

Digital Assets Recent Updates

June 24, 2024

We are pleased to provide you with the June 2024 edition of Gibson Dunn's digital assets regular update. This update covers recent legal news regarding all types of digital assets, including cryptocurrencies, stablecoins, CBDCs, and NFTs, as well as other blockchain and Web3 technologies. Thank you for your interest.

ENFORCEMENT ACTIONS

UNITED STATES

- **SEC Closes Ethereum 2.0 Investigation**
On June 18, the SEC's Enforcement Division notified Consensys that it was concluding its investigation into Ethereum 2.0 and that it would not recommend pursuing an enforcement action against Consensys on that basis. Consensys had sought confirmation from the SEC that the agency's ETH ETF approvals in May meant that it did not view ether as a security. Consensys sued the SEC in April seeking a judicial determination that ether is not a security and that Consensys neither acts as a broker nor issues securities through its software offerings MetaMask Swaps and Staking. Consensys has said that it still intends to pursue its non-ether-related claims. [Consensys](#); [Consensys Post on X](#); [CoinDesk](#); [SEC Letter](#).
- **Crypto Exchange Gemini Reaches Settlement with New York Attorney General**
On June 14, cryptocurrency platform Gemini Trust Company announced that it would be providing final distributions under its Earn program "representing the remaining 3% of the digital assets owed" as of the program's suspension and had settled a case brought by New York Attorney General Letitia James concerning 230,000 investors who had enrolled in the initiative. Gemini posted on X that it was "excited to deliver this full recovery to you

and appreciate your ongoing patience and support throughout this process.” Gemini denied any wrongdoing and agreed to pay \$50 million to resolve allegations that investors were misled when invited to participate in the Earn program. [Gemini Trust’s X Announcement](#); [NY AG](#).

- ***Terraform Labs and Former CEO Agree to Pay \$4.5 Billion in Civil Penalties to SEC***
On June 12, Judge Jed Rakoff of the U.S. District Court for the Southern District of New York approved a \$4.5 billion settlement between the SEC, Terraform Labs, and the company’s former CEO, Do Kwon. In addition to disgorgement and civil penalties, the settlement permanently bans both Terraform and Do Kwon from buying and selling crypto asset securities, including those involving Terra ecosystem tokens. The settlement comes after a jury found both Terraform and Do Kwon liable for fraud stemming from the collapse of the Terra ecosystem. At present, Terraform is in Chapter 11 bankruptcy and reportedly has \$150 million in assets on hand. [CoinDesk](#); [Reuters](#).
- ***Epoch Times CFO Charged in \$67 Million Crypto Money Laundering Scheme***
On June 3, the Chief Financial Officer of *Epoch Times*, a multinational media company, was charged with conspiring to commit money laundering and two counts of bank fraud for his alleged involvement in a “transnational scheme” to launder \$67 million of illegally obtained funds using cryptocurrency. According to the indictment, the CFO, Bill Guan, managed a team called “Make Money Online” under the company. The MMO team, along with others, used cryptocurrency to knowingly purchase tens of millions of dollars in crime proceeds, including proceeds of fraudulently obtained unemployment insurance benefits, which had been loaded on to prepaid debit cards. The MMO Team allegedly purchased the proceeds at a discount on an unnamed cryptocurrency exchange, moved the proceeds to bank accounts held by *Epoch Times*-affiliated entities, and laundered the proceeds through Guan’s personal accounts and cryptocurrency accounts. Guan faces charges that could put him in jail for a maximum of 80 years. [DOJ Press Release](#); [Decrypt](#).
- ***New York Attorney Brings Suit Over Alleged \$1 Billion Crypto Scheme***
On June 6, New York Attorney General Letitia James filed a civil suit alleging that cryptocurrency firms NovaTech Ltd and AWS Mining Pty Ltd, as well as their promoters, defrauded over \$1 billion from hundreds of thousands of victims, primarily from among Haitian and other immigrant communities. The lawsuit alleges that NovaTech received over \$1 billion from investors over nearly four years before collapsing in May 2023, and that AWS Mining also allegedly defrauded investors before its 2019 collapse. The defendants, including NovaTech co-founders Cynthia and Eddy Petion, allegedly targeted victims through prayer groups, social media, and a messaging app, exploiting religious faith and community ties. [Complaint](#); [Reuters](#); [CoinDesk](#).
- ***“Evolved Apes” Videogame Developers Face SDNY Indictment***
On June 6, the U.S. Attorney’s Office for the Southern District of New York charged three purported videogame developers from the UK with conspiracy to commit wire fraud and money laundering. The charges stem from their alleged involvement in a “rugpull” scheme associated with developing an “Evil Ape” NFT- and videogame-linked project. The defendants supposedly promised to develop a videogame linked to the NFT collection but failed to complete the project and diverted funds for personal gain. [DOJ Press Release](#); [CoinDesk](#).

- **Founders of Online Marketplace Empire Market Charged by DOJ**

On June 14, two men, Thomas Pavey and Raheim Hamilton, were indicted by the U.S. Attorney's Office for the Northern District of Illinois in federal court in Chicago for owning and operating Empire Market – a dark web online marketplace implicated in illicit transactions – from 2018 to 2020. The DOJ claims that the duo allegedly operated the marketplace using cryptocurrency as the exclusive form of payment and facilitated over \$430 million in transactions involving drugs, counterfeit currency, and stolen credit card information. During the course of the investigation, federal law enforcement seized \$75 million in cryptocurrency, along with fiat cash and precious metals. Arraignments have not yet been scheduled. The pair now face potential life imprisonment. [DOJ Press Release](#); [CoinDesk](#).

- **SEC Head of Crypto Assets and Cyber Unit Departs Agency**

On June 17, David Hirsch, the head of the Crypto Asset and Cyber Unit for SEC's Division of Enforcement, announced his departure after almost nine years at the agency and nearly two years as the unit's chief. As lead of the unit, Hirsch pursued a number of high-profile crypto-related enforcement actions. A successor for Hirsch's position had not been named as of publication. [LinkedIn Post](#); [Law360](#); [Yahoo Finance](#); [CoinDesk](#).

INTERNATIONAL

- **Roger Ver Posts Bail in Spain and Faces Extradition to the United States**

On May 17, Roger Ver, a prominent Bitcoin investor and advocate widely known by the moniker "Bitcoin Jesus," was released from jail in Spain after posting €150,000 (\$163,000) in bail while awaiting possible extradition to the U.S. to face charges of mail fraud, tax evasion, and filing false tax returns. The U.S. Department of Justice alleges that Ver failed to report capital gains from his sales of Bitcoin and other assets, resulting in a loss of approximately \$48 million to the IRS. If convicted, Ver faces up to 20 years in federal prison for each mail fraud count, 5 years for each tax evasion count, and 3 years for each false tax return count. [Cointelegraph](#); [Bloomberg](#); [DOJ Press Release](#).

REGULATION AND LEGISLATION

UNITED STATES

- **SEC Chair Tells Senators that Ether ETFs Should be Fully Approved by September 2024**

On June 13, U.S. Securities and Exchange Commission Chair Gary Gensler informed a subcommittee of the Senate Appropriations Committee in a hearing that full regulatory approval for spot Ether ETFs should be finished this summer. Specifically, Gensler noted that S-1 filings are now being handled at the "staff level" and that the registration process is "working smoothly." The approval of these Ethereum ETFs should further open the market to these digital assets. Notably, Gensler did not commit to a position at the hearing when asked about whether the Ethereum asset is a commodity subject to the SEC's jurisdiction. [Bloomberg](#); [CNBC](#).

- President Biden Vetoes Resolution Overturning SEC Guidance**

On May 31, President Joe Biden vetoed a Congressional bill that would have overturned the SEC's crypto accounting guidance in Staff Accounting Bulletin 121, saying the measure would "inappropriately constrain" the agency's ability to address future issues. SAB 121 is an SEC accounting guidance that directs financial institutions holding cryptocurrency for customers to keep the assets on their own balance sheets. Critics of SAB 121 say the guidance makes it difficult for financial institutions to work with crypto companies. The House previously voted 228-182 to pass the measure to repeal SAB 121, with mostly Republicans voting in favor of the measure along with 21 Democrats. The Senate also approved the measure 60-38, with 11 Democrats voting in favor of the repeal, including Majority Leader Chuck Schumer, D.-N.Y. [Law360](#); [CoinDesk](#); [TheBlock](#); [Cointelegraph](#); [Decrypt](#).
- Senate Intelligence Committee Approves Bill with Potential Implications for Digital Currencies**

On May 22, the Senate intelligence committee unanimously approved The Intelligence Authorization Act for Fiscal Year 2025, a spending package that includes provisions targeting potential ties of terrorism to cryptocurrency. Led by Sen. Mark Warner's staff, discussions with digital asset industry stakeholders have ensued regarding the provision's implications. Industry insiders are concerned regarding the Act's potentially broad impact on crypto businesses, possibly mandating extensive user identity verification to avoid sanctions. Industry stakeholders anticipate significant opposition during the bill's progression through Senate and House deliberations, particularly given recent bipartisan support for less-restrictive crypto legislation. [Legislation](#); [CoinDesk](#); [Politico](#).
- Crypto Trading Firm Nabs NY BitLicense**

On June 17, Cumberland DRW, a crypto trading firm and liquidity provider, announced that it had been granted a BitLicense by the New York Department of Financial Services, allowing it to operate a crypto business within the State of New York. The company claims that it is one of the only principal trading firms to have obtained such a crypto license in New York. [Law360](#); [Cumberland's X Announcement](#); [CoinDesk](#).

INTERNATIONAL

- May 31 Deadline to Obtain Hong Kong Crypto Exchanges Licenses Expires**

On June 1, the Hong Kong Securities and Futures Commission ("SFC") non-contravention period for virtual asset trading platforms ("VATPs") officially ended, meaning that all VATPs operating in Hong Kong must now be either licensed by the SFC or "deemed-to-be-licensed" VATP applicants under Hong Kong's Anti-Money Laundering and Counter-Terrorist Financing Ordinance. In February 2024, the SFC mandated that all cryptocurrency exchanges must have either submitted operational license applications by February 29 or shut down operations in Hong Kong by May 31. Thus, as of May 31, all unlicensed exchanges, including those with refused or withdrawn license applications, are legally required to cease operations in the region immediately. During the grace period from when the mandate was issued, more than 22 cryptocurrency exchanges applied for licenses, but many of these ultimately decided to withdraw their applications before the deadline. As of May 31, 18 cryptocurrency exchanges had applied for an operational

license in Hong Kong, but only two had been approved. [SFC Statement](#); [Cointelegraph](#); [TheBlock](#); [DailyCoin](#).

- ***South Korea Unveils New NFT Regulatory Framework***

On June 10, South Korea's Financial Services Commission (FSC) introduced new guidelines for regulating NFTs to provide clarity on their regulatory status. The FSC will reportedly categorize certain NFTs as cryptocurrencies if they lose their unique characteristics, such as if they are mass-produced, exchangeable, capable of fractionalization, or used for payments. Conversely, NFTs that are non-transferable and of minimal economic value, like proof of transactions or event tickets, will be classified as NFTs. The guidelines aim to establish a framework ahead of South Korea's broader crypto regulatory law, effective July 19. [The Block](#); [Bitcoinist](#).

- ***UAE Central Bank Updates Stablecoin Regulatory Framework***

On June 3, the Central Bank of the United Arab Emirates approved a new system for overseeing and licensing stablecoins, clarifying the issuance, licensing, and supervision of dirham-backed payment tokens. Payment tokens reportedly must be backed by UAE dirhams and cannot be linked to other currencies, digital assets, or algorithms. The move is part of the country's financial infrastructure transformation program, which aims to boost digital transactions and drive innovation, and may also include the issuance of a central bank digital currency. [Emirates News Agency – WAM](#); [Cointelegraph](#).

- ***Crypto Exchange Crypto.com Registers as Virtual Assets Service Provider in Ireland***

On June 7, Crypto.com became listed as a virtual asset service provider (VASP) in Ireland, a member of the European Union. The decision allows the cryptocurrency exchange to offer crypto-to-fiat exchanges and fiat wallets. In addition, the registration allows the company to operate across all twenty-seven member states of the EU. The listing follows a recent trend of cryptocurrency exchanges who have sought licenses and regulatory approvals in multiple countries, including the Netherlands, Spain, the United Arab Emirates, and the United Kingdom. [CoinDesk](#); [Yahoo Finance](#).

- ***Australia Bans Digital Currency for Online Gambling Platforms***

On June 11, the Australian government began a push to prohibit digital currency use by online gambling platforms. New rules include a prohibition on using cryptocurrencies, digital wallets, and new forms of credit as payments on these platforms. In an interview, Australia's Communications Minister explained that the ban is meant to prevent gambling-related issues, stating that "Australians should not be gambling with money they do not have." Australians who do not comply with these new rules may face fines up to \$234,750 Australian dollars (approximately \$155,000 USD). [NASDAQ](#); [Cointelegraph](#); [Canberra Times](#).

- ***Zimbabwe Invites Cryptocurrency Service Providers to Comment on Best Regulatory Practices***

On June 12, the government of Zimbabwe set up a committee to consult operators in the cryptocurrency space. The move is meant to "assess and understand the cryptocurrency landscape" to be "in line with global trends and best practices." As a part of the committee's efforts, the government has invited all cryptocurrency service providers that

provide services to people in Zimbabwe to send comments to the committee by June 26. [Yahoo Finance](#); [Bloomberg](#); [The Herald Coverage on X](#).

- ***Taiwan Crypto Industry Association Formally Established After Regulatory Approval***

On June 13, the Taiwan Virtual Asset Service Provider Association was formally established with a meeting between twenty-four cryptocurrency-related entities. In March 2024, Taiwan's Interior Ministry approved the formation of the body, following moves to expand regulation of the crypto industry over the past two years. The Association reportedly aims to bridge the private and public sectors, and its first objective will be to formulate a self-regulation code for the industry. [CoinDesk](#); [Yahoo Finance](#); [Taiwan News](#).

CIVIL LITIGATION

UNITED STATES

- ***Fifth Circuit Vacates SEC's Funds Rule Interpretation***

On June 5, the Fifth Circuit struck down an SEC rule requiring hedge funds and private equity firms to disclose fees and expenses, holding that the SEC exceeded its statutory authority in doing so. The rule, issued in 2023, was challenged by six industry groups who argued that it violated the statute, would increase compliance costs, and would significantly change the sector's operations. Although the ruling does not bear directly on digital assets, some commentators have suggested that the ruling might signal courts' willingness to question the SEC's claimed authority over digital assets as well. [Fifth Circuit Opinion](#); [Cointelegraph](#); [Law360](#).

INTERNATIONAL

- ***JPEX Sued in Hong Kong***

On June 4, two individuals filed a civil suit against digital currency exchange JPEX and other defendants, alleging fraud amounting to \$1.6 billion Hong Kong dollars (\$208 million USD). The lawsuit, filed in Hong Kong district court, seeks \$1.8 million Hong Kong dollars (\$236,500 USD) in damages per plaintiff. The case centers on three transactions the plaintiffs made into JPEX wallets totaling \$110,500 USD in Tether and \$130,000 USD in cash, which were swiftly transferred out of their wallets shortly after deposit. The suit follows a police investigation into JPEX launched in September 2023 for allegedly operating an unlicensed virtual asset trading platform. Over 2,000 complaints from victims reportedly have been received by Chinese authorities as of April 2024. [South China Morning Post](#); [Cointelegraph](#).

SPEAKER'S CORNER

UNITED STATES

- ***RFK Jr. is "Happy" about Trump's Crypto Commitment***

On May 30, at a press conference in Austin, Texas, independent presidential candidate

Robert F. Kennedy Jr. said that he is “happy about” Trump’s pro-crypto stance, stating, “I think it’s a good thing for our country. Commitment to crypto is a commitment to freedom and transparency.” RFK Jr. went on to stress the importance of “transactional freedom” in cryptocurrency regulation, saying that, “[w]e need to make sure America remains the hub of blockchain technology. I’m going to make sure cryptocurrency is regulated in a way that protects the consumer from deceptive schemes.” The presidential candidate further remarked that his “objective if elected president is that crypto is a transactional currency. That people can have transactional freedom.” He also noted that he had recently bought 21 bitcoins. RFK Jr. also has said previously that he wants to put the federal budget on the blockchain, and that he believes that Bitcoin is the “way to save the dollar.” [CoinDesk](#); [Business Insider](#); [Blockworks](#).

INTERNATIONAL

- ***Hong Kong Lawmaker Criticizes “Excessively Stringent” Crypto-Licensing Rules***
On June 1, Duncan Chiu, a member of Hong Kong’s Legislative Council, raised concerns in an opinion piece published in the Hong Kong Economic Journal over the “excessively stringent” regulations for crypto exchanges to obtain a license, lamenting that these rules have pushed major global exchanges away from entering Hong Kong and have dampened market confidence. Chiu said that license application withdrawals with Hong Kong’s SFC reflected a major drawback in the current licensing system, and that recent license withdrawals of multiple global crypto exchanges have “shaken the confidence of market participants in Hong Kong’s push to develop Web3.” The SFC requires operators to meet standards similar to those for traditional financial institutions, which Chiu criticized as overly restrictive when applied to Web3 finance. [TheBlock](#); [Coinspeaker](#); [FastBull](#).
- ***Hong Kong Securities Commission CEO Speaks to Bitcoin’s Staying Power***
On June 5, Julia Leung, CEO of Hong Kong’s SFC, highlighted Bitcoin’s resilience as an alternative asset during a speech at the Greenwich Economic Forum Hong Kong. She emphasized, “Bitcoin has survived multiple cycles of boom and bust, clearly showing its staying power as an alternative asset.” Leung acknowledged the speculative nature of virtual assets and underscored the SFC’s commitment to champion innovation and unlock new opportunities with digital currencies, distributed ledger technology, and fintech. [SFC Speech](#); [The Block](#).

OTHER NOTABLE NEWS

- ***Over \$300 Million in Bitcoin Stolen from Japanese Exchange DMM Bitcoin***
On May 31, Japanese exchange DMM Bitcoin announced that more than \$300 million in Bitcoin had been stolen from its wallets due to a hack of its servers. The exchange said that it would reimburse customers if necessary, saying in an English translation of a press release on its website that deposits “will be fully guaranteed,” but did not offer an immediate timeline. [DMM Blog](#); [TheBlock](#); [Cointelegraph](#); [Blockworks](#).
- ***Project mBridge Reaches Minimum Viable Product Stage with Saudi Participation***
On June 5, Project mBridge, a multi-central bank digital currency common platform for cross-border payments and settlements, reached minimum viable product stage, marking a significant milestone in its development aimed at revolutionizing cross-border

payments. Launched in 2021 with collaboration between the BIS Innovation Hub and key central banks such as those of Thailand, UAE, China, and Hong Kong, the project now includes Saudi Arabia as a full participant. The platform, based on the mBridge Ledger and utilizing distributed ledger technology, seeks to enhance payment efficiency globally by enabling instant, cost-effective transactions with final settlement. Notable institutions involved include the Federal Reserve Bank of New York, World Bank, Bank of France, and the IMF. [BIS Press Release](#); [Reuters](#); [CoinDesk](#).

- ***Energy Sector Representative Testifies in Texas Senate that State Needs to Double Electrical Grid Capacity to Handle Bitcoin Mining***

On June 12, in a Texas State Senate hearing, the CEO of the Electric Reliability Council stated that the state's grid capacity would need to double in the next decade to handle expected demand from bitcoin mining and AI data centers. Specifically, the CEO stated that bitcoin mining and AI data centers will be responsible for more than half of the growth of Texas' electricity grid. The testimony comes as the Lieutenant Governor of Texas, Dan Patrick, indicated that the Texas Senate would be taking a closer look at these companies, which he stated "produce very few jobs compared to the incredible demands they place on our grid." [CoinDesk](#).

- ***European Union's Innovation Hub for Internal Security Issues Report on Risk of Financial Crimes Using Cryptocurrencies***

On June 10, the European Union Innovation Hub for Internal Security published its first report detailing challenges in tracing funds transferred using cryptocurrencies. The report, published as a joint effort by six EU Innovation Hub for Internal Security members, outlined various tools that individuals can use to mask cryptocurrency payments in service of crimes including money laundering. These tools, including privacy coins, mixers, and layer-2 platforms, can make it difficult for law-enforcement agencies to trace funds. [CoinDesk](#); [Cointelegraph](#).

The following Gibson Dunn attorneys contributed to this issue: Jason Cabral, Kendall Day, Jeff Steiner, Sara Weed, Chris Jones, Jay Minga, Nick Harper, Alfie Lim, Jessica Howard, Simon Moskovitz, Sophia Amir, and Narayan Narasimhan.

FinTech and Digital Assets Group Leaders / Members:



Ashlie Beringer
Palo Alto
+1 650.849.5327
aberinger@gibsondunn.com



Michael D. Bopp
Washington, D.C.
+1 202.955.8256
mbopp@gibsondunn.com



Stephanie L. Brooker
Washington, D.C.
+1 202.887.3502
sbrooker@gibsondunn.com



Jason J. Cabral
New York
+1 212.351.6267
icabral@gibsondunn.com



Ella A. Capone
Washington, D.C.
+1 202.887.3511
ecapone@gibsondunn.com



M. Kendall Day
Washington, D.C.
+1 202.955.8220
kday@gibsondunn.com



Michael J. Desmond
Los Angeles/Washington, D.C.
+1 213.229.7531
mdesmond@gibsondunn.com



Sébastien Evrard
Hong Kong
+852 2214 3798
sevrard@gibsondunn.com



William R. Hallatt
Hong Kong
+852 2214 3836
whallatt@gibsondunn.com



Martin A. Hewett
Washington, D.C.
+1 202.955.8207
mhewett@gibsondunn.com



Michelle M. Kirschner
London
+44 20 7071.4212
mkirschner@gibsondunn.com



Stewart McDowell
San Francisco
+1 415.393.8322
smcdowell@gibsondunn.com



Mark K. Schonfeld
New York
+1 212.351.2433
mschonfeld@gibsondunn.com



Orin Snyder
New York
+1 212.351.2400
osnyder@gibsondunn.com



Ro Spaziani
New York
+1 212.351.6255
rspaziani@gibsondunn.com



Jeffrey L. Steiner
Washington, D.C.
+1 202.887.3632
jsteiner@gibsondunn.com



Eric D. Vandeveld
Los Angeles
+1 213.229.7186
evandeveld@gibsondunn.com



Benjamin Wagner
Palo Alto
+1 650.849.5395
bwagner@gibsondunn.com



Sara K. Weed
Washington, D.C.
+1 202.955.8507
sweed@gibsondunn.com

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