

AUTHORS

Allyson B. Baker
Suzanne Fay Garwood
D. E. Wilson, Jr.

RELATED INDUSTRIES

Financial Services
Consumer Financial
Protection Bureau Task
Force

ARCHIVES

2014 2010 2006
2013 2009 2005
2012 2008 2004
2011 2007

ARTICLES

August 11, 2014

CFPB ISSUES CONSUMER ADVISORY CONCERNING VIRTUAL CURRENCY

Today, the Consumer Financial Protection Bureau (CFPB) issued a Consumer Advisory about virtual currency. The Bureau also announced that its consumer complaint database is now accepting complaints about virtual currency. The Bureau, of course, uses its consumer complaint database as a way to prioritize its regulatory and policy-making activities – and virtual currency may soon be on the Bureau's priority list.

The Bureau's Consumer Advisory notes that there are certain "associated risks" of using virtual currency – including hackers, costs, and scams – and that there are "fewer protections" associated with this type of currency than what "you expect from a bank or debit or credit card provider."

The Advisory provides a brief overview of how virtual currency operates, noting that the currency (i) is not issued or backed by any government and (ii) is stored in digital wallets, which are maintained virtually and accessed by private keys [passwords (of sorts) composed of a unique and random 64-letter sequence].

The Bureau advises consumers to obtain information about the dealers from which they purchase virtual currency, and to ascertain whether a virtual currency exchange is registered with the Financial Crimes Enforcement Network (FinCEN), as required by law. The Bureau's Consumer Advisory explains that virtual currency is subject to price fluctuation and is neither insured by the government, nor protected from data breaches by any bank or credit card company.

The Bureau's Consumer Advisory delineates some potential issues surrounding the use of virtual currency, including the increased possibility of scams and that the loss of a consumer's private keys means the inevitable loss of the virtual currency stored in that account. Finally, the Bureau notes some of the concerns arising from a consumer's use of a digital wallet to store virtual currency, including the possibility of hacking and the need to understand fully the terms of any digital wallet agreement.

The Bureau concludes the Consumer Advisory by informing consumers that if they "encounter a problem with virtual currency or a virtual currency company," they should notify the Bureau by submitting a complaint to the consumer database.

* * * * *

The Bureau's Advisory provides important information about virtual currencies, but leaves some areas untouched – most importantly the tax implications of buying and selling virtual currencies. On this point, please see [Regulatory and Tax Issues Posed By Convertible Virtual Currencies](#) (Kolstad & Wilson, April 2014).

* * * * *

Please contact a member of Venable's [CFPB Task Force](#), including one of the authors of this alert, if you would like more information about this CFPB Consumer Advisory, other CFPB-related initiatives, or Venable's work advising clients about virtual currency and related issues.

***Allyson Baker** is a trial attorney with more than a decade of experience in the federal government and private practice. She specializes in litigation involving consumer finance matters, financial fraud, and complex financial transactions, as well as law enforcement investigations involving companies that provide financial products and services. Ms. Baker was an Enforcement Attorney with the Consumer Financial Protection Bureau (CFPB), serving as lead counsel on one of its first enforcement actions (which also resulted in one of the largest agency settlements to date). She was a member of the initial*

team of attorneys hired to stand up the CFPB Office of Enforcement, and she helped formulate policies on litigation, investigations, and Dodd-Frank Act jurisdiction issues. She also led an office working group that created, reviewed, and coordinated research projects involving the application of Dodd-Frank and a group that coordinated the work between the Offices of Enforcement and Fair Lending. Before joining the CFPB, Ms. Baker was a trial attorney with the U.S. Department of Justice, Civil Tax Division, where she served as counsel in a number of jury and bench trials involving complex financial transactions.