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A CONVERSATION ABOUT ENFORCEMENT TRENDS IN THE DIGITAL CURRENCY WORLD

In this article, four former federal prosecutors discuss how U.S. money laundering and asset forfeiture laws have become one of the dominant legal tools for law enforcement to disrupt and prosecute the misuse of cryptocurrency, especially as digital assets become more and more mainstream.

By Chuck Connolly, Kyle R. Freeny, Jessie K. Liu, and Gil Soffer *

Chuck Connolly: The last several years have seen exponential growth in the uses of cryptocurrency and other digital assets and growing levels of mainstream adoption, including by traditional financial institutions. As one might expect, this has prompted federal and state authorities in the United States to increase their enforcement focus on the cryptoverse. Policymakers recognize that the same qualities that make cryptocurrency a force for good — for example, its ability to facilitate decentralized cross-border value transfers at the speed of the internet — also make it attractive to illicit actors.

Jessie, can you give us an overview of what we saw in 2021 with respect to the digital assets enforcement landscape?

Jessie: According to one of the major blockchain analysis firms, cybercriminals laundered the equivalent of approximately \$8.6 billion in cryptocurrency in 2021, a 30% increase from 2020. This comes as digital assets have moved well beyond Bitcoin (“BTC”): today, the cryptoverse includes altcoins, stablecoins, central bank digital currencies (“CBDCs”), non-fungible tokens

(“NFTs”), and decentralized finance (“DeFi”), with new developments seemingly every several months. Use of digital assets has expanded to traditional financial institutions, from established investment banks, to credit card companies, to online payment systems, and other financial technology firms. And in the last year, digital assets entered the public consciousness as never before; it seems that hardly a day goes by now without an article about them in a major media outlet. Perhaps not surprisingly, the expansion of the cryptoverse also brought increased regulatory and enforcement scrutiny. In 2021, both federal law enforcement and private industry announced enhanced efforts to protect against and ferret out money laundering using cryptocurrencies.

Perhaps the most notable such effort was DOJ’s creation of a National Cryptocurrency Enforcement Team, or NCET, announced in October 2021. Gil, having worked in Main Justice, what can you tell us about what we should expect from that effort?

Gil: On October 6, 2021, Deputy Attorney General (“DAG”) Lisa Monaco announced the creation of a National Cryptocurrency Enforcement Team (“NCET”),

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