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Cryptocurrency Exchange Binance and its Founder Plead Guilty to Money Laundering Charges

AML Developments - What You Need to Know

On November 21, 2023, the U.S. Justice Department unsealed charges against cryptocurrency exchange Binance and Binance CEO Changpeng Zhao for violating anti-money laundering provisions of the Bank Secrecy Act ("BSA") and for causing violations of U.S. sanctions issued pursuant to the International Emergency Economic Powers Act ("IEEPA"), among other violations. U.S. v. Binance Holdings Ltd. d/b/a Binance.com, No. 23-cr-00178 (W.D. Wash. Nov. 14, 2023), U.S. v. Changpeng Zhao, No. 23-cr-00179 (W.D. Wash. Nov. 14, 2023). The same day, Binance pled guilty to three charges, including conspiracy to conduct an unlicensed money transmitting business ("MTB") and failure to maintain an effective anti-money laundering ("AML") program, conducting an unlicensed MTB, and violating the IEEPA. U.S. v. Binance, Dkt. No. 23. Mr. Zhao, in turn, pled guilty to failing to maintain an effective AML program. U.S. v. Zhao, Dkt. No. 21. Binance and Mr. Zhao further agreed to settlements to resolve related matters with the Commodity Futures Trading Commission and U.S. Treasury Department. U.S. *Treasury Announces Largest Settlements in History with World's Largest Virtual Currency Exchange Binance for Violations of U.S. Anti-Money Laundering and Sanctions Laws*, U.S. Treasury Dep't (Nov. 21, 2023), <https://rb.gy/pkirwl>; *Binance and Its CEO, Changpeng Zhao, Agree to Pay \$2.85 Billion for Willfully Evading U.S. Law, Illegally Operating a Digital Asset Derivatives Exchange, and Other Violations*, Commodity Futures Trading Comm'n (Nov. 21, 2023), <https://rb.gy/eplly28>. This is the first time the CFTC is charging a compliance officer with individual liability.

According to the unsealed criminal information against Binance, the cryptocurrency exchange allegedly facilitated billions of dollars in cryptocurrency transactions on behalf of customers without implementing adequate know-your-customer procedures or engaging in adequate



transaction monitoring. *U.S. v. Binance*, Dkt. No. 1 at 6-26. The result, as alleged in the information, was that Binance did not comply with the BSA and U.S. sanctions prohibitions. Binance allegedly facilitated transactions involving sanctioned jurisdictions such as North Korea, Syria, and Russian-occupied regions of Ukraine and processed transactions involving proceeds from darknet market transactions and other cyber-related crimes, including ransomware and the proceeds of scams. *Id.* at 1-2.

The Binance charges demonstrate that money laundering will continue to be a major, multiagency enforcement focus of the federal government. On the tail of earlier high-profile AML efforts, including those relating to Tornado Cash, Coinbase and Shinhan Bank, the Binance case stands as a reminder that AML and sanctions compliance must remain a priority for U.S. based financial institutions of all types. Binance's settlement with the Treasury Department's Financial Crimes Enforcement Network ("FinCEN") alone amounted to \$4.3B – the largest penalty in the Treasury Department's history. *Id.*

Implementing an adequate AML and sanctions compliance program is challenging and requires significant investment and management attention. KYC and transaction monitoring are process intensive and require sustained effort. Financial institutions that operate in the U.S. are well advised to give serious consideration to the risks presented by their business as it stands now. They should also consider the changing needs of their programs as the business develops, particularly those companies that are in growth mode, by seeking to address any known issues and ensuring that compliance programs are set up to address the company's risk level as it grows.

The Binance pleas also highlight the importance of BSA compliance to cryptocurrency exchanges, money transmitters and non-U.S. financial institutions, to the extent they operate in the U.S. Virtual currency providers are now in the mainstream for regulatory review, and non-U.S. financial institutions have been subject to regulatory scrutiny for years. These institutions will be held to the same, if not greater, standards and level of scrutiny as traditional and/or U.S.-based businesses. A central focus of the Binance information was the exchange's attempt to grow its U.S. customer base without meeting its U.S. obligations. *U.S. v. Binance*, Dkt. No. 1 at 11-20. While the Binance fact pattern may be *suis generis*, the charges are a reminder for both U.S. based and non-U.S. based companies of the need to address compliance obligations and to continue to do so as an institution develops.

For a further discussion of AML trends and developments, please join us for a complimentary webinar "AML Enforcement & Compliance: 2023 in Review and a 2024 Outlook" on December 6, 2023 at 10:00 AM EST. [Register Here](#). Additional information on King & Spalding's anti-money laundering capabilities can be found [here](#).

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