

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10608 / February 20, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19004

In the Matter of

Gladius Network LLC,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) against Gladius Network LLC (“Gladius” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) that the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant To Section 8A of the Securities Act of 1933, Making Findings, And Imposing a Cease-And-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

Summary

1. Gladius is a Nevada limited liability corporation that was established to provide blockchain-enabled cybersecurity services. Specifically, in July 2017, Gladius’s founders began developing a network in which participants could rent spare bandwidth and storage space on their computers and servers to others for use in defense against certain types of cyberattacks and to enhance their content delivery speed. As part of this process, Gladius created digital coins (“GLA” or “GLA Tokens”) to be issued on a “blockchain,” or distributed ledger. GLA Tokens would serve

as the sole “currency” for the provision of services within the Gladius network, record those transactions, and enable the delivery of content to servers and websites renting out their bandwidth to Gladius customers. From October 2017 through December 2017, Gladius conducted an initial coin offering (“ICO” or the “offering”) in which it publicly offered and sold GLA Tokens in exchange for Ether, a digital asset, to raise capital to facilitate the further development of the Gladius network.

2. Gladius raised approximately \$12.7 million worth of Ether during its ICO, based on the exchange rate to USD of Ether at the time of the offering. Gladius did not register the offering pursuant to the federal securities laws, nor did it qualify for an exemption to the registration requirements.

3. Based on the facts and circumstances set forth below, GLA Tokens were securities pursuant to *SEC v. W. J. Howey Co.*, 328 U.S. 293 (1946), and its progeny, including the cases discussed by the Commission in its *Report of Investigation Pursuant To Section 21(a) Of The Securities Exchange Act of 1934: The DAO* (Exchange Act Rel. No. 81207) (July 25, 2017) (the “DAO Report”). A purchaser in the offering of GLA Tokens would have had a reasonable expectation of obtaining a future profit based upon Gladius’s efforts to create a “marketplace” using the proceeds from the sale of GLA Tokens and to provide investors with liquidity by making GLA Tokens tradeable on secondary markets. Gladius violated Sections 5(a) and 5(c) of the Securities Act by offering and selling these securities without having a registration statement in effect with the Commission or qualifying for exemption from registration.

4. The Commission is not imposing a penalty because of the significant steps Gladius took to remediate the violation. Gladius, which was evaluating the applicability of the federal securities laws to its ICO, self-reported to staff in the Commission’s Division of Enforcement in the summer of 2018, and informed Commission staff that it wanted to do what was necessary to take prompt remedial steps. It cooperated with the staff’s investigation, providing information quickly and in a form useful to the staff. It also voluntarily agreed to the remedial steps listed in the undertakings in this order, including the provision of compensation to investors.

IV.

Respondent

5. Gladius is a Nevada limited liability corporation with its headquarters in Washington, DC. Neither Gladius nor its securities are registered with the Commission in any capacity.

Facts

A. Background

6. Gladius was founded in July 2017 to establish a network (the “Gladius Network”)

that would use distributed ledger technology to fight against DDoS attacks.¹

7. The Gladius Network was to be a decentralized, peer-to-peer node network that offered internet content providers faced with a DDoS attack or increased traffic the ability to access spare bandwidth and storage space belonging to organized “pools” of individuals and businesses (called “nodes”). Gladius Network participants were able to purchase the excess bandwidth and storage these pools would provide.

8. “Pool managers” were to organize nodes into verification pools with certain attributes, such as the number of nodes, availability of bandwidth, and geographical proximity. The pool managers were to negotiate prices with content providers based on the pool attributes they valued. Pool managers would then be able to compensate nodes for providing access to and use of their bandwidth and storage space. The network was designed so that once it was operational, content providers would be able to organize and manage their own pools of nodes on the network, and Gladius itself would not have to participate in negotiations or transactions between content providers, pool managers, or nodes.

9. The sole “currency” for these transactions was to be the GLA Token, a token that Gladius issued on the Ethereum blockchain. The GLA Token was to also provide a record of each transaction and allow content to be delivered verifiably and anonymously from content providers to nodes in the event of a DDoS attack or slowdown. GLA could be acquired directly from Gladius or purchased (and sold) in secondary markets.

10. Gladius conducted an ICO of GLA Tokens to raise the funds needed to continue developing its network and corporate infrastructure and to disseminate the means to access the Gladius Network.

11. On September 27, 2017, Gladius released a White Paper (the “White Paper”) on its website and social media websites describing its planned business model and upcoming token sale. The White Paper described Gladius’s plans “to create a fully decentralized, peer to peer, serverless node network to connect bandwidth and storage pools to websites looking for DDoS protection and expedited content delivery.” The White Paper stated that, through the use of blockchain technology and the GLA Token, Gladius’s platform would “greatly, if not completely, negate DDoS attacks” at a significantly lower cost than DDoS protection services provided by competitors. According to the White Paper, Gladius would achieve this result by creating a “marketplace” in which individuals could rent their spare bandwidth and storage space to websites seeking DDoS protection and faster content delivery.

B. Gladius Publicized the Offering of GLA Tokens

12. Gladius announced the offering via the White Paper, in posts on various blogs and message boards, and also on multiple web pages it controlled, including, but not limited to, its

¹ A Distributed Denial of Service (“DDoS”) attack against Internet-facing systems is a cyber-attack that attempts to make an online service unavailable by overwhelming it with traffic from multiple sources, thereby preventing some or all legitimate requests from being fulfilled and making remediation and recovery more complex than traditional denial of service attacks.

website, a Twitter account, and a Facebook page (collectively, the “Gladius Web Pages”).

13. Gladius used websites and social media pages including, but not limited to, the Gladius Web Pages to publicize that GLA Tokens would be available for purchase worldwide, including in the United States.

14. Gladius provided details of the offering on the Gladius Web Pages, including the details of the token sale, the offering process, the role the GLA Token would play in the Gladius Network, and how Gladius would use the proceeds of the token sale to develop its network.

15. As initially described by Gladius and its agents and employees, the offering was to proceed in three stages: (1) a private presale from October 15, 2017 to November 23, 2017; (2) a public presale from November 24, 2017 through January 13, 2018; and (3) a public sale from January 14, 2018 through February 14, 2018.

16. The White Paper stated that a total of 48,200,000 GLA Tokens, and no more, were to be generated. Gladius announced on its blog that it was imposing a “hard cap” of raising \$12.5 million in the offering.

17. In connection with the ICO, Gladius required that purchasers agree to Terms and Conditions of Token Sale (the “Terms”) that were published on Gladius’s website, through which the ICO was conducted. The Terms identified a number of risks associated with the purchase of GLA, including commercial risks, regulatory risks, and purchasers’ lack of governance rights. The Terms also stated that GLA Tokens were “not being structured or sold as securities or any other form of investment product,” and required purchasers to warrant that ownership of GLA granted access to the Gladius Network, but conferred no equity or other rights (including ownership rights) as to Gladius. Similarly, Gladius required purchasers of GLA in the ICO to warrant that their purchases were made “solely for the purpose of accessing Services . . . [and not for] any investment, speculative or other financial purposes.”

18. Gladius planned to use proceeds from the offering primarily to continue developing the Gladius Network. The White Paper stated that 40% of the funds raised would go towards “completing” the development of the network, 20% of the funds would go towards developing “tight security” for the network, 20% would go towards day to day operations of the system, 10% would go to legal expenses for the company, and 10% would go towards marketing the company.

19. During the offering, Gladius promoted a bounty program in which participants could earn GLA Tokens and bitcoin for promoting the Gladius Network and the ICO on social media; writing favorable articles, blog posts and videos to be posted on blogs and other media; and providing translations of the White Paper.

C. Reasonable Expectation of Profits from the Efforts of Gladius and its Agents

20. Purchasers of the GLA Token would have reasonably expected that they could obtain a future profit from GLA Tokens if the entrepreneurial and managerial efforts of Gladius’s founders, employees, and agents succeeded. Purchasers would have had this reasonable expectation whether or not they used the planned Gladius network.

21. Gladius principals and agents discussed technical issues, operational questions about the Gladius Network, and prospects for investment returns from the GLA Token on blogs, social media, online videos, and online forums. For example, on Gladius Web Pages, Gladius principals and agents stated that, “[a]s more websites join, the value of the Token should rise with the demand.” Another Gladius management member posted on social media that “as our platform grows and more websites buy our services, the value of the coin increases.”

22. During and following the offering, Gladius attempted to make GLA Tokens available for trading on major digital asset trading platforms. On Gladius Web Pages, Gladius principals and agents stated that “[w]e’ve been approached by some of the largest exchanges, they’re very interested,” and represented that the GLA Token would be available to trade on “major” trading platforms after the ICO. Gladius further noted that “exchanges are an integral part of our technology and customers will . . . be able to use exchanges to purchase GLA for protection when the platform launches.” After the offering concluded, Gladius posted on its Web Pages that it had entered a “partnership” to make the GLA Token available to trade on “one of the top cryptocurrency exchanges in the world!”

23. Gladius directed certain of its promotional efforts for the offering at digital asset investors, including in forums for investors in Bitcoin and other digital assets. In promoting the offering, Gladius’s principals also participated in interviews and conferences broadly focused on distributed ledger technology, and marketed GLA Tokens and the Gladius Network to prospective network customers and participants.

D. Gladius Offered, Sold, and Distributed GLA Tokens without Registration or an Applicable Exemption

24. The offering, comprising the so-called private and public pre-sales, took place between October 13, 2017 and December 13, 2017, when Gladius reached its stated sales cap.²

25. Approximately 1,700 individuals and entities purchased GLA Tokens, including investors residing in the United States.

26. All sales in the offering were transacted in ETH. Through the offering, Gladius raised ETH valued at approximately \$12.7 million at the close of the token sale.

27. GLA Tokens were distributed to purchasers on February 12, 2018. Distribution occurred via the Ethereum blockchain using the ERC-20 protocol.

28. No registration statement concerning offers and sales of GLA Tokens was in effect at any time prior to or during the offering.

² Because Gladius reached its “hard cap” of raising \$12.5 million during the “public pre-sale,” it did not institute the “public sale” phase of the offering. None of the three portions of the offering was registered with the Commission or exempt from registration.

E. Gladius Self-Reported Its Unregistered Offer and Sale of GLA Tokens

29. In approximately August 2018, Gladius self-reported to Commission Enforcement staff. From the beginning of its discussions with Commission staff, Gladius expressed an interest in taking prompt remedial steps and complying with the federal securities laws going forward.

30. Gladius cooperated extensively with the staff, voluntarily providing documents and information to the Commission in a format that allowed the staff to conduct the investigation quickly and efficiently.

31. After self-reporting, Gladius engaged in negotiations with the staff and offered to settle on the terms of the undertakings contained in this Order.

V.

Violations

32. As a result of the conduct described above, Gladius violated Section 5(a) of the Securities Act, which states that unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

33. Also as a result of the conduct described above, Gladius violated Section 5(c) of the Securities Act, which states that it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security.

Gladius's Remedial Actions

34. In determining to accept the Offer, and not to impose a civil penalty, the Commission considered the remedial acts undertaken by Respondent detailed above, including its decision to self-report and its extensive cooperation with the staff's subsequent investigation.

VI.

Undertakings

Respondent makes the following undertakings:

1. Within fourteen (14) days from the date of this Order, Respondent will issue a press release (the "Press Release"), in a form not objected to by Commission staff, notifying the public of this Order and containing a link to the Order. At the same time, Respondent will prominently post the Press Release, link to the Order on Gladius's company website, and

maintain it there until the “Claim Form Deadline” (as defined in Paragraph 2.b. below).

2. Subsequently, Respondent will:

- a. Within ninety (90) days of the date of this Order, file a Form 10 to register under Section 12(g) of the Securities Exchange Act of 1934 (“the 1934 Act Registration”) the GLA Tokens as a class of securities;
- b. On a date no later than sixty (60) calendar days after the date of the filing of the 1934 Act Registration, or on the date of the 1934 Act Registration becomes effective, whichever date is sooner (the earlier date being the “Effective Date”) distribute by electronic means reasonably designed to notify each potential claimant (“Distribute”), a notice and a claim form (the “Claim Form”), both of which shall be in a form not objected to by Commission staff, informing all persons and entities that purchased GLA Tokens from Respondent before and including December 31, 2017, of their potential claims under Section 12(a) of the Securities Act, including the right to sue “to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if [the purchaser] no longer owns the security” and informing purchasers that they may submit a written claim on the Claim Form directly to Respondent at an address indicated on the Claim Form of a purchaser’s assertion of rights under Section 12(a) of the Securities Act, and that such claims must be submitted within three (3) months from the Effective Date (“Claim Form Deadline”);
- c. Simultaneously with the Distribution of the Claim Form, post the Claim Form on Respondent’s company website and maintain it there until the Claim Form Deadline; and
- d. Maintain such 1934 Act Registration and make timely filings of all reports required by Section 13(a) of the Securities Exchange Act of 1934 at least until the later of (1) the Claims Form Deadline; (2) such time as Respondent has filed all reports required for the fiscal year within which the 1934 Act Registration became effective; and (3) such time as Respondent is eligible to terminate its registration pursuant to Rule 12g-4 under the Securities Exchange Act of 1934.

3. Respondent will pay the amount due under Section 12(a) of the Securities Act, if any, to each qualified person or entity that purchased GLA Tokens from Respondent before and including December 31, 2017, and that submitted a written claim to Respondent’s address by the Claim Form Deadline using the Claim Form. Within eight (8) months from the Claim Form Deadline, Respondent will make all payments it deems to be due and adequately substantiated to purchasers who submitted the Claim Form by the Claim Form Deadline. Respondent may require that a claimant submit additional documentation supporting that the claimant is entitled to receive payment under Section 12(a) of the Securities Act and Paragraph 2.b above. Upon receiving such a request, a claimant will have thirty (30) days to provide the requested documentation in writing

to the address provided by Respondent. For any claims not paid, Respondent will provide the claimant with a written explanation of the reason for non-payment.

4. Beginning 30 days after the Claim Form Deadline, Respondent will submit to Commission staff a monthly report of the claims received and the claims paid under Paragraph 3 above, including (a) identifying information about each claimant; (b) the amount of each claim; (c) the resolution of each claim, including the amount of each payment; (d) identification of all claims not paid and the reasons for all non-payment of claims; and (e) a list of all complaints received (if any) and the manner in which Respondent addressed each complaint. Respondent will provide Commission staff with any related additional information or documentation reasonably requested by Commission staff, such as documentation submitted by the claimant and documentation supporting Respondent's decision regarding the claim. In response to any objections by Commission staff to Respondent's handling of one or more claims, Respondent will reconsider its decision(s) in light of the objection and will provide a written explanation to Commission staff of its decision following such reconsideration.

5. Within thirteen (13) months of the Effective Date, Respondent will submit to Commission staff a final report of its handling of all claims received under Paragraph 3 above, including all information listed in Paragraph 4 above (the "Final Report").

6. Respondent will certify, in writing, compliance with the undertakings set forth above within thirty (30) days of their completion. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence, as applicable. The certification and supporting material shall be submitted to Robert A. Cohen, Chief, Cyber Unit, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549, or such other person or address as the Commission staff may identify, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of certification of the completion of the undertakings.

7. If Respondent plans to file a Form 15 to terminate its registration pursuant to Rule 12g-4 under the Securities Exchange Act of 1934 on the grounds that the GLA Token no longer constitutes a "class of securities" under Rule 12g-4 because the GLA Token is no longer a "security" under Section 3(a)(10) of the 1934 Act, Respondent will notify the Commission staff at least thirty (30) days prior to such filing. Upon such notification, the Commission staff may make reasonable requests for further information, and Respondent agrees to provide such information, as applicable.

8. Respondent will retain all records and communications relating to the Gladius offering for a period of at least one year after the date it submits the certification of compliance as described in Paragraph 6 above, or until such time as otherwise required by law.

9. Respondent may apply to Commission staff for an extension of the deadlines described above before their expiration and, upon a showing of good cause by Respondent, Commission staff may, in its sole discretion, grant such extensions for whatever time period it deems appropriate.

10. In determining whether to accept the Offer, the Commission has considered the Respondent's cooperation and these undertakings.

VII.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act, Respondent cease and desist from committing or causing any violations and any future violations of Section 5(a) and (c) of the Securities Act.

By the Commission.

Brent J. Fields
Secretary