

Digital Assets Recent Updates

June 3, 2024

We are pleased to provide you with the May 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

- ***Uniswap Labs Calls SEC's Legal Case "Weak and Wrong"***
On May 21, Uniswap Labs responded to the SEC's Wells notice issued against the firm. The SEC issues a Wells notice if, after the SEC's Staff concludes an investigation, the Staff intends to recommend to the Commission that charges be brought. The Wells notice provides a prospective respondent the chance to present defenses concerning the investigation and to influence the Staff's recommendation and the Commission's view of the matter. Uniswap Labs called the SEC's legal case "weak and wrong" and stated that the SEC's "aggressive theories" are an attempt to stretch the SEC's reach beyond its jurisdiction. Uniswap Labs argued that the SEC "should embrace open-source technology that improves outdated commercial and financial systems, instead of attempting to litigate it out of existence." On April 10, the SEC issued a Wells notice against Uniswap Labs, in which the SEC alleged that Uniswap DEX acted as Uniswap Labs' unregistered securities exchange and unregistered securities broker-dealer. Uniswap Labs' filing says that "the SEC arguments rest on the false assumption that just about 'all' tokens are securities (which the SEC then refuses to register)." [The Block](#); [CoinDesk](#); [Wells Response](#).

- ***Two Arrested over Novel Scheme that attacked Ethereum Blockchain and Stole \$25 Million in Cryptocurrency***
 On May 23, DOJ unsealed an indictment charging that two brothers attacked the Ethereum blockchain using a novel scheme that allegedly leveraged transaction integrity protocols to fraudulently obtain approximately \$25 million worth of cryptocurrency within approximately 12 seconds. The prosecutors said the two defendants developed a scheme, dubbed the “Exploit,” through which they manipulated and tampered with the process and protocols that validate and add transactions to the Ethereum blockchain. In doing so, the DOJ alleged, they fraudulently gained access to and modified pending private transactions to obtain victims’ cryptocurrency. [Press Release](#).
- ***Federal Judge Dismisses Suit and Sanctions SEC Over Bad-Faith Conduct***
 On May 28, a federal judge dismissed the SEC’s lawsuit against crypto group Debt Box and ordered the SEC to pay over \$1.8 million in attorney and receivership fees. The ruling follows a March decision finding the SEC engaged in bad-faith conduct over a temporary restraining order to freeze Debt Box’s assets. [Law360](#); [Order](#).
- ***FTC Executive Receives 7.5-Year Prison Sentence***
 On May 28, a Manhattan federal judge imposed a 7.5-year prison sentence on crypto-finance expert and former FTX executive Ryan Salame for duping a bank to authorize \$1.5 billion of illegal transfers and making fraudulent campaign contributions for the exchange’s convicted founder Sam Bankman-Fried. [Law360](#).
- ***BTC-e Operator Pleaded Guilty to Money Laundering Conspiracy***
 On May 3, one of the operators of the defunct crypto exchange BTC-e, Alexander Vinnik, pleaded guilty to conspiracy to commit money laundering from 2011 to 2017. The DOJ alleged that BTC-e acted as “one of the primary ways by which cyber criminals around the world transferred, laundered, and stored the criminal proceeds of their illegal activities” before it was shut down by law enforcement in or around July 2017. Allegedly, operating as an unlicensed money service business, the now defunct exchange reportedly processed over \$9 billion-worth of transactions and served over one million users worldwide, including numerous customers in the United States. According to the DOJ, Vinnik operated BTC-e with the intent to promote these unlawful activities and was responsible for over \$121 million in losses. Vinnik was first arrested in 2017, but faced a lengthy extradition process in which he spent time in Greece and France before being sent to the U.S. [Press Release](#); [CoinDesk](#).
- ***Former Cred Executives Indicted on Wire Fraud Conspiracy and Related Crimes***
 On May 3, a federal grand jury charged the former CEO, CFO, and CCO of Cred, LLC with wire fraud conspiracy and related crimes in connection with their purported roles in an alleged scheme to defraud customers and investors that caused losses of customer cryptocurrency assets with a market value that may have exceeded \$780 million. Per the DOJ, through Cred’s lending program, called “CredEarn,” the defendants “lured” customers to make investments with promises of significant returns on cryptocurrency investments but failed to disclose that “virtually all the assets to pay the yield were generated by a single company whose business was to make unsecured micro-loans to

Chinese gamers." Cred filed for bankruptcy in November 2020, estimating its liabilities to be between \$100 million and \$500 million at the time. [Press Release](#); [CoinDesk](#).

INTERNATIONAL

- ***Hong Kong Regulator Says Worldcoin Operations Must Cease***

On May 22, Hong Kong's Privacy Commissioner for Personal Data (PCPD) "served an enforcement notice on Worldcoin Foundation, directing it to cease all operations of the Worldcoin project in Hong Kong in scanning and collecting iris and face images of members of the public using iris scanning devices." The cryptocurrency project, which has received scrutiny from regulators globally, also was suspended in Kenya last year due to privacy concerns. [CoinDesk](#); [Cointelegraph](#); [Reuters](#).

REGULATION AND LEGISLATION

UNITED STATES

- ***U.S. House Approves Crypto Bill FIT21 to Provide Regulatory Clarification for Digital Assets***

On May 22, the U.S. House of Representatives passed the Financial Innovation and Technology for the 21st Century Act (FIT21), which was the first time that a significant crypto bill had cleared a chamber of Congress. The bill aims to provide regulatory clarity for digital assets. The legislation, which was largely driven by House Republicans, "would establish a regime to regulate the U.S. crypto markets, setting consumer protections, installing the Commodity Futures Trading Commission (CFTC) as a leading regulator of digital assets and the watchdog of the non-securities spot markets and it would more clearly define what makes a crypto token a security or a commodity." While some crypto enthusiasts have backed the bill, the SEC warned that this bill could create new financial risks. [Reuters](#); [CoinDesk](#).

- ***SEC Approves Eight Spot Ether ETFs from Leading Financial Firms***

On May 23, the U.S. Securities and Exchange Commission (SEC) approved eight spot Ether exchange-traded funds (ETFs) from prominent financial firms. This move marks a significant regulatory milestone, demonstrating increased institutional acceptance and regulatory clarity for Ether-based financial products. The ETFs still need their S-1 registration statements to be finalized before trading can start. Further legislative clarity is still needed to define the regulatory jurisdiction between the SEC and CFTC over digital assets. [The Block](#); [Cointelegraph](#).

- ***House Passes Bill to Block Fed-Issued Digital Dollar***

The U.S. House of Representatives passed the CBDC Anti-Surveillance Act which would bar the Federal Reserve from issuing a so-called central bank digital currency, a state-issued dollar on the blockchain. Republicans argue that the measure is necessary to protect consumer privacy and express concern regarding the tokens' traceability on the blockchain, which could be used by the government to track citizen purchases and limit or control their behavior. [Law360](#).

- ***United States CFTC Proposes to Ban Political Event Contracts***

On May 10, the U.S. Commodity Futures Trading Commission (CFTC) proposed a formal rejection of events contracts that bet on the outcome of political activity. Three of the five commissioners approved this proposed rule, as they saw these contracts as “contrary to the public interest.” Prediction platforms allow users to buy contracts on the outcomes of actual events, including elections and policy developments. These platforms have been particularly popular in crypto circles. Contracts on political contests, awards contests, and the outcomes of games would be banned for U.S. regulated companies under the proposal. [CoinDesk](#); [The Block](#).

INTERNATIONAL

- ***UK Regulators Identified Crypto as One of the Biggest Money Laundering Risks in 2022-2023***

In its annual supervision report on anti-money laundering and counter-terrorist financing (AML/CTF), the UK Treasury Department identified crypto firms, alongside retail banking, wholesale banking and wealth management as posing the greatest risk of being exploited for money laundering between 2022 and 2023. The conclusion from the report came from the risk assessments conducted by UK’s financial regulator, Financial Conduct Authority, on 238 firms. [UK Treasury Report](#); [CoinDesk](#).

- ***In Taiwan, Proposed Anti-Money Laundering (AML) Changes Could Lead to Jail Time for Non-Compliance***

On May 9, Taiwanese authorities announced that they sought to criminalize cryptocurrency firms that fail to abide by anti-money laundering (AML) rules. The Ministry of Justice’s proposed amendments to existing AML laws require domestic and overseas crypto firms seeking to operate in Taiwan to register for AML compliance. The penalty for failure to comply would be up to two years in prison. Currently, authorities can only impose administrative penalties on non-compliant crypto firms, but these new amendments would criminalize non-compliance. These proposed AML changes were to be sent to Taiwan’s national parliament for review. [The Block](#).

- ***Nigeria Reforms National Blockchain Policy Steering Committee***

On May 21, Nigeria’s National Information Technology Development Agency (NITDA) announced that they were restructuring the National Blockchain Policy Steering Committee (NBPSC) in hopes of reassessing blockchain policy in Nigeria. The NBPSC was made up of members from government agencies, institutions, the private sector, academia, and the blockchain industry. The director-general of NITDA believed that the NBPSC’s reform would bring together “a fresh wave of experienced professionals and leading minds.” According to the NITDA, this reform is an effort would help “incorporate new emerging technologies and economic realities” in Nigeria. [Cointelegraph](#).

- ***Ramp Network, Crypto Infrastructure Firm, Secures Ireland Registration***

On May 23, Ramp Network, a U.K.-based crypto infrastructure firm, secured Virtual Asset Service Provider (VASP) registration in Ireland and plans to establish its European headquarters there. This registration will enable users to exchange fiat for over 100 crypto assets. Ireland—an EU-member—would provide a pathway for Ramp to become a licensed Crypto Asset Service Provider (CASP) under the EU’s Markets in Crypto Assets

Regulation (MiCA). This move by Ramp is another in recent fintech movement to Ireland, following other exchanges that have secured licenses and set up operations in the country. [CoinDesk](#).

CIVIL LITIGATION

UNITED STATES

- ***New York Attorney General Announces \$2 Billion Settlement to End Litigation Against Genesis***

In a May 20 notice, the New York Attorney General announced a \$2 billion settlement with cryptocurrency firm Genesis to compensate allegedly defrauded investors. The Attorney General had claimed that Genesis had been “lying and cheating investors,” who sent more than \$1.1 billion to Genesis through the Gemini Earn program. The settlement bans Genesis from operating in New York and requires the settlement funds to be returned to Genesis investors. [Cointelegraph](#); [The Block](#).

- ***U.S. Supreme Court Allows Coinbase User Class Action to Proceed in Federal Court***

On May 23, the U.S. Supreme Court issued a unanimous opinion in *Coinbase Inc. v. Suski*, ruling that a putative class-action lawsuit brought by Coinbase users should remain in federal courts rather than be sent to arbitration. The Court held that where “parties have agreed to two contracts – one sending arbitrability disputes to arbitration and the other either explicitly or implicitly sending arbitrability disputes to the courts—a court must decide which contract governs,” rather than an arbitrator. [Law360](#); [Opinion](#).

SPEAKER’S CORNER

UNITED STATES

- ***Sens. Elizabeth Warren and Angus King Warn National Security Chiefs About Iranian Crypto Mining***

In an open letter to Secretary of Defense Lloyd Austin, Secretary of the Treasury Janet Yellen and National Security Advisory Jake Sullivan, Senators Elizabeth Warren and Angus King warned about Iran’s “increasingly lucrative” relationship with crypto mining which “poses a direct threat to our national security.” The letter outlined Iran’s status as a leading jurisdiction for bitcoin mining and how its central bank channels cryptocurrency to fund the economy. “Cryptomining has become such a big industry in Iran that it has strained the country’s energy grid, leading the Iranian government to temporarily suspend cryptomining several times after it was blamed for massive blackouts.” [Letter](#); [CoinDesk](#).

- ***Former SEC Commissioner Says SEC Has Taken “Too Expansive” a View on Digital Assets***

At the May 9 TokenizeThis 2024 conference, Troy Paredes, who served as an SEC commissioner from 2008 to 2013, suggested that the SEC may be overreaching into the digital assets market. Paredes said that the SEC “has taken a very expansive view as to what constitutes a security.” Because “if it’s not a security, then it’s outside the scope of the federal securities laws in the SEC’s jurisdiction.” [Cointelegraph](#).

- CFTC Commissioner Discusses Turf War with SEC Over Crypto Regulation***
 In an interview, CFTC Commissioner Summer Mersinger discussed the turf war between the SEC and the CFTC, as both authorities seem to claim that they have authority over the crypto industry. Mersinger blamed the tension amongst the agencies mainly on a lack of clarity regarding each agency's authority. Mersinger asserted that current statutory authority over crypto, as practiced through regulatory enforcement actions, was not sufficient to handle the evolving industry. Mersinger opined that the only way to bring clarity to the crypto industry would be to have a bill come out of Congress that said, "here's how to handle cryptocurrencies." Mersinger also indicated that the SEC and the CFTC needed to come up with some joint rulemaking around the crypto industry, and pointed to how Dodd Frank was a stellar example of joint rulemaking. [CoinDesk](#).
- SEC Chair Gary Gensler Opposes U.S. Crypto Bill FIT21***
 On May 22, SEC Chair Gary Gensler expressed that existing laws give the SEC enough authority to go against other U.S. regulatory agencies, including the White House and its Treasury Department, to regulate the crypto industry. In a statement issued against crypto bill FIT21, Gensler said that crypto firms had shown an "unwillingness to comply with applicable laws and regulations for more than a decade, variously arguing that the laws do not apply to them or that a new set of rules should be created and retroactively applied to them to excuse their past conduct." Rep. French Hill (R-Ark.) stated that Gensler's opinion on FIT21 was "isolated from other regulatory leaders." [CoinDesk](#); [SEC Statement](#).

OTHER NOTABLE NEWS

- Tether Enters Transaction Monitoring Partnership with Chainalysis***
 Tether, issuer of the largest stablecoin USDT, said on May 2 that it had teamed up with the blockchain data firm Chainalysis to monitor transactions with its tokens on secondary markets. According to the press release, the monitoring system included international sanctions compliance and illicit transfer detection that could be associated with activities like terrorist financing, and would help Tether identify crypto wallets that could "pose risks or may be associated with illicit and/or sanctioned addresses." Tether CEO Paolo Ardoino said that this collaboration with Chainalysis "marks a pivotal step in our ongoing commitment to establishing transparency and security within the cryptocurrency industry." [Press Release](#); [CoinDesk](#).
- CME Group Plans to Launch Spot Bitcoin Trading***
 On May 16, Financial Times reported that the Chicago-based CME Group, the world's largest futures exchange, planned to offer spot bitcoin trading to clients. Citing people "with direct knowledge of the talk," Financial Times reported that CME had been holding discussions with traders who wanted to buy and sell bitcoin on a regulated marketplace. Introducing spot bitcoin trading on CME, which already hosted trading in bitcoin futures, would allow investors more easily to place so-called basis trades. CME's potential entrance could mean that the large, regulated exchanges were becoming more comfortable with the infrastructure for trading digital assets, such as keeping coins safely secured. [Financial Times](#); [CoinDesk](#).

- Bitcoin and Ethereum ETPs to Debut on London Stock Exchange***

On May 22, the United Kingdom's Financial Conduct Authority (FCA) approved Bitcoin and Ethereum-based exchange-traded products (ETPs) to be traded on the London Stock Exchange. However, only professional and institutional investors would be able to access these ETPs due to the 2021 ban on retail customers trading crypto derivatives. To get approval from the FCA, a crypto ETP should only be denominated in Bitcoin or Ethereum, be physically backed and non-leveraged, issuers must hold the underlying assets in cold storage, and the issuers must partner with an anti-money laundering licensed custodian in the United States, the United Kingdom, or the European Union. [Cointelegraph](#).
- Stand With Crypto Alliance Launches PAC for U.S. Elections***

On May 10, the Stand with Crypto Alliance, formed in 2023, launched a new affiliated federal political action committee (PAC) to raise money to support politicians who are crypto-friendly. According to its website, the Stand with Crypto Alliance is a 501(c)(4) nonprofit with the aim of advocating for "clear, common-sense regulations in the crypto industry." Crypto has become a greater part of the campaign trail, as presidential candidates have voiced their stances in hopes of swinging voters. Stand with Crypto's PAC seeks to foster a grassroots movement, with donations limited to \$5,000 from each of its members. [Stand With Crypto](#); [X \(Twitter\) Announcement](#); [The Block](#).
- Hong Kong Issuer Looks to Make Bitcoin ETF Available to Mainland China***

On May 9, the CEO of Harvest, an issuer of a spot Bitcoin exchange-traded fund (ETF) in Hong Kong, announced at the Bitcoin Asia conference that Harvest was looking to make Bitcoin ETF accessible to investors in mainland China. The CEO is considering various options that would allow mainland Chinese investors to purchase Harvest Bitcoin and Ether ETFs by offering Harvest's products through Hong Kong's ETF Connect framework. ETF Connect, which launched in May 2022, gives mainland investors access to a range of selected ETFs listed in Hong Kong. On May 9, the South China Morning Post reported that as long as "everything goes smooth and well" in the next two years, Harvest will not rule out applying for its ETFs to be included in ETF Connect. Approval remains questionable, as the Chinese government has historically maintained a restrictive approach towards cryptocurrencies such as Bitcoin. Nevertheless, ETFs were a major topic at the Bitcoin Asia conference in Hong Kong. [Cointelegraph](#); [The Block](#).
- Colombian President Allegedly Accepted \$500,000 Illicit Crypto Donation***

In early May, local media reported that Colombia's President, Gustavo Petro, allegedly accepted upwards of \$500,000 in digital tokens from a local crypto project. Colombia-based cryptocurrency project Daily COP reportedly made this illicit donation to Petro's campaign in 2022. When Daily COP's co-founder and Petro's then-campaign manager discussed the donation, the parties purportedly aimed to form some sort of "joint venture [or] alliance with the government." [The Block](#).
- Donald Trump Is First Major Party Candidate to Accept Crypto Donations***

On May 21, Donald Trump became the first major party candidate to accept crypto donations. The announcement came just weeks after Trump declared himself as crypto's candidate at a Mar-a-Lago gala. Although Trump has not proposed any concrete crypto policies, supporters welcomed the news as a win for crypto, particularly since Joe Biden's

administration has historically taken a broadly anti-crypto stance. Robert F. Kennedy Jr., who is running as an independent, has accepted crypto donations for months. [CoinDesk](#).

- **First UK Crypto ETPs Launched on May 28**

On May 28, the first bitcoin exchange-traded products (ETPs) debuted trading on the London Stock Exchange after receiving approval from the UK's Financial Conduct Authority. The sponsoring asset managers were given the green light by the FCA to list ETPs investing in "physical" spot bitcoin and ether. The ETPs, however, will only be available to professional investors because the FCA has ruled that "crypto derivatives are ill-suited for retail consumers due to the harm they pose." [Financial Times](#).

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