



SEC Issues Investigative Report Concluding DAO Tokens, a Digital Asset, Were Securities

U.S. Securities Laws May Apply to Offers, Sales, and Trading of Interests in Virtual Organizations

FOR IMMEDIATE RELEASE 2017-131

Washington D.C., July 25, 2017 — The Securities and Exchange Commission issued an investigative report today cautioning market participants that offers and sales of digital assets by "virtual" organizations are subject to the requirements of the federal securities laws. Such offers and sales, conducted by organizations using distributed ledger or blockchain technology, have been referred to, among other things, as "Initial Coin Offerings" or "Token Sales." Whether a particular investment transaction involves the offer or sale of a security – regardless of the terminology or technology used – will depend on the facts and circumstances, including the economic realities of the transaction.

The SEC's [Report of Investigation](#) found that tokens offered and sold by a "virtual" organization known as "The DAO" were securities and therefore subject to the federal securities laws. The Report confirms that issuers of distributed ledger or blockchain technology-based securities must register offers and sales of such securities unless a valid exemption applies. Those participating in unregistered offerings also may be liable for violations of the securities laws. Additionally, securities exchanges providing for trading in these securities must register unless they are exempt. The purpose of the registration provisions of the federal securities laws is to ensure that investors are sold investments that include all the proper disclosures and are subject to regulatory scrutiny for investors' protection.

"The SEC is studying the effects of distributed ledger and other innovative technologies and encourages market participants to engage with us," said SEC Chairman Jay Clayton. "We seek to foster innovative and beneficial ways to raise capital, while ensuring – first and foremost – that investors and our markets are protected."

"Investors need the essential facts behind any investment opportunity so they can make fully informed decisions, and today's Report confirms that sponsors of offerings conducted through the use of distributed ledger or blockchain technology must comply with the securities laws," said William Hinman, Director of the Division of Corporation Finance.

The SEC's Report stems from an inquiry that the agency's Enforcement Division launched into whether The DAO and associated entities and individuals violated federal securities laws with unregistered offers and sales of DAO Tokens in exchange for "Ether," a virtual currency. The DAO has been described as a "crowdfunding contract" but it would not have met the requirements of the Regulation Crowdfunding exemption because, among other things, it was not a broker-dealer or a funding portal registered with the SEC and the Financial Industry Regulatory Authority.

"The innovative technology behind these virtual transactions does not exempt securities offerings and trading platforms from the regulatory framework designed to protect investors and the integrity of the markets," said Stephanie Avakian, Co-Director of the SEC's Enforcement Division.

Steven Peikin, Co-Director of the Enforcement Division added, "As the evolution of technology continues to influence how businesses operate and raise capital, market participants must remain cognizant of the application of the federal securities laws."

In light of the facts and circumstances, the agency has decided not to bring charges in this instance, or make findings of violations in the Report, but rather to caution the industry and market participants: the federal securities laws apply to those who offer and sell securities in the United States, regardless whether the issuing entity is a traditional company or a decentralized autonomous organization, regardless whether those securities are purchased using U.S. dollars or virtual currencies, and regardless whether they are distributed in certificated form or through distributed ledger technology.

The SEC's Office of Investor Education and Advocacy today issued an [investor bulletin](#) educating investors about ICOs. As discussed in the Report, virtual coins or tokens may be securities and subject to the federal securities laws. The federal securities laws provide disclosure requirements and other important protections of which investors should be aware. In addition, the bulletin reminds investors of red flags of investment fraud, and that new technologies may be used to perpetrate investment schemes that may not comply with the federal securities laws.

The SEC's investigation in this matter was conducted in the New York office by members of the SEC's Distributed Ledger Technology Working Group (DLTWG) -- Pamela Sawhney, Daphna A. Waxman, and Valerie A. Szczepanik, who heads the DLTWG -- with assistance from others in the agency's Divisions of Corporation Finance, Trading and Markets, and Investment Management. The investigation was supervised by Lara Shalov Mehraban.

Related Materials

- [Report of Investigation](#)
- [Statement by Divisions of Corporation Finance and Enforcement](#)
- [Investor Bulletin: Initial Coin Offerings](#)

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