

Wenchi Hu PLLC
Regulatory Recap
July 31, 2024

SEC Enforcement:

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- **SEC announced Charges Against Andrew Left for a “Bait-and-Switch” Fraudulent Scheme**
- **Broker-Dealer Firm Settled SEC Charges Regarding Violation of Regulation Best Interest**
- **SEC Launches Interagency Securities Council to Coordinate Enforcement Efforts Across Federal, State, and Local Agencies**

In Case You Missed It:

- **Keith E. Cassidy Named SEC’s Interim Acting Director of the Division of Examinations**
- **Non-Centrally Cleared Bilateral Repo Data Collection by OFR**
- **SEC Approves FINRA Rule Change Regarding Projected Performance and Targeted Return Communications**
- **Broker-Dealer Settles Reg BI and Form CRS Violations with FINRA**
- **Firm Fined for Allowing Unqualified Rep to Conduct Muni Securities Activities**



SEC Enforcement:

SEC Charges Founder of the BitClout Blockchain Protocol with Fraud

On July 30, 2024, the SEC [announced](#) charges against the founder of the BitClout Blockchain protocol with perpetrating a fraudulent decentralized crypto asset scheme. According to the SEC's [complaint](#) filed with the U.S. District Court for the Southern District of New York, Nader Al-Naji raised more than \$257 million by offering and selling BTCLT tokens to investors and lying to them about the “decentralized” nature of the blockchain project while diverting the investor funds into his personal purchases.

SEC announced charges against Andrew Left for a “Bait-and-Switch” Fraudulent Scheme

On July 26, 2024, the SEC [announced](#) charges against activist short seller Andrew Left and his firm, Citron Capital LLC, for engaging in a “bait-and-switch” scheme to defraud followers. According to the SEC's [complaint](#) filed with the U.S. District Court for the Central District of California, Left used his firm's website and social media platforms to publicly recommend taking long and short positions. Once the price of the target stocks moved, Left and his firm quickly reversed their positions to capitalize on the stock price movements. As a consequence, Left bought back stock immediately after telling his followers to sell, and he sold stock immediately after telling his followers to buy. The bait-and-switch tactics netted Left and his firm \$20 million profits. Concurrently, the Fraud Section of the Department of Justice and the U.S. Attorney's Office for the Central District of California also announced charges against Left.

The SEC [previously settled](#) public administrative charges against Dallas-based registered investment adviser Anson Funds Management LP and Toronto-based exempt reporting adviser Anson Advisors Inc. for conduct involving their relationship with Left and other short publishers.

Broker-Dealer Firm Settled SEC Charges Regarding Violation of Regulation Best Interest

On July 30, 2024, the SEC issued an administrative [order](#) against Western International Securities (“Western”) with respect to its settled charges relating to violations of Regulation Best Interest. According to the SEC's order, the SEC alleged that a registered representative at Western employed a risky day trading strategy in several customer accounts, which involved the purchase and sale of options contracts, inconsistent with the best interest of these customers, several of whom had moderate to conservative risk profiles. The trading strategy also resulted in these customers paying excessively large commissions to the registered representative and Western and high

turnover and cost-to-equity ratios in their accounts. The SEC also alleged that Western failed to enforce its policies and procedures designed to achieve compliance with Regulation Best Interest.

SEC Launches Interagency Securities Council to Coordinate Enforcement Efforts Across Federal, State, and Local Agencies

The SEC's Division of Enforcement [launched](#) the Interagency Securities Council (ISC), which invites federal, state, and local regulatory and law enforcement professionals to meet quarterly to discuss the latest in scams, trends, frauds, and mitigation strategies. The ISC's objective is to strengthen the cohesion between federal, state, and local agencies, enhance opportunities to collaborate on cases to protect investors, provide insight and guidance across the ecosystem to those who may not frequently operate in this space, and create a forum for unified efforts in combatting financial fraud.

The ISC launched with representatives from more than 100 departments and agencies, including federal agencies, state offices of attorneys general and state police, and local police departments and sheriff's offices.

In Case You Missed It:

Keith E. Cassidy Named SEC's Interim Acting Director of the Division of Examinations

The SEC announced that Richard Best, the Director of the Division of Examinations, will take leave from the agency to focus on his health. Keith E. Cassidy, the Division's Deputy Director, will serve as its interim Acting Director.

In addition to serving as Deputy Director, Mr. Cassidy is the National Associate Director of the Division's Technology Controls Program (TCP) with responsibility for technology-focused examinations and overseeing the SEC's CyberWatch program and the Cybersecurity Program Office. Mr. Cassidy previously served as the Director of the SEC's Office of Legislative and Intergovernmental Affairs and as Chief of Staff and Counsel at the Department of Justice's Office of Legislative Affairs.

Non-Centrally Cleared Bilateral Repo Data Collection by OFR

In May 2024, the Treasury Department's Office of Financial Research (OFR) adopted a [Final Rule](#) to establish an ongoing data collection of non-centrally cleared bilateral Repo (NCCBR) transactions in the U.S. repo market. Financial companies with large exposures to the NCCBR market, i.e., at least \$10 billion in NCCBR outstanding ("Covered Reporters") are required to report NCCBR to OFR. Financial companies include brokers and dealers and other financial companies.

The Final Rule is effective July 5, 2024, and Covered Reporters can begin testing their data submissions at any time. Broker-dealers that meet the Covered Reporters definition must begin to report their daily NCCBR activities no later than December 2, 2024. The OFR encourages these brokers and dealers to begin testing as early as possible and no later than 90 days before the Dec. 2 compliance date. See [OFR's website](#) for more information.

SEC Approves FINRA Rule Change Regarding Projected Performance and Targeted Return Communications

In November 2023, FINRA filed a proposed rule change with the SEC to amend FINRA Rule 2210 (Communications with the Public). The proposed rule change (as subsequently amended) would allow a member firm to project performance or provide a targeted return with respect to a security, asset allocation, or other investment strategy in limited circumstances and subject to certain conditions.

The proposed rule change also would impose conditions to help ensure that such performance projections or targeted returns have a reasonable basis, are accompanied by certain disclosures, and that member firms communicating such information have written policies and procedures reasonably designed to ensure that the communication is relevant to the likely financial situation and investment objectives of their audience.

After receiving and responding to comments with the aforementioned amendment to the proposed rule change, the SEC [approved](#) FINRA's rule change

Broker-Dealer Settles Reg BI and Form CRS Violations with FINRA

The Jeffrey Matthews Financial Group, L.L.C. [settled](#) FINRA charges for failing to establish and enforce written policies and procedures reasonably designed to achieve compliance with Regulation BI and Form CRS.

According to the letter of acceptance, waiver and consent, the firm's "training on Reg BI to its representatives was inadequate as it focused on suitability rather than the requirements of Reg BI." FINRA also said that the firm's procedures "acknowledged that the firm was required to deliver Form CRS to all retail customers," but it did not prescribe any specific procedures for preparing, filing, or updating Form CRS.

Firm Fined for Allowing Unqualified Rep to Conduct Muni Securities Activities

Piper Sandler & Co. settled FINRA [charges](#) for permitting an associated person to engage in municipal securities activities without having passed the required exam. FINRA found that the associated person "provided advice and represented the firm in

meetings or calls with the issuer and municipal advisor," though he had not passed the Municipal Securities Representative Qualification Examination (Series 52TO).

FINRA found that the firm's supervisory system and written supervisory procedures failed to ensure "that associated persons maintained the registrations required for their job functions and did not engage in activities inconsistent with their qualifications."