

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11262 / December 22, 2023

INVESTMENT COMPANY ACT OF 1940
Release No. 35079 / December 22, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21817

In the Matter of

BARNBRIDGE DAO

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933, AND SECTION 9(f) OF THE
INVESTMENT COMPANY ACT OF 1940,
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”), and Section 9(f) of the Investment Company Act of 1940 (“Investment Company Act”), against BarnBridge DAO (“Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which 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, and Section 9(f) of the Investment Company Act of 1940, 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 finds¹ that:

Summary

1. In 2020, Tyler Ward ("Ward") and Troy Murray ("Murray") developed "BarnBridge," a blockchain-enabled business for selling structured finance-type investments in pooled crypto asset vehicles. In August 2020, Ward and Murray launched BarnBridge by publishing a white paper, soliciting investors, and establishing a purportedly decentralized autonomous organization ("DAO") called BarnBridge DAO. From March 2021 to May 2023, BarnBridge DAO offered and sold to the public structured crypto asset securities, known as SMART Yield bonds ("SMART Yield"), in unregistered transactions. Through the BarnBridge.com website, BarnBridge DAO offered variable and fixed rate returns to investors who invested in SMART Yield. SMART Yield attracted more than \$509 million in investments, and BarnBridge DAO collected fees from investors participating in SMART Yield.

2. Ward and Murray built the infrastructure to develop BarnBridge DAO's business. Ward contracted to host the BarnBridge.com website and investment application, and set up website repositories for investors to access information about BarnBridge-related projects, including Medium, Github, and a Discord server dedicated to BarnBridge products and BarnBridge DAO-related discussions. The BarnBridge.com website, among other things, advertised expected investor returns associated with SMART Yield.

3. Ward and Murray used social media to promote the investment potential and returns associated with SMART Yield. Ward and Murray appeared as guests on multiple YouTube interview channels related to so-called "decentralized finance" to promote SMART Yield as an investment. Ward and Murray also authored articles and published a white paper on BarnBridge's Medium and Github pages that explained the SMART Yield product's potential returns and other plans for BarnBridge product development ("White Paper").

4. The White Paper described SMART Yield bonds as a fixed income product that allowed investors to receive fixed or variable gains by investing in Senior (guaranteed return) or Junior (variable return) tranches of SMART Yield investment pools (collectively, "Pools"). Investor assets in the Pools were exchanged for crypto assets issued by third-party lending platforms that generated interest income for the Pools. In the event that Senior investors' guaranteed yield was not met by a Pool's lending results, SMART Yield would direct the Junior investors' capital to be used to make up the difference to the Senior tranche investors. Junior tranche investors benefited when the lending platform assets returned more yield to the Pool than needed to pay the fixed amounts to Senior tranche investors, as the excess returns were paid to the Junior tranche investors.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

5. Ward and Murray were part of a core team that directed multiple BarnBridge-related operations. This core team controlled a multi-signature digital address to pay vendors and raise money to execute the goals described in the White Paper and to launch SMART Yield. Beginning in March 2021, BarnBridge DAO authorized the core team to conduct certain of its operations through BarnBridge DAO's multi-signature address. Ward and Murray oversaw the operation of BarnBridge's website, development of SMART Yield Pools, and hired programmers on BarnBridge's behalf to write, test, and audit the code for SMART Yield smart contracts. As the two largest individual holders of voting power of the BarnBridge DAO, every proposal approved by the DAO needed, and received, Ward and Murray's votes to reach a quorum.

6. Beginning in March 2021, BarnBridge DAO's first offering of securities issued by SMART Yield Pools attracted investors from the United States and from other countries. There was no mechanism for ensuring that investors in each of the SMART Yield Pools were accredited or located outside the United States.

7. From March 12, 2021 through March 2023, more than \$509 million worth of crypto assets were invested into SMART Yield Pools by investors using 1,235 unique crypto addresses. Of that amount, investors using 665 unique crypto addresses made transfers to SMART Yield of less than \$10,000 (averaging approximately \$1,520 each). Investors using 72 unique crypto addresses invested at least \$1,000,000 each in SMART Yield.

8. Based on the facts and circumstances set forth herein, BarnBridge DAO violated Sections 5(a) and 5(c) of the Securities Act by offering and selling SMART Yield bonds as fixed income notes, and therefore securities, without having a registration statement filed or in effect with the Commission or qualifying for an exemption from registration. Additionally, BarnBridge DAO caused the Pools to violate Section 7(a) of the Investment Company Act by offering and selling investments in more than a dozen SMART Yield Pools which were not registered with the Commission as investment companies.

Respondent

9. BarnBridge DAO is described by Ward as a "DAO-first" unincorporated organization composed of holders of a crypto asset known as \$BOND, which was minted in 2020 by Ward and Murray to be the so-called governance token for BarnBridge DAO. According to the White Paper, BarnBridge DAO was intended to operate as a "protocol DAO" that is "controlled by the \$BOND community." Ward conceived of BarnBridge DAO and Ward and Murray played the leading role in launching it in 2021. BarnBridge DAO focused on developing and issuing structured finance securities that are enabled by blockchain-based smart contracts, such as SMART Yield bonds, thereby purportedly eliminating the need for intermediaries associated with traditional finance, such as banks and broker-dealers. BarnBridge DAO purports to have no principal place of business and has no corporate registration. BarnBridge DAO is not registered with the Commission in any capacity.

Relevant Individuals

10. Tyler Scott Ward, 34, is a resident of Cayey, Puerto Rico, the creator of the BarnBridge protocols, and a co-founder of BarnBridge DAO. He led BarnBridge DAO's operations team, and shared authority over BarnBridge's day-to-day operations via multi-signature private key to a crypto wallet address that he shared with Murray and others. Ward was a member of the BarnBridge DAO core team and was compensated for his work for BarnBridge DAO. In a prior occupation he held Series 7 and 63 securities licenses.

11. Troy Murray, 38, is a resident of Dorado, Puerto Rico and a co-founder of BarnBridge DAO. Murray was responsible for project management for SMART Yield and BarnBridge DAO governance. He was a member of the BarnBridge DAO core team and held a leadership role on the operations team and was compensated for his work for BarnBridge DAO. Murray has never been associated with an entity registered with the Commission.

Facts

SMART Yield

12. BarnBridge was designed to be a so-called "risk tokenizing protocol" and SMART Yield bonds were its first fixed income products. Ward published a White Paper in 2020, later updated in 2021, describing his idea for SMART Yield and how the bonds were purportedly intended to allow investors to hedge the risks of investing in crypto assets through blockchain-based lending platforms. The White Paper described SMART Yield products as being similar to traditional structured finance products, but different in that they would be offered, sold or traded on a blockchain through smart contracts - self-executing programs deployed and run on a blockchain, rather than through banks and broker-dealers.

13. An article on BarnBridge's website further referred to SMART Yield as a fixed income product as safe as "highly-rated debt instruments" offered by non-crypto asset issuers:

SMART Yield is the first fixed income product from BarnBridge, a risk tokenizing protocol. By introducing an elegant yield sharing mechanism, SMART Yield is able to offer the first structured products in decentralized finance (DeFi) that mirror the safety and security of highly-rated debt instruments offered by traditional finance (TradFi) while still providing the outsized return.

14. The article further compared SMART Yield to structured debt products including residential mortgage-backed securities and claimed that SMART Yield "is able to offer guaranteed returns with a level of security greater than that of even AAA-rated securities in traditional markets. This is because smart contracts can guarantee coupon delivery at maturity."

15. The White Paper and article described how an investment in SMART Yield would generate returns as follows: BarnBridge's smart contracts would pool investor assets; invest those assets in third-party lending platforms; and pay variable or fixed returns to its investors realized from the returns paid to the SMART Yield Pools by the third-party platforms. Investors would be

able to purchase “Senior” or “Junior” bonds through BarnBridge’s website application. Senior bonds would offer lower, but guaranteed, yields, and Junior bonds would offer potentially higher, but variable, yields. Investors chose their level of risk tolerance and selected the tranche in which to invest. BarnBridge DAO received fees from the investors, which varied along with the lending market’s interest rate yields paid to the investment pools, and investor demand for the products.

16. Developers hired by Ward and Murray on behalf of BarnBridge DAO coded SMART Yield smart contracts to pool crypto assets deposited by investors to be used in third-party lending platforms. The investors’ deposited assets were used to generate the revenue for the Pools to pay the Senior tranche holders the advertised rates of return. Each of the Pools exchanged one type of crypto asset for newly minted lending platform assets which could be exchanged by the Pool for a return of principal and interest, and in some cases additional crypto assets that the lending platforms issued to incentivize lending. In the event that Senior investors’ guaranteed yield was not met by the Pool’s lending results, SMART Yield’s smart contracts were programmed to use Junior investors’ deposited crypto assets to make payments to the Senior tranche investors. Junior tranche investors stood to receive excess returns when a Pool’s yield was greater than the fixed amount promised to Senior tranche investors. In this manner, BarnBridge’s smart contracts offered Junior tranche investors the potential for a greater investment return, by taking on greater risk, than by making direct investments in the underlying lending platforms.

17. The White Paper included examples to show how risk and yield would be divided between Junior and Senior tranche investors. In one scenario, Junior investors would receive interest as high as 21.6% annualized percentage return (“APR”) from a pool of loans that earned a yield of 10% pool-wide, because Junior tranche investors would be entitled to excess returns after the 5% fixed rate promised to Senior tranche investors were paid:



18. A second scenario showed that if a pool of loans failed to return enough assets to meet the fixed yield guaranteed to Senior tranche investors, the Senior tranche investors would be paid first and the Junior tranche investors could suffer losses:



19. The White Paper also stated that SMART Yield would accomplish the same investment goals achieved in structured finance by noting that “the ability to pull yield from numerous protocols and tranche them into higher and lower yield buckets is something that exists in traditional finance markets but is more efficient in decentralized finance markets, assuming an acceptable level of liquidity.”

20. Between March 2021 and May 2023, Ward, Murray, and BarnBridge DAO, through the BarnBridge website and application, offered investments in twelve SMART Yield Pools to investors, including to U.S. investors. BarnBridge DAO added offerings and modified the code for SMART Yield during this time. No registration statement was ever filed or in effect with the Commission for the offer and sale of SMART Yield securities, and the sales did not qualify for an exemption from registration. Ward and Murray were heavily involved in promoting SMART Yield as a risk-controlled investment opportunity through online marketing campaigns and the publication of articles in the decentralized finance media. The products were sold through BarnBridge’s website application, and offered investors the ability to invest multiple crypto assets into SMART Yield Pools that were designated for popular third-party lending platforms chosen by Ward and others under his direction. Ward contracted on behalf of BarnBridge DAO with blockchain coders who programmed the operation of the smart contracts that controlled the SMART Yield functions. BarnBridge DAO paid third party blockchain auditors to test and monitor the smart contracts to ensure they operated as predicted.

21. SMART Yield sales generated revenue for BarnBridge DAO through fees received from investors. Senior tranche investors paid a fee of 5% of their returns, collected at maturity, and junior tranche investors paid a fee of 0.5% at the time of investing in a SMART Yield Pool. These fees were deposited in a crypto asset address maintained as a treasury account on behalf of BarnBridge DAO. BarnBridge DAO voted to spend these fees to further its business plan as outlined in the White Paper.

22. The BarnBridge White Paper described various ways Ward intended to use funds raised from investors, including the development of future products, establishing new investment pools to allow for a wider variety of digital assets, conducting internal audits, and hiring outside audit firms to review its smart contract code and verify the stability of its protocols, among other things.

23. BarnBridge DAO also used the revenue from SMART Yield to pay salaries to Ward and Murray, who acted as its de facto executives. BarnBridge DAO also used the SMART Yield revenue to pay operations teams hired and led by Ward and Murray, to pay programming development teams, to pay for website hosting, to pay blockchain-related transaction fees, and to pay individuals involved in communications and marketing.

SMART Yield Investment Pools were Unregistered Investment Companies

24. From March 2021 to May 2023, BarnBridge DAO operated the SMART Yield Pools, which engaged in the business of investing, holding, and trading certain assets that were investment securities, as defined in Section 3(a)(2) of the Investment Company Act, having a value exceeding 40 percent of the value of the SMART Yield Pools' total assets, exclusive of government-issued securities and cash items.

25. Ward developed a mechanism, implemented by blockchain and website developers, to pool crypto assets invested into each SMART Yield Pool and deploy them into investment activities aimed at generating returns for both BarnBridge DAO and for that SMART Yield Pool's investors. Each SMART Yield Pool generated its returns by exchanging its crypto asset holdings with third-party crypto lending platforms to earn interest for the Pool. Each Pool's lending activities generated income in the form of additional crypto assets. Each Pool then used this income to make distributions to investors. This income was first directed to the Senior tranche investors according to the terms of their investment, and only if the Senior tranche holders were paid in full would the the Junior tranche investors receive any distribution from the Pool. Investors participated in the SMART Yield Pool offerings by depositing crypto assets in the addresses that were associated with the Pool for that investment.

26. The SMART Yield Pools are investment companies as defined by Section 3(a)(1)(C) of the Investment Company Act. Section 3(a)(1)(C) of the Investment Company Act defines "investment company" as any issuer which "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." The only assets held in the SMART Yield Pools were investment securities, held for the purpose of generating the returns to pay SMART Yield Pool investors, and constituted more than 40 percent of the value of each Pool's total assets. The SMART Yield Pools sold investors newly minted SMART Yield bonds that themselves acted as fixed income debt securities in the form of a callable note by promising a fixed or variable return based on the performance of the Pools. The SMART Yield bonds sold via the BarnBridge website application thus constituted notes, evidenced by the deposit of principal in return for a promise to return the principal with interest; the BarnBridge

SMART Yield smart contracts issued their own crypto assets to investors as evidence of indebtedness, which investors could exchange or redeem in the future.

27. Although each of the the SMART Yield Pools met the definition of “investment company” during the relevant period, none of them registered with the Commission as an investment company, met any statutory exemptions or exclusions from the definition of an investment company, or sought an order from the Commission declaring that it was primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities, or exempting it from complying with any provisions of the Investment Company Act or the rules thereunder. BarnBridge DAO, as the operator of the SMART Yield Pools caused violations of Section 7(a) of the Investment Company Act by offering and selling investments in SMART Yield Pools which were not registered with the Commission as investment companies.

Violations

28. Under Section 2(a)(1) of the Securities Act, a security includes any “note.” A note is presumed to be a security unless it bears a strong resemblance to instruments that are not securities, which courts determine by examining four factors: (1) the motivation of the parties; (2) the plan of distribution; (3) the expectations of the investing public; and (4) a risk-reducing factor such as the availability of an alternative regulatory regime that “significantly reduces the risk of the instrument, thereby rendering application of the Securities Acts unnecessary.” *See Reves v. Ernst & Young*, 494 U.S. 56, 64–66 (1990); *SEC v. Thompson*, 732 F.3d 1151, 1159 (10th Cir. 2013).

29. Section 5(a) of the Securities Act states that “[u]nless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly, (1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such a security through the use or medium of any prospectus or otherwise, or (2) 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.”

30. Section 5(c) of the Securities Act states that “[i]t 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.”

31. No registration statement was filed or in effect for the Respondent’s offers and sales of SMART Yield products, nor were any exemptions from registration available.

32. As a result of the conduct described above, BarnBridge DAO violated of Sections 5(a) and 5(c) of the Securities Act.

33. Subject to exceptions that are not applicable to the SMART Yield Pools, investment companies are required to be registered with the Commission in order to sell investments. Section 7(a) of the Investment Company Act states: “No investment company organized or otherwise created under the laws of the United States or of a State and having a board

of directors, unless registered under section 8, shall directly or indirectly (1) offer for sale, sell, or deliver after sale, by the use of the mails or any means or instrumentality of interstate commerce, any security or any interest in a security, whether the issuer of such security is such investment company or another person; or offer for sale, sell, or deliver after sale any such security or interest, having reason to believe that such security or interest will be made the subject of a public offering by use of the mails or any means or instrumentality of interstate commerce.”

34. The SMART Yield Pools, offered and operated by BarnBridge DAO, were comprised of investment securities, and sold notes to investors seeking to profit from the Pools’ investments. BarnBridge DAO failed to register any of the SMART Yield Pools with the Commission as an investment company. Therefore, the sales and delivery of unregistered SMART Yield securities in the United States violated Section 7(a) of the Investment Company Act.

35. As a result of the conduct described above, BarnBridge DAO caused the Pools to violate Section 7(a) of the Investment Company Act.

Disgorgement

36. The disgorgement ordered in paragraph IV.D is consistent with equitable principles, does not exceed Respondent’s net profits from its violations, and returning the money to Respondent would be inconsistent with equitable principles. Therefore, in these circumstances, distributing disgorged funds to the U.S. Treasury is the most equitable alternative. The disgorgement ordered in paragraph IV.D shall be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Subsequent Events and Remedial Measures

37. In determining to accept the Offer, the Commission considered these acts undertaken by Ward and Murray on behalf of the Respondent. In July 2023, Ward and Murray took steps to close investments in a second version of SMART Yield that had launched in January 2023, after BarnBridge DAO had stopped offering investments in SMART Yield Pools described in this Order. Ward and Murray also canceled a new product launch, limited access to Discord, Github, and other platforms used by BarnBridge DAO, and stopped development of further securities using the BarnBridge protocol.

Undertakings

38. Respondent has undertaken to:

A. Cease offering securities known as SMART Yield, and any other unregistered securities, through the BarnBridge.com website and protocols.

B. Cease making payments for the development, maintenance, and use of smart contracts that comprise the BarnBridge website, application, and protocols.

C. Cease operation of SMART Yield contracts, and take actions necessary to reprogram controllers to prevent investors from making new deposits in BarnBridge-related crypto addresses.

D. Publish notice of this Order on BarnBridge's website and social media channels, in a form not unacceptable to Commission staff, within 10 days of the date of this Order, and maintain such notice for at least one year from the date of this Order.

E. Certify, in writing, compliance with the undertakings set forth above. 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. The certification and supporting material shall be submitted to Osman Nawaz, Chief, Complex Financial Instruments Unit, Division of Enforcement, with a copy to the Office of Chief Counsel of the Division of Enforcement, no later than thirty (30) days from the date of the completion of the undertakings.

IV.

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 pursuant to Section 8A of the Securities Act and Section 9(f) of the Investment Company Act:

A. Respondent cease and desist from committing or causing any violations and any future violations of Sections 5(a) and (c) of the Securities Act.

B. Respondent cease and desist from committing or causing any violations and any future violations of Section 7(a) of the Investment Company Act.

C. Respondent shall comply with the undertakings enumerated in Paragraph 38 above.

D. Respondent shall, within 14 days of the entry of this Order, pay disgorgement in the amount of \$1,457,000, to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or

- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying the Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Osman Nawaz, Chief, Complex Financial Instruments Unit, Division of Enforcement, Securities and Exchange Commission, 100 Pearl St., Suite 20-100, New York, NY 10004.

By the Commission.

Vanessa A. Countryman
Secretary