



THE FIDUCIARY SALE: IN SEARCH OF THE ETHICAL
ADVISOR.
NOTHING FIDUCIARY HERE:

BY JOHN LOHR

The Securities and Exchange Commission today announced that it has obtained an emergency court order halting a planned initial coin offering (ICO), which backers falsely claimed was approved by the SEC. The order also halts ongoing pre-ICO sales by the company, Blockvest LLC and its founder, Reginald Buddy Ringgold, III.

An SEC complaint unsealed yesterday alleges that Blockvest falsely claimed its ICO and its affiliates received regulatory approval from various agencies, including the SEC. According to the SEC's complaint, Blockvest and Ringgold, who also goes by the name Rasool Abdul Rahim El, were using the SEC seal without permission, a violation of federal law, and falsely claiming their crypto fund was "licensed and regulated." The complaint also alleges Ringgold promoted the ICO with a fake agency he created called the "Blockchain Exchange Commission," using a graphic similar to the SEC's seal and the same address as SEC headquarters.

And, while we're on that topic....

Report a suspected fraud. <https://www.sec.gov/tcr>

Tip line

[https://acadia.sec.gov/TcrWeb/faces/pages/accept.jspx?](https://acadia.sec.gov/TcrWeb/faces/pages/accept.jspx?_afrLoop=4459599898157355&_afrWindowMode=0&_afrWindowId=null#!%40%40%3F_afrWindowId%3Dnull%26_afrLoop%3D4459599898157355%26_afrWindowMode%3D0%26_adf.ctrl-state%3Dbjhl8my7v_4)

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[%40%40%3F_afrWindowId%3Dnull%26_afrLoop%3D4459599898157355%26_afrWindowMode%3D0%26_adf.ctrl-state%3Dbjhl8my7v_4](https://acadia.sec.gov/TcrWeb/faces/pages/accept.jspx?_afrLoop=4459599898157355&_afrWindowMode=0&_afrWindowId=null#!%40%40%3F_afrWindowId%3Dnull%26_afrLoop%3D4459599898157355%26_afrWindowMode%3D0%26_adf.ctrl-state%3Dbjhl8my7v_4)

Investor Alert: Watch Out For False Claims About SEC And CFTC Endorsements Used To Promote Digital Asset Investments

10/11/2018

The SEC's Office of Investor Education and Advocacy (OIEA) and the Commodity Futures Trading Commission's (CFTC) Office of Customer Education and Outreach warn investors to watch out for false claims about agency actions and endorsements related to digital assets. Fraudsters may use false claims to lure investors into purchasing digital assets and to artificially raise their value. "Digital assets" include crypto-currencies, coins, and tokens such as those offered in so called initial coin offerings (ICOs).

The SEC and CFTC staff are aware of fraudsters making false claims about SEC or CFTC actions and endorsements related to digital assets. Examples of these false claims may include:

- Having advance knowledge of future agency actions to approve new financial products that derive their value from digital assets.
- Using the SEC or CFTC seal on promotional materials related to digital assets.
- Advertising that agency officials are working with certain digital industry participants to bring their financial products to the market.

Be skeptical of anyone attempting to sell you digital assets, or any investment, that makes claims about future SEC or CFTC actions. Both agencies will announce any official actions, including those regarding digital assets, through official government sources such as an agency press release, the Federal Register, their official government websites ([SEC.gov](https://www.sec.gov), [Investor.gov](https://www.investor.gov), or [CFTC.gov](https://www.cftc.gov)), or authorized public statements by the each agency's leadership. *Also, federal government agencies, including the SEC and CFTC, do not endorse or sponsor any particular securities, issuers, products, services, professional credentials, firms, or individuals. Real government officials or staff would never:*

SEC's New Strategic Plan Puts Investors, Innovation, and Performance at Top

FOR IMMEDIATE RELEASE

2018-234

Washington D.C., Oct. 11, 2018 —

The Securities and Exchange Commission today announced a [new strategic plan](#) to guide the agency's work over the next four years with a primary focus on investors, innovation, and performance. The plan's goals reflect the agency's commitment to its longstanding mission while leveraging the opportunities and addressing the challenges that come from fast-evolving markets, products and services.

Our new strategic plan is a concise, straight-forward explanation of the goals that will guide us as our markets evolve. It is based on the core values that have motivated the women and men of the SEC for over 80 years, including, most importantly, serving the interests of our long term Main Street investors.

—SEC Chairman Jay Clayton

The SEC's new strategic plan was published in accordance with the Government Performance and Results Modernization Act of 2010, which requires federal agencies to outline their missions, planned initiatives, and strategic goals for a four-year period.

Strategic Plan Summary

INVESTORS



GOAL 1. Focus on the long-term interests of our Main Street investors.

The SEC will strive to better understand how a wider range of investors participate in the capital markets and how to reach them while tailoring policy initiatives with retail investors in mind. Initiatives under this goal will include modernizing disclosure and expanding investor choice.

INNOVATION



GOAL 2. Recognize significant developments and trends in our evolving capital markets and adjust our efforts to ensure we are effectively allocating our resources.

Under this goal, the SEC will embrace innovation by analyzing market developments, evaluating existing rules and procedures, understanding the continually changing cyber-landscape and ensuring the appropriate resources are dedicated to each area.

PERFORMANCE



GOAL 3. Elevate the SEC’s performance by enhancing our analytical capabilities and human capital development.

The SEC will invest in data and technology to leverage “the experience, knowledge, creativity, leadership and teamwork of the SEC’s staff and its leaders.” The agency is also committed to recruiting and retaining a diverse workforce with a wide range of skills and expertise.

But, on the wrong side of the Regulators: SEI

ERISA Self-Dealing Lawsuit Calls SEI Plan ‘Captive Customer’

SEI Investments Company is the **latest investment services provider** to face an Employee Retirement Income Security Act (ERISA) lawsuit making allegations of self-dealing.

The lead plaintiff in *Stevens v. SEI Investments Company*, filed in the U.S. District Court for the Eastern District of Pennsylvania, is an employee of the firm and a participant in the SEI Capital Accumulation Plan. Named as defendants are SEI as a whole, the defined contribution (DC) plan’s investment and administration committees, and some 30 individual fiduciaries.

The complaint makes a variety of claims about widespread conflicts of interest in the DC plan industry, suggesting that financial services companies such as SEI deserve extra scrutiny.

“For financial service companies like SEI, the potential for imprudent and disloyal conduct is especially high, because the plan’s fiduciaries are in a position to benefit the company through the plan by using proprietary investment products that a disinterested fiduciary would not choose,” the complaint states.

According to the complaint, the defendants offer “only designated investment options that generate fees for SEI and its affiliates and treat the plan as a captive customer of SEI in

order to prop up SEI-affiliated investment products and advance SEI's business objectives."

The complaint further states that SEI investment products "are not competitive in the marketplace."

"Participants would have been better served if defendants had investigated and retained non-proprietary alternatives," the complaint states.

The complaint acknowledges the fact that inclusion of proprietary investment options in a 401(k) plan lineup is not per se imprudent or disloyal. But the lead plaintiff says defendants did not meet their fiduciary obligations to regularly evaluate each investment option within the plan on its merits relative to alternative available options.

"Because SEI-affiliated investment options within the plan have consistently generated lower net returns for investors than investment options with the same objectives available outside of SEI, there was no reason other than self-interest for defendants to offer solely SEI-affiliated options within the plan," the complaint states. "Indeed, no other defined contribution plan in the country with \$250 million in assets or more consists exclusively of SEI-affiliated investment products, and the vast majority of similarly-sized plans do not include any SEI-affiliated investments."

According to the text of the complaint, SEI's alleged prioritization of its own business interests over the interests of participants and beneficiaries of the plan constitutes a breach of the fiduciary duties of prudence and loyalty in violation of 29 U.S.C. Section 1104.

As a result of defendants' alleged violations of ERISA, the lawsuit suggests the plan has suffered millions of dollars in losses.

According to the lead plaintiff, it is relevant to observe that financial services companies possess no special insight that allows them to identify which of their own funds are likely to outperform.

“Though financial companies may favor retention of their own funds, this favoritism has empirically resulted in worse performance,” the lawsuit states. “A study of third-party administrators shows that plans administered by asset management firms tend to have the lowest net returns, and that those lower returns are attributable to reliance on proprietary funds.”

Detailed in the text of the complaint are three specific counts, one having to do with a breach of the duties of loyalty and prudence, and two having to do with failures in monitoring. These counts are based on a core allegation that, despite SEI’s inability to generate competitive long-term returns or attract other large defined contribution plan investors, defendants have exclusively selected and retained SEI-affiliated funds within the plan. According to the lead plaintiff, a prudent and loyal fiduciary would not have managed the plan’s investment lineup in this manner.

“Defendants offered participants 19 SEI funds and SEI stock as designated investment alternatives as of the end of 2011,” the complaint states. “Since then, defendants have only added more SEI-affiliated funds, and have not subtracted any options. One addition, the PIMCO Stable Income Fund, is not branded with the ‘SEI’ name, but SEI is a partner in the management of the fund, and receives fees from the fund. The continuity of the menu and strict reliance on SEI-affiliated products (despite their low performance rankings) suggests that defendants have selected and retained SEI-affiliated

funds by default, in lieu of conducting an impartial investigation of options available in the marketplace.”

As further evidence of a flawed fiduciary process, the lead plaintiff points out that the plan’s two largest holdings (the SEI Large Cap Fund and the SEI Small Cap Fund), which accounted for approximately 30% of the plan’s total assets, underperformed their stated benchmarks over the prior one-, three-, five-, and 10-year periods. According to the lawsuit, these funds employ common investment strategies, and numerous comparable non-proprietary alternatives that met or exceeded their benchmarks over the same periods while charging lower or comparable fees were available to defendants.

The lawsuit makes the following allegations regarding the offering of SEI-brand target-date funds within the plan:

“Defendants’ judgment also has been compromised with respect to target-date funds. When SEI initially launched its proprietary target-date funds, the funds were promptly added to the plan, despite having no performance records. Since then, they have gained little traction in the marketplace. This has caused SEI to depend on the plan to prop up the funds; indeed, the plan has accounted for 27% to 31% of the total assets in SEI’s target-date funds since 2012. An impartial and prudent fiduciary in defendants’ position would have investigated other options, and would not have retained these proprietary target-date funds.”