Further SEC Action and Guidance With Respect to ICOs and Cryptocurrencies

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The SEC took two additional steps today in its regulation and oversight of the initial coin offering ("ICO") and cryptocurrency markets.

In the SEC's latest action targeting an ICO, the SEC Enforcement Division's new Cyber Unit intervened in an attempted ICO by Munchee, Inc., an online food review service with plans to build out its network on blockchain. In its cease-and-desist order, the SEC found that the tokens offered by Munchee were securities, and that Munchee violated Section 5 of the Securities Act by not registering the offer and sale of the tokens. According to the order, after being contacted by the SEC, Munchee halted the offering and refunded investor proceeds. For more information, see the Order or the SEC's related Press Release.

Also on Monday, SEC Chairman Jay Clayton released a public statement on cryptocurrencies and ICOs, providing additional views on the cryptocurrency and ICO markets. Mr. Clayton urged Main Street investors to ask questions and demand clear answers prior to investing in ICOs or cryptocurrencies, and provided a list of sample questions for investors considering an investment in these markets. Mr. Clayton addressed again the issue of when digital tokens or coins are "securities," and also addressed the question as to whether all digital assets labeled as "cryptocurrencies" are beyond the SEC's jurisdiction. The full statement can be read here.

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Related Professionals

- **Louis Rambo**
  Partner