

Investor Alert

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FTX FOUNDER SAMUEL BANKMAN-FRIED'S LEGAL CHALLENGES INTENSIFY AFTER FEDERAL PROSECUTORS UNVEIL MULTIPLE NEW CHARGES AND CO-FOUNDER NISHAD SINGH PLEADS GUILTY

Since we published our December 27, 2022 [Investor Alert](#) regarding federal charges against disgraced former cryptocurrency mogul Samuel Bankman-Fried (“Bankman-Fried”) and his collapsed cryptocurrency platform,¹ FTX and its affiliated entities, Bankman-Fried has seen his legal woes worsen. First, as explained in more detail below, on February 23, 2023, the United States Attorney’s Office for the Southern District of New York (“SDNY”) unveiled a Superseding Indictment against Bankman-Fried, alleging four additional counts of fraud and conspiracy, as well as enhancing the federal election fraud violations against him, dramatically increasing the maximum prison term he could face to over 150 years.² Second, on February 28, 2023, a third member of Bankman-Fried’s inner circle and fellow FTX co-founder, Nishad Singh, entered a guilty plea for his role in the collapse of FTX. Singh faces a maximum prison sentence of 75 years and is now cooperating with federal prosecutors.

In this Investor Alert, we provide an update regarding (1) the new charges and details that are in the Superseding Indictment; and (2) information revealed

in Singh’s guilty plea. Finally, we provide a few takeaways on these recent developments and what they could mean for the federal actions against Bankman-Fried as his October 2, 2023 trial date approaches.

The February 23, 2023 Superseding Indictment

In addition to the eight counts Bankman-Fried faced in the Criminal Indictment unveiled on December 13, 2022 (the “Original Indictment”),³ which we discussed in our prior Investor Alert, the Superseding Indictment includes four additional charges including: (1) conspiracy to operate an unlicensed money transmitting business; (2) conspiracy to commit bank fraud; (3) securities fraud; and (4) fraud in the connection of the purpose or sale of a derivative. The Superseding Indictment also includes modifications to the campaign finance law violations that were in the Original Indictment. These new charges add a potential 40 years in prison in addition to the 115 years Bankman-Fried already faced if he were convicted of all charges in the Original Indictment.

¹ Sealed Indictment, *U.S. v. Bankman-Fried*, No. 1:22-cr-00673-RA (S.D.N.Y. Dec. 13, 2022), ECF No. 1.

² See Superseding Indictment, *U.S. v. Bankman-Fried*, No. 1:22-cr-00673-

RA (S.D.N.Y. Feb. 23, 2023), ECF No. 80.

³ Sealed Indictment.

Notably, the 39-page Superseding Indictment fills in many details about the alleged fraud not included in the Original Indictment. Specifically, the Superseding Indictment lays out the means and purpose of Bankman-Fried's fraud:

Exploiting the trust that FTX customers placed in him and [FTX], BANKMAN-FRIED *stole FTX customer deposits*, and used billions in stolen funds for a variety of purposes, including, among other things, to support the operations and investment of FTX and Alameda; to fund speculative venture investments; to make charitable contributions; *to enrich himself*, and *to purchase influence over cryptocurrency regulation in Washington, D.C.* by steering tens of millions of dollars of illegal campaign contributions to both Democrats and Republicans.⁴

Additionally, the Superseding Indictment alleges that Bankman-Fried “well knew[] FTX . . . was not focused on investor or client protection, nor was it the legitimate business that [he] claimed it was.”⁵

Political Contributions

The Superseding Indictment also includes shocking

details revealing how Bankman-Fried and two unnamed co-conspirators (“CC-1” and “CC-2”)⁶ conspired to defraud the Federal Elections Commission by using straw donors to “evade contribution limits on individual donations to candidates to whom” Bankman-Fried himself had already contributed. According to the Superseding Indictment, Bankman-Fried and his co-conspirators “made over 300 political contributions, totaling tens of millions of dollars, that were unlawful because they were made in the name of a straw donor or paid for with corporate funds.”⁷ Bankman-Fried then had money funneled from Alameda Research LLC (“Alameda”)⁸ to the individuals’ bank accounts “for the purposes of making contributions as Alameda ‘loans’ or ‘expenses.’”⁹ This defrauded the Federal Elections Commission since there is no record of any Alameda donations, rather they were made in the name of straw donors.

Use of Automatically Deleting Messaging Application “Signal”

Further revealing the efforts Bankman-Fried took to conceal the fraudulent scheme at FTX, especially in early November 2022 in the days leading up to its

⁴ Superseding Indictment ¶1 (emphasis added).

⁵ *Id.* ¶3.

⁶ News reports indicate that FTX employee Ryan Salame would donate to Republicans, while FTX employee Nishad Singh would contribute to Democrats. Both Salame and Singh are cooperating with the government in developing its case against Bankman-Fried.

⁷ Superseding Indictment ¶41.

⁸ As discussed in our earlier investor alert, Alameda was Bankman-Fried's private crypto hedge fund.

⁹ Superseding Indictment ¶42.

collapse and bankruptcy, the Superseding Indictment alleges that “[t]o conceal his activities and the activities of his co-conspirators during the unraveling of FTX, [Bankman-Fried] communicated with his employees over Signal, an ephemeral messaging application.”¹⁰ The Superseding Indictment alleges that Bankman-Fried “directed that employee Signal messages be set to auto-delete after brief periods of time, *in part to prevent the preservation of evidence that could be used against him.*”¹¹ Shockingly, the general counsel at FTX US “warned employees” in November 2022 “that they should preserve documents because of the involvement of regulators” and the general counsel “posted in a company Slack channel that FTX would need to be shut down.”¹² According to the Superseding Indictment, however, Bankman-Fried “deleted the general counsel’s message about FTX being shut down, continued using Signal messaging, and proceeded to delete some of his own statements on Twitter, including his tweets about customer assets being ‘fine.’”¹³

FTX Co-Founder Nishad Singh Pleads Guilty and Agrees to Cooperate Against Bankman-Fried

On February 28, 2023, Bankman-Fried’s fellow FTX co-founder and former engineering chief, Nishad Singh, pled guilty to six federal criminal counts.¹⁴ Specifically, Singh pled guilty to (1) conspiracy to commit wire fraud; (2) wire fraud; (3) conspiracy to commit commodities fraud; (4) conspiracy to commit securities fraud; (5) conspiracy to commit money laundering; and (6) conspiracy to defraud the United States and willfully violate the Federal Election Campaign Act. At his guilty plea, Singh said he was “unbelievably sorry for my role in this and the harm it caused.” According to news reports, Singh also told the court that he knew Alameda Research was borrowing billions of dollars in funds from FTX without customers’ knowledge.¹⁵ Singh stated, “I took actions to make it appear that FTX’s revenues were higher than they were and provided that information to auditors . . . I knew my conduct was wrong.”

¹⁰ *Id.* ¶55.

¹¹ *Id.* (emphasis added).

¹² *Id.*

¹³ *Id.* As discussed in our prior Investor Alert, on November 7, 2022, Bankman-Fried stated the following on Twitter: “FTX is fine. Assets are fine . . . FTX has enough to cover all client holdings. We don’t invest client assets (even in treasuries).”

¹⁴ See *Superseding Information, U.S. v. Singh, 22-cr-673-(LAK)* (S.D.N.Y. Feb. 28, 2023), ECF No. 90. The same day that Singh entered his guilty plea in the action brought by the SDNY, the Securities and Exchange

Commission (“SEC”) and the Commodity Futures Trading Commission each brought their own respective actions against Singh for his role in FTX fraud. See Complaint, *SEC v. Singh*, No. 23-cv-1691 (S.D.N.Y. Feb. 28, 2023), ECF No. 1, *CFTC v. Singh*, No. 23-cv-1684 (S.D.N.Y. Feb. 28, 2023), ECF No. 1.

¹⁵ Ava Benny-Morrison, Chris Dolmetsch, and Bob Van Voris. [*Bankman-Fried’s Inner Circle Continues to Crumble with Singh Guilty Plea*](#), BLOOMBERG (Feb. 28, 2023).

Takeaways

Since his indictment in December 2022 and as the fallout from the collapse of FTX continues and the federal government strengthens its case against him, Bankman-Fried has faced an ever-growing list of legal consequences, both criminal and civil. Aided by the firsthand accounts of his former inner circle, federal prosecutors and regulators have strengthened their cases against Bankman-Fried. While it is unknown if Bankman-Fried will choose to stand trial or plead guilty, his fraud has exposed the depth to which he and his team were able to infiltrate the halls of Congress. Moreover, the recently announced wind-down and liquidation of cryptocurrency bank Silvergate Capital,¹⁶ illustrates the still-evolving impact Bankman-Fried's FTX fraud is having on the larger cryptocurrency market and investors who entrusted their money in crypto.

As we noted in our December 2022 Investor Alert, the need for Congress and U.S. financial regulators to act faster to establish an effective regulatory framework for cryptocurrency – and all nascent industries where investors are exposed to risk – is paramount. While this regulatory framework must be well-informed and tailored to the cryptocurrency market, we reiterate that

the rules must not be made by industry actors themselves, as the unfolding FTX saga continues to make clear.

Labaton Sucharow will continue to monitor developments as the effects of FTX's collapse and the federal actions against Bankman-Fried progress.

Labaton Sucharow's lawyers are available to address any questions you may have regarding these developments. Please contact the Labaton Sucharow lawyer with whom you usually work or the contacts below.

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¹⁶ Leo Schwartz. *Top crypto bank collapses as Silvergate announces plans to wind down operations*. *FORTUNE* (Mar. 8, 2023).