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Binance to Pay Historic $4 Billion Fine

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Binance to Pay Historic $4 Billion Fine

Binance Holdings Limited, the operator of the world's largest cryptocurrency exchange, agreed to pay $4.3 billion to resolve allegations that it violated the Bank Secrecy Act (BSA) and the International Emergency Economic Powers Act (IEEPA), and that it failed to register as a money transmitting business. The fine is the largest ever in a criminal cryptocurrency case. In addition, Binance's founder and CEO, Changpeng Zhao, resigned as CEO and pleaded guilty to failing to maintain an effective anti-money laundering (AML) program.

According to court documents, as a cryptocurrency exchange with US-based customers, Binance was required to register with FinCEN as a money services business and to implement an AML program that was reasonably designed to prevent the exchange from being used to facilitate money laundering. Rather than comply with US law, the government claims that Binance announced that it would block US customers beginning in 2019 and launch a separate exchange. However, Binance is alleged to have maintained a significant number of US customers and even assisted them in registering new accounts for offshore entities and transferring their holdings to these entities.

The government also accused Binance of failing to implement know-your-customer protocols or monitor transactions, thereby allowing customers to open accounts and conduct trades without providing any identifying information beyond an email address. Prosecutors further accused Binance of failing to submit a single suspicious activity report with FinCEN. Binance's lack of controls reportedly allowed customers to trade from and with sanctioned jurisdictions in violation of US sanctions laws. The government claims that between January 2018 and May 2022, Binance willfully caused about $900 million in illegal trades between US customers and users in Iran.

In addition to a monetary penalty, Binance agreed to a three-year independent compliance monitorship to remediate and enhance their AML and sanctions compliance programs. Zhao, who is scheduled to be sentenced in February and has been deemed a serious flight risk by the US Department of Justice (DOJ), was ordered to remain in the United States while the court considers bail conditions.

The DOJ's press release can be found here.

Regeneron False Claims Act Case Paused Amid Circuit Split

Massachusetts federal district court Judge F. Dennis Saylor IV paused a False Claims Act (FCA) case in which Regeneron Pharmaceuticals is facing allegations that it used a charity that assisted with Medicare co-pays to funnel kickbacks to patients who opted to take drugs manufactured by Regeneron. Judge Saylor had previously ruled in September that a “but for” causation standard should apply, but, in a separate FCA case brought against Teva Pharmaceuticals, Massachusetts district court Judge Nathanial Gorton ruled that the lesser "sufficient causal connection" standard applied. An appeal of the *Teva* ruling is pending before the First Circuit.

If the First Circuit upholds Judge Saylor’s ruling that the “but for” standard applies, the government would be required to show that patients only used Regeneron’s drug because of the co-pay incentive.

The question over which causation standard to apply has resulted in a circuit split and stems from an amendment to the Anti-Kickback Statute (AKS) as part of the 2010 Patient Protection and Affordable Care Act that makes any Medicare claim “resulting from” a violation of the AKS a false or fraudulent claim for purposes of the FCA.

Acknowledging that a different causation standard may require additional discovery, Judge Saylor has asked both parties to discuss a plan to re-open discovery following the First Circuit’s decision and to report back during a December 20 status conference.

The case is *United States v. Regeneron Pharmaceuticals Inc.*, case number 1:20-cv-11217, in the US District Court for the District of Massachusetts.

Tax Preparer Sentenced to Two Years’ Imprisonment for Preparing and Filing False Tax Returns

Jeffrey Harmon, owner of a tax preparation business, was sentenced to two years in prison for allegedly preparing and filing false income tax returns for himself and clients. In total, the government claims that Harmon's fraudulent returns resulted in a tax loss to the Internal Revenue Service (IRS) of more than $300,000.

Harmon is alleged to have willfully prepared and filed returns that claimed fraudulent deductions for personal expenses such as rent, personal vacation travel, fitness equipment, and club memberships. In addition to imprisonment, Harmon was ordered to pay approximately $320,000 in restitution to the United States.

The DOJ's press release can be found here.

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