Fact Sheet

Crypto, FTX, Sam Bankman-Fried, SEC, CFTC, Banking Regulators and the Revolving Door

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Table of Contents

1. The fiction if not fraud of crypto was visible to all who wanted to see and weren't blinded by cash or the pixie dust of "innovation" claims

No one should be shocked by FTX's demise or the crash of crypto. The fiction (if not fraud) of crypto and its collapse were not hard to see as long as you weren't on the payroll of FTX/crypto (directly or indirectly) and didn't let FOMO and greed cloud your judgment. Not only did Better Markets see it and very vocally talk about it (including face-to-face with FTX's former CEO Sam Bankman-Fried [SBF] and his high-paid team as long ago as May 2022), but no less an authority than JP Morgan's CEO Jamie Dimon clearly saw it (calling it "worthless" in 2021 and in 2022 saying "They are decentralized Ponzi schemes, and the notion that it's good for anybody is unbelievable"). Ironically, Dimon got bullied into silence by his financial industry colleagues who wanted to get some of the crypto cash for themselves before the crash. As detailed below, the SEC and banking regulators also clearly understood the fraud of crypto, although the CFTC Chair decided to become a crypto cheerleader in an attempt to expand CFTC jurisdiction (even at the expense of gutting the SEC's ability to properly regulate the capital markets).

The many crypto investors, enablers, endorsers, and legitimizers weren't "seduced" by FTX and SBF as they now claim. They were just willing to accept whatever a billionaire with a "vision," claiming "innovation," and pretending to be a philanthropist said without doing the most basic due diligence or asking the most obvious questions if they thought it would make them rich. As Upton Sinclair said long ago, "it is difficult to get [someone] to understand something when his [wealth] depends on his not understanding it." FTX/SBF spent more than $100 million (and the larger crypto industry spent much more) to make sure many people (including smart and influential people who should have known better) had gigantic financial incentives to not understand, see or question the fiction and fraud that is crypto.

As was made clear in our review of FTX's materials and questioning Sam Bankman-Fried and his team, it really didn't take much to see that there wasn't much to that "vision" other than hope, smoke, and the desire to make a quick buck (well, ok, lots and lots of bucks). Moreover, SBF's claimed "risk-reducing innovation" was little more than a predatory business model based on eliminating numerous customer, investor, and financial stability protections (that had worked well for decades). **Frankly, that alone should have been a gigantic red flag**.

Unlike the many blue-chip investors like Sequoia Capital, who dreamed of dollars rather than due diligence, we didn't see either an "awesome" or "intimidating" intellect. They could have, as we did, reject his money ("$1 million or more" in our case), ask the tough questions about their predatory business model, quickly see that it was dangerous, and oppose their attempts to rip off retail customers, destabilize the markets, and gain access to the core of the financial system. To this day—after 14 years—there is no valid use case for crypto, and no amount of personality cult or hype will change the fact that it is really only good for gambling, ripping people off, money laundering, tax dodging and other illegal activities.

In short, there were numerous red flags flying that should have been visible to many and prompted thorough investigations, at a minimum from the CFTC, the Chair of which became a de facto partner of FTX and SBF in their Washington influence campaign as detailed by the Washington Post and below.

2. Special interest crypto legislation or regulation is not needed

Too many (again, who should know better) are still repeating industry talking points that the FTX collapse shows that new legislation and regulation is needed. That is not true.[1] The current laws and rules are fully adequate to address the lawlessness going on in crypto. It has been estimated that around 80% of the crypto tokens comfortably fall within the longstanding, clear, black letter law definition of a security (around since 1933) and the remaining fall within the equally longstanding definition of commodity (around since 1936). The problem is that the crypto industry refuses to comply with the securities and commodities laws (that exist to protect investors, customers, and financial stability) and, therefore, the vast majority of crypto products are unregistered securities and commodities being traded on unregistered exchanges.

[1] The one arguable, narrow, limited exception relates to the crypto spot market and maybe a couple of other aspects, but those "gaps" are tiny compared to the vast authority regulators already have and need to use more broadly and aggressively, no matter how much the self-interested CFTC wants to exaggerate the gap.

The SEC (already spread thin policing all the $100+ trillion capital markets) has used a significant amount of its limited resources to crack down on crypto, while staffing up to get the expertise necessary to fight crypto which is aggressively opposing everything the agency is doing. (Tellingly, the crackdown on crypto began under Trump's Republican SEC Chair Jay Clayton and continued under Biden's Chair Gensler – the SEC's enforcement program against crypto has been bipartisan because the mission of the SEC is nonpartisan: to protect investors and markets.) However, throughout these efforts, almost no one has come to the defense of the SEC; in fact, the industry's purchased allies have relentlessly bashed and attacked the SEC from all sides, even after FTX collapsed and SBF was arrested. The fact is that when the SEC has taken enforcement actions—even against the most blatant crypto Ponzi and pump-and-dump schemes—the industry claims they are engaging in illegitimate "regulation by enforcement" and their financially-backed political allies attack the SEC, attempting to pressure them into backing off.

Despite these baseless attacks from the crypto industry and its political allies, the SEC has an excellent record regulating and enforcing the law on crypto firms. The SEC has done this with a multi-track strategy to try to get the crypto industry to comply with the laws like every other law-abiding firm and industry in the U.S.:

1. It has publicly urged the industry to come in and work with the agency to come into compliance.
2. It has selectively brought enforcement action against people, products, services, and firms for breaking the law to maximize the impact and deterrent effect.
3. It has used its regulatory authority to deny crypto firms' requests to unlawfully engage in certain types of activities.

There are also some who complained that the SEC has not moved fast enough and should have filed cases more quickly. Those people do not understand the SEC's investigative process, which typically takes two or more years of investigation before being filed. In addition, they are ignoring the industry's scorched earth litigation tactics, forcing the SEC to spend much more time and resources fighting the lawbreaking crypto firms. For example, just one crypto company (Ripple) sued by the SEC has spent $100 million in legal fees in just two years. Given the SEC's broad legal mandate to regulate and police all of the securities markets, there is only so much it can devote policing the crypto industry. Put differently, the more it focuses on crypto, the less it has to focus on all the other parts of the securities markets.[2]

Adding insult to injury, some of the members of Congress who are now criticized the SEC for inadequate regulation and enforcement of FTX previously criticized it for investigating and scrutinizing crypto firms, which included FTX. The so-called "Blockchain Eight" sent a letter to the SEC Chair early in 2022 clearly suggesting that the agency back off its crypto investigations. The letter's lead author went on to say that "crypto startups must not be weighed down by extra-jurisdictional and burdensome reporting requirements. We will ensure our regulators do not kill American innovation and opportunities." FTX was one of the firms that the SEC was scrutinizing. This starkly

[2] The SEC is charged with overseeing approximately $118 trillion in annual securities trading on U.S. equity markets and the activities of more than 29,000 registered entities. The agency also oversees 24 national securities exchanges, 95 alternative trading systems, 9 credit rating agencies, and 7 active registered clearing agencies, as well as the Public Company Accounting Oversight Board (PCAOB), the Financial Industry Regulatory Authority (FINRA), the Municipal Securities Rulemaking Board (MSRB), the Securities Investor Protection Corporation (SIPC), and the Financial Accounting Standards Board (FASB). In addition, the SEC is responsible for reviewing the disclosures and financial statements of more than 7,900 reporting companies, of which approximately two-thirds are exchange-listed.

illustrates the incredibly difficult situation the SEC is in.

Those elected officials who are supposed to promote the public interest ***need to surge resources*** to the SEC and banking regulators so that they can enforce existing laws and rules on the crypto industry. This should be a no-brainer given the loss of more than $2.5 trillion in market value, the loss of billions if not trillions more in investors trading losses, widespread lawlessness, and the illegality and criminality exposed over the last 12 months.

3. Complying with the longstanding existing SEC rules is not the problem; crypto's refusal to comply with the law is the problem

The problem is not, as Coinbase and others claim, that registering with the SEC "is not possible." It is entirely possible, but crypto does not want to register because then crypto would have to comply with the customer/investor protection and financial stability rules like every other legitimate business. That would require crypto to, for example,

a) ensure disclosures and representations were fully accurate and materially complete (i.e., truthful transparency),

b) have systems and controls to protect customer assets, prevent internal theft and external hacks, etc.,

c) eliminate conflicts of interests or mitigate them while fully disclosing them,

d) maintain accurate books and records,

e) have robust and effective management, risk, legal and compliance programs,

f) be subject to routine examinations and supervision by the SEC and SROs like FINRA, and

g) have margin, liquidity, capital, etc., to fulfill all their obligations and prevent contagion in the event of severe volatility, significant losses, and crashes as we've been seeing for almost a year now.

Complying with those regulations is entirely possible, but that would interfere with crypto's profit maximizing predatory business model and it would reveal the Ponzi scheme that is at the core of the industry, as JP Morgan's Jamie Dimon has highlighted.

4. The crypto industry has chosen to break the law and is a lawless industry by choice

Rather than being a legitimate business that constructively engages in good faith with regulators and complies with the laws and rules as other legitimate companies do, crypto's chosen strategy is to fight against regulators and regulation, while trying to get the easiest regulator and most favorable legislation. Sure, some in the industry said they wanted to "engage" with regulators (on terms they dictate) and even wanted to be regulated (albeit as little as possible), but the clear strategy has always been to just break the law and at the same time buy as many politicians as possible to get special interest legislation that would give it the weakest, most friendly possible regulator and regulation.

Crypto clearly wants the form and appearance of regulation without the substance of real regulation. That's why the industry keeps pushing for the CFTC to be its regulator: the CFTC is the smallest and most chronically underfunded financial regulator. It is also the least understood by the public (and most people in Washington) and it receives minimal media coverage, in stark contrast to the SEC. Crypto believed the CFTC would be the easiest regulator to capture, dominate, manipulate, and keep defanged. Confirming that view, the CFTC has been only too happy to join the industry in what is little more than a transparent jurisdiction-expanding power grab. The shamelessness of this reached its apogee when the CFTC's Chairman not only de facto endorsed pending legislation that could have crippled the SEC's ability to police the capital markets (the Lummis/Gillibrand bill), but also claimed that Bitcoin would double in price if his agency was its regulator.

Of course, a financial regulatory agency should not be an industry cheerleader concerned with boosting the price of particular financial product - that's what industry-fawning financial regulators did in the early 2000s, which contributed to the 2008 crash. Sadly, the 2008 crash also shows why crypto's strategy of lawlessly fighting existing regulators and trying to buy special interest legislation is not irrational and, in fact, has recent precedents: the financial industry did that in the 1990s. After similar money-soaked influence campaigns, the financial industry knowingly broke the Glass Steagall Act to get it repealed, which happened in 1998 and which enabled the super-sizing of banks and proliferation of too-big-to-fail firms, and, in 2000, got the Orwellian named Commodities Futures Modernization Act (CFMA) passed, which deregulated derivatives. Both of those special interest laws served the short-term profit maximizing interests of the industry but endangered the financial system and economy and led to the catastrophic financial crash in 2008. That is the model that the crypto industry is employing – the only open questions are will it be successful and will the consequences be as catastrophic.

5. Regulators prevented the crypto collapse from becoming a financial crisis and crash that resulted in bailouts

Regulators at the banking agencies and the SEC withstood enormous political and industry pressure to allow crypto access into the core of the financial and banking system. The only reason the ongoing crypto carnage hasn't turned into a financial crisis, crash and bailouts is because those regulators did not allow those interconnections, which is what happened with subprime mortgages (and derivatives, thanks to the CFMA) in the early 2000s leading directly to the 2008 crash. No one should misunderstand: the pressure on those regulators was unimaginable, coming from

a) the crypto industry,
b) Wall Street's biggest banks and finance more broadly who were salivating at the prospects of becoming quick billionaires like SBF, and
c) the hundreds of political allies throughout Washington all purchased with crypto cash.

Because those regulators held the line (again, on a bipartisan basis under Trump and Biden, at least at the staff level), crypto has operated parallel to, but was not interconnected with the core of the financial and banking system.

If that had happened, either via legislation or if the regulators cracked under the pressure, then there would almost certainly have been a catastrophe. After all, more than $2.5 trillion of value has been vaporized in less than 12 months and widespread illegal if not criminal conduct has been repeatedly exposed. If the leading industry legislation (the Lummis/Gillibrand bill) had been enacted in 2021 prior to the Bitcoin peak in November and the industry had been therefore legitimized with the appearance but not the reality of regulation, the crypto industry would have access to the Federal Reserve's payments system, master accounts, etc. At the same time, the banking industry would almost assuredly have gone on a buying, selling, and trading crypto spree (with multiple layers of derivatives created, packaged, and distributed throughout the world).

Those deep and broad interconnections (which no doubt would have included large amounts of highly leveraged crypto products on the balance sheets of Wall Street's too-big-to-fail banks) would have resulted in the crypto carnage spreading widely, with FTX's collapse in particular igniting a contagion that would have quickly rippled throughout the financial system, just like the subprime-ignited crash in 2008. Moreover, if crypto and its allies like blue chip Fidelity had gotten their way, crypto would also have been stuffed into Main Street Americans' retirement and pension accounts.

As bad as it is that investors and customers have lost trillions of dollars, it pales in comparison to the damage that would have been inflicted if the country ***also*** suffered a financial crash that included untold amounts of losses in retirement accounts. That did not happen thanks to the vigilance, foresight, and steadfastness of the regulators at the banking agencies and the SEC.

6. The CFTC failed to properly scrutinize and evaluate FTX and SBF

Not all financial regulators deserve to be praised; in fact, the CFTC failed miserably here. Rather than aggressively regulating crypto and skeptically scrutinizing its claims, the CFTC has spent most of its time cheerleading the industry and trying to expand its jurisdiction rather than worrying about investor, customer, markets, and financial stability protections. In addition to the highly questionable conduct and statements of the CFTC Chairman discussed above in paragraph 4 (as well as de facto endorsing legislation precipitously if not recklessly), it appears to have been grossly deficient in scrutinizing the claims and conduct of LedgerX, at that time doing business as (d/b/a) FTX US Derivatives LLC, a subsidiary of FTX US, which is a U.S. designated market maker (DMM), swap executive facility (SEF), and derivatives clearing organization (DCO) licensed, regulated, and supervised by the CFTC.

If the CFTC had been acting like an independent regulator, skeptically asking the key questions and reviewing the key documents, at least some of FTX's deficiencies and failures (lack of corporate governance, compliance and controls; commingling of funds; gross mismanagement; conflicts of interest; improper relationship with affiliates like Alameda; etc.) could have—and should have—been identified and remedied or enforcement action could have been taken. After all, FTX US Derivatives was seeking to radically and dangerously change the structure and operations of commodities clearing houses while opening the floodgates to millions if not tens of millions of retail investors into those commodity markets.

Moreover, it was clear that FTX had a fundamentally predatory business model that depended upon eliminating numerous customer, investor, and financial stability protections: it was proposing to automatically review margin "at least once per second" 24 hours a day, 7 days a week, 365 days a year, and automatically liquidate any account where the margin was insufficient. Given the volatility of Bitcoin (i.e., frequent wild price swings), it was clear that FTX's customers were either going to have to substantially over-margin their accounts or many were going to be auto-liquidated. After all, retail investors do not monitor their Bitcoin futures accounts every second of every hour of every day in the year – they sleep, eat, drive the kids to school, work, etc., unlike FTX's computers which would be closing them out at all hours of the day and night. This would likely result in an enormous windfall for FTX because it was not likely to immediately liquidate the positions that moved against their customers but take them into inventory and only close them out once the market moved in FTX's favor.

Finally, FTX's proposal created very significant financial stability risks due to the radical changes proposed to the risk mitigation waterfall protections (which, again, have worked well for decades). Because clearing houses are systemically significant, they are required to have multiple independent sources of financial support in the event of broken trades, member failures, or other stress to prevent the clearing house from collapsing and causing contagion igniting a broader financial crisis. By proposing non-intermediated trading (i.e., eliminating FCMs), among other things, FTX was proposing to collapse the waterfall and reduce the number of independent sources of financial strength. Worse, FTX was proposing to substitute itself for a number of those previously independent sources of strength, principally by proposing to have a $250 million reserve fund.

Astonishingly, rather than aggressively asking the most basic questions raised by these radical and dangerous proposals (as we repeatedly suggested in real time during 2022, including here and here), the CFTC bent over backwards to be accommodating to FTX and SBF. Apart from having an open door to FTX and SBF (with Chair Behnam alone admitting to personally meeting with them an unprecedented 10 times in 14 months), Chair Behnam staged a biased, one-sided roundtable (that pretended to be open, transparent, and inclusive) to promote FTX's proposal. The thrust of the roundtable was ***when*** the FTX proposal would be approved, not ***if***.

The CFTC's claim that they could not know what was going on at FTX outside of the regulated entity (LedgerX at the time dba as FTX US Derivatives) because they had no legal authority to even ask questions that might be technically true, but is wildly inaccurate and misleading if not patently false. FTX desperately wanted the CFTC to approve its proposal and, indeed, we now know desperately needed the CFTC to approve it (because it would almost certainly have resulted in a huge cash infusion that it desperately needed to stabilize its finances). As a result, the CFTC had enormous leverage over FTX and SBF to ask for and obtain almost any information and documents it wanted. It not only could have but should have asked for that information. Indeed, the proposal filed with the CFTC was so inadequate and grossly deficient that we believed the agency lacked an adequate record upon which to even make an informed decision to approve the application, as we pointed out several times (including noting that any such decision on that deficient record would be arbitrary and capricious).

Given the elimination of so many customer protections and the financial stability implications, it would have been reasonable and appropriate for the CFTC to demand to know and review exactly how the regulated entity's parent company, FTX, and affiliates handled everything from customer onboarding to liquidation, conflicts of interest, compliance and controls, and the many other issues raised by the proposal. For example, if the CFTC had asked to talk to FTX's compliance officer, it would have learned that FTX did not have one. That would have been a red flag. Similarly, obtaining documents about FTX's management of conflicts as well as compliance and controls would have quickly surfaced more questions than answers (as we learned when we asked FTX and SBF those questions in our meeting and we had none of the power and authority of the CFTC). Finally, LedgerX at the time dba as FTX US Derivatives did not have the financial ability to fund the $250 million reserve fund. That money had to come from FTX, providing the CFTC with another independent reason to scrutinize LedgerX's affiliates. (A number of the basic, obvious questions the CFTC should have asked FTX and SBF are outlined here.)

Given that we now know that most of FTX's glaring deficiencies were lurking just under the surface of a massive fraud and Ponzi scheme, the CFTC asking FTX the simplest questions, reviewing the most basic documents, and talking to the key people would likely have identified red flags if not more. After all, the Enron-experienced CEO appointed to lead FTX once it filed bankruptcy testified that there was "a complete failure of corporate controls" and "a complete absence of trustworthy financial information." If the CFTC really is as tough and capable a regulator as it claims to be, presumably it could have identified at least some of this……….if it had only done its job.

7. Crypto is still dangerous and looking for a legislative bailout

Even after the loss of more than $2.5 trillion in market value, widespread illegal and criminal conduct, the collapse of FTX, and the collapse or near-collapse of many other firms, the crypto industry is still pushing baseless arguments to save its businesses and get a legislative bailout. While Bankman-Fried and FTX may have been the face of crypto in Washington over the last few years, they were not alone in spending lots of time and money to influence the policymaking process. There are still dozens if not hundreds of lawyers and lobbyists working behind the scenes in much less visible roles for the industry and trying to bend the laws and rules to their favor. And, of course, they continue to make campaign contributions to their political allies.

In particular, they are now claiming that FTX's collapse shows (a) the need for crypto-specific legislation and (b) the regulators especially the SEC failed by being hostile to the industry and (at the same time) by not enforcing the law aggressively enough. The baselessness of these industry talking points is clear:

> (a) they assume, incorrectly, that the supposed legislation would actually properly regulate crypto and protect investors, consumers, and financial stability (highlighted by claims that the proposed laws would establish genuine and effective "regulatory guardrails"), and
>
> (b) they ignore (i) that the crypto industry has chosen to break the securities and commodities law as a business strategy for years, and (ii) that the industry has aggressively fought – and continues to fight - the SEC at every opportunity, slowing and obstructing the agency's effort to enforce the law against it.

At this point, virtually any legislation would be a bailout for two critical reasons. First, the industry is seeking a legislative and regulatory "blessing" to grow the crypto business, which, as Bankman-Fried believed, "would usher in a wave of investment from traditional players scared off by the industry's Wild West reputation." Without the legitimacy that comes from virtually any legislation, the crypto death spiral will likely continue. Second, it wants and needs access to the federal safety net (meaning bailouts when they get in trouble) either directly by legislation that requires such access or by legislative provisions that enable interconnection with the banking system which would result in bailouts.

For example, the Digital Commodities Consumer Protection Act (DCCPA) is reportedly being modified by the Senate Agriculture Committee even though it poses serious risks to investors, customers and financial stability, which are detailed in a letter Better Markets sent to the Senate in January 2023. For example, the previously released bill expands the definition of a commodity and narrows the definition of a security, effectively limiting the SEC's authority and impairing its ability to crack down on crypto crooks. It would also allow crypto exchanges to self-certify their products and sell them to retail investors without adequate independent review. Given the industry's history of repeatedly breaking or ignoring the securities and commodities laws, this invites more lawbreaking and will, again, impair the SEC's ability to police the securities markets, exposing even more Americans to being ripped off and losing their hard-earned money to crypto frauds.

While the disheveled, super-casual and earnest everyman that Sam Bankman-Fried presented himself to be (while also being a philanthropist genius with an "intimidating intellect"!) may be gone, the rest of the industry, its army of lobbyists and lawyers, and it's millions in campaign contributions are still working the dark corners of Washington to bend the laws and rules to benefit them, including many crypto CEO's now sporting reassuring suits-and-ties. Sartorial differences aside, they are largely after the same things: minimal legislation and regulation to legitimize and expand their crypto businesses; weak oversight and enforcement to maximize profits; and interconnections with the banking system so that they can be bailed out when trouble strikes. The 2008 crash showed how bad that can be and responsible public officials should not let that happen again.

8. The revolving door of former public officials selling out their public service and unlimited campaign contributions continues to corrupt policymaking

The crypto industry is following the financial industry's standard playbook of using all the levers of the influence industry to buy special treatment for its special interests at the expense of the public interest. That means buying as many lawyers, lobbyists, PR flacks, academics, advocates, and influencers as possible, much of that detailed here. It also includes spending enormous amounts on media advertising and "sponsorships" to maximize highly favorable if not one-sided media coverage which engenders yet more advertising and sponsorship spending. Setting up "trade groups" and other front groups to push the industry's messaging and goals is also part of the strategy. The key to that influence campaign is to buy as many former public officials and regulators as possible to gain access to their expertise, inside knowledge, and networks developed when they were supposedly working in the public interest.

The importance of those revolving door hires cannot be overstated because they not only enable ready access to current policymakers and regulators, but also to the inside knowledge that enables crypto to precisely tailor and target their strategies to be optimally successful. That inside knowledge combined with connections is what makes revolving door hires so valuable and pernicious, as detailed here regarding the 13 former CFTC officials FTX put on its payroll. Of course, that is all supported by the hundreds of millions of dollars spent on campaign contributions, which opens even more doors for the revolving door hires to walk through. Without all that, crypto would not have the influence and access necessary to hijack the public agenda and subordinate the public interest to their special interests. Dealing with this legal corruption should be the highest priority.

9. FTX/SBF came perilously close to getting away with their scheme and crimes

FTX and SBF came very close to achieving their legislative and regulatory goals, which would likely have resulted in a massive infusion of investor cash which just might have enabled them to stave off bankruptcy and continue running their criminal Ponzi scheme for years longer. They operated on two parallel tracks to accomplish two key objectives:

1) get the CFTC to approve their predatory proposal to radically change commodity clearing structures and practices, and
2) get the Congress to pass special interest crypto legislation that would legitimize the industry while putting the smallest, weakest, least funded, and most capture-able financial regulator, the CFTC, in charge of the crypto industry.

In addition to meeting with the CFTC Chair 10 times in 14 months (almost certainly unprecedented), FTX, SBF and their lawyers and lobbyists met and otherwise communicated with innumerable CFTC officials, including partying with them at various trade group gatherings like the FIA's 2022 conference in Boca Raton Florida. How does one firm get such repeated access and attention at the highest levels? A key part of the answer is the revolving door: it appears that no less than 13 former officials spun through the revolving door from the CFTC payroll to FTX, either directly as employees or indirectly as lobbyists, lawyers, or consultants. The result was a twofer: open doors, open phone lines, and apparently open arms at the CFTC, ***and*** the CFTC Chair endorsing and aggressively pushing for FTX's and SBF's preferred legislation (including trying to get the other four CFTC Commissioners to endorse the bill upon filing sight unseen). Given his many highly favorable comments about FTX and its proposal, many believed that the CFTC at the direction of the Chair was on the verge of approving FTX's proposal.

On the special interest legislation track, FTX and SBF appears to have spent $100 million or so in campaign contributions, buying access if not influence and allies throughout Congress. They spent many millions more on lobbyists (many if not all of whom went through the Congressional revolving door) and wining and dining Congressional staff or at least holding "happy hours" for them. Four senior Senators filed two separate pieces of legislation that were endorsed by FTX, SBF and the Chair of the CFTC, two of the four were the Chair and Ranking member of the Senate Agriculture Committee that had jurisdiction over the CFTC, which held highly favorable hearings on crypto. That bill, the Stabenow-Bozeman bill, was to be marked up in September 2022 and targeted for passage by the end of 2022 (even though it had numerous concerning provisions to say the least). The September markup got delayed because of turmoil in the crypto markets unrelated to FTX; there was talk of marking it up during the Congressional recess so that it would be ready for passage in the upcoming, post-election lame duck session (by attaching it to must-pass legislation if not as a standalone). However, media reports in early November raised questions about FTX's value and business practices, including misuse and loss of substantial customer funds, that quickly led to its collapse into bankruptcy on November 11, 2022.

Remarkably, just two days later and before knowing any of the facts, the CFTC Chair said that the FTX and SBF endorsed legislation should be immediately passed "no questions asked." The Senate Agriculture Committee then held a hearing, at which the CFTC Chair was the only witness, on December 1, 2022, bizarrely titled "Why Congress Needs to Act: Lessons Learned from the FTX Collapse," which focused on their FTX and SBF endorsed legislation. Of course, by then, just days after the collapse, they still knew next to nothing about what happened at FTX, much less what lessons might or might not have been learned. Proving that, SBF was arrested 12 days after that hearing and innumerable subsequent events have demonstrated repeatedly that even now many of the key facts are not known, as illustrated by the multiple criminal plead agreements and as reiterated by FTX's latest bankruptcy filing on March 2, 2023.

10. Even crypto industry polling is a sham

A key way the crypto industry continues to try to pressure elected officials to enact favorable legislation is to claim tens of millions of Main Street Americans own or trade crypto and they must be protected. But the purchased studies and polls that they use are misleading if not fraudulent.

For example, the crypto industry's latest charade is touting the results of a poll conducted by Morning Consult at the behest of crypto exchange Coinbase. They claim to have surveyed 2,202 respondents about a series of questions related to crypto and Coinbase issued a release entitled "New Survey of 2,000+ American adults suggests 20% own crypto and the vast majority see an urgent need to update the financial system." With about 235 million adults in the US, that means that 46 million or so adults "own crypto."

However, the survey appears to have been skewed to artificially inflate that number. The fine print of the methodology of the poll it says "the survey included an oversample of n=500 current U.S. cryptocurrency investors." Thus, by overweighting known crypto users, the poll appears engineered to ensure that it included more than 20%

of respondents that are already cryptocurrency investors. So, it should be no surprise that the poll claims that 20% of respondents currently own crypto. Unsurprisingly, the crypto industry is using this rigged poll to push the false narrative that about 50 million Americans own crypto.

For more information, contact Anton Becker, Communications Director, at 201-675-8049 or abecker@bettermarkets.org.

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