

# CRYPTOCURRENCY

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## Current Status of Cryptocurrency ETFs

- As of June 2021, the U.S. Securities and Exchange Commission (SEC) is reviewing *three* cryptocurrency ETF applications from Kryptcoin, VanEck and WisdomTree.
- The SEC has not yet approved any cryptocurrency ETF.

# FINRA Guidance

- Regulatory Notice 18-20 (July 6, 2018)
  - FINRA requests that each firm promptly provide notification to its Regulatory Coordinator if it, or its associated persons (including activities under Rules 3270 and 3280) or affiliates, currently engages, or intends to engage, in activities related to digital assets, including digital assets that are non-securities.
- Reg. Notice 19-24 (July 18, 2019)
  - FINRA encouraged firms to promptly notify their Regulatory Coordinator if it, or its associated persons (including activities under Rules 3270 and 3280), or affiliates, currently engages, or intends to engage, in any activities related to digital assets through July 31, 2021.
- Reg. Notice 20-23 (July 9, 2020)

# FINRA Disciplinary/Enforcement

## FINRA AWC No. 2018059948701 (Jan. 2020)

- Former MML registered representative participated in an outside business activity related to cryptocurrency without providing prior written notice to MML in violation of Rule 3270 and 2010.
- Firm caught his activity through its routine monitoring of social media and filed a Form U5 within 30 days disclosing that the RR was permitted to resign “in connection with [an] undisclosed outside [business] activity.”
- RR received a seven-month suspension and no monetary fine (based on an affidavit submission of an inability to pay).

## FINRA AWC No. 2019061456701 (June 2020)

- Former Wells Fargo RR engaged in undisclosed outside business activities away from the Firm. He established and/or participated in the operation of five businesses created to invest in cryptocurrency without providing notice to his Firm. He also raised capital from six investors for his LLC-entities without providing Wells Fargo with prior written notice.
- Firm caught his activity
- FINRA concluded that he violated Rule 3270 (governing outside business activities), 2010 (governing standards for commercial honor and principles), and 3280 (private securities transactions).
- RR received 18-month suspension and \$15,000 fine.