

# Akin

## CryptoLink



December 2024

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Heading into 2025, it is anticipated that there will be several changes in the regulatory enforcement agenda in the United States as relevant to digital assets, including due to the upcoming Trump presidency, along with Trump's decision to appoint former Securities and Exchange Commission (SEC) Commissioner Paul Atkins to serve as Chair of the SEC, which is pending Senate confirmation. Throughout 2024, the SEC continued to actively pursue litigation against digital asset platforms including Coinbase and Kraken, software firm Consensys and threatened suits against nonfungible token marketplace OpenSea and decentralized exchange Uniswap. The SEC's litigation against Binance is ongoing, even though Binance resolved alleged compliance failures with other federal regulators through a \$4.5 billion settlement and a short prison sentence for its now former-CEO, Changpeng Zhao. Some commentators believe that under Mr. Atkins, the SEC's crypto priorities will trend towards rulemaking rather than litigation and will be more focused on fraud cases as opposed to registration-focused charges.

On the criminal side, the U.S. Department of Justice (DOJ) has historically and will likely continue to prioritize cases in 2025 with fraud charges involving digital assets, including those that implicate national security concerns. Last, it is also feasible that in 2025, federal and appellate courts in the U.S. will bring clarity regarding whether and how securities laws apply to secondary trading of digital assets. That exact issue is the subject of the Ripple appeal, in which both the SEC and Ripple appealed to the 2nd Circuit a ruling from U.S. District Judge Analisa Torres, who found the XRP token was a security when it was sold to institutional investors, but not when it was sold on public exchanges.

On Friday, January 3, 2025, the 119th United States Congress was sworn into office. Republicans now control both the House and the Senate. President-elect Trump, who is scheduled to be inaugurated on January 20, has announced his intention to pass a single reconciliation package that would address immigration, energy and the extension of certain provisions of the Tax Cuts and Jobs Act that are set to expire in 2025. Speaker Mike Johnson (R-LA) has said that he plans to have the single "big, beautiful" budget package to the president's desk by the end of April. A strong early push for a reconciliation package may leave comprehensive crypto legislation on the backburner for the start of the year. When the issue does come up, efforts will be influenced by leadership on the Senate Banking

Committee and the House Financial Services Committee. Sen. Tim Scott (R-SC) has been confirmed as the incoming Chair of the Senate Banking Committee, while Democrats Sen. Elizabeth Warren (D-MA) and Rep. Maxine Waters (D-CA) will serve as ranking members on their respective committees. Rep. French Hill (R-AR) has been selected to take the gavel at House Financial Services from former Chair Patrick McHenry (R-NC).

With the new administration taking shape, a number of key positions stand to be filled by strong crypto advocates. Paul Atkins will chair the SEC, Howard Lutnick will serve as Secretary of Commerce and venture capitalist David Sacks has been selected as the new 'White House AI and crypto czar'. President-elect Trump has also announced the creation of the Department of Government Efficiency (DOGE), which is to be led by Elon Musk and Vivek Ramaswamy - both of whom have expressed support for deregulation of the financial services industry and for cryptocurrencies.

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## Key Developments

### U.K. Cryptocurrency Ownership Rises to 12% as FCA Plans New Regulations

On November 26, 2024, the U.K. Financial Conduct Authority (FCA) published a press release stating that 12% of U.K. adults now own crypto, an increase from 10% in previous findings. The FCA further noted that awareness of crypto rose from 91% to 93%. The research comes as the FCA has started to share their approach to regulating crypto by publishing an indicative roadmap of key dates for the development and introduction of the U.K.'s crypto regime. The roadmap sets out a series of focused consultations. According to the press release, this "approach aims to make policy development transparent and help people engage by making the process more manageable and flexible for all." Matthew Long, director of payments and digital assets at the FCA, stated that research has indicated the "need for clear regulation that supports a safe, competitive, and sustainable crypto sector in the UK."

The FCA's press release can be found [here](#) and further information regarding the FCA's crypto roadmap can be found [here](#).

### Trump Names David Sacks as White House 'AI and Crypto Czar'

On December 5, 2024, President-elect Trump named David Sacks, a venture capitalist and prominent investor, as the "White House AI and Crypto Czar," a new position in the White House. According to media reports, Trump stated that Sacks will guide the administration's

policy on artificial intelligence (AI) and cryptocurrency, “two areas critical to the future of American competitiveness.”

Further information can be found [here](#) and [here](#).

### **Australian Government Seeks Feedback on New AML/CTF Rules**

On December 11, 2024, the Australian government announced a public consultation on draft reforms to its Anti-Money Laundering (AML) and Counter-Terrorist Financing (CTF) framework, expanding the regime to include high-risk services provided by virtual asset service providers and modernizing virtual asset and payments technology-related regulation. For example, the proposed new rules introduce new travel rule obligations for remitters and virtual asset service providers. The consultation paper remains open for submission until February 14, 2025.

Further information can be found [here](#).

## **Key Enforcement Actions**

### **Nebraska Man Pleads Guilty in Multi-Million Dollar “Cryptojacking” Case**

On December 5, 2024, the U.S. Attorney’s Office for the Eastern District of New York announced that Charles O. Parks III, also known as “CP30,” pled guilty in federal court to wire fraud for operating a large-scale illegal “cryptojacking” operation. As part of the scheme, Parks defrauded two well-known providers of cloud computing services out of more than \$3.5 million worth of computing resources in order to mine cryptocurrency worth nearly \$1 million. The proceeding was held before U.S. Magistrate Judge Cheryl L. Pollak. When sentenced, Parks faces up to 20 years in prison.

The Eastern District of New York’s press release can be found [here](#).

### **Polish Police Arrest Former CEO of Russian Crypto Exchange**

On December 6, 2024, Reuters reported that Polish authorities detained “Dmitry V.,” the former CEO of Russia-based crypto exchange WEX, following an extradition request from the DOJ. According to the media report, Dmitry V. is suspected of engaging in fraud and money laundering while managing the cryptocurrency exchange WEX.

Further information can be found [here](#).

### **Two Brothers Arrested for Attacking Ethereum Blockchain and Stealing \$25M in Cryptocurrency Submit Motion to Dismiss Indictment**

On December 6, 2024, defendants Anton Peraire-Bueno and James Peraire-Bueno submitted a memorandum of law in support of their three motions to dismiss their indictment, namely a motion to dismiss the indictment for failure to provide fair notice, for failure to allege essential elements and as unconstitutionally vague. The indictment purports to charge the brothers with one count of conspiracy to commit wire fraud, one count of wire fraud and one count of conspiracy to commit money laundering, all relating to a series of transactions allegedly executed on the Ethereum cryptocurrency blockchain in April 2023. The motion notes, among other things, that the “Indictment is an audacious attempt by the United States government to regulate, for the first time and through criminal prosecution, the

duties and interactions of users of the Ethereum Network” and that the “hallmarks of a fraud case are conspicuously absent.”

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

### **CFTC Charges Washington State Pastor with Fraud, Misappropriation in Multilevel Marketing Scheme Targeting Hispanic Americans**

On December 10, 2024, the Commodity Futures Trading Commission (CFTC) announced a civil enforcement action in the U.S. District Court for the Eastern District of Washington against Francier Obando Pinillo (doing business as Solanofi, Solano Partners Ltd. and Solano Capital Investments) for engaging in a fraudulent digital assets multilevel marketing scheme worth at least \$5.9 million. Pinillo targeted at least 1,515 U.S. customers in the scheme, including members of a Spanish church where he was the pastor in Pasco, Washington. The CFTC seeks restitution for defrauded customers, disgorgement of ill-gotten gains, civil monetary penalties, trading bans and a permanent injunction against further violations of the Commodity Exchange Act and CFTC Regulations.

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

### **CFTC Announces that Los Angeles Federal Court Has Ordered Five Individuals to Pay Over \$5 Million for Digital Asset Fraud and Misappropriation Scheme**

On December 11, 2024, the CFTC announced that the U.S. District Court for the Central District of California had issued a consent order against defendant Marco A. Ruiz-Ochoa in connection with digital asset fraud. Previously, on October 21, 2024, that same court issued an order of default judgment against defendants David Carmona, Juan Arellano Parra, Moses Valdez and David Brend. The defendants were jointly doing business as Icomtech. The orders relate to fraud in connection with the defendants’ digital asset scheme and misappropriation. The default judgment found defendants Carmona, Arellano, Valdez and Brend liable for all of the violations alleged in the CFTC’s complaint, including fraudulently soliciting over \$1 million from 190 individuals in the U.S. and other countries to supposedly trade Bitcoin and other digital asset commodities for them, and misappropriating customer funds. Each of the defendants is required to pay jointly and severally over \$1 million in restitution to defrauded customers and to each pay a \$1 million civil monetary penalty. The default judgment also permanently enjoins them from engaging in conduct that violates the Commodity Exchange Act (CEA) and permanently bans them from registering with the CFTC and from trading in any CFTC-regulated markets. The consent order found that defendant Ochoa engaged in the fraud scheme with the other defendants, requiring him to pay jointly and severally with the other defendants over \$1 million in restitution to defrauded customers. The consent order also imposes a permanent injunction and permanent trading, solicitation and registration bans against Ochoa. The court’s orders resolve the CFTC’s enforcement action against the defendants.

In a parallel criminal action, on October 13, 2022, the U.S. Attorney’s Office for the Southern District of New York unsealed an indictment charging the defendants with wire fraud in connection with a much larger scheme, of which the Icomtech scheme the CFTC charged was a subset.

The CFTC’s press release can be found [here](#); the order regarding Ochoa can be found [here](#) and the order regarding the remaining defendants can be found [here](#).

### **U.S. Supreme Court Denies NVIDIA’s Motion to Dismiss Crypto Class Action Suit**

On December 11, 2024, in the matter of *NVIDIA Corp. v. E. Ohman J:or Fonder AB* [No. 23-970], following oral arguments, the U.S. Supreme Court issued a single-sentence decision

dismissing an appeal by NVIDIA in a putative class action asserting claims under the Securities Exchange Act of 1934 against the technology company and certain of its officers. The putative class asserted that NVIDIA's chief officers minimized sales of GeForce graphics processing units (GPUs) to crypto miners and instead attributed its revenue success to video game purchase partners, which are less susceptible to market swings. The plaintiffs alleged that NVIDIA's officers had access to purported internal sources of information indicating a relatively high demand for GPUs from cryptocurrency miners. Following the 9th Circuit decision (which held that the plaintiffs adequately alleged a claim under Section 10(b) and Rule 10b-5 against NVIDIA and its officers, that the plaintiffs satisfied the scienter requirement and that the plaintiffs had sufficiently alleged that NVIDIA's statements about GeForce GPU revenue from cryptocurrency miners were false, considering the true revenue the company earned from those miners), NVIDIA filed a writ of certiorari before the U.S. Supreme Court, asking the Court to decide (1) whether scienter requires plaintiffs to plead with particularity the contents of internal company documents when bringing claims based on those documents, and (2) whether the falsity requirement can be met by relying upon an expert opinion as a substitute for particularized facts. After hearing arguments on whether to permit the lawsuit to move forward, the Court dismissed the cases as "improvidently granted," leaving the 9th Circuit's ruling intact.

The US Supreme Court's Order can be found [here](#) and Akin's client alert regarding this development can be found [here](#).

### **Spokane Fraudster Sentenced to More Than 3 Years in Federal Prison for Operating a Cryptocurrency Investment Scheme and Defrauding Investors of More than \$350,000**

On December 11, 2024, the U.S. Attorney's Office for the Eastern District of Washington announced that U.S. District Judge Thomas O. Rice sentenced Michael Joseph McElhiney to 41 months in federal prison in connection with a cryptocurrency scheme, in which McElhiney defrauded investors of hundreds of thousands of dollars. Judge Rice further imposed three years of supervised release, \$326,119.95 in restitution and ordered Mr. McElhiney to be immediately remanded to the custody of the U.S. Marshals Service following the hearing. According to court documents, McElhiney defrauded investors by pretending to operate a cryptocurrency investment fund known as MAC Blockchain Solutions. As part of his scheme, McElhiney promised prospective investors that he and his purported business partners ran a successful cryptocurrency investment fund that invested in emerging cryptocurrencies and other blockchain-based projects. McElhiney defrauded investors of more than \$350,000 in this manner, including defrauding investors not only of cash but also of rare art and precious metals.

The Eastern District of Washington's press release can be found [here](#).

### **Early Bitcoin Investor Sentenced to Two Years for Falsely Underreporting Cryptocurrency Gains**

On December 12, 2024, the DOJ announced that Frank Richard Ahlgren III was sentenced to two years in prison for filing a tax return that falsely underreported the capital gains he earned from selling \$3.7 million in Bitcoin. In addition to his prison sentence, U.S. District Court Judge Robert Pitman for the Western District of Texas ordered Ahlgren to serve one year of supervised release and to pay \$1,095,031 in restitution to the U.S. Ahlgren is the first person ever criminally charged in the U.S. for failing to report gains from the sale of cryptocurrency by filing false returns.

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

## Virginia Man Convicted for ISIS Crypto Financing Scheme

On December 13, 2024, a jury convicted Mohammed Azharuddin Chhipa of Springfield, Virginia, of criminal charges brought by the DOJ relating to his efforts to provide material support to the Islamic State of Iraq and al-Sham (ISIS), a foreign terrorist organization. According to court records and evidence presented at trial, from at least October 2019 through October 2022, Chhipa collected and sent money to female ISIS members in Syria. Chhipa would receive electronic transfers of funds and travel hundreds of miles to collect funds by hand, which he would then convert to cryptocurrency and send to Turkey, where it was smuggled to ISIS members in Syria. Over the course of the conspiracy, the defendant sent over \$185,000 in cryptocurrency. The jury found Chhipa guilty of one count of conspiracy to provide material support or resources to a designated foreign terrorist organization and four counts of providing and attempting to provide material support or resources to a designated foreign terrorist organization. Chhipa faces a maximum penalty of 20 years in prison per count. A sentencing hearing has been scheduled for May 5, 2025.

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

## Australian Securities and Investments Commission Sues for Consumer Protection Failures

On December 18, 2024, the Australian Securities and Investments Commission (ASIC) announced it had filed documents in federal court against Binance Australia Derivatives for consumer protection failures. ASIC alleged that from July 7, 2022, to April 21, 2023, Binance offered crypto derivative products to 505 Australian retail investors who were misclassified as wholesale clients, representing 83% of its Australian client base. ASIC Deputy Chair Sarah Court stated that Binance allegedly failed to ensure that the services it provided under its Australian financial services license were provided efficiently, honestly and fairly. ASIC will be seeking penalties, declarations and adverse publicity orders.

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

## Tai Mo Shan to Pay \$123 Million for Negligently Misleading Investors About Stability of Terra USD

On December 20, 2024, the SEC charged Tai Mo Shan Limited, a wholly owned subsidiary of Jump Crypto Holdings LLC, with misleading investors about the stability of Terra USD (UST), a purported "algorithmic stablecoin" issued by Terraform Labs PTE Ltd. The SEC further charged Tai Mo Shan with offering and selling securities in unregistered transactions by acting as a statutory underwriter with respect to certain of its offers and sales of LUNA, a crypto asset issued by Terraform and offered and sold as a security. As part of the settlement, without admitting or denying the SEC's findings, Tai Mo Shan agreed to pay \$73,452,756 in disgorgement, \$12,916,153 in prejudgment interest and a \$36,726,378 civil penalty. Tai Mo Shan further agreed to cease and desist from violations of the registration and fraud provisions of the Securities Act that it violated.

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

**Akin Thought Leadership**

[Akin Win for Celsius Litigation Administrator, NY Bankruptcy Court Allows Legal Notices Sent via NFTs](#) (October 30, 2024)

[Akin Launches AI Law & Regulation Tracker](#) (August 1, 2024)

[U.S. Supreme Court to Clarify Securities Fraud Pleading Requirements for Falsity and Scienter During 2024-2025 Term](#) (June 28, 2024)

[Bipartisan Legislation Introduced in the Senate to Establish a Regulatory Framework for Stablecoins](#) (April 22, 2024)

[Coinbase Court Embraces ‘Ecosystem’ Approach to Identifying Crypto-Asset Securities](#) (April 3, 2024)

[Are Crypto Tokens Securities? Terraform Court Says ‘Yes’ in Extensive Decision](#) (January 12, 2024)

## Events

### [Consensus Hong Kong](#)

February 18-25, 2025

Hong Kong

Consensus Hong Kong convenes global leaders in tech and finance to debate pressing issues, announce key developments and deals, and share their visions for the future. Consensus is produced by the award-winning media outlet CoinDesk and is guided by its commitment to independent, unbiased journalism.

### [Consensus Toronto](#)

May 14-16, 2025

Toronto

The Consensus flagship event now heads to Toronto setting the stage for the most important conversation in crypto and Web3. Consensus has been the world’s largest, most diverse gathering of the cryptocurrency, blockchain and Web3 communities produced by award-winning crypto media outlet CoinDesk.



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## Questions?

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