

Crypto Counsel Handbook Crypto Counsel Handbook

© Von Wooding

<https://www.linkedin.com/in/vonwooding/>

Table of Contents

1. WHY WE'RE HERE IN THE FIRST PLACE: THE GENESIS BLOCK 6

❖ <https://www.blockchain.com/explorer/blocks/btc/0>

Mined on January 03, 2009 01:15:05 • All Blocks

Satoshi Notable Block

Coinbase Message - EThe Times 03/Jan/2009 Chancellor on brink of second bailout for banks

Bitcoin Genesis

On January 3rd 2009, the Bitcoin network was created when Satoshi Nakamoto (the project's mysterious creator) mined the "Genesis" block. The 50 bitcoin coinbase reward is unredeemable, as it was omitted from the transaction database. This means any attempt to spend it would be rejected by the network. Whether this was intentional or not still remains unknown.

A total of 0.00 BTC (\$0.00) were sent in the block with the average transaction being 0.0000 BTC (\$0.00). Satoshi earned a total reward of 50.00 BTC \$0.00. The reward consisted of a base reward of 50.00 BTC \$0.00 with an additional 0.0000 BTC (\$0.00) reward paid as fees of the 1 transactions which were included in the block.

Details			
Hash	00000-ce26f ☹	Depth	788,758
Capacity	0.02%	Size	215
Distance	14y 4m 3d 12h 37m 2s	Version	0x1
BTC	0.0000	Merkle Root	4a-3b ☹
Value	\$0.00	Difficulty	1.00
Value Today	\$0.00	Nonce	2,573,394,689
Average Value	0.000000000000 BTC	Bits	486,604,799
Median Value	50.0000000000 BTC	Weight	860 WU
Input Value	0.00 BTC	Mined	50.00 BTC
Output Value	50.00 BTC	Reward	50.0000000000 BTC
Transactions	1	Mined on	Jan 08, 2009 at 9:54:25 PM
Witness Tx's	0	Height	1
Inputs	1	Confirmations	788,758
Outputs	1	Fee Range	0-0 sat/vByte
Fees	0.0000000000 BTC	Average Fee	0.0000000000
Fees Kb	0.00000000 BTC	Median Fee	0.0000000000
Fees kWU	0.00000000 BTC	Miner	Unknown

2. INTRODUCTION: EMERGENCE OF BITCOIN 7

❖ Importance of understanding Bitcoin's original vision 7

3. BITCOIN: A NOVEL SOLUTION 7

A. SATOSHI NAKAMOTO 7

B. SATOSHI RELINQUISHING CONTROL AND DISAPPEARING..... 7

4. CORE CHARACTERISTICS OF BITCOIN 7

A. ELECTRONIC CASH ON A SHARED DATABASE 7

B. DECENTRALIZED NATURE 7

C. PSEUDONYMOUS, NOT ANONYMOUS..... 8

5. HOW BITCOIN WORKS: KEY COMPONENTS AND MECHANISMS ENSURING TRUST 8

A. DIGITAL SIGNATURES 8

B. SOLVING THE DOUBLE-SPENDING PROBLEM..... 8

C. PROOF-OF-WORK AND THE LONGEST CHAIN 8

6. FRAMER'S INTENT: UNDERSTANDING THE FOUNDATIONS OF BLOCKCHAIN TECHNOLOGY 8

A. IMPORTANCE OF UNDERSTANDING BITCOIN'S FOUNDATIONAL PRINCIPLES 8

B. EVALUATING AND APPRECIATING BITCOIN'S LEGACY IN SUBSEQUENT BLOCKCHAIN TECHNOLOGIES..... 8

SOURCES 9

7. BITCOIN'S GROWING POPULARITY AND PERCEIVED LIMITATIONS..... 10

8. ETHEREUM AND SOLANA..... 10

9. OTHER LAYER-1 PROTOCOLS AND PRIVATE BLOCKCHAIN DEVELOPMENT.....	10
10. ONGOING EVOLUTION AND COMPETITION IN CRYPTOCURRENCY ECOSYSTEM.....	11
SOURCES	11
11. A BRIEF HISTORY OF THE SEC	12
❖ EDGAR Database	12
12. FREQUENTLY CITED PROVISIONS IN CRYPTO ENFORCEMENT ACTIONS: SECURITIES ACT OF 1933	12
❖ i. Sections 5(a) and 5(c) – Unregistered Offering or Sale	12
❖ ii. Section 17(a) – Anti-Fraud.....	12
❖ iii. Section 17(b) – Promotions and Endorsements.....	13
13. FREQUENTLY CITED PROVISIONS IN CRYPTO ENFORCEMENT ACTIONS: EXCHANGE ACT OF 1934	13
❖ i. Exchange Act § 5.....	13
❖ ii. Exchange Act § 15(a)	13
❖ iii. Exchange Act § 17	13
❖ iv. Exchange Act § 10(b) and Rule 10b-5.....	14
❖ v. Exchange Act § 9(a)(1), 9(a)(2).....	14
❖ vi. Exchange Act § 14(e) and Rule 14e-8 thereunder	14
❖ vii. Exchange Act § 13(a); Exchange Act Rules 13a-1 and 13a-13.....	14
❖ viii. Exchange Act § 6	15
❖ ix. Exchange Act § 12	15
14. FREQUENTLY CITED PROVISIONS IN CRYPTO ENFORCEMENT ACTIONS: CASELAW	15
A. SEC v. W.J. HOWEY CO., 328 U.S. 293 (1946) ("HOWEY").....	15
RELATED CASES.....	16
❖ United Housing Found., Inc. v. Forman, 421 U.S. 837 (1975) ("Forman"):	16
❖ Tcherepnin v. Knight, 389 U.S. 332 (1967) ("Tcherepnin"):	16
❖ SEC v. C. M. Joiner Leasing Corp., 320 U.S. 344 (1943) ("Joiner"):	16
❖ TSC Industries v. Northway, 426 U.S. 438, 449 (1976):	16
❖ Revak v. SEC Realty Corp., 18 F.3d. 81, 87-88 (2d Cir. 1994):	16
❖ In re Barkate, 57 S.E.C. 488, 496 n.13 (Apr. 8, 2004):	16
❖ SEC v. Koscot Interplanetary, Inc., 497 F.2d 473, 483 n.15 (5th Cir. 1974):	16
B. REVES v. ERNST & YOUNG, 494 U.S. 56 (1990)	16
C. DISTINGUISHING HOWEY AND REVES.....	17
❖ Comparison:	17
❖ Howey test:.....	17
❖ Reves test:	17
❖ Contrast:	17
SOURCES	18
15. ENFORCEMENT ACTIONS BY TIME PERIOD	19
ENFORCEMENT ACTIONS BY TIME PERIOD (2015-2020 SELECTED CASES).....	19
❖ SEC v. Erik T. Voorhees (2014)	19
❖ SEC v. Garza, et al. (2015)	19

❖	<i>In re Munchee, Inc</i> (2017)	19
❖	<i>Report of Investigation: The DAO</i> (2017),	19
❖	<i>SEC v. Titanium Blockchain Infrastructure Services Inc., et al.</i> (2018).....	20
❖	<i>SEC v. Kik Interactive Inc.</i> (2019)	20
❖	<i>SEC v. Telegram Group Inc., et al.</i> (2019)	20
❖	<i>SEC's v. Block.one</i> (2019)	20
❖	<i>SEC v. Ripple Labs, Inc., et al.</i> (2020)	20
	ENFORCEMENT ACTIONS BY TIME PERIOD: (2021 ALL CASES)	20
❖	<i>SEC v. Ginster</i> (11/18/2021)	20
❖	<i>GTV Media Group, Inc., et al.</i> (9/13/2021)	20
❖	<i>SEC v. Rivetz Corp., et al.</i> (9/8/2021)	20
❖	<i>SEC v. BitConnect, et al.</i> (9/1/2021).....	20
❖	<i>SEC v. Brown, et al.</i> (5/28/2021).....	21
❖	<i>Poloniex, LLC</i> (8/9/2021)	21
❖	<i>Blockchain Credit Partners d/b/a DeFi Money Market, et al.</i> (8/6/2021)	21
❖	<i>SEC v. Uulala, Inc., et al.</i> (8/4/2021)	21
❖	<i>Blotics Ltd., Coinschedule Ltd.</i> (7/14/2021)	21
❖	<i>Loci, Inc., et al.</i> (6/22/2021)	21
❖	<i>SEC v. Hamid, et al.</i> (6/15/2021)	21
❖	<i>SEC v. Manor, et al.</i> (1/17/2020).....	21
❖	<i>SEC v. Radjabli, et al.</i> (6/11/2021)	22
❖	<i>SEC v. LBRY, Inc.</i> (3/29/2021).....	22
❖	<i>SEC v. Cutting</i> (3/5/2021).....	22
❖	<i>SEC v. Coinseed, Inc., et al.</i> (2/17/2021)	22
❖	<i>SEC v. Krstic, et al.</i> (2/1/2021)	22
❖	<i>Wireline, Inc.</i> (1/15/2021)	22
	ENFORCEMENT ACTIONS BY TIME PERIOD: (2022 ALL CASES)	22
❖	<i>SEC v. Ellison and Wang</i> (12/21/2022).....	22
❖	<i>SEC v. Thor Technologies, Inc. and Chin; SEC v. Moravec</i> (12/21/2022).....	22
❖	<i>SEC v. Da Silva, et al.</i> (12/14/2022)	22
❖	<i>SEC v. Bankman-Fried</i> (12/13/2022).....	23
❖	<i>SEC v. Braga, et al.</i> (11/4/2022).....	23
❖	<i>SEC v. Rouns ville</i> (11/3/2022).....	23
❖	<i>Kardashian</i> (10/3/2022).....	23
❖	<i>SEC v. Chavez, et al.</i> (10/3/2022)	23
❖	<i>SEC v. Arbitrade Ltd., et al.</i> (9/30/2022).....	23
❖	<i>SEC v. The Hydrogen Technology Corporation, et al.</i> (9/28/2022).....	23
❖	<i>Sparkster, Ltd., et al.</i>	23
❖	<i>SEC v. Chicago Crypto Captial LLC, et al.</i> (9/14/2022)	23
❖	<i>SEC v. Dragonchain, Inc., et al.</i> (8/16/2022).....	23
❖	<i>Bloom Protocol, LLC</i> (8/9/2022)	24
❖	<i>SEC v. Okhotnikov, et al.</i> (8/1/2022)	24
❖	<i>SEC v. Wahi, et al.</i> (7/21/2022).....	24
❖	<i>SEC v. Chiang, et al.</i> (4/28/2022)	24
❖	<i>SEC v. Block Bits Capital, LLC, et al.</i> (4/28/2022).....	24
❖	<i>SEC v. MCC International Corp., et al.</i> (4/7/2022)	24
❖	<i>SEC v. Barksdale, et al.</i> (3/8/2022)	24

❖	<i>BlockFi Lending LLC (2/14/2022)</i>	24
❖	<i>SEC v. Garcia (1/18/2022)</i>	24
❖	<i>SEC v. Crowd Machine, Inc., et al. (1/6/2022)</i>	25
	ENFORCEMENT ACTIONS BY TIME PERIOD: (2023 ALL CASES AS OF MAY 1)	25
❖	<i>SEC v. Green United, LLC, et al. (3/8/2023)</i>	25
❖	<i>SEC v. Singh (2/28/2023)</i>	25
❖	<i>SEC v. BKCoin Management, LLC, et al. (2/23/2023)</i>	25
❖	<i>Pierce (2/17/2023)</i>	25
❖	<i>SEC v. Terraform Labs PTE Ltd and Kwon (2/16/2023)</i>	25
❖	<i>Payward Ventures, et al. (d/b/a Kraken) (2/9/2023)</i>	25
❖	<i>SEC v. Ryn and GexCrypto Corp. (2/7/2023)</i>	25
❖	<i>SEC v. Eisenberg (1/20/2023)</i>	26
❖	<i>Nexo Capital Inc. (1/19/2023)</i>	26
❖	<i>SEC v. Genesis Global Capital, LLC and Gemini Trust Company, LLC (1/12/2023)</i>	26
❖	<i>SEC v. Chandran, et al. (1/4/2023)</i>	26
	16. CASES BY ENFORCEMENT ACTION CATEGORY	26
❖	<i>Enforcement Action Category 1: Unregistered Offerings</i>	26
❖	<i>Enforcement Action Category 2: Fraudulent Offerings</i>	26
❖	<i>Enforcement Action Category 3: Ponzi and Pyramid Schemes</i>	27
❖	<i>Enforcement Action Category 4: Improper Promotion</i>	27
❖	<i>Enforcement Action Category 5: Insider Trading</i>	27
❖	<i>Enforcement Action Category 6: Market Manipulation</i>	27
❖	<i>Enforcement Action Category 7: Violations of Investment Company Act</i>	27
❖	<i>Enforcement Action Category 8: Pump and Dump Schemes</i>	27
❖	<i>Enforcement Action Category 9: Unregistered Broker-Dealer Activities</i>	27
❖	<i>Enforcement Action Category 10: Misappropriation of Investor Funds</i>	27
	17. THE EVOLUTION OF SEC ENFORCEMENT ACTIONS	28
❖	<i>1. Initial focus on ICOs and unregistered offerings (2015-2017):</i>	28
❖	<i>2. Expansion of enforcement to other violations (2017-2019):</i>	28
❖	<i>3. Targeting high-profile figures and influencers (2019-2021):</i>	28
❖	<i>4. Increased focus on DeFi platforms and lending products (2021-2023):</i>	28
	SOURCES	29
	18. INTRODUCTION TO THE COMMODITIES FUTURES TRADING COMMISSION (CFTC)	30
	19. THE CFTC'S ROLE IN REGULATING CRYPTOCURRENCY FUTURES CONTRACTS	30
❖	<i>Commissioner Christy Goldsmith Romero's keynote speech at City Week 2023</i>	30
❖	<i>Illicit Financing</i>	30
❖	<i>Customer Loss Through Cybercrime</i>	31
❖	<i>Fraud as a Hallmark of Digital Asset Markets</i>	31
❖	<i>Non-Bank Financial Stability Risk</i>	31
	20. THE CFTC'S ROBUST ENFORCEMENT PROGRAM IN THE CRYPTO SPACE	31
❖	<i>Trend Analysis</i>	31
❖	<i>i. CFTC v. Binance</i>	31
❖	<i>ii. CFTC v. Bitfinex, Tether</i>	32

❖	iii. CFTC v. Coinbase	32
❖	iv. CFTC v. Bitmex	33
❖	v. CFTC v. Kraken	33
❖	vi. All CFTC Crypto Enforcement Actions	33
SOURCES		33
❖	A. The SEC's Involvement in Crypto Enforcement	34
❖	B. The CFTC's Pursuit of a Greater Role in Crypto Enforcement	34
❖	C. Challenges Arising from Overlapping Jurisdictions.....	34
❖	D. Competition for Resources and Regulatory Influence	34
SOURCES		35
21. ANALYSIS OF SPECIFIC CRYPTO ASSETS		36
❖	1. Bitcoin: A Commodity Under the CFTC's Jurisdiction	36
❖	2. Ethereum (ETH) and Solana (SOL): A Case-by-Case Approach.....	36
❖	3. Tokens: A Spectrum of Regulatory Classifications.....	36
❖	4. Other Digital Assets: Unique Regulatory Considerations.....	36
22. DECENTRALIZED ENFORCEMENT SUGGESTION		37
SOURCES		37
23. APPENDIX A: SEC CRYPTO ASSETS AND CYBER ENFORCEMENT ACTIONS		38
24. APPENDIX B: THE CFTC'S ROBUST ENFORCEMENT PROGRAM IN THE CRYPTO SPACE		51

Foreword

1. Why we're here in the first place: The Genesis Block

❖ <https://www.blockchain.com/explorer/blocks/btc/0>

Mined on January 03, 2009 01:15:05 • All Blocks

Satoshi

Notable Block

Coinbase Message - EThe Times 03/Jan/2009 Chancellor on brink of second bailout for banks

Bitcoin Genesis

On January 3rd 2009, the Bitcoin network was created when Satoshi Nakamoto (the project's mysterious creator) mined the "Genesis" block. The 50 bitcoin coinbase reward is unredeemable, as it was omitted from the transaction database. This means any attempt to spend it would be rejected by the network. Whether this was intentional or not still remains unknown.

A total of 0.00 BTC (\$0.00) were sent in the block with the average transaction being 0.00000 BTC (\$0.00). Satoshi earned a total reward of 50.00 BTC \$0.00. The reward consisted of a base reward of 50.00 BTC \$0.00 with an additional 0.00000 BTC (\$0.00) reward paid as fees of the 1 transactions which were included in the block.

Details

Hash	00000-ce26f ☼	Depth	788,758
Capacity	0.02%	Size	215
Distance	14y 4m 3d 12h 37m 2s	Version	0x1
BTC	0.0000	Merkle Root	4a-3b ☼
Value	\$0.00	Difficulty	1.00
Value Today	\$0.00	Nonce	2,573,394,689
Average Value	0.000000000000 BTC	Bits	486,604,799
Median Value	50.000000000 BTC	Weight	860 WU
Input Value	0.00 BTC	Mined	50.00 BTC
Output Value	50.00 BTC	Reward	50.000000000 BTC
Transactions	1	Mined on	Jan 08, 2009 at 9:54:25 PM
Witness Tx's	0	Height	1
Inputs	1	Confirmations	788,758
Outputs	1	Fee Range	0-0 sat/vByte
Fees	0.000000000 BTC	Average Fee	0.000000000
Fees Kb	0.00000000 BTC	Median Fee	0.000000000
Fees kWU	0.00000000 BTC	Miner	Unknown

Bitcoin's genesis is closely linked to the shortcomings of traditional financial systems, characterized by fiat money and central banking. Governments have long manipulated money supply, often resulting in currency devaluation and economic turmoil. To appreciate Bitcoin's significance, and properly analyze the regulatory landscape, we must first recognize the failings of our current monetary structure which led people to seek alternative forms of money.

Fiat money holds value through central authority declaration but is vulnerable to inflation and economic policies. Central banks attempt to stabilize economies by influencing money supply, interest rates, and credit availability. Despite their efforts, history is filled with financial crises, currency devaluations, and contagion. The 2008 financial crisis, triggered by the subprime mortgage bubble and major financial institution collapses, exposed the global financial system's vulnerability. Central banks implemented unprecedented measures, such as quantitative easing, to prevent a depression. These actions provided temporary relief but increased government debt, currency devaluation, and eroded trust in traditional finance.

Amidst this chaos, on January 3, 2009, Bitcoin emerged. Satoshi Nakamoto mined the first Bitcoin block, the "genesis block," with a message referencing a headline from The Times newspaper: "The Times 03/Jan/2009 Chancellor on brink of second bailout for banks." This message symbolized Bitcoin's purpose—a decentralized and trustless alternative to the flawed traditional financial system.

Bitcoin's decentralized nature eliminated central authority needs, while its deflationary design and capped supply offered a hedge against inflation. Blockchain technology ensured transparent and secure transactions without intermediaries. As we explore bitcoin and digital asset regulation, remember that this revolution began with the pursuit of a more resilient, transparent, and equitable financial system.

Bitcoin and Distributed Ledgers

2. Introduction: Emergence of Bitcoin

As the first decentralized digital currency, Bitcoin heralded a new era of financial systems and introduced the world to the concept of blockchain technology. Only 21 million bitcoin can exist. Most estimates report more than 3M are lost or abandoned forever, leaving no more than 18M ownable bitcoin. As of 2023, more than 90% has been mined. Nothing can make more bitcoin faster than its issuance schedule permits, and we know exactly what the issuance schedule will be moving forward.

❖ Importance of understanding Bitcoin's original vision

Despite the confusion created by alternative cryptocurrencies, understanding the original vision of Bitcoin remains crucial for comprehending the development of subsequent blockchain innovations.

3. Bitcoin: A Novel Solution

❖ a. Satoshi Nakamoto

Bitcoin, the first cryptographically secured electronic cash system to achieve mass adoption, was created by an unknown individual or group of individuals under the pseudonym Satoshi Nakamoto. After its creation, Nakamoto vanished from the public eye, leaving behind a groundbreaking innovation that would change the financial world forever.

❖ b. Satoshi Relinquishing Control and Disappearing

On April 26, 2011, Satoshi Nakamoto sent his final emails to fellow developers, making it clear that he had moved on to other projects. At the time, he handed over a cryptographic key used to send network-wide alerts.

4. Core Characteristics of Bitcoin

❖ a. Electronic Cash on a Shared Database

Bitcoin is a purely peer-to-peer version of electronic cash, allowing online payments to be sent directly from one party to another without the need for a financial institution. This decentralized approach removes the reliance on a central authority and creates a shared database of transactions on the blockchain.

❖ b. Decentralized Nature

The Bitcoin network is both geographically and technologically decentralized, with nodes, users, and developers distributed worldwide. This decentralization ensures no single entity has control over the network and transactions are collectively validated by participants.

❖ c. Pseudonymous, Not Anonymous

Bitcoin transactions are pseudonymous, meaning that while the public ledger ensures transparency and accountability, users can maintain a degree of privacy through the use of pseudonyms.

5. How Bitcoin Works: Key Components and Mechanisms Ensuring Trust

❖ a. Digital Signatures

Digital signatures are a crucial element in the peer-to-peer transaction process. They authenticate transactions, providing mathematical proof that a transaction has been authorized by the owner of the associated public key. This eliminates the need for a trusted third party to prevent double-spending.

❖ b. Solving the Double-Spending Problem

Bitcoin proposes a solution to the double-spending problem using a peer-to-peer network that timestamps transactions by hashing them into a continuous chain of hash-based proof-of-work. This creates a record that cannot be altered without redoing the proof-of-work.

❖ c. Proof-of-Work and the Longest Chain

The longest chain of proof-of-work serves as evidence of the sequence of events and the fact that it originated from the largest pool of CPU power. As long as the majority of CPU power is controlled by nodes not cooperating to attack the network, they will generate the longest chain and outpace any attackers.

6. Framer's Intent: Understanding the Foundations of Blockchain Technology

Just as judges look to the framer's intent when interpreting the constitution, grasping the fundamental principles of Bitcoin enables us to better comprehend and assess the diverse landscape of blockchain technologies that have followed in its footsteps.

❖ a. Importance of Understanding Bitcoin's Foundational Principles

Grasping the fundamental principles of Bitcoin, as laid out by Satoshi Nakamoto, is vital for comprehending the evolution of blockchain technologies. By examining Bitcoin's original vision, we can appreciate the ingenuity of its creation and gain valuable context for evaluating the development of subsequent blockchain innovations.

❖ b. Evaluating and Appreciating Bitcoin's Legacy in Subsequent Blockchain Technologies

As a trailblazer in the world of digital currencies, Bitcoin has inspired a multitude of blockchain technologies and cryptocurrencies. Understanding the framer's intent behind Bitcoin allows us to assess the diverse landscape of blockchain technologies and recognize the enduring influence of Bitcoin's core principles in shaping the future of decentralized financial systems.

Sources

- Bitcoin Whitepaper.pdf
- River Learn
 - o <https://river.com/learn/what-are-public-private-keys/>
 - o <https://river.com/learn/terms/a/address-bitcoin/>
 - o <https://river.com/learn/terms/x/xpub-extended-public-key/>
 - o <https://river.com/learn/terms/z/zpub-extended-public-key/>
 - o <https://river.com/learn/terms/y/ypub-extended-public-key/>
 - o <https://river.com/learn/terms/s/signature-digital-signature-algorithm-dsa/>
- https://en.bitcoin.it/wiki/Controlled_supply

The Rise of Other Layer 1 Protocols

7. Bitcoin's Growing Popularity and Perceived Limitations

As Bitcoin gained popularity, people began to scrutinize it, questioning if it was too good to be true. Bitcoin operates on a proof-of-work system, where miners expend real-world resources and time through ASIC miners and electricity costs, ensuring security and proving their existence in the physical world. However, two perceived arguments against Bitcoin relevant to this paper are: (1) energy use, and (2) scalability issues.

1. **Energy Use:** Critics argue that Bitcoin mining consumes excessive amounts of energy which is harmful to the environment. However, these concerns may be overstated as miners can serve as a buffer for the grid and act as purchasers of last resort for stranded energy sources such as renewable or excess power generation from traditional grids. Furthermore, according to the Cambridge Centre for Alternative Finance's CBECI index <https://ccaf.io/cbnsi/cbeci>, an increasing percentage of Bitcoin mining is powered by renewable energy sources.
2. **Scalability Issues:** Another argument against Bitcoin is its perceived limitations in handling high transaction volumes due to its inherent design constraints. Nonetheless, innovations such as the Lightning Network have been developed to address these scalability issues by enabling faster transactions at lower costs through off-chain payment channels <https://www.comp.nus.edu.sg/~prateeks/papers/Bitcoin-scaling.pdf>.

8. Ethereum and Solana

In response to some of these perceived limitations of Bitcoin, Vitalik Buterin created Ethereum in 2013 with the goal of enabling developers to build decentralized applications (dApps) more efficiently on top of a blockchain platform. Ethereum introduced smart contracts that allowed for programmable transactions and greater flexibility compared to Bitcoin's scripting language.

Ethereum initially utilized a proof-of-work consensus mechanism similar to that used by Bitcoin but has been transitioning towards a proof-of-stake model. This transition, known as Ethereum 2.0, aims to address the energy consumption concerns associated with proof-of-work mining while improving scalability and security.

Another layer-1 blockchain protocol gaining traction is Solana, which was launched in 2020 by Solana Labs, founded by Anatoly Yakovenko and Raj Gokal in 2018. Solana claims to enable even greater transaction volume at a fraction of the cost compared to Ethereum by utilizing a novel consensus mechanism called Proof of History (PoH).

Solana's claimed benefits include faster transaction processing times, lower fees, and improved scalability, making it an attractive platform for developers looking to build dApps and other blockchain-based solutions.

9. Other Layer-1 Protocols and Private Blockchain Development

In addition to public layer-1 blockchain protocols like Bitcoin, Ethereum, and Solana, numerous other platforms have been developed with varying degrees of decentralization, consensus mechanisms, and

use cases (see Layer 1 blockchains spreadsheet). These alternative protocols cater to diverse market needs ranging from decentralized finance (DeFi) platforms to non-fungible tokens (NFTs) marketplaces.

Moreover, private blockchains are being increasingly adopted for enterprise software solutions due to their enhanced control over data privacy and access permissions. Such private blockchains offer businesses the benefits of distributed ledger technology without sacrificing control over sensitive information.

10. Ongoing Evolution and Competition in Cryptocurrency Ecosystem

The rise of other layer-1 blockchain protocols highlights the ongoing evolution and competition within the cryptocurrency ecosystem. While Bitcoin remains the most well-known digital asset globally, alternative platforms like Ethereum and Solana continue to gain traction as they address specific limitations or offer unique features tailored to different use cases. As these technologies mature further, we can expect continued innovation within this space that will challenge existing paradigms in finance and beyond.

Sources

- Database of Known Layer 1 Blockchains.xlsx
- Ethereum Whitepaper.pdf
- Solana Whitepaper.pdf
- Transcript - Vitalik Buterin reveals Ethereum at Bitcoin Miami 2014.doc

Frequently Cited Securities Laws in Crypto Cases

11. A Brief History of the SEC

The Securities and Exchange Commission (SEC) was established in 1934 through the Securities Exchange Act to regulate the securities industry in the United States. Its primary objective is to protect investors and ensure fair and efficient markets by enforcing securities laws and overseeing various market participants, including brokerage firms, transfer agents, clearing agencies, and self-regulatory organizations (SROs) such as the New York Stock Exchange and the Financial Industry Regulatory Authority (FINRA).

❖ **EDGAR Database**

The SEC's mandate also includes ensuring that investors receive accurate financial information and are not subjected to deceit, misrepresentations, or fraud. It achieves this by requiring companies to file registration statements and periodic reports, which become publicly available through the SEC's EDGAR database.

12. Frequently Cited Provisions In Crypto Enforcement Actions: Securities Act of 1933

The Securities Act of 1933 is the primary federal legislation regulating the issuance and sale of securities in the United States. It aims to protect investors by requiring that securities be registered and that issuers provide accurate and transparent information about their financial condition and the securities being offered.

The SEC frequently cites the following provisions of the Securities Act in crypto enforcement actions:

❖ **i. Sections 5(a) and 5(c) – Unregistered Offering or Sale**

Sections 5(a) and 5(c) of the Securities Act (15 U.S. Code § 77e) prohibit the unregistered sale or offering of securities through interstate commerce or the mails. The SEC often cites these provisions when charging an issuer with the unregistered sale or offering of a security, such as a cryptocurrency or token, through an initial coin offering (ICO) or similar fundraising method.

In essence, Section 5(a) makes it unlawful to sell or deliver unregistered securities, while Section 5(c) prohibits the use of interstate commerce or the mails to offer to sell or buy any security unless a registration statement has been filed. Enforcement actions under these sections aim to ensure that issuers comply with registration and disclosure requirements, which are designed to protect investors by providing them with accurate and complete information about the securities being offered.

❖ **ii. Section 17(a) – Anti-Fraud**

Section 17(a) of the Securities Act (15 U.S. Code § 77q) makes it unlawful for any person, in the offer or sale of securities, to engage in fraudulent activities, such as employing a device, scheme, or artifice to defraud; obtaining money or property by means of an untrue statement or omission of a material fact; or engaging in a transaction, practice, or course of business that operates as a fraud or deceit upon the purchaser. The SEC may initiate enforcement actions under this section against issuers, promoters, or other participants in the cryptocurrency market who engage in fraudulent activities that harm investors.

❖ iii. Section 17(b) – Promotions and Endorsements

Section 17(b) of the Securities Act (15 U.S. Code § 77q) prohibits the use of interstate commerce or the mails to publish, publicize, or circulate any information related to a security without fully disclosing the receipt of consideration from the issuer, underwriter, or dealer, and the amount thereof. This provision is aimed at preventing misleading promotions and endorsements that may influence investors' decisions without disclosing potential conflicts of interest.

In the context of crypto enforcement actions, the SEC may cite Section 17(b) against influencers, promoters, or other individuals who receive compensation for promoting or endorsing a cryptocurrency or token without disclosing their financial relationship with the issuer. Such enforcement actions help ensure transparency and fairness in the promotion of securities, including cryptocurrencies and tokens, and protect investors from being misled by undisclosed financial incentives. We will discuss specific cases of this later in the paper.

13. Frequently Cited Provisions In Crypto Enforcement Actions: Exchange Act of 1934

The Exchange Act of 1934 is the primary federal legislation that governs the secondary trading of securities in the United States. It aims to ensure fair and transparent trading practices, protect investors, and maintain market stability.

The SEC frequently cites the following provisions of the Exchange Act in crypto enforcement actions:

❖ i. Exchange Act § 5

Section 5 of the Exchange Act prohibits brokers, dealers, or exchanges from using the mails or any means or instrumentality of interstate commerce to effect or report any transaction in a security on an exchange within or subject to the jurisdiction of the United States, unless the exchange is registered as a national securities exchange or is exempt from registration. This provision seeks to protect investors by ensuring that exchanges comply with regulatory requirements and maintain fair and transparent trading practices.

❖ ii. Exchange Act § 15(a)

Section 15(a) of the Exchange Act requires brokers and dealers to register with the SEC before engaging in interstate commerce to effect transactions in securities, with certain exceptions. This registration requirement aims to protect investors by ensuring that brokers and dealers are subject to oversight and regulation by the SEC. The SEC may censure, place limitations on, suspend, or revoke the registration of any broker or dealer that has willfully violated any provision of the federal securities laws, including the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, and the Commodity Exchange Act.

❖ iii. Exchange Act § 17

Section 17 of the Exchange Act emphasizes the importance of prompt and accurate clearance and settlement of securities transactions for the protection of investors and those facilitating transactions on their behalf. The SEC is authorized to facilitate the establishment of a national system for clearance and settlement of securities transactions and ensure equal regulation of registered clearing agencies and transfer agents. In carrying out these responsibilities, the SEC coordinates with the Commodity Futures Trading Commission and consults with the Board of Governors of the Federal Reserve System.

❖ iv. Exchange Act § 10(b) and Rule 10b-5

Section 10(b) of the Exchange Act and Rule 10b-5, adopted by the SEC, prohibit the use of manipulative or deceptive devices or contrivances in connection with the purchase or sale of any security. These provisions serve as primary antifraud provisions in securities law. The Supreme Court has recognized that insider trading, or the purchase or sale of a security because of material nonpublic information in breach of a duty, falls within the scope of these provisions.

To provide clarity, the SEC adopted Rule 10b5-1, which specifies that a purchase or sale of a security is because of material nonpublic information if the person making the transaction was aware of the information when the transaction was made. Enforcement actions under Section 10(b) and Rule 10b-5 aim to protect investors from fraudulent and manipulative practices, including insider trading, that undermine market integrity and investor confidence.

❖ v. Exchange Act § 9(a)(1), 9(a)(2)

Section 9(a) of the Exchange Act focuses on preventing market manipulation and ensuring that securities markets operate fairly and transparently. It prohibits individuals from engaging in certain activities that create a false or misleading appearance of active trading or manipulate the price of securities. Specifically, section 9(a)(1) makes it unlawful for any person to:

- Effect transactions in a security that involve no change in beneficial ownership;
- Enter orders for the purchase or sale of a security with the knowledge that similar orders have been or will be entered by or for the same or different parties;
- Enter orders for the sale of a security with the knowledge that similar orders have been or will be entered by or for the same or different parties.

Section 9(a)(2) prohibits individuals from effecting a series of transactions in any security to create actual or apparent active trading or to manipulate the price of the security with the purpose of inducing others to purchase or sell the security.

❖ vi. Exchange Act § 14(e) and Rule 14e-8 thereunder

Section 14(e) of the Exchange Act governs tender offers and prohibits any person from making untrue statements of material facts, omitting material facts, or engaging in fraudulent, deceptive, or manipulative acts or practices in connection with a tender offer. This provision aims to protect investors by ensuring that they receive accurate and complete information when deciding whether to participate in tender offers. Rule 14e-8, adopted by the SEC, provides further clarity on the prohibited acts and practices, and prescribes measures to prevent them.

❖ vii. Exchange Act § 13(a); Exchange Act Rules 13a-1 and 13a-13

Section 13(a) of the Exchange Act establishes reporting requirements for security-based swaps that are not accepted for clearing by any clearing agency or derivatives clearing organization. These swaps must be reported to a security-based swap data repository or, if none is available, to the SEC within a prescribed time period. This provision aims to enhance transparency and oversight in the security-based swaps market.

❖ viii. Exchange Act § 6

Section 6 of the Exchange Act sets forth the registration requirements for national securities exchanges. An exchange can register as a national securities exchange by filing an application with the SEC, which must contain the exchange's rules and other information and documents as prescribed by the SEC. This provision ensures that securities exchanges operate under a consistent regulatory framework that protects investors and promotes market integrity.

❖ ix. Exchange Act § 12

Section 12 of the Exchange Act establishes registration requirements for securities traded on national securities exchanges. It makes it unlawful for any member, broker, or dealer to effect transactions in non-exempt securities on a national securities exchange unless the security is registered in accordance with the provisions of the Exchange Act and its rules and regulations. This requirement ensures that securities traded on exchanges are subject to oversight and regulation, providing protection for investors and fostering market stability.

14. Frequently Cited Provisions In Crypto Enforcement Actions: Caselaw

a. SEC v. W.J. Howey Co., 328 U.S. 293 (1946) ("Howey")

The Howey test is a critical tool used by the SEC to determine if a digital asset offering qualifies as an Investment Contract, a popular type of security. In essence, the Howey test identifies whether an investment contract exists when there is an investment of money in a common enterprise with a reasonable expectation of profits derived from the efforts of others. The test applies to any contract, scheme, or transaction, regardless of its characteristics or formal structure, focusing on the economic reality of the transaction.

To apply the Howey test to digital assets, a framework has been established that includes the following elements:

1. **The Investment of Money:** This element is typically satisfied in the offer and sale of a digital asset, as it is acquired in exchange for value, such as fiat currency, another digital asset, or other types of consideration.
2. **Common Enterprise:** Courts analyze a "common enterprise" as a distinct element of an investment contract. In evaluating digital assets, a common enterprise typically exists. Federal courts require either "horizontal commonality" or "vertical commonality" to satisfy the "common enterprise" aspect of the Howey test.
3. **Reasonable Expectation of Profits Derived from Efforts of Others:** The main issue in analyzing a digital asset under the Howey test is whether a purchaser has a reasonable expectation of profits derived from the efforts of others. If a promoter, sponsor, or other third party provides essential managerial efforts that affect the success of the enterprise, and investors reasonably expect to derive profit from those efforts, this element of the test is met.

The Howey test focuses on the economic reality of the transaction and the how the digital asset is offered and sold. Issuers of digital assets, like all issuers, must provide full and fair disclosure of material information consistent with the requirements of the federal securities laws. Materiality depends on the nature and structure of the issuer's particular network and circumstances.

Related Cases

❖ **United Housing Found., Inc. v. Forman, 421 U.S. 837 (1975) ("Forman"):**

This case reaffirmed and clarified the application of the Howey test, emphasizing that the test applies to any contract, scheme, or transaction, regardless of whether it has any of the characteristics of typical securities.

❖ **Tcherepnin v. Knight, 389 U.S. 332 (1967) ("Tcherepnin"):**

This case further emphasized that the term "security" embodies a flexible principle to accommodate various schemes devised by those who seek the use of others' money with the promise of profits.

❖ **SEC v. C. M. Joiner Leasing Corp., 320 U.S. 344 (1943) ("Joiner"):**

This case established that whether a contract, scheme, or transaction is an investment contract is a matter of federal, not state, law, and does not depend on whether there is a formal contract between parties.

❖ **TSC Industries v. Northway, 426 U.S. 438, 449 (1976):**

This case provided guidance on materiality, stating that a fact is material "if there is a substantial likelihood that a reasonable shareholder would consider it important" in making an investment decision or if it "would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available."

❖ **Revak v. SEC Realty Corp., 18 F.3d. 81, 87-88 (2d Cir. 1994):**

This case discussed the concepts of "horizontal commonality" and "vertical commonality" in relation to the "common enterprise" aspect of the Howey test. Horizontal commonality refers to the tying of each investor's fortunes to those of other investors, while vertical commonality focuses on the relationship between the promoter and the body of investors.

❖ **In re Barkate, 57 S.E.C. 488, 496 n.13 (Apr. 8, 2004):**

This case clarified that the SEC does not require vertical or horizontal commonality per se, nor does it view a "common enterprise" as a distinct element of the term "investment contract."

❖ **SEC v. Koscot Interplanetary, Inc., 497 F.2d 473, 483 n.15 (5th Cir. 1974):**

This case established that assigning "nominal or limited responsibilities to the [investor] does not negate the existence of an investment contract."

b. *Reves v. Ernst & Young*, 494 U.S. 56 (1990)

In the *Reves* case, the Court examined a critical issue: determining which instruments qualify as a "note" and can thus be regulated as a "security" under the Securities Exchange Act of 1934. This law defines a security to encompass various instruments, including "any note" that has a maturity exceeding nine months at the time of issuance. To discern which notes are qualified, the Court established the "family resemblance test," encompassing a range of legal notions like a rebuttable presumption, seven potential analogies, and a multifactor balancing test.

The *Reves* test first assesses whether the instrument in question is a note with a maturity exceeding nine months. If so, it is presumed to be a security; otherwise, no presumption applies. If the instrument doesn't closely resemble one of those categories, the presumption can still be rebutted if the balance of

four factors indicates that the note isn't a security. These factors include the motivations of the buyer and seller, the plan of distribution, the reasonable expectations of the investing public, and risk-reducing considerations. While the legal analysis is dependent on specific facts and can be somewhat unclear, it primarily revolves around a central question: Is the instrument being sold and bought as an investment?

The financial instrument in *Reves* was a promissory note sold by a farmers' cooperative to finance its business operations. The Court determined that this type of note was a security because it didn't fall within any of the seven exempted note categories, and all four factors favored treating it as such. The Court emphasized that the cooperative sold the notes to raise capital, and purchasers bought them to earn a profit through interest. Additionally, the notes were advertised to the general public as "investments" and were uncollateralized and uninsured, making regulation desirable for investor protection.

c. Distinguishing *Howey* and *Reves*

❖ Comparison:

Both the *Howey* and *Reves* cases serve the purpose of refining the definition of a security under U.S. federal law, providing a framework for courts and regulators to evaluate specific instruments. The *Howey* and *Reves* tests share a similar goal of identifying whether an instrument functions as an investment and whether it should be regulated under securities laws.

❖ *Howey* test:

The *Howey* test, established in *SEC v. W.J. Howey Co.*, examines whether an instrument constitutes an "investment contract." The test consists of four criteria that must be met for an investment contract to exist: (1) an investment of money, (2) in a common enterprise, (3) with a reasonable expectation of profits, (4) derived from the efforts of others. The test's underlying principle is to focus on the economic reality of a transaction and the way an instrument is offered and sold. The *Howey* test has been widely applied to various instruments, including traditional securities, digital assets, and even real estate transactions.

❖ *Reves* test:

In *Reves v. Ernst & Young*, the Court introduced the "family resemblance test" to determine which instruments qualify as a "note" and can be regulated as a security under the Securities Exchange Act of 1934. The test involves a rebuttable presumption that a note with a maturity exceeding nine months is a security. The presumption can be rebutted by showing that the note bears a strong family resemblance to one of the seven types of instruments that are not securities or by balancing four factors indicating the note is not a security.

❖ Contrast:

The primary difference between the two cases is the focus of each test. The *Howey* test is centered on determining whether an instrument is an investment contract, whereas the family resemblance test in the *Reves* case is specifically designed to identify which instruments qualify as notes.

The *Howey* test is more comprehensive and broadly applicable to a wide range of instruments, including digital assets and non-traditional securities. In contrast, the *Reves* test is tailored to notes and focuses on their maturity, the issuer's purpose, the method of distribution, and the reasonable expectations of investors.

Moreover, the Howey test's emphasis is on the reasonable expectation of profits derived from the efforts of others, while the Reves test considers the motivations of the buyer and seller, the plan of distribution, the reasonable expectations of the investing public, and risk-reducing factors, making it more context-specific and nuanced.

Sources

- Securities Act of 1933
- Exchange Act of 1934
- Curated SEC Crypto Enforcement Action Database.xlsx
- MOCO Crypto Litigation Tracer 04/23.pdf
- Reves v. EY <https://www.jdsupra.com/legalnews/the-limits-of-applying-reves-v-ernst-5896777/>
- Reves v. EY <https://casetext.com/case/reves-v-ernst-young/analysis?citingPage=1&sort=relevance>
- Reves versus Howey Discussion <https://www.jdsupra.com/legalnews/clash-of-the-titans-sec-sues-genesis-9660462/>
- SEC v. Howey <https://www.law.cornell.edu/supremecourt/text/328/293>
- <https://www.law.cornell.edu/uscode/text/15/77b>
- <https://www.sec.gov/edgar/sec-api-documentation>.
- <https://www.govinfo.gov/content/pkg/COMPS-1884/pdf/COMPS-1884.pdf>
- https://www.law.cornell.edu/wex/section_5
- <https://www.govinfo.gov/content/pkg/COMPS-1885/pdf/COMPS-1885.pdf>

14. SEC Crypto Enforcement Actions

The Securities and Exchange Commission (SEC) has been actively involved in enforcing securities laws in the emerging cryptocurrency space. As digital assets and initial coin offerings (ICOs) gained popularity, the SEC began to scrutinize them for compliance with securities laws.

This led to a range of enforcement actions related to ICOs, virtual tokens, digital asset exchanges, celebrity and influencer endorsements, anti-fraud, and promotion and endorsement activities. In this context, it is important to understand the different categories of SEC crypto enforcement actions and their implications for the cryptocurrency industry.

The administration has extensive experience led by Chair Gensler, who taught extensively at MIT and has recorded lectures about bitcoin and other cryptocurrencies. His views at the time of these recordings are not the views of the SEC, but they are insightful and relevant to this discussion.

- MIT 15.S12 Blockchain and Money, Fall 2018
- Instructor: Prof. Gary Gensler
- YouTube: https://youtu.be/5auv_xrvoJk
- View the complete course: <https://ocw.mit.edu/15-S12F18>

15. Enforcement Actions by Time Period

Enforcement Actions by Time Period (2015-2020 Selected Cases)

❖ SEC v. Erik T. Voorhees (2014)

In the case of SEC v. Erik T. Voorhees (2014), the Commission charged Bitcoin entrepreneur Erik Voorhees with the offer and sale of unregistered securities in SatoshiDICE, a bitcoin betting game, and FeedZeBirds, a social media marketing venture.

❖ SEC v. Garza, et al. (2015)

In SEC v. Garza, et al. (2015), the SEC charged Garza and his two bitcoin mining companies with conducting an alleged Ponzi scheme by offering shares in a bitcoin mining operation that did not have enough computing power for the mining they promised to conduct.

❖ In re Munchee, Inc (2017)

In the case of In re Munchee, Inc (2017), the SEC filed a settled cease-and-desist order against a California-based company selling digital tokens in an unregistered offering to investors to raise capital for its blockchain-based food review service.

❖ Report of Investigation: The DAO (2017),

In its Report of Investigation: The DAO (2017), the SEC issued guidance concerning the application of the U.S. federal securities laws to the offer and sale of DAO Tokens, which were virtual tokens created and distributed on a blockchain by an entity called "The DAO."

❖ SEC v. Titanium Blockchain Infrastructure Services Inc., et al. (2018)

The SEC's case against Titanium Blockchain Infrastructure Services Inc., et al. (2018) involved an alleged ongoing fraud involving an ICO. The Commission obtained a court order halting the fraud, approving an emergency asset freeze, and appointing a receiver.

❖ SEC v. Kik Interactive Inc. (2019)

In SEC v. Kik Interactive Inc. (2019), the SEC filed a complaint against an ICO issuer for raising \$100 million in an alleged unregistered securities offering that did not qualify for an exemption.

❖ SEC v. Telegram Group Inc., et al. (2019)

In SEC v. Telegram Group Inc., et al. (2019), the Commission filed an emergency action and obtained a temporary restraining order against two offshore entities conducting an alleged unregistered, ongoing digital token offering in the U.S. and overseas that raised more than \$1.7 billion of investor funds.

❖ SEC's v. Block.one (2019)

The SEC's case against Block.one (2019) involved a settled cease-and-desist proceeding against a blockchain technology company for conducting an unregistered initial coin offering of digital tokens that raised the equivalent of several billion dollars over approximately one year.

❖ SEC v. Ripple Labs, Inc., et al. (2020)

In more recent case, SEC v. Ripple Labs, Inc., et al. (2020), the SEC filed an action against Ripple Labs, Inc. and two of its executives, alleging that they raised over \$1.3 billion through an unregistered, ongoing digital asset securities offering.

Enforcement Actions by Time Period: (2021 All Cases)

❖ SEC v. Ginster (11/18/2021)

The SEC charged Ryan Ginster for conducting two unregistered and fraudulent securities offerings, raising over \$3.6 million in cryptocurrency from retail investors.

❖ GTV Media Group, Inc., et al. (9/13/2021)

The SEC charged GTV Media Group Inc., Saraca Media Group Inc., and Voice of Guo Media Inc., for conducting an illegal unregistered offering of GTV common stock and a digital asset security referred to as G-Coins or G-Dollars. The respondents agreed to pay over \$539 million to settle the charges.

❖ SEC v. Rivetz Corp., et al. (9/8/2021)

The SEC charged Rivetz Corp., Rivetz International SEZC, and Steven K. Sprague, for conducting an illegal, unregistered offering of securities through an initial coin offering.

❖ SEC v. BitConnect, et al. (9/1/2021)

The SEC filed charges against BitConnect, its founder Satish Kumbhani, and its top U.S. promoter and his affiliated company for defrauding retail investors out of \$2 billion through a global fraudulent and unregistered offering of investments involving digital assets.

❖ SEC v. Brown, et al. (5/28/2021)

The SEC filed charges against two Florida men and their Cayman Islands company for unregistered sales of over \$30 million of securities using smart contracts and decentralized finance (DeFi) technology and for misleading investors concerning their business operations and profitability.

❖ Poloniex, LLC (8/9/2021)

The SEC filed settled charges against Poloniex, LLC, which agreed to pay over \$10 million for operating an unregistered online digital asset exchange that facilitated buying and selling of digital asset securities.

❖ Blockchain Credit Partners d/b/a DeFi Money Market, et al. (8/6/2021)

The SEC charged two Florida men and their Cayman Islands company for unregistered sales of over \$30 million of securities using smart contracts and DeFi technology, and for misleading investors concerning the operations and profitability of their business DeFi Money Market.

❖ SEC v. Uulala, Inc., et al. (8/4/2021)

The SEC filed settled charges against Uulala, Inc., and two founders, Oscar Garcia and Matthew Loughran, for defrauding over a thousand investors in an unregistered offering of digital asset securities that raised over \$9 million, and against Uulala and Garcia for engaging in a second fraudulent offering of convertible notes.

❖ Blotix Ltd., Coinschedule Ltd. (7/14/2021)

The SEC filed settled charges against Blotix Ltd., the operator of Coinschedule.com, a popular website that profiled offerings of digital asset securities, for violating the anti-touting provisions of the federal securities laws by failing to disclose compensation received from issuers of the digital asset securities.

❖ Loci, Inc., et al. (6/22/2021)

The SEC filed settled charges against Loci, Inc. and its CEO John Wise for making materially false and misleading statements in connection with an unregistered offer and sale of digital asset securities called "LOCIcoin", raising \$7.6 million from investors.

❖ SEC v. Hamid, et al. (6/15/2021)

The SEC charged three individuals for their roles in a \$30 million initial coin offering fraud led by convicted criminal Boaz Manor and his associate, Edith Pardo. The SEC previously charged Manor, Pardo, and their companies, CG Blockchain, Inc. and BCT Inc. SEZC in connection with the scheme in January 2020.

❖ SEC v. Manor, et al. (1/17/2020)

The SEC charged Boaz Manor, Edith Pardo, and their companies, CG Blockchain, Inc. and BCT Inc. SEZC, in connection with a \$30 million initial coin offering fraud. This case is related to the previously mentioned case against three other individuals involved in the scheme.

❖ SEC v. Radjabli, et al. (6/11/2021)

The SEC filed charges against Edgar M. Radjabli, formerly a practicing dentist, and two entities he controlled for engaging in several securities frauds of escalating size, including a fraudulent offering of Apis Tokens, a digital asset representing tokenized interests in Radjabli's main investment fund.

❖ SEC v. LBRY, Inc. (3/29/2021)

The SEC charged blockchain company LBRY, Inc., with conducting an unregistered offering of digital asset securities called "LBRY Credits," raising over \$11 million in US dollars, Bitcoin, and services from purchasers who participated in its offering.

❖ SEC v. Cutting (3/5/2021)

The SEC filed an emergency action and obtained a temporary restraining order and asset freeze against Shawn C. Cutting for allegedly raising millions of dollars from hundreds of investors by falsely claiming to be a financial adviser with securities licenses, overstating investment returns, and misappropriating money received from investors.

❖ SEC v. Coinseed, Inc., et al. (2/17/2021)

The SEC charged Coinseed, Inc., a company that offered a mobile investment application for users to invest in digital assets, and its co-founder and CEO, Delgerdalai Davaasambu, in connection with Coinseed's offer and sale of digital asset securities.

❖ SEC v. Krstic, et al. (2/1/2021)

The SEC charged three individuals with defrauding hundreds of retail investors out of more than \$11 million through two fraudulent and unregistered digital asset securities offerings.

❖ Wireline, Inc. (1/15/2021)

The SEC filed a settled cease-and-desist proceeding against financial technology company Wireline, Inc., for making materially false and misleading statements in connection with an unregistered offer and sale of digital asset securities.

Enforcement Actions by Time Period: (2022 All Cases)

❖ SEC v. Ellison and Wang (12/21/2022)

The SEC charged former Alameda Research CEO, Caroline Ellison, and former FTX Trading CTO, Zixiao (Gary) Wang, for defrauding FTX equity investors in a multiyear scheme. The case involves the crypto trading platform co-founded by Samuel Bankman-Fried and Wang.

❖ SEC v. Thor Technologies, Inc. and Chin; SEC v. Moravec (12/21/2022)

Thor Technologies, its CEO David Chin, and former CTO Matthew Moravec were charged by the SEC for conducting an unregistered securities offering through an initial coin offering.

❖ SEC v. Da Silva, et al. (12/14/2022)

The SEC charged four individuals for creating and promoting Forcount Trader Systems, a fraudulent crypto asset pyramid scheme that raised over \$8.4 million from retail investors in Spanish-speaking communities across the US and other countries.

❖ SEC v. Bankman-Fried (12/13/2022)

Samuel Bankman-Fried, CEO and co-founder of FTX Trading, was charged by the SEC for defrauding equity investors in the crypto trading platform.

❖ SEC v. Braga, et al. (11/4/2022)

The SEC charged four individuals for their involvement in Trade Coin Club, a fraudulent crypto Ponzi scheme that raised over 82,000 bitcoin (valued at \$295 million) from over 100,000 investors worldwide.

❖ SEC v. Rounsville (11/3/2022)

Jeremy K. Rounsville was charged by the SEC for promoting a fictitious trading program called Arbitraging.co.

❖ Kardashian (10/3/2022)

Kim Kardashian was charged by the SEC for promoting EthereumMax's crypto asset security on social media without disclosing the payment she received for the promotion.

❖ SEC v. Chavez, et al. (10/3/2022)

The SEC filed an emergency action against Mauricio Chavez, Giorgio Benvenuto, and CryptoFX, LLC for running a fraudulent and unregistered crypto asset offering targeting Latino investors.

❖ SEC v. Arbitrade Ltd., et al. (9/30/2022)

The SEC charged Arbitrade Ltd., Cryptobontix Inc., their principals, and an international gold trader for perpetrating an alleged pump-and-dump scheme involving a crypto asset called "Dignity" or "DIG."

❖ SEC v. The Hydrogen Technology Corporation, et al. (9/28/2022)

The SEC charged The Hydrogen Technology Corporation, its former CEO Michael Ross Kane, and Tyler Ostern, the CEO of Moonwalkers Trading Limited, for their roles in the unregistered offers and sales of crypto asset securities called "Hydro" and a scheme to manipulate trading volume and price.

❖ Sparkster, Ltd., et al.

The SEC issued a cease-and-desist order against Sparkster and its CEO, Sajjad Daya, for an unregistered crypto asset securities offering. Crypto influencer Ian Balina was also charged for failing to disclose compensation from Sparkster and failing to file a registration statement for Sparkster tokens that he resold.

❖ SEC v. Chicago Crypto Capital LLC, et al. (9/14/2022)

The SEC charged Chicago Crypto Capital, its owner Brian Amoah, and former salesmen Darcas Oliver Young and Elbert "Al" Elliott for defrauding investors during an unregistered offering of crypto asset securities.

❖ SEC v. Dragonchain, Inc., et al. (8/16/2022)

The SEC charged John Joseph Roets and three entities he controls (Dragonchain, Inc., Dragonchain Foundation, and The Dragon Company) for raising \$16.5 million in unregistered crypto asset securities offerings.

❖ Bloom Protocol, LLC (8/9/2022)

The SEC charged Bloom Protocol for conducting an unregistered initial coin offering of crypto asset securities. Bloom agreed to register the tokens, compensate harmed investors, and pay a springing penalty of up to \$30.9 million if it does not complete these undertakings.

❖ SEC v. Okhotnikov, et al. (8/1/2022)

The SEC charged 11 individuals for creating and promoting Forsage, a fraudulent crypto pyramid and Ponzi scheme that raised more than \$300 million from millions of retail investors worldwide, including in the United States.

❖ SEC v. Wahi, et al. (7/21/2022)

The SEC brought insider trading charges against a former Coinbase product manager, his brother, and his friend for trading ahead of announcements regarding certain crypto assets that would be made available for trading on the Coinbase platform.

❖ SEC v. Chiang, et al. (4/28/2022)

The SEC charged Steven Chiang (a/k/a Cyrus Kong), Eric Tippetts, James Hardy, and Maurice "Butch" Chelliah for raising over \$10 million through two fraudulent and unregistered digital asset securities offerings.

❖ SEC v. Block Bits Capital, LLC, et al. (4/28/2022)

The SEC charged Block Bits Capital, Block Bits Capital GP I, and their co-founders Japheth Dillman and David Mata, with conducting a fraudulent unregistered securities offering.

❖ SEC v. MCC International Corp., et al. (4/7/2022)

The SEC charged MCC International Corp., its founders Luiz Carlos Capuci Jr. and Emerson Souza Pires, and two other entities controlled by Capuci, CPTLCoin Corp. and Bitchain Exchanges, with fraud in connection with the unregistered offerings and sales of investment plans called mining packages to thousands of investors.

❖ SEC v. Barksdale, et al. (3/8/2022)

The SEC charged siblings John and JonAtina (Tina) Barksdale with defrauding thousands of retail investors out of more than \$124 million through two unregistered fraudulent offerings of securities involving a digital token called "Ormeus Coin."

❖ BlockFi Lending LLC (2/14/2022)

The SEC charged BlockFi Lending LLC with failing to register the offers and sales of its retail crypto lending product, and also charged BlockFi with violating the registration provisions of the Investment Company Act of 1940.

❖ SEC v. Garcia (1/18/2022)

The SEC charged Paul A. Garcia of Severance, Colorado, for allegedly defrauding investors by stealing approximately one quarter of investor funds raised for Gold Hawgs Development Corp., a failed cryptocurrency venture.

❖ SEC v. Crowd Machine, Inc., et al. (1/6/2022)

The SEC charged Australian citizen Craig Sproule and two companies he founded, 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.

Enforcement Actions by Time Period: (2023 All Cases as of May 1)

❖ SEC v. Green United, LLC, et al. (3/8/2023)

The SEC charged Green United, LLC, its founder Wright W. Thurston, and promoter Kristoffer A. Krohn with defrauding investors in connection with an unregistered offering of crypto asset securities. The defendants allegedly misled investors about the company's operations and use of funds, violating securities laws.

❖ SEC v. Singh (2/28/2023)

The SEC charged Nishad Singh, former Co-Lead Engineer of FTX Trading Ltd., for his role in a scheme to defraud equity investors in FTX. Singh is accused of misleading investors regarding the company's financial performance and future prospects, and investigations into related securities law violations and other entities and persons are ongoing.

❖ SEC v. BKCoin Management, LLC, et al. (2/23/2023)

The SEC filed an emergency action against Miami-based investment adviser BKCoin Management LLC and its principal, Kevin Kang, for a crypto asset fraud scheme. BKCoin and Kang allegedly raised \$100 million from investors for crypto asset investments but used the funds for Ponzi-like payments and personal use.

❖ Pierce (2/17/2023)

The SEC charged former NBA player Paul Pierce for promoting EMAX tokens without disclosing the payment received and for making false and misleading promotional statements. Pierce agreed to settle the charges and pay \$1.409 million in penalties, disgorgement, and interest.

❖ SEC v. Terraform Labs PTE Ltd and Kwon (2/16/2023)

The SEC charged Singapore-based Terraform Labs PTE Ltd and Do Hyeong Kwon with orchestrating a multi-billion-dollar crypto asset securities fraud involving an algorithmic stablecoin and other crypto asset securities.

❖ Payward Ventures, et al. (d/b/a Kraken) (2/9/2023)

The SEC charged Payward Ventures, Inc. and Payward Trading Ltd., both known as Kraken, for failing to register their crypto asset staking-as-a-service program, which offered annual investment returns of up to 21 percent.

❖ SEC v. Ryn and GexCrypto Corp. (2/7/2023)

The SEC charged Emiliano S. Ryn and his company GexCrypto Corp. with defrauding members of the Filipino community in a scheme involving crypto assets.

❖ SEC v. Eisenberg (1/20/2023)

The SEC charged Avraham Eisenberg with orchestrating an attack on Mango Markets, a crypto asset trading platform, by manipulating the MNGO token, a governance token offered and sold as a security.

❖ Nexo Capital Inc. (1/19/2023)

The SEC charged Nexo Capital Inc. with failing to register the offer and sale of its retail crypto asset lending product, the Earn Interest Product (EIP). Nexo agreed to pay a \$22.5 million penalty and cease its unregistered offer and sale of the EIP to U.S. investors.

❖ SEC v. Genesis Global Capital, LLC and Gemini Trust Company, LLC (1/12/2023)

The SEC charged Genesis Global Capital, LLC and Gemini Trust Company, LLC for the unregistered offer and sale of securities to retail investors through the Gemini Earn crypto asset lending program, which raised billions of dollars' worth of crypto assets from hundreds of thousands of investors.

❖ SEC v. Chandran, et al. (1/4/2023)

The SEC charged Neil Chandran, Garry Davidson, Michael Glaspie, Amy Mossel, Linda Knott, AEO Publishing Inc, Banner Co-Op, Inc, and BannersGo, LLC for their involvement in a fraudulent investment scheme named CoinDeal. The defendants allegedly raised more than \$45 million from sales of unregistered securities to tens of thousands of investors worldwide, violating securities laws and defrauding investors.

16. Cases by Enforcement Action Category

These categories provide an overview of the types of enforcement actions the SEC is most interested in when it comes to the cryptocurrency and digital asset markets.

❖ Enforcement Action Category 1: Unregistered Offerings

These enforcement actions involve the offer and sale of securities without proper registration with the SEC, including initial coin offerings (ICOs) and token sales.

- SEC v. Thor Technologies, Inc. and Chin; SEC v. Moravec (12/21/2022)
- Bloom Protocol, LLC (8/9/2022)
- SEC v. Block Bits Capital, LLC, et al. (4/28/2022)
- SEC v. Dragonchain, Inc., et al. (8/16/2022)

❖ Enforcement Action Category 2: Fraudulent Offerings

These enforcement actions involve the offering and sale of securities that contain materially false or misleading statements, or the omission of material facts, leading to financial harm for investors.

- SEC v. Ellison and Wang (12/21/2022)
- SEC v. Bankman-Fried (12/13/2022)
- SEC v. Rounsiville (11/3/2022)
- SEC v. Chiang, et al. (4/28/2022)
- SEC v. Barksdale, et al. (3/8/2022)
- SEC v. Garcia (1/18/2022)
- SEC v. Crowd Machine, Inc., et al. (1/6/2022)

❖ Enforcement Action Category 3: Ponzi and Pyramid Schemes

These enforcement actions target schemes that involve paying returns to earlier investors using funds contributed by new investors, or schemes that promise high returns based on the recruitment of new participants.

- SEC v. Da Silva, et al. (12/14/2022)
- SEC v. Braga, et al. (11/4/2022)
- SEC v. Okhotnikov, et al. (8/1/2022)

❖ Enforcement Action Category 4: Improper Promotion

These enforcement actions involve promoters who fail to disclose compensation they receive for promoting securities or influencers who engage in touting securities without proper disclosure.

- Kardashian (10/3/2022)
- Sparkster, Ltd., et al.
- SEC v. Wahi, et al. (7/21/2022)

❖ Enforcement Action Category 5: Insider Trading

These enforcement actions involve individuals who trade on non-public, material information obtained through their positions or relationships, resulting in an unfair advantage in the market.

- SEC v. Wahi, et al. (7/21/2022)

❖ Enforcement Action Category 6: Market Manipulation

These enforcement actions involve schemes to artificially inflate or deflate the price of securities or trading volume, often for personal financial gain.

- SEC v. The Hydrogen Technology Corporation, et al. (9/28/2022)

❖ Enforcement Action Category 7: Violations of Investment Company Act

These enforcement actions involve violations of the Investment Company Act of 1940, which regulates the organization and operation of investment companies and their investment activities.

- BlockFi Lending LLC (2/14/2022)

❖ Enforcement Action Category 8: Pump and Dump Schemes

These enforcement actions target schemes in which individuals or groups create artificial demand for a security, causing the price to increase, before selling their own holdings at the inflated price.

- SEC v. Arbitrade Ltd., et al. (9/30/2022)

❖ Enforcement Action Category 9: Unregistered Broker-Dealer Activities

These enforcement actions involve individuals or entities that engage in the business of effecting transactions in securities for the account of others without proper registration with the SEC.

- SEC v. Chicago Crypto Capital LLC, et al. (9/14/2022)

❖ Enforcement Action Category 10: Misappropriation of Investor Funds

These enforcement actions involve individuals or entities that misuse or misappropriate investor funds for personal benefit or for purposes other than those stated in the offering materials.

- SEC v. Chavez, et al. (10/3/2022)
- SEC v. MCC International Corp., et al. (4/7/2022)

17. The Evolution of SEC Enforcement Actions

From 2015 to 2023, the SEC's approach to crypto enforcement actions has evolved significantly, reflecting the rapid development of the cryptocurrency and digital asset markets. Early enforcement actions primarily targeted fraudulent Initial Coin Offerings (ICOs) and unregistered offerings, while later actions expanded to cover a broader range of misconduct and violations.

❖ 1. Initial focus on ICOs and unregistered offerings (2015-2017):

In the early years, the SEC primarily focused on fraudulent ICOs, as many companies raised significant capital through token sales without proper registration. During this period, the SEC issued the DAO Report in 2017, which clarified that certain tokens could be considered securities and subject to federal securities laws.

- Notable cases: SEC v. PlexCorps (2017)

❖ 2. Expansion of enforcement to other violations (2017-2019):

As the crypto market continued to evolve, the SEC expanded its enforcement actions to cover a broader range of misconduct, including unregistered exchanges, insider trading, and market manipulation.

- Notable cases: SEC v. Centra Tech, Inc. (2018), SEC v. EtherDelta's founder (2018), SEC v. Longfin Corp. (2019)

❖ 3. Targeting high-profile figures and influencers (2019-2021):

During this period, the SEC started to target high-profile figures and influencers who promoted crypto projects without proper disclosures or engaged in other violations.

- Notable cases: SEC v. Kik Interactive Inc. (2019), SEC v. Telegram Group Inc. (2020), SEC v. Ripple Labs Inc. (2020), Kardashian (2022)

❖ 4. Increased focus on DeFi platforms and lending products (2021-2023):

As decentralized finance (DeFi) platforms and crypto lending products gained popularity, the SEC began to scrutinize these sectors more closely. The SEC's focus shifted towards ensuring that these platforms and products complied with securities laws and protecting investors from potential harm.

- Notable cases: BlockFi Lending LLC (2022), SEC v. Rounsville (2022), SEC v. Okhotnikov, et al. (2022)

Throughout these years, the SEC has increasingly targeted a wider range of companies, including ICO issuers, crypto exchanges, DeFi platforms, and lending product providers. Additionally, the SEC has pursued cases against individuals such as company founders, CEOs, and influencers who have played a role in violating securities laws within the crypto space.

The rapid pace of innovation in the cryptocurrency and digital asset markets has presented unique challenges for regulatory agencies like the SEC. Although existing legal frameworks, such as the Securities Act of 1933, the Exchange Act of 1934, and landmark case law like *Howey* and *Reves*, were available, it is clear that the SEC initially lagged behind the burgeoning crypto industry. As a result, many companies and token issuers operated in an ambiguous environment, potentially unaware of the full implications of these existing regulations on their novel forms of value creation.

However, as we have seen through the various enforcement actions taken by the SEC over the years, the agency has steadily increased its efforts to protect investors, maintain market integrity, and clarify

regulatory expectations for market participants. The growing number of enforcement actions illustrates the SEC's commitment to adapting its regulatory approach to address the unique challenges posed by digital assets and cryptocurrencies.

As we move forward to the next section, we will explore the increasing involvement of another regulatory agency, the Commodity Futures Trading Commission (CFTC), in the cryptocurrency space. The CFTC's enforcement actions have also been on the rise as the agency seeks to compete with the SEC for congressional resources and establish its jurisdiction in this rapidly evolving financial landscape. This competition between regulatory agencies further underscores the complexities faced by market participants in navigating the ever-changing world of cryptocurrency regulation.

Sources

- Curated SEC Crypto Enforcement Action Database.xlsx
- MOCO Crypto Litigation Tracer 04/23.pdf
- SEC Framework for "Investment Contract" Analysis.docx
- SEC's cyber enforcement actions on crypto assets. <https://www.sec.gov/spotlight/cybersecurity-enforcement-actions>.
- Nexo to pay \$45 million in penalties. <https://www.sec.gov/news/press-release/2023-11>.
- Top 5 SEC enforcement developments for January 2023. <https://www.mofo.com/resources/insights/230217-top-5-sec-enforcement-developments-for-january-2023>.
- SEC and DOJ crypto enforcement actions in March 2022. <https://www.natlawreview.com/article/march-2022-crypto-enforcement-actions-roundup/>.

CFTC Crypto Enforcement Actions

18. Introduction to The Commodities Futures Trading Commission (CFTC)

The Commodity Futures Trading Commission (CFTC) is an independent federal agency established in 1974 to regulate the futures and options markets in the United States. Its primary mission is to protect market participants and the public from fraud, manipulation, and abusive practices related to the sale of commodity and financial futures and options, as well as to foster open, competitive, and financially sound futures and options markets.

A commodity, in the context of financial markets, is a basic good or raw material that is used in commerce and can be exchanged with other goods of the same type. Examples of commodities include agricultural products, such as wheat, corn, and soybeans; energy products, such as crude oil, natural gas, and gasoline; and metals, such as gold, silver, and copper.

The CFTC has taken the position that Bitcoin is a commodity for a number of years.

A futures contract is a standardized agreement between two parties to buy or sell a specified asset of standardized quantity and quality at a predetermined price on a specified future date. Futures contracts are traded on regulated exchanges and are used for hedging and speculative purposes.

19. The CFTC's Role in Regulating Cryptocurrency Futures Contracts

The rapid growth of digital assets has brought forth numerous challenges for regulators worldwide, including the Commodity Futures Trading Commission (CFTC). As a part of its mandate to protect market participants and ensure market integrity, the CFTC has been actively involved in regulating and enforcing rules related to digital assets through its robust enforcement program.

❖ Commissioner Christy Goldsmith Romero's keynote speech at City Week 2023

This section explains Commissioner Christy Goldsmith Romero's keynote speech at City Week 2023, which highlights illicit finance risks associated with digital assets and provides a trend analysis of the CFTC's enforcement actions in the crypto space.

In her keynote address at City Week 2023, Commissioner Romero highlighted several risks posed by digital assets that require regulatory attention:

- Illicit financing
- Customer loss through cybercrime
- Fraud as a hallmark of digital asset markets
- Non-bank financial stability risk
- Managing national security risk and illicit finance risk

❖ Illicit Financing

Commissioner Romero emphasized that digital assets have become an attractive medium for criminals due to their decentralized nature, anonymity features, and global reach. These factors facilitate activities

such as drug trafficking, human trafficking, ransomware attacks, terrorism financing, and malicious state-sponsored activities.

❖ Customer Loss Through Cybercrime

The commissioner also warned about potential customer losses resulting from cyberattacks on cryptocurrency exchanges or wallets due to inadequate security measures or system vulnerabilities.

❖ Fraud as a Hallmark of Digital Asset Markets

Fraudulent activities, such as Ponzi schemes, pump-and-dump schemes, and insider trading, have become prevalent in the digital asset markets. Commissioner Romero underscored that these fraudulent practices not only harm individual investors but also undermine public trust in the overall financial system.

❖ Non-Bank Financial Stability Risk

Digital assets pose a unique challenge for regulators due to their potential impact on non-bank financial institutions' stability (e.g., cryptocurrency exchanges or wallet providers). The failure of such entities could lead to systemic risks affecting broader financial markets.

20. The CFTC's Robust Enforcement Program in the Crypto Space

The Commodity Futures Trading Commission (CFTC) has been increasingly active in the cryptocurrency space in recent years. From 2015 through 2023, the CFTC has more than 73 digital asset cases, with 41 of those cases alleging fraud or manipulation. In 2023 alone, the CFTC brought seven cases related to digital assets, all of which alleged fraud or manipulation. See The CFTC's Robust Enforcement Program in the Crypto Space.

❖ Trend Analysis

A review of enforcement actions by the CFTC from fiscal years 2015-2023 reveals an increasing focus on digital asset cases:

- The total number of digital asset cases has risen from 2 in 2015 to 7 in 2023.
- Cases alleging fraud or manipulation have also increased over time – from zero cases in 2015-2016 to seven cases in 2023.
- Out of a total of 73 digital asset cases between FY2015-FY2023, approximately 56% (41) involved allegations related to fraud or manipulation.

These trends indicate that while there has been a significant growth in enforcement actions targeting illicit activities within the crypto space over recent years, fraud remains a persistent issue that requires continued attention from the CFTC.

❖ I. CFTC v. Binance

One of the most significant SEC crypto enforcement actions in 2023 was filed by the CFTC. On March 27, 2023, the CFTC sued Binance Holdings, CEO Changpeng Zhao, and COO Samuel Lim, alleging that they violated the Commodity Exchange Act (CEA) and CFTC regulations by operating an unregistered futures exchange and offering illegal leveraged transactions in crypto assets.

According to the CFTC's complaint, Binance operated a global online platform that allowed users to trade various crypto assets, including futures contracts and options on crypto assets, as well as leveraged transactions in crypto assets. The CFTC claimed that Binance offered these products to U.S. customers without registering with the CFTC as a designated contract market (DCM) or a swap execution facility (SEF), as required by the CEA. The CFTC also alleged that Binance offered leveraged transactions in crypto assets to U.S. customers without complying with the CEA's prohibition on such transactions unless they are executed on a DCM or SEF.

The CFTC further alleged that Binance willfully evaded U.S. law by using various deceptive and manipulative devices to avoid detection and scrutiny by U.S. regulators and law enforcement. For example, the CFTC claimed that Binance used IP address masking and geo-fencing techniques to prevent U.S. customers from accessing certain features of its platform, while allowing them to access other features through third-party services or platforms. The CFTC also claimed that Binance instructed U.S. customers to use VPNs or other tools to circumvent its geo-fencing restrictions, and that Binance failed to implement adequate know-your-customer (KYC) and anti-money laundering (AML) policies and procedures.

The CFTC sought various remedies against Binance and its executives, including permanent injunctions, disgorgement of ill-gotten gains, civil monetary penalties, and trading bans. The CFTC also sought to pierce the corporate veil of Binance Holdings and hold its U.S. affiliates, Merit Peak LLC and Binance US, liable for its violations. The CFTC argued that Binance Holdings exercised complete control over Merit Peak and Binance US, and that they were mere alter egos or instrumentalities of Binance Holdings.

The CFTC v. Binance case is a landmark lawsuit that could have major implications for the crypto industry. If successful, it could result in the shutdown of Binance's operations in the U.S., as well as significant fines and penalties for its executives. It could also serve as a precedent for other regulators and law enforcement agencies to pursue similar actions against other crypto exchanges and businesses that offer unregistered or illegal products or services to U.S. customers. Moreover, it could signal a more aggressive and coordinated approach by the CFTC and the SEC to regulate the crypto space, as both agencies have asserted jurisdiction over different aspects of crypto assets and transactions.

❖ ii. CFTC v. Bitfinex, Tether

On October 15, 2021, the CFTC ordered Tether and Bitfinex to pay fines totaling \$42.5 million for making untrue or misleading statements and omissions of material fact in connection with the U.S. dollar tether token stablecoin. The CFTC found that Tether falsely claimed that USDT was always fully backed by U.S. dollars, when in fact it was not. The CFTC also found that Bitfinex engaged in illegal, off-exchange retail commodity transactions in digital assets with U.S. persons on the Bitfinex trading platform and operated as a futures commission merchant without registering as required.

❖ iii. CFTC v. Coinbase

On April 16, 2023, the CFTC settled charges against Coinbase for operating an illegal wash trading scheme on its GDAX platform. The CFTC found that Coinbase employees and contractors placed buy and sell orders for bitcoin that matched each other in price and quantity, creating a false appearance of liquidity and trading activity. The CFTC also found that Coinbase failed to prevent or detect this misconduct and misled its customers about the true nature of the market. The CFTC ordered Coinbase to pay a \$6.5 million civil monetary penalty and to cease and desist from further violations.

❖ iv. CFTC v. Bitmex

CFTC Charges Crypto Exchange BitMEX Owners with Illegally Operating a Cryptocurrency Derivatives Trading Platform and Anti-Money Laundering Violations: The CFTC has also recently announced charges against five entities and three individuals that own and operate BitMEX, a crypto exchange that offers leveraged trading of crypto derivatives, for allegedly violating multiple CFTC regulations, including failing to register with the CFTC and implement anti-money laundering procedures.

❖ v. CFTC v. Kraken

Relatedly, in 2023, CFTC Orders Kraken to Pay \$1.25 Million Civil Monetary Penalty for Offering Illegal Leveraged Transactions in Ether, Litecoin, and Bitcoin: A press release announcing CFTC orders against Kraken, a crypto exchange operator, for allegedly offering illegal leveraged transactions in ether, litecoin, and bitcoin to U.S. customers without registering with the CFTC or complying with applicable laws and regulations.

❖ vi. All CFTC Crypto Enforcement Actions

Please refer to Appendix A The CFC's Robust Enforcement Program in the Crypto Space.docx for a comprehensive list of CFTC Crypto Enforcement Actions.

Sources

- Bitfinex to pay \$42.5 million in fines. <https://www.cftc.gov/PressRoom/PressReleases/8450-21/>.
- Binance sued by CFTC for alleged trading and derivatives violations. <https://news.bitcoin.com/binance-sued-by-cftc-for-alleged-violations-of-trading-and-derivatives-rules/>.
- CFTC orders Tether and Bitfinex to pay fines totaling \$42.5 million. <https://www.cftc.gov/PressRoom/PressReleases/8450-21>.
- Over a fifth of cases in CFTC's 2022 crackdown were crypto-related. <https://www.coindesk.com/policy/2022/10/20/over-a-fifth-of-cases-in-cftcs-2022-crackdown-were-crypto-related/>.
- CFTC 'goes straight for the knockout' in complaint against Binance. <https://www.forbes.com/sites/digital-assets/2023/03/28/cftc-goes-straight-for-the-knockout-in-complaint-against-binance/>.
- Why CFTC suing Binance matters for the future of the industry. <https://cointelegraph.com/news/here-s-why-cftc-suing-binance-is-a-bigger-deal-than-an-sec-enforcement>.
- CFTC Charges Binance and Its Founder, Changpeng Zhao, with Willful Evasion.pdf
- CFTC v. Binance Complaint.pdf
- Statement of Commissioner Kristin Johnson in Support of the CFTC Complaint.pdf
- CFTC History and Organization.docx
- Appendix A The CFTC's Robust Enforcement Program in the Crypto Space.docx CFTC FY 2022 Agency Financial Report.pdf
- CFTC Illicit Finance and Other Key Risks of Digital Assets 04/23.dox
- CFTC Strategic Plan 2022-2026.pdf

20. Jurisdictional Battle: Navigating the Complexities of SEC and CFTC Crypto Enforcement

❖ A. The SEC's Involvement in Crypto Enforcement

The Securities and Exchange Commission (SEC) has been proactive in its attempts to regulate crypto assets, with over 100 enforcement actions against crypto companies so far. However, the public perception is that the SEC's efforts have fallen short due to unclear guidance and an overly aggressive approach to enforcement.

Critics argue that the Howey test and Reeves test are subject to broad interpretations by the SEC, leading to confusion regarding their regulatory strategy for crypto assets. For example, questions arise as to why the SEC moved quickly against LBRY but delayed action against FTX until it was arguably too late.

❖ B. The CFTC's Pursuit of a Greater Role in Crypto Enforcement

In contrast, the Commodity Futures Trading Commission (CFTC) is actively seeking a more significant role in federal-level crypto enforcement. As part of this effort, they have requested additional funding from Congress for their 2024 budget.

The CFTC's focus on addressing illicit finance risks associated with digital assets was highlighted during Commissioner Romero's April 2023 keynote address.

❖ C. Challenges Arising from Overlapping Jurisdictions

The jurisdictional boundaries between the SEC and CFTC remain unclear when it comes to regulating crypto assets, resulting in conflicting actions and statements by both agencies:

- LedgerX received approval from the CFTC to offer physically settled Bitcoin futures contracts while Bakkt obtained a no-action letter from the SEC permitting cash-settled Bitcoin futures contracts.
- The CFTC charged BitMEX with operating an unregistered trading platform while Ripple Labs faced charges from the SEC for conducting an unregistered offering of XRP tokens.
- Although Ethereum and stablecoins were reaffirmed by the CFTC as commodities under its jurisdiction; certain stablecoins may be considered securities by the SEC.

These inconsistencies create confusion for market participants, who must navigate potentially conflicting or overlapping regulatory requirements and enforcement actions.

❖ D. Competition for Resources and Regulatory Influence

Both the SEC and CFTC have requested increased funding from Congress to address challenges posed by crypto assets and cyber threats. However, lawmakers' differing priorities and views on crypto regulation have not fully met their budget requests, fueling competition between the agencies for resources and influence in shaping the future of crypto regulation. As both agencies vie for control over different aspects of digital asset markets, market participants face uncertainty due to conflicting actions, interpretations, and regulatory requirements.

Sources

- SEC FY 2024 Congressional Budget Justification.pdf
- CFTC FY 2024 President Budget Report.pdf
- CFTC and SEC perspectives on cryptocurrency and digital assets.
<https://www.natlawreview.com/article/cftc-and-sec-perspectives-cryptocurrency-and-digital-assets-volume-i-jurisdictional>
- Congressional Research Service report on SEC & CFTC jurisdiction.
<https://crsreports.congress.gov/product/pdf/LSB/LSB10227>
- The race to regulate crypto: CFTC vs. SEC. <https://www.jurist.org/commentary/2021/11/john-joy-crypto-sec/>.
- Joint statement by CFTC, FinCEN, and SEC on digital assets. <https://www.sec.gov/news/public-statement/cftc-fincen-secjointstatementdigitalassets>.
- CFTC-SEC joint meeting public statement. <https://www.sec.gov/news/public-statement/peirce-joint-cftc-2020-10-22>.
- CFTC bids against SEC in a new crypto fraud case; defines digital assets as commodities.
<https://coingape.com/cftc-bids-against-sec-in-a-new-crypto-fraud-case-defines-digital-assets-as-commodities/>.

Crypto Asset Regulation Analysis & Suggestions

21. Analysis of Specific Crypto Assets

❖ 1. Bitcoin: A Commodity Under the CFTC's Jurisdiction

Bitcoin is a decentralized digital currency that operates on a proof-of-work (PoW) system without an issuer. This lack of central control makes it unlikely to be classified as a security. The absence of a common enterprise, issuer, or CEO, combined with its decentralized nature both technologically and geographically, leads Bitcoin to be considered a commodity under the jurisdiction of the Commodity Futures Trading Commission (CFTC).

❖ 2. Ethereum (ETH) and Solana (SOL): A Case-by-Case Approach

Ethereum and Solana are layer-one protocols that are less clear in their classification due to their lesser degree of decentralization. The Ethereum Foundation and Solana Foundation could be considered common enterprises, which raises questions about their status as unregistered securities. SEC Chair Gary Gensler has not provided definitive comments regarding Ether's status in this regard when questioned by Congress. Instead, the SEC employs case-by-case approaches using Howey and Reeves tests for evaluating these assets.

Initially, most people engaged in buying, holding, or trading tokens rather than using them for platform-specific purposes. Only developers creating apps were genuinely utilizing tokens as currency within the platforms' ecosystems. Ethereum co-founder Vitalik Buterin has been perceived as acting like a CEO in certain instances, which could impact Ethereum's regulatory classification.

Ethereum's upcoming transition to a proof of stake (PoS) system has the potential to impact its determination as a security. The shift from PoW to PoS could affect the level of decentralization, a key factor in determining whether an asset is considered a security or not.

❖ 3. Tokens: A Spectrum of Regulatory Classifications

Utility Tokens: These tokens have issuers but no expectation of profit; they are used on-platform to exchange goods or services. Utility tokens are likely not securities.

Altcoins: Built on platforms like Ethereum, many scams exist among altcoins that resemble equity securities. Most should probably fall under SEC jurisdiction.

Equity Tokens: Enabled through regulation crowdfunding, equity tokens are likely subject to SEC oversight.

❖ 4. Other Digital Assets: Unique Regulatory Considerations

Stablecoins: Due to their unique characteristics, it is suggested that banking regulators oversee stablecoin regulations.

Non-Fungible Tokens (NFTs) and Licensing: A combined approach by the United States Patent and Trademark Office (USPTO) should be considered, particularly in addressing AI-generated counterfeits.

As cryptocurrencies and digital assets continue to develop and expand, understanding their regulatory classifications will be crucial for investors, developers, and regulators alike. While some assets like Bitcoin have a clearer regulatory status, others like Ethereum and Solana require a more nuanced, case-by-case approach. As the digital asset landscape evolves, regulatory agencies must adapt to ensure proper oversight and protection for all parties involved.

22. Decentralized Enforcement Suggestion

Transitioning to a decentralized approach to enforcement and regulation could prove beneficial for the crypto industry. State-by-state or even local regulatory frameworks may emerge, providing more tailored oversight for diverse digital assets. By embracing decentralization in enforcement, regulators can better adapt to the rapidly-evolving landscape of crypto assets while maintaining investor protection and market integrity.

Sources

- Commissioner Brian Quintenz speech on crypto regulation.
<https://www.cftc.gov/PressRoom/SpeechesTestimony/oparomero8>
- Recommendations for SEC and CFTC crypto market regulation.
<https://news.bloomberglaw.com/us-law-week/this-is-how-the-sec-and-cftc-should-regulate-the-crypto-markets>.
- Analysis of SEC and CFTC enforcement actions.
<https://www.coindesk.com/layer2/2022/09/29/breaking-down-the-sec-and-cftcs-autumn-wave-of-enforcement-actions/>.
- Binance lawsuit implications. <https://www.coindesk.com/policy/2023/03/29/that-binance-suit-sure-seems-bigger-than-just-a-cftc-case/>.
- CFTC vs. Binance lawsuit impact on crypto industry. <https://beincrypto.com/cftc-vs-binance-lawsuit-game-changer-crypto-industry/>.
- SEC increases crypto-focused enforcement division. <https://fortune.com/crypto/2023/03/02/sec-increases-crypto-focused-enforcement-division/>.
- SEC commissioner breaks with SEC, Gensler on crypto regulation.
<https://www.cnn.com/2023/02/09/sec-commissioner-breaks-with-sec-gensler-on-crypto-regulation.html>.

23. Appendix A: SEC Crypto Assets and Cyber Enforcement Actions

Action Name	Description	Date Filed
<u>SEC v. Green United, LLC, et al.</u>	The Securities and Exchange Commission 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.	3/8/2023
<u>SEC v. Singh</u>	The Securities and Exchange Commission charged Nishad Singh, the former Co-Lead Engineer of FTX Trading Ltd. (FTX), for his role in a multiyear scheme to defraud equity investors in FTX, the crypto trading platform started by Singh along with Samuel Bankman-Fried and Gary Wang. Investigations into other securities law violations and into other entities and persons relating to the alleged misconduct are ongoing.	2/28/2023
<u>SEC v. BKCoin Management, LLC, et al.</u>	The Securities and Exchange Commission announced that it 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. 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.	2/23/2023
<u>Pierce</u>	The Securities and Exchange Commission announced charges against former NBA player Paul Pierce for touting EMAX tokens, crypto asset securities offered and sold by EthereumMax, on social media without disclosing the payment he received for the promotion and for making false and misleading promotional statements about the same crypto asset. Pierce agreed to settle the charges and pay \$1.409 million in penalties, disgorgement, and interest.	2/17/2023
<u>SEC v. Terraform Labs PTE Ltd and Kwon</u>	The Securities and Exchange Commission charged Singapore-based Terraform Labs PTE Ltd and Do Hyeong Kwon with orchestrating a multi-billion-dollar crypto asset securities fraud involving an algorithmic stablecoin and other crypto asset securities.	2/16/2023
<u>Payward Ventures, et al. (d/b/a Kraken)</u>	The Securities and Exchange Commission charged Payward Ventures, Inc. and Payward Trading Ltd., both commonly known as Kraken, with failing to register the offer and sale of their crypto asset staking-as-a-service program, whereby investors transfer crypto assets to Kraken for staking in exchange for advertised annual investment returns of as much as 21 percent.	2/9/2023
<u>SEC v. Ryn and GexCrypto Corp.</u>	The Securities and Exchange Commission charged Las Vegas, Nevada resident Emiliano S. Ryn and his company GexCrypto Corp. with defrauding members of the Filipino community in a scheme involving crypto assets.	2/7/2023
<u>SEC v. Eisenberg</u>	The Securities and Exchange Commission charged Avraham Eisenberg with orchestrating an attack on a crypto asset trading platform, Mango Markets, by manipulating the MNGO token, a so-called governance token that was offered and sold as a security.	1/20/2023
<u>Nexo Capital Inc.</u>	The Securities and Exchange Commission charged Nexo Capital Inc. with failing to register the offer and sale of its retail crypto asset lending product, the Earn Interest Product (EIP). To settle the SEC's charges, Nexo agreed to pay a \$22.5 million penalty and cease its unregistered offer and sale of the EIP to U.S. investors.	1/19/2023

Action Name	Description	Date Filed
<u>SEC v. Genesis Global Capital, LLC and Gemini Trust Company, LLC</u>	The Securities and Exchange Commission charged Genesis Global Capital, LLC and Gemini Trust Company, LLC for the unregistered offer and sale of securities to retail investors through the Gemini Earn crypto asset lending program. Through this unregistered offering, Genesis and Gemini raised billions of dollars' worth of crypto assets from hundreds of thousands of investors.	1/12/2023
<u>SEC v. Chandran, et al.</u>	The Securities and Exchange Commission charged Neil Chandran, Garry Davidson, Michael Glaspie, Amy Mossel, Linda Knott, AEO Publishing Inc, Banner Co-Op, Inc, and BannersGo, LLC for their involvement in a fraudulent investment scheme named CoinDeal that raised more than \$45 million from sales of unregistered securities to tens of thousands of investors worldwide.	1/4/2023
<u>SEC v. Ellison and Wang</u>	The Securities and Exchange Commission charged Caroline Ellison, the former CEO of Alameda Research, and Zixiao (Gary) Wang, the former Chief Technology Officer of FTX Trading Ltd. (FTX), for their roles in a multiyear scheme to defraud equity investors in FTX, the crypto trading platform co-founded by Samuel Bankman-Fried and Wang.	12/21/2022
<u>SEC v. Thor Technologies, Inc. and Chin; SEC v. Moravec</u>	The Securities and Exchange Commission charged Thor Technologies, Inc., David Chin, Thor's co-founder and CEO, and Matthew Moravec, Thor's co-founder and former CTO, with conducting an unregistered offering of securities through an initial coin offering.	12/21/2022
<u>SEC v. Da Silva, et al.</u>	The Securities and Exchange Commission charged Francisley Valdivian Da Silva, Juan Antonio Tacuri Fajardo, Ramon Antonio Perez Arias, and Jose Ramiro Coronado Reyes for their roles in creating and promoting Forcount Trader Systems, Inc., a fraudulent crypto asset pyramid scheme that raised more than \$8.4 million from hundreds of retail investors primarily from Spanish-speaking communities throughout the United States and other countries.	12/14/2022
<u>SEC v. Bankman-Fried</u>	The Securities and Exchange Commission charged Samuel Bankman-Fried with orchestrating a scheme to defraud equity investors in FTX Trading Ltd. (FTX), the crypto trading platform of which he was the CEO and co-founder.	12/13/2022
o <u>SEC v. Braga, et al.</u>	The Securities and Exchange Commission announced charges against Douver Torres Braga, Joff Paradise, Keleionalani Akana Taylor, and Jonathan Tetreault for their roles in Trade Coin Club, a fraudulent crypto Ponzi scheme that raised more than 82,000 bitcoin, valued at \$295 million at the time, from more than 100,000 investors worldwide.	o
<u>SEC v. Rounsville</u>	The Securities and Exchange Commission announced today that it filed charges against Jeremy K. Rounsville, a resident of Hunt County, Texas, for his role in offering and promoting a fictitious trading program marketed under the name of Arbitraging.co.	11/3/2022
<u>Kardashian</u>	The Securities and Exchange Commission charged Kim Kardashian for touting on social media a crypto asset security offered and sold by EthereumMax without disclosing the payment she received for the promotion.	10/3/2022
<u>SEC v. Chavez, et al.</u>	The Securities and Exchange Commission filed an emergency action to stop an ongoing fraudulent and unregistered crypto asset offering targeting Latino	10/3/2022

Action Name	Description	Date Filed
	investors, run by defendants Mauricio Chavez and Giorgio Benvenuto through a company Chavez founded and controlled, CryptoFX, LLC.	
<u>SEC v. Arbitrade Ltd., et al.</u>	The Securities and Exchange Commission charged Arbitrade Ltd., a Bermudan company, and Cryptobontix Inc., a Canadian company, and their principals, Troy R. J. Hogg, James L. Goldberg, and Stephen L. Braverman, and a so-called international gold trader, Max W. Barber, for perpetrating an alleged pump-and-dump scheme involving a crypto asset called "Dignity" or "DIG."	9/30/2022
<u>SEC v. The Hydrogen Technology Corporation, et al.</u>	The Securities and Exchange Commission charged The Hydrogen Technology Corporation, its former CEO, Michael Ross Kane, and Tyler Ostern, the CEO of Moonwalkers Trading Limited, a self-described "market making" firm, for their roles in effectuating the unregistered offers and sales of crypto asset securities called "Hydro" and for perpetrating a scheme to manipulate the trading volume and price of those securities, which yielded more than \$2 million for Hydrogen.	9/28/2022
<u>Sparkster, Ltd., et al.</u>	The Securities and Exchange Commission issued a cease-and-desist order against Sparkster, Ltd. and its CEO, Sajjad Daya, for the unregistered offer and sale of crypto asset securities from April 2018 through July 2018 and charged crypto influencer Ian Balina for failing to disclose compensation he received from Sparkster for publicly promoting its tokens and failing to file a registration statement with the SEC for Sparkster tokens that he resold.	
<u>SEC v. Chicago Crypto Capital LLC, et al.</u>	The Securities and Exchange Commission charged Chicago Crypto Capital LLC, its owner, Brian Amoah, and former salesmen Darcas Oliver Young and Elbert "Al" Elliott for allegedly defrauding investors during their unregistered offering of crypto asset securities.	9/14/2022
<u>SEC v. Dragonchain, Inc., et al.</u>	The Securities and Exchange Commission charged John Joseph Roets and three entities he controls, Dragonchain, Inc., Dragonchain Foundation, and The Dragon Company, for their roles in raising \$16.5 million in unregistered crypto asset securities offerings.	8/16/2022
<u>Bloom Protocol, LLC</u>	The Securities and Exchange Commission charged Bloom Protocol, LLC, a company building an online identity attestation platform, for conducting an unregistered initial coin offering of crypto asset securities. Bloom agreed to undertakings to register the tokens and compensate harmed investors and agreed to pay a springing penalty of up to \$30.9 million if it does not complete those undertakings.	8/9/2022
<u>SEC v. Okhotnikov, et al.</u>	The Securities and Exchange Commission charged 11 individuals for their roles in creating and promoting Forsage, a fraudulent crypto pyramid and Ponzi scheme that raised more than \$300 million from millions of retail investors worldwide, including in the United States. Those charged include the four founders of Forsage, who were last known to be living in Russia, the Republic of Georgia, and Indonesia, as well as three U.S.-based promoters engaged by the founders to endorse Forsage on its website and social media platforms, and several members of the so-called Crypto Crusaders—the largest promotional group for the scheme that operated in the United States from at least five different states.	8/1/2022
<u>SEC v. Wahi, et al.</u>	The Securities and Exchange Commission brought insider trading charges against a former Coinbase product manager, his brother, and his friend for perpetrating a scheme to trade ahead of multiple announcements regarding certain crypto assets that would be made available for trading on the Coinbase platform.	7/21/2022

Action Name	Description	Date Filed
<u>SEC v. Chiang, et al.</u>	The Securities and Exchange Commission charged Steven Chiang a/k/a Cyrus Kong, Eric Tippetts, James Hardy, and Maurice "Butch" Chelliah for their roles in raising over \$10 million through two fraudulent and unregistered digital asset securities offerings.	4/28/2022
<u>SEC v. Block Bits Capital, LLC, et al.</u>	The Securities and Exchange Commission charged Block Bits Capital, LLC, Block Bits Capital GP I, LLC and their co-founders Japheth Dillman and David Mata, with conducting a fraudulent unregistered securities offering.	4/28/2022
<u>SEC v. MCC International Corp., et al.</u>	The Securities and Exchange Commission brought fraud charges against MCC International Corp., which does business as Mining Capital Coin Corp., its founders Luiz Carlos Capuci, Jr. and Emerson Souza Pires, and two other entities controlled by Capuci, CPTLCoin Corp. and Bitchain Exchanges, in connection with the unregistered offerings and fraudulent sales of investment plans called mining packages to thousands of investors.	4/7/2022
<u>SEC v. Barksdale, et al.</u>	The Securities and Exchange Commission charged siblings John and JonAtina (Tina) Barksdale with defrauding thousands of retail investors out of more than \$124 million through two unregistered fraudulent offerings of securities involving a digital token called "Ormeus Coin."	3/8/2022
<u>BlockFi Lending LLC</u>	The Securities and Exchange Commission charged BlockFi Lending LLC with failing to register the offers and sales of its retail crypto lending product, and also charged BlockFi with violating the registration provisions of the Investment Company Act of 1940.	2/14/2022
<u>SEC v. Garcia</u>	The Securities and Exchange Commission charged Paul A. Garcia of Severance, Colorado, for allegedly defrauding investors by stealing approximately one quarter of investor funds raised for Gold Hawgs Development Corp., a failed cryptocurrency venture.	1/18/2022
<u>SEC v. Crowd Machine, Inc., et al.</u>	The Securities and Exchange Commission charged Australian citizen Craig Sproule and two companies he founded, 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.	1/6/2022
<u>SEC v. Auzins</u>	The Securities and Exchange Commission charged a Latvian citizen with defrauding hundreds of retail investors out of at least \$7 million through two separate fraudulent digital asset securities offerings.	12/2/2021
<u>SEC v. Ginster</u>	The Securities and Exchange Commission charged Ryan Ginster of Corona, California with conducting two unregistered and fraudulent securities offerings that raised over \$3.6 million in cryptocurrency from retail investors.	11/18/2021
<u>GTV Media Group, Inc., et al.</u>	The Securities and Exchange Commission charged New York City-based GTV Media Group Inc. and Saraca Media Group Inc., and Phoenix, Arizona-based Voice of Guo Media Inc., with conducting an illegal unregistered offering of GTV common stock. The SEC also announced charges against GTV and Saraca for conducting an illegal unregistered offering of a digital asset security referred to as either G-Coins or G-Dollars. The respondents have agreed to pay more than \$539 million to settle the SEC's action.	9/13/2021
<u>SEC v. Rivetz Corp., et al.</u>	The Securities and Exchange Commission charged Rivetz Corp., Rivetz International SEZC, and Steven K. Sprague, the President of Rivetz and CEO of Rivetz International, with conducting an illegal, unregistered offering of securities through an initial coin offering.	9/8/2021
o <u>SEC v. BitCon</u>	The Securities and Exchange Commission filed an action against BitConnect, an online crypto lending platform, its founder Satish Kumbhani, and its top	o

Action Name	Description	Date Filed
<ul style="list-style-type: none"> o nect, et al. o SEC v. Brown, et al. 	U.S. promoter and his affiliated company, alleging that they defrauded retail investors out of \$2 billion through a global fraudulent and unregistered offering of investments into a program involving digital assets. The Commission previously charged five other individuals in a related action for promoting the BitConnect offering.	
Poloniex, LLC	The Securities and Exchange Commission filed settled charges against Poloniex, LLC, under which Poloniex agreed to pay more than \$10 million for operating an unregistered online digital asset exchange in connection with its operation of a trading platform that facilitated buying and selling of digital asset securities.	8/9/2021
Blockchain Credit Partners d/b/a DeFi Money Market, et al.	The Securities and Exchange Commission charged two Florida men and their Cayman Islands company for unregistered sales of more than \$30 million of securities using smart contracts and so-called "decentralized finance" (DeFi) technology, and for misleading investors concerning the operations and profitability of their business DeFi Money Market.	8/6/2021
SEC v. Uulala, Inc., et al.	The Securities and Exchange Commission filed settled charges against Uulala, Inc., and two of its California-based founders, Oscar Garcia and Matthew Loughran for allegedly defrauding more than a thousand investors in an unregistered offering of digital asset securities that raised more than \$9 million and against Uulala and Garcia for allegedly engaging in a second fraudulent offering of convertible notes.	8/4/2021
Blotix Ltd., f/d/b/a Coinschedule Ltd.	The Securities and Exchange Commission filed settled charges against the operator of Coinschedule.com, a once-popular website that profiled offerings of digital asset securities. The SEC's order finds that United Kingdom-based Blotix Ltd. violated the anti-touting provisions of the federal securities laws by failing to disclose the compensation it received from issuers of the digital asset securities it profiled.	7/14/2021
Loci, Inc., et al.	The Securities and Exchange Commission filed settled charges against Loci, Inc. and its CEO John Wise for making materially false and misleading statements in connection with an unregistered offer and sale of digital asset securities. According to the SEC's order, Loci provided an intellectual property search service for inventors and other users through its software platform called InnVenn. The SEC's order finds that from August 2017 through January 2018, Loci and Wise raised \$7.6 million from investors by offering and selling digital tokens called "LOCIcoin." As stated in the order, in promoting the ICO, Loci and Wise made numerous materially false statements to investors and potential investors, including false statements concerning the company's revenues, number of employees, and InnVenn's user base.	6/22/2021

Action Name	Description	Date Filed
<ul style="list-style-type: none"> ○ SEC v. Hamid, et al. ○ SEC v. Manor, et al. 	<p>The Securities and Exchange Commission charged three individuals for their roles in the \$30 million initial coin offering fraud that was spearheaded by convicted criminal Boaz Manor and his associate, Edith Pardo. The SEC previously charged Manor, Pardo, and their companies, CG Blockchain, Inc. and BCT Inc. SEZC in connection with the scheme in January 2020.</p>	<ul style="list-style-type: none"> ○ ○
SEC v. Radjabli, et al.	The Securities and Exchange Commission filed charges against Edgar M. Radjabli of Boca Raton, Florida, and two entities he controlled for engaging in several securities frauds of escalating size. The SEC's complaint alleges that Radjabli, formerly a practicing dentist, and Apis Capital Management LLC, an unregistered investment adviser firm Radjabli owned and controlled, conducted a fraudulent offering of Apis Tokens, a digital asset representing tokenized interests in Apis Capital's main investment fund. The complaint further alleges that Radjabli and Apis Capital manipulated the securities market for Veritone Inc., a publicly-traded artificial intelligence company, by announcing in December 2018 an unsolicited cash tender offer to purchase Veritone for \$200 million, when, in truth Radjabli and Apis Capital lacked the financing or any reasonable prospect of obtaining the financing necessary to complete the deal.	6/11/2021
SEC v. LBRY, Inc.	The Securities and Exchange Commission charged LBRY, Inc., a blockchain company, with conducting an unregistered offering of digital asset securities. According to the SEC's complaint, from at least July 2016 to February 2021, LBRY, which offers a video sharing application, sold digital asset securities called "LBRY Credits" to numerous investors, including investors based in the US. LBRY allegedly received more than \$11 million in U.S. dollars, Bitcoin, and services from purchasers who participated in its offering.	3/29/2021
SEC v. Cutting	The Securities and Exchange Commission filed an emergency action and obtained a temporary restraining order and asset freeze against Shawn C. Cutting of Sandpoint, Idaho, for allegedly raising millions of dollars from hundreds of investors by falsely claiming to be a financial adviser with securities licenses, overstating investment returns, and misappropriating money received from investors.	3/5/2021
SEC v. Coinseed, Inc., et al.	The Securities and Exchange Commission charged Coinseed, Inc., a company that purported to offer a mobile investment application that enabled users to invest in digital assets, and its co-founder and Chief Executive Officer, Delgerdalai Davaasambuu, in connection with Coinseed's offer and sale of digital asset securities.	2/17/2021
SEC v. Krstic, et al.	The Securities and Exchange Commission charged three individuals with defrauding hundreds of retail investors out of more than \$11 million through two fraudulent and unregistered digital asset securities offerings.	2/1/2021

Action Name	Description	Date Filed
<u>Wireline, Inc.</u>	The Securities and Exchange Commission filed a settled cease-and-desist proceeding against financial technology company Wireline, Inc. for making materially false and misleading statements in connection with an unregistered offer and sale of digital asset securities.	1/15/2021
<u>Tierion, Inc.</u>	The Securities and Exchange Commission filed a settled cease-and-desist proceeding against Texas-based blockchain startup company Tierion, Inc. for conducting an unregistered offering of securities in the form of a "token sale." Tierion has agreed to return funds to harmed investors, pay a \$250,000 penalty, and disable trading in its "tokens."	12/23/2020
<u>SEC v. Qin, et al.</u>	The Securities and Exchange Commission filed an emergency action and obtained an order imposing an asset freeze and other emergency relief against Virgil Capital LLC and its affiliated companies in connection with an alleged securities fraud relating to Virgil Capital's flagship cryptocurrency trading fund, Virgil Sigma Fund LP. The Commission's action alleges that the fraud was directed by Stefan Qin, an Australian citizen and part-time resident of New York, who owns and controls Virgil Capital and its affiliated companies.	12/22/2020
<u>SEC v. Ripple Labs, Inc., et al.</u>	The Securities and Exchange Commission filed an action against Ripple Labs, Inc. and two of its executives, who are also significant security holders, alleging that they raised over \$1.3 billion through an unregistered, ongoing digital asset securities offering.	12/22/2020
<u>ShipChain, Inc.</u>	The Securities and Exchange Commission filed a settled cease-and-desist proceeding against ShipChain, Inc. for conducting an unregistered initial coin offering of digital tokens, pursuant to which ShipChain agreed to pay a \$2,050,000 penalty, transfer tokens in ShipChain's possession or control, publish notice of the order, and request removal of the tokens from digital asset trading platforms.	12/21/2020
<u>SEC v. Elmaani</u>	The Securities and Exchange Commission charged Amir Bruno Elmaani, who goes by the online alias Bruno Block, for conducting an illegal securities offering of digital tokens and for his scheme to profit by minting millions of unauthorized tokens for himself at no cost and selling them into the secondary market, thereby causing the value of others' tokens to plummet.	12/9/2020
<u>SEC v. McAfee, et al.</u>	The Securities and Exchange Commission charged businessman and computer programmer John McAfee for promoting investments in initial coin offerings to his Twitter followers without disclosing that he was paid to do so, and also charged McAfee's bodyguard Jimmy Watson, Jr. for his role in the alleged scheme.	10/5/2020
<u>Salt Blockchain Inc.</u>	The Securities and Exchange Commission filed a settled cease-and-desist proceeding against Salt Blockchain Inc. for conducting an unregistered initial coin offering of digital tokens, pursuant to which Salt agreed to settle the action by returning the proceeds from the offering to harmed investors, registering the tokens as securities, and paying a civil penalty.	9/30/2020
<u>SoluTech, Inc., et al.</u>	The Securities and Exchange Commission filed settled fraud charges against Connecticut-based SoluTech, Inc. and its former chief executive officer, Nathan Pitruzzello, in connection with a \$2.4 million offering of digital asset securities that included an initial coin offering.	9/25/2020
<u>Unikn, Inc.</u>	The Securities and Exchange Commission filed a settled cease-and-desist proceeding against Unikn, Inc., an operator of an online eSports gaming and gambling platform headquartered in Seattle, Washington, for conducting an unregistered initial coin offering of digital asset securities, pursuant to which	9/15/2020

Action Name	Description	Date Filed
	Unikrn agreed to pay a \$6.1 million penalty, disable Unikrn's tokens, publish notice of the order, and request removal of the tokens from digital asset trading platforms.	
<u>SEC v. FLiK, et al.</u>	The Securities and Exchange Commission charged five Atlanta-based individuals, including film producer Ryan Felton, rapper and actor Clifford Harris, Jr., known as T.I. or Tip, and three others who each promoted one of Felton's two unregistered and fraudulent initial coin offerings (ICOs). The SEC also charged FLiK and CoinSpark, the two companies controlled by Felton that conducted the ICOs.	9/10/2020
<u>SEC v. Millan, et al.</u>	The Securities and Exchange Commission charged two high-level promoters for acting as unregistered brokers when selling the securities of AirBit Club, an investment scheme that targeted LatinX and Spanish-speaking communities and promised returns through a purported digital asset trading program and from the recruitment of others.	8/18/2020
<u>Boon.Tech, et al.</u>	The Securities and Exchange Commission filed settled cease-and-desist proceedings charging Virginia-based Boon.Tech and its chief executive officer Rajesh Pavithran for fraud and registration violations in connection with a \$5 million initial coin offering (ICO) of digital asset securities.	8/13/2020
<u>SEC v. NAC Foundation, LLC, et al.</u>	The Securities and Exchange Commission filed a complaint charging NAC Foundation, its Chief Executive Officer Marcus Andrade, and political lobbyist Jack Abramoff with conducting a fraudulent, unregistered offering of AML BitCoin, a digital asset security the defendants claimed was a new and improved version of bitcoin.	6/25/2020
<u>SEC v. High Street Capital Partners, LLC, et al.</u>	The Securities and Exchange Commission filed an emergency action and obtained a temporary restraining order and asset freeze against two Pennsylvania-based brothers and three entities they control to stop a cryptocurrency offering fraud and the misappropriation of investor proceeds.	6/16/2020
<u>BitClave PTE Ltd.</u>	The Commission filed a settled cease-and-desist proceeding against BitClave PTE Ltd. for conducting an unregistered initial coin offering of digital asset securities, requiring company to return the proceeds from the \$25.5 million offering and pay additional monetary relief to be distributed through a Fair Fund.	5/28/2020
<u>SEC v. Putnam, et al.</u>	The Commission filed a complaint and obtained an asset freeze and other emergency relief against Daniel F. Putnam, of Utah, Jean Paul Ramirez Rico, of Colombia, and Angel A. Rodriguez, of Utah, who allegedly defrauded investors of more than \$12 million in two cryptocurrency-related schemes.	5/7/2020
<u>SEC v. Dropil, Inc., et al.</u>	The Commission filed a complaint against Dropil, Inc. and its three founders for allegedly conducting a fraudulent initial coin offering of unregistered digital asset securities raising money from thousands of investors.	4/23/2020
<u>SEC v. Meta 1 Coin Trust, et al.</u>	The Commission filed an emergency action against Meta 1 Coin Trust, a former state senator, and two others for allegedly conducting a fraudulent initial coin offering of unregistered digital asset securities.	3/20/2020
<u>Steven Seagal</u>	The Commission filed a settled cease-and-desist proceeding against an actor for failing to disclose payments he received for promoting an investment in an initial coin offering.	2/27/2020
<u>Enigma MPC</u>	The Commission filed a settled cease-and-desist proceeding against a blockchain technology company for conducting an unregistered initial coin offering of digital tokens.	2/19/2020

Action Name	Description	Date Filed
<u>SEC v. Ackerman</u>	The Commission filed a complaint against an Ohio-based businessman who allegedly orchestrated a digital asset scheme that defrauded approximately 150 investors, including many physicians.	2/11/2020
<u>SEC v. Grybniak, et al.</u>	The Commission filed a complaint against a purported blockchain-marketplace company and its founder for allegedly conducting a fraudulent initial coin offering of unregistered digital asset securities.	1/21/2020
<u>Blockchain of Things, Inc.</u>	The Commission filed a settled cease-and-desist proceeding against a blockchain technology company for conducting an unregistered initial coin offering of digital tokens.	12/18/2019
<u>SEC v. Eyal, et al.</u>	The Commission filed a complaint against a digital-asset entrepreneur and his company for allegedly defrauding investors in an initial coin offering that raised more than \$42 million from hundreds of investors.	12/11/2019
<u>SEC v. Telegram Group Inc., et al.</u>	The Commission filed an emergency action and obtained a temporary restraining order against two offshore entities conducting an alleged unregistered, ongoing digital token offering in the U.S. and overseas that has raised more than \$1.7 billion of investor funds.	10/11/2019
<u>Block.one</u>	The Commission filed a settled cease-and-desist proceeding against a blockchain technology company for conducting an unregistered initial coin offering of digital tokens that raised the equivalent of several billion dollars over approximately one year.	9/30/2019
<u>SEC v. Lucas</u>	The Commission filed a complaint against Jonathan C. Lucas, the former founder and chief executive officer of Fantasy Market, a purported online adult entertainment marketplace, for allegedly orchestrating a fraudulent initial coin offering.	9/20/2019
<u>SEC v. ICOBox, et al.</u>	The Commission filed a complaint against ICOBox and its founder Nikolay Evdokimov alleging that they conducted an illegal \$14 million securities offering of ICOBox's digital tokens and acted as unregistered brokers for other digital asset offerings.	9/18/2019
<u>SEC v. Bitqyck, Inc., et al.</u>	The Commission filed a settled district court action against an entity and two individuals that violated the registration and anti-fraud provisions of the Securities and Exchange Acts by offering and selling two unregistered digital asset securities, and the entity violated Section 5 of the Exchange Act by operating an unregistered national securities exchange, which the individuals aided and abetted.	8/29/2019
<u>ICO Rating</u>	The Commission filed a settled cease-and-desist proceeding against Russian entity ICO Rating for violating Section 17(b) of the Securities Act by failing to disclose payments received from issuers for publicizing their digital asset securities offerings.	8/20/2019
<u>SimplyVital Health, Inc.</u>	The Commission filed a settled cease-and-desist proceeding against a New England-based blockchain company for offering and selling approximately \$6.3 million of securities to the public in unregistered transactions.	8/12/2019
<u>SEC v. Middleton, et al.</u>	The Commission obtained an emergency asset freeze against Veritaseum, Inc., Veritaseum, LLC and Reginald ("Reggie") Middleton, alleging that the defendants violated the antifraud provisions and engaged in an unregistered offering of digital securities.	o

Action Name	Description	Date Filed
<ul style="list-style-type: none"> ○ SEC v. Longfin Corp., et al. ○ SEC v. Longfin Corp., et al. 	<p>The Commission filed a district court action and obtained an emergency asset freeze against Longfin Corp., its CEO and three of its affiliates, alleging that the company and its CEO engaged in an unregistered distribution of securities and the three affiliates sold unregistered securities after the company announced a related-party acquisition of a purported cryptocurrency website, causing a dramatic increase its stock price. The Commission later filed an additional action against Longfin Corp. and its CEO asserting fraud claims for allegedly falsifying the company's revenue and, together with a former Longfin consultant, for fraudulently securing the company's listing on Nasdaq.</p>	<ul style="list-style-type: none"> ○ ○
SEC v. Kik Interactive Inc.	The Commission filed a complaint against an ICO issuer for raising \$100 million in an alleged unregistered securities offering that did not qualify for an exemption.	6/4/2019
SEC v. Pacheco	The Commission filed a litigated district court action against the operator of an alleged \$26.5 million pyramid scheme that enticed investors with points that were convertible into a cryptocurrency.	5/22/2019
NextBlock Global Ltd. and Alex Tapscott	The Commission filed settled cease-and-desist proceedings against a Canadian corporation and its co-founder and former CEO for allegedly making misrepresentations in connection with a securities offering that raised \$16 million to invest in blockchain companies and digital assets.	5/14/2019
SEC v. Natural Diamonds Investment Co., et al.	The Commission obtained an emergency court order halting an alleged ongoing \$30 million Ponzi scheme targeting more than 300 investors in the U.S. and Canada. Argyle Coin, LLC, a purported cryptocurrency business, and its principal lured investors by falsely claiming an investment in Argyle Coin was risk-free because it was backed by fancy-colored diamonds and promising to use investor funds to develop the cryptocurrency business.	5/13/2019
Mutual Coin Fund LLC and Usman Majeed	The Commission filed settled cease-and-desist proceedings against a Michigan-based hedge fund manager and its principal for making misrepresentations and engaging in the unregistered, non-exempt sale of limited partnership interests in a fund it managed that invested in digital assets.	4/1/2019
Gladius Network LLC	The Commission filed a settled cease-and-desist proceeding against a Washington, D.C.-based company that raised \$12.7 million in an unregistered, non-exempt ICO and then self-reported to the Commission.	2/20/2019
CoinAlpha Advisors LLC	The Commission filed settled cease-and-desist proceedings against a California-based hedge fund manager for engaging in the unregistered, non-exempt sale of limited partnership interests in a fund it managed that invested in digital assets.	12/7/2018

Action Name	Description	Date Filed
<u>Floyd Mayweather, Jr.</u>	The Commission filed settled cease-and-desist proceedings against a celebrity who promoted ICOs on social media without disclosing the fact and amount of compensation he received from the issuers for the promotions.	11/29/2018
<u>Khaled ("DJ Khaled")</u>	The Commission filed settled cease-and-desist proceedings against a celebrity who promoted an ICO on social media without disclosing the fact and amount of compensation he received from the issuer for the promotions.	11/29/2018
<u>Paragon Coin, Inc.</u>	The Commission filed a settled cease-and-desist proceeding against an online company, Paragon Coin, in connection with its unregistered offering of tokens in an ICO that raised approximately \$12 million to implement blockchain technology in the cannabis industry. The Commission concluded that the PRG tokens were securities, and that the offering did not qualify from any exemption from registration.	11/16/2018
<u>CarrierEQ, Inc., d/b/a Airfox</u>	The Commission filed a settled cease-and-desist proceeding against a Boston-based start-up, Airfox, in connection with its unregistered offering of tokens in an ICO that raised approximately \$15 million to develop a token-denominated "ecosystem." The Commission concluded that the AIR tokens were securities, and that the offering did not qualify from any exemption from registration.	11/16/2018
<u>Zachary Coburn</u>	The Commission filed a settled cease-and-desist proceeding against the founder of a digital asset trading platform for secondary market trading of ERC20 tokens, EtherDelta, for causing the trading platform to operate as an unregistered national securities exchange.	11/8/2018
<u>SEC v. Blockvest LLC, et al.</u>	The Commission obtained an emergency court order halting a planned ICO and ongoing pre-ICO sales. The Commission alleged that Blockvest and its founder falsely claimed they received regulatory approval from various agencies (including the SEC) for the ICO, used the SEC seal without permission and a made-up regulatory agency to promote the ICO, and falsely claimed that Blockvest would be the first "licensed and regulated" cryptocurrency fund.	10/11/2018
<u>SEC v. 1pool Ltd. a.k.a. 1Broker, et al.</u>	The Commission charged 1Broker and its CEO with registration violations in connection with their overseas trading platform that exclusively used bitcoins and offered and sold to U.S. residents Contracts for Difference that track U.S.-listed securities and are security-based swaps. The Commission also alleged that 1Broker and its CEO failed to register the offer and sale of the products, failed to transact these products on a registered national exchange, performed no know-your-customer (KYC) inquiries, and acted as an unregistered dealer.	9/27/2018
<u>TokenLot LLC, Lenny Kugel, and Eli Lewitt</u>	The Commission filed settled administrative proceedings against a Michigan-based company and self-described "ICO Superstore" and its two owners for operating as unregistered broker-dealers in digital tokens sold in connection with ICOs and secondary market activities.	9/11/2018
<u>Crypto Asset Management, LP and Timothy Enneking</u>	The Commission filed settled administrative proceedings against a California-based hedge fund manager and its sole principal for offering a fund formed to invest in digital assets that operated as an unregistered investment company while falsely marketing it as the "first regulated crypto asset fund in the United States."	9/11/2018
<u>Tomahawk Exploration LLC and David T. Laurance</u>	The Commission obtained officer-and-director and penny stock bars in a settlement with the founder of a company responsible for a fraudulent ICO to fund oil exploration and drilling.	8/14/2018

Action Name	Description	Date Filed
<u>SEC v. Jesky, et al.</u>	The Commission filed a settled district court action against two individuals who illegally sold restricted shares in UBI Blockchain Internet Ltd. at high market prices instead of the fixed price under a registration statement. The Commission previously suspended trading in the stock. The two individuals agreed to return approximately \$1.4 million in ill-gotten gains and more than \$188,000 in penalties.	7/2/2018
<u>SEC v. Titanium Blockchain Infrastructure Services Inc., et al.</u>	The Commission obtained a court order halting an alleged ongoing fraud involving an ICO. The court also approved an emergency asset freeze and the appointment of a receiver.	5/22/2018
<ul style="list-style-type: none"> ○ <u>SEC v. Sharma, et al.</u> ○ <u>SEC v. Sharma, et al.</u> 	<p>The Commission filed a district court action against two co-founders of Centra Tech, Inc., a purported financial services start-up, charging them with orchestrating an allegedly fraudulent ICO. The Commission later filed an amended complaint against a third member of Centra Tech, Inc., charging him with orchestrating the fraudulent ICO.</p>	<ul style="list-style-type: none"> ○ ○
<u>SEC v. Montroll, et al.</u>	The Commission filed a district court action against a former bitcoin-denominated platform and its operator for allegedly operating an unregistered securities exchange and defrauding users of that exchange. The SEC also charged the operator with making alleged false and misleading statements in connection with an unregistered offering of securities.	2/21/2018
<ul style="list-style-type: none"> ○ <u>SEC v. AriseBank, et al.</u> ○ <u>Jared Rice Sr. and Stanley Ford</u> 	<p>The Commission filed a district court action and obtained an emergency asset freeze against an allegedly fraudulent ICO that claimed to run the world's first "decentralized bank." The Commission later settled with two former executives behind the allegedly fraudulent ICO in December 2018.</p>	<ul style="list-style-type: none"> ○ ○

Action Name	Description	Date Filed
<u>In re Munchee, Inc</u>	The Commission filed a settled cease-and-desist order against a California-based company selling digital tokens in an unregistered offering to investors to raise capital for its blockchain-based food review service.	12/11/2017
<u>SEC v. PlexCorps, et al.</u>	The Commission filed a district court action and obtained an emergency asset freeze against a recidivist Quebec securities law violator, Dominic Lacroix, and his company, PlexCorps.	12/1/2017
<u>SEC v. REcoin Group Foundation, LLC, et al.</u>	The Commission charged Maksim Zaslavskiy and his two companies for allegedly defrauding investors in a pair of so-called initial coin offerings (ICOs) purportedly backed by investments in real estate and diamonds (Recoin Group Foundation and Diamond Reserve Club).	9/29/2017
<u>Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO</u>	The Commission issued a Report of Investigation concerning the application of the U.S. federal securities laws to the offer and sale of DAO Tokens, which were virtual tokens created and distributed on a blockchain by an entity called "The DAO."	7/25/2017
<u>SEC v. Renwick Haddow, et al.</u>	The Commission filed a district court action and obtained an emergency asset freeze against Renwick Haddow, the founder of a purported Bitcoin holding-and-trading platform and a chain of co-working spaces, alleging that he defrauded investors in both companies while also hiding his connection given his past disciplinary history with U.K. regulators.	6/30/2017
<u>In re Bitcoin Investment Trust and SecondMarket, Inc.</u>	The Commission filed a settled administrative proceeding against SecondMarket, Inc., a New York broker-dealer registered with the Commission, and Bitcoin Investment Trust (BIT), a Delaware trust whose sole assets are bitcoins. Each agreed to settle charges that they respectively violated Rules 101 and 102 of Regulation M under the Securities Exchange Act of 1934 in connection with their purchases of BIT shares during a continuous distribution.	7/11/2016
<u>SEC v. Garza, et al.</u>	The Commission charged Garza and his two bitcoin mining companies with conducting an alleged Ponzi scheme by offering shares – called "Hashlets" – in a bitcoin mining operation that did not have enough computing power for the mining they promised to conduct.	12/1/2015
<u>In re Sand Hill Exchange, et al.</u>	In June 2015, the SEC filed a settled administrative action against 2 entrepreneurs who offered and sold security-based swaps through a website called Sand Hill exchange and sought people to fund accounts at Sand Hill using dollars or bitcoins.	6/17/2015
<u>In re BTC Trading, Corp. and Ethan Burnside</u>	The Commission brought a settled administrative proceeding against Burnside, a video game programmer and bitcoin hobbyist, for (a) operating two online venues for trading securities – BTC Virtual Stock Exchange and LTC-Global Virtual Stock Exchange – using bitcoin and litecoin without registering the sites as broker-dealers or stock exchanges, and (b) conducting two unregistered offerings, one in LTC-Global itself, and another in a litecoin mining venture he owned and operated.	12/8/2014
<u>In re Erik T. Voorhees</u>	The Commission charged Voorhees, a Bitcoin entrepreneur with the offer and sale of unregistered securities in SatoshiDICE, a well-known bitcoin betting game, and FeedZeBirds, a social media marketing venture.	6/3/2014
<u>SEC v. Shavers</u>	The Commission charged Shavers and his company with defrauding investors in a bitcoin-denominated Ponzi scheme, raising more than 700,000 bitcoins in principal investments from BTCST investors, and falsely promising of up to 7% weekly returns based on BTCST's purported bitcoin market arbitrage activity.	7/23/2013

24. Appendix B: The CFTC's Robust Enforcement Program in the Crypto Space

Fiscal Year	Total Number of Digital Asset Cases	Number of Digital Asset Cases Alleging Fraud or Manipulation
2023	7	7
2022	19	9
2021	23	8
2020	10	8
2019	4	3
2018	6	5
2017	1	1
2016	1	0
2015	2	0
Total	73	41

FY2023 Digital Asset Cases

1. [CFTC v. Jeremy Rounsville](#), CFTC Docket No. 23-02 (Nov. 3, 2022)
2. [CFTC v. Samuel Bankman-Fried, FTX Trading Ltd. d/b/a FTX.com \(FTX\), and Alameda Research LLC \(Alameda\), Caroline Ellison, and Gary Wang](#), No. 22-cv-10503 (S.D.N.Y. Dec. 13, 2022)
3. [CFTC v. Avraham Eisenberg](#), No. 23-cv-173 (S.D.N.Y. Jan. 9, 2023)
4. [CFTC v. Vista Network Technologies and Armen Temurian](#), No. 23-cv-01235 (E.D.N.Y. Feb. 15, 2023)
5. [CFTC v. Nishad Singh](#), No. 23-cv-01684 (S.D.N.Y. Feb. 28, 2023)
6. [CFTC v. Changpeng Zhao, Binance Holdings Limited, Binance Holdings \(IE\) Limited, and Binance \(Services\) Holdings Limited](#), No. 23-cv-01887 (N.D. Ill. Feb. 27, 2023)
7. [CFTC v. Rashawn Russel](#), No. 23-cv-02691 (E.D.N.Y. April 11, 2023)

Y2022 Digital Asset Cases

1. [CFTC v. Tether Holdings Limited, et al.](#), CFTC Docket No. 22-04 (Oct. 15, 2021)
2. [CFTC v. iFinex Inc., BFXNA Inc., and BFXWW](#), CFTC Docket No. 22-05 (Oct. 15, 2021)
3. [CFTC v. Blockratize, Inc. d/b/a Polymarket.com](#), CFTC Docket No. 22-09 (Jan. 03, 2022)
4. [CFTC v. Dwayne Golden, et. al.](#), No. 22-cv-1252 (E.D.N.Y. filed March 8, 2022)
5. [CFTC v. James Ward](#), CFTC Docket No. 22-12 (Mar. 8, 2022)
6. [CFTC v. Eddy Alexandre and Eminifx, Inc.](#), No. 22-cv-03822 (S.D.N.Y. filed May 5, 2022)
7. [CFTC v. Sam Ikkurty a/k/a Sreenivas I Rao, Ravishankar Avadhanam, and Jafia LLC](#), No. 22-cv-2465 (N.D. Ill. Filed May 10, 2022)
8. [CFTC v. Gemini Trust Co., LLC](#), No. 22-cv-04563 (S.D.N.Y. filed June 2, 2022)
9. [CFTC v. Mirror Trading International Proprietary Limited and Cornelius Johannes Steynberg](#), No. 22-cv-00635 (W.D. Tex. filed June 30, 2022)
10. [CFTC v. Emerson Pires, Flavio Goncalves, Joshua Nicholas and Empires Consulting Corp.](#), No. 22-cv-21997 (S.D. Fla. filed June 30, 2022)
11. [CFTC v. Rathnakishore Giri, NBD Eidetic Capital, LLC, and SR Private Equity, LLC](#), No. 22-cv-3091 (D. Ohio Aug. 12, 2022)
12. [CFTC v. bZeroX, Tom Bean, and Kyle Kistner](#), CFTC Docket No. 22-31 (Sept. 22, 2022)
13. [CFTC v. Ooki DAO](#), No. 22-cv-5416 (N.D. Cal. Sept. 22, 2022)
14. [CFTC v. Cryptostockoptionstrade Ltd.](#), CFTC Docket No. 22-26 (Sept. 22, 2022)
15. [CFTC v. Global Smart Option Broker Ltd.](#), CFTC Docket No. 22-27 (Sept. 22, 2022)
16. [CFTC v. Hypertradingoption Ltd.](#), CFTC Docket No. 22-28 (Sept. 22, 2022)

17. [CFTC v. Stockbrokertechiques Ltd.](#), CFTC Docket No. 22-29 (Sept. 22, 2022)
18. [CFTC v. SprintTrade](#), CFTC Docket No. 22-26 (Sept. 25, 2022)
19. [CFTC v. Adam Todd, Digitex LLC, Digitex Limited, Digitex Software Limited, and Blockster Holdings Limited Corporation](#), No. 22-cv-23174 (S.D. Fla. Sept. 30, 2022)

FY 2021 Digital Asset Cases

1. [CFTC v. HDR Global Trading Limited, 100x Holdings Limited, ABS Global Trading Limited, Shine Effort Inc Limited, HDR Global Services \(Bermuda\) Limited, Arthur Hayes, Benjamin Delo, and Samuel Reed](#), No. 1:20-cv-08132 (S.D.N.Y. filed Oct. 1, 2020)
2. [CFTC v. Jeremy Spence](#), No. 1:21-cv-00699 (S.D.N.Y. filed Jan. 26, 2021)
3. [CFTC v. John David McAfee; Jimmy Gale Watson](#), No. 1:21-cv-01919 (S.D.N.Y. filed Mar. 5, 2021)
4. [CFTC v. Coinbase Inc.](#), CFTC Docket No. 21-03 (Mar. 19, 2021)
5. [CFTC v. Glenn Olson](#), CFTC Docket No. 21-05 (Apr. 6, 2021)
6. [CFTC v. Josef Gherman and J Squared LLC](#), CFTC Docket No. 21-06 (Apr. 20, 2021)
7. [CFTC v. Abner Alejandro Tinoco and Kikit & Mess Investments](#), No. 3:21-cv-00237-DCG (W.D. Tex. Sept. 28, 2021)
8. [CFTC v. Payward Ventures, Inc. d/b/a Kraken](#), CFTC Docket No. 21-20 (Sept. 29, 2021)
9. [CFTC v. Tradingforexpay](#), CFTC Docket No. 21-32 (Sept. 30, 2021)
10. [CFTC v. Cryptofxtrader](#), CFTC Docket No. 21-23 (Sept. 30, 2021)
11. [CFTC v. Bitfxprofit](#), CFTC Docket No. 21-22 (Sept. 30, 2021)
12. [CFTC v. Globalnationfx](#), CFTC Docket No. 21-25 (Sept. 30, 2021)
13. [CFTC v. BinanceFxTrade](#), CFTC Docket No. 21-21 (Sept. 30, 2021)
14. [CFTC v. MaxForexOption](#), CFTC Docket No. 21-26 (Sept. 30, 2021)
15. [CFTC v. ProCryptoMinners](#), CFTC Docket No. 21-28 (Sept. 30, 2021)
16. [CFTC v. ProFX-Capitals](#), CFTC Docket No. 21-29 (Sept. 30, 2021)
17. [CFTC v. Smarter Signals](#), CFTC Docket No. 21-30 (Sept. 30, 2021)
18. [CFTC v. Prime Expert Trade](#), CFTC Docket No. 21-27 (Sept. 30, 2021)
19. [CFTC v. Star Fx Pro](#), CFTC Docket No. 21-31 (Sept. 30, 2021)
20. [CFTC v. Excotradeonptions](#), CFTC Docket No. 21-24 (Sept. 30, 2021)
21. [CFTC v. Climax Capital FX](#), CFTC Docket No. 21-33 (Sept. 30, 2021)
22. [CFTC v. Digitalexchange24.com](#), CFTC Docket No. 21-34 (Sept. 30, 2021)
23. [CFTC v. Uduakobong Udo Inyangudo](#), No. 1:21-cv-11615 (Sept. 30, 2021)

FY 2020 Digital Asset Cases (exclusive of administrative matters)

1. [CFTC v. XBT Corp. SARL d/b/a First Global Credit](#), CFTC Docket No. 20-04 (Oct. 31, 2019)
2. [CFTC v. Q3 Holdings, LLC, Q3 I, LP, and Ackerman](#), No. 1:20-CV-01183 (S.D.N.Y. Feb. 11, 2020)
3. [CFTC v. Joshua Christian McDonald and Perfection PR Firm LLC](#), No. 20-cv-00261 (E.D. Mo. filed February 14, 2020)
4. [CFTC v. Clark, and Venture Capital Investments Ltd.](#), No. 1:20-cv-00382 (D. Colo. Feb. 14, 2020)
5. [CFTC v. Alan Friedland, Fintech Investment Group, Inc. and Compcoin LLC](#), No. 6:20-cv-00652 (M.D. Fla. filed Apr. 16, 2020)
6. [CFTC v. Daniel Fingerhut, Digital Platinum, Inc., Digital Platinum, Ltd., Huf Mediya Ltd., Tal Valariola and Itay Barak](#), No. 1:20-cv-21887-DPG (S.D. Fla. filed May 5, 2020)
7. [In re Plutus Financial, Inc. d/b/a Abra, and Plutus Technologies Philippines Corp. d/b/a Abra International](#), CFTC Docket No. 20-23 (Jul. 13, 2020)

8. [CFTC v. Dennis Jali, Arley Ray Johnson, and John Frimpong, 1st Million LLC, Smart Partners LLC, and Access to Assets LLC](#), No. 8:20-cv-02492-GJH (D. Md. filed Aug. 28, 2020)
9. [CFTC v. Mayco Alexis Maldonado Garcia](#), Cesar Castaneda, Joel Castaneda Garcia, and Rodrigo Jose Castro Molina, jointly d/b/a Global Trading Club, No. 4:20-cv-03185 (S.D. Tex. filed Sep. 11, 2020)
10. [CFTC v. Laino Group Limited d/b/a PaxForex](#), No. 20-cv-03317 (S.D. Tex. Filed Sept. 28, 2020)

FY 2019 Digital Asset Cases

1. [In re Joseph Kim](#), CFTC Docket No. 19-02 (CFTC filed October 29, 2018)
2. [CFTC v. Control-Finance Limited](#), and Reynolds, No. 1:19-cv-05631 (S.D.N.Y. filed Jun. 17, 2019)
3. [CFTC v. Jon Barry Thompson](#), No. 1:19-cv-09052 (S.D.N.Y. filed Sep. 30, 2019)
4. [CFTC v. Circle Society Corp. and David Saffron](#), No 19-cv-01697 (D. Nev. Filed Sept. 30, 2019)

FY 2018 Digital Assets Cases

1. [CFTC v. Patrick K. McDonnell and CabbageTech, Corp. d/b/a Coin Drop Markets](#), No. 1:18-cv-00361 (E.D.N.Y. filed Jan. 18, 2018)
2. [CFTC v. Dillon Michael Dean and The Entrepreneurs Headquarters Limited](#), No. 18-cv-345 (E.D.N.Y. filed Jan. 18, 2018)
3. [CFTC v. Blake Harrison Kantor, Nathan Mullins, Blue Bit Banc, Blue Bit Analytics](#) (E.D.N.Y. filed April 16, 2018)
4. [CFTC v. Randall Crater, Mark Gillespie and My Big Coin Pay, Inc.](#), No. 1:18-cv-10077-RWZ (D. Ma. filed Jan. 16, 2018, amended Apr. 20, 2018)
5. [CFTC v. 1pool Ltd](#), No. 18-cv-2243 (D.D.C. filed Sept. 27, 2018)
6. [CFTC v. Diamonds Trading Investment House and First Options Trading](#), No. 18-cv-00807-O (N.D. Tex. Filed Sept. 28, 2018)

FY 2017 Digital Asset Cases

1. [CFTC vs. Gelfman Blueprint, Inc.](#), et al., Case 1:17-cv-07181 (S.D.N.Y. filed Sept. 21, 2017)

FY 2016 Digital Asset Cases

1. [In re BFXNA Inc. d/b/a BITFINIX](#), CFTC Docket No. 16-19 (Filed 6/2/2016)

FY 2015 Digital Asset Cases

1. [In re Coinflip, Inc. d/b/a Derivabit and Francisco Riordan](#), CFTC Docket No. 15-29 (CFTC filed Sep. 17, 2015)
2. [In re TeraExchange LLC](#), CFTC Docket No. 15-33 (CFTC filed Sep. 24, 2015)

DATE	PRESS RELEASES
04/28/2023	<u>CFTC Charges Commodity Trading Advisor, Commodity Pool Operator and Its Owner with Fraudulently Allocating Trades</u> , 8697-23
12/21/2022	<u>CFTC Charges Alameda CEO and Alameda and FTX Co-Founder with Fraud in Action Against Sam Bankman-Fried and his Companies</u> , 8644-22
12/13/2022	<u>CFTC Charges Sam Bankman-Fried, FTX Trading and Alameda with Fraud and Material Misrepresentations</u> , 8638-22
10/20/2022	<u>CFTC Releases Annual Enforcement Results</u> , 8613-22
09/22/2022	<u>CFTC Charges Five Entities for Failing to Register as FCMs</u> , 8589-22
07/14/2022	<u>CFTC Adds 34 Unregistered Foreign Entities to RED List</u> , 8555-22
06/30/2022	<u>CFTC Charges Commodity Pool Operators and a Florida Company with Fraudulently Solicitating Over \$41.6 Million in a Commodity Pool Scheme</u> , 8551-22
05/19/2022	<u>CFTC Charges Oregon and Illinois Residents and Florida Company in \$44 Million Misappropriation in Ongoing Digital Asset and Commodity Futures Fraud</u> , 8532-22
05/13/2022	<u>CFTC Charges Long Island Resident and His Firm in Ongoing \$59 Million Fraud Scheme</u> , 8527-22
05/05/2022	<u>Federal Court Orders BitMEX's Three Co-Founders to Pay a Total of \$30 Million for Illegally Operating a Cryptocurrency Derivatives Trading Platform and Anti-Money Laundering Violations</u> , 8522-22
03/29/2022	<u>Court Finds El Paso Man and His Firm Liable for Defrauding Forex and Cryptocurrency Clients of More Than \$7.2 Million</u> , 8507-22
10/20/2021	<u>CFTC Charges El Paso Resident and His Firm in Ongoing \$3.9 Million Forex and Cryptocurrency Fraud and Misappropriation Scheme</u> , 8452-21
09/29/2021	<u>CFTC Charges 14 Entities for Failing to Register as FCMs or Falsely Claiming to be Registered</u> , 8434-21
08/10/2021	<u>Federal Court Orders BitMEX to Pay \$100 Million for Illegally Operating a Cryptocurrency Trading Platform and Anti-Money Laundering Violations</u> , 8412-21
08/10/2021	<u>Federal Court Orders Texas and Florida Men to Pay Nearly \$1.75 Million in Digital Assets Scheme</u> , 8411-21
04/08/2021	<u>Federal Court Orders Nevada Company and its Owner to Pay More Than \$32 Million for Cryptocurrency Fraud and Misappropriation Scheme</u> , 8377-21
04/06/2021	<u>CFTC Orders New York Man to Pay More than \$1 Million for Role in Fraudulent Binary Options Scheme</u> , 8374-21
03/19/2021	<u>CFTC Orders Coinbase Inc. to Pay \$6.5 Million for False, Misleading, or Inaccurate Reporting and Wash Trading</u> , 8369-21
10/01/2020	<u>CFTC Charges BitMEX Owners with Illegally Operating a Cryptocurrency Derivatives Trading Platform and Anti-Money Laundering Violations</u> , 8270-20
09/14/2020	<u>CFTC Charges 3 Texas Men and 1 Florida Man in Fraudulent Digital Asset Scheme</u> , 8241-20

DATE	PRESS RELEASES
09/01/2020	CFTC Charges 20 Entities for Making False Registration Claims , 8229-20
08/24/2020	CFTC Adds More Than 20 Unregistered Foreign Entities to RED List , 8225-20
07/10/2020	Federal Court Orders Defendants to Pay Nearly \$1.3 Million in Forex Fraud Scheme , 8200-20
11/01/2019	Federal Court Orders Defendants to Pay More than \$4.25 Million for Fraud and Misappropriation , 8069-19
10/16/2019	CFTC Charges Nevada Company and its Owner in \$11 Million Cryptocurrency Fraud and Misappropriation Scheme , 8053-19
09/30/2019	CFTC Charges Individual with Multi-Million Dollar Bitcoin Fraud , 8023-19
07/10/2019	Federal Court Permanently Enjoins Defendants and Orders Them to Pay Penalties and Restitution for Bitcoin Solicitation Fraud, Impersonating a CFTC Investigator, and Sending Forged CFTC Documents , 7965-19
09/28/2018	CFTC Charges Two Defendants with Fraudulent Solicitation, Impersonation of a CFTC Investigator, and Forging CFTC Documents, All in Attempt to Steal Bitcoin , 7813-18
01/18/2017	Enforcement Director Aitan Goelman to Leave CFTC , 7517-17
06/01/2016	CFTC Orders Bitfinex to Pay \$75,000 for Offering Illegal Off-Exchange Financed Retail Commodity Transactions and Registration Violations , 7380-16
11/05/2015	CFTC Releases Annual Enforcement Results for Fiscal Year 2015 , 7274-15