



Feeding the Loot Box Monster: The CFPB's Concerns with Payment Transmission in Gaming

May 16th, 2024 | [Justin B. Hosie](#), [Julia K. Whitelock](#) and [Jason Esteves](#)

On May 9, 2024, we published our first [article](#) in a series of articles on the CFPB's interest in gaming. Back on April 4, 2024, the Consumer Financial Protection Bureau ("CFPB") issued a [report](#) identifying various risks to consumers in video gaming marketplaces. In the past, the CFPB has issued these reports as an advance warning that it is planning to take action against organizations in a given industry. This second article focuses on payment risks the CFPB addressed with respect to gaming.

In particular, the CFPB seems concerned about various practices that could be violations of the Electronic Funds Transfer Act and Regulation E, money transmitter laws, and payment system rules. With respect to payments, a few quotes from the CFPB report are worth explanation, both in terms of their background, and their implications for the gaming industry.

In total, with respect to payments, actions seem likely. The CFPB is concerned about value accessibility and transparency, holding value and recourse when the value disappears due to fraud, moving value and money laundering, and currency conversion. For each of these concerns, we have addressed some background information, specifics about the CFPB's concerns, and the implications for violations.

As a starting point, the CFPB signaled that actions are likely when it issues reports to the public. This report encouraged the public to submit complaints to its hotline, encouraged whistleblowers inside the gaming industry to report companies, and pledged to "continue to monitor evolving gaming markets and the costs and risks incurred by consumers." Taken together, this means the CFPB is enlisting the help of consumers and employees and looking on its own for emerging issues. With respect to payments and value, the CFPB appears focused on concerns related to accessing and moving value, holding value and recourse, and currency conversion.

Accessing and Moving Value.

The CFPB expressed concern about whether consumers were able to access value in the gaming ecosystem, and about transparency related to that value. Federal

and state agencies regulate money transmission, with significant restrictions imposed to help protect consumers. State regulators license and examine money transmitters. Moreover, federal laws impose restrictions intended to limit money laundering by consumers, prevent transmitters from losing or absconding with funds, and require disclosures about costs and fees imposed.

The CFPB noted that gaming systems “enable fiat currency to flow into and out of games and virtual worlds and make it possible to assign and extract considerable value from gaming assets both inside and outside of the game.” In other words, gaming systems hold and move money—which means they operate like money transmitters. The CFPB cautioned that gaming markets can facilitate illegal money laundering. For example, a person can open different player accounts on several online gaming platforms and use those accounts to buy gaming assets with illegally obtained funds. They can then send the assets to other accounts within the game and then convert them to fiat currency using third-party markets. These practices enable ill-gotten funds to become less traceable with each step.

Holding Value and Recourse.

The CFPB also expressed concerns about the gaming ecosystem holding value and addressing consumer recourse related to value held. While the stored gaming value has not been traditionally regulated like the payment systems, federal law limits consumer liability for credit fraud and unlawful funds transfers. Likewise, banking regulators often expect banks to maintain zero liability policies, requiring reversal of unauthorized transactions.

The CFPB noted that video games and virtual worlds function as electronic platforms that enable players to store valuable assets. The CFPB noted that gaming platforms and virtual worlds thus appear to function like payment systems by facilitating the storage of valuable assets. The CFPB’s concerns focus on the fact that currency and virtual items stored on accounts “often lack the security and protections of traditional bank accounts.” The CFPB claimed that in some cases there is a lack of recourse for players who incur financial losses due to theft, scams, or other criminal activity. According to the CFPB, some of the most common scams include defrauding a player of the assets stored on their account, as well as hacking into their account and transferring in-game currency to another account. Rather than ensuring a level of protection like bank accounts, the CFPB claimed that gaming companies often take a “buyer beware” approach, putting the burden on individual players to avoid scams and phishing attempts. The CFPB noted that gaming companies may lock or ban players’ accounts suspected of scamming and phishing but do little to provide remedy to the victim.

The CFPB claims that not only do gaming companies do little to provide recourse, but some gaming companies will also terminate the accounts of complaining consumers, particularly those pursuing recourse from their bank for unauthorized game purchases. The CFPB pointed to one company’s terms and conditions that required users to agree to contact customer support before disputing charges with their own payment processor. When consumers do receive refunds through their financial institutions, at least one company will terminate or lock the consumer’s account, according to the CFPP, claiming they have no obligation to compensate the players for their lost assets or return the money players have invested.

Currency Conversion.

Lastly, the CFPB expressed concerns about currency conversion. Like money transmission, state and federal agencies regulate currency conversion. State licensing and examinations, and federal CFTC regulations limit currency conversion. Moreover, the CFPB enforces federal laws prohibiting unfair, deceptive, and abusive activity, and has historically levied significant fines when organizations deceive consumers or treat them unfairly.

According to the CFPB, in some cases, games have more than one currency with different exchange rates for each currency, making the mental conversions between fiat currency and the game currency difficult. According to the CFPB, players are unable to track the exact amount of money spent, but feel obligated to keep playing to avoid sunk costs. The CFPB also noted that converting game assets back to fiat currency within a game can lead to increased costs for players, for example, by using differing ratios for deposits and withdrawals or burdensome thresholds for withdrawal. Some conversion rates are allegedly “not intuitive.” The CFPB gave an example of buying 100,000 gaming bucks from one provider, which costs \$1,000 USD, but withdrawing 100,000 of the same gaming bucks only gets a player \$350.

While the CFPB can be a heavy-handed foe to contend with, the gaming industry could self-correct and avoid many of the claims likely to result from the CFPB’s concerns by providing key disclosures and carefully implementing compliance management programs to significantly reduce or eliminate the alleged risks to consumers and adequately address consumer financial regulatory concerns. Additional articles in the series will address privacy, safeguarding information, advertising, UDAAP (unfair, deceptive, and abusive acts and practices), and other considerations.