

IN THE MATTER OF:)
)
Celsius Network, Inc.,)
Celsius Network Limited,)
Celsius US Holding, LLC,)
Celsius Network, LLC,) **NO: SB-CD-04-22**
Celsius Lending, LLC,)
)
Respondents.)
_____)

**NOTICE TO CEASE AND DESIST
AND OPPORTUNITY FOR HEARING**

In accordance with the provisions of the District of Columbia Administrative Procedure Act, D.C. Official Code § 2-501 *et seq.*, the Rules of Practice and Procedures for Hearings, D.C. Municipal Regulations Title 26-B § 300 *et seq.*, and section 602 of the Securities Act of 2000 (the “Securities Act”), D.C. Official Code § 31-5606.02, the District of Columbia Department of Insurance, Securities and Banking (“the Department”) hereby orders Celsius Network, Inc., Celsius Network Limited, Celsius US Holding, LLC, Celsius Network LLC, and Celsius Lending, LLC (collectively referred to herein as the “Respondents” or “Celsius”) to cease and desist from offering or selling unregistered securities in the District of Columbia (“D.C.” or (“District”)), in violation of D.C. Official Code §§ 31-5603.01 and 31-5605.01.

JURISDICTION

D.C. Official Code § 31-5606.02(b) grants the Commissioner of the Department of Insurance, Securities, and Banking (“the Department”) the power to issue, after notice and a hearing, unless the right to a hearing is waived, an order directing the Respondents to cease and

desist from engaging in acts or practices which constitute, or will constitute, a violation of any provision of the Securities Act, or any rule or order. It also authorizes the Commissioner to censure a respondent if they are licensed under the Securities Act, bar a respondent from engaging in the securities business or investment advisory business in the District of Columbia, impose a civil penalty up to \$10,000 for any single violation of the Securities Act, and order restitution and reasonable costs of a hearing.

Under D.C. Official Code § 31-5606.02(b) and D.C. Municipal Regulations Title 26-B § 304, this Notice of Intent constitutes notice that Respondents must file a written answer within 10 days of service of the Notice of Intent and must indicate in their answer whether they request a hearing. This Notice of Intent also constitutes notice that if Respondents fail to file a timely answer, the allegations contained in this Notice of Intent shall be deemed admitted, and the Commissioner may issue a proposed or final decision adverse to the Respondents pursuant to D.C. Municipal Regulations Title 26-B § 304.10.

FINDINGS OF FACT

A. RESPONDENTS

1. **Celsius Network, Inc.** is a Delaware corporation formed on February 8, 2018, with its principal place of business in Hoboken, New Jersey. Celsius Network Inc. owns several subsidiaries including over 82% of Celsius Network Limited.

2. **Celsius Network Limited** is an England and Wales private limited company formed on February 9, 2018, with its principal place of business in London, England. Celsius Network Limited wholly owns Celsius US Holding LLC.

3. **Celsius US Holding, LLC** is a Delaware limited liability company formed on October 5, 2022, with its principal place of business in Hoboken, New Jersey. Celsius US Holding LLC wholly owns Celsius Network, LLC and Celsius Lending, LLC.

4. **Celsius Network, LLC** is a Delaware limited liability company formed on June 14, 2021, with its principal place of business in Hoboken, New Jersey. This company provides user facing services for customers in the United States.

5. **Celsius Lending, LLC** is a Delaware limited liability company formed on October 5, 2020, with its principal place of business in Hoboken, New Jersey. This company provides consumer loans secured by cryptocurrency deposits to customers in the United States.

B. CELSIUS'S BUSINESS

6. Celsius is a digital asset financial services company that generates revenue through cryptocurrency trading, borrowing, staking, and lending, as well as engaging in proprietary trading, mining, and other types of digital asset transactions.

7. Celsius conducts its business on the internet, through a website accessible to the general public at <https://celsius.network> and through Celsius's own proprietary app via smartphone.

8. Celsius is not presently registered and has never been registered as a broker-dealer, investment advisor, or in any capacity with the Department; nor has Celsius registered any securities with the Department, despite the fact that they have sold securities in the form of cryptocurrency interest accounts described below.

C. CELSIUS'S UNREGISTERED EARN REWARDS ACCOUNTS

9. Since June of 2018, Celsius has, at least in part, illegally funded its income-generating activities through the sale of unregistered securities in the form of cryptocurrency interest-earning accounts.

10. Celsius refers to the unregistered cryptocurrency interest-earning accounts (referred to herein as “Earn Rewards Accounts”) as their “Earn Rewards” program.

11. D.C. residents and other investors at least eighteen years old can apply to invest in Earn Rewards Accounts through Celsius’s website or smartphone application. As many as 1,617 D.C. residents have invested in the Earn Rewards Accounts.

12. Customers invest in these securities by opening an Earn Rewards Account and transferring eligible cryptocurrency into it. Once deposited in an Earn Rewards Account, investors relinquish control over their cryptocurrency and Celsius takes full legal and beneficial ownership of the investors’ cryptocurrency under the terms of the Earn Rewards Accounts. By relinquishing control over the cryptocurrency in their Earn Reward Accounts, account holders become passive investors.

13. In addition to offering Earn Rewards Accounts directly through its own website and app, Celsius also makes Earn Reward Accounts available to the public through other companies via an Application Programming Interface (“API”) that allows certain institutional users, known as Celsius “API Partners” (“Celsius API Partners”), to interface with the Celsius platform. Celsius API Partners are then able to offer and sell the unregistered Earn Rewards Accounts to their customers.

14. Celsius commingles cryptocurrencies deposited in Earn Rewards Accounts with

cryptocurrencies deposited by other Earn Rewards Account investors and uses those funds at their discretion to invest in traditional financial assets and cryptocurrency assets, make cryptocurrency loans to borrowers, engage in cryptocurrency staking, and pursue other speculative profit seeking activities.

15. In exchange for investing in Earn Rewards Accounts, Celsius promises account holders a high interest rate that is paid weekly. The accrual of interest begins as soon as any funds are credited to an investor's Celsius account. In the District and other jurisdictions in the United States, interest payments are denominated in the same type of cryptocurrency originally invested. Outside the U.S., Celsius may pay interest in its native digital token, CEL.

16. Celsius promotes the interest rates through its website, which has advertised an annual return of up to 17.78 percent on certain cryptocurrencies for retail investors - well in excess of rates offered for short-term, investment grade, fixed income securities or for bank savings accounts.

17. Celsius sets the interest rates in advance and adjusts the interest rates on a periodic basis. It claims to set its interest rates based on various considerations and prioritizes its need for particular types of cryptocurrencies.

18. Until Celsius froze customer accounts on June 12, 2022, retail investors were told they could withdraw their cryptocurrencies at any time, subject to certain processing times.

D. LACK OF REGISTRATION AND LICENSING

19. The Earn Rewards Accounts are securities because they are investment contracts, evidence of indebtedness, and/or notes and are therefore regulated as securities as that term is defined by D.C. Official Code § 31-5601.01 (31) (defining investment contracts, evidence of

indebtedness and notes, *inter alia*, as securities). As securities, such accounts must be registered with the Department under D.C. Official Code § 31-5603.01 (if offered or sold to investors in the District) and with the U.S. Securities and Exchange Commission (SEC) under applicable federal law. D.C. and other securities laws also require companies to disclose material information about these accounts in a registration statement and prospectus and comply with other requirements that are designed to protect investors.

20. Although Celsius Earn Rewards Accounts are securities, they are not registered as securities with the Department or any other securities regulatory authority; nor are they otherwise exempt from registration.

21. Celsius has also failed to obtain a money transmission license from the Department or comply with money transmission laws. Transactions in which businesses receive for transmission, store, and/or take custody of, virtual currencies from consumers via kiosks (aka BTMs), mobile applications and/or online transactions, constitute “money transmission” under D.C. Code § 26-1001(10) § 26-1001(10). Entities which engage in such money transmission require a money transmitter license to operate in the District under D.C. Code § 26-1002(a). Celsius engages in money transmission as defined by D.C. Code but is not licensed as a money transmitter in the District and is not able to lawfully conduct currency exchange or money transmission activities defined by D.C. Code § 26-1001(10)).

22. Celsius is also not registered as a bank or savings association or credit union and thereby subject to oversight by banking regulators such as the FDIC or National Credit Union Administration. Consequently, Celsius’s Earn Rewards Accounts are also not currently overseen by bank regulators.

E. LACK OF REGULATORY OVERSIGHT AND INVESTOR PROTECTIONS

23. This lack of regulatory oversight subjects Celsius Earn Rewards Account investors to additional risks not borne by investors who maintain assets with traditional financial services companies, such as broker-dealers, investment advisers, banks, savings associations, or credit unions.

24. In particular, digital assets held in Celsius Earn Rewards Accounts are not protected by the Securities Investor Protection Corporation (a federally mandated, non-profit, member-funded United States corporation created under the Securities Investor Protection Act of 1970 that mandates membership of most US-registered broker-dealers) as they would be if the Earn Rewards Accounts were registered and sold by a registered broker dealer. In addition, Celsius's failure to comply with securities laws means that Earn Rewards Account Investors are deprived of the numerous investor protections that state and federal securities laws provide, such as regulatory oversight of securities products, mandatory disclosure of material information, and anti-fraud provisions.

25. Because Celsius has failed to obtain a money transmission license in D.C. or comply with money transmission laws, Celsius's Earn Rewards Accounts are not protected by the oversight and safety and soundness protections that D.C.'s money transmission laws are meant to provide.

26. The Earn Rewards Accounts are also not insured by the Federal Deposit Insurance Corporation, otherwise known as the FDIC, an agency that provides deposit insurance to depositors in the United States, nor the National Credit Union Administration, otherwise known as the NCUA, an agency that regulates and insures credit unions.

F. EARN REWARDS ACCOUNT FREEZES AND CHAPTER 11 BANKRUPTCIES

27. Since the beginning of 2022, the cryptocurrency market has plummeted, wiping out approximately \$2 trillion in investor value since January of 2022 and underscoring the urgent need for regulatory oversight in the cryptocurrency markets to protect consumers investing in crypto investments like the Earn Reward Accounts. Unfortunately, this market decline, along with mismanagement, caused a number of cryptocurrency lenders to file for bankruptcy, including Celsius. Celsius customers alone lost approximately \$5 billion, and the firm's collapse has had a devastating impact on the entire digital currencies market.

28. Even as Celsius headed towards bankruptcy, however, Celsius publicly reassured investors about Celsius's financial condition and told them they would be able to withdraw their cryptocurrency and not suffer losses until as late as June 11, 2022. However, the very next day, on June 12, 2022, Celsius froze Earn Rewards Accounts citing extreme market conditions. Celsius announced the freeze through its website, a blog, and social media.

29. On July 13, 2022, Celsius US Holding, LLC, Celsius Networks Lending, LLC, Celsius Network, LLC, Celsius Network, Inc., Celsius Mining, LLC, Celsius Lending, LLC, and Celsius KeyFi, LLC (collectively the "Debtors"), filed for Chapter 11 bankruptcy in the United States Bankruptcy Court for the Southern District of New York. The Debtors moved for joint administration of the cases under the Chapter 11 case for Celsius Network, LLC, Case No. 22-10964.

30. The Debtors represented the matter involves more than 100,000 creditors on a consolidated basis and they estimated assets on a consolidated basis of between \$1 billion and \$10 billion and estimated liabilities on a consolidated basis of between \$1 billion and \$10 billion.

31. As of March 21, 2022, Celsius had had approximately 1,617 Earn Rewards Accounts held by D.C. residents representing approximately \$29 million in assets. These D.C. investors now face the possibility of losing most or all of the funds they invested in Earn Rewards Accounts and other Celsius products.

32. Although Celsius's operations have largely been put on hold due to the bankruptcy, the company may emerge from bankruptcy and attempt to sell more unregistered securities

33. The Department intends to issue a cease and desist order to protect the investing public by halting the further offer and sale of these unregistered securities, and the contribution of additional consumer assets into existing Celsius Earn Rewards Accounts. Nothing in this order shall preclude Celsius, or any of its affiliates, from paying interest, also known as "Rewards," on the existing Earn Rewards Accounts or refunding principal to the Earn Rewards Account investors consistent with Celsius's customer agreements.

G. VIOLATIONS OF THE D.C. SECURITIES ACT

34. The Earn Rewards Accounts are securities as that term is defined by D.C. Official Code § 31-5601.01 (31). As securities, such accounts must be registered with the Department under D.C. Official Code § 31-5603.01 (if offered or sold to investors in the District) and with the U.S. Securities and Exchange Commission (SEC) under applicable federal law.

35. Celsius Earn Rewards Accounts are not currently registered with any federal or state securities regulator, nor are they exempt from registration as required by law, even though the Celsius Earn Rewards Accounts are securities and subject to such requirements.

36. Celsius also fails to disclose to Rewards Program Investors that its Rewards

Program Accounts are not registered with federal or state securities regulatory authorities, even though the Celsius Earn Rewards Account are securities and are required to be registered.

37. Celsius's Rewards Program Accounts are neither licensed nor regulated by the Department, and Celsius has not sought to register its Earn Rewards program with the Department, notwithstanding that Earn Rewards Accounts are securities required to be registered with the Department.

CONCLUSIONS OF LAW

38. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

39. The Celsius Earn Rewards Accounts are securities as defined in D.C. Official Code § 31-5601.01 (31).

40. The Earn Rewards Accounts are required to be registered with the Department pursuant to D.C. Official Code §31-5603.01.

41. The Earn Rewards Accounts have not been registered with the Department, are not exempt from registration, and are not federal "covered" securities.

42. Respondents have violated D.C. Official Code § 31-5603.01 and § 31-5605.01 by offering and selling securities in the District that are not registered or permitted for sale in the District of Columbia and may continue to do so depending upon the outcome of the above mentioned bankruptcy proceedings.

43. Each violation of D.C. Official Code § 31-5603-01 and § 31-5605.01 is a separate violation of the Securities Law and is cause for the denial of certain exemptions.

44. D.C. Official Code § 31-5606.02(b) empowers the Commissioner to issue a cease-and-desist order against persons engaged in prohibited activities, directing them to cease and desist from further illegal activity or doing acts in furtherance thereof.

RELIEF REQUESTED

The Department respectfully requests that the Commissioner, after notice and hearing (unless the right to a hearing is waived), make findings of fact and conclusions of law that Respondents committed the violations of law that are charged and alleged herein, and grant a Final Cease and Desist Order against Respondents.

Oct 12, 2022

Date

Lilah Blackstone

Lilah Blackstone (Oct 12, 2022 17:03 EDT)

Lilah Blackstone
Deputy General Counsel
Office of the General Counsel
D.C. Department of Insurance, Securities and Banking
1050 First Street, NE, Suite 801
Washington, DC 20002
Telephone: (202) 442-7750

NOTICE OF OPPORTUNITY FOR VIRTUAL HEARING

The Respondents may request a hearing (which will be conducted virtually), pursuant to D.C. Official Code § 31-5606.02(b). A request for hearing and a written answer to the allegations made in this Notice must be emailed to the Department's counsel at lilah.blackstone@dc.gov and the Department's Hearing Officer at hearings.disb@dc.gov within 10 days of receipt of this Notice, pursuant to 26 DCMR § B304.7. Respondents' answer(s) shall admit or deny each of the factual allegations in this Notice of Intent and must set forth Respondents' affirmative defenses, if any, as outlined in 26 DCMR § B304.8. If Respondents are unable to email their response, they must mail the request for a hearing to the Department of Insurance, Securities and Banking, 1050 First Street, NE, Suite 801, Washington, DC 20002, Attn: Hearing Officer. Respondents' failure to request a hearing within 10 days of receipt of the Notice of Intent will result in a final order being issued against Respondents, pursuant to D.C. Official Code § 31-5602(b) and may result in a civil penalty being issued against Respondents, pursuant to D.C. Official Code § 31-5602(b)(4) and/or restitution and reasonable costs of the hearing, pursuant to D.C. Official Code § 31-5606.02(b)(5). If a request for a hearing is not submitted to the Hearing Officer within 10 days of receipt of this Notice, the Department will proceed with a default action against you.

Lilah R. Blackstone, Deputy General Counsel, Office of General Counsel will represent the Department in this matter. A copy of any pleading or other written communication should be delivered via email to lilah.blackstone@dc.gov.

Respondents may virtually appear at the hearing and may be represented by legal counsel. Respondents have the right to produce witnesses and evidence on Respondents' behalf, to cross-examine witnesses against Respondents, to examine evidence produced, and to have subpoenas issued on Respondents' behalf to require the production of witnesses and evidence.

If Respondents, or any witnesses intend to call, are deaf or because of a hearing impediment cannot readily understand or communicate the spoken English language, Respondents or Respondents' witnesses may apply to the DISB for the appointment of a qualified interpreter.

Correspondence directed to the Hearing Officer shall be addressed to: Hearing Officer, Department of Insurance, Securities and Banking, 1050 First Street, NE, Suite 801, Washington, DC 20002 and emailed at hearings.disb@dc.gov. A copy of any correspondence directed to the Hearing Officer shall also be delivered to Ms. Blackstone at lilah.blackstone@dc.gov.

Respondent(s) failure to appear at the time and place set for the virtual hearing, either in person or through counsel, or both, will not preclude the Hearing Officer's proceeding in the matter and entering an order of default which may result in a civil penalty being issued against Respondents, and/or restitution and an assessment for the reasonable costs of the hearing in addition to the cease and desist order.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE AND OPPORTUNITY FOR HEARING was served on the parties in the following manner:

Celsius Network, Inc.

Service by: (1) U.S. Postal Service First Class mail International to 221 River Street, 9th Floor, Hoboken, New Jersey 07030; (2) registered mail addressed to the Harley Building, 77-79 New Cavendish Street, London W1W 6XB, United Kingdom; (3) certified mail addressed to its counsel John Sikora, Jr., Partner, Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611; and (4) electronic mail to its counsel, John Sikora, Jr., at john.sikora@lw.com, Jack McNeily at jack.mcneily@lw.com, and Heather Waller: Heather.Waller@lw.com

Celsius Network Limited

Service by: (1) U.S. Postal Service First Class mail International to 221 River Street, 9th Floor, Hoboken, New Jersey 07030; (2) registered mail addressed to the Harley Building, 77-79 New Cavendish Street, London W1W 6XB, United Kingdom; (3) certified mail addressed to its counsel John Sikora, Jr., Partner, Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611; and (4) electronic mail to its counsel, John Sikora, Jr., at john.sikora@lw.com, Jack McNeily at jack.mcneily@lw.com, and Heather Waller: Heather.Waller@lw.com

Celsius US Holding, LLC

Service by: (1) U.S. Postal Service First Class mail International to 221 River Street, 9th Floor, Hoboken, New Jersey 07030; (2) registered mail addressed to the Harley Building, 77-79 New Cavendish Street, London W1W 6XB, United Kingdom; (3) certified mail addressed to its counsel John Sikora, Jr., Partner, Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611; and (4) electronic mail to its counsel, John Sikora, Jr., at john.sikora@lw.com, Jack McNeily at jack.mcneily@lw.com, and Heather Waller: Heather.Waller@lw.com

Celsius Network, LLC

Service by: (1) U.S. Postal Service First Class mail International to 221 River Street, 9th Floor, Hoboken, New Jersey 07030; (2) registered mail addressed to the Harley Building, 77-79 New Cavendish Street, London W1W 6XB, United Kingdom; (3) certified mail addressed to its counsel John Sikora, Jr., Partner, Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611; and (4) electronic mail to its counsel, John Sikora, Jr., at john.sikora@lw.com, Jack McNeily at jack.mcneily@lw.com, and Heather Waller: Heather.Waller@lw.com

Celsius Lending LLC

Service by: (1) U.S. Postal Service First Class mail International to 221 River Street, 9th Floor, Hoboken, New Jersey 07030; (2) registered mail addressed to the Harley Building, 77-79 New Cavendish Street, London W1W 6XB, United Kingdom; (3) certified mail addressed to its counsel John Sikora, Jr., Partner, Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611; and (4) electronic mail to its counsel, John Sikora, Jr., at john.sikora@lw.com, Jack McNeily at jack.mcneily@lw.com, and Heather Waller: Heather.Waller@lw.com

10/13/2022
M. Claudine Sassa, Senior Paralegal Date