ICO bench

Special Report

# SEC impaction on the Crypto Market

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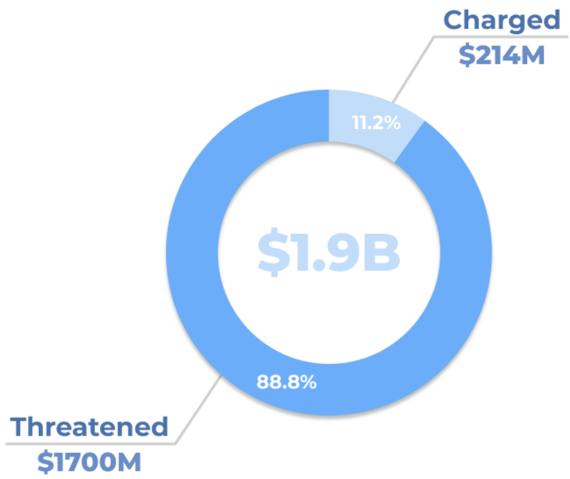
icobench.com/report

report@icobench.com

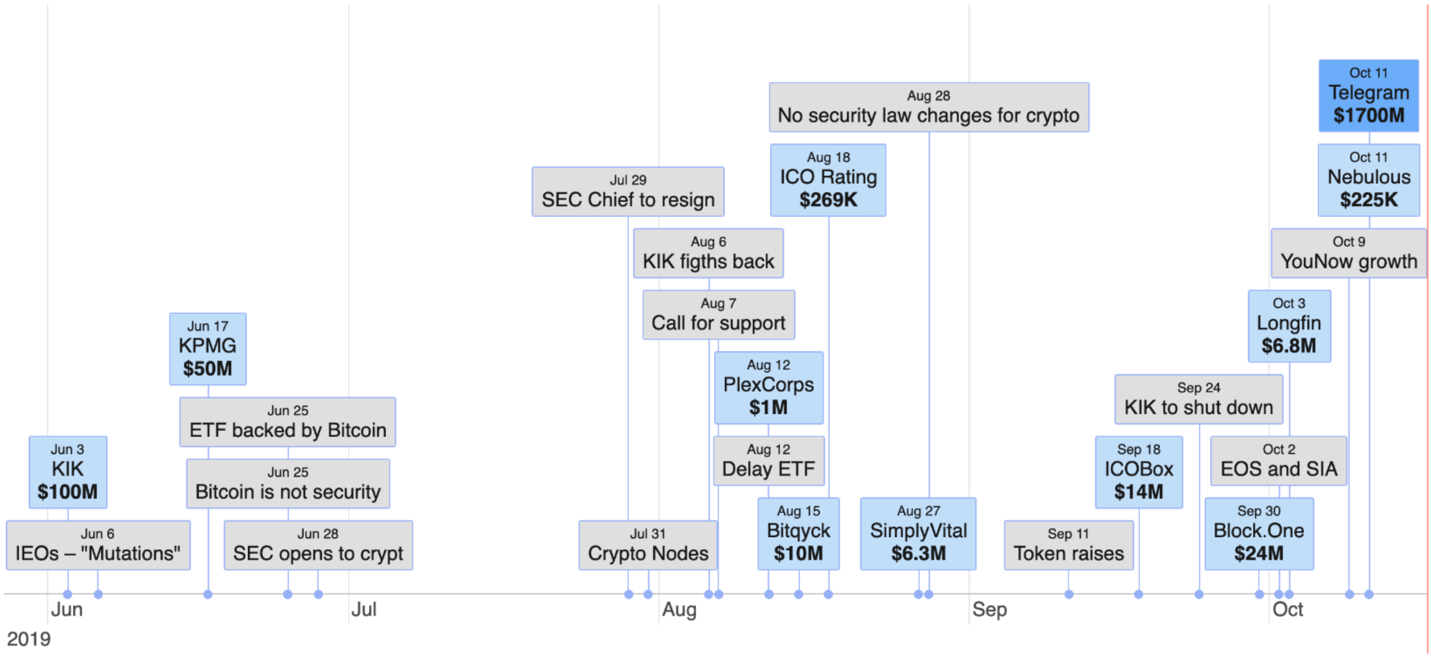
# Introduction

This summer the crypto community has felt strong respond from the regulator like U.S. Securities and Exchange Commission (SEC). SEC had revealed its verdicts on variety of crypto matters including fundraising campaigns, exchanges, single investors and rating platforms. Particularly ICOs have been a key focus of SEC enforcement in recent years.

## Timeline




Initially the Commission brought a series of these actions while cautioning investors with tools such as the “Howey” coin presentation, used to illustrate the risks. Overall, the SEC's "portfolio of fines and charges" is valued as almost $2B. However, only $215M (11%) has been already charged since June, 2019 as fines and penalties of the ICOs or individual investors. Frightfully, the major portion of the SEC's charges is still upfront with possible halt of $1.7B of from Telegram token sale and consequenced penalties. The sharp SEC’s awakening can be viewed on the timeline since August where the season of severe SEC’s decisions was opened.



# Contents

# SEC actions

The U.S. **Securities and Exchange Commission** (SEC) awoke and gained the fury over the summer to flood the crypto market with massive chargers, investigations and bans. Based on timeline below, it seems like the SEC was warming up through the summer while properly aiming ready to start the hunt in the fall. Thus, the crypto community has remembered the summer with memorable quotes by **John Reed Stark**, former SEC Office of Internet Enforcement Chief, postponed decision on ETFs and investigation against **KIK** messenger.

Perhaps by hitting crypto community from different sides, the SEC was bringing out the crypto investors' attention on their investing activity. Many crypto users had already known the fire follows the smoke and there would be more severe SEC's decisions.

On the one hand, the SEC was investigating and penalizing the fraudulent projects and single investors that was great for the community in overall.

However, on the other hand, by the beginning of the fall SEC has charged ICO rating platforms, forced KIK to fight back and did not go forward Facebook's Libra.

Even the warm support from **Hester Peirce** who called for crypto innovation expansion did not slow down SEC. Undoubtedly, U.S. Securities and Exchange Commission (SEC) has only started to investigate and dominate the crypto market. Thus, the KIK has shut down to focus on the lawsuit with SEC. In addition, going one by one, **Block.one**, **EOS** and **SIA** have recently faced the penalties and lawsuits due to failing to disclosure token sale with SEC.

To emphasize its presence and power, the SEC has flushed another big wave on crypto community by its banning **Telegram**'s $1.7B planned token sale. As long waited this token sale was as shocked the SEC's decision came out. However, at the same time, The Securities and Exchange Commission has clarified that **Bitcoin** is not security in reply to a firm's registration application. It mentioned that present owners of Bitcoin do not depend on the industrial and administrative activities of individuals to create a profit.

# June 2019

## Former SEC chief calls IEOs “unregulated crypto-casino fundraising mutations”

John Reed Stark says that the US financial watchdog will soon be stepping in to stop what he calls “unregulated crypto-casino fundraising mutations.” “IEOs represent yet another blatant attempt to hijack a similar-sounding acronym — IPO — in an effort to lure investors seeking to get rich quick. However, just like ICOs, the IEO has not a single element in common with the IPO (other than the first and last letters of its acronym),” Stark said.

## SEC charges issuer with conducting $100 million unregistered ICO

**$100M**

[Original text]

The SEC charges that Kik sold the tokens to U.S. investors without registering their offer and sale as required by the U.S. securities laws. As alleged in the SEC’s complaint, Kik had lost money for years on its sole product, an online messaging application, and the company’s management predicted internally that it would run out of money in 2017. In early 2017, the company sought to pivot to a new type of business, which it financed through the sale of one trillion digital tokens. Kik sold its “Kin” tokens to the public, and at a discounted price to wealthy purchasers, raising more than $55 million from U.S. investors.

## SEC fines KPMG $50M fine for “astonishing” misconduct

**$50M**

[Original text]

KPMG LLP failed “to act with the integrity required of a public company auditor,” said the SEC in imposing a $50 million civil penalty on the audit firm. Steven Peikin, co-director of the SEC’s Enforcement Division, added that “the breadth and seriousness of the misconduct at issue here is, frankly, astonishing.” The charges against the firm also generated a comprehensive and costly series of compliance undertakings aimed at preventing future misconduct.

## SEC begins accepting public comments on ETF backed by Bitcoin and T-Bills

The SEC published a rule change proposal Tuesday which would allow Wilshire Phoenix Funds to list shares of the ETF on the NYSE Arca exchange, announcing the beginning of a 21-day public comment period. The document must still be published in the Federal Register before this clock formally starts, though the regulator is already accepting input.

## Bitcoin is not security

The Securities and Exchange Commission has clarified that Bitcoin is not security in reply to a firm’s registration application. The Division of Investment Management staff has issued a reply recently mentioning that Bitcoin cannot come under the ‘security’ umbrella. SEC issued a where it mentioned that present owners of Bitcoin do not depend on the industrial and administrative activities of individuals to create a profit

# July 2019

Original text

## SEC opens to crypto

Hester Peirce, best known as “Crypto Mom”, may look favorably on digital assets. The Securities and Exchange Commission continues to regard cryptocurrencies with suspicion, particularly when it comes to ICOs and their status as investment securities. Peirce also suggested that the U.S. faces unique difficulties in its regulatory landscape, given the piecemeal makeup of its financial sector regulatory system. The SEC regulates securities, CFTC regulates commodities and futures, and FINRA regulates broker-dealers

## SEC Chief who pursued actions against ICOs, Kik to resign

The Securities and Exchange Commision’s (SEC) chief of the Cyber Unit will step down in August, according to a statement. Robert A. Cohen will abdicate his role as executive enforcer for the cyber division founded in 2017, after 15 years of SEC service. For his part, Cohen led several investigations into initial coin offerings, including launching a lawsuit against Kik Interactive for conducting an illegal $100 million ICO, as an attempt to raise funds to prop up no-longer profitable parts of its business.

## The SEC wants to run Bitcoin, Ethereum, and XRP nodes

SEC is looking for contractors that would run Bitcoin, Ethereum, and XRP nodes on its behalf. The regulator said the nodes will support its efforts to monitor risks and improve compliance, despite dozens of free blockchain explorers and analytic tools being available online.

## Crypto broker Logjam possibly cleared by regulatory guidance

U.S. regulators potentially cleared the way for dozens of firms to become registered cryptocurrency brokers by issuing guidance on how securities rules apply to some of the complicated compliance issues posed by digital tokens.  Virtual-coin enthusiasts argue that solving the issue around custody will pave the way for more widespread investment in digital tokens, and firms have been pressing the SEC for months to issue guidance.

# August 2019

## ICO Issuer PlexCorps Reaches settlement with US securities regulator

**$1M**

Original text

According to court filings, defendants Dominic Lacroix, Sabrina Paradis-Royer and PlexCorps agreed to pay fines and never again participate in securities sales. A judge has yet to sign off on the settlement. Lacroix and Paradis-Royer each agreed to pay $1 million apiece as a civil penalty. PlexCorps must disgorge $4.56 million in addition to $350,000 in interest

## SEC Commissioner Hester Peirce calls for support of crypto innovation

Ms. Peirce praised Singapore as the "global crypto-hub," and compared that nation's progress in cryptocurrency regulation to that of the United States. Ms. Peirce stated that she would like to see more "momentum" from the SEC toward finalizing digital assets-related rules. She outlined several steps taken so far by the SEC to achieve this, including:

- establishing and understanding digital asset technology and markets;
- creating the "strategic hub for innovation and financial technology" known as FinHub, which coordinates the SEC's approach to digital assets; and
- providing guidance to the industry as to how token offerings can take place within the confines of the existing SEC regulatory framework.

## Kik fights back against SEC's cryptocurrency lawsuit

The SEC announced that it was suing Kik for allegedly violating securities law by failing to formally register its 2017 token offering with the regulator, in what is likely to be a test case for how crypto offerings are defined in future.  According to the SEC, Kik's management believed the company would run out of money after it posted revenues of $1.5m compared with $32.3m in expenses between mid-2016 and mid-2017.

Kik, the Canada-based messaging app, has filed a stinging rebuttal to a Securities and Exchange Commission lawsuit that claims its $100m initial coin offering was illegal, accusing the US regulator of "repeatedly twisting" the facts of the case

## SEC settles charges with crypto token issuers accused of Fraud

**$10M**

Original text

The U.S. Securities and Exchange Commission (SEC) settled $10M charges with crypto exchange Bitqyck and its founders, alleging that they committed fraud with two different token sales. Bitqyck founders Bruce Bise and Sam Mendez raised $13 million by selling Bitqy and BitqyM tokens to more than 13,000 investors in "unregistered securities offerings." The SEC alleged that the defendants told investors that Bitqy tokens would provide fractional shares of Bitqyck stock through a smart contract, while BitqyM tokens would provide investors interest in a crypto mining facility.

## SEC charges ICO Rating for shilling crypto projects without disclosure

**$269K**

Original text

The SEC penalized Russia-based ICO Rating for failing to disclose it was being paid to shill cryptocurrency projects. The enforcement action comes as the Commission continues to crack down on firms that tout crypto securities without disclosures. ICO Rating agreed to pay disgorgement and prejudgement interest of 107,000 and civil penalties of $162,000, without admitting or denying the SEC's findings, for a total of $269,000

## SEC delays decisions on 3 Bitcoin ETF proposals

The U.S. Securities and Exchange Commission (SEC) delayed making a decision on three bitcoin exchange-traded fund (ETF) proposals Monday. The ETFs, proposed earlier this year by asset managers Bitwise Asset Management, VanEck/SolidX and Wilshire Phoenix, and filed with exchanges NYSE Arca and Cboe BZX, are all seeking to become the first such investment vehicle based on bitcoin.

## Blockchain firm settles with SEC over unregistered $6.3 Million SAFT

**$6.3M**

Original text

A healthcare-focused blockchain firm has settled charges with the U.S. Securities and Exchange Commission (SEC) over its 2017 ICO. The SEC said on Monday that New England-based SimplyVital Health, Inc. raised around $6.3 million in ether (ETH) via a pre-sale of its HLTH tokens to fund a touted "healthcare-related blockchain ecosystem" called Health Nexus

## United States SEC Chief: no securities law changes for crypto

The chairman of American financial regulatory body the Securities and Exchange Commission (SEC) says he is "not looking to expand securities laws" dating back some 85 years to make provisions for cryptocurrencies and initial coin offerings (ICOs). And the SEC chief hinted that the regulatory body would likely police Facebook's Libra project in the same manner as it would an Exchange-traded Fund (ETF)

# September 2019

## First-Ever SEC-qualified token offering in US raises $23 Million

Blockstack PBC, a decentralized computing network, announced that it managed to raise more than $23 million in the first-ever U.S. Securities and Exchange Commission (SEC)-approved token offering. he United States Securities and Exchange Commission gave blockchain-based startup Blockstack the go-ahead to run a multi-million public token offering under regulation A+

## SEC charges ICO incubator and founder for unregistered offering and unregistered broker activity

**$14M**

Original text

The Securities and Exchange Commission sued ICOBox and its founder Nikolay Evdokimov for conducting an illegal $14 million securities offering of ICOBox's digital tokens and for acting as unregistered brokers for other digital asset offerings. According to the SEC, ICOBox raised funds in 2017 to develop a platform for initial coin offerings by selling, in an unregistered offering, roughly $14.6 million of "ICOS" tokens to over 2,000 investors

## Kik Messaging App to shut down following SEC lawsuit against ICO

Kik is currently in a dispute with the SEC over the 2017 initial coin offering of its KIN token. The ICO raised $100 million, which the SEC claims was an unregistered securities offering. Since the SEC allegations in June, Kin's token has dropped from $0.000036 to $0.0000105. CEO Ted Livingston said that the ongoing dispute with the U.S. Securities and Exchange Commission (SEC) has forced Kik to close its doors

## $24 Million SEC penalty: Block.one spent more on a domain name

**$24M**

Original text

Block.one may have raised something in the order of $4 billion in its ICO, allegedly falling afoul of SEC regulations on the sale of an unregistered security. EOS fans will be delighted to know that the dApp platform's chief architects agreed to a settlement with the SEC that sees them pay a civil penalty of just $24M. According to a press release from the SEC, "Block.one did not provide ICO investors the information they were entitled to as participants in a securities offering," said Steven Peikin, Co-Director of the SEC's Division of Enforcement

# October 2019

## EOS and Sia

The SEC has fined EOS and Sia under securities law, and it is locked in an ongoing legal battle with Kin. This case is important because EOS is the 7th largest cryptocurrency and the most successful coin that the SEC has targeted. Sia also settled with the SEC this month: its parent company, Nebulous, agreed to penalties of about $225,000. This fine is noticeably smaller than EOS's settlement, which is appropriate, as Sia is a smaller project. Sia is the 64th largest coin by market cap, and it only raised $120,000 during its first token sale.

## Longfin CEO Ordered to Pay $6.8 Million in Crypto Fraud Case

**$6.8M**

Original text

Longfin Corp's CEO and his now-defunct cryptocurrency company have been ordered to pay $6.8 million to the US Securities and Exchange Commission (SEC) to settle charges relating to accounting fraud and unregistered ICO. The US regulator announced the ruling in the case, which revolved around Longfin and its CEO, Venkata Meenavalli, who is accused of orchestrating a scheme to inflate its revenue

## YouNow sees strong revenue growth after SEC approves token distribution

Blockchain-based live-streaming company YouNow reported revenues have grown steadily since the release of its props token in July. The filing follows YouNow receiving approval from the SEC this summer to distribute its props token under a Regulation A+ qualification, one of the new categories of fundraising created by the JOBS Act of 2012.

## The SEC is now retroactively punishing ICOs, putting all ICO cryptocurrencies at risk

**$225K**

Original text

The SEC issued a cease and desist order in addition to roughly $225,000 of fines against Nebulous Inc., the company behind the cloud storage cryptocurrency Siacoin (SC). The SEC has issued many judgments against cryptocurrencies that have launched via initial coin offerings (ICOs), as will be detailed in this article, but the remarkable thing about the Siacoin (SC) judgment is it is retroactive by several years

## Cryptocurrency's bad wave continues as the SEC blocks Telegram's $1.7 billion planned token sale

**$1.7B**

Original text

The United States Securities and Exchange Commission (SEC) announced that it is suing two offshore entities, Telegram and its wholly owned subsidiary, TON Issuer, for holding an unregistered token sale. According to the complaint filed in the federal district court in Manhattan on the same day, Telegram sold approximately 2.9 billion crypto tokens, called Grams (GRM) to 171 buyers for a total of $1.7 billion. Around a quarter of that sum, $424.5 million, allegedly belonged to 31 purchasers based in the U.S.

# Community reaction

*"The SEC's move to shut down Telegram's crypto project raises questions about the big venture capital firms that gave it $1.7 billion and convinced themselves that it would pass regulatory muster. That includes Benchmark, Sequoia and Lightspeed."*

– **Nathaniel Popper**, New York Times tech reporter

*"We were surprised and disappointed that the SEC chose to file the lawsuit under these circumstances, and we disagree with the SEC's legal position."*

– **Telegram respond**

*"If you want a government that's more forward-thinking on innovation, that means that if something goes wrong, you can't go running back to the government and say 'Hey, you didn't protect me from myself!' […]I think we need to be a little less paternalistic."*

– **Hester Peirce**, SEC Commissioner (Crypto Mom)

*"The crypto industry and regulators are trying to solve for regulatory uncertainty, and the U.S. Securities and Exchange Commission (SEC) is taking a conservative approach while trying to define what is and is not a security. The SEC is looking to the industry to help come up with a sensible approach in conjunction with them, and a self regulatory organization (SRO)."*

– **Yusuf Hussain**, head of risk at Gemini

*"We have to keep going. Until that's it, we don't have a dollar left, a person left. We will keep going no matter how hard it is."*

– **Ted Livingston**, Kik CEO

*"The point is to get clarity, not justify listing assets that wind up being deemed unregistered securities."*

- **Brian Brooks**, chief legal counsel at Coinbase

*"There's no question that the current regulatory approach to crypto in the U.S. breeds uncertainty and could harm innovation. We have advocated for a clear, forward-looking regulatory framework so the U.S. can realize the full potential of crypto and blockchain technologies."*

– **Gus Coldebella**, the chief legal officer at Circle

> *“We can increase the amount of securities issued on the blockchain and give comfort to people that this is a regulated space. […] The SEC has also started approving other types of exempted securities like Reg A+ and down the road those people will need transfer agents.”*
>
> – **Carlos Domingo**, co-founder and CEO of Securitize

> *“If the United States were to decide — and I’m not saying that it should — if the United States were to decide we didn’t want cryptocurrency to happen in the United States and tried to ban it, I’m pretty confident we couldn’t succeed.”*
>
> – **Mike Crapo**, Republican Sen.

> *“The SEC is bringing Thor’s hammer.”*
>
> – **Tone Vays**, veteran trader

> *“Before, it was crypto ‘no’, blockchain ‘yes’. Now it is more like blockchain ‘yes’, private crypto ‘yes’, public and listed crypto ‘no’.”*
>
> – **Daniel Shin**, Terra co-founder

> *“The regulatory environment definitely plays into the latter, as increasing pressure from the U.S. government has undoubtedly hurt investor interest in Bitcoin alternatives (i.e., Binance shutting down to U.S. customers).”*
>
> – **Craig Russo**, owner of Peer, a Boston-based startup

> *“Regulators have had to follow the lead of the markets and work with their foreign counterparts. […] Absent an explicit decision by citizens of a jurisdiction to cede their regulatory authority to an international organization, a jurisdiction should determine what rules work best for its investors and markets.”*
>
> – **Hester Peirce**, SEC Commissioner (Crypto Mom)

> *"…the government is allowing guidelines over the development and use of the technology to develop organically rather than establishing premature oversight which could inadvertently stifle a technology that is still in its infancy”*
>
> – **John S. Wagster**, co-chair of Frost Brown Todd blockchain

> *“Regulatory uncertainty is one of the biggest obstacles to advancing blockchain technology. Specific to the U.S., the sheer number of regulatory bodies and variety of interpretations has made it difficult for U.S. firms to operate.”*
>
> – **Bill Shihara,** co-founder and CEO at Bittrex

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# SEC

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