

Fintech Group Of The Year: Skadden

By Aislinn Keely

Law360 (February 21, 2023, 2:02 PM EST) -- Skadden Arps Slate Meagher & Flom LLP helped secure a dismissal of a class action against the largest stateside crypto exchange and assisted in closing a \$2.2 billion acquisition by Visa last year, earning it a place among Law360's 2022 Fintech Groups of the Year.

Skadden's practice areas stretch from corporate litigation and technology to regulatory expertise, and the firm's fintech practice unites all those areas to serve a wide range of clients.

Within the broader fintech team sits a Web3 and digital assets practice, focusing on crypto-specific issues. At the core of the group is a commitment to understanding the technology at hand, Alex Drylewski, the co-chair of the firm's Web3 and digital assets group, told Law360.

"We think it's important to really understand the technology, and that's one thing that we strive to do in our group is to really get a granular understanding of the technology that's underpinning the issues that we're dealing with, and that allows us to get beyond jargon or industry speak and really get to the heart of whatever the issues are that our clients are facing," he said.

In addition to technology, the team has to keep up with the regulatory changes, and Drylewski said the firm is seeing an uptick in securities litigation and commercial litigation in the digital asset space.

Skadden helped secure the dismissal of a putative class action brought in March 2022 against crypto exchange Coinbase. A group of users claimed that nearly 80 digital assets listed on the platform were unregistered securities and sought refunds for their activity and losses on the platform on the grounds that Coinbase violated securities laws when it sold them the assets.

The firm worked on the case until a federal judge agreed this month that the users hadn't shown how Coinbase acted as the "immediate seller" of the alleged securities.

In addition to litigation, Skadden proactively advised a wide range of clients on digital asset and fintech related regulatory and litigation risks. Daniel Michael, the co-head of its Web3 and digital assets group, said that a wide range of clients is key to staying on the cutting edge of regulatory developments.



"I think from that diversity [of clients], we've been able to get a pretty good real-time perspective on how the [U.S. Securities and Exchange Commission]'s thinking is evolving even before it's been formally announced," he said. "We also see how their investigative approach is constantly changing and evolving as they themselves get more comfortable and familiar with the technology and the theories and the concepts underlying them."

Skadden used its regulatory expertise to close high-profile deals in the fintech space, including advising BlackRock Inc. through a 2022 investment in stablecoin issuer Circle. Stablecoins remain an area of regulatory uncertainty, and Congress is expected to discuss a possible framework for issuers this session.

Part of the firm's work consisted of giving feedback on the regulatory aspects at play. Stuart Levi, co-head of the firm's Web3 and digital assets practice, said it's constantly a matter of risk assessment for clients navigating the space, because the way traditional rules and regulations apply to a new environment is not always clear.

"For deals in this space, part of what we're advising clients on is what the regulatory landscape looks like, what proposed regulation or legislation is out there and what is the best way for them to be able to assess the risk, and giving them the maximum amount of information that they can have," he said.

Skadden's global fintech practice co-head Jeffrey Brill said the firm is seeing more traditional financial institutions make vertical acquisitions in the fintech space. The firm steered Visa through its acquisition of open banking platform Tink AB — which completed in March 2022 — advising on all aspects of the transaction, from corporate to regulatory concerns.

Sven G. Mickisch, the co-head of Skadden's financial institutions group, said the firm is seeing large players like Visa looking for exciting tech startups as a means of broadening their offerings. The firm expects that trend to continue as the fintech space consolidates.

"We have benefited from that trend representing both traditional financial institutions and the disruptors, being on both sides of those transactions," he said.

In addition to the Visa acquisition, the firm steered transactions that connected fintechs to funding sources in 2022. Skadden acted as lead counsel to Israeli fintech Pagaya in its business combination with EIJ Acquisition Corp., which ultimately allowed it to go public on the Nasdaq as the only major fintech IPO in the third quarter of 2022.

It also advised Nasdaq through the launch and operation of a private market trading platform that provides liquidity solutions for private companies. The platform connects private firms with tools to support stock transactions like tender offers, auctions, investor block trades and other means of funding.

To bring that platform to market, Skadden had to contend with the needs of all the players in the joint venture, which included Citigroup, Goldman Sachs, Morgan Stanley and SVB Financial Group. So-called "consortium transactions" are challenging, but Skadden has handled several, Mickisch said.

"They're very complex to get everybody around the table to agree, but they're very important for the marketplace because they really develop new products, allow financial institutions to cross the street in a crowd, and we think that trend is going to continue," he said.

Brill said the team's 2022's activity touched digital assets, payments, insurtech, neobanks, market infrastructure and data analytics, among others.

"I think what these deals [highlight] and the dozens of other deals we did show the strength and breadth of our fintech practice really across all fintech verticals," he said.

--Additional reporting by Katryna Perera. Editing by Gemma Horowitz.

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