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First-of-its-Kind Crypto Insider Trading Conviction

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In the first insider trading case involving cryptocurrencies, a crypto trader was convicted of insider trading in federal district court and recently sentenced to 10 months in prison.

The defendant, Nikhil Wahi, pleaded guilty in the U.S. District Court for the Southern District of New York to illegally trading on information tipped by his brother, a former Coinbase product manager. According to his plea, Wahi used that information to trade on 40 different kinds of crypto assets were scheduled to be listed on the Coinbase platform between April 2021 and July 2022, when he was arrested. Prosecutors alleged that Wahi used those tips to sell crypto assets for a profit. Under the terms of the plea agreement, Wahi agreed to serve ten months in prison. Wahi's brother, Ishan Wahi, has pleaded not guilty and is due to appear in court in March.

While insider trading is hardly an uncommon charge, the conviction represents the first insider trading conviction in the cryptocurrency market – but it is unlikely to be the last. Following Wahi's guilty plea, the U.S. attorney for the Southern District remarked that the sentence "makes clear that the cryptocurrency markets are not lawless." Indeed, ever increasing scrutiny over the crypto industry has come from both prosecutors– including in the infamous FTX case – but also in the regulatory context. Just this past summer, the U.S. Commodity Futures Trading Commission Chairman urged congressional action on crypto regulation, while the SEC Chair Gary Gensler has been clear that he plans to use the SEC's powers to increase oversight of the crypto industry, including in enforcing conflict of interest laws.

Wahi's conviction appears to be the latest in a series of government actions seeking to increase oversight of the cryptocurrency market – and deter possible criminal activity. While his insider trading conviction follows longstanding enforcement theories, the government could use novel approaches as it grapples with how to regulate the emerging crypto industry. This possibility underscores the important role that outside counsel can play in helping companies and individuals succeed in the crypto market while minimizing prosecutorial risk.

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