

## WazirX Parent Zettai Pte. Ltd. Court Proceedings Update: Moratorium Hearing Scheduled for 25 September 2024

On 3 September 2024, a case conference was convened in the General Division of the Singapore High Court concerning Zettai Pte. Ltd., the parent entity of WazirX, in relation to its application for a six-month moratorium. The application, prompted by the company's financial difficulties arising from a USD 234 million cyberattack on WazirX, seeks to stay all legal proceedings and enforcement actions against the company while it undergoes restructuring. At the conference, the Court scheduled the matter for hearing on 25 September 2024, at which Zettai will present arguments in support of the moratorium, aimed at allowing the company time to reorganize its affairs and engage in negotiations with its creditors. The moratorium, if granted, would provide Zettai with the breathing space needed to reorganize its operations without facing immediate legal challenges from creditors or other parties.

The court has set deadlines for submissions in preparation for the hearing. Zettai was instructed to file a supplemental affidavit by 10 AM on 10 September 2024, detailing any additional information pertinent to the case. Following this, any objections or responses from creditors or interested parties must be filed by 17 September 2024. Zettai has been granted until 19 September to submit a reply affidavit addressing any concerns raised.

Both the applicant (Zettai) and the creditors are required to file written submissions by 23 September 2024. These submissions will outline each party's position regarding the moratorium and will be considered during the final hearing on 25 September 2024.

The court also provided guidelines for unrepresented parties, particularly corporate entities. Representatives attending the virtual hearing on behalf of companies must submit authorization letters to confirm their ability to act on behalf of the creditor or interested party. The court also reminded all attendees to ensure proper decorum, including appropriate attire for the virtual hearing.

In preparation for the hearing, Zettai is required to submit a list of attending creditors and proposed allocation of time for oral submissions, ensuring that all parties have the opportunity to present their case.

The virtual hearing on 25 September 2024 will be decisive for Zettai's efforts to secure a moratorium. If granted, the moratorium will give Zettai the opportunity to implement its restructuring plan, which includes managing the fallout from the USD 234 million cyberattack on WazirX and negotiating with creditors to resolve its financial challenges.

The outcome of this hearing will impact WazirX users and creditors, as the moratorium would temporarily freeze all claims, giving the company time to reorganize without immediate financial pressure. All parties are expected to present their arguments in detail during the hearing, after which the court will decide on the future course of the moratorium application.

Investors and users of WazirX will be closely monitoring the outcome of Zettai Pte. Ltd.'s moratorium application as their ability to recover assets and assess the company's stability depends on the outcome of the application. If the court grants the moratorium, it would temporarily freeze all claims, giving the company time to reorganize without immediate financial pressure, further delaying potential recoveries for those affected by the USD 234 million loss from the recent cyberattack. While the moratorium would give Zettai the necessary time to restructure and address its financial challenges, it extends the period of uncertainty for investors and users, who remain uncertain about the extent of their asset recovery.

(Source: <https://charltonsquantum.com/wp-content/uploads/2024/09/2024.09.10-Correspondence-from-Courts-Re-fixing-hearing.pdf>)

## United Texas Bank Issued Cease and Desist Order by Federal Reserve U.S.A.

On 4 September 2024, the Board of Governors of the Federal Reserve System announced enforcement action against the United Texas Bank. The Federal Reserve and the Texas Department of Banking issued a Cease and Desist **Order** against United Texas Bank, headquartered in Dallas, Texas on 29 August 2024 in relation to foreign correspondent banking and virtual currency customers. The order followed an extensive examination of the bank, which revealed non compliance in the institution's corporate governance, risk management, and compliance with federal anti-money laundering (**AML**) laws, as well as the Bank Secrecy Act (**BSA**). These deficiencies, identified in a review conducted by the Federal Reserve Bank of Dallas and the Texas Department of Banking, required immediate regulatory action to safeguard the financial system.

United Texas Bank is a Texas state-chartered bank and a member of the Federal Reserve System. On 22 May 2023, an examination was conducted by the Federal Reserve Bank of Dallas and the Texas Department of Banking. The examination found lapses in the bank's compliance with AML/BSA regulations, particularly concerning foreign correspondent banking and virtual currency customers—both areas posing heightened risk for money laundering activities. The examination also revealed inadequacies in the bank's governance structure. The board of directors and senior management failed to provide sufficient oversight, which allowed these compliance issues to persist. In particular, the bank lacked proper internal controls and risk management practices necessary to ensure compliance with federal regulations aimed at preventing financial crime.

United Texas Bank was found to be in violation of several federal and state regulations, including BSA under **Section 31 U.S.C. § 5311**, financial institutions must maintain an effective program to detect and prevent money laundering. The bank's failure to do so constituted a violation of BSA requirements. The bank violated **Federal Reserve Regulation/12 C.F.R.** sections 208.62 and 208.63, which mandates strict compliance with AML regulations, including the maintenance of proper risk management controls.

The Cease and Desist Order issued to United Texas Bank mandates several corrective actions with specific timeframes for implementation. First, within 90 days, the bank's board of directors must submit a plan to enhance oversight of its compliance with AML/BSA and OFAC regulations, ensuring that senior management is effectively managing compliance issues and escalating concerns appropriately. Second, within 60 days, the bank must submit a revised corporate governance plan addressing deficiencies in the structure and functioning of the board of directors and its committees, including a management succession strategy for senior executives.

The bank is required to submit a revised BSA/AML compliance program within 60 days, incorporating enhanced internal controls, risk assessment procedures, and regular independent testing. The program must also ensure the bank's compliance officer has the necessary authority and resources to implement these responsibilities effectively. Within the same timeframe, the bank must revise its customer due diligence procedures to improve the collection of customer information, assign appropriate risk ratings, and conduct periodic account reviews.

The bank is also required to establish a program for monitoring and reporting suspicious activities, ensuring all suspicious transactions are promptly reported to the appropriate authorities. Enhanced compliance procedures for OFAC regulations must be implemented, including improved screening processes, ongoing staff training, and a risk-based approach to OFAC-related risks.

To ensure ongoing compliance, United Texas Bank must submit quarterly progress reports to the Federal Reserve and the Texas Department of Banking, documenting its efforts to meet the requirements of the order. The board of directors is responsible for ensuring that all mandated plans and programs are fully implemented throughout the duration of the order.

(Source: <https://www.federalreserve.gov/newsevents/pressreleases/files/enf20240904a2.pdf>, <https://www.federalreserve.gov/newsevents/pressreleases/enforcement20240904a.htm>)

## FCA's New Listing Rules and Digital Securities Sandbox: Insights from Sarah Pritchard's Speech

On 6 September 2024, Sarah Pritchard, the Executive Director of Markets and International at the UK's Financial Conduct Authority (**UK FCA**), addressed the Capital Markets Industry Taskforce, presenting the UK FCA's reform agenda aimed at strengthening the UK's position in global wholesale markets. Pritchard discussed the recent overhaul of the **UK's listing rules**, which arguably is one of major changes in over 30 years. These Listing rules reforms are intended to streamline the listing process, reduce regulatory burdens, and attract more companies to the UK's capital markets.

The new rules, which came into effect on 29 July 2024, simplify the regulatory framework while maintaining high standards of corporate governance and disclosure. Pritchard emphasized that the goal is to empower investors with the right information to make informed decisions rather than enforcing a one-size-fits-all regulatory regime.

In addition to the listing rule reforms, Pritchard elaborated on the UK FCA's ongoing efforts to simplify the public offers and admissions to trading regime, making it easier and cheaper for companies to raise capital in the UK. The UK FCA has also introduced new rules allowing asset managers greater flexibility in how they pay for investment research, reducing unnecessary operational burdens.

Pritchard made it clear that the UK FCA's work is far from complete. As part of its strategy to remain agile in a rapidly evolving market, the UK FCA is exploring innovative approaches, including the creation of the Digital Securities Sandbox. This platform will enable companies to test new technologies for trading and settlement in a live regulatory environment.

The **Digital Securities Sandbox** introduced by the UK FCA is a platform designed to allow financial firms to test new technologies for trading and settling digital securities in a controlled environment. This initiative enables companies to experiment with innovations such as tokenized securities, which represent traditional assets like stocks or bonds in a digital format using distributed ledger technology (DLT). The sandbox provides a space for firms to assess the performance and regulatory compliance of these new technologies before full market implementation.

Digital securities offer potential benefits, including faster transaction times, reduced costs, and increased transparency compared to traditional securities. The sandbox allows firms to explore these advantages in a real-world setting, while also enabling the UK FCA to observe how these technologies function and to better understand their regulatory implications.

The goal of the sandbox is to facilitate innovation within a secure framework, helping firms to develop new products while ensuring they meet regulatory standards. It also helps the UK FCA prepare for future regulatory needs as digital assets become more prevalent in the market.

This initiative is part of the UK FCA's broader efforts to maintain the UK's competitiveness in global financial markets by encouraging the adoption of modern financial technologies. Alongside the Private Intermittent Capital Exchange System (**PISCES**), which helps private companies access capital, the sandbox aims to support growth and innovation within the UK's capital markets, while maintaining the necessary safeguards for market integrity and investor protection. PISCES allows private companies to raise funds intermittently without the need for a full

public listing, creating a more flexible pathway for companies to secure investment while remaining private. This system offers investors opportunities to invest in private firms at various stages of growth, helping companies meet their capital needs as they scale.

Looking ahead, Pritchard noted that success for the UK's capital markets will be measured by long-term growth and the ability to attract a diverse range of companies to list and grow in the UK.

(Source: <https://www.fca.org.uk/news/speeches/fca-new-listing-rules-and-whats-come>)

## US Court Partially Grants Coinbase's Motion in Legal Battle with US SEC

On 5 September 2024, U.S. District Judge Katherine Polk Failla issued a ruling in the ongoing legal case between the U.S. Securities and Exchange Commission (**US SEC**) and cryptocurrency exchange Coinbase. The court granted in part and denied in part Coinbase's motion to compel the production of documents by the US SEC. This ruling comes as part of the wider lawsuit, where the US SEC has alleged that Coinbase has been operating as an unregistered securities exchange, broker, and clearing agency, violating federal securities laws.

Judge Failla's decision allows Coinbase access to some of the requested documents, particularly those relating to the classification of certain digital assets as securities, which is central to the US SEC's complaint. However, the court denied Coinbase's broader request to subpoena internal communications, including those of US SEC Chair Gary Gensler and other key personnel.

The court also ruled in favor of the US SEC's motion to permanently seal specific redacted documents. These sealed documents will only be viewable by the court and the involved parties, preventing them from being made publicly accessible. The judge directed the Clerk of Court to close the motions pertaining to both Coinbase's request (docket entry 145) and the SEC's request to seal documents (docket entry 157).

The case arises from an enforcement action filed by the US SEC in June 2023, alleging that Coinbase operated its platform as an unregistered securities exchange, broker, and clearing agency, violating federal securities laws. In response to these allegations, Coinbase filed a motion in July 2024, seeking to compel the SEC to produce related documents, including those related to the regulator's classification of certain tokens and its internal deliberations surrounding Coinbase's 2021 Initial Public Offering (**IPO**).

Judge Failla's ruling granted Coinbase access to some of the requested documents that relate to token classification. The documents requested would be used to determine whether the token falls outside the scope of Howey Test. Howey test is a legal framework used to determine whether an asset qualifies as a security or not. However, the judge denied other requests, including the subpoena of SEC Chairman Gary Gensler and a broader request for internal SEC communications, particularly personal emails and documents from senior staff and past commissioners.

The court's decision is seen as a mixed outcome for both parties. While Coinbase's legal team will receive few documents related to the SEC's approach to token classification, which could aid their defense, they will not have access to the broader scope of internal communications they had initially sought. Judge Failla also granted the US SEC's request to permanently seal certain redacted information, limiting public access to specific documents.

By granting Coinbase access to certain documents, the court is opening the door to a more transparent view of how the US SEC applies securities laws to digital assets. This could set a precedent for other crypto companies facing similar allegations, as they might now seek similar discovery requests to challenge the SEC's interpretations of securities laws. By granting partial discovery, Judge Failla has taken a neutral approach, ensuring that Coinbase has access to documents that may impact its defense while upholding the SEC's confidentiality regarding internal deliberations.

Coinbase's case may influence how other cryptocurrency firms structure their defenses against regulatory actions, especially as the US SEC continues to pursue enforcement against firms allegedly offering unregistered securities.

## U.S. District Court Issues Permanent Injunction and \$7 Million Disgorgement Against Yakov Cohen in Binary Options Fraud Case

On 5 September, 2024, the United States District Court for the Northern District of Illinois issued a Consent Order for Permanent Injunction and Other Equitable Relief in the case **Commodity Futures Trading Commission v. Yakov Cohen, Yukom Communications Ltd., and others (Case No. 1:19-cv-05416)**. The court issued a permanent injunction against Yakov Cohen for his involvement in a fraudulent binary options trading scheme operated through Yukom Communications and its affiliated entities. The order bars Cohen from participating in commodity trading and related activities and mandates the disgorgement of US\$7 million in profits unlawfully obtained through the scheme. This case is part of the United States' Commodity Futures Trading Commission (**US CFTC**) broader enforcement efforts, which allege that Cohen and his co-defendants defrauded investors of more than US\$165 million by manipulating binary options trades on platforms such as BinaryBook, BigOption, and BinaryOnline.

The Yukom Enterprise operated a large-scale binary options trading scam from March 2014 through at least September 2017. They solicited individuals in the United States and other countries to invest in binary options through online platforms, including BinaryBook, BigOption, and BinaryOnline. While these platforms were presented as legitimate trading services, they were part of a fraudulent operation that manipulated trades, misrepresented profits, and made it difficult for customers to withdraw their funds. The platforms falsely claimed that the binary options offered were real transactions influenced by actual market conditions, and they deceived investors by asserting that their financial interests were aligned with those of their customers.

In reality, the Yukom Enterprise profited directly from customer losses, controlling the outcomes of trades to ensure that nearly 95% of their clients lost money. The enterprise also misled customers about the security of their investments, falsely stating that customer funds were safeguarded, when in fact they were commingled with the company's own funds. During the relevant period, the defendants fraudulently solicited over US\$165 million from investors, with only about US\$52 million returned to customers. Cohen personally benefited from the scheme, receiving at least US\$7 million.

In the Consent Order, Cohen agreed to a permanent injunction and the payment of US\$7 million in disgorgement as part of a settlement with the US CFTC. Cohen also pleaded guilty in a related criminal case for conspiracy to commit wire fraud. The Consent Order permanently bans Cohen from engaging in commodity trading and other financial activities connected to the fraudulent scheme, and it requires him to cooperate with future investigations and legal actions connected to the Yukom Enterprise.

The court found that Cohen and his co-defendants violated provisions of the US Commodity Exchange Act (**US CEA**) and US CFTC regulations. The violations included Section 4c(b) of the US CEA and **Regulation 32.4**, which pertain to commodity option fraud. The court determined that the defendants misrepresented the nature of binary options, including the risks and profit potential, and engaged in manipulative practices that resulted in customer losses.

The court also found that the defendants violated **Section 6(c)(1)** of the US CEA and **Regulation 180.1(a)(1)-(3)**, which prohibit the use of deceptive devices in connection with swaps. Cohen and his co-defendants engaged in swap transactions involving binary options without adhering to the legal requirements for such transactions. Additionally, the court found violations of **Section 4c(b)** of the US CEA and Regulation 32.2 regarding the execution of illegal off-exchange commodity option transactions.

The defendants were further found to have violated **Section 2(e)** of the US CEA by entering into illegal off-exchange retail swaps with customers who were not eligible contract participants. The court also determined that the defendants operated as an unregistered Futures Commission Merchant (FCM) in violation of Section 4d(a)(1) of the US CEA by accepting customer orders and funds for commodity options and swaps.

The court's findings established that Cohen, through the Yukom Enterprise, misrepresented the legitimacy of the binary options offered, deceived customers about the safety of their funds, and manipulated trade outcomes to ensure customer losses. Approximately 95% of investors lost money in the fraudulent scheme, and Cohen personally profited from these losses. The consent order also required Cohen to cooperate with ongoing investigations and legal proceedings related to the case, and barred him from any future involvement in commodity-related activities. Under the terms of the Consent Order, Cohen agreed to pay \$7 million in disgorgement and is permanently enjoined from engaging in trading activities involving commodity options, swaps, or any other financial instruments regulated by the US CFTC. The court retains jurisdiction to enforce the terms of the Consent Order.

(Source: <https://www.cftc.gov/PressRoom/PressReleases/8962-24>, <https://www.cftc.gov/media/11201/enfurniswaplabsorder090424/download>)

## US PCAOB Publishes New QC 1000 Guidelines to Strengthen Audit Quality, Effective January 2025

On September 9, 2024, the United States' Public Company Accounting Oversight Board (**PCAOB**), with the approval of the United States Securities and Exchange Commission (**US SEC**), published the **QC 1000 guidelines**, to enhance quality control standards for public accounting firms. These guidelines aim to strengthen audit practices by implementing a risk-based, integrated framework that governs key operational areas such as governance, ethics, engagement performance, and monitoring. The QC 1000 guidelines are set to be implemented starting January 1, 2025, allowing firms time to align their systems with the new standards. The guidelines is expected to enhance the quality, reliability, and transparency of audit reports, thereby reinforcing investor confidence and ensuring the integrity of financial reporting across the market.

The QC 1000 standard introduces an integrated framework that consists of six key components which firms must adhere to in their quality control systems. These components encompass critical areas such as governance and leadership, ethics and independence, engagement performance, human resources, technological resources, and firm monitoring. The QC 1000 system incorporates two process components, specifically a risk assessment process and a monitoring and remediation process, which serve to continuously evaluate the firm's operational effectiveness and address any identified deficiencies.

Under governance and leadership, firms must establish a strong structure that promotes a culture of quality. Leadership is responsible for ensuring that the firm's strategic direction prioritises audit quality and ethical behaviour. Leaders are expected to allocate resources appropriately and ensure that quality control systems are consistently developed and maintained. Clear roles and accountability for those overseeing quality control are essential.

In terms of ethics and independence, firms must adopt policies that ensure they remain independent from clients and prevent conflicts of interest. Regular assessments of independence are required, and professionals must receive ongoing training to maintain ethical standards. Compliance with both regulatory and firm-imposed guidelines related to confidentiality, objectivity, and client treatment is mandatory.

For engagement performance, firms must ensure that all audit work adheres to established standards, with thorough evidence collection and proper assignment of skilled professionals. Regular reviews during key stages of the audit process are required to identify risks and take corrective action. Complex or high-risk engagements may necessitate additional oversight to maintain quality.

The human resources requirements focus on hiring, training, and developing staff capable of performing high-quality audits. Firms must uphold rigorous hiring standards and offer ongoing professional development to keep staff updated on industry standards and risks. Performance evaluation and compensation systems must reward quality and ethical behaviour, with processes in place to address underperformance.

In technological resources, firms are required to use up-to-date technology that supports audit execution and ensures security. Staff must be properly trained in the use of these tools, and firms must regularly assess the reliability and security of their technology infrastructure. Procedures for evaluating emerging technologies and their impact on audit quality are also essential.

Firm monitoring requires a continuous self-assessment process to evaluate the effectiveness of quality control systems. Firms must conduct regular internal reviews to address deficiencies, perform an annual evaluation of their systems, and report results to the PCAOB. Firms serving more than 100 issuers are also required to establish an external quality control function to ensure independent review of their systems.

The risk assessment process requires firms to continuously evaluate potential risks that may impact the quality of their audit engagements. This process involves identifying, analysing, and addressing risks related to both the firm's operations and its individual audit engagements. Firms are expected to develop policies and procedures that allow them to proactively detect risks and implement strategies to mitigate them.

The monitoring and remediation process as an ongoing obligation requires firms to regularly monitor their quality control systems to ensure they are functioning as intended. Through continuous oversight, firms are required to identify deficiencies or weaknesses within their audit practices. Once issues are detected, firms must take corrective actions to remedy the problems and prevent their recurrence. Regular reporting on the results of this process is essential to maintain transparency and accountability.

In addition to these structural reforms, the monitoring and remediation process embedded in QC 1000 requires firms to conduct ongoing oversight of their audit engagements. Public accounting firms are obligated to detect and remedy deficiencies within their quality control systems and take timely corrective measures to ensure compliance with the regulatory framework.

Under the QC 1000 system, public accounting firms are required to conduct an annual evaluation of their quality control systems and submit a report detailing the outcomes of this evaluation to the PCAOB. The annual reporting mechanism introduces an additional layer of accountability, to ensure that firms maintain the highest standards of audit quality throughout the year. Firms that issue audit reports for more than 100 issuers are subject to stricter requirements to adopt an external quality control function (EQCF). This EQCF serves as an independent body that ensures quality control systems are adhered to and that the firm consistently meets its obligations under the PCAOB standards.

The US SEC's approval of QC 1000 followed an extensive public comment period, during which the proposal received consultation. Several stakeholders voiced their concerns regarding the increased operational costs and administrative burdens that smaller audit firms may face under the new framework. Despite these concerns, the US SEC concluded that the QC 1000 system would significantly enhance audit quality, improve the reliability of financial reporting, and bolster investor confidence.

(Source: <https://www.sec.gov/files/rules/pcaob/2024/34-100968.pdf>, <https://www.sec.gov/newsroom/press-releases/2024-119>)

## **WazirX Moratorium Proceedings Update: Second Affidavit and Subsequent Findings**

On 10 September 2024, while considering the second affidavit filed by Nischal Shetty, authorised representative for Zettai Pte. Ltd, the Singapore High Court made certain amendments to its earlier correspondence regarding the ongoing moratorium application by Zettai Pte. Ltd. The affidavit provided additional information and clarifications concerning Zettai's restructuring efforts following a cyberattack in July 2024.

The second affidavit filed by Nischal Shetty on 10 September 2024 clarified key aspects of Zettai Pte. Ltd.'s restructuring process and ongoing communication with creditors, with 431 creditors supporting the moratorium. It also corrected errors from the initial filing regarding user claims, clarified Zettai's control of cryptocurrency tokens after the July cyberattack, and outlined ongoing discussions with potential investors for restructuring. The affidavit confirmed Zettai's compliance with court-mandated procedural requirements, ensuring transparency throughout the process.

The affidavit corrected certain errors in the initial affidavit in relation to the number of users and the total amount of claims. The revised figures were provided to ensure a more accurate representation of the liabilities Zettai is facing. The affidavit clarified Zettai's ownership and control over cryptocurrency assets that were transferred from Binance under protest. It was emphasised that Zettai has taken responsibility for managing user liabilities in connection with these assets, following the July 2024 cyberattack. The clarification also indicated that another entity, Zanmai India, does not hold or control any cryptocurrency, dispelling potential confusion regarding the division of control between the two entities.

The affidavit updated the court on the progress of discussions with potential investors. Several non-disclosure agreements have been signed, and Zettai has begun sharing a draft restructuring proposal with creditors. This proposal outlines recovery options, including potential cash injections and revenue-sharing models, as part of the company's broader restructuring efforts. The updates were necessary to provide a comprehensive picture of Zettai's current financial strategy and its efforts to engage with key stakeholders.

The affidavit confirmed that Zettai has complied with all procedural requirements set forth by the court, including publishing notices of the moratorium application and maintaining transparent communication with creditors. These amendments reflect Zettai's commitment to fulfilling its legal obligations and ensuring that the restructuring process is conducted in a fair and transparent manner.

In light of the second affidavit, the Singapore High Court issued a revised directive on 10 September 2024, adjusting the hearing date for the moratorium application to 25 September 2024. This will be conducted via Zoom and overseen by Judicial Commissioner Kristy Tan. The Court also outlined deadlines for the filing of supplemental affidavits, objections, and written submissions, ensuring an efficient and organised process as Zettai works toward securing an extended moratorium.

The court's correspondence, directed to Zettai's legal representatives at Rajah & Tann Singapore LLP, modified the timeline for the hearing of the moratorium application. Originally scheduled for a later date, the hearing has been brought forward to 25 September 2024, to be conducted via Zoom webinar.

In the letter, a Zoom registration link was provided for any affected parties who wish to attend, with clear guidance on protocols such as restricting attendees from addressing the court or activating their cameras unless approved. Watermarking technology will be employed during the session, and unauthorised recording or dissemination of the hearing's video or audio will be strictly prohibited, with potential civil or criminal consequences for violations.

The court's letter also confirmed that, aside from the updated hearing schedule, all prior directions from the court's 5 September 2024 correspondence remain unchanged. Additionally, Zettai and its legal team were instructed to circulate an information note explaining Section 64 of [Singapore's Insolvency, Restructuring, and Dissolution Act](#) to all parties potentially affected by the moratorium application. This note is intended to help those involved understand the proceedings but does not serve as legal advice.

(Source: <https://charltonsquantum.com/wp-content/uploads/2024/09/2024.09.10-Correspondence-from-Courts-Re-fixing-hearing.pdf>)

## UK FCA Files First Charges Against Individual for Operating Illegal Crypto ATMs

On 10 September 2024, UK Financial Conduct Authority (**UK FCA**) charged Mr. Olumide Osunkoya, a 45-year-old resident of London, for operating multiple unregistered crypto ATMs. Between 29 December 2021 and 8 September 2023, these machines allegedly processed approximately £2.6 million in transactions without the necessary registration from the UK FCA, marking the first criminal prosecution of its kind under the [UK's Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(MLRs\)](#).

Under UK law, any firm or individual involved in providing cryptoasset services must be registered with the UK FCA and ensure compliance with anti-money laundering (**AML**) and counter-terrorist financing (**CTF**) standards. Cryptoasset services includes operators of crypto ATMs, which allow users to buy or exchange money for cryptoassets. Despite the legal requirement, Mr. Osunkoya allegedly operated his machines unlawfully, violating [Regulations 86](#) and [Regulation 92](#) of the MLRs, and faces additional charges under the [UK Forgery and Counterfeiting Act 1981](#) for creating false documents to facilitate his illegal operations, and the [UK Proceeds of Crime Act 2002](#) for possession of criminal property arising from the operation of his crypto ATMs.

Firms offering cryptoasset services within the scope of the UK Money Laundering, Terrorist Financing, and Transfer of Funds Regulations 2017 (MLRs) must register with the UK FCA. Key requirements include implementing AML and CTF policies, conducting customer due diligence (**CDD**), maintaining records for at least five years, and having procedures for suspicious activity reporting (**SAR**). Firms must also provide regular staff training, develop a risk assessment framework, and ensure ongoing compliance through continuous monitoring. The UK FCA offers pre-application meetings to guide firms through the registration process and ensure adherence to regulatory standards.



The UK FCA's investigation into illegal crypto ATMs was conducted in collaboration with law enforcement agencies across the UK. Working alongside organizations such as the South West Regional Organised Crime Unit, Kent Police, and Bedfordshire Police, the FCA disrupted 26 illegally operating crypto machines in 2023. These agencies were involved in operations to inspect and disrupt illegally operating crypto ATMs. In 2023, the FCA inspected 34 locations across the UK suspected of hosting crypto ATMs.

Mr. Osunkoya is scheduled to appear before Westminster Magistrates' Court on 30 September 2024 where his case is scheduled for hearing. The UK FCA has consistently warned the public about the risks associated with cryptoassets, reminding consumers that crypto remains largely unregulated in the UK, and any investments in crypto should be made with the understanding that they could lose all their money. There are no legal crypto ATMs currently operating in the UK, and the UK FCA has reiterated its commitment to cracking down on unlawful operators. The lack of regulated options for crypto ATMs in the UK creates a void that may push consumers into the hands of unregulated operators, along with the risks of money laundering and other financial crimes.

Matthew Long, Director of Payments and Digital Assets for the UK FCA, in his [statement](#) reiterating the stance on crypto ATMs stated: *'There are currently no crypto ATMs registered with the FCA – so if you're using one of these machines you could be handing your money to criminals. The FCA works with law enforcement partners like Kent Police to protect consumers and maintain the integrity of our financial markets. We continue to remind people that crypto remains largely unregulated and high risk; if you buy it, you should be prepared to lose all your money.'*

(Source: <https://www.fca.org.uk/news/press-releases/fca-charges-first-individual-running-network-illegal-crypto-atms>, <https://www.kent.police.uk/news/kent/latest/policing-news/medway-trader-first-in-uk-to-be-charged-with-crypto-atm-offence/>)

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