



Regulatory Update May 27, 2019

In this update, we discuss the regulatory climate of digital assets in the U.S., recent actions, and provide a contrast to the regulatory environment developing in France.

Regulatory Uncertainty in the U.S. Crypto Market: Update on Recent Actions

The regulatory uncertainty facing U.S. market participants in the digital asset space was a topic of concern highlighted during the many conferences and panels that took place during NYC's Blockchain Week. Prominent industry members, and [regulators alike](#), scrutinized the approach of authorities in creating an unwelcoming and costly environment for crypto companies.

Flood of Industry Critique

Circle's CEO Jeremy Allaire cited the regulatory environment in the U.S. as one of the reasons it had to cut close to 10% of its staff and [geofence](#) a number of crypto

assets on its trading platform from American users. In a [blog post](#), he described how the SEC's April guidance created more problems than it solved and potentially increased the enforcement capabilities of the agency.

Others have similarly spoken out against the SEC. Canadian messaging app Kik, which raised close to \$100 million through the sale of its Kin token, joined forces with other major industry players in setting up the [Defend Crypto Fund](#), a "crowdfunding effort to fight the SEC in court," with hopes of establishing precedent that could serve as "the new Howey Test for how cryptocurrencies are regulated in the United States." Kik's CEO Ted Livingston previously [shared](#) that it had already spent over \$5 million in its negotiations with the SEC.

SEC Enforcement Mulls On: Agency Goes After Two Alleged Crypto Ponzi Schemes

Despite industry pushback, the SEC has continued to pursue ICO-related securities law violations with a focus on those which involve fraud.

On May 13, the SEC [announced](#) that it had obtained a temporary restraining order (TRO) freezing the assets and operations of suspected crypto fraud, Florida-based

Argyle Coin. Its principal officer, Jose Angel Aman, promised that the coin, the sale of which raised close to \$30 million from over 300 investors, would be backed by “fancy colored diamonds” and protected by a special insurance bond. He further misled investors by promising they would double their investments in 18 to 24 months.

In reality, the SEC [alleged](#) that there were no actual diamonds and the funds were actually used to fuel Aman’s other fraudulent businesses and pay for expenses like horses for his son and riding lessons. The SEC now seeks disgorgement of the ill-gotten gains and other penalties.

Meanwhile, on the west coast, the SEC [initiated](#) proceedings against alleged Ponzi scheme operating under the name IPro, which raised over \$25 million by promising to teach participants how to run an e-commerce business. Anyone could pay a \$50 activation fee to become an IPro sales associate and then recruit others to join and buy packages, entitling the associate to reward points that could be converted to IPro’s PRO Currency.

The SEC [found](#) that the \$50 fee constituted an investment contract and, as such, should have been registered prior to its offering. Further, the SEC pointed out that Daniel

Pacheco, the sole member of the two IPro companies mentioned in the complaint, misallocated IPro resources, purchasing a \$2.5 million home, a Rolls-Royce, and funding his daughter’s entity with close to \$2 million, leaving insufficient funds to cover IPro commissions and payments owed to its investors.

Bitcoin ETF Decisions Delayed Again While Bitwise Releases Additional Research

As expected, the SEC postponed its decision on the pending bitcoin ETF proposals from VanEck and Bitwise until August with the final decision not coming until October at the latest.

Building on its [March report](#) to the Commission discussed in our previous [update](#), Bitwise submitted an additional 105 pages of [research](#) in which it reiterated that while most of the bitcoin trading volume is fake, the underlying spot market remains unaffected, smaller and more efficient than publicly perceived.

The research took a deeper look into the trading activity of the 10 deemed “real exchanges,” stating that their regulatory status is “remarkably different” though they tend to demonstrate similar spot prices, spreads, and patterns of volume spikes. It also pointed out that Binance is the only

top 10 exchange that hasn't registered as an MSB and Kraken is the only one that hasn't pursued a BitLicense. Despite these differences, the report described how it viewed their volume as real with prices "tightly integrated" with the others.

Interestingly, the report noted that how, after the release of its March report, reported trading volume from one exchange, Huobi, had changed. The "anomalous pattern" indicating large trade sizes "completely disappeared within 3 weeks," leading to speculation that the exchange took action to prevent wash trading or adapted "to be more in line with [Bitwise's] detection methods."

The ETF proposals are again open to public comment. Anyone looking to submit a response can do so via the SEC's online [comment form](#), [email](#), or by paper mail addressed to the Acting SEC Secretary.

[Read more on our website](#)

LGO Breakfast Series Recap: The Regulatory Environment of Crypto Assets in France

On May 22, LGO Markets hosted the [latest](#)

[installment](#) of its monthly breakfast series where [Franck Guiader](#) and [Matthieu Lucchesi](#) of Gide Law Firm gave an overview of French regulatory efforts related to crypto assets, namely the [PACTE bill](#) (Plan d'Action pour la Croissance et la Transformation des Entreprises – the Action Plan for Business Growth and Transformation). Both formerly headed division within the French Financial Markets Authority (AMF).

Lucchesi described how the bill aims to make France an attractive environment for the crypto economy and provide legal certainty for market participants in a manner that balances flexibility and consumer protection. The legislation includes an optional visa program that ICO issuers can choose to opt into. The visa imposes certain AML/KYC conditions on the issuers while making it easier for them to solicit subscribers and work with banking institutions.

Another aspect of the bill relates to digital asset service providers, some of which can opt into the registration regime although certain providers face mandatory registration (custodial wallet service providers and crypto-to-fiat exchange providers). Guiader and Lucchesi indicated

that the distinction between crypto-to-fiat and crypto-to-crypto exchanges demonstrates how the AMF's view diverges from that of the FinCEN. Further, the bill explicitly permits professional investment funds to invest in crypto assets, which was previously not permitted.

PACTE was adopted in April of this year with decrees detailing implementation expected by the end of the year.

Other News

- BitcoinMagazine: [IRS Commissioner Makes Crypto Tax Clarity a Priority](#)
- CoinDesk: [Australian Securities Watchdog Updates Guidance on ICOs and Crypto Assets](#)
- Decrypt: [U.S. Copyright Office: Craig Wright merely applied for copyright on Bitcoin whitepaper](#)

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