

First Punch: Floyd Mayweather and DJ Khaled Settle with SEC Over Unlawful Touting of ICOs

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The SEC recently [announced](#) its settlement of charges against boxer [Floyd Mayweather](#) and producer [DJ Khaled](#) for their failure to disclose payments they received for promoting Initial Coin Offerings (ICOs) on their social media accounts.

The federal securities laws contain an “anti-touting provision,” which regulates paid promotions of securities offerings. Specifically, Section 17(b) of the [Securities Act of 1933](#) makes it unlawful for a person to “publish, give publicity to, or circulate any notice...or communication which, though not purporting to offer a security for sale, describes such security for a consideration received or to be received...without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.” Importantly, the provision applies even to those not directly offering a security for sale. The SEC’s orders instituting cease-and-desist proceedings against Mayweather and Khaled both cited violations of Section 17(b).

According to the charges, Mayweather failed to disclose \$300,000 he received from three ICO issuers. He received \$100,000 from Centra Tech Inc. for posting on his social media accounts that “Centra’s...ICO starts in a few hours. Get yours before they sell out, I got mine and as usual I’m going to win big with this one!” Mayweather promoted ICOs on his social media accounts a number of other times and even dubbed himself “Floyd Crypto Mayweather” in one post (not to be confused with his usual moniker, Floyd “Money” Mayweather). Khaled also received \$50,000 from Centra for posts calling Centra an “ultimate winner” and a “game changer.” Centra has been the subject of its own SEC scrutiny, with the SEC filing a civil action against Centra’s founders and the U.S. Attorney’s Office for the Southern District of New York filing corresponding criminal charges.

The SEC’s actions against Mayweather and Khaled were not without warning. In July 2017, the SEC issued its [DAO Report](#) cautioning that ICOs may be considered securities subject to federal securities laws. Despite this report, Mayweather and Khaled both promoted Centra on their social media accounts in late 2017, after which *The New York Times* published an [article](#) calling attention to Mayweather and other celebrities’ growing interest in paid ICO promotions. Even if the SEC Report and *The New York Times* article failed to spark concern in the boxing ring or music studio, the SEC followed up with a [public statement](#) in November 2017 [urging celebrities](#) to be wary of promoting investments in ICOs on social media in violation of federal securities laws. The public statement specified that any promotions of virtual tokens or coins as securities must disclose “the nature,

scope, and amount of compensation received in exchange for the promotion.” Mayweather and Khaled failed to supply any of this required information in their social media posts.

The actions against Mayweather and Khaled mark the first time the SEC has brought charges against individuals for the unlawful touting of ICOs. As part of their settlements, both Mayweather and Khaled agreed to pay disgorgement, penalties, and prejudgment interest as well as to refrain from promoting any securities, digital or otherwise, for three and two years, respectively.

The SEC’s actions signal an intention to enforce the anti-touting provisions of federal securities laws as they apply to ICOs, and SEC Enforcement Division Co-Director Steven Peikin highlighted in a public announcement the concern that “Social media influencers are often paid promoters, not investment professionals, and the securities they’re touting, regardless of whether they are issued using traditional certificates or on the blockchain, could be frauds.”

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