
# Crypto assets: Investor protection and systemic risk considerations

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# Treasury and the Executive Order on Digital Assets

President Biden's Executive Order (EO) on *Ensuring Responsible Development of Digital Assets* (Mar. 9, 2022) established a government-wide approach to addressing the risks and harnessing the potential benefits of digital assets and their underlying technology.

Treasury-led reports, in consultation with Exec branch and regulators:

- The future of money and payments
- Implications of crypto-assets for consumers, investors and businesses
- Digital-asset-related illicit finance and national security risks
- International engagement and cooperation

Treasury-chaired Financial Stability Oversight Council report on financial stability risks of digital assets and regulatory gaps.

Today: Discuss investor and consumer protection and systemic risk considerations.

# Crypto implications for consumers and investors

Charge: What are current use cases for crypto assets, and are vulnerable communities disparately impacted?

Main findings:

- Frequent instances of operational failures, market manipulation, frauds, thefts, and scams.
- Consumers and investors are exposed to improper conduct through lack of transparency and non-compliance with existing regulations, including misrepresentations of the availability of deposit insurance.
- May present heightened risks to vulnerable populations, but data are inadequate

Recommendations for regulators:

- Continue to aggressively pursue enforcement
- Continue to issue guidance and rules, as needed, and to work together to promote consistent and comprehensive oversight
- Provide better information to consumers

# Financial stability risks of digital assets

Charge:

- What are the financial stability risks and regulatory gaps of digital assets?
- Make recommendations to mitigate systemic risks

Main findings:

- Financial stability risks could emerge if:
  - Crypto-asset activities increase in scale, or
  - Interconnections with the traditional financial system deepen, and
  - When activities are not appropriately regulated and rules are not enforced…
- Notable risks from stablecoins, platforms, and reliance on MSB licenses
- Within the crypto system, vulnerabilities are significant, not unique:
  - Speculative-driven asset prices, run risk, leverage, interconnectedness, and operational vulnerabilities

Identified regulatory gaps:

- Spot market for crypto-assets that are not securities
- Regulatory arbitrage
- Direct retail access to markets

# Lessons for the Future

As the crypto events of the past year unfolded…

Risks to investors and consumers came to light

- Need better transparency and consumer understanding of products and risks.
  - SEC and CFTC have brought over 146 enforcement actions against crypto-asset related enforcement actions
  - State securities regulators have brought 480 investigations and 145 enforcement actions
  - CFPB had over 8,300 complaints filed between 2018 and 2022, most in the last two years
- Governance in crypto-asset products is weak.

Instability mainly within the crypto sector and broader systemic effects were absent

- Limited scale
- Limited interconnections with the traditional financial sector
- Limited use for money and payments

# FSOC report made 10 recommendations

To address consumer and investor protection and systemic risks:

- Apply "Same risk, same activity, same outcome"
- Enforce existing regulations – securities and commodities, and banking
- Legislation to address regulatory gaps
  - Create a spot market framework for customer protection and market integrity
  - Regulate stablecoins for run risks and operational risks
  - Regulate platforms that provide multiple services to reduce systemic risk
    - Create visibility into affiliates, both on- and off-shore
    - Apply exchange and custody rules
    - Increase coordination among agencies
- Study potential systemic risks of direct retail access