

November 21, 2022

On November 10, 2022, the Consumer Financial Protection Bureau issued a [bulletin analyzing consumer complaints](#) submitted to the CFPB over the past four years related to crypto-assets and platforms. According to the CFPB, fraud, scams and transaction issues accounted for almost two-thirds of those complaints. Indeed, shortly after the bulletin's release, CFPB Director Rohit Chopra in other public commentary described crypto as "a new vector for fraudsters." Underlying many of the complaints were concerns with the level of customer service provided by crypto companies when issues arose.

The bulletin describes risks to consumers and steps consumers can take to protect themselves, while highlighting areas of focus for crypto companies wanting to reduce their potential risk.

## CFPB's analysis of complaints

The CFPB considered more than 8,300 consumer complaints submitted between October 2018 and September 2022 from all 50 US states. Based on that review, the CFPB found that fraud and scams lead the list of concerns raised by consumers, followed by transaction issues.

### **Fraud, scams, thefts and hacks**

According to the bulletin, alleged fraud or scams make up over half of the crypto complaints the CFPB has received so far in 2022, and that percentage has steadily increased in the past year. In September 2022, fraud or scams accounted for 63% of all crypto-related complaints.

Consumers have reported large losses as a result of fraud or scams, and popular crypto platforms have found themselves the target of hacks, including by "certain nation-state actors." The bulletin reports that hackers associated with North Korea reportedly have stolen more than \$2 billion in crypto-assets, with more than \$1 billion reportedly lost between January 2022 and July 2022 alone.

Although the CFPB cautions consumers to watch out for signs of a scam and not to mix crypto-assets and romance, it also suggests that crypto firms are not without culpability. The bulletin indicates that customer service deficiencies at crypto companies have "create[d] opportunities" for scammers to impersonate customer service representatives to gain access to consumers' wallets and steal their crypto-assets, and that failures to timely respond to customer outreach exposes consumers to unnecessary risks. The bulletin also questions "whether crypto-asset platforms are effectively identifying and stopping fraudulent transactions" in light of the prevalence of fraud and scam complaints.

### **Transaction issues, account access and frozen accounts**

Transaction issues accounted for the second-largest percentage of crypto-related consumer complaints. Reported transaction issues occurred when buying or selling crypto-assets, or when attempting to withdraw assets from crypto platforms. They included complaints about undisclosed or unexpected costs on crypto-asset platforms, fees assessed in contradiction of the company's disclosures and representations, and trouble with consumer account access.

The bulletin also reported an increased number of complaints regarding platforms freezing customer accounts and then filing for bankruptcy protection, with some consumers reportedly losing six figures or more. Other complaints described companies refusing and ignoring requests from consumers to withdraw assets, often contradicting their disclosures.

## What this means for crypto companies

The bulletin comes after months of severe turbulence in the crypto market, and as a dramatic uptick in consumer participation in crypto-assets has been accompanied by a rise in consumer risks and consumer

protection scrutiny. It also follows the Department of Justice's announcement earlier this year of the first director of the National Cryptocurrency Enforcement Team to promote platform accountability, and the recent announcement that one of the largest crypto exchanges has filed for bankruptcy. With all this activity, it is imperative for crypto companies to assess their controls and take action to reduce their potential risk.

The CFPB's bulletin highlights the need for crypto companies to have in place robust fraud identification and prevention controls, and provide customers with compliant disclosures to reduce the potential risk of government scrutiny and liability. Providing a channel for consumers to raise concerns and direct complaints to the company to manage – rather than a regulator – is also a key takeaway that is particularly important at a time when crypto-assets and platforms are under scrutiny.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our legal notices.

## Key Contacts

Michelle L. Rogers Washington, DC	<a href="mailto:mrogers@cooley.com">mrogers@cooley.com</a> +1 202 776 2227
--------------------------------------	---

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.