

Zuber Lawler Update on FTX & Alameda Research

FTX debtors moved for an order authorizing and approving procedures for a sale or transfer of what they have termed as “de minimis assets.”

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On January 18, 2023, [FTX](#) debtors moved for an order authorizing and approving procedures for a sale or transfer of what they have termed as “de minimis assets. Most first and second day motions have been heard and either have been granted or are currently pending. Things are moving forward.

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If Alameda or any other FTX entity invested in your company, will likely be categorized as a “de minimis asset,” subject to this motion, and will now be up for sale through the bankruptcy process.”

Josh Lawler, Zuber Lawler

FTX debtors define “de minimis assets” as investments and/or interests held by FTX debtors, including [Alameda Research](#), in privately held companies, which (according to FTX debtors) can be easily separated from the debtors’ core operations, will not disrupt the core operations, and will generate less value to the estate than other assets. FTX debtors state that the de minimis category includes approximately 185 investments made for \$1 million and below, approximately 75 investments made between \$1 million and \$5 million each and approximately 40 investments made between \$5 million and \$25 million each.

Notably, FTX debtors state that they are in the process of a “strategic review” of the de minimis assets, including the potential for repurchasing of debtor interests by investees or other investors in these investments.

Although they have not identified these assets specifically, FTX debtors wish to have the court approve an established and expedited procedure for the sale/transfer of these types or category of assets, without the need of moving the court or getting court approval for each sale, but with the oversight of the Official Committee. Put in other words, they wish to get authorization to proceed with these individual sales “off line,” and without the need of going through the motion

procedure for each specific asset or asset group.

If Alameda Research or any other FTX entity invested in your company, that investment will likely be categorized as a “de minimis asset,” subject to this motion, and will now be up for sale through the bankruptcy process. Through that process, you may be asked (compelled) to make public otherwise confidential information in order to facilitate the public auction or sale of those securities or assets. You may also be at risk of a competitor (or other unsuitable purchaser) buying an interest in your company, and in doing so, potentially obtaining other information and management rights. Even without such a sale of assets, you may now have questions around who you may need to provide information and notices to on an on-going basis, as well as who you may need to obtain consent from in order to take actions subject to restrictive covenants in your investment documents. The situation is even more complicated for issuers of SAFTs or other digital assets that may be subject to inconsistent regulation as a security (or not) across various jurisdictions (since the location of the purchaser may impact whether the SAFT/token issuer is subject to US securities law).

[Zuber Lawler](#) is in a unique position to provide the described representation. We have represented a large number of clients with operations across the entire scope of distributed ledger technology. Our clients include token issuers (fungible and non-fungible), digital asset platforms and providers of related services, as well as traditional companies (and government entities) who look to understand and enter the digital asset space. A large number of our clients are not domiciled in the United States and we are extremely familiar with the concerns these clients face. In fact several of our existing clients will be part of the ad hoc group. While we cannot make any promise of any particular result, we expect that we will be better positioned to provide the representation described above than any other firm in the United States.

If your company sold investment assets to Alameda Research or FTX Ventures, please reach out to Josh Lawler at jlawler@zuberlawler.com to set a time for a short video conference to discuss specifics relating to your situation at no charge.

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Josh Lawler
ZuberLawler
+1 213-596-5620

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