

117TH CONGRESS
2D SESSION

S. 5267

To require the Financial Crimes Enforcement Network to issue guidance on digital assets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2022

Ms. WARREN (for herself and Mr. MARSHALL) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the Financial Crimes Enforcement Network to issue guidance on digital assets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Digital Asset Anti-
5 Money Laundering Act of 2022”.

6 **SEC. 2. DEFINITIONS.**

7 (1) DIGITAL ASSETS.—The term “digital asset”
8 means an asset that is issued or transferred using
9 distributed ledger, blockchain technology, or similar

1 technology, including but not limited to virtual cur-
 2 rencies, coins, and tokens.

3 (2) DIGITAL ASSET KIOSK.—The term “digital
 4 asset kiosk” means a stand-alone machine, com-
 5 monly referred to as a digital asset automated teller
 6 machine, that facilitates the buying, selling, and ex-
 7 change of virtual currencies.

8 (3) DIGITAL ASSET MIXER.—The term “digital
 9 asset mixer” means a website, software, or other
 10 service designed to conceal or obfuscate the origin,
 11 destination, and counterparties of digital asset
 12 transactions.

13 (4) FINANCIAL INSTITUTION.—The term “fi-
 14 nancial institution” has the meaning given the term
 15 in section 5312(a) of title 31, United States Code.

16 (5) PRIVACY COIN.—The term “privacy coin”
 17 means a digital asset designed to—

18 (A) prevent tracing through distributed
 19 ledgers; or

20 (B) conceal or obfuscate the origin, des-
 21 tination, and counterparties of digital asset
 22 transactions.

23 **SEC. 3. DIGITAL ASSET RULEMAKINGS.**

24 (a) MONEY SERVICE BUSINESS DESIGNATION.—The
 25 Financial Crimes Enforcement Network shall promulgate

1 a rule classifying custodial and unhosted wallet providers,
2 cryptocurrency miners, validators, or other nodes who may
3 act to validate or secure third-party transactions, inde-
4 pendent network participants, including MEV searchers,
5 and other validators with control over network protocols
6 as money service businesses.

7 (b) IMPLEMENTATION OF PROPOSED RULE.—Not
8 later than 120 days after the date of enactment of this
9 Act, the Financial Crimes Enforcement Network shall fi-
10 nalize the proposed virtual currency rule (85 Fed. Reg.
11 83840; relating to requirements for certain transactions
12 involving convertible virtual currency or digital assets).

13 (c) REPORTING REQUIREMENTS.—Not later than
14 120 days after the date of enactment of this Act, the Fi-
15 nancial Crimes Enforcement Network shall promulgate a
16 rule that requires United States persons engaged in a
17 transaction with a value greater than \$10,000 in digital
18 assets through 1 or more accounts outside of the United
19 States to file a report described in section 1010.350 of
20 title 31, Code of Federal Regulations, using the form de-
21 scribed in that section, in accordance with section 5314
22 of title 31, United States Code.

23 (d) TREASURY REGULATIONS.—Not later than 120
24 days after the date of enactment of this Act, the Secretary

1 of the Treasury shall promulgate a rule that prohibits fi-
2 nancial institutions from—

3 (1) handling, using, or transacting business
4 with digital asset mixers, privacy coins, and other
5 anonymity-enhancing technologies, as specified by
6 the Secretary; and

7 (2) handling, using, or transacting business
8 with digital assets that have been anonymized by the
9 technologies described in paragraph (1).

10 **SEC. 4. EXAMINATION AND REVIEW PROCESS.**

11 (a) TREASURY.—Not later than 2 years after the
12 date of enactment of this Act, the Secretary of the Treas-
13 ury, in consultation with the Conference of State Bank
14 Supervisors and Federal Financial Institutions Examina-
15 tion Council, shall establish a risk-focused examination
16 and review process for money service businesses to as-
17 sess—

18 (1) the adequacy of antimoney laundering pro-
19 grams and reporting obligations under subsections
20 (g) and (h) of section 5318 of title 31, United States
21 Code; and

22 (2) compliance with antimoney laundering and
23 countering the financing of terrorism requirements
24 under subchapter II of chapter 53 of title 31, United
25 States Code.

1 (b) SEC.—Not later than 2 years after the date of
2 enactment of this Act, the Securities and Exchange Com-
3 mission shall establish a dedicated risk-focused examina-
4 tion and review process for entities regulated by the Com-
5 mission to assess—

6 (1) the adequacy of antimoney laundering pro-
7 grams and reporting obligations under subsections
8 (g) and (h) of section 5318 of title 31, United States
9 Code; and

10 (2) compliance with antimoney laundering and
11 countering the financing of terrorism requirements
12 under subchapter II of chapter 53 of title 31, United
13 States Code.

14 (c) CFTC.—Not later than 2 years after the date of
15 enactment of this Act, the Commodity Futures Trading
16 Commission shall establish a dedicated risk-focused exam-
17 ination and review process for entities regulated by the
18 Commission to assess—

19 (1) the adequacy of antimoney laundering pro-
20 grams and reporting obligations under subsections
21 (g) and (h) of section 5318 of title 31, United States
22 Code; and

23 (2) compliance with antimoney laundering and
24 countering the financing of terrorism requirements

1 under subchapter II of chapter 53 of title 31, United
2 States Code.

3 **SEC. 5. DIGITAL ASSET KIOSKS.**

4 (a) IN GENERAL.—Not later than 1 year after the
5 date of enactment of this Act, the Financial Crimes En-
6 forcement Network shall require digital asset kiosk owners
7 and administrators to submit and update the physical ad-
8 dresses of the kiosks owned or operated by the owner or
9 administrator every 3 months, as applicable.

10 (b) GUIDANCE.—Not later than 1 year after the date
11 of enactment of this Act, the Financial Crimes Enforce-
12 ment Network shall issue guidance requiring digital asset
13 kiosk owners and administrators to—

14 (1) verify the identity of each customer using a
15 valid form of government-issued identification or
16 other documentary method, as determined by the
17 Secretary of the Treasury; and

18 (2) collect the name, date of birth, physical ad-
19 dress, and phone number of each counterparty to
20 the transaction.

21 (c) REPORTS.—

22 (1) FINCEN.—Not later than 120 days after
23 the date of enactment of this Act, the Financial
24 Crimes Enforcement Network shall issue a report
25 identifying unlicensed kiosk operators and adminis-

1 trators, including identification of known unlicensed
2 operators and estimates of the number and locations
3 of suspected unlicensed operators, as applicable.

4 (2) DEA.—Not later than 1 year after the date
5 of enactment of this Act, the Drug Enforcement Ad-
6 ministration shall issue a report identifying rec-
7 ommendations to reduce drug trafficking with digital
8 asset kiosks.

9 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated to the Sec-
11 retary of the Treasury such sums as are necessary to carry
12 out this Act.

○