

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

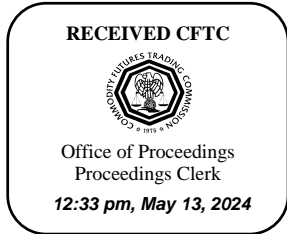
In the Matter of:

Falcon Labs Ltd.,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

CFTC Docket No. 24-06



ORDER INSTITUTING PROCEEDINGS PURSUANT TO SECTION 6(c) AND (d) OF THE COMMODITY EXCHANGE ACT, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS

I. INTRODUCTION

The Commodity Futures Trading Commission (“Commission”) has reason to believe that from no later than October 2021 through at least March 27, 2023 (the “Relevant Period”), Respondent Falcon Labs Ltd. (“Falcon Labs” or “Respondent”) violated Section 4d(a)(1) of the Commodity Exchange Act (“CEA” or “Act”), 7 U.S.C. § 6d(a)(1). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

In anticipation of the institution of an administrative proceeding, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Respondent consents to the entry of this Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions (“Order”), and acknowledges service of this Order.¹

¹ Respondent consents to the use of the findings of fact and conclusions of law in this Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that they shall be taken as true and correct and be given preclusive effect therein, without further proof. Respondent does not consent, however, to the use of this Order, or the findings or conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party or claimant, other than: a proceeding in bankruptcy or receivership; or a proceeding to enforce the terms of this Order. Respondent does not consent to the use of the Offer or this Order, or the findings or conclusions in this Order, by any other party in any other proceeding in any other jurisdiction.

II. FINDINGS

The Commission finds the following:

A. SUMMARY

During the Relevant Period, Falcon Labs solicited or accepted orders for digital asset derivatives, including futures and swaps, and accepted money and property in connection with those orders, from customers located in the United States (such as non-U.S. incorporated entities operated and controlled by U.S.-based trading firms). Respondent functioned as an intermediary facilitating its customers' trading on various digital asset exchanges, including those U.S.-located customers, and provided them with direct access to those exchanges. Respondent did not provide the digital asset exchanges with any customer-identifying information for its customers who traded on the exchanges. Respondent also accepted money or other assets from the customers to margin or collateralize customers' trading activity. Through these activities, Respondent satisfied the definition of a futures commission merchant ("FCM") set forth in Section 1a(28) of the Act, 7 U.S.C. § 1a(28).

Persons that act as FCMs must register as such with the Commission. Section 4d(a)(1) of the Act, 7 U.S.C. § 6d(a)(1). Falcon Labs was not registered as an FCM during the Relevant Period, and therefore violated Section 4d(a)(1).

In accepting Respondent's Offer, the Commission recognizes the substantial cooperation of Falcon Labs with the Division of Enforcement's investigation of this matter. The Commission also acknowledges Respondent's representations concerning its remediation in connection with this matter. The Commission's recognition of Respondent's substantial cooperation and appropriate remediation is further reflected in the form of a reduced civil monetary penalty.

B. RESPONDENT

Falcon Labs Ltd. is an entity organized and existing under the laws of the Seychelles. Falcon Labs is not registered with the Commission in any capacity.² Falcon Labs, along with multiple other affiliated entities, operates under the trade name "FalconX," and describes itself as the "largest digital asset prime brokerage."

C. FACTS

Throughout the Relevant Period, Falcon Labs acted as a "prime broker" by offering a product it called "Edge" to its institutional customers, including customers located in the United States. Edge provided certain Falcon Labs customers with cross-margined, direct access to digital asset exchanges to trade derivatives, including futures and swaps.

² Falcon Labs is wholly owned by FalconX Holdings Limited. FalconX Holdings Limited owns an entity called FalconX Bravo Inc., which has been registered with the Commission as a swap dealer since August 15, 2023, and was provisionally registered as a swap dealer during part of the Relevant Period.

During the Relevant Period, Falcon Labs maintained accounts with various digital asset exchanges in its own name. Falcon Labs created sub-accounts—associated with a main account nominally held by Falcon Labs—on those digital asset exchanges through which it permitted its customers to transact. When creating its main account, Falcon Labs typically submitted its identity verifying information to the digital asset exchanges; however, the exchanges generally did not require, and Falcon Labs did not provide, identity verifying information for each customer “sub-account” Falcon Labs created.

Once Falcon Labs created a customer’s “sub-account” (or sub-accounts) and the customer posted margin with Falcon Labs to collateralize their trading activity, the customer could submit orders directly to the exchange. Frequently, Falcon Labs would provide its customers with information that allowed the customer to interact with exchanges through the exchanges’ application programming interfaces. Throughout the Relevant Period, via Falcon Labs’ intermediation, U.S.-located Falcon Labs customers traded derivatives, including futures and swaps, through their sub-accounts directly on digital asset exchanges, including Binance.com. Falcon Labs charged its Edge customers fees for the transactions they executed on digital asset exchanges. During the Relevant Period, Falcon Labs collected relevant net fees of at least \$1,179,008 from customers entering into transactions intermediated by Falcon Labs, as described above.

After March 27, 2023, the date the Commission filed its complaint against Changpeng Zhao, Binance Holdings Limited, Binance Holdings (IE) Limited, Binance (Services) Holdings Limited and Samuel Lim (the “Binance Action”)³, which alleged in relevant part that prime brokers opened “sub-accounts” through which U.S. customers traded digital asset derivatives on the Binance platform, Falcon Labs voluntarily changed and enhanced its approach to collecting customer-identifying information in an effort to better identify prospective Edge customers’ connection to the United States. In particular, Falcon Labs represents that it initiated a process to review and enhance its pre-existing customer-identification and due diligence program, including its know-your-customer (“KYC”) procedures.⁴ As a result of this review, Falcon Labs updated its KYC policies and procedures to require prospective customers to identify the location of their ultimate beneficial owners, the location of their corporate organization and principal place of business, and also the location of the personnel controlling the Edge sub-account. Falcon Labs implemented its enhanced KYC policy for all new customers beginning June 2023, and also required all then-current Edge customers to provide information sufficient to meet its enhanced KYC policy requirements.

Falcon Labs also represents that its application of its enhanced KYC policies and procedures resulted in Falcon Labs off-boarding of approximately half its Edge customers.

³ See <https://www.cftc.gov/PressRoom/PressReleases/8680-23>.

⁴ Although Falcon Labs did not affirmatively provide any identity-verifying information concerning its Edge customers to exchanges, it did collect some customer information for its own purposes. For example, Falcon Labs typically required prospective Edge customers to provide the location of their officers, directors and traders who were responsible for trading activity, provide information concerning their principal place of business, and to make certain representations regarding their non-U.S. status for various purposes.

Those customers were off-boarded because they failed to meet Falcon Labs' enhanced requirements, declined to provide sufficient information for Falcon Labs to determine if they met Falcon Labs' enhanced compliance controls, or because their accounts were inactive.

Although Falcon Labs represents that it is located outside the United States, Falcon Labs provided information to the Division on a voluntary and timely basis, including by providing factual presentations concerning its historical violative conduct and improvements to its compliance program. Falcon Labs' substantial cooperation materially advanced the Division's investigation.

III. LEGAL DISCUSSION

Section 1a(28) of the Act, 7 U.S.C. § 1a(28), in relevant part, defines an FCM as any individual, association, partnership, corporation or trust that is engaged in soliciting or in accepting orders for futures or swaps, among other derivatives, and, in connection therewith, "accepts any money . . . or property (or extends credit in lieu thereof) to margin . . . trades or contracts that result or may result therefrom." It is unlawful for any person to act as an FCM unless registered with the Commission as an FCM. Section 4d(a)(1) of the Act, 7 U.S.C. § 6d(a)(1).

As described above, Respondent, without registration as an FCM, acted during the Relevant Period as an FCM as defined in Section 1a(28) of the Act by soliciting and accepting orders for futures and swaps from U.S. customers through its Edge product offering, and in connection therewith, accepted money or other assets to margin the trading.

IV. FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondent violated Section 4d(a)(1) of the Act, 7 U.S.C. § 6d(a)(1).

V. OFFER OF SETTLEMENT

Respondent has submitted the Offer in which it, without admitting or denying the findings and conclusions herein:

- A. Acknowledges service of this Order;
- B. Admits the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waives:
 - 1. The filing and service of a complaint and notice of hearing;
 - 2. A hearing;
 - 3. All post-hearing procedures;

4. Judicial review by any court;
 5. Any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
 6. Any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504, and 28 U.S.C. § 2412, and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2023), relating to, or arising from, this proceeding;
 7. Any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201–253, 110 Stat. 847, 857–74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and
 8. Any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief, including this Order;
- D. Agreed for purposes of the waiver of any and all rights under the Equal Access to Justice Act specified in subparagraph 6 above, that the Commission is the prevailing party in this action;
- E. Acknowledges that the Commission is the prevailing party in this action for purposes of the waiver of any and all rights under the Equal Access to Justice Act specified in subpart 6 of Paragraph C of this Section;
- F. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer; and
- G. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. Makes findings by the Commission that Respondent violated Section 4d(a)(1) of the Act, 7 U.S.C. §6d(a)(1);
 2. Orders Respondent to cease and desist from violating Section 4d(a)(1) of the Act;
 3. Orders Respondent to pay disgorgement in the amount of one million one-hundred seventy-nine thousand and eight dollars (\$1,179,008) plus any post-judgment interest, within thirty (30) business days of the date of entry of this Order;
 4. Orders Respondent to pay a civil monetary penalty in the amount of five-hundred eighty-nine thousand and five hundred and four dollars (\$589,504) plus any post-judgment interest, within thirty (30) business days of the date of entry of this Order; and

5. Orders Respondent and its successors and assigns to comply with the conditions and undertakings consented to in Section VI of this Offer; and
- H. Represents that it has already taken substantial steps to remedy its violation of Section 4d(a)(1) of the Act and enhance its KYC program. Beginning in March 2023, and in response to the Commission’s Binance Action and the factual allegations in that case, Falcon Labs updated and enhanced its KYC procedures for onboarding to the Edge platform and conducted a review of existing Edge customers to ensure that access would only be offered to those who meet certain criteria. Under the revised procedures, Falcon Labs required Edge customers to provide additional documentation regarding the customer’s jurisdiction of organization and principal place of business; the residency of traders using the Edge product or directing trading decisions made using the Edge product; and the jurisdiction of organization, principal place of business and residence, as relevant, of the customer’s ultimate beneficial ownership. Falcon Labs assessed each customer’s eligibility for Edge based on specific criteria that it established in light of the allegations in the Binance Action. In applying these enhanced criteria retroactively to its existing clients, Falcon Labs off-boarded any customers who did not meet the criteria. Falcon Labs also required Edge customers to provide written representations as to their non-U.S. status. Further, Falcon Labs applied engineering solutions designed to detect customer use of U.S. IP addresses that could be inconsistent with the customer’s KYC documentation and representations.

Upon consideration, the Commission has determined to accept the Offer.

VI. ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondent shall cease and desist from violating Section 4d(a)(1) of the Act, 7 U.S.C. § 6d(a)(1).
- B. Respondent shall pay a civil monetary penalty in the amount of five-hundred eighty-nine thousand and five hundred and four dollars (\$589,504) (the “CMP Obligation”) within thirty (30) business days of the date of entry of this Order. If the CMP Obligation is not paid in full within thirty (30) business days of the date of entry of this Order, then post-judgment interest shall accrue on the unpaid portion of the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.

Respondent shall pay the CMP Obligation and any post-judgment interest by electronic funds transfer, U.S. postal money order, certified check, bank cashier’s check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326
Commodity Futures Trading Commission
6500 S. MacArthur Blvd.
HQ Room 266
Oklahoma City, OK 73169
9-amz-ar-cftc@faa.gov

If any payment is to be made by electronic funds transfer, Respondent shall contact the Federal Aviation Administration at the above email address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. Respondent shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- C. Respondent and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
1. **Public Statements:** Respondent agrees that neither it nor any of its successors and assigns, affiliates, agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect Respondent's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent and its successors and assigns shall comply with this agreement, and shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.
 2. Respondent shall pay disgorgement in the amount of one million one-hundred seventy-nine thousand and eight dollars (\$1,179,008) ("Disgorgement Obligation") within thirty (30) business days of the date of entry of this Order. If the Disgorgement Obligation is not paid in full within thirty (30) business days of the date of entry of this Order, then post-judgment interest shall accrue on the unpaid portion of the Disgorgement Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.

Respondent shall pay the Disgorgement Obligation and any post-judgment interest by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326
Commodity Futures Trading Commission
6500 S. MacArthur Blvd.
HQ Room 266
Oklahoma City, OK 73169
9-amz-ar-cftc@faa.gov

If payment is to be made by electronic funds transfer, Respondent shall contact the Federal Aviation Administration at the above email address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the Disgorgement Obligation with a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. Respondent shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

3. Cooperation, in General: Respondent shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Respondent shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, the subject matter of this action.
4. Partial Satisfaction: Respondent understands and agrees that any acceptance by the Commission of any partial payment of Respondent's Disgorgement and/or CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.
5. Change of Address/Phone: Until such time as Respondent satisfies in full its Disgorgement Obligation and CMP Obligation as set forth in this Order, Respondent shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten calendar days of the change.
6. Until such time as Respondent satisfies in full its Disgorgement Obligation and CMP Obligation, upon the commencement by or against Respondent of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Respondent's debts, all notices to creditors required to be furnished to the Commission under Title 11 of the United States Code or other

applicable law with respect to such insolvency, receivership bankruptcy or other proceedings, shall be sent to the address below:

Secretary of the Commission
Office of the General Counsel
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street N.W.
Washington, DC 20581

The provisions of this Order shall be effective as of this date.

By the Commission.



Robert N. Sidman
Deputy Secretary of the Commission
Commodity Futures Trading Commission

Dated: May 13, 2024