



# CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

## Trends in CFTC Virtual Currency Enforcement Actions

Q1 2015–Q2 2023

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# Executive Summary

The U.S. Commodity Futures Trading Commission (CFTC) is one of the main regulators engaged in the cryptocurrency space. Between the first quarter of 2015 and the second quarter of 2023, the CFTC brought 100 actions against virtual currency market participants, including traders, exchanges, and service providers.

- Of the 100 actions brought by the CFTC since 2015, 85% occurred after 2019, with 40% of the actions occurring between Q1 2022 and Q2 2023. This uptick, starting in 2020, was largely driven by four groups of simultaneous actions against multiple entities for alleged failure to register with the CFTC.
- Of the 100 actions between Q1 2015 and Q2 2023, 40 were litigated in U.S. district courts. The other 60 actions did not progress to the courts—15 were resolved as simultaneous CFTC orders and settlements, and the remaining 45 were CFTC complaints and notices that do not appear to have progressed further.
- The majority of actions, 69 out of 100, involved alleged failure to register with the CFTC.
- Additionally, 54 of the 100 actions involved an allegedly fraudulent scheme, while 21 involved allegedly illegal retail or off-exchange transactions.
- Of the 40 cases litigated in U.S. courts, nearly half (45%) occurred in the state of New York.

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*Between Q1 2022 and Q2 2023, fines and restitution amounts ordered by the CFTC or U.S. district courts totaled over \$3.7 billion.*

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- As of August 6, 2023, 20 of the 40 cases litigated in U.S. district courts had reached a resolution.
- The median time from the date of the complaint filing to the case resolution of the 20 cases resolved in U.S. district courts was 382 days.
- Between Q1 2022 and Q2 2023, fines and restitution amounts ordered by the CFTC or U.S. district courts totaled over \$3.7 billion across 14 cases (including partial resolutions).

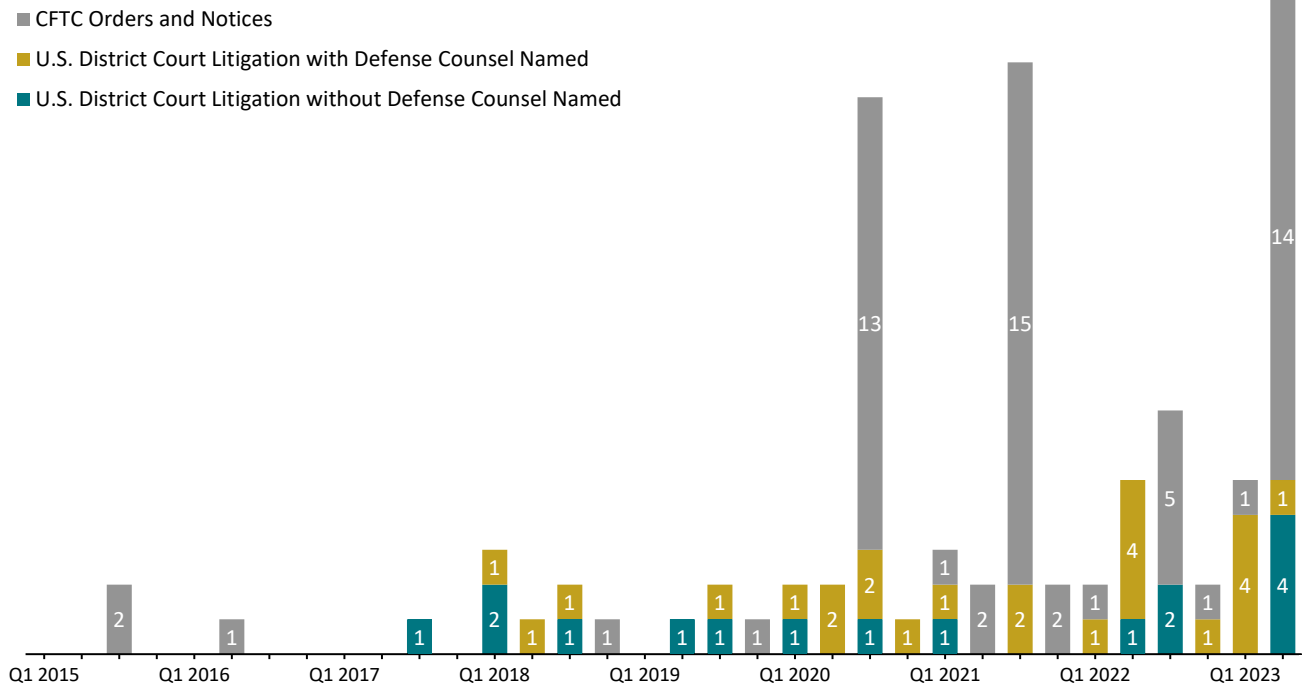
# Overview

- In the first two quarters of 2023, the CFTC brought 24 virtual currency enforcement actions, compared with 16 actions in 2022 and 60 actions between 2015 and 2021.
- Of the 100 actions between Q1 2015 and Q2 2023, 40 were litigated in U.S. district courts. The other 60 actions did not progress to the courts—15 were resolved as simultaneous CFTC orders and settlements, and the remaining 45 were CFTC complaints and notices that do not appear to have progressed further.
- Of the 40 actions litigated in U.S. district courts, 24 have defense counsel named and 16 do not have defense counsel named.

*Of the 40 cases litigated in U.S. district courts, 24 cases have defense counsel named.*

- Of the 100 actions, 81 separate actions involved the virtual currencies BTC, ETH, and/or USDT. Among these 81 actions, 78 involved BTC, 21 involved ETH, and seven involved USDT.

Figure 1: Number of CFTC Virtual Currency Enforcement Actions Q1 2015–Q2 2023



Source: cftc.gov

Note: Dates for CFTC orders and notices represent the date of the CFTC complaint filing (or the date of the order of settlement if an action is classified as a simultaneous order and settlement). Dates for U.S. district court litigation actions represent the date of the complaint filing.

# Case Duration

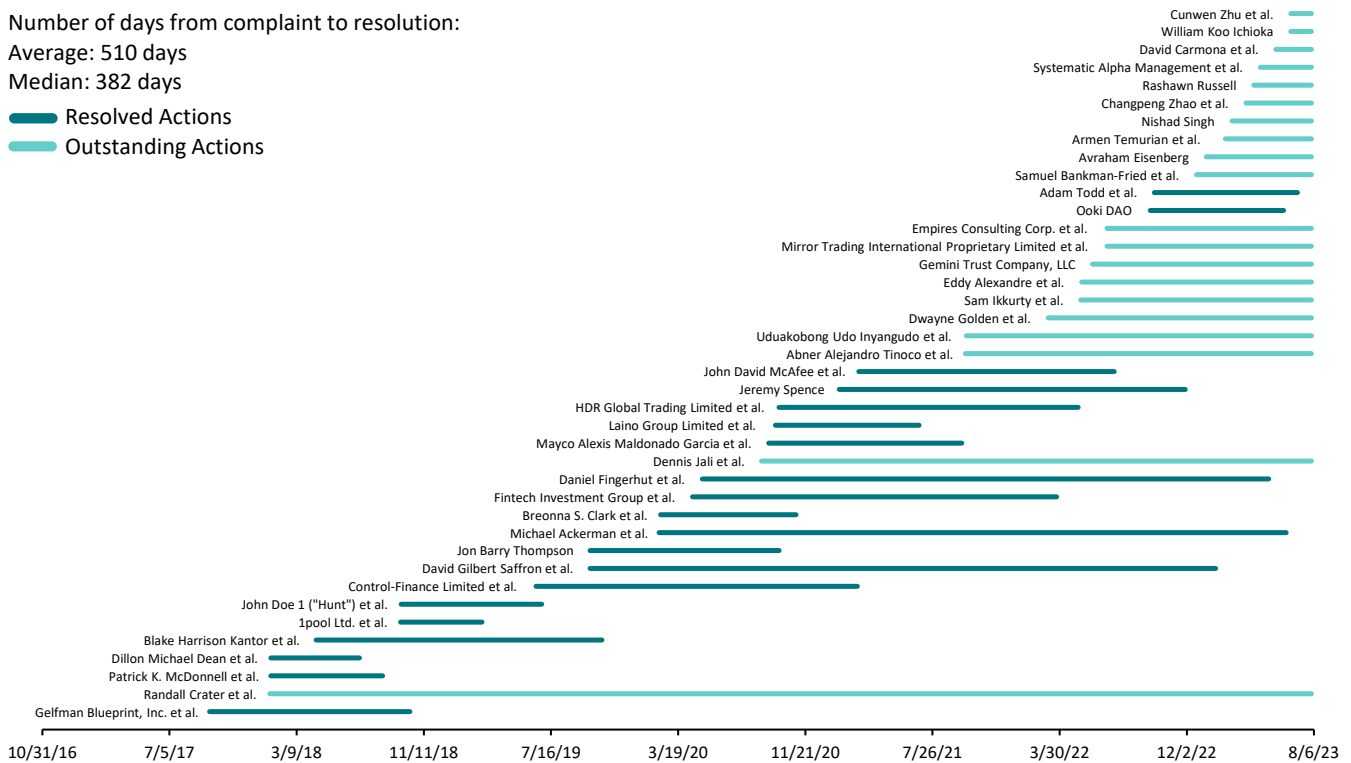
- As of August 6, 2023, 20 of the 40 actions litigated in U.S. district courts had reached a resolution.
- The median time from the date of the complaint filing to the case resolution was 382 days.
- The 20 actions for which no resolution has been reached have a median time outstanding of 315 days as of August 6, 2023.

*Between Q1 2015 and August 6, 2023, the median time from complaint to resolution was 382 days.*

Figure 2: Time from U.S. District Court Complaint to Resolution of CFTC Virtual Currency Enforcement Actions Q1 2015– August 6, 2023

Number of days from complaint to resolution:  
 Average: 510 days  
 Median: 382 days

■ Resolved Actions  
■ Outstanding Actions



Source: cftc.gov; docket

Note: Out of 40 litigations, 20 actions are outstanding as of August 6, 2023, and have been excluded from the calculations of average and median number of days from complaint to resolution. As of August 6, 2023, these 20 actions had an average and median time outstanding of approximately 420 and 315 days, respectively. Actions are considered resolved or outstanding based on a review of the CFTC website and the docket.

# Venue

- Of the 40 actions litigated in U.S. district courts, nearly half (18) occurred in the state of New York, with 12 in the Southern District of New York and six in the Eastern District of New York.
- Outside of New York, multiple actions were litigated in Florida (five), Texas (five), California (four), Illinois (two), and Massachusetts (two).

*Actions have been litigated across 15 U.S. district courts, with nearly half occurring in the state of New York.*

- The 40 litigations were presided over by 36 judges across 15 U.S. district courts.

Figure 3: Courts and Presiding Judges of CFTC Virtual Currency Enforcement Actions Q1 2015–Q2 2023

U.S. District Court	Number of Actions	Actions Resolved	Judges
Southern District of New York	12	7	P. Kevin Castel (3 cases), John G. Koeltl (2 cases), Naomi Reice Buchwald, Mary Kay Vyskocil, Lorna G. Schofield, Loretta A. Preska, Laura Taylor Swain, Alvin K. Hellerstein, and Valerie E. Caproni
Eastern District of New York	6	3	Sandra J. Feuerstein (2 cases), Jack B. Weinstein, Eric R. Komitee, Orelia E. Merchant, and Nicholas C. Garaufis
Southern District of Florida	4	2	Darrin P. Gayles, Cecilia M. Altonaga, Robert N. Scola Jr., and Roy K. Altman
Southern District of Texas	2	2	Sim Lake and David Hittner
Northern District of California	2	1	Vince Chhabria and William H. Orrick
District of Massachusetts	2	–	Richard G. Stearns and Rya W. Zobel
Western District of Texas	2	–	David C. Guaderrama and David A. Ezra
Central District of California	2	–	R. Gary Klausner and Maame Ewusi-Mensah Frimpong
Northern District of Illinois	2	–	Mary M. Rowland and Manish S. Shah
District of Colorado	1	1	Daniel D. Domenico
District of Columbia	1	1	Trevor N. McFadden
Middle District of Florida	1	1	Wendy W. Berger
Northern District of Texas	1	1	Reed C. O'Connor
District of Nevada	1	1	Jennifer A. Dorsey
District of Maryland	1	–	Peter J. Messitte
Not Applicable	60	–	–
<b>Total</b>	<b>100</b>	<b>20</b>	

Source: cftc.gov; docket

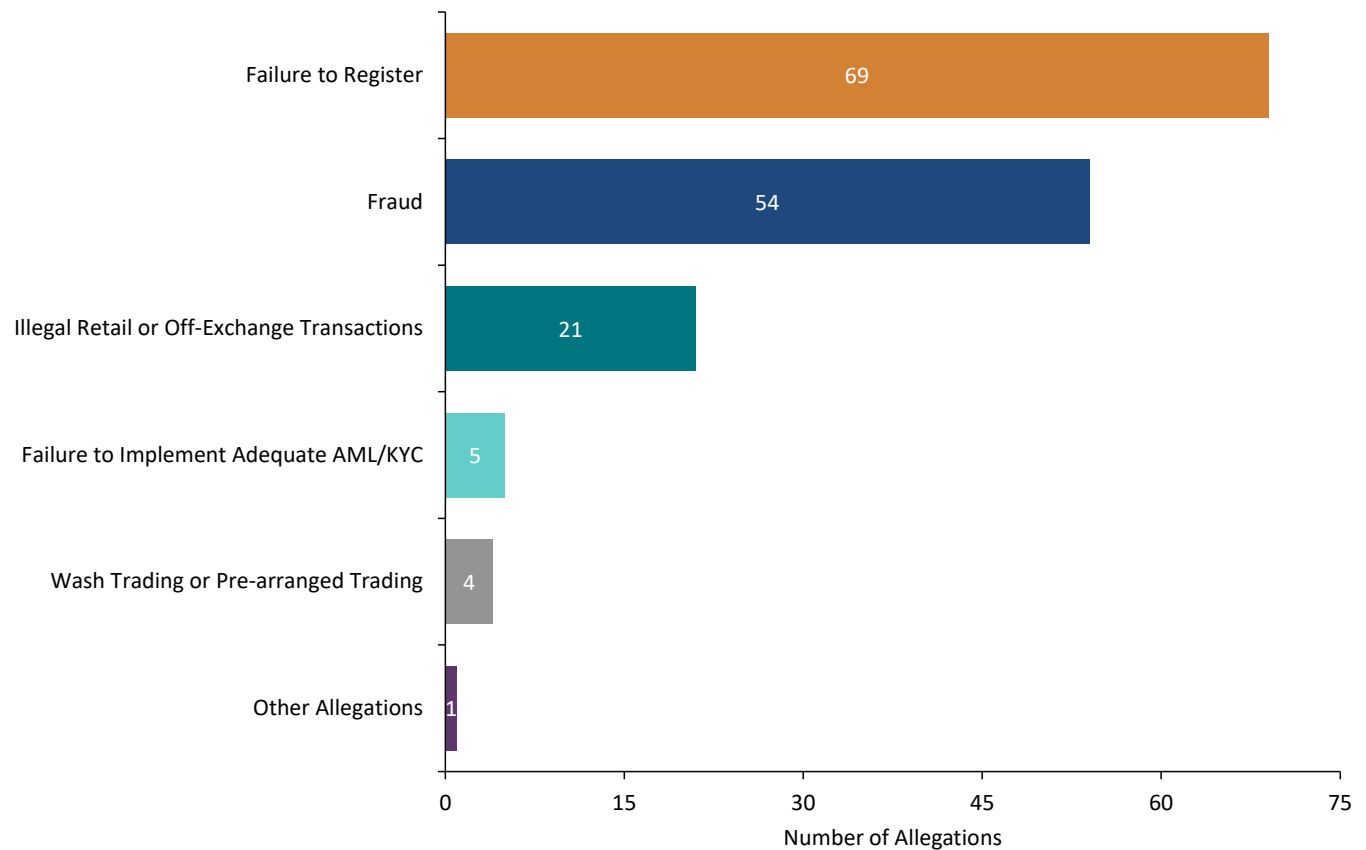
Note: Actions in a “Not Applicable” court represent actions maintained with the CFTC (see CFTC orders or notices). For U.S. district court cases in which judges have been replaced over the course of the case, the judge listed is the most recent judge associated with the case. Actions are considered resolved or outstanding based on a review of the CFTC website and the docket.

# Allegations

- The majority of actions, 69 out of 100, involved an alleged failure to register with the CFTC.
- The next most common action involved allegedly fraudulent schemes (54 out of 100). Among the allegedly fraudulent schemes, 17 cases alleged Ponzi-like schemes.<sup>1</sup>
- There were 21 cases that involved allegedly illegal retail or off-exchange transactions.

Approximately 70% of actions involved an alleged failure to register with the CFTC.

Figure 4: CFTC Virtual Currency Enforcement Actions by Type of Allegation Q1 2015–Q2 2023



Source: cftc.gov

Note: Allegations in the 100 actions are taken from litigation complaints and CFTC orders and notices. An action may be associated with more than one alleged violation. AML and KYC refer to, respectively, the Anti Money Laundering and Know Your Customer requirements. The case categorized as “Other Allegations” involved an alleged failure to supervise the activities of a fund administrator and alleged reporting violations.

<sup>1</sup> The 17 litigation actions alleging that defendants ran a Ponzi-like scheme are: *CFTC v. Gelfman Blueprint Inc. et al.*; *CFTC v. Dillon Michael Dean et al.*; *CFTC v. Control-Finance Limited et al.*; *CFTC v. David Gilbert Saffron et al.*; *CFTC v. Michael Ackerman et al.*; *CFTC v. Breonna S. Clark et al.*; *CFTC v. Dennis Jali et al.*; *CFTC v. Randall Crater et al.*; *CFTC v. Rashawn Russell*; *CFTC v. Armen Temurian et al.*; *CFTC v. Dwayne Golden et al.*; *CFTC v. William Koo Ichioka*; *CFTC v. Sam Ikkurty et al.*; *CFTC v. Jeremy Spence*; *CFTC v. Eddy Alexandre et al.*; *CFTC v. Mirror Trading International Property Limited et al.*; and *CFTC v. Abner Alejandro Tinoco et al.*

# Recent Virtual Currency Enforcement Actions

- In 2022 and the first two quarters of 2023, fines and restitution amounts ordered by the CFTC or U.S. district courts totaled over \$3.7 billion across 14 cases (including partial resolutions).
- Six of these 14 cases resulted in fines and restitution exceeding \$10 million each. The largest of these is *CFTC v. Mirror Trading International Proprietary Limited et al.*, where a judge in the U.S. District Court for the Western District of Texas levied over \$3.4 billion in fines and restitution. So far, this action is the largest amount charged in any CFTC case for a fraudulent scheme involving virtual currencies. The second-largest amount of fines and restitution between Q1 2022 and Q2 2023 was imposed in *CFTC v. HDR Global Trading Limited et al.*, where a total of \$130 million was charged to the defendant entities (\$100 million) and founders (\$30 million).

*Between Q1 2022 and Q2 2023, fines and restitution amounts ordered by the CFTC or U.S. district courts totaled over \$3.7 billion.*

- In four separate enforcement actions in September 2020, September 2021, September 2022, and April 2023, the CFTC filed simultaneous charges against a large set of entities that either made false registration claims or failed to register with the CFTC. A total of 45 entities classified as virtual currency market participants were charged across these four actions.

Figure 5: Cumulative CFTC Enforcement Amounts  
Q1 2015–August 6, 2023

Year	Enforcement Amount	Cumulative Enforcement Amount
2015	\$0	\$0
2016	\$75,000	\$75,000
2017	\$0	\$75,000
2018	\$7,315,994	\$7,390,994
2019	\$5,740,624	\$13,131,618
2020	\$8,482,332	\$21,613,950
2021	\$626,595,317	\$648,209,267
2022	\$136,514,215	\$784,723,482
2023	\$3,593,780,615	\$4,378,504,098

Source: cftc.gov; docket

Note: For resolved cases, enforcement amounts are allocated to the year in which the case was resolved. Resolution dates are determined based on a review of the CFTC website and the docket. For outstanding cases with partial resolutions, enforcement amounts are allocated to the year in which the most recent Enforcement Amount was ordered. Cumulative enforcement amounts may not always be the exact sum of the displayed annual enforcement amounts due to rounding.



# Methodology

- The CFTC enforcement action website was used to identify actions relevant to financial technologies. See “Enforcement Actions,” CFTC, <https://www.cftc.gov/LawRegulation/Enforcement/EnforcementActions/index.htm>.
- Enforcement actions with a release date between January 1, 2015, and June 30, 2023, were reviewed for a series of financial technology relevant phrases.
- Actions were identified as relevant if the enforcement action released by the CFTC contained phrases such as “bitcoin,” “blockchain,” “crypto,” “decentralized autonomous organization,” “digital asset,” “digital currency,” “digital token,” “ethereum,” “initial coin offering,” “virtual currency,” or several other related phrases.
- Allegations in the enforcement actions were taken from litigation complaints and CFTC orders and notices.
- The resolution date of an action and/or enforcement amount was recorded if it occurred on or before August 6, 2023.
- Docket information was obtained from *Law360*.
- The data underlying this report is available upon request.

## About the Authors

### **Abe Chernin**

Vice President, Cornerstone Research

Abe Chernin has extensive experience with FinTech, asset-backed securities, private equity and venture capital, corporate and asset valuation, and general damages. In support of Cornerstone Research’s FinTech capabilities, Mr. Chernin leads matters related to crypto token categorization, cryptocurrency exchanges, initial coin offerings, and other forms of equity crowdfunding, peer-to-peer lending, and commercial uses for blockchain technology.

### **Nicole Moran**

Vice President, Cornerstone Research

Nicole Moran is an economist who provides financial and economic analysis in litigation and regulatory proceedings. Dr. Moran leads Cornerstone Research’s FinTech practice on cryptocurrency exchanges, derivative contracts, and initial coin offerings. She has extensive expertise in derivative markets for exchange-traded and over-the-counter products that involve trading activity, order book data, and evaluation of market designs. Prior to joining Cornerstone Research, Dr. Moran was a research economist at the CFTC, where she conducted analyses on derivative markets.

### **Mitchell Allen**

Manager, Cornerstone Research

Mitchell Allen provides financial and economic analysis in all phases of commercial litigation and regulatory proceedings. Mr. Allen focuses on a range of finance topics, including market manipulation, FinTech, market microstructure, commodities, asset valuation, and asset-backed securities.

The views expressed herein are solely those of the authors and do not necessarily reflect the views of Cornerstone Research

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Please direct any questions to:

Abe Chernin  
312.345.7610  
achernin@cornerstone.com

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