

## COVID, Crypto, and Kleptocrats: Current Justice Department Enforcement Initiatives

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The Department of Justice (DOJ) has recently signaled a renewed focus on enforcement, and its priorities are being driven by world events. In the past few months, the DOJ has announced new task forces and more resources to combat fraud in connection with COVID-19 relief, criminal activity related to cryptocurrency, and sanctions violations by Russian entities and individuals linked to the Putin regime. With these new initiatives, we can expect an uptick in enforcement activity in these areas. This alert summarizes some of the recently announced initiatives, which shed light on the likely future enforcement priorities.

### Covid-19 Fraud Enforcement Task Force

In May 2021, the DOJ announced the creation of the COVID-19 Fraud Enforcement Task Force to coordinate the enforcement of pandemic-related fraud.<sup>1</sup> In the last two years, the United States government has awarded \$2.2 trillion in federal funds to states, corporations and individuals affected by the COVID-19 pandemic.<sup>2</sup> However, since the summer of 2020, federal officials have suspected rampant fraud in connection with federal relief funds.<sup>3</sup> Government watchdogs estimate that potential fraud could amount to \$80 billion.<sup>4</sup>

Initial cases brought by the task force have been successful. For example, in January 2022, a South Carolina woman was sentenced to two years in prison for fraudulently collecting more than \$1.2 million in

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<sup>1</sup> Press release, *Attorney General Announces Task Force to Combat COVID-19 Fraud*, (May 17, 2021) available at <https://www.justice.gov/opa/pr/attorney-general-announces-task-force-combat-covid-19-fraud>.

<sup>2</sup> *The Federal Response to COVID-19*, USASPENDING (as of January 1, 2022) available at <https://www.usaspending.gov/disaster/covid-19?publicLaw=all>.

<sup>3</sup> See Small Business Administration, *Pandemic Response Oversight: Reports*, available at <https://www.sba.gov/about-sba/oversight-advocacy/office-inspector-general/pandemic-response-oversight#section-header-8>.

<sup>4</sup> Tony Romm, *'Immense fraud' creates immense task for Washington as it tries to tighten scrutiny of \$6 trillion in emergency coronavirus spending*, WASHINGTON POST (Feb. 17, 2022) available at <https://www.washingtonpost.com/us-policy/2022/02/17/stimulus-aid-oversight-fraud/>.

COVID-19 relief.<sup>5</sup> The DOJ showed that the defendant provided materially false information on her applications on behalf of seven businesses by, among other things, inflating revenues and overstating the number of employees. In some instances, the defendant applied for and received grants for businesses that did not exist or were created for the sole purpose of receiving relief funds.<sup>6</sup>

The Biden administration and the DOJ are now redoubling their efforts in this area. In his State of the Union address on March 1, 2022, President Biden announced the expansion of the task force with additional resources as well as the appointment of a Chief Prosecutor to focus on pandemic-related identify theft by criminal syndicates.<sup>7</sup> Additionally, the DOJ is seeking \$36 million in fiscal year 2022 to hire 120 new prosecutors to target pandemic-related fraud.<sup>8</sup> With such a substantial influx of resources, we expect enforcement in this area to increase.

## National Cryptocurrency Enforcement Team (NCET)

Last October, the DOJ announced the creation of the National Cryptocurrency Enforcement Team (NCET), a task force dedicated to prosecuting criminal offenses involving cryptocurrency and other digital assets.<sup>9</sup> The NCET's core mission is to identify, investigate, and pursue cases involving the criminal use of digital assets, with a particular focus on virtual currency exchanges, mixing and tumbling services, and infrastructure providers, among others. The team will also assist with recovering digital assets lost to fraud and extortion and will support and train state, federal, and local law enforcement on investigating crimes involving digital assets. On February 17, 2022, the DOJ appointed Eun Young Choi as the inaugural director of the NCET.<sup>10</sup>

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<sup>5</sup> IRS News Bulletin, *Blythewood woman sentenced to two years for fraud relating to \$1.2 million in coronavirus funds*, (Jan. 13, 2022), available at <https://www.irs.gov/compliance/criminal-investigation/blythewood-woman-sentenced-to-two-years-for-fraud-relating-to-1-point-2-million-dollars-in-coronavirus-funds>.

<sup>6</sup> *Id.*

<sup>7</sup> Fact Sheet: President Biden to Announce New Steps to Combat Criminal Fraud and Identity Theft in Pandemic Relief Programs, (March 1, 2022), available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/01/fact-sheet-president-biden-to-announce-new-steps-to-combat-criminal-fraud-and-identity-theft-in-pandemic-relief-programs/>.

<sup>8</sup> Press release, *supra* note 1.

<sup>9</sup> Press release, Deputy Attorney General Lisa O. Monaco Announces National Cryptocurrency Enforcement Team (Oct. 6, 2021), available at <https://www.justice.gov/opa/pr/deputy-attorney-general-lisa-o-monaco-announces-national-cryptocurrency-enforcement-team>.

<sup>10</sup> Press release, *Justice Department Announces First Director of National Cryptocurrency Enforcement Team*, (Feb. 17, 2022) available at <https://www.justice.gov/opa/pr/justice-department-announces-first-director-national-cryptocurrency-enforcement-team>.

The task force was created following a growing trend in the wider adoption of cryptocurrencies. Global transaction volume in cryptocurrencies reached a high of \$15.8 trillion in 2021, of which an estimated \$14 billion may have involved fraudulent activity.<sup>11</sup>

The DOJ has already brought significant cases involving virtual currency exchanges. For example, on February 8, 2022, the DOJ arrested two individuals charged with conspiring to launder approximately \$4.6 billion in bitcoin stolen from the Bitfinex exchange. The DOJ managed to recover roughly 94,000 bitcoins (79% of the total) allegedly stolen in a hack.<sup>12</sup> In a separate case, on February 23, 2022, two defendants pled guilty to violating the Bank Secrecy Act and anti-money laundering rules in connection with running the BitMEX cryptocurrency exchange.<sup>13</sup>

The NCET will seek to build on and expand the DOJ's enforcement capabilities in this area and will work closely with the FBI's new Virtual Asset Exploitation Unit (VAXU), announced in February 2022, which will bring together FBI agents with crypto expertise to assist with the seizure of virtual assets.<sup>14</sup>

## Task Force Kleptocapture

On March 2, 2022, the DOJ announced the creation of Task Force "KleptoCapture," a new task force dedicated to ensuring that past, current, and future penalties levied in response to Russian acts of aggression are fully enforced.<sup>15</sup> The task force was formed in the wake of Russia's invasion of Ukraine and complements the already significant sanctions levied against Russian state-owned businesses and individuals connected to President Vladimir Putin.<sup>16</sup>

The task force is comprised of a team of experienced prosecutors in the areas of asset forfeiture, anti-money laundering, tax enforcement, national security, and foreign evidence collection. The task force will

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<sup>11</sup> Chainalysis, *Crypto Crime Trends for 2022: Illicit Transaction Activity Reaches All-Time High in Value, All-Time Low in Share of All Cryptocurrency Activity* (Jan. 6, 2022) available at <https://blog.chainalysis.com/reports/2022-crypto-crime-report-introduction/>.

<sup>12</sup> Press release, *Two Arrested for Alleged Conspiracy to Launder \$4.5 Billion in Stolen Cryptocurrency*, (Feb. 8, 2022), available at <https://www.justice.gov/opa/pr/two-arrested-alleged-conspiracy-launder-45-billion-stolen-cryptocurrency>.

<sup>13</sup> Press release, *Founders Of Cryptocurrency Exchange Plead Guilty To Bank Secrecy Act Violations*, (Feb. 24, 2022) available at <https://www.justice.gov/usao-sdny/pr/founders-cryptocurrency-exchange-plead-guilty-bank-secrecy-act-violations>.

<sup>14</sup> Sarah Lynch and Chris Prentice, *FBI to form digital currency unit, Justice Dept taps new crypto czar*, REUTERS (Feb. 17, 2022) available at <https://www.reuters.com/technology/fbi-form-new-digital-currency-unit-justice-dept-taps-new-crypto-czar-2022-02-17/>.

<sup>15</sup> Press release, *Attorney General Merrick B. Garland Announces Launch of Task Force KleptoCapture*, (March 2, 2022), available at <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-launch-task-force-kleptocapture>.

<sup>16</sup> See Press release, *U.S. Treasury Announces Unprecedented & Expansive Sanctions Against Russia, Imposing Swift and Severe Economic Costs* (February 24, 2022) available at <https://home.treasury.gov/news/press-releases/jy0608>; see also Alan Rappeport, *U.S. escalates sanctions with a freeze on Russian central bank assets*, N.Y. TIMES (Feb. 28, 2022) available at <https://www.nytimes.com/2022/02/28/us/politics/us-sanctions-russia-central-bank.html>.

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investigate and prosecute sanctions violations, enforce existing banking regulations regarding know your customer requirements, and seize assets belonging to sanctioned individuals or identified as proceeds of unlawful conduct.<sup>17</sup> Andrew Adams, a veteran prosecutor in the Southern District of New York, will lead the task force.

The DOJ's task force will work in tandem with a transatlantic consortium of prosecutors based in the European Union, United Kingdom, and Canada—each of which has levied its own sanctions against Russia.

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These initiatives signal an uptick in criminal enforcement in the coming months, especially in the areas involving fraud, digital assets, sanctions, and money laundering.

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<sup>17</sup> Press release, *supra* note 16.

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