

As Bitcoin, other currencies soar, regulators urge caution

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In this Friday, Dec. 8, 2017, file photo, people use a Bitcoin ATM in Hong Kong. The public's intense interest in all things bitcoin, and efforts by entrepreneurs to fund their businesses with digital currencies, has begun to draw attention from regulators. (AP Photo/Kin Cheung, File)

The public's interest in all things bitcoin and efforts by entrepreneurs to fund their businesses with digital currencies is starting to draw more attention from regulators.

The head of the Securities and Exchange Commission this week warned investors on the risks of investing in largely-unregulated digital currencies.

Just this month, the SEC halted two attempts to raise money through what's known as an initial coin offering. Legal experts believe this signals that a crackdown on sketchy offerings is coming.

"The SEC has given so many warnings now that people should know they are on notice," said Joshua Klayman, a lawyer with the firm Morrison & Foerster who specializes in legal issues related to digital currencies.

The world of bitcoin and digital currencies can be split into large branches. There are investors who buy the currencies like bitcoin and ethereum. Related but separate from the currencies is an event known as an initial coin offering, or ICO, which allow startups to use the technology behind bitcoin, known as blockchain, to fund projects.

With an ICO, a startup will issue a [currency](#), or sometimes called a token, that can be used to buy services with the company. For example, a startup offering online storage could have tokens that can be used to buy storage.

ICOs have soared in interest this year. CoinSchedule, which tracks the ICO market, says 234 ICOs this year have raised \$3.7 billion for startups. In 2016, 46 ICOs raised less than \$100 million.

How these tokens are marketed has become a central question for the SEC. Companies issuing tokens that are usable on their own platform right now aren't a concern, but when the company's marketing implies that these tokens can appreciate in value, that becomes a red flag.

"We have gotten to a point a few times where some of these tokens start looking an awful lot like securities," said Clyde Tinnen, a partner at Withers Bergman.

Investors in ICOs are oftentimes early investors in bitcoin or other digital currencies who, with the rapid rise in price, have become multimillionaires on paper and are now looking for the next hot idea. But some of the ICOs that have been funded are just that—an idea on paper. They might even use language copied and pasted from other ICOs to sell their startup to investors. Others have paid celebrities, like boxing legend Floyd Mayweather and socialite Paris Hilton, to endorse their ICOs. All this has raised concerns about the potential success of these projects and whether some are just outright scams.

"I am not sure why it took so long to chase down some of these," Tinnen said.

The SEC recently created a division to more closely monitor ICOs for potential scams. The unit brought its first charges last week against a Canadian company known as PlexCorps, which was trying to raise \$15 million in an ICO promising its investors "a 1,354 percent profit in less than 29 days." Two individuals were charged in the scam.

Just this week, a food review startup called Munchee was forced to withdraw from its \$15 million ICO after the SEC raised concerns that Munchee emphasized that investors should expect some sort of return for their investment. By doing so, a company would be offering securities, not tokens, the regulator said. The SEC's cyber unit also was involved in that investigation. Munchee admitted no wrongdoing as part of the settlement.

What made the Munchee case notable, Klayman said, was how quickly the SEC stepped in. Some ICOs have raised money in hours, or only a

couple days. Munchee started selling [tokens](#) on October 31, and the SEC stepped in the next day.

"The SEC was basically monitoring the Munchee offering in real time - through social media, YouTube, etc. - and stopped it," Klayman said.

Following the launch of bitcoin futures on the Cboe Futures Exchange this week, SEC Commissioner Jay Clayton issued a statement warning investors to be cautious about putting any money into digital currencies like bitcoin.

As for those celebrity-endorsed ICOs, the SEC also put a stop to that, warning that these paid celebrities might be violating U.S. securities laws.

One reason regulators are concerned is the relative popularity of bitcoin and ICOs with non-traditional investors. Historically, the last group to jump into an asset in a bubble is retail investors, who are often the most hurt when the bubble pops. But in the case of bitcoin and other digital currencies, [retail investors](#) were among the first to invest.

"A number of concerns have been raised regarding the cryptocurrency and ICO markets, including that, as they are currently operating, there is substantially less [investor](#) protection than in our traditional securities markets, with correspondingly greater opportunities for fraud and manipulation," Clayton said.

The price of [bitcoin](#) has soared this year, going from less than \$1,000 to \$18,000. Bitcoin's gains have rippled through other digital currencies as well. The price for ethereum is now at \$706—it was a little over \$8 at the beginning of the year. That's a rise of nearly 8,300 percent.

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