

SEC Files Charges against Binance and Founder

Summary

On 5 June 2023, the U.S. Securities and Exchange Commission (“**SEC**”) issued a press release announcing that it has filed 13 charges against Binance Holdings Ltd. (“**Binance**”) and its founder Changpeng Zhao, claiming that they engaged in activities that amount to an “extensive web of deception, conflicts of interest, lack of disclosure, and calculated evasion of the law”.

The SEC's actions have sent shockwaves throughout the crypto community and raised questions about the regulatory landscape surrounding digital assets. The SEC has highlighted several allegations against Binance group companies, which include:

Failure to restrict US customers from transacting with Binance

The SEC alleges that despite Binance and its founder claiming that US customers were prohibited from engaging in transactions on the Binance.com platform, they “secretly” allowed high-value US customers to continue trading activities by subverting their own controls.

Operational control failure

The SEC alleges that Binance and its founder allowed customer assets to be commingled with their own assets and diverted customer assets as they pleased. This includes transferring customer assets to the founder's personal company vehicles. The SEC also claims that while Binance portrayed the US trading platform as separate and independent, in reality, Binance and the founder secretly controlled the US platform. This led to a charge against Binance for misleading investors about risk controls and trading volume on the platforms.

Registration related violations

The SEC alleges that the Binance group and its founder operated unregistered national securities exchanges, broker-dealers, and clearing agencies. Additionally, they are accused of offering and selling unregistered crypto assets, including Binance's own exchange token or stablecoin called BNB.

Binance Responses

In its statement, Binance expressed that the SEC should offer clear guidance and clarity to the digital asset industry. It specifically raised questions about how certain tokens and services should be labelled and regulated. Binance will have the opportunity to present its case in court. The outcome of this case will not only impact Binance but also establish a precedent for other exchanges. It will also shape the regulatory landscape for the broader cryptocurrency market going forward.

Going Forward

The SEC has previously charged Genesis Global Capital, LLC and Gemini Trust Company, LLC over the unregistered offering and sale of securities to retail investors through a crypto asset lending program. As the legal proceedings unfold, the outcome of these cases will likely shape the future regulatory framework for cryptocurrency exchanges and impact how they conduct their business.

Leela Fair - Managing Director, General Counsel EMEA

+44 7412 502985
lfair@cleveland-co.com



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