

Securities Regulation Daily Wrap Up, TOP STORY—First enforcement action against unregistered digital asset hedge fund manager settles, (Sept. 12, 2018)

Securities Regulation Daily Wrap Up

[Click to open document in a browser](#)

By [Rodney F. Tonkovic, J.D.](#)

A hedge fund manager falsely calling itself the first regulated crypto asset fund has been sanctioned for operating as an unregistered investment company. The Commission found that the California-based company and its sole principal conducted an unregistered, non-exempt public offering and then invested over 40 percent of the fund's assets in digital asset securities. The firm and principal agreed to pay a \$200,000 penalty and consented to a cease and desist order and censure (*In the Matter of Crypto Asset Management, LP and Timothy Enneking, Release No. 33-10544*, September 11, 2018).

Crypto Asset Fund, LLC (CAF) was formed as a pooled investment vehicle to invest in digital assets. Between August and December 2017, the fund's manager and its sole principal raised over \$3.6 million in a public offering. No registration statement was filed with the Commission, and no exemption was available.

Unregistered investment company. The Commission found that the manager caused CAF to operate as an unregistered investment company by engaging in an unregistered non-exempt public offering and investing more than 40 percent of the fund's assets in digital asset securities. At the time, the respondents also negligently disseminated marketing materials that falsely told investors that CAF was registered with the Commission and that it was the "first regulated crypto asset fund in the United States."

After being contacted by Commission staff, the manager immediately stopped the offering and offered rescission to the affected investors. In January 18, the respondents began offering securities pursuant to the Rule 506(c) exemption from registration. C. Dabney O'Riordan, Co-Chief of the Asset Management Unit [noted](#) that "Hedge funds seeking to ride the digital asset wave continue to proliferate." O'Riordan also stated that "Investment advisers must be sure that the funds they offer adhere to the applicable registration obligations and must accurately represent their funds' regulatory status to investors."

Sanctions. The Commission found that the manager willfully violated the registration provisions of the Securities Act and caused the fund to violate the Investment Company Act's prohibition against unregistered investment companies from engaging in interstate commerce. The Commission found further that the manager had violated provisions concerning making false statements. The respondents agreed to a cease and desist order, censure, and to pay a civil penalty in the amount of \$200,000.

The release is [No. 33-10544](#).

Companies: Crypto Asset Management, LP.

MainStory: TopStory Blockchain Enforcement InvestmentAdvisers InvestmentCompanies SecuritiesOfferings