# Statement of Commissioner Kristin Johnson on Policing Insider Trading in Digital Asset Markets

**July 21, 2022**

Today, a federal district court will begin to consider the application of insider trading jurisprudence to digital assets or, more specifically, cryptocurrencies.

While conversations regarding the regulation of this emerging and novel asset class may invite lively (and in some instances passionate) debate, there is one issue about which crypto enthusiasts and skeptics may agree—fraud, misrepresentation, and deception or lying, cheating, and stealing—are not be permitted. Our commitment to enforcing against such conduct rises to singular and critical importance when fraudsters intentionally target vulnerable retail market investors.  Existing laws and regulations expressly prohibit such misconduct in our markets for good reason.  Financial market regulators and law enforcement stand united, prepared to enforce against such predatory and abusive behavior.

Simply stated, certain values and principles are deeply embedded in the statutes, regulations, and jurisprudence that govern our markets.  These values and principles aim to protect market participants, including retail customers with limited resources (particularly those who may face fragile financial circumstances), and preserve the integrity of our preeminent financial markets.

Insider trading jurisprudence has engendered many celebrated legal decisions that enhance enforcement against insider trading—*Chiarella v. United States; Dirks v. SEC; United States v. O’Hagan*.  We must continue to work collaboratively to adopt a whole-of-government approach to prevent bad actors from taking advantage of important policy and regulatory debates and to ensure the protection of retail investors and preservation of the safety and soundness of our financial system.

**-CFTC-**

**Opening Remarks of Commissioner Kristin Johnson for the CFTC and OMWI Roundtable on Digital Assets and Financial Inclusion**

**August 19, 2022**

Commissioner Johnson delivered remarks on digital asset policy, innovation, legislation and regulation at a roundtable at the CFTC, organized by Commissioner Johnson’s Office, the Office of the Chairman, CFTC OMWI, and the inaugural CFTC Chief Diversity Officer.

***Remarks as Prepared***

In 2008, an unidentified person – or group of people – using the pseudonym Satoshi Nakamoto published a white paper, innocently titled - *Bitcoin: A Peer-to-Peer Electronic Cash System*- that outlined a decentralized peer-to-peer system for making and processing payments. In the decade since the white paper’s release, we have witnessed exponential growth in the market for digital assets, including cryptocurrencies. Inspired by promises of financial freedom, enticed by advertisements featuring celebrities and tales of instant, high-yield returns, many investors seeking opportunities to build wealth and enter markets on a level playing field part with their hard-earned money and invest in the novel digital market ecosystem.

Among those in the increasingly diverse crypto-investing community, we find a significant population of historically underserved racial and ethnic minorities, senior citizens, active-duty military, and veterans. Some of these investors are expressly drawn to these novel markets by promises of financial inclusion. For others, it is the opportunity to explore entrepreneurial opportunities and increase income, wealth, and resources – a promise that, if realized, may enable them to transition from fragile financial circumstances to achieving the American dream.

Over the last few years, digital asset markets have grown significantly and suffered notable periods of decline similar to the current crypto-winter. In this current period, characterized by persistent volatility, a precipitous decline in pricing, and a notable number of firms facing the decision to declare bankruptcy, we examine the specific implications of crypto-investing for diverse communities and the potential benefits of well-tailored, carefully crafted regulation. As Treasury Secretary Janet Yellen recently observed, while regulations should be “tech-neutral,” “great care must also be applied to ensure innovations do not cause disparate harm to vulnerable communities or exacerbate social, racial, or economic inequities.”[[1]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn1" \o ")

Earlier this summer, in collaboration with my office, the Office of the Chairman, the Commodity Futures Trading Commission’s (CFTC) Office of Minority and Women Inclusion (OMWI), and the CFTC’s inaugural Chief Diversity Officer Tanisha Cole Edmonds launched an important discussion about the promises of inclusion and access for historically marginalized communities in digital assets and cryptocurrencies.

Last week, we continued this dialogue with a roundtable on Digital Assets and Financial Inclusion (Roundtable). We invited some of the many diverse stakeholders who are thoughtful about crafting well-tailored legislation and regulation to join us for the Roundtable, including: Lucy Hynes, Senior Counsel to the U.S. Senate Committee on Agriculture, Nutrition, and Forestry and Committee Chairwoman Debbie Stabenow; Jason Somensatto, FinTech Policy Specialist, Office of the Chairman, CFTC; Rashan Colbert, Legislative Assistant, Office of Senator Cory Booker; Joshua Lobert, Majority Counsel to the U.S. House of Representatives Committee on Agriculture; Kyle Williams, Senior Manager for Public Policy, Coinbase Global, Inc.; Tiffany Smith, Partner, WilmerHale; Joi Chaney, Executive Director, Washington Bureau and Senior Vice President, Policy and Advocacy, National Urban League; Cleve Mesidor, Executive Director, Blockchain Foundation; and Tanisha Cole Edmonds, CFTC Chief Diversity Officer. With stakeholders’ valuable insights, the Roundtable explored the contours of responsible innovation as well as investor protection concerns that may be particularly acute for certain populations in underserved communities.

In describing the markets that the CFTC regulates Commissioner Johnson stated, “the United States boasts preeminent derivatives and commodities markets and we have long served as a global leader in the development of regulation and policy. We must continue to have a seat at the table, particularly as we collaborate to create a whole of government approach across federal and state regulators and cooperate with our international counterparts to establish global digital asset or cryptocurrency policy and regulation thresholds.” Commissioner Johnson explained “the CFTC’s mandate to oversee the U.S. derivatives markets is critical to the stability of the global financial system. Derivatives markets allow market participants to manage their risks and determine fair market prices for underlying assets, including, energy, agriculture, metals, and financial instruments that are integrated in every aspect our lives. The CFTC takes a principles-based approach to regulation that allows for innovation and growth, while also providing necessary customer protections through aggressive enforcement of the Commodity Exchange Act (Act) and Commission’s regulations (Regulations).”

**Exercising Existing Enforcement Authority**

Since 2014, the Commission has diligently exercised its enforcement authority and initiated over fifty (50) enforcement actions pursuing violations under the Act[[2]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn2" \o ") and Commission Regulations[[3]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn3" \o ") in which the underlying assets were digital assets or cryptocurrencies.[[4]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn4" \o ") Commissioner Johnson explains that “the Commission has filed claims against garden variety fraud in the digital asset and cryptocurrency markets alleging violations of sections 4b, 4o, and 6(c)(1) of the Act[[5]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn5" \o ") and regulation 180.1.[[6]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn6" \o ")” According to Commissioner Johnson “all too often, these schemes have targeted vulnerable or marginalized retail investors.” In the last few months alone, Commissioner Johnson said “the Commission has charged several individuals and entities with perpetrating more sophisticated fraud schemes including Ponzi schemes and the first digital asset “pump-and-dump” case brought by the CFTC.”

The CFTC’s Division of Enforcement has taken significant efforts to ensure that, consistent with our mandate, the agency is effectively policing against other violations of the CEA as well. In furtherance of these efforts, the CFTC has filed charges against entities for violations including engaging in off-exchange futures and commodity options transactions and failing to register as Futures Commission Merchants, Swap Execution Facilities, or Designated Contract Markets.[[7]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn7" \o ") In addition, the CFTC has charged entities for failing to comply with regulations requiring implementation of anti-money laundering, customer identification, and know-your-customer protocols and procedures.[[8]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn8" \o ")

**President Biden’s Executive Order**

On March 9, 2022, President Biden issued the Executive Order 14067 entitled “Ensuring Responsible Development of Digital Assets,” (“Executive Order”). The Executive Order provides a comprehensive outline of U.S. policy objectives with respect to digital assets, including:

* Protection of consumers, investors, and businesses in the U.S.;
* Protection of the U.S. and global financial system and the mitigation of systemic risk;
* Mitigation of illicit finance and national security risks posed by misuse of digital assets;
* Reinforcement of U.S. leadership in the global financial system and in technological and economic competitiveness, including through the responsible development of payment innovations and digital assets;
* Promotion of access to safe and affordable financial services; and
* Support of technological advances that promote responsible development and use of digital assets.[[9]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn9" \o ")

The Executive Order marked an important step towards greater cooperation and coordination among cabinet-level agencies, market regulators and prudential regulators. Yet, much work remains. Parallel with growth in the digital asset market, Commissioner Johnson said, “we must increase investor education and outreach to empower consumers and contemporaneously combat illicit activity and safeguard the integrity and stability of our financial markets.”

**Pending Legislation Designed to Better Protect Consumers and Enhance Market Structure and Market Integrity in Digital Assets and Cryptocurrency Markets**

The Roundtable discussion centered on several proposed legislative acts and their potential impact on market participants and consumers. Lucy Hynes provided an overview of the Digital Commodities Consumer Protection Act of 2022 (DCCPA), a bi-partisan bill, introduced by U.S. Senate Committee on Agriculture, Nutrition, and Forestry Chairwoman Debbie Stabenow and Ranking Member John Boozman and co-sponsors Senators Cory Booker and John Thune.[[10]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn10" \o ")

Ms. Hynes noted that the DCCPA seeks to give the CFTC jurisdiction over digital asset spot market transactions by expanding the definition of “commodity” in the CEA to include “digital commodities.” She further noted that the bill includes registration mandates requiring any entity acting as a digital commodity platform to register with the Commission in one or more of the applicable categories (i.e., digital commodity broker, digital commodity custodian, digital commodity dealer, and digital commodity trading facility). The DCCPA also includes an obligation for Digital Commodity Platforms to comply with all applicable core principles, which are designed to protect customers and the integrity of the digital commodity marketplace. Jason Somensatto explored other pending and forthcoming legislation, including a review of the bi-partisan Responsible Financial Innovation Act introduced by Senators Cynthia Lummis and Kirsten Gillibrand.[[11]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn11" \o ") Mr. Somensatto emphasized that the Responsible Financial Innovation Act is a comprehensive reform measure that introduces the concept of “ancillary assets” as a pathway for clearly defining oversight of digital assets and cryptocurrencies as securities or commodities.[[12]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn12" \o ")

In addition, Rashan Colbert provided a detailed review of Section 7 of the DCCPA, which would require the CFTC to conduct a study on the impact of digital assets on diverse communities. Rashan described how the bill reflects the notion of inclusivity and asks the Commission to examine the racial, ethnic, and gender demographics of the digital asset investment community. This data will offer clarity regarding investor demographics, facilitate the development of effective, thoughtful consumer protections, enable the drafting of tailored rules and regulations that foster access and inclusion where appropriate, and mitigate hurdles to market participation and inequities in access.

**Doubling-Down on Investor Protection**

As retail market participation becomes more prevalent in digital asset markets as compared to other commodity futures markets, it is imperative to protect retail market participants with sound regulation, enforcement, and educational outreach.[[13]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn13" \o ")

The CFTC must maintain high standards of enforcement and educational outreach to protect retail participants in the cryptocurrency market—a group that includes greater representation of younger and diverse investors.[[14]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn14" \o ") A June 2022 report by the Federal Reserve Bank of Kansas City highlights the disparities among the investor population in cryptocurrency and digital asset markets based on race, ethnicity, gender, level of education, and financial resources.[[15]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn15" \o ") The report indicates that historically underserved groups have higher levels of participation in the crypto-investment community than the investment communities for traditional financial products.[[16]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn16" \o ") Diverse and young investors are also more likely to view digital assets or cryptocurrency investments as “as less risky” and “more attractive” investment opportunities.

Joshua Lobert echoed the notion that legislation should be inclusive but emphasized that “one size does not fit all.” It is important for legislation to reflect careful consideration of how regulation may impact different communities. Mr. Lobert also emphasized the importance of initiating outreach efforts to ensure the intended information reaches all customers. Tiffany Smith posited that it is imperative to appreciate the distinction between increasing access to financial markets through cryptocurrency and digital asset offerings and enhancing inclusion.

**Cyber Security Concerns**

Since 2012, digital asset and cryptocurrency exchanges or trading platforms have experience dozens of significant cyber-attacks attacks. The frequency and severity of these security breaches raises alarms. Over the last decade, hackers have stolen approximately $2.7 billion from cryptocurrency trading platforms or exchanges. For example, Mt. Gox, which reportedly at its peak accounted for 80 percent of the global bitcoin trading volume, declared bankruptcy in early 2014 after suffering cyberattacks that led to the loss of an astounding 850,000 bitcoin.[[17]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn17" \o ") In January of this year, another large cryptocurrency exchange with a global footprint, confirmed losing $30 million, stolen from over 400 customer wallets after a breach of multiple levels of their cyber security protocols.[[18]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftn18" \o ")

Cyber-attacks threaten all financial institutions, but the threat to fintech firms, like those operating in cryptocurrency markets, is amplified, in part, due to the potential that firms in nascent stages of development may lack of well-developed system safeguards. It is critical to ensure that cryptocurrency trading platforms routinely evaluate and anticipate cyber security vulnerabilities, particularly as they relate to the protection of customer funds.

Participants raised several additional issues that impact equity and inclusion and merit careful consideration, yet – in our limited time – we were unable to fully explore. For example, how might increasing use of digital assets or cryptocurrencies impact, consumer financial data privacy? Developing faster, more efficient, less expensive payment or remittance systems or platforms may ease burdens and draw certain communities to the digital asset ecosystem. Consequently, it will be important to ensure the availability of parallel consumer data protections and to guard against disparities that may lead to less rigorous consumer data protections.

Kyle Williams reiterated the industry’s need for regulatory clarity, as well as a robust yet flexible framework to foster growth and innovation. Joi Chaney and Cleve Mesidor both emphasized the need to incorporate community service and investor advocacy leaders from underserved groups, including those who have long been active in the digital assets space, and to empower customers. Tanisha Cole Edmonds affirmed the need for decision-makers to listen to a diverse range of perspectives, and explained how the CFTC’s diversity, equity, and inclusion efforts align with the inclusion goals discussed at the roundtable.

**Conclusion**

“It is vital for the U.S. to bolster its role as a leader in the global financial system by developing a strong regulatory framework for digital assets,” Commissioner Johnson explained. “I would also emphasize that our markets are global and, consequently, underscore the importance of fostering international cooperation. Our global financial system, like this new technology, increasingly operates as frictionless, cross-border network. We must reinforce our willingness to work with our counterparts around the globe to ensure the integrity and soundness of our markets.”

Commissioner Johnson noted that “recently proposed legislation indicates the direction of travel that Congress may take and will enable market regulators and prudential regulators to begin to make progress in establishing the requisite regulatory infrastructure for these nascent markets and prevent bad actors from exploiting regulatory gaps or weakening in our financial system.” Commissioner Johnson explained that “the CFTC is committed to its mission of promoting the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation.”  “I am confident,” Commissioner Johnson explained “that by working together, we can foster responsible innovation and develop effective regulation that promotes inclusion and opportunity for all as well as proper safeguards and education resources to protect vulnerable customers.”

Finally, I would like to thank all of the distinguished panelists who participated in the roundtable - Joi Chaney, Rashan Colbert, Tanisha Cole Edmonds, Lucy Hynes, Joshua Lobert, Cleve Mesidor, Tiffany Smith, Jason Somensatto, and Kyle Williams. I look forward to continued dialogue on this important issue.

[[1]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref1" \o ") Remarks from Secretary of the Treasury Janet L. Yellen on Digital Assets, (April 7, 2022), available at <https://home.treasury.gov/news/press-releases/jy0706>.

[[2]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref2" \o ") 7 U.S.C. §§ 1–26.

[[3]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref3" \o ") 17 C.F.R. pts. 1–190 (2021).

[[4]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref4" \o ") *See*, CFTC v. Ikkurty, No. 1:22-cv-02465 (filed May 10, 2022 N.D. Ill.) (CFTC Charged Defendants in $44 million misappropriation involving digital assets); CFTC v. Golden, No. 22-cv-1252 (filed Mar. 8, 2022 E.D.N.Y) (CFTC charged Defendants with engaging in a $44 million Ponzi scheme involving bitcoin); CFTC v. Mirror Trading Int’l Proprietary Ltd., No. 1:22-cv-00635 (filed June 30, 2022 W.D. Tex.) (CFTC charged Defendants in $1.7 billion fraud scheme involving bitcoin).

[[5]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref5" \o ") 7 U.S.C. §§ 6b, 6o, and 9(1).

[[6]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref6" \o ") 17 C.F.R. § 180.1 (2021).

[[7]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref7" \o ") 7 U.S.C. §§ 6a, 6c, 6d, and 7b-3.

[[8]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref8" \o ") 17 C.F.R. § 42.2 (2021).

[[9]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref9" \o ")*See*, EO 14067, 87 FR 14143 (March 9, 2022).

[[10]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref10" \o ") On August 3, 2022, U.S. Senators Debbie Stabenow (D-MI), Chairwoman of the Senate Committee on Agriculture, Nutrition, and Forestry, and John Boozman (R-AR), Ranking Member, and co-sponsors Senators Cory Booker (D-NJ) and John Thune (R-SD), introduced the Digital Commodities Consumer Protection Act of 2022 (DCCPA), available at <https://www.boozman.senate.gov/public/index.cfm/2022/8/boozman-stabenow-booker-and-thune-introduce-legislation-to-regulate-digital-commodities>.

[[11]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref11" \o ") On June 7, 2022 Senators Cynthia Lummis (R-WY) and Kirsten Gillibrand (D-NY) introduced S. 4356, the Responsible Financial Innovation Act (Lummis-Gillibrand Bill), available at <https://www.gillibrand.senate.gov/imo/media/doc/Lummis-Gillibrand%20Responsible%20Financial%20Innovation%20Act%20%5BFinal%5D.pdf>.

[[12]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref12" \o ") A critical issue frequently the subject of discussion is whether a particular digital asset may be subject to securities laws in accordance with the standard in *SEC v. W.J. Howey Co*., 328 U.S. 293 (1946). Under the *Howey* test, a digital asset that does not otherwise fit within the statutory definition of a security may be deemed a security if: (i) there is an investment of money; (ii) in a common enterprise; and (iii) a reasonable expectation of profits derived from the efforts of others.

[[13]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref13" \o ") See, CFTC Customer Advisory: Be Alert and Share Information to Help Seniors Avoid Fraud (issued June 15, 2022); CFTC Customer Advisory: Avoid Forex, Precious Metals, and Digital Asset Romance Scams (issued Feb. 2, 2022); CFTC Investor Alert: Watch Out for Fraudulent Digital Asset and "Crypto" Trading Websites (issued Apr. 26, 2019); CFTC Customer Advisory: Use Caution When Buying Digital Coins or Tokens (issued July 16, 2018); CFTC Customer Advisory: Beware Virtual Currency Pump-and-Dump Schemes (issued Feb. 15, 2018); CFTC Customer Advisory: Beware "IRS Approved" Virtual Currency IRAs (issued Feb. 2, 2018); and CFTC Customer Advisory: Understand the Risks of Virtual Currency Trading (issued Dec. 15, 2017), available at [https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/index.htm?combine=&field_article_or_advisory_topic_target_id=All&field_article_or_advisory_type_target_id=All&items_per_page=25&page=1).

[[14]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref14" \o ") Alex Perrin, *16% of Americans Say they Have Ever Invested In, Traded or Used Cryptocurrency*, Pew Research Center (November 11, 2021), available at [https://www.pewresearch.org/fact-tank/2021/11/11/16-of-americans-say-they-have-ever-invested-in-traded-or-used-cryptocurrency/](http://www.cftc.gov/exit/index.htm?https://www.pewresearch.org/fact-tank/2021/11/11/16-of-americans-say-they-have-ever-invested-in-traded-or-used-cryptocurrency/).

[[15]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref15" \o ") Terry Bradford, *The Cryptic Nature of Black Consumer Cryptocurrency Ownership*, Federal Reserve Bank of Kansas City (June 1, 2022), available at [https://www.kansascityfed.org/research/payments-system-research-briefings/the-cryptic-nature-of-black-consumer-cryptocurrency-ownership/](http://www.cftc.gov/exit/index.htm?https://www.kansascityfed.org/research/payments-system-research-briefings/the-cryptic-nature-of-black-consumer-cryptocurrency-ownership/).

[[16]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref16" \o ") Jon Cohen & Laura Wronski, *Cryptocurrency Investing has a Big Gender Problem*, CNBC (August 30, 2021), available at [https://www.cnbc.com/2021/08/30/cryptocurrency-has-a-big-gender-problem.html](http://www.cftc.gov/exit/index.htm?https://www.cnbc.com/2021/08/30/cryptocurrency-has-a-big-gender-problem.html); Lorie Konish, *Why U.S. Minority Communities May Turn to Cryptocurrencies to Pay their Bills*, CNBC (February 8, 2022), available at [https://www.cnbc.com/2022/02/08/-research-shows-cryptocurrency-adoption-among-hispanics-is-high.html](http://www.cftc.gov/exit/index.htm?https://www.cnbc.com/2022/02/08/-research-shows-cryptocurrency-adoption-among-hispanics-is-high.html).

[[17]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref17" \o ") CNBCTV18, Mark Karpeles*, CEO of Now Defunct Mt. Gox Crypto Exchange to Launch Rating Service,*(April 12, 2022),available at[https://www.cnbctv18.com/cryptocurrency/mark-karpeles-ceo-of-now-defunct-mt-gox-crypto-exchange-to-launch-rating-service-13132212.htm](http://www.cftc.gov/exit/index.htm?https://www.cnbctv18.com/cryptocurrency/mark-karpeles-ceo-of-now-defunct-mt-gox-crypto-exchange-to-launch-rating-service-13132212.htm).

[[18]](https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson1" \l "_ftnref18" \o ") Lily Hay Newman*, Security News This Week: Crypto.com Finally Admits It Lost $30 Million in Hack,*WIRED, (January 22, 2022), available [https://www.wired.com/story/crypto-hack-nso-group-security-news/](http://www.cftc.gov/exit/index.htm?https://www.wired.com/story/crypto-hack-nso-group-security-news/).

**-CFTC-**

**Statement of Commissioner Kristin N. Johnson Regarding Unregistered Crypto Futures Platform, Price Manipulation, and Failure to Comply with AML/KYC/CIP Obligations**

**October 03, 2022**

The Commodity Futures Trading Commission (CFTC) today filed a complaint in the U.S. District Court for the Southern District of Florida charging Adam Todd and companies he controls (Digitex LLC, Digitex Limited, Digitex Software Limited, and Blockster Holdings Limited Corporation, collectively d/b/a Digitex Futures) with illegally offering digital asset futures, including bitcoin and ether futures, failing to register as a futures commission merchant (FCM) and comply with the Bank Secrecy Act, and manipulating and attempting to manipulate a digital asset token (DGTX) issued by Digitex Futures.

Todd created a platform for trading digital asset derivatives (the Exchange) through Digitex Futures.  Digitex Futures permitted users to trade digital asset derivatives on margin, with leverage up to 100:1, meaning that customers could trade a contract with a notional value of $100 dollars while only putting up $1 in collateral.

Section 4(a) of the Commodity Exchange Act (CEA) prohibits offering, executing, or confirming the execution of contracts for the purchase or sale of a commodity for future delivery, unless the transaction is conducted on a designated contract market.[[1]](https://www.cftc.gov/PressRoom/SpeechesTestimony/johnsonstatement100322#_ftn1)

Soliciting and accepting customer orders for these contracts without first registering with the Commission caused Digitex Futures to run afoul of the requirement to register with the CFTC as an FCM, and to comply with the Bank Secrecy Act (BSA) by implementing know-your-client (KYC) procedures and a customer information program (CIP).  KYC procedures and a CIP are key requirements of the BSA that allow an FCM to identify those transacting through the broker—a vital element in preserving the integrity of our financial system.  By allowing customers to open accounts with only an anonymous email addresses and passwords and without requiring any additional identify verification, Digitex Futures undermined necessary efforts to detect and prevent money laundering and other conduct that may violate the BSA.

In addition, the Exchange required users to margin their trading activity using a token created by Digitex Futures, DGTX.  According to the Complaint, Todd attempted to manipulate the price of DGTX by engaging in non-economic trading activity with the intent to artificially inflate (or pump) the price of DGTX for his financial gain.

The mission of the CFTC is to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation.  In carrying out this mission, Congress authorizes the CFTC to promote responsible innovation and fair competition in our markets.  In the absence of registering with the CFTC and by failing to comply with appropriate identify verification regulations, Defendants undermined the CFTC’s ability to carry out its regulatory mission.

I would like to recognize the Division of Enforcement staff who worked on this matter:  Ansley Schrimpf, Joseph Platt, Joseph Patrick, Allison Passman, Scott R. Williamson, and Robert T. Howell.

[[1]](https://www.cftc.gov/PressRoom/SpeechesTestimony/johnsonstatement100322#_ftnref1) 7 U.S.C. § 6(a).

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