

SEC Drops Case Against Coinbase: What Are the Implications for Other Cryptocurrency Cases With the SEC?

Corporate News: A Legal Update

By Eric Fogel on March 3, 2025

On February 21, 2025, the Securities and Exchange Commission (SEC) announced it was dropping its case against Coinbase. In 2023, the SEC sued Coinbase for operating an unregistered exchange that sold unregistered securities.

The case was closely watched as a bellwether for how cryptocurrency, tokens, and other digital assets would be classified—as “securities” subject to SEC regulation or otherwise. Many in the crypto world believe this might represent the beginning of the SEC’s capitulation on its crypto enforcement litigation.

But not so fast. What about the *Ripple* case? The SEC first sued Ripple Labs, Inc. in 2020, claiming that its XRP tokens were securities under the *Howey* test. In short, the *Howey* test states that a financial instrument is a security if there is an investment in a common enterprise with the expectation of profits derived from the efforts of others.

The Differences Between Coinbase and Ripple Labs

Here’s the deal: The *Howey* test represents nearly 80 years of established jurisprudence, so why was the *Coinbase* case dropped? Coinbase is an intermediary and an exchange. It is not an issuer of tokens, non-fungible tokens, or other digital assets. Coinbase also made overtures to the SEC to work together to develop a rational regulatory framework for crypto exchanges. For these reasons, the SEC’s decision to drop the case against Coinbase was relatively easy, although we are sure that the professionals at the SEC who worked hard on the *Coinbase* case were loath to see it go.

Ripple Labs, on the other hand, is a cryptocurrency issuer. Of the more than 150 cases the SEC has brought in connection with crypto assets, many have been against cryptocurrency issuers. Digital assets that promote appreciation or staking, and that involve investments in common enterprises with expectations of profits derived from the efforts of others, are likely to be deemed securities

that will be caught in *Howey*'s maw. If these cases—and the digital assets at issue—were to be released from the maw of *Howey*, the implications for the securities industry would be staggering as many investment contracts would likely no longer be deemed securities.

With that in mind, don't expect the SEC's career professionals to start dropping *Howey* cases en masse.

Key Takeaways

First, don't expect *Howey*-based SEC cases to start falling like dominos. Remember behind each case, there are SEC professionals who have spent months or years obtaining the necessary authorizations to sue in the first place and who have been diligently working on the cases. Also, whether a case gets dropped is going to be very fact specific. If the SEC believes that the actor or actors are bad or wrongful, if investors have been deceived or bilked, then it will be hard for the SEC to drop the case without cutting against the grain of the SEC's core mission which is to protect investors.

What is the best approach if you are one of the unlucky ones to be caught up in one of these cases? The key is to contact the SEC now and work out a settlement that will demonstrate that you or your company is serious about compliance or a framework for becoming compliant with whomever emerges as the regulator, whether it's the SEC, CFTC, or a hybrid.

At Amundsen Davis, we represent our clients before the SEC and we help our crypto clients to design their digital assets strategically so as to avoid these pitfalls and pratfalls.

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