

From Memes to Millions: Regulating Celebrity-Backed Crypto Offerings

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On February 27, 2025, the US Securities and Exchange Commission's (SEC) Division of Corporation Finance issued a [staff statement](#) (the Statement) clarifying that "meme coins" will generally not be classified as securities under federal law. The SEC determined that meme coins do not typically meet the definition of security under the test established in *SEC v WJ Howey Co.*¹ the leading jurisprudence for determining what constitutes a security, meaning they would not fall under the SEC's jurisdiction. Although staff statements are not official rules or regulations, this announcement signals a potential shift in the SEC's approach to the regulation of celebrity-endorsed crypto asset ventures, which often involve the endorsement of meme coins.

Celebrity-endorsed crypto asset ventures promise significant returns through leveraging the influence of well-known figures to attract investors. Such endorsements have proven to be an effective means to enhance the credibility of crypto assets, but had previously captured the SEC's attention given concerns of celebrities and social media influencers promoting crypto asset offerings that are not compliant with existing securities laws. Scrutiny increased in light of the [collapse of FTX Trading Ltd.](#) — a once \$32 billion dollar² crypto asset exchange that was endorsed by several high-profile celebrities as a secure investment platform — due to financial mismanagement and the misappropriation of customer funds.³ The implications of celebrity endorsements are especially significant given the emergence of young investors who increasingly turn to social media to discover and validate investment opportunities.⁴

The Statement prompts consideration of the current state of celebrity-endorsed crypto asset regulation and how it might change given the shift in the SEC's regulatory priorities, as well as the broader impact of this shift on the Canadian regulatory environment.

Marketing and Anti-Touting

The SEC has historically taken a decisive stance on the application of anti-touting laws (which make it unlawful to promote a security for compensation without fully disclosing the receipt and amount of such compensation) with respect to celebrity-endorsed crypto assets. In 2017, following a surge of celebrities promoting investments in initial coin offerings (ICOs), [the SEC issued a statement](#) urging caution around celebrity-backed ICOs, warning that such offerings could involve the issuance or distribution of securities which require compliance with federal laws. It reaffirmed the requirement for persons making endorsements of investments in ICOs to disclose compensation received for the endorsements. More particularly, Section

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17(b) of the US *Securities Act*⁵ makes it unlawful for any person to “publish, give publicity to, or circulate any [...] communication which [...] describes such security for a consideration [...] from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.” By requiring such disclosure, Section 17(b) aims to safeguard the public from marketing or promotional activities (including social media posts) that claim to offer impartial opinions but are actually influenced by payments.

Similarly, social media marketing of financial services caught the eye of the US Financial Industry Regulatory Authority (FINRA). In September 2021, FINRA launched a targeted examination seeking to examine how firms found, contracted, and compensated social media influencers to promote their products and services (e.g., referral programs).⁶ In November 2022, FINRA also launched a targeted exam to review the practices of firms actively communicating with retail customers concerning crypto assets.⁷ In its update on the 2022 Sweep, FINRA noted having identified potential substantive violations of FINRA Rule 2210 in approximately 70 percent of the over 500 crypto-asset-related retail communication reviewed.⁸ Namely, FINRA observed false claims about the nature of crypto assets, misleading comparisons and explanations, omissions of key details, and misrepresentations about legal protections and coverage. However, given the current US administration’s evolving policy on crypto asset regulation, it is unclear whether FINRA will continue to maintain the same level of scrutiny on social media marketing of financial services.

Canadian Regulation of Anti-Touting

In Canada, the laws surrounding anti-touting are not as robust as in the US given the lack of a statutory equivalent to Section 17(b) above. Nonetheless, concerns regarding social media promotion have been on the Canadian Securities Administrators’ (CSA) radar. In November 2018, the CSA released [Staff Notice 51-356 – Problematic promotional activities by issuers](#), which served to caution issuers against engaging in promotional activities that could artificially inflate an issuer’s share price and trading volume, or otherwise mislead investors. Such promotional activities, according to the CSA, include compensating third parties who utilize social media to promote issuers without disclosing their agency, compensation, and/or financial interest. In September 2021, the CSA and the Canadian Investment Regulatory Organization (CIRO) jointly issued [Staff Notice 21-330 – Guidance for Crypto-Trading Platforms - Requirements relating to Advertising, Marketing and Social Media Use](#) (SN 21-330), which addressed deceptive advertising practices by crypto asset trading platforms (CTPs) and third parties acting on their behalf. SN 21-330 expressed concern with CTPs’ use of marketing tactics like contests, promotions, and time-limited offers to prompt quick trading, which could lead investors to take on excessive risks.

The Ontario Securities Commission has also taken steps to address third-party marketing partnerships through [Staff Notice 33-755 – Summary Report for Dealers, Advisors and Investment Fund Managers](#) (SN 33-755), where it noted the requirement for issuers to establish measures to monitor and oversee their arrangements with marketing partners (i.e., corporations or individual bloggers/influencers with an established online audience or following) and to verify that statements made about the firm’s products and

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services are fair, substantiated, and not misleading. In particular, SN 33-755 noted that registered firms should provide sufficient disclosure to make clients aware of the arrangement between the firm and the marketing partner and any associated conflicts of interest, including compensation paid to the marketing partner.

The British Columbia Securities Commission (BCSC) has also been active in regulating promotional activities lacking appropriate disclosure. In May 2021, the regulator published the [proposed British Columbia Instrument 51-519](#) (the Proposed Instrument), which would mandate that TSX Venture issuers who retain or compensate individuals for promotional activities must issue and file a news release that includes details, such as the contact information of the engaged party, the platforms on which the promotional activities will occur, and the compensation to be provided for these activities. Although the Proposed Instrument is not yet in effect, the BCSC has actively addressed undisclosed online paid promotional activities by relying on existing provisions of the *Securities Act* (British Columbia), specifically Section 52(2) which provides as follows:⁹

52(2) A person engaged in investor relations activities, and an issuer or security holder on whose behalf investor relations activities are undertaken, must ensure that every record disseminated, as part of the investor relations activities, by the person engaged in those activities clearly and conspicuously discloses that the record is issued by or on behalf of the issuer or security holder.

For example, in January 2023, the BCSC found in *Re Stock Social Inc.*,¹⁰ that investor relations records must “clearly and conspicuously” disclose if they are disseminated by or on behalf of an issuer or security holder under Section 52(2). The panel noted that the obligation applies to promotional and marketing materials, including social media posts by influencers and is binding on issuers and those disseminating the promotional advertisements in British Columbia. In April 2024, the BCSC released [BC Notice 51-703](#), wherein it reiterated the key points from the decision in *Re Stock Social Inc.*

Market Manipulation

Celebrity and influencer involvement in ICOs and retail investments has evolved beyond merely receiving undisclosed payments for promotions. Given their ability to leverage their influence on social media platforms, celebrities and influencers are well-equipped to engage in market manipulation by artificially inflating or deflating asset prices, which would be considered non-compliant with Section 10(b) of the *Securities Exchange Act of 1934*¹¹ and Rule 10b-5¹² thereunder. These provisions prohibit any individual from directly or indirectly employing any means to defraud, making false statements, omitting pertinent information, or otherwise engaging in business practices that would deceive another party during securities transactions.

While the current presidential administration has shifted priorities away from the enforcement-focused

approach of the previous administration, the SEC had relied on these rules in enforcement actions involving market manipulation and insider trading. For instance, [the SEC charged Ishan Wahi, his brother, and a close friend](#) with insider trading in crypto assets, violating Section 10(b) and Rule 10b-5. Wahi, a manager at Coinbase Global, Inc., was reportedly part of a “tight circle” that was entrusted with knowledge of which crypto asset securities would be listed on Coinbase’s exchange, as well as the anticipated timing of such listings. A token being listed on an exchange or marketplace can have a material effect on its price.¹³ The SEC accused Wahi, his brother, and his friend of trading ahead of announcements. The brothers settled the insider trading charges by agreeing to permanent injunctions against violating securities laws, paying disgorgement of ill-gotten gains, and serving prison time.¹⁴

Canadian Regulation of Market Manipulation

In Canada, anti-market manipulation and anti-fraud provisions are found in National Instrument 23-101 and provincial securities laws. For example, Section 126.1 of the *Securities Act* (Ontario) provides that it is prohibited to engage, or attempt to engage, in any conduct related to securities or derivatives that creates a misleading appearance of trading activity or an artificial price, or that perpetrates fraud.¹⁵ Section 126.2 also provides that making materially misleading or untrue statements that could significantly affect the market price or value of a security or derivative is prohibited.¹⁶ Insider trading is addressed separately; in Ontario, prohibitions are contained in the Section 76(1) of the *Securities Act* (Ontario), which provides that no person or company in a special relationship with an issuer can trade securities of the issuer or disclose material facts or changes about the issuer that have not been generally disclosed.¹⁷

Although these provisions apply to social media influencers engaged in market manipulation and insider trading schemes, Canadian provincial regulators have yet to pursue cases analogous to those handled by the SEC. Nonetheless, the CSA has recently commented on the existing framework surrounding market manipulation and insider trading in the context of evolving technologies, indicating a readiness to address similar issues involving crypto assets.¹⁸

Looking Ahead

The SEC’s Statement has introduced ambiguity into the regulatory landscape surrounding celebrity-endorsed crypto assets, particularly meme coins. As outlined above, regulatory actions in this area have historically relied on securities-related legislation. However, the SEC’s clarification that meme coins generally do not constitute securities under federal law challenges this approach. This raises broader questions about how authorities might regulate the influence of celebrities in the crypto asset space beyond meme coin ventures, especially as their endorsements continue to significantly impact investor behaviour.

In Canada, the classification of meme coins as securities remains unresolved, and there is a limited track record of regulatory action concerning celebrity-endorsed crypto asset ventures. While Canadian regulators

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are increasingly vigilant about the potential risks posed by undisclosed promotional activities, particularly in the realm of social media and digital marketing, the SEC's stance adds further uncertainty to the approach that Canadian regulators might adopt in this realm.

At Cassels, we will continue to monitor changes to the Canadian regulatory framework for crypto assets. If you or your organization are looking to navigate these changes or require assistance with compliance obligations, we encourage you to reach out to members of our [Blockchain & Digital Assets Group](#) or [Securities Group](#).

¹ 328 US 293 (1946).

² All monetary amounts referred to in this Cassels Comment are in US Dollars.

³ "What Happened To Crypto Giant FTX? A Detailed Summary Of What We Actually Know So Far" (13 December 2022), online: Forbes <forbes.com>.

⁴ See Serena Espeute & Rhodri Preece, *The Finfluencer Appeal: Investing in the Age of Social Media* (January 2024), online: CFA Institute <rpc.cfainstitute.org>. See also FINRA Foundation & CFA Institute, *Gen Z and Investing: Social Media, Crypto, FOMO, and Family* (May 2023), online: <finrafoundation.org>.

⁵ 15 USC § 77a et seq.

⁶ Financial Industry Regulatory Authority, "Social Media Influencers, Customer Acquisition, and Related Information Protection" (September 2021), online: <www.finra.org>.

⁷ Financial Industry Regulatory Authority, "FINRA Provides Update on Targeted Exam: Crypto Asset Communications" (January 2024), online: <www.finra.org>.

⁸ *Ibid.*

⁹ RSBC 1996, c 418.

¹⁰ 2023 BCSECCOM 372.

¹¹ 15 USC § 78a et seq.

¹² 17 CFR.

¹³ Blockchain Listing: Exploring the Impact of Exchange Listings on Token Prices, Faster Capital (19 June 2024), online: <https://fastercapital.com/content/Blockchain-listing--Exploring-the-Impact-of-Exchange-Listings-on-Token-Prices.html>.

¹⁴ For more on this matter, please see our Cassels Comment – [Decision by Default: Crypto Precedence or Irrelevance?](#)

¹⁵ RSO 1990, c S 5.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ For more information, see CSA Staff Notice and Consultation 11-348 – *Applicability of Canadian Securities Laws and the Use of Artificial Intelligence Systems in Capital Markets*, wherein the CSA noted that firms using AI-driven automated order systems must comply with market conduct rules related to market manipulation, insider trading, and other forms of market abuse.