Securities Regulation Daily Wrap Up, FRAUD AND MANIPULATION—S.D.N.Y.: Cryptocurrency exchange charged for making materially false or misleading statements and omissions, (Jun 3, 2022)

By Elena Eyber, J.D.

The CFTC charged Gemini Trust Company for making materially false or misleading statements and omissions to the CFTC in connection with the self-certification of a bitcoin futures contract.

The CFTC filed a complaint in the federal district court in New York against Gemini Trust Company for making false or misleading statements of material facts or omitting to state material facts to the CFTC in connection with the self-certification of a bitcoin futures contract. The CFTC seeks disgorgement of ill-gotten gains, civil monetary penalties, injunctions relating to registration and trading, and an injunction against further violations of the Commodity Exchange Act (CEA) (*CFTC v. Gemini Trust Company, LLC*, June 2, 2022).

The complaint alleges that from July 2017 to December 2017, Gemini, directly and through others, made false or misleading statements of material facts, or omitted to state material facts, to the CFTC during an evaluation of the potential self-certification of a bitcoin futures contract by a designated contract market (DCM). The proposed bitcoin futures contract was to be settled by reference to the spot bitcoin price on the relevant day as determined by an auction held on Gemini's digital asset trading platform (Gemini Bitcoin Auction).

According to the complaint, Gemini, directly and through the DCM, provided information to the CFTC concerning Gemini's trading platform and the Gemini Bitcoin Auction, and certain statements and information conveyed or omitted by Gemini were false or misleading with respect to facts relevant to understanding whether the proposed bitcoin futures contract would be readily susceptible to manipulation. As alleged in the complaint, Gemini personnel knew or reasonably should have known that the statements were false or misleading.

According to the complaint, the proposed bitcoin futures contract was significant because it was to be among the first digital asset futures contracts listed on a designated contract market at a time of great interest by market participants in obtaining exposure to bitcoin through the derivatives markets. Information provided directly and indirectly by Gemini to the CFTC was important to the CFTC's work as it sought to fulfill its statutory mission, including ensuring financial integrity of transactions subject to the CEA, protecting market participants, deterring and preventing price manipulation and any other disruptions to market integrity, and promoting responsible innovation.

The case is No. 1:22-cv-04563.

Attorneys: K. Brent Tomer for the CFTC.

Companies: Gemini Trust Company, LLC

LitigationEnforcement: Blockchain CFTCNews CommodityFutures Derivatives Enforcement ExchangesMarketRegulation FraudManipulation NewYorkNews

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