Digital Assets

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Issue Update

The digital asset market includes a range of instruments – from speculative and highly-priced volatile cryptocurrencies (e.g., bitcoin and ether), to so-called stablecoins backed by a collection of assets (e.g., USDC and Tether) to digital representations of customer bank deposits on a blockchain. Further, the United States as well as many other countries, have begun to explore Central Bank Digital Currency (CBDC), which is covered in another briefing. Each category of digital asset has a unique risk profile.

The total value of digital assets, including stablecoins, peaked at around $3 trillion in November 2021 and hovers around $1.1 billion in mid-2023. The drop in cryptocurrency valuations coupled with risky, highly leveraged, and largely unregulated business models resulted in some digital asset companies becoming insolvent. The most dramatic collapse occurred during November 2022, as the digital assets exchange FTX imploded. 2023 has seen a ramp-up in enforcement actions against crypto companies, including lawsuits brought by the SEC against the largest cryptocurrency exchange, Binance, and the largest US-based exchange, Coinbase. Both are alleged to operate illegal securities exchanges.

There is currently no comprehensive regulatory framework that establishes guidelines for risk management and consumer protection in the digital asset market, and the FTX collapse has intensified calls for governmental action. In July, the House Financial Services Committee passed two digital asset bills out of committee, and both are pending action on the House floor. One establishes a regulatory framework for digital asset companies broadly, and the second establishes a regulatory framework for stablecoin issuers.

Why it Matters to Your Community

There is significant regulatory uncertainty in the market today and an uneven application of existing rules. Banks are actively evaluating ways to safely and responsibly allow their customers to buy, sell, hold, and use digital assets through their existing banking relationships, primarily focusing on the ability to provide custody services. The Fed, OCC, and FDIC have urged extreme caution and are taking a case-by-case approach to review bank activity in digital assets, which is causing banks to move more slowly into digital asset markets compared with unregulated crypto companies creating an un-level playing field and an environment ripe for fraud, risk, and consumer harm.

Recommended Action Items

Urge Congress and Regulators to apply the principle of "same activity, same risk, same regulation" to digital asset activities, assuring that consumers will be equally protected whether they choose to access these markets through a bank or a non-bank.

Urge Congress and Regulators to clarify that it is generally permissible for banks acting in a safe and sound manner to perform certain digital asset activities, such as the provision of custody services. Consumers who choose to access these markets are best served when they can do so through fully regulated banks that are subject to rigorous oversight and consumer protection requirements.

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