

WMH Alert: CFTC Fraud Warning

On April 6, the CFTC issued a customer advisory warning the public to be vigilant for fraudsters looking to profit from the surge in recent job losses from the COVID-19 pandemic. As people lose their primary sources of income and look for opportunities to move their savings to alternative investments, they are particularly susceptible to falling prey to these scammers. The CFTC has received hundreds of similar complaints in the past few months and seen a dramatic uptick in schemes targeting investors stuck at home.

As the CFTC outlined, these fraudsters offer unrealistically high profits while charging excessive “fees” and “taxes” to obtain those earnings. They typically involve unregistered brokers selling binary options, foreign exchange programs, and cryptocurrencies. The brokers communicate through social media and messaging apps targeting recently unemployed individuals who are looking to replace their lost income. The agency warns that profiles, websites, past trades and profits can be easily faked.

According to the CFTC, some of the warning signs include:

- Online engagement only and no ability to identify the “broker’s” physical location or headquarters.
- Communication only through messaging apps (e.g., Whatsapp, Telegram).
- Payment required in Bitcoin or other digital assets.
- Promises or guarantees of unrealistic returns in a short amount of time.
- The broker or firm is not registered with the CFTC.
- The broker or firm operates outside the U.S.

How the Scheme Works

While each particular scheme is unique, they typically share a number of common characteristics, including:

- Victims are introduced to a phony broker online, often by a fellow member of a discussion group who will mention a broker that is making him or her a lot of money. In some cases, another victim will be pitching the broker on a promise from the broker that recruiting others will lead to more money. In this way, the victims will become unwitting participants in the fraud.
- The group post will usually include a link to a messaging app.
- In the messaging app, victims see fake reports of payouts to other traders.
- The victims are promised sky-high returns in short period of time (hours, days, weeks) if they pay an upfront deposit. Victims are told the more they pay upfront, the more they will make, and the faster they will make it.

- The victim might be directed to a website to provide payment information or be asked to deposit directly in a bitcoin wallet.
- After making the initial deposit, the victim will receive text updates or statements showing their money supposedly growing. By the end of the investment period, the returns will exceed whatever was promised; However, when the victim tries to claim their profits, they will be told about a commission. When they pay the commission, they will be learn they need to pay taxes. When they pay taxes, they will be told about money transfer fees. This will continue until the customer refuses to pay or the scammer disappears.

Things to Keep in Mind When Evaluating Investment Opportunities

When evaluating potential new investment opportunities, customers should be vigilant for red flags. If an opportunity seems too good to be true, it likely is. Remember: No one can promise or guarantee great returns. All investments involve risks. Be especially wary of any brokers that communicate only through message apps/internet or are based overseas. In addition, investors should know the following facts:

- A broker should disclose any risks, fees, and commissions before accounts are opened.
- A customer should never pay more money to withdraw from his or her own account.
- U.S. brokers will not collect or withhold taxes from trading accounts.
- A broker you pay should be registered with the CFTC or another U.S. regulator.

Walden Macht & Haran LLP (WMH) recognizes the increased impact of COVID-19 on our communities, and our lawyers can assist in crafting targeted and cost-effective solutions to the these new risks. There is no higher priority than the health and well-being of our colleagues, clients, their loved ones and the public. Our hearts go out to all who have been personally affected.

About Walden Macht & Haran LLP

WMH is a New York-based boutique law firm with deep experience in resolving complex compliance challenges. Our partners have held numerous senior positions in the public and the private sphere and have the breadth and depth of experience to advise in connection with the most pressing matters and to handle the most sensitive engagements. The partnership includes seven former federal prosecutors, many of whom held senior supervisory positions in the Department of Justice, a former counsel for national security at the Federal Bureau of Investigation, a former general counsel of a NYSE listed multinational, a former chief compliance officer of a publicly traded company, and multiple former state prosecutors. We are known for our experience, integrity, and outstanding track record in both state and federal court and in connection with banking monitorships.