

FROM THE MAGAZINE APRIL 2021 ISSUE

# THE RISE AND FALL OF BITCOIN BILLIONAIRE ARTHUR HAYES

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The BitMEX cofounder created a cryptocurrency exchange that has traded trillions. Now he's wanted by U.S. authorities, and insiders wonder whether he and his partners are villains—or victims of a two-tiered justice system that favors big banks over brash outsiders.

BY ADAM CIRALSKY

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Arthur Hayes, 2018. PHOTOGRAPH BY ADAM FERGUSON.

# CRAZY RICH

**A**rthur Hayes lives large. Like Bobby Axelrod-in-*Billions* large. Just replace New York with Hong Kong and infuse it with a dose of Silicon Valley—where unicorns spring from the minds of irrepressible company founders—and, well, you get the picture. One minute Hayes is hitting the powder in Hokkaido, the next he’s crushing it on a subterranean squash court in Central—Hong Kong’s Wall Street. And all the while he keeps one eye trained on an obscure-sounding currency exchange that he built out of thin air and through which more than \$3 trillion has flowed.

Screen-star handsome and fabulously wealthy, the African American banker turned maverick personifies the contemporary fintech pioneer. But the feds describe Arthur Hayes differently: a wanted man who “flouted” the law by operating in the “shadows of the financial markets.” Hayes’s indictment was unsealed in October, and he remains at large in Asia as prosecutors in New York hope to arrest him and try him on two felony counts, which carry a possible penalty of 10 years in prison.

This is a tale of new money versus old, financial whiz kids upstaging banking’s old guard, and American authorities attempting to apply 20th-century laws to 21st-century innovation. Prosecutors allege that Hayes and his business partners violated the Bank Secrecy Act by failing to implement and maintain an adequate anti-money-laundering program—to weed out bad actors and dirty money. Meanwhile, Hayes’s colleagues in the cryptocurrency world believe he is being punished for building an ingenious product that has baffled lawmakers, bedeviled regulators, and—once it became wildly popular—posed a threat to some of the markets’ biggest players. Adding to the chorus of voices are some high-powered legal experts who consider the case *United States of America v. Arthur Hayes* to be largely unprecedented.

At a time when the SEC is seemingly doing the bidding of Wall Street titans—eager to punish the unwashed masses of day traders for scuttling banks’ and hedge funds’ trading positions on **GameStop** and other stocks—Hayes might just be patient zero when it comes to exposing the hypocrisy in high finance that is now coming into sharp relief.

## THE CRYPTO GOLD RUSH—AND A BACKPACK FULL OF CASH

**H**ayes, 35, went radio silent in October. But the crypto condor has not always been so elusive. Born to middle-class parents who worked for General Motors and were beholden to the ever-changing fortunes of the auto giant, he split his formative years between Detroit and Buffalo, where his mother, Barbara, moved mountains to get her gifted son into Nichols School, a leafy

private institution founded in 1892. “He succeeded at everything, from his studies [to] the sports field, to making lasting friendships,” reads a testimony, featuring Barbara, on one of the fundraising pages of the school’s website. “Nichols gave him the setting, the stimulation, and at one point, the scholarship to thrive.” Hayes, in return, has given back: underwriting a scholarship that ensures “a deserving student will be able to experience the excellence of a Nichols education and the lifelong benefits it brings.”

After attending the Wharton School of business, he headed off to Hong Kong, where he worked at Deutsche Bank and Citibank as a market maker for exchange-traded funds, or ETFs—hybrid securities that, not unlike mutual funds, diversify an investor’s risk but can be traded like stocks. Hayes was just hitting his stride when a pink slip arrived in May 2013. “Bankers tell you everybody has a bullet with their name on it,” he explained one afternoon over tea at the Marina Bay Sands in Singapore—the iconic hotel featured in the finale of *Crazy Rich Asians*. He was wearing his standard attire: skintight T-shirt, jeans, and a pricey timepiece (a Hublot Big Bang). “I wasn’t married, had no kids, no obligations. I had been an investment banker, so I wasn’t sleeping on the streets. I wanted to build something.”

(I interviewed Hayes and some of his cohorts in Hong Kong, Singapore, and New York in 2018 and 2019. Since the October indictment, I have spoken at length with insiders who know and are in communication with Hayes and his two indicted business partners, **Ben Delo** and **Sam Reed**. A number of these sources requested anonymity so as not to prejudice pending legal proceedings; on the advice of counsel, Hayes, Delo, and Reed opted not to comment for this story.)

But back to that pink slip. Eight years ago Hayes, out of a job, decided to go solo, combining his knack for designing novel financial instruments with a newfound passion: cryptocurrency. Specifically, Bitcoin.





Jehan Chu, 2018. PHOTOGRAPH BY ADAM FERGUSON.

Cryptocurrency, it bears repeating, is a digital form of payment and a method for storing value. It relies on a secure, decentralized ledger—called a blockchain—to record transactions, manage the issuance of new “coins” or “tokens,” and prevent fraud and counterfeiting. Though there are thousands of such currencies out there, Bitcoin is by far the most durable, despite having a dubious backstory involving an enigmatic creator named Satoshi Nakamoto, whose existence and identity have never been established. Bitcoin’s blockchain was designed so that only 21 million “virtual coins” would ever be “mined.” That kind of verifiable scarcity—in contrast with the tendency of the world’s central bankers to print money, whether in a pandemic or whenever it is politically expedient—has contributed to the currency’s precipitous rise in price, from less than a penny in 2009 to over \$41,000 in January 2021. In 2020 alone the coin rose over 300% in value.

At first Hayes was a nobody among crypto’s dank sea of tax evaders, drug dealers, arms traffickers, child pornographers, contrarian libertarians, and wanker bankers pining for a return to the gold standard. They were united by their disenchantment with old-school banking and its laggardly pace, onerous verification requirements for opening accounts and moving money, and a sense that the relationship between Big Finance and Big Government had become entirely too cozy. In their view, governments,



starting with the U.S. and rippling outward, believed and acted as though they had a monopoly on money and resisted the crypto uprising, in which people were investing in reputedly anonymous digital assets to make a profit, hide their wealth, flip off the establishment, or some combination thereof. The crypto gold rush initially attracted three types of players: visionaries with gold-plated résumés, boiler room sharks who could recite just enough buzzwords to B.S. their way through a capital raise, and the inevitable parasites who latch on and try to feed off the others.

Not surprisingly, Hayes ran with the smart set. “I bought my first Bitcoin from Arthur in 2013,” recalled **Jehan Chu**, a New Jersey native who followed a circuitous route to the Pacific Rim. While an undergrad at Johns Hopkins, he taught himself how to code just in time for the first dot-com boom, in the late 1990s. After working at a small web development shop in New York, Sotheby’s came calling, looking to Chu to help the auction house grow its digital presence. “We famously sold the Declaration of Independence in 2000,” he exclaimed, referring to one of the last remaining copies in private hands. After the \$8.14 million **transaction**, the online market dipped, and Chu moved to Hong Kong to help Sotheby’s cater to ultra-rich Asian clients, many of whom had a seemingly insatiable appetite for art and artifacts.

In his spare time Chu organized brainstorming sessions for enthusiasts of digital currencies. What started with five people at a smoky bar in Sheung Wan, however, quickly grew into a community of thousands. By 2016, he told me, Chu had “turned his compulsion into a career,” establishing Kenetic, a venture capital firm that trades crypto and has invested in over 150 companies. Meanwhile, he watched in amazement as his friend Arthur took the crypto world by storm, going from an artisanal trader to an industry titan.

Arthur Hayes started small, with arbitrage: buying Bitcoin in one market and then selling it at a premium in another. Things were humming along until October 2013, when he had problems accessing coins he had sent to Mt. Gox, a Tokyo-based Bitcoin exchange that helped patrons convert their holdings into “fiat money”—traditional legal tender such as the dollar, euro, pound, or yuan. In early 2014, Mt. Gox declared that hackers had stolen nearly \$500 million from its coffers. Unlike most other depositors—some 24,000—Hayes managed to get his money out and in the process learned an important lesson: Exchanges constitute a single point of failure in the otherwise secure Bitcoin ecosystem. Mt. Gox might have been the most infamous such hack, but dozens of exchanges have been hit, and untold billions—in Bitcoin and other cryptocurrencies—have vanished.

Hayes, however, decided to take his money elsewhere. When he heard Bitcoin was trading significantly higher on the Chinese mainland, he bought a bundle, transferred the coins to an exchange in China, and swapped them for yuan—literally lugging around a backpack containing stacks of banknotes. “Over a period of days,” he recounted, “I physically crossed the border by bus to Shenzhen with some friends, had lunch, and came back over the border carrying legal amounts [of cash].” It was a neat trick and relatively lucrative. But the real-world hazards of schlepping real money across international borders got him thinking: Why not build an online exchange where people could *really* profit off of their Bitcoin by using derivatives? (A derivative is a financial contract whose value is based on the performance of an agreed-upon underlying asset—in this case, cryptocurrency.)

It was an idea that would require serious technological chops—not only to build, but to persuade a deeply skeptical crypto community that Hayes had solved for the security and accounting lapses that had plagued earlier exchanges.

## BITCOIN AND BEER

**I**n January 2014, Hayes arranged a meeting at a swanky rooftop watering hole with Ben Delo, a brainy British mathematician and programmer whose classmates at Oxford reportedly voted him the most likely to become a millionaire—and the second most likely to wind up in prison. After graduating in 2005, he worked for IBM, two hedge funds, and, after moving to Hong Kong, JPMorgan.

When Hayes and Delo got together, little about them suggested they would storm the ramparts. On paper both had establishment C.V.s: elite educations and stints at blue-chip companies. Yet each was an outlier. Hayes, the scholarly son of autoworkers, had forsaken the regimented and highly regulated world of investment banking for crypto’s Wild West, where rules were made on the fly and regulations were few. Delo, according to Sir **Jonathan Bate**, provost of Oxford’s Worcester College, “overcame great difficulties in his school career to win a place at Oxford from a local state school.” In fact, as the child of a civil engineer father and schoolteacher mother, he was expelled from three grade schools before he was diagnosed with Asperger’s. At Oxford, where he double majored in math and computer science, he earned what the Brits call a double first, graduating with a perfect GPA in both subjects.

As the pair mapped out what it would take to turn Hayes’s vision into reality, Delo—an expert in the back-office work of designing complex algorithms and high-speed trading systems—said they needed a front-end web developer to handle the consumer-facing side of things. Hayes knew just the guy, a young American coder and tech evangelist named Sam Reed, whom Hayes had met after a speech Reed had given in which he’d warned his aspiring-techie audience not to join start-ups, whose owners often

exploited and stiffed their coders. When Hayes pitched Reed on his idea for a Bitcoin-derivatives exchange, Reed, disregarding his own advice, signed on immediately.

The youngest of three boys, Reed had grown up in Manitowoc, Wisconsin. His father had been a network administrator for the Air Force and his mother worked as a newspaper editor. There were plenty of old computers lying around the Reed household, and Sam managed to get them working. By age 12 he had a paying gig: debugging and repairing P.C.s for friends and neighbors.

Reed was much younger than Hayes and Delo, yet he had been at the crypto game the longest. By 2009, his senior year at Washington and Lee, the self-described “Bitcoin hipster” was mining Bitcoin on his laptop at a time when the currency was next to worthless. Reed racked up roughly 100 Bitcoins along the way, but in the process of reformatting a hard drive, accidentally erased the private keys required to access them, rendering his cache untouchable. (Today those coins would be worth \$3.1 million.)

Reed was less institutional and more peripatetic than Hayes and Delo. He worked for a large defense contractor, found the corporate world suffocating, and bided his time at a couple of start-ups and freelance gigs before finding his way to Hong Kong in 2013. In an online career forum with his alma mater—taped while sitting in a hut in Thailand—Reed shared crypto-business tips. Among his insights: “In a gold rush, you don’t want to mine the gold. You want to sell the shovels.” At one point Reed remarked that he’d been toying with the idea of building an online exchange to trade cryptocurrencies, explaining his rationale: “If you can cut the banks out, you cut most of the complexity out. You cut out a lot of where U.S. law kind of gets involved with [anti-money-laundering], know-your-customer, KYC, kind of stuff, and you get rid of a lot of the fraud because all this, you know, internet money is actually verifiable, you know, by design.”

Hayes, Delo, and Reed began working in earnest on what they termed the Bitcoin Mercantile Exchange (BitMEX). Arthur Hayes was the CEO, Ben Delo the COO, and Sam Reed the chief technology officer (CTO). As buttoned down as those titles sound, BitMEX, at first, was just three dudes with laptops working by day out of a Starbucks at Jardine House, a ’70s-era Hong Kong skyscraper adorned with porthole windows. At night they’d retreat to Hayes’s apartment with beers from 7-Eleven.

## NASDAQ MEETS VEGAS

**B**itMEX was billed as “a peer-to-peer trading platform that offers leveraged contracts that are bought and sold in Bitcoin.” It allowed users to effectively bet on the currency’s future price with leverage of up to a dizzying 100 to one. Translation: A customer with \$10,000 in his or her BitMEX account could seamlessly execute a trade worth a cool \$1 million. The lure of the exchange lay in the fact that people could make big money by putting in relatively modest crypto seed money.



In a blog entry on the BitMEX site, Hayes mused, “Trading without leverage is like driving a Lamborghini in first gear: you know it’s safer, but that’s not why you bought it.” His friend Jehan Chu compared BitMEX to the NASDAQ— “if the NASDAQ was located in Las Vegas.” When pressed about the potentially catastrophic downside of letting people trade so much on margin, Chu insisted that personal responsibility has always been central to the crypto ethos. “You put on 100x? Make sure you read the fine print. Mommy’s not here to make sure you don’t fall off the skateboard.”

**Hartej Singh Sawhney** is another one of the colorful characters in the American expat crypto circle. With a turban made, in his words, from “secret fabric,” and an eponymous line of clothing—which he describes as Burning Man by way of Punjab—the first-generation Sikh American began hosting Bitcoin meetups a decade ago in Vegas, where early attendees included aspiring magicians and poker players. Now based in Kiev—which he contends is far more hospitable to digital currencies than the U.S. is—he helps build and secure blockchain companies. Sawhney has been sympathetic to BitMEX’s business model, insisting, “They are running a pretty sophisticated casino environment. But I’m a free market guy. In my book BitMEX should be able to put up whatever. Their terms are very clear.”

The birth of BitMEX six years ago was perfectly timed—yet dangerously fraught. In the eyes of U.S. authorities, Bitcoin was then transitioning from being the favored currency of bad actors (exemplified by the 2013 takedown of Silk Road, the notorious black market for drugs and guns-for-hire) to being an investment-grade asset that institutional players were starting to buy as a safeguard against inflation—and for its promise of outsize returns. Hayes, Delo, and Reed were in the catbird seat and began to accumulate serious wealth. (All three are billionaires, according to sources familiar with their finances.)



Left, Sam Reed in Croatia, 2014 on the day of BitMEX’s launch; center, Arthur Hayes, Sam Reed & Ben Delo (L-R) in Dublin, 2014; right, Ben

At the same time, though, they were outsiders, suddenly playing in an arena that insiders were looking to co-opt. Their high-speed, highly leveraged offerings harkened back to the kinds of potentially toxic financial instruments that would eventually draw scrutiny from regulators—and later generate laughs in **Adam McKay's** 2015 film, *The Big Short*, based on the **Michael Lewis** best seller. (Remember synthetic collateralized debt obligations?) For all its upside, BitMEX came with a vertiginous risk.

“This stuff is happening very, very fast—it didn’t exist 10 years ago,” explained **J. Christopher Giancarlo**, who served at the powerful Commodity Futures Trading Commission (CFTC) under **President Obama** and later as the CFTC chairman under **President Trump**. “Regulation always follows innovation, and sometimes, in democracies, it follows a little further behind other jurisdictions.”

For years Giancarlo pressed Congress to enact a comprehensive regulatory framework to cover the crypto sphere. Instead, legislators have relied on laws from the 1930s—the Securities Exchange Act and Commodity Exchange Act—which were later amended in the wake of the 2008 financial crisis. Even so, the rules remain woefully outdated. And so regulators, according to Giancarlo, must determine how pioneering platforms—like Hayes’s—are regulated, if at all. “There are something like 8,000 [new instruments] that have been identified,” he said. In each case regulators have to ask, “[Do they] fall on [CFTC’s] side of the ledger, the SEC’s side of the ledger, or nobody’s side of the ledger?”

## MAGICAL THINKING

**U**nderstanding what BitMEX was selling is perhaps less important than whom the company was selling to. In our early conversations Hayes insisted that BitMEX was careful to have “no American customers” and that technological barriers, such as blocking U.S. I.P. addresses, kept American clients off the platform—and stateside regulators at bay.

But U.S. officials said that wasn’t the case. It did not escape their attention that BitMEX had plenty of American depositors, many of whom disguised their location by using virtual private network (VPN) software. They were flocking to BitMEX by the thousands. And even though Hayes is a product of the banking establishment, where whole departments are dedicated to enforcing anti-money-laundering (AML) and know-your-customer (KYC) requirements, his immersion into the deeply libertarian world of crypto seems to have blinded him to certain realities. Among them: U.S. authorities have wide reach, long memories, and an affinity for knocking people down to size—especially brash upstarts.

“Arthur is an iconoclast,” his friend **Meltem Demirors** contended. “He’s not afraid to be controversial, and, you know, history is not kind to these people.” As chief strategy officer of CoinShares, a digital-asset investment firm, Demirors has been dubbed the **Sheryl Sandberg** of crypto, which sounds like a reductionist label created by those she terms “pseudo-intellectual fuckboys.”

Demirors was born in the Netherlands to Turkish parents, moved to the U.S. when she was 10, and studied math and economics at Rice. She got her MBA at MIT, where she has taught fintech and blockchain strategy, specialties she later brought to students at Oxford. It is not hard to see why Hayes and Demirors became friends—and kindred spirits. “I feel like an outsider,” she remarked, “in the sense that I’m female; I’m not funded by Silicon Valley; my mommy and daddy aren’t rich.... I don’t have the same background as many people in this industry, and when I walk into rooms, people still raise their eyebrows.” The same could be said of Hayes, who, as Demirors sees it, “didn’t have famous venture capital backers. He didn’t have the advantages that other people had.” Hayes’s original sin might be that he refused to play the game. “He didn’t care about the charade and the optics and the bullshit and Silicon Valley and the think tanks—all the stupid shit you do for prestige. He just didn’t care.... Sometimes people’s greatest qualities are also their biggest downfall.”

BitMEX incorporated in the Seychelles, a move that allowed the start-up to move fast and minimize its tax exposure while Western governments struggled to even understand—much less create a way to govern—the newfangled financial instruments and market that BitMEX was building. In a 2015 investor presentation, Hayes made the point that “Bitcoin derivatives are completely unregulated worldwide.... Regulators are still trying to tackle the exchanging of fiat and Bitcoin.”

That might have been magical thinking. “There were no rules in the beginning, and [governments] weren’t interested in articulating the rules,” Chu remembered. “You would go to [them] and ask for guidance and get nothing. ‘Is this illegal?’ No answer.” It was only after the fact, he said, that cryptic strictures emerged to police crypto—usually in response to some infraction that had not been previously articulated by regulators. But where Chu saw chaos, Hayes saw opportunity.

For nearly a year after its launch, BitMEX’s business was flat. “Some days we had no trades,” Hayes remembered. “No one bought or sold.” The fees from trading on the platform barely covered the server bill, which Reed paid with his credit card. While Hayes and Delo stayed in Hong Kong, Reed got married and moved back to the States, settling in Milwaukee, where he operated out of coworking space. The time zone difference, however, worked in their favor: Reed and Delo, in signature start-up fashion, took turns being “on call,” addressing customer support issues 24/7.

The company’s fortunes changed when, in late 2015, it started offering customers 100x—five times as much leverage as its closest competitor. Political volatility the following year, with Brexit and the election of Donald Trump, increased crypto’s trading volume. Come 2017, BitMEX had to bring on 30



employees to cope with the explosion in trading. The firm moved into new office space, which it would soon outgrow.

By 2018, BitMEX had become a high-stakes bazaar, moving billions every day. During one of our meetings, Hayes commented, “We are the biggest trading platform in the world, by volume. That’s anyone who trades a crypto product.” BitMEX, he said, was one of the “most liquid exchange[s] in the world, regardless of asset class.” By that measure it was in the same league as the NASDAQ as well as the New York, London, and Tokyo stock exchanges. Within four short years Hayes’s scrappy casino had become, in gambling terms, the house. (Since the indictment was unsealed in October, BitMEX has taken a huge hit; its market share and trading volume have dropped precipitously.)

## SHARKS AND LAMBOS

**I**n May 2018, on the opening day of Consensus—the crypto world’s equivalent of the Consumer Electronics Show—Hayes pulled up to the Hilton in midtown Manhattan in an orange Lamborghini and tweeted: “Did you see my ride today at [#Consensus2018](#)?”

A close friend insisted he was simply lampooning the thousands of attendees gathered inside the hotel—investors who talked a big game about cashing in on crypto, but who had really only succeeded in burning through millions in venture capital on harebrained schemes and ICOs (initial coin offerings). Still, looking back, the Lambo gambit might well have been the moment, more than any other, when Hayes painted a bull’s-eye on his back.

True, the firm’s partners had differing approaches to their images and their booming business. Hayes, who didn’t mind ruffling feathers, reveled in the role of financial renegade. Sam Reed kept an extremely low profile, a secret billionaire (on paper) walking the streets of Milwaukee. Ben Delo, however, seemed to hunger for mainstream acceptance. When BitMEX was declared the world’s largest cryptocurrency exchange in 2018, a string of British newspapers dubbed him “the U.K.’s youngest self-made billionaire.” That October he donated £5 million to Oxford’s Worcester College and a few months later [signed](#) the Giving Pledge, designed by **Bill** and **Melinda Gates** and **Warren Buffett** as “an open invitation for billionaires...to publicly commit to giving the majority of their wealth to philanthropy.” In a letter explaining his decision, he wrote, “As a schoolboy in Britain aged 16, I was asked to list my ambitions for the future. I answered concisely: ‘Computer programmer. Internet entrepreneur. Millionaire.’ I have been incredibly fortunate to exceed those goals, and I’m grateful to be in a position to sign this pledge.”

Two years ago BitMEX leased the 45th floor of Cheung Kong Center, the most expensive real estate in Hong Kong and home to Goldman Sachs, Barclays, Bloomberg, and Bank of America. Hayes, Delo, and

Reed were literally moving in on the establishment. But ever eager to make a statement, BitMEX kitted out its office with an accessory none of those stodgy legacy companies had: a large aquarium inhabited, appropriately enough, by live sharks.

## THE TANGLE IN TAIPEI

**B**y the summer of 2019, the amount of money moving through BitMEX was staggering. On June 27, the company announced it had set a new daily record, trading \$16 billion. Two days later Hayes tweeted: “One Trillion Dollars traded in a year; the stats don’t lie. BitMEX ain’t nothing to fucking [sic] with. @Nouriel I’ll see you on Wednesday.”

The man he was tweeting at was **Nouriel Roubini**, a respected NYU economics professor—and BitMEX’s fiercest critic. Dubbed Dr. Doom, Roubini sat on **President Clinton**’s Council of Economic Advisers and served at the Treasury Department, the International Monetary Fund, and the World Bank. In other words, he was about as establishment as Hayes was contrarian. On July 3, the pair faced off onstage at the Asia Blockchain Summit in what was publicized as “the **Tangle in Taipei**,” taking their seats as the theme from *Rocky* blared overhead.

The professor spoke first and went straight for the jugular: “Shitty behavior occurs in this particular industry—con men, criminals, scammers, snake oil salesmen, and so on. Next to me is a gentleman who works with degenerate gamblers and retail suckers, nonaccredited investors.” In his Italian-accented English, Roubini stressed, “There’s a whole nice Twitter feed called BitMEX Rekt—*rekt* means ‘fucked in the ass’—where every other second somebody has been liquidated by these guys, and thousands of them have gone into financial ruin.” He accused the company of bucking regulations, insisting that with BitMEX, “everybody gets rekt,” with the exception of Hayes and his colleagues, who, Roubini said, reap commissions and fees and maintain a liquidation fund that profits off of people going bankrupt.

Hayes countered with whataboutism: “BitMEX. One hundred times leverage. So what? You could trade this type of leverage anywhere you want to go. In the United States we have things called [exchange-traded funds—ETFs]. There was a great one...and it was [based on the idea of] short volatility. A one-day spike in February 2018—in the most highly regulated financial market in the world, highly liquid, and all these nice banks, people with suits on, went to nice universities, and your ETF went to fucking zero. Rekt!” It was a curious line of argument for someone who got his start in finance by building and pushing ETFs.

Hayes, in fact, had many fans in the auditorium that day, people who believed that he, like Facebook’s **Mark Zuckerberg**, had created an entire marketplace from scratch, an influential, secure, and highly profitable platform that people never knew they needed. As Hayes spoke, though, other parallels with

Zuckerberg were unmistakable: the arrogance, the disdain for authority, and the tone-deafness that veered toward self-sabotage. All of it was on display in Taipei. When the moderator questioned BitMEX's decision to register in the Seychelles, where, it was suggested, there are no regulations, Hayes went off: "Maybe the U.S.-centric Roubini thinks the New York [Department of Financial Services] and New York [attorney general] is the only game in town and we need to, you know, bow down and take an ass-fucking from the U.S. government just because it's regulated. Now, I don't know. That's really not my game."

When asked if he might concede that U.S. and European regulatory authorities are on a slightly different plane than those in the Seychelles, Hayes remarked, "It just costs more to bribe them." And how much was Hayes paying to bribe the Seychelles authorities? His answer: "a coconut."

A few weeks later Dr. Doom blasted back with a scathing op-ed titled "**The Great Crypto Heist.**" In it he raised red flags about systematic illegality in offshore exchanges. Still fuming from Taipei, he trained his ire on BitMEX and its CEO, accusing them of sketchy business practices, such as using an internal for-profit trading desk to front-run their own clients and deriving up to half of their profits from liquidations—the suggestion being that BitMEX is highly incentivized to screw over the very people who trade on the platform.





Then Roubini went for the kill shot: “BitMEX insiders revealed to me that this exchange is also used daily for money laundering on a massive scale by terrorists and other criminals from Russia, Iran, and elsewhere; the exchange does nothing to stop this, as it profits from these transactions.” He closed by shaming regulators who he said “have been asleep at the wheel as the crypto cancer has metastasized.”

Demirors had a more charitable view of the tussle in Taipei: “That’s an example of [Arthur] being a showman and creating a scene and understanding, you know, the economics of attention.” She marveled at how total strangers—even those who got rekt on BitMEX—would approach Hayes on the street and want to give him a hug. “For so many people Arthur is like a cult figure,” she said. “He believed that we [the crypto crowd] were going to change the world. He believed in the monetary revolution. He believed that what we’re doing as an industry is profound. But he also believed that it should be fun and it should be irreverent, and we should be able to laugh at ourselves and that we should be able to call out the bullshit.”

## COUP DE GRÂCE

**A**t 6 a.m. on the morning of October 1, 2020, FBI agents pulled up to a large colonial in a comfortable Boston suburb. Records show the house had been purchased a year before by a Delaware LLC. The property’s real owner, Sam Reed, was taken away in handcuffs.

Hours later **Audrey Strauss**, the acting U.S. attorney for the Southern District of New York (SDNY), and **William F. Sweeney Jr.**, head of the FBI’s New York field office, announced the indictment of BitMEX’s founders—Hayes, Delo, and Reed—along with their close friend and first hire, **Gregory Dwyer**. The men were charged with violating and conspiring to violate the Bank Secrecy Act “by willfully failing to establish, implement, and maintain an adequate anti-money-laundering program.” Each count carries a maximum penalty of five years behind bars. Reed, the only defendant in the U.S. at the time, was released after posting a \$5 million bond and agreeing to surrender his passport.

The FBI’s Sweeney went out of his way to lambast Hayes: “One defendant went as far as to brag the company incorporated in a jurisdiction outside the U.S. because bribing regulators in that jurisdiction cost just ‘a coconut.’” He warned that “they will soon learn the price of their alleged crimes will not be paid with tropical fruit, but rather could result in fines, restitution, and federal prison time.”

Professor Roubini had been sounding the alarm for well over a year—and in October, the feds answered. But it was not just the Justice Department. The CFTC—which protects retail and institutional investors

from fraud, manipulation, and abusive practices related to the sale of futures and options—filed a civil suit against BitMEX and its founders for operating an unregistered trading platform and failing to implement required anti-money-laundering procedures.

The criminal case has stunned legal observers. “I’m not aware—and I’ve done this for a really long time—of any other criminal indictment, and certainly not one targeting individuals, that is solely based on anti-money-laundering-program failures,” maintained **Laurel Loomis Rimón**, an expert in financial crimes who spent 16 years with the Justice Department and prosecuted its very first digital-currency case. Now in private practice at O’Melveny & Myers, she advises cryptocurrency and blockchain companies. Like other DOJ veterans I spoke with, she was struck by the absence of more substantive charges. “In an indictment you usually see allegations of specific criminal activity, whether it’s fraud, credit card theft, child pornography, terrorist financing. You don’t see any allegation of any of those things in this indictment.” (It is, of course, possible that prosecutors—who obtained roughly 100,000 pages of BitMEX documents in the course of their investigation—could file a superseding indictment, tacking on additional charges should they find it warranted. The SDNY, for its part, declined to answer questions *Vanity Fair* posed about the case.)

By contrast, when the Justice Department went after another crypto-trading platform called BTC-e, in 2017, it did so with a 21-count indictment for, among other things, identity theft and facilitating drug trafficking, as well as helping to launder money for criminal syndicates—including those allegedly responsible for the Mt. Gox hack. With BitMEX, Rimón argued, U.S. authorities trained their sights on the founders of the biggest, flashiest player in the digital-assets-derivatives space to send a message to the entire crypto community: “We’re going to make sure you understand this industry is subject to our jurisdiction.”

As for the civil suit, a source familiar with the government’s thinking said that BitMEX failed to thread the needle and operate within “an exception to an exception” to the CFTC’s jurisdiction. An unregistered exchange like BitMEX, in fact, is allowed to sell leveraged commodities to American retail investors. But it has to complete those transactions within 28 days. The problem is that some of BitMEX’s most popular products—called perpetual swaps—were designed not to expire and to instead allow people to keep their trading positions open. In short, Hayes, Delo, and Reed—three savvy guys with plenty of high-priced legal help—fell prey to a 1936 law, the Commodity Exchange Act. Which was amended by 2010’s Dodd-Frank Act. Which was further clarified by the CFTC’s new guidance on such trades, introduced only last March.

The commission did not buy the company’s line that it was off-limits to Americans. According to a civil filing, BitMEX derived much of its volume and fees from U.S. customers. Prosecutors alleged that the company’s anti-money-laundering and know-your-customer policies and practices were merely window

dressings: “BitMEX allows customers to open accounts with an anonymous email and password, and a deposit of Bitcoin. BitMEX does not collect any documents to verify the identity or location of the vast majority of its users.” The CFTC told a federal court that it “seeks disgorgement of ill-gotten gains, civil monetary penalties, restitution for the benefit of customers, permanent registration and trading bans, and a permanent injunction from future violations.” (In January the company announced that all users on the platform had been verified.)

By charging BitMEX’s founders—personally—with serious crimes carrying serious time, officials have angered many in the wider crypto community. Some feel strongly that the game is rigged. “Show me a bank that doesn’t have money-laundering violations and I’ll show you a piggy bank,” Jehan Chu told me. “It’s a double standard. Who went to jail from HSBC for their money laundering and, you know, their Iran deals and all these kinds of sanctions violations? They got fined.” He’s not wrong. After HSBC admitted to laundering nearly a billion dollars for the Sinaloa cartel and moving money for sanctioned customers in Cuba, Iran, Libya, Sudan, and Myanmar, the Justice Department **elected** not to indict the bank or its officials, instead having it pay a \$1.92 billion fine and install a court-appointed compliance monitor.

That was hardly an aberration. Barclays, BNP Paribas, Credit Suisse, Deutsche Bank, ING, Lloyds Banking Group, Royal Bank of Scotland, and Standard Chartered have **all** paid fines for conduct that has included money laundering, sanctions violations, and massive tax fraud. In the world of high finance, charging corporate officers in their individual capacity is rare. “You can Google ‘JPMorgan’ and ‘fraud’ and look at what comes up,” Hartej Singh Sawhney suggested. “Wells Fargo, JPMorgan, Goldman Sachs—they have pleaded guilty to fraud. And yet none of their sentences or fines are nearly as bad as what we’re looking at for Arthur.”

In fact, 48 hours before the charges against Hayes and his partners were announced, JPMorgan Chase “entered into a **resolution**”—as it was euphemistically termed—with the DOJ, the CFTC, and the SEC in which the bank agreed to pay close to a billion dollars in connection with two distinct schemes to defraud: one involving precious metal futures, the other Treasury notes and bonds. The FBI’s Sweeney was among those who announced the deal: “For nearly a decade, a significant number of JPMorgan traders and sales personnel openly disregarded U.S. laws that serve to protect against illegal activity in the marketplace...Today’s deferred prosecution agreement...is a stark reminder to others that allegations of this nature will be aggressively investigated and pursued.”

Really? Since 2000, JPMorgan Chase, America's largest bank, has paid tens of billions in fines, including over \$2 billion for anti-money-laundering deficiencies alone. Yet its CEO and chairman, **Jamie Dimon**, and his top lieutenants have not been pursued criminally. Instead, Dimon, who had toyed with a 2020 presidential run, collected \$31.5 million last year in salary and incentives.

"You can look at the history of anti-money-laundering prosecutions over the last 10 years, and you just aren't going to see very many individual defendants named," attorney and crypto expert Rimon expounded. "Certainly not when you're talking about program violations as opposed to evidence of actual money laundering. So that is unusual. And I think it's intentional. I think there was a decision by the government [here] to do that, to send a message."

Deterrence is certainly an important component of the American criminal justice system. But so, too, is prosecutorial discretion. Whether it is big banks or even big pharmaceutical companies like Purdue—whose owners, members of the Sackler family, have been accused of knowingly addicting millions of Americans, resulting in hundreds of thousands of deaths (which the Sacklers deny)—Chu echoed the sentiments of many when he described a gentleman's agreement: "You have an elite class of multinational corporations in business who are very well versed at dealing with their counterparties in government. It's not a quid pro quo, but it is a working relationship, which includes, you know, illegality and enforcement as part of the choreography. And it's literally choreographed. Nobody's getting perp-walked from the Sacklers. But you can be sure that happens to people in crypto."

"I can push back on that—big time," replied former CFTC chairman Giancarlo. "The CFTC has been no slouch in making referrals for criminal action." He cited Refco and Peregrine Financial as examples where, at the commission's urging, the Justice Department charged CEOs who later received lengthy prison terms. (The CFTC also sanctioned former Goldman Sachs cochairman **Jon Corzine**, banning him for life from trading in CFTC-regulated markets for his part in the collapse of MF Global.)

Giancarlo earned the moniker Crypto Dad for suggesting that Congress not treat Bitcoin with "disdain or dismissiveness, but with open-mindedness." In short, he is not anti-crypto. Neither, he said, are his former CFTC colleagues who last year put the crypto community on notice that the commission takes its jurisdiction and authority seriously. "BitMEX obviously didn't get the memo, and the CFTC went out and sanctioned them."

The charges nonetheless caught the BitMEX executives off guard. Delo, a Hong Kong resident, was in the U.K. when the indictment was unsealed. Although U.S. prosecutors have yet to initiate extradition proceedings (partly due to COVID), sources close to Delo said that he will appear if and when they transpire. Hayes, I am told, may be in Singapore, where he is known to have a residence. When, or if, he will return to the States to face justice remains an open question.



Still, even if they end up beating the government at trial or settling beforehand, it may not spell the end of their troubles. BitMEX and its founders have been sued by investors as well as by customers who claim they lost money trading on a platform they contend is stacked against them. Most eye-catching of all, though, is the accusation by an early investor named **Frank Amato**, who sued to cash out his professed equity in the company. (“The case has been withdrawn,” according to a spokesman for BitMEX’s holding company, “after the dispute was resolved on confidential terms.”) In one of Amato’s filings, he claimed that Hayes, Delo, and Reed “long [ago] began to spirit away their funds...[and] knew by no later than January 2019 that they were under investigation by U.S. regulatory agencies because co-founder Reed was deposed by—and allegedly made false representations to—the CFTC.” With that knowledge, a source familiar with Amato’s suit told me, each of the men allegedly paid themselves \$140 million in multiple tranches. While these figures cannot be confirmed—nor are they necessarily unusual, given the fact that executives often receive dividends for company performance—they nonetheless amount to quite a payday, even for a trio of billionaires.

*This story has been updated.*