

# Forbes

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*I cover digital assets and enterprise adoption of blockchain*

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Cryptocurrency lender BlockFi seems to have the law on its side as it asks for bankruptcy court approval to allow customers to withdraw funds from its Wallet Accounts.

“It seems pretty likely that these particular BlockFi customers holding these specific Wallet Accounts will be entitled to withdrawals. The key here is the type of accounts and the contractual terms governing the accounts,” wrote David Samole, a partner at Kozyak Tropin & Throckmorton who specializes in corporate bankruptcy and insolvency-related litigation, in a statement to *Forbes*.

The accounts subject to the motion “do not appear to belong to and are not assets of BlockFi. Instead, these particular Wallets are pooled custodial accounts that allow BlockFi Trading or BlockFi International, as applicable, to store digital assets on behalf of, or “for the benefit of,” their clients without BlockFi Trading or BlockFi International ever assuming legal ownership of such accounts,” Samole adds.

BlockFi, which filed for bankruptcy protection after the implosion of the FTX exchange, is seeking court approval to allow its customers to withdraw digital assets from accounts

that are not part of its BlockFi Interest program, in which investors were paid for lending their crypto back to the company.

In a [motion](#), filed on December 19 with the U.S. Bankruptcy Court in the District of New Jersey, the company asked for permission to let clients access the assets held in their wallets as of November 10, 8:15 p.m. New York time, when BlockFi paused withdrawals.

The BlockFi Wallet terms of service are clear, the firm contended. They provide that ‘title to the cryptocurrency held in your BlockFi Wallet shall at all times remain with you and shall not transfer to BlockFi,’” the company said in its motion. “The debtors have no legal or equitable interest in cryptocurrency that was present in the wallet accounts as of platform pause, and clients should be able to withdraw such assets from the platform if they choose.”

The motion does not affect withdrawals or transfers from BlockFi Interest Accounts, which remain paused, BlockFi said in a [statement](#) Tuesday.

The court hearing on the motion is set for January 9. A separate hearing regarding wallet accounts held by BlockFi International Ltd., a subsidiary that runs non-U.S. operations out of Bermuda, will take place on January 13.

BlockFi asserted in its bankruptcy court filing that there is no commingling of the cryptocurrency in regular accounts with assets used in other BlockFi programs, Samole points out. That is an element that is adding confusion to the bankruptcy case of crypto exchange FTX, which apparently did not keep funds or collateral separated for different kinds of accounts.

BlockFi halted all activity and sought Chapter 11 bankruptcy protection last month due to the significant exposure to the collapsed crypto empire of former billionaire Sam Bankman-Fried. His trading firm, Alameda Research, had defaulted on \$680 million of

collateralized loans to the New Jersey-based lender. BlockFi also has \$355 million worth of crypto assets stuck on Bankman-Fried's exchange FTX.

According to BlockFi's bankruptcy filings, it has more than 100,000 creditors and assets and liabilities each between \$1 billion and \$10 billion.

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