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Understanding the CFPB's Proposed Digital Payments Larger Participants Rule and Its Implications for Digital Assets

The Crypto Exchange Podcast

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In this special joint episode of *Payments Pros* and *The Crypto Exchange*, Ethan Ostroff, James Kim, and Carlin McCrory discuss the Consumer Financial Protection Bureau's (CFPB) proposed rule to supervise large tech companies and other providers of digital wallets and payment apps. The proposed rule asserts that digital assets are "funds" subject to the Dodd-Frank Act and other federal consumer financial laws and regulations, which would expand the CFPB's supervisory powers to examine companies facilitating crypto and other digital asset transactions.

Our group discusses the legal basis for the CFPB's assertion of jurisdiction over digital assets, and observes that the CFPB's position lacks clear statutory authority and may violate the major questions doctrine. They also note that Congress is currently working on legislation related to digital assets, and that the CFPB should not preempt this process.

Lastly, the group highlights practical questions that companies face when assessing the proposed rule, such as whether NFTs are covered and how companies can monitor anonymous, blockchain transactions.

The final rule is anticipated to be released before year end, with examinations starting in 2025.

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