SECTION 6
Crypto-Asset Risk

- **The crypto-asset sector experienced significant market volatility in 2022.**
- **Crypto-asset-related activities can pose novel and complex risks to the U.S. banking system that are difficult to fully assess.**
- **The FDIC, in coordination with the other federal banking agencies, has taken steps to closely monitor crypto-asset-related activities of banking organizations.**

The crypto-asset sector experienced significant market volatility in 2022, exposing several vulnerabilities. In 2022, growth in the crypto-asset industry corresponded with an increasing interest by some banks to engage in crypto-asset activities.

Crypto-assets present novel and complex risks that are difficult to fully assess.[120] Part of the difficulty in assessing these risks arises from the dynamic nature of crypto-assets, the crypto marketplace, and the rapid pace of innovation. Some of the key risks associated with crypto-assets and crypto-asset sector participants include those related to fraud, legal uncertainties, misleading or inaccurate representations and disclosures, risk management practices exhibiting a lack of maturity and robustness, and platform and other operational vulnerabilities. Possible contagion risk within the crypto-asset sector resulting from interconnections among certain crypto-asset participants may present concentration risks for banks with exposure to the crypto-asset sector. Susceptibility of stablecoins to run risk can create the potential for deposit outflows for banks that hold stablecoin reserves.[121]

The FDIC and other banking regulators have taken several steps in light of these emerging risks. The FDIC has generally been aware of some banks' interest in crypto-asset-related activities through its normal supervision process. However, as this interest has accelerated, the FDIC determined that more information was needed to better understand the risks associated with these activities. Hence in April 2022, the FDIC issued Financial Institution Letter (FIL) 016-2022, which asks FDIC-supervised institutions to notify the FDIC of the crypto-related activities in which they are engaged in or intend to engage in.[122] This FIL notes various crypto-related activities, including acting as crypto-asset custodians; maintaining stablecoin reserves; issuing crypto and other digital assets; acting as market makers or exchange or redemption agents; participating in blockchain and distributed ledger-based settlement or payment systems, including performing node functions; and related activities such as finder activities and lending. This list is not all inclusive and does not mean that the activity is permissible for FDIC-supervised institutions. These institutions were asked to provide necessary information that would allow the FDIC to assess the safety and soundness, consumer protection, and financial stability implications of such activities.

While not specific to crypto-assets, the FDIC finalized a rule on May 17, 2022, to help address instances in which firms misrepresent the availability of deposit insurance in violation of the law. On July 29, 2022, the FDIC issued a fact sheet to the public on FDIC deposit insurance and crypto companies and an

[120] The Financial Stability Oversight Council's report on digital assets describes crypto-assets as private sector digital assets that depend primarily on the use of cryptography and distributed ledger or similar technologies, Report on Digital Asset Financial Stability Risks and Regulation 2022.

[121] Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, Joint Statement on Crypto-Asset Risks to Banking Organizations, January 3, 2023.

[122] Federal Deposit Insurance Corporation, Notification and Supervisory Feedback Procedures for FDIC-Supervised Institutions Engaging in Crypto-Related Activities, FIL-16-2022, April 7, 2022.

advisory to FDIC-insured institutions on deposit insurance and dealings with crypto companies.[123] Both documents address risks, concerns, and risk management and governance considerations related to misrepresentations and misconceptions about deposit insurance coverage in the context of crypto-assets. Since 2022, the FDIC has taken action against more than 85 entities that were misrepresenting the nature, extent, or availability of deposit insurance. In some instances, these firms had made misleading claims in connection with crypto-assets.[124] For example, on August 19, 2022, the FDIC issued letters to five companies that had made false representations stating or implying that crypto-assets were eligible for FDIC insurance, demanding that they and their officers, directors, and employees cease and desist from making false and misleading statements about FDIC deposit insurance.[125] Also, on December 13, 2022, the FDIC Board of Directors issued for public comment a proposed rule to amend its regulations on use of the official FDIC sign and to clarify the FDIC regulation regarding misrepresentations of deposit insurance.[126]

More recently in January 2023, the FDIC, the Federal Reserve, and the Office of the Comptroller of the Currency (OCC) released a joint statement on crypto-asset risks to banking organizations.[127] The statement reminds banking organizations that they should ensure that crypto-asset-related activities can be performed in a safe and sound manner, are legally permissible, and comply with applicable laws and regulations, including those designed to protect consumers (such as fair lending laws and prohibitions against unfair, deceptive, or abusive acts or practices). Also, in February 2023, the FDIC, Federal Reserve, and OCC issued a Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities on the liquidity risks to banking organizations presented by certain sources of funding from crypto-asset-related entities.[128] This statement highlights key liquidity risks associated with crypto-assets and crypto-asset sector participants that banking organizations should be aware of. In particular, certain sources of funding from crypto-asset-related entities may pose heightened liquidity risks to banking organizations due to the unpredictability of the scale and timing of deposit inflows and outflows. The statement reminds banking organizations to apply existing risk management principles and provides examples of practices that could be effective. The agencies also continue to emphasize that banking organizations are neither prohibited nor discouraged from providing banking services to customers of any specific class or type, as permitted by law or regulation.

The FDIC, in coordination with the other federal banking agencies, continues to closely monitor crypto-asset-related exposures of banking organizations. As warranted, the FDIC will issue additional statements related to engagement by banking organizations in crypto-asset-related activities. The FDIC also has developed processes to engage in robust supervisory discussions with banking organizations regarding proposed and existing crypto-asset-related activities.

[123] Federal Deposit Insurance Corporation, Fact Sheet: What the Public Needs to Know About FDIC Deposit Insurance and Crypto Companies, July 28, 2022; and Advisory to FDIC-Insured Institutions Regarding FDIC Deposit Insurance Coverage and Dealings with Crypto Companies, FIL-35, 2022, July 29, 2022.

[124] Federal Deposit Insurance Corporation, Remarks by Chairman Martin J. Gruenberg at the Cities for Financial Empowerment Fund 2023 Bank On National Conference, May 23, 2023.

[125] Federal Deposit Insurance Corporation, "FDIC Issues Cease and Desist Letters to Five Companies for Making Crypto-Related False or Misleading Representations about Deposit Insurance," news release, August 19, 2022.

[126] Federal Deposit Insurance Corporation, FDIC Official Sign and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo, 87 Fed. Reg.78017–78037 (Dec. 21, 2022); and Notice of Proposal on FDIC Official Sign and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo, FIL-52-2022, December 13, 2022.

[127] Joint Statement on Crypto-Asset Risks to Banking Organizations, January 3, 2023.

[128] Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, Joint Statement on Liquidity Risks to Banking Organizations Resulting From Crypto-Asset Market Vulnerabilities, February 23, 2023.