypto assets similar to how they apply to stocks and other securities.

The White House's fact sheet can be found [here](#).

Michael Barr Speaks on the Federal Reserve's Approach to Supervision and Regulation of Banks' Crypto-Related Activities

On March 9, 2023, the Federal Reserve's Vice Chair for Supervision Michael Barr gave a speech at the Peterson Institute for International Economics in which he discussed the lessons learnt from the "recent turmoil" in the crypto sector and the role supervision and regulation should play in assisting banks manage their engagement with the sector. Barr noted that while the effects of the events in the crypto sector on Federal Reserve-supervised banks "have been limited in the aggregate thus far, recent experience has made it clear that crypto could pose risks to those banks." Barr further noted that the overall stance is that "at this stage of the development, banks should take a careful and cautious approach to engaging in crypto-asset related activities and the crypto sector."

Barr's speech can be found [here](#).

FDIC Files Memorandum Requesting Stay of Signature Bank's Fraud Suit

On March 20, 2023, the Federal Deposit Insurance Corporation (FDIC) issued a memorandum of law in its capacity as receiver for Signature Bank, requesting a stay of a proposed class action against Signature Bank over its ties to FTX on the basis that the case should be paused until an administrative claims process under the Financial Institutions Reform, Recovery and Enforcement Act is complete. The memorandum follows the commencement of a putative class action against Signature Bank by Statistica Capital and Statistica LTD on February 6, 2023, which claimed that Signature had "actual knowledge of and substantially facilitated the now-infamous FTX fraud" against its customers. On March 12, 2023, the New York State Department of Financial Services closed Signature and appointed the FDIC as the bank's receiver, which is now charged with the duty of winding up the bank's affairs and resolving all outstanding claims against the bank.

The memorandum can be found [here](#) and further information can be found [here](#).

Biden Administration Issues 2023 Economic Report Which Addresses Digital Assets

On March 20, 2023, the Biden administration released the 2023 Economic Report of the President. Chapter 8 of the report, titled "Digital Assets: Relearning Economic Principles," specifically addresses crypto assets, including the perceived appeal of crypto assets, the so-

called “reality” of crypto assets and the potential developments to the nation’s digital financial infrastructure. Chapter 8 of the report concludes that innovation in financial services brings both risks and opportunities for the broader economy but that “crypto assets currently do not offer widespread economic benefits. They are largely speculative investment vehicles and are not an effective alternative to fiat currency. Also, they are too risky at present to function as payment instruments or to expand financial inclusion.”

The 2023 Economic Report of the President can be found [here](#).

SEC’s Office of Investor Education and Advocacy Issues Investor Alert Urging Investors to Exercise Caution with Crypto Assets

On March 23, 2023, the SEC’s Office of Investor Education and Advocacy issued an investor alert in which it urged investors to be cautious when considering an investment involving crypto asset securities. According to the investor alert, investments in crypto asset securities can be “exceptionally volatile and speculative” and the platforms where investors buy, sell, borrow or lend these securities may lack important protections for investors. The investor alert highlights certain factors investors should take into consideration, including that those offering crypto asset investments or services may not be complying with applicable law (including federal securities laws), that investments in crypto asset securities can be exceptionally risky and are often volatile, and that fraudsters continue to exploit the rising popularity of crypto assets to lure retail investors into scams.

The investor alert can be found [here](#).

Emmer Introduces Bill to Provide Regulatory Clarity for the Blockchain Ecosystem

On March 23, 2023, Majority Whip Tom Emmer introduced the Blockchain Regulatory Certainty Act (BRCA), which affirms that blockchain developers and service providers that do not custody consumer funds are not money transmitters. This bipartisan bill is co-led by Representative Darren Soto. According to Emmer, the BRCA would “help America remain a technological leader in the crypto space” and “[f]or too long, federal regulators and lawmakers have jammed the blockchain ecosystem into statutory definitions that just do not make sense. It should be simple: If you don’t custody consumer funds, you aren’t a money transmitter. [The] bill provides that necessary confirmation for the blockchain community.”

Emmer’s press release can be found [here](#) and the proposed bill can be found [here](#).

Judge Puts Voyager Sale to Binance on Hold Pending Government Appeal

On March 27, 2023, District Judge Jennifer Rearden of the U.S. District Court for the Southern District of New York granted the U.S. Department of Justice’s (DOJ) emergency application for a stay pending an appeal of the sale of Voyager Digital to Binance.US.

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

Senator Submits New Crypto Regulation Bill to Australian Parliament

On March 30, 2023, Sen. Andrew Bragg introduced the Digital Assets (Market Regulation) Bill 2023 (the Bill) as a private senator’s bill before the Australian Parliament. According to Senator Bragg’s announcement, the Bill “will put Australia back into the race to regulate. This will protect consumers and promote investment.” The Bill addresses, among other things, digital asset exchange authorization and requirements, digital asset custody

authorization and requirements, stablecoin issuance authorization and requirement, and disclosure requirements for facilitators of central bank digital currencies in Australia.

Senator Bragg's press release can be found [here](#), the Bill can be found [here](#) and the explanatory memorandum accompanying the Bill can be found [here](#).

United Nations Conference on Trade and Development Issues Policy Review on Crypto Assets and Potential Implications for Developing Countries

On April 5, 2023, the United Nations Conference on Trade and Development (UNCTAD) issued a policy review discussing the main implications of crypto assets for the monetary, financial and payments systems in developing countries. The aim of the policy review is to support developing country policymakers in their thinking about crypto assets. The policy review notes that crypto adoption has been strong in developing countries, in part due to the financial systems tending to be less regulated, a younger population and lower macroeconomic stability. The policy review further notes that that crypto assets “promise to solve longstanding problems of financial markets in fostering financial inclusion and providing efficient, secure, and affordable monetary transfers, while preserving cash-like privacy,” but that “these promises are elusive.”

The UNCTAD's policy review can be found [here](#).

U.S. Department of the Treasury Releases 2023 DeFi Illicit Finance Risk Assessment

On April 6, 2023, the U.S. Department of the Treasury published the 2023 DeFi Illicit Finance Risk Assessment (the **Risk Assessment**), the first illicit finance risk assessment conducted on decentralized finance (**DeFi**) (a term broadly referring to virtual asset protocols and services that purport to allow some form of automated peer-to-peer transaction) in the world. According to the press release, the Risk Assessment builds upon the U.S. Department of the Treasury's other recent national risk assessments and furthers the work outlined in Executive Order 14067 on Ensuring Responsible Development of Digital Assets. The Risk Assessment considers risks associated with DeFi services and includes a request for input from the private sector to inform next steps.

The Risk Assessment can be found [here](#) and the Treasury's press release can be found [here](#).

SEC's Investor Advisory Committee Shares Views on Crypto Assets

On April 6, 2023, the SEC's Investor Advisory Committee (IAC) published a letter addressed to SEC Chair Gary Gensler in which it outlined its views on crypto assets. The letter notes that investors have suffered “significant losses” due to their investments in crypto assets (with estimated losses of more than \$2 trillion) and stated that the SEC should “continue to be aggressive in bringing enforcement actions against companies that are violating the federal securities laws in the crypto space.” The letter includes seven recommendations to the SEC, including continuing to make crypto asset-related enforcement a top priority, aggressively continuing to assert authority over crypto assets that are securities and over trading platforms that list or transact in such crypto asset securities, and seeking additional appropriations from Congress where needed to adequately oversee the crypto securities industry.

The IAC's letter can be found [here](#).

SEC Reopens Comment Period for Proposed Amendments to Exchange Act Rule 3b-16 and Provides Supplemental Information

On April 14, 2023, the SEC reopened the comment period and provided supplemental information on proposed amendments to the definition of “exchange” under Exchange Act Rule 3b-16. The reopening release reiterated the applicability of existing rules to platforms that trade crypto asset securities, including so-called “DeFi” systems, and provides supplemental information and economic analysis for systems that would be included in the new, proposed exchange definition. The reopening release requested information and public comment on crypto asset securities trading on such systems and certain aspects of the proposed amendments applicable to all securities. The public comment period will remain open for 30 days from its publication in the Federal Register. SEC Chair Gary Gensler noted, however, that “Make no mistake: many crypto trading platforms already come under the current definition of an exchange and thus have an existing duty to comply with the securities laws.”

The SEC’s press release can be found [here](#).

EU Parliament Approves World’s First Comprehensive Crypto Regulation and New Rules for Tracing Crypto Transfers in the EU

On April 20, 2023, the European Parliament approved (with 517 votes in favor, 38 against and 18 abstentions) the text of the European Union Markets in Crypto-Assets Regulations (MiCA), the new common rules on the supervision, consumer protection and environmental safeguards of crypto-assets, including crypto-currencies. MiCA creates a common EU-wide framework for the regulation of crypto-assets that are not regulated by existing financial services legislation and includes provisions covering transparency, disclosure, authorization and supervision requirements for those issuing and trading crypto-assets as well as measures against market manipulation and prevention of money laundering, terrorist financing and other criminal activities.

In addition, on the same date, the European Parliament approved (with 520 votes in favor, 24 against and 14 abstentions) the text of the Transfer of Funds Regulations, the first piece of EU legislation for tracing transfers of crypto-assets. The text, which was provisionally agreed in June 2022, seeks to ensure that crypto transfers can always be traced and suspicious transactions blocked.

The texts of the legislation will now have to be formally endorsed by the European Council, before publication in the EU Official Journal and they will enter into force 20 days later.

The European Parliament’s press release can be found [here](#).

Key Recent Enforcement Actions

Three Individuals and One Business Indicted on Engaging in a Pattern of Corrupt Activity for Operating Cryptocurrency Kiosks in Northeast Ohio

On March 2, 2023, the Cuyahoga County Prosecutor in Ohio announced that a grand jury had returned an indictment charging S and P Solutions, Sonny Meraban, Reza Mehraban and William Suriano on several charges including engaging in a pattern of corrupt activity, conspiracy and license requirement violation for owning and operating cryptocurrency kiosks in northeast Ohio from August 2002 to February 2023. It is alleged that the individuals and entity were involved in owning and operating cryptocurrency kiosks illegally across Northeast Ohio, were operating the cryptocurrency kiosks without a money transmission

license and falsely represented their money transferring capabilities to Ohio regulators in order to avoid detection.

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

SEC Files Emergency Action Against Miami Investment Adviser BKCoin and Principal Kevin Kang for Orchestrating \$100 Million Crypto Fraud Scheme

On March 6, 2023, the SEC filed an emergency action in which it successfully obtained an asset freeze, appointment of a receiver and other emergency relief against Miami-based investment adviser BKCoin Management LLC and one of its principals, Kevin Kang, in connection with a crypto asset fraud scheme. According to the SEC's press release, from at least October 2018 through September 2022, BKCoin raised approximately \$100 million from at least 55 investors to invest in crypto assets, but BKCoin and Kang instead used some of the money to make Ponzi-like payments and for personal use. According to the SEC's complaint (filed in the U.S. District Court for the Southern District of Florida), (i) BKCoin and Kang disregarded the structure of five private funds, commingled investor assets and used more than \$3.6 million to make Ponzi-like payments to fund investors, (ii) Kang misappropriated at least \$371,000 of investor money to, among other things, pay for vacations, sporting events tickets and an apartment, (iii) Kang attempted to conceal the unauthorized use of investor money by providing altered documents with inflated bank account balances to the third-party administrator for certain of the funds, and (iv) BKCoin materially misrepresented to certain investors that BKCoin, or one of the funds, received an audit opinion when it had not done so.

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

SEC Sues Utah-Based Crypto Asset Company, Its Founder, and a Recidivist Salesperson for Fraud and Registration Violations

On March 8, 2023, the SEC charged Utah-based company Green United, LLC, its founder Wright W. Thurston, and one of its promoters, Kristoffer A. Krohn, with allegedly defrauding investors in connection with an unregistered offering of crypto asset securities. According to the SEC's complaint, from April 2018 until at least December 2022, Thurston and Green raised at least \$18 million in the unregistered offer and sale of investments they called "Green Boxes" or "Green Nodes," leading investors to believe that those products mined a digital token they called GREEN on a purported "Green Blockchain." According to the complaint, the Green Boxes purchased by investors did not mine GREEN, but rather mined Bitcoin (which was not transferred to investors) and the Green Nodes did not mine GREEN but were a basic software that in no way generated GREEN. The complaint further alleged that Thurston sought to create the appearance that GREEN was being mined and, between April to October 2018, Krohn acted as an unregistered securities broker, made numerous misrepresentations to investors about the present value of the GREEN token and returns on investment that investors could anticipate.

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

Operators and Attorney of Global Multi-Million-Dollar Cryptocurrency Ponzi Scheme "AirBit Club" Plead Guilty

On March 8, 2023, the U.S. Attorney for the Southern District of New York announced the guilty pleas of Pablo Renato Rodriguez, Gutemberg Dos Santos, Scott Hughes, Cecilia Millan, Karina Chairez and Jackie Aguilar for their roles in an internationally coordinated fraud and money laundering ring that deceived individuals into investing in AirBit Club, a purported cryptocurrency mining and trading company. U.S. Attorney Damian Williams stated that the

“guilty pleas send a clear message that we are coming after all of those who seek to exploit cryptocurrency to commit fraud.” As part of their guilty pleas, the defendants were collectively ordered to forfeit their fraudulent proceeds of AirBit Club, which include seized or restrained assets consisting of U.S. currency, Bitcoin and real estate currently valued at approximately \$100 million.

The U.S. Attorney’s Office press release can be found [here](#).

New York Attorney General James Continues Crackdown on Unregistered Cryptocurrency Platforms

On March 9, 2023, New York Attorney General Letitia James filed a lawsuit against KuCoin for failing to register as a securities and commodities broker-dealer and falsely representing itself as an exchange. KuCoin is a virtual currency trading platform that allows investors to buy and sell cryptocurrency through its website and app. According to the press release, through this enforcement action, Attorney General James seeks to stop KuCoin from operating in New York and to block access to its website until it complies with the law. Attorney General James noted that the “action is the latest in our efforts to rein in shadowy cryptocurrency companies and bring order to the industry.” Through the lawsuit, Attorney General James seeks a court order that stops KuCoin from misrepresenting that it is an exchange, prevents the company from operating in New York and directs KuCoin to implement geo-blocking based on IP addresses and GPS location to prevent access to KuCoin’s mobile app, website and services from New York.

The press release can be found [here](#) and the court filing can be found [here](#).

SEC Charges Exiled Chinese Businessman Miles Guo and His Financial Advisor William Je in \$850 Million Fraud Scheme and DOJ Arrests Guo for Orchestrating Over \$1 Billion Fraud Conspiracy

On March 15, 2023, the SEC charged exiled Chinese businessman Miles Guo and his financial advisor William Je for their involvement in unregistered and fraudulent offerings that raised more than \$850 million. Amongst the charges, the SEC alleged that Guo raised hundreds of millions of dollars from investors through a crypto asset security referred to as “H-Coin,” “Himalaya Coin” or “HCN” and a related purported stablecoin. Furthermore, according to the SEC’s press release, since at least October 2021, Guo allegedly has made material misrepresentations to prospective investors in H-Coin, falsely stating that 20% of H-Coin’s value was backed by gold and that he would personally compensate investors for any potential losses.

In a parallel action, on March 15, 2023, the U.S. Attorney’s Office for the Southern District of New York announced the unsealing of a twelve-count Indictment charging Guo and Je with various wire fraud, securities fraud, bank fraud, and money laundering charges. According to the U.S. Attorney’s Office press release, Je and others fraudulently obtained more than approximately \$262 million in victim funds through the Himalaya Exchange, a purported cryptocurrency “ecosystem” accessible on the Internet.

The SEC’s press release can be found [here](#) and the U.S. Attorney’s Office press release can be found [here](#).

Justice Department Investigation Leads to Takedown of Darknet Cryptocurrency Mixer that Processed Over \$3 Billion of Unlawful Transactions

On March 15, 2023, the DOJ announced a coordinated international takedown of ChipMixer, a darknet cryptocurrency “mixing” service responsible for laundering more than \$3 billion worth of cryptocurrency since 2017, in furtherance of, among other activities, ransomware,

darknet market, fraud, cryptocurrency heists and other hacking schemes. The operation involved U.S. federal law enforcement's court-authorized seizure of two domains that directed users to the ChipMixer service and one Github account, as well as the German Federal Criminal Police's (the **Bundeskriminalamt**) seizure of the ChipMixer back-end servers and more than \$46 million in cryptocurrency. Simultaneously, Minh Quốc Nguyễn was charged with money laundering, operating an unlicensed money transmitting business and identity theft, connected to the operation of ChipMixer.

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

SEC Obtains Judgment Against Siblings Who Orchestrated Crypto Asset Fraud

On March 15, 2023, the U.S. District Court for the Southern District of New York entered a final judgment against John and JonAtina (Tina) Barksdale, ordering permanent injunctions, disgorgement with interest, and civil penalties. According to the SEC's complaint, from June 2017 to March 2022, the Barksdales raised tens of millions of dollars through two unregistered fraudulent offerings of securities involving a crypto asset called "Ormeus Coin." The SEC further alleged the Barksdales offered and sold subscription packages that included Ormeus Coin, held roadshows around the world, led the production of social media posts, YouTube videos, press releases and other promotional materials, falsely claimed that Ormeus Coin was supported by one of the largest crypto asset mining operations in the world (despite having abandoned their mining operations in 2019 after generating less than \$3 million in total mining revenue) and falsely stated that Ormeus Coin had a \$250 million crypto asset mining operation and was producing \$5.4 million to \$8 million per month in mining revenues.

The Barksdales were ordered to pay disgorgement of \$46,297,463 on a joint and several basis and prejudgment interest of \$10,044,822. The Barksdales were also ordered to each pay a civil penalty of \$23,148,731.

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

Irina Dilkinska Charged for Role in Multi-Billion-Dollar Cryptocurrency Pyramid Scheme and Extradited from Bulgaria to the United States

On March 21, 2023, the U.S. Attorney for the Southern District of New York announced the unsealing of charges against Irina Dilkinska in connection with her participation in the OneCoin fraud scheme. OneCoin, which began operations in 2014 and was based in Bulgaria, marketed and sold a fraudulent cryptocurrency by the same name through a global multilevel-marketing network. As a result of misrepresentations made about OneCoin, victims invested over \$4 billion worldwide in the fraudulent cryptocurrency. Dilkinska was extradited from Bulgaria on March 20, 2023, and was presented before United States Magistrate Judge Sarah Netburn.

The U.S. Attorney's Office press release can be found [here](#).

SEC Charges Crypto Entrepreneur Justin Sun and his Companies for Fraud and Other Securities Law Violations and Eight Celebrities for Illegal Touting of Sun's Crypto Asset Securities

On March 22, 2023, the SEC announced charges against crypto asset entrepreneur Justin Sun and three of his wholly owned companies, Tron Foundation Limited, BitTorrent Foundation Ltd. and Rainberry Inc. (formerly BitTorrent), for the unregistered offer and sale of crypto asset securities Tronix (TRX) and BitTorrent (BTT). The SEC also charged Sun and his companies with fraudulently manipulating the secondary market for TRX through extensive wash trading (involving the simultaneous or near-simultaneous purchase and sale of a security to make it appear actively traded without an actual change in beneficial ownership)

and for orchestrating a scheme to pay celebrities to tout TRX and BTT without disclosing their compensation.

The SEC simultaneously charged eight celebrities (Lindsay Lohan, Jake Paul, DeAndre Cortez Way (Soulja Boy), Austin Mahone, Michele Mason (Kendra Lust), Miles Park McCollum (Lil Yachty), Shaffer Smith (Ne-Yo) and Aliauna Thiam (Akon)) for illegally touting TRX and/or BTT without disclosing that they were compensated for doing so, or the amount of their compensation. With the exception of Cortez Way and Mahone, the celebrities charged agreed to pay a total of more than \$400,000 in disgorgement, interest and penalties to settle the charges, without admitting or denying the SEC's findings.

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

Coinbase Receives Wells Notice from the SEC

On March 22, 2023, Coinbase Global, Inc. filed its Form 8-K with the SEC in which it noted that Coinbase Global, Inc. and Coinbase, Inc. (collectively, **Coinbase**) had received a Wells Notice from the SEC stating that the SEC has advised Coinbase that it made a "preliminary determination" to recommend that the SEC file an enforcement action against Coinbase, alleging violations of the federal securities laws, including the Securities Exchange Act of 1934, as amended, and the Securities Act of 1933, as amended. According to Coinbase's recent Form 8-K filing, based on discussions with the SEC, Coinbase believed the potential enforcement actions would relate to aspects of Coinbase's spot market staking service Coinbase Earn, Coinbase Prime and Coinbase Wallet. The filing further notes that the potential civil action may seek injunctive relief, disgorgement and civil penalties. Subsequently, Coinbase's legal team released a heated response stating that any enforcement action would "fail on the merits" and, at key points, is "unsupported by law."

Coinbase's Form 8-K can be found [here](#) and its Wells Submission can be found [here](#).

Do Kwon, Creator of Terra Stablecoin, Indicted Following Arrest in Montenegro

On March 23, 2023, federal prosecutors in the Southern District of New York charged Terraform Labs founder Do Kwon with fraud, hours after his arrest by police in Montenegro. According to the eight-count indictment, Kwon is charged with conspiracy to defraud, commodities fraud, securities fraud, wire fraud and conspiracy to engage in market manipulation. The criminal action follows related civil charges by the SEC against Kwon and Terraform last month.

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

CEO of Titanium Blockchain Sentenced for \$21 Million Cryptocurrency Fraud Scheme

On March 24, 2023, the DOJ announced that the CEO and founder of Titanium Blockchain Infrastructure Services Inc. (**TBIS**) was sentenced to four years and three months in prison for his role in a cryptocurrency fraud scheme involving TBIS's initial coin offering that raised approximately \$21 million from investors in the United States and overseas. According to court documents, Michael Alan Stollery touted TBIS (a purported cryptocurrency investment platform) as a cryptocurrency investment opportunity, luring investors to purchase "BARs," the cryptocurrency token or coin offered by TBIS's initial coin offering, through a series of false and misleading statements. Stollery further did not register the initial coin offering with the SEC, nor did he have a valid exemption from the SEC's registration requirements. The DOJ's press release noted that Stollery falsified aspects of TBIS's white papers, planted

fake client testimonials on TBIS's website and falsely claimed that he had business relationships with the Federal Reserve and dozens of prominent companies to create the false appearance of legitimacy. Furthermore, Stollery did not use the invested money as promised but instead commingled the investors' funds with his personal funds, using at least a portion of the offering proceeds for expenses unrelated to TBIS.

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

CFTC and DOJ Charges Binance and Changpeng Zhao with Willful Evasion of Federal Law and Operating an Illegal Digital Asset Derivatives Exchange

On March 27, 2023, the Commodity Futures Trading Commission (CFTC) announced it had filed a civil enforcement action in the U.S. District Court for the Northern District of Illinois charging Changpeng Zhao and three entities that operate the Binance platform (Binance Holdings Limited, Binance Holdings (IE) Limited and Binance (Services) Holdings Limited, together **Binance**) with numerous violations of the Commodity Exchange Act and CFTC regulations. The complaint also charged Samuel Lim, Binance's former chief compliance officer, with aiding and abetting Binance's violations. According to the CFTC's press release, the Binance entities operated the Binance centralized digital asset trading platform along with numerous other corporate vehicles through an intentionally opaque common enterprise and allegedly chose to knowingly disregard applicable provisions of the Commodity Exchange Act while engaging in a strategy of regulatory arbitrage to their commercial benefit. CFTC Chairman Rostin Behnam stated that the "enforcement action demonstrates that there is no location, or claimed lack of location, that will prevent the CFTC from protecting American investors."

The CFTC's press release can be found [here](#) and related complaint can be found [here](#).

SEC Charges Crypto Trading Platform Beaxy and its Executives for Operating an Unregistered Exchange, Broker, and Clearing Agency

On March 29, 2023, the SEC charged (i) the crypto asset trading platform beaxy.com (the **Beaxy Platform**) and its executives for failing to register as a national securities exchange, broker and clearing agency, (ii) the founder of the platform, Artak Hamazaspyan, and a company he controlled, Beaxy Digital, Ltd., with raising \$8 million in an unregistered offering of the Beaxy token (**BXY**) and misappropriating at least \$900,000 for personal use (including gambling) and (iii) market makers operating on the Beaxy Platform as unregistered dealers.

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

DOJ Seizes Over \$112 Million in Funds Linked to Cryptocurrency Investment Schemes

On April 3, 2023, the DOJ announced that it seized virtual currency worth an estimated \$112 million linked to cryptocurrency investment scams. According to the DOJ's press release, seizure warrants for six virtual currency accounts were authorized by judges in the District of Arizona, the Central District of California and the District of Idaho. According to court documents, the virtual currency accounts were allegedly used to launder proceeds of various cryptocurrency confidence scams. In these schemes, fraudsters cultivated long-term relationships with victims met online, eventually enticing them to make investments in fraudulent cryptocurrency trading platforms, when in reality the funds sent by victims were funneled to cryptocurrency addresses and accounts controlled by scammers and their co-conspirators.

The DOJ's press release further noted that in 2022 investment fraud caused the highest losses of any scam reported by the public to the Federal Bureau of Investigation's (FBI) Internet Crimes Complaint Center, totaling \$3.31 billion, with frauds involving cryptocurrency representing the majority of these scams, increasing a staggering 183% from 2021 to \$2.57 billion in reported losses last year.

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

SEC Nears Settlement in First Crypto Insider Trading Action Against Ex-Coinbase Executives

On April 3, 2023, a filing before the U.S. District Court of the Western District of Washington in the SEC's action against Ishan Wahi, Nikhil Wahi and Sameer Ramani noted that the SEC had reached "an agreement in principle with Ishan Wahi to resolve all of the SEC's claims in this matter" and "the SEC and Nikhil Wahi are also in good faith discussions that may resolve the SEC's claims." The filing further notes that any settlement recommended by SEC staff must be reviewed within the SEC and approved by the SEC's Commissioners before it may be submitted to the court for approval, a process that can take a number of weeks. In order to allow time for the SEC and Ishan Wahi to finalize the terms of a settlement, for the SEC and Nikhil Wahi to move forward on settlement discussions and for the SEC's Commissioners to review proposed settlements, the parties jointly requested that the deadline for the SEC's Opposition be moved to June 15, 2023 (with the Wahis' reply due July 15, 2023).

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

CFTC and DOJ Charges New York Resident with Fraud and Misappropriation in Digital Assets Trading Scheme

On April 11, 2023, the CFTC filed a civil enforcement action in the U.S. District Court for the Eastern District of New York against Rashawn Russell. The CFTC's complaint charges Russell with fraudulently soliciting retail investors to invest in a digital asset trading fund and with misappropriating at least \$1 million in investor assets. Director of Enforcement Ian McGinley noted that "[a]s today's action demonstrates, the CFTC is unrelenting in holding bad actors accountable and protecting retail investors from fraud in the digital asset space." According to the CFTC's complaint, Russell intentionally and/or recklessly made false and misleading statements regarding his purported proprietary digital assets trading fund's structure, size and performance, traded little, if any, of the money and digital assets as represented, and falsely promised to pay withdrawal requests.

In a sealed indictment returned April 6, 2023, and unsealed on April 11, 2023, Russell was charged with one count of wire fraud in the Eastern District of New York for conduct similar to that alleged in the CFTC's complaint.

On April 11, 2023, the DOJ also announced that Russell was arrested on April 10, 2023 on criminal charges related to his alleged role in operating a cryptocurrency investment fraud scheme. According to the DOJ's press release, Russell is charged with one count of wire fraud and, if convicted, he faces a maximum penalty of 20 years in prison. The DOJ's press release further notes that Russell allegedly engaged in a scheme to defraud multiple investors by inducing them to invest with him based on false promises that, among other things, he would use their funds for cryptocurrency investments and that the investors would earn large - and sometimes guaranteed - returns from those investments. In addition, the DOJ noted that Russell allegedly misappropriated much of the investors' assets and used them for his personal benefit, to gamble, and to repay other investors, and he further repeatedly failed to repay investors' principal investments and failed to provide investors with promised rates of return.

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

SEC Charges Terraform and CEO Do Kwon with Defrauding Investors in Crypto Schemes

On April 13, 2023, the SEC charged Singapore-based Terraform Labs PTE Ltd and Do Hyeong Kwon with orchestrating a multibillion-dollar crypto asset securities fraud involving an algorithmic stablecoin and other crypto asset securities. According to the SEC's complaint filed in the U.S. District Court for the Southern District of New York, from April 2018 until May 2022, Terraform and Kwon raised billions of dollars from investors by offering and selling an inter-connected suite of crypto asset securities, many in unregistered transactions. The SEC's complaint further alleged that Terraform and Kwon marketed crypto asset securities to investors seeking to earn a profit, repeatedly claiming that the tokens would increase in value, and repeatedly misled and deceived investors while marketing its LUNA token.

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

SEC Charges Crypto Asset Trading Platform Bittrex and its Former CEO for Operating an Unregistered Exchange, Broker and Clearing Agency

On April 17, 2023, the SEC charged crypto asset trading platform Bittrex, Inc. and its co-founder and former CEO William Shihara for operating an unregistered national securities exchange, broker and clearing agency. The SEC also charged Bittrex, Inc.'s foreign affiliate, Bittrex Global GmbH, for failing to register as a national securities exchange in connection with its operation of a single shared order book along with Bittrex. According to the SEC's complaint filed in the U.S. District Court for the Western District of Washington, from 2017 through 2022, Bittrex earned at least \$1.3 billion in revenue from, among other things, transaction fees from investors while servicing them as a broker, exchange and clearing agency without registering any of these activities with the SEC. Furthermore, the complaint alleges that Bittrex and Shihara coordinated with issuers who sought to have their crypto asset made available for trading on Bittrex's platform to first delete from public channels certain "problematic statements" that Shihara believed would lead a regulator to investigate the crypto asset as the offering of a security.

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

SEC Settles Fraud Case and Returns Funds to Certain Investors

On April 18, 2023, the SEC announced that on April 11, 2023, the U.S. District Court for the Southern District of New York had entered final judgments against Donald G. Blakstad and Energy Sources International Corporation (ESI), a purported cryptocurrency mining operation controlled by Blakstad. On December 7, 2022, the court entered an amended final judgment against Xact Holdings Corporation, a company that was also controlled by Blakstad. According to the SEC's complaint, between at least July 2015 and May 2019, Blakstad fraudulently raised money from investors through Midcontinental Petroleum, Inc., a purported oil, gas and alternative energy resources company, as well as through ESI and Xact. Rather than use investors' funds as represented, the SEC's complaint alleged that Blakstad treated the company bank accounts as "his own personal piggybank."

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

SEC Settles Suit Against Hydrogen Technology Corporation and Co-Founder for Over \$2.8 Million

On April 20, 2023, the U.S. District Court, Southern District of New York issued a final judgment against the Hydrogen Technology Corporation and its co-founder Michael Ross Kane, both of whom agreed to pay over \$2.8 million and to cease selling cryptocurrency.

The SEC filed a lawsuit against Hydrogen Technology Corporation and Kane in September 2022, accusing them of paying a third party to manipulate trading of the Hydro token in an effort to inflate its price. According to the terms of the settlement, Hydrogen Technology Corporation and Kane neither admit nor deny the allegations against them.

The final judgment can be found [here](#) and further information can be found [here](#).

North Korean Foreign Trade Bank Representative Charged in Crypto Laundering Conspiracies

On April 24, 2023, the DOJ announced that two federal indictments were unsealed in the District of Columbia charging a North Korean Foreign Trade Bank representative for his role in separate money laundering conspiracies designed to generate revenue for the Democratic People's Republic of Korea through the use of cryptocurrency. According to court documents, Sim Hyon Sop (**Sim**) is charged with allegedly conspiring with over-the-counter (OTC) cryptocurrency traders to use stolen funds to buy goods for North Korea and for conspiring with North Korean IT workers to generate revenue through illegal employment at blockchain development companies in the United States. The DOJ's press release notes that (i) the first indictment involves a conspiracy between Sim and three OTC traders to launder stolen funds from virtual currency exchange hacks to make payments in U.S. dollars for goods on behalf of the North Korean government, and (ii) the second indictment involves a conspiracy between Sim and various North Korean IT workers to launder proceeds of illegal IT development work, where the IT workers gained employment at U.S. blockchain development companies using fake identities, and then laundered their ill-gotten gains through Sim for the benefit of the North Korean regime, and in contravention of sanctions imposed against North Korea by the U.S. Department of the Treasury's Office of Foreign Assets Control and the United Nations. The DOJ's press release confirms that the FBI Chicago Field Office and FBI's Virtual Assets Unit are investigating the cases.

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

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