

Securities Regulation Daily Wrap Up, TOP STORY—S.D.N.Y.: BitMEX’s co-founders to pay \$30M for illegally operating a cryptocurrency derivatives trading platform, (May 6, 2022)

By Elena Eyber, J.D.

The CFTC obtained consent orders against three co-founders of the BitMEX cryptocurrency derivatives trading platform, requiring them to pay \$10 million each in penalties.

The federal district court in New York entered consent orders against three co-founders of the BitMEX cryptocurrency derivatives trading platform, requiring them to pay a total of \$30 million civil monetary penalty for their actions. The orders require each co-founder to pay a \$10 million civil monetary penalty and enjoin them from further violations of the Commodity Exchange Act (CEA) and CFTC regulations ([CFTC v. HDR Global Trading Limited](#), May 5, 2022, Swain, L. (Hayes); [CFTC v. HDR Global Trading Limited](#), May 5, 2022, Swain, L. (Delo); [CFTC v. HDR Global Trading Limited](#), (Reed) May 5, 2022, Swain, L.).



The CFTC filed a complaint on October 1, 2020, against the entities operating the BitMEX trading platform and their three co-founders. The complaint charged the entities and their co-founders with operating the BitMEX platform while conducting significant aspects of BitMEX’s business from the U.S., and unlawfully accepting orders and funds from U.S. customers to trade cryptocurrencies, including derivatives on bitcoin, ether, and litecoin. The CFTC resolved the action against the BitMEX entities through a consent order entered on August 10, 2021, that incorporated a \$100 million civil monetary penalty and injunctions against future violations of the CEA and CFTC regulations.

The consent orders found that from at least November 2014 through October 1, 2020, Hayes, Delo, and Reed each controlled BitMEX and were responsible for BitMEX’s violations of the CEA and CFTC regulations because the co-founders failed to implement and enforce effective controls to prevent or detect BitMEX’s unlawful conduct. BitMEX’s violations, as found in the court’s August 10, 2021 order, included the operation of a facility to trade or process swaps without having CFTC approval to operate as a Designated Contract Market (DCM) or a Swap Execution Facility (SEF). In addition, BitMEX operated as a Futures Commission Merchant (FCM) without CFTC registration, failed to implement a Customer Information Program (CIP) and Know-Your-Customer (KYC) procedures, and failed to implement an adequate Anti-Money Laundering (AML) program.

Commissioner Johnson released a [statement](#), emphasizing that “To remain competitive in global financial markets, our derivatives markets must continue to innovate, particularly in emerging digital asset markets. It is imperative, however, to balance responsible innovation with core principles, including consumer protection, transparency, and fairness.”

Commissioner Pham also released a [statement](#), pointing out that “These orders show that the CFTC continues to relentlessly uphold its mission to promote market integrity, responsible innovation, and fair competition, all of which enables growth in compliant digital asset markets. Allowing unregistered companies to operate in violation of the law provides wrongdoers with an unfair advantage over those who are doing the right thing by following CFTC rules.”

The cases are Nos. [1:20-cv-08132-LTS-JLC \(Hayes\)](#); [1:20-cv-08132-LTS-JLC \(Delo\)](#); [1:20-cv-08132-LTS-JLC \(Reed\)](#).

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Ltd., 100x Holdings Ltd. and ABS Global Trading Ltd.

Companies: HDR Global Trading Ltd.; 100x Holdings Ltd.; ABS Global Trading Ltd

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