

# Client Alert

---

July 7, 2014

## CFPB to Assume a Larger Role in Virtual Currency Initiatives

By Rick Fischer, Obrea Poindexter, Jeremy Mandell and James Nguyen

On June 26, 2014, the U.S. Government Accountability Office (“GAO”) released a report, entitled “Virtual Currencies: Emerging Regulatory, Law Enforcement, and Consumer Protection Challenges.” The report, delivered earlier to the U.S. Senate Committee on Homeland Security and Government Affairs, is the GAO’s second report on virtual currencies. In 2013, the GAO released a report on the tax implications of virtual currencies, which led to guidance from the Internal Revenue Service (“IRS”) concluding that virtual currencies should be treated by the IRS as property for tax purposes.

The GAO’s second report examines the roles, responsibilities and challenges federal agencies face in connection with the regulation of virtual currencies. The report names the Financial Crimes Enforcement Network, the prudential banking regulators, the Securities and Exchange Commission, the Consumer Financial Protection Bureau (“CFPB”), the Department of Justice and the Department of Homeland Security as the federal agencies responsible for overseeing both the legitimate and illegitimate uses of virtual currencies. According to the GAO report, these agencies are responsible for addressing the regulatory, law enforcement, and consumer protection challenges presented by virtual currencies.

The challenges discussed in the GAO report include:

- the high degree of anonymity provided by virtual currencies;
- the cross-jurisdictional nature inherent in virtual currency schemes; and
- the consumer and investor protection risks posed by virtual currency activities.

### Recommendation for More CFPB Involvement on Virtual Currencies

The GAO report catalogs and examines the actions federal agencies have taken in response to the challenges presented by virtual currencies, including the establishment of interagency working groups on virtual currencies. The report finds that these groups have not, thus far, emphasized consumer protection issues due to the CFPB’s lack of participation in efforts to inform consumers about the potential risks associated with virtual currencies, such as the disruption and subsequent bankruptcy of Mt. Gox, a bitcoin exchange. As a result, the GAO recommended that the CFPB identify interagency working groups that would benefit from the CFPB’s participation, and coordinate with other federal agencies to determine the groups in which the CFPB should participate.

In a letter responding to the GAO report, the CFPB identified its involvement in numerous informal discussions and its participation in various interagency working groups on virtual currencies, but nevertheless concluded that it

## Client Alert

---

concurr with the GAO's recommendation. Specifically, the CFPB stated that continued federal regulatory efforts "will benefit from a collaborative response" to concerns arising from virtual currencies, and said that it will increase its involvement in interagency working groups "as they engage on specific issues relating to consumer protection." We will continue to follow developments related to virtual currencies and the CFPB's efforts in this regard.

### Contact:

**Rick Fischer**

(202) 887-1566

[rfischer@mofocom](mailto:rfischer@mofocom)

**Obrea O. Poindexter**

(202) 887-8741

[opoindexter@mofocom](mailto:opoindexter@mofocom)

**Jeremy R. Mandell**

(202) 887-1505

[jmandell@mofocom](mailto:jmandell@mofocom)

**James Nguyen**

(202) 778-1656

[jamesnguyen@mofocom](mailto:jamesnguyen@mofocom)

### About Morrison & Foerster:

We are Morrison & Foerster—a global firm of exceptional credentials. Our clients include some of the largest financial institutions, investment banks, Fortune 100, technology and life science companies. We've been included on *The American Lawyer's* A-List for 11 straight years, and *Fortune* named us one of the "100 Best Companies to Work For." Our lawyers are committed to achieving innovative and business-minded results for our clients, while preserving the differences that make us stronger. This is MoFo. Visit us at [www.mofocom](http://www.mofocom).

*Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations. Prior results do not guarantee a similar outcome.*