

[Securities Regulation Daily Wrap Up, BLOCKCHAIN—U.S. Attorney's Office says it will not pursue second trial in Sam Bankman-Fried case, \(Jan. 2, 2024\)](#)

Securities Regulation Daily Wrap Up

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By Suzanne Cosgrove

DOJ urges court to proceed with March sentencing, says delay from additional trial would leave both victims and disgraced FTX founder “in limbo concerning the consequences of conviction.”

U.S. Attorney Damian Williams last week said the government does not plan to proceed with a second trial of former FTX Chief Executive Sam Bankman-Fried, as widely expected, stating much of the evidence planned for a second trial had already been presented in the first one and could be considered by the court at Bankman-Fried's March 2024 sentencing (*U.S. v. Samuel Bankman-Fried*, December 29, 2023, Kaplan, L.).

Bankman-Fried, the co-founder of the now-bankrupt cryptocurrency trading platform FTX, was found guilty of seven criminal charges in November. He faces jail time of up to an estimated 110 years in connection with a scheme that lost at least \$8 billion in customer funds.

Given public interest in a prompt resolution of this matter, “the Government intends to proceed to sentencing on the counts for which the defendant was convicted at trial,” Williams said in [a letter addressed to Judge Lewis Kaplan](#), filed with the court on December 29.

Eighth count stalled in the Bahamas. As reported previously by [Securities Regulation Daily](#), Bankman-Fried was charged in the first trial with two counts of conspiracy to commit wire fraud, two counts of wire fraud, conspiracy to commit commodities fraud, conspiracy to commit securities fraud, and conspiracy to commit money laundering.

An eighth count in the original indictment, which charged the defendant with conspiracy to make unlawful campaign contributions and allegations of foreign bribery, would likely have been the focus of a second trial.

In his filing, Williams noted Bankman-Fried was extradited by the Bahamas in December 2022. In July 2023, the Bahamas informed the U.S. that it had not included count eight in the extradition counts, and that the Bahamas did not consent to trial on the eighth count. The absence of consent from the Bahamas prevented the government from proceeding to trial on count eight due, he said, because of its binding treaty obligations with the Caribbean nation.

However, the government offered evidence at the first trial that Bankman-Fried schemed to make unlawful campaign contributions, presented as applicable to the other seven counts and pursuant to Federal Rule of Evidence 404(b).

“Because the Government also proved that the defendant engaged in a scheme to make unlawful campaign contributions, the Court may consider this scheme as relevant conduct at the defendant's sentencing,” Williams said.

Superseding indictment also weighed. Prior to the first trial's start, on March 28, 2023, a grand jury returned Superseding Indictment S5 22 Cr. 673, which included five additional counts in the case, including charges that the defendant with conspiracy to bribe foreign officials, conspiracy to commit bank fraud, conspiracy to operate an unlicensed money transmitting business, and substantive securities fraud and commodities fraud.

Williams said that the U.S. asked the Bahamas for a waiver of the rule of specialty to permit trial on the additional counts after it obtained the superseding indictment. But as of the December 29 filing, the Bahamas still has

not agreed to waive the rule of specialty, he said, and the government does not have a timeline for when the Bahamas may respond to its request.

Nonetheless, the government introduced evidence of Bankman-Fried's conduct underlying the additional counts at his first trial, including witness testimony and documentary evidence, which Williams argued makes a second trial unnecessary.

Evidence offered at the first trial backed up charges that Bankman-Fried engaged in a conspiracy to bribe Chinese officials, that he made false statements to a U.S. bank to open a bank account used in other fraudulent schemes, that he conspired to operate an unlicensed money transmitting business, and that he committed substantive securities and commodities fraud, Williams said.

In the interest of restitution for the victims of Sam Bankman-Fried's crimes, "the Government concluded that the public interest in a prompt resolution of this matter outweighs the interest in holding a separate trial," he said.

This is case [No. 1:22-cr-00673-LAK](#)

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Company: FTX Trading Ltd.

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