

## [Securities Regulation Daily Wrap Up, EXCHANGES AND MARKET REGULATION—Coinbase receives Wells notice, braces for probable SEC lawsuit, \(Mar. 24, 2023\)](#)

Securities Regulation Daily Wrap Up

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Commission's charges are focused on the crypto company's staking service Coinbase Earn, as well as Coinbase Prime, and Coinbase Wallet.

The SEC intends to bring charges against crypto trading platform operator Coinbase that are focused on its staking service Coinbase Earn, Coinbase Prime, and Coinbase Wallet. The company indicated on its [blog](#) that it has received a Wells notice from the agency, which outlines the SEC's intent to bring charges and is supposed to include the substance of the regulator's claims. Coinbase has 30 days to address the allegations in a written reply.

Coinbase said that the notice does not provide a lot of information to which it can respond, identifying potential violations of securities law but providing little more. The company said that it is confident in the legality of its assets and services, and even welcomes a legal process to bring clarity to its operations.

The Coinbase Wells notice backs up Chair Gary Gensler's public remarks that he wants to develop investor protection around crypto assets. Gensler has said that he believes one of the biggest challenges will be to get crypto exchanges and lenders registered and within the "investor protection perimeter."

**Registration issues.** Registration is clearly a point of contention for Coinbase. In its announcement, the company noted that it has submitted multiple registration proposals to the SEC to which the staff has not responded.

Coinbase claims that last summer the SEC asked the company if it would consider registering some portion of its business with the Commission. No process currently exists for crypto exchange registration, so Coinbase submitted two possible registration models for the agency's consideration. It received no feedback on either one, the company said.

However, the Wells notice seems to focus not on registration but on Coinbase's staking services, wallets, and on the operation of its trading platform. Staking is a way for customers to earn crypto rewards in return for holding onto certain cryptocurrencies, while wallets simply hold digital tokens for Coinbase's users.

**Documents and witnesses.** According to Coinbase, the investigation is still at an early stage. The company said that to date it has produced documents and provided two witnesses for testimony, one on the basic aspects of its staking services and one on the operation of its trading platform. The company questioned why the SEC has issued a Wells notice now since its staking and exchange services have not changed since 2021 when the Commission reviewed Coinbase filings in connection with its IPO.

As for the probable lawsuit, Coinbase emphasized that it does not list securities or offer products to customers that are securities. In addition, it maintains that its staking services are not securities under any legal standard, including *Howey's* investment contract test, and that Coinbase Wallet is a technology and not an exchange, broker, or centralized platform.

Coinbase's larger view is that the crypto industry needs more guidance, not more enforcement. The company reiterated its request to the SEC for a crypto framework so that operators in the space can proceed with regulatory clarity.

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