

## Digital Assets Recent Updates

December 31, 2024

We are pleased to provide you with the December 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

- ***Fifth Circuit Says Treasury 'Overstepped' Authority in Tornado Cash Sanctions***  
On November 26, the U.S. Court of Appeals for the Fifth Circuit ruled that the Treasury Department's Office of Foreign Assets Control (OFAC) overstepped its authority when it sanctioned Tornado Cash in late 2022. OFAC had invoked the International Emergency Economic Powers Act (IEEPA) to prohibit any dealings by U.S. persons with Tornado Cash "property," including its smart contracts. Reversing a district court decision in favor of OFAC, the Fifth Circuit held that Tornado Cash's smart contracts are not the "property" of a foreign national or entity, which means they cannot be blocked under IEEPA. [The Block](#); [Cointelegraph](#); [Opinion](#).
- ***Former Celsius CEO Pleads Guilty to Fraud***  
On December 3, former Celsius Network CEO Alex Mashinsky pleaded guilty to one count of commodities fraud and one count of securities fraud in the Southern District of New York. Prosecutors said that Mashinsky defrauded customers of the crypto lending business by making false statements about the company's success and profitability, and by artificially inflating the price of the company's tokens. As part of his plea agreement, Mashinsky will forfeit around \$48 million. His sentencing is scheduled for April 8, 2025.

and he faces up to 30 years in prison. [Law360](#); [The Block](#); [Plea Agreement](#); [Press Release](#).

- ***Defendant Pleads Guilty to “Cryptojacking” Scheme***  
On December 5, Charles O. Parks III pleaded guilty to wire fraud in the Eastern District of New York. Parks admitted to deceiving unnamed companies into giving him access to \$3.5 million, which he then used to mine cryptocurrency. He faces up to 20 years in prison. [Law360](#); [Press Release](#).
- ***First Criminal Crypto Tax Evader in US Sentenced to Two Years in Prison***  
On December 12, Frank Richard Ahlgren III was sentenced by a judge in the Western District of Texas to two years in prison for falsely underreporting capital gains from selling \$3.7 million in Bitcoin between 2017 and 2019. According to the Department of Justice, this is the first criminal tax-evasion prosecution focused solely on digital assets. [The Block](#); [Press Release](#).
- ***U.S. Shuts Down North Korean Money Laundering Network***  
On December 17, the U.S. Treasury Department said it had shut down a North Korean money laundering network operated behind a front company based in the UAE. OFAC sanctioned two individuals and one entity involved in a network that launders millions of dollars of illicit funds generated by agents of the Democratic People’s Republic of Korea. The UAE participated in the takedown. [CoinDesk](#); [Press Release](#).

## INTERNATIONAL

- ***Nigeria Arrests Nearly 800 in Raid on Crypto Pig Butchering Hub***  
On December 10, Nigerian authorities arrested 792 people in Lagos over an alleged “pig-butcher” scheme that was being operated out of a building in the city. “Pig Butchering” generally refers to schemes that involve repeated contacts to cultivate a victim, and individuals in this alleged scheme were contacted with opportunities to participate in bogus crypto investments. The Economic and Financial Crimes Commission (EFCC) is collaborating with international partners to investigate whether the alleged scheme was linked to organized crime. [Cointelegraph](#); [Reuters](#).

## REGULATION AND LEGISLATION

### UNITED STATES

- ***Treasury Department and IRS Release Final Digital Asset Broker Regulation for DeFi Participants; Crypto Industry Sues***  
On December 27, 2024, the U.S. Department of the Treasury and the IRS released final regulations concerning tax reporting requirements for digital asset “brokers.” The final regulations expand upon final regulations published on July 9, 2024 applicable to custodial digital asset trading platforms to also require reporting in connection with DeFi transactions that utilize automatically executing software. The final regulations interpret the word “broker” to require that certain DeFi participants providing front-end services obtain information and report the gross proceeds of digital asset transactions using new Form 1099-DA. The final regulations cover sales of all digital assets, including NFTs and

stablecoins. Reporting obligations for these DeFi participants will begin for sales of digital assets occurring on or after January 1, 2027. On the same day the final rule was published, the DeFi Education Fund, the Blockchain Association, and the Texas Blockchain Council filed a lawsuit in the U.S. District Court for the Northern District of Texas challenging the rule on the basis that it exceeds the agencies' statutory authority, violates the Administrative Procedure Act, and is unconstitutional. [Treasury Press Release](#); [Blockchain Association Press Release](#).

- ***President-elect Donald Trump Announces Intent to Nominate Paul Atkins as SEC Chair***

On December 4, President-elect Donald Trump announced Paul Atkins as his choice to replace Gary Gensler as the next Chairman of the SEC. Atkins previously served on the Commission during the George W. Bush administration and later founded a consulting firm that includes crypto exchanges among its clients. The news was received favorably by Republican lawmakers and crypto executives. Atkins must be confirmed by the Senate. Current SEC Chair Gary Gensler has announced plans to step down from his role on January 20, 2025. [The Block](#); [Law360](#).

- ***RLUSD, Ripple's Stablecoin, Gains Approval from New York's Department of Financial Services***

On December 10, Ripple's RLUSD stablecoin received final approval from the New York State Department of Financial Services. Ripple began testing RLUSD in August and announced exchange partnerships in October. RLUSD is set to launch on both the Ledger and Ethereum networks. [The Block](#).

- ***Legislators Introduce Bills for State Strategic Bitcoin Reserve***

This month, state and federal legislators have proposed bills that would establish strategic Bitcoin reserves. On December 10, Rep. Giovanni Capriglione introduced a bill in the Texas House of Representatives that would create a Bitcoin reserve within the state's treasury, managed through donations for a maximum of five years. On December 17, Ohio legislators introduced a bill that would authorize the state treasurer to invest in Bitcoin as part of the state treasury reserve. Other states, including Pennsylvania, have introduced similar proposals to allow state investments in Bitcoin, digital assets, and other crypto-based exchange-traded products. At the federal level, Cynthia Lummis (R-WY) has drafted a bill to have the U.S. Treasury purchase one million Bitcoin over five years. [The Block](#).

## INTERNATIONAL

- ***EU Approves Commissioners, Including Those Who Will Oversee Crypto Rules***

On November 27, the European Parliament approved its slate of commissioners who will be responsible for monitoring regulations around digital assets. Though no commissioner role is solely dedicated to crypto, the commissioners from Portugal, Finland, and France have previous experience with crypto or financial regulation. [CoinDesk](#).

- ***Taiwan Fast-Tracks Stricter Crypto AML Rules***

On November 30, Taiwan's Financial Supervisory Commission (FSC) issued new anti-money laundering (AML) rules, a month earlier than initially planned. The new rules require crypto service providers, such as crypto exchanges, to complete AML compliance

registration. Penalties for non-compliance include imprisonment for up to two years and a maximum fine of NT\$5 million (\$153,700). Regulated entities must establish a company or branch office under Taiwan's Company Act and complete the required AML registration prior to conducting operations within Taiwan. [The Block](#).

- ***Czech Republic Offers Tax Break to Long-Term Cryptocurrency Holders***  
On December 6, the Czech Republic's parliament unanimously passed a law exempting certain holders of digital assets from personal taxation. Individuals whose total gross annual income from crypto transactions is under CZK 100,000 (\$4,000) and those who have held digital assets longer than three years may be able to take advantage of the new law. [The Block](#).
- ***Hong Kong to Speed Up Crypto Licensing as Competition Intensifies***  
Hong Kong is accelerating its efforts to become a cryptocurrency hub by speeding up the licensing process for crypto trading platforms. In June 2023, Hong Kong officially launched a licensing regime for crypto exchanges, allowing licensed platforms to offer retail trading services. The Acting Secretary of Financial Services and the Treasury are working to facilitate a licensing process and set up a "consultative" panel for licensing platforms expected to start early next year. [The Block](#).
- ***UK Set to Prohibit Public Offers of Crypto***  
On December 16, as part of the UK's effort to create a comprehensive crypto regulatory framework, the Financial Conduct Authority published a discussion paper proposing a new admissions and disclosures and market-abuse regime for digital assets. For admissions and disclosures, the paper proposes tailoring rules for traditional securities to digital assets and addresses issues ranging from mandatory disclosures to due diligence and liability. For market abuse, the paper addresses systems and controls, information sharing, and insider trading. The deadline for comments is March 14, 2025. [CoinDesk](#); [Discussion Paper](#).
- ***ESMA Publishes Final Guidance on MiCA Implementation Days Before Deadline***  
On December 17, the European Securities and Markets Authority (ESMA) released its final report on reverse solicitation, crypto's qualification as financial instruments, and draft standards on market abuse prevention. The EU's Markets in Crypto Asset (MiCA) rules are supposed to be implemented by December 30 across the EU, but many countries have not yet implemented them. [CoinDesk](#); [ESMA](#).

## CIVIL LITIGATION

### UNITED STATES

- ***FTX Reaches Settlement with Ex-Alameda Co-CEO***  
On December 5, a Delaware bankruptcy judge approved a settlement between the debtors for bankrupt crypto exchange FTX and its affiliates and the former Alameda Research co-CEO John Samuel Trabucco. According to a motion filed by the debtors, Trabucco gained around \$40 million from transfers involving FTX, including withdrawals from an FTX account, before bankruptcy. Instead of pursuing those assets through a clawback suit, the debtors agreed under the terms of the settlement to accept two San

Francisco apartments Trabucco purchased for \$8.7 million, along with a yacht he purchased for \$2.5 million. Trabucco also agreed to withdraw customer claims against the estate. [Law360](#).

- ***Coinbase Discloses FDIC “Pause Letters” Obtained in FOIA Suit; Court Orders Further Disclosures***

On December 6, Coinbase revealed that the company had obtained through FOIA litigation twenty-three “pause letters” issued by the FDIC to various banks. The redacted letters, which were sent by the FDIC between March and October 2022, instruct the banks to pause certain crypto-related activities. Coinbase and others in the crypto industry have said that the pause letters are part of a broader government-wide effort to de-bank crypto firms. On December 12, the district court in the FOIA lawsuit issued an order expressing “concer[n] with what appears to be the FDIC’s lack of good-faith effort in making redactions to the letters” and requiring the FDIC to make further un-redactions by early January. [Banking Dive](#); [X.com](#); [X.com](#); [Pause Letters](#).

- ***Federal Judge Says Coinbase Can Delist wBTC, Denying Justin Sun-Affiliated BiT Global’s Bid for a Temporary Restraining Order***

On December 18, a California judge ruled that Coinbase can delist wrapped Bitcoin (wBTC) and denied BiT Global’s request for a temporary restraining order seeking to prevent the delisting. Coinbase announced in November that it would delist wBTC because it did not meet the company’s listing standards. In responding to BiT Global’s lawsuit, the company explained that the delisting decision was based on the fact that Justin Sun, an advisor to BiT Global, had been accused of several instances of “financial misconduct,” which “presented an unacceptable risk to [Coinbase’s] customers and the integrity of its exchange.” Speaking on X, Paul Grewal, Coinbase’s Chief Legal Officer, congratulated his company’s legal team and voiced appreciation for “the Court’s consideration.” [The Block](#); [X.com](#).

## INTERNATIONAL

- ***Craig Wright Receives Suspended Jail Sentence for Contempt of Court***

On December 18, Craig Wright—the computer scientist who was adjudicated by a UK court to have falsely claimed to be Satoshi Nakamoto—was held in contempt of court for breaching a court order. The court concluded that Wright had breached an order prohibiting him from launching or threatening further legal action related to Bitcoin when Wright claimed to have intellectual-property rights in the Bitcoin protocol. The judge ruled that Wright had committed “a clear breach of the order” and imposed a 12-month sentence, suspended by two years. Wright, who was in Asia, attended the hearing virtually. [CoinDesk](#); [Reuters](#); [The Independent](#).

## SPEAKER’S CORNER

### UNITED STATES

- ***SEC Commissioner Crenshaw’s Reappointment Stymied***

The U.S. Senate Banking Committee canceled the vote on Caroline Crenshaw’s reappointment to the SEC. Crenshaw became an SEC Commissioner in 2020 and

needed Senate approval to remain in her position. The decision to cancel the vote effectively ends her reappointment prospects, with Congress set to adjourn on December 20 and the GOP taking control of Congress in January. Crypto advocates had vocally opposed Crenshaw's renomination. [Yahoo Finance](#).

- ***Incoming Committee Chair Rep. French Hill Vows to Investigate “De-Banking” of Crypto Business and Plans to Prioritize Digital Asset Legislation***

On December 4, Representative French Hill (R-AR), said that lawmakers from both parties plan to investigate apparent regulatory efforts to exclude crypto businesses from the banking sector. The comments came during a House Financial Services Committee hearing at which crypto executives testified about sudden account closures. Several business leaders said that they had been dropped by their banks, apparently as a result of formal and informal “guidance” issued by banking regulators. Hill promised that investigating this issue would be a priority at “the end of this Congress and into the next Congress.” Rep. Hill was recently selected as the House Financial Services Committee Chair on December 12. He announced that drafting legislation for digital assets will be a key priority in 2025 and that he aims to establish a regulatory framework within the first hundred days of the new Congress. [Law360](#); [The Block](#).

- ***Recent Paper Argues That Criminal Money Transmitting Requires Control***

In a comprehensive paper published earlier this month, Daniel Barabander (Variant), Amanda Tuminelli (DeFi Education Fund), and Jake Chervinsky (Variant) argue that Section 1960—a federal statute criminalizing unlicensed money transmission—should be interpreted to apply only to businesses that control the funds at issue. Under that interpretation, the authors argue, the government cannot bring criminal money-transmitting charges against developers of many non-custodial DeFi protocols—and in particular the government cannot sustain its money-transmitting charges in its ongoing case against the developers of Tornado Cash. The authors also call for legislation to address the complexities of blockchain technology while ensuring fair enforcement of anti-money laundering laws. [Paper](#).

## OTHER NOTABLE NEWS

- ***President-elect Donald Trump Names David Sacks “AI & Crypto Czar”***

On December 5, President-elect Donald Trump announced that David Sacks would serve in the newly created role of “White House AI & Crypto Czar” during the next administration. Sacks previously served as PayPal’s chief operating officer. More recently, Sacks co-founded the venture capital firm Craft Ventures. In his new position, Sacks will “work on a legal framework so the Crypto industry has the clarity it has been asking for,” said Trump in a statement. [The Block](#); [Law360](#).

- ***ECB Advances Digital Euro Project with New Progress Report***

On December 2, the European Central Bank (ECB) released the second progress report on its digital euro project, which described updates to the ECB’s digital euro scheme rulebook. The report states that user research and experimentation activities are underway to gather potential user preferences and to inform policy decision-making for the potential launch of a digital euro. The ECB will also form partnerships with key stakeholders to test conditional digital euro payments. The report also notes that the ECB

has concluded its call for applications to select potential providers of digital euro components and related services. [The Block](#); [Press Release](#).

- **Japanese Crypto Exchange Coincheck Goes Public**  
On December 10, Coincheck, Japan's second-largest cryptocurrency exchange, went public on NASDAQ via a de-SPAC merger with Thunder Bridge Capital. It is the second crypto exchange, after Coinbase, to go public in the United States. [The Block](#).
- **El Salvador to Limit Bitcoin Activities for \$1.4 Billion Deal with IMF**  
On December 19, El Salvador and the IMF reached a \$1.4 Billion loan agreement, which includes terms limiting the country's domestic Bitcoin-related activities. In 2021, El Salvador adopted Bitcoin as legal tender and instituted various Bitcoin-related policies, including requiring businesses to accept Bitcoin as payment. Among other things, the IMF deal will make acceptance of Bitcoin by merchants voluntary and will direct citizens of El Salvador to pay taxes in U.S. dollars. [The Block](#); [IMF Press Release](#).

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