

113TH CONGRESS
2D SESSION

H. R. 5892

To protect cryptocurrencies.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 2, 2015

Mr. STOCKMAN introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Ways and Means and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect cryptocurrencies.

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 “Online Market Protec-
5 tion Act of 2014”.

6 **SEC. 2. MORATORIUM.**

7 (a) Neither the Federal Government nor any State
8 or political subdivision thereof shall impose any statutory
9 restrictions or regulations specifically identifying and gov-
10 erning the creation, use, exploitation, possession or trans-

1 fer of any algorithmic protocols governing the operation
2 of any virtual, non-physical, algorithm or computer source
3 code-based medium for exchange (collectively,
4 “cryptocurrency” as defined herein) for a period beginning
5 June 1, 2015, and extending five years after the enact-
6 ment of this Act (such period, the “moratorium period”),
7 except for statutes already enacted and effective prior to
8 the date of enactment of this Act, and further suspending
9 the enactment and effectiveness of any and all pending
10 statutes and regulations until the end of the aforemen-
11 tioned moratorium period, except as otherwise provided in
12 this section.

13 (b) During the moratorium period, the Federal Gov-
14 ernment and all State governments and political subdivi-
15 sions thereof shall not impose any further statutory re-
16 strictions or regulations affecting Smart Contract plat-
17 forms such as cryptographic escrow services, multi-signa-
18 ture transactions, and oracles, so as to allow for the
19 growth and facilitation of these important facets of
20 cryptological technology.

21 (c) Federal and State Agencies shall consider
22 cryptocurrencies “exempt commodities” akin to gold and
23 silver, rather than “excluded commodities” such as na-
24 tional fiat currencies. The Bitcoin cryptological protocol

1 is not strictly a currency, but is a broad multifaceted pro-
2 tocol which allows for myriad novel applications.

3 (d) Federal and State Agencies shall have no jurisdic-
4 tion over Cryptocurrency Economy Transactions or
5 Bitcoin Economy Transactions. The financial regulations
6 authorizing these agencies are designed to protect users
7 of financial instruments from fraud, manipulation, and
8 other types of misconduct that result in real economic
9 losses; not virtual losses solely within a cryptographic net-
10 work.

11 (e) Nothing in this Act shall prevent, impair or im-
12 pede the operation of any government agency, authority
13 or instrumentality, whether of the Federal Government or
14 of any State or political subdivision thereof, to enforce cur-
15 rently existing criminal, civil or taxation statutes and reg-
16 ulations.

17 **SEC. 3. DEFINITIONS.**

18 (a) “Algorithm” is defined as a procedure for solving
19 a mathematical problem in a finite number of steps per-
20 formed by a computer.

21 (b) “Algorithmic chain” is a series or chain of bits
22 of data comprising a unique string of data which is the
23 basis for the cryptographic proof of a valid transfer or
24 transaction of cryptocurrencies. The algorithmic chain for

1 a cryptocurrency is commonly referred to as a
2 “blockchain”.

3 (c) The “cryptographic proof” for each transaction
4 or transfer is based on one unique algorithmic chain, dis-
5 tinct from all previously existing algorithms and neither
6 replicable nor reusable yet sharing with all other units at
7 least one common source code element in the algorithmic
8 chain (or “blockchain”) in the transferor’s existing Bitcoin
9 or bitcoins.

10 (d) “Protocol” refers to procedures or guidelines gov-
11 erning the creation, development and operation of a
12 cryptocurrency.

13 (e) “Service” is defined as the Internal Revenue Serv-
14 ice.

15 (f) The phrase “using the Internet or other elec-
16 tronic, non-physical medium” means by placement of ma-
17 terial in a computer server-based file archive so that it
18 is publicly accessible on, through, or over the Internet,
19 using hypertext transfer protocol, file transfer protocol, or
20 other similar protocols.

21 (g) “Cryptocurrency” is a popular term encom-
22 passing code-based protocols supporting an electronic,
23 non-physical media for the exchange of value, and for the
24 sake of both clarity and the avoidance of confusion in the
25 mind of the public, based on the prior use of this term

1 by the Internal Revenue Service in its initial guidance (see
2 Notice 2014–21, released March 26, 2014) this term is
3 used herein. However, it is believed “cryptocurrency” en-
4 compasses the same protocols as those covered by terms
5 such as “digital currency”, “virtual currency” or “elec-
6 tronic currency”.

7 (h) “Agencies” is defined as the regulatory bodies of
8 the Federal Government and the State governments or po-
9 litical subdivision thereof, including but not limited to the
10 Commodity and Futures Trading Committee (“CFTC”),
11 the Securities and Exchange Commission (“SEC”), the
12 Board of Governors of the Federal Reserve, the Financial
13 Crimes Enforcement Network (“FinCEN”), and the New
14 York State Department of Financial Services
15 (“NYSDFS”).

16 (i) “Smart Contracts” are cryptographically encoded
17 agreements, often utilizing multi-signature technology,
18 which allow for automatic or multi-party execution and
19 public recording of transactions or property transfers
20 when certain predetermined parameters are met.

21 (j) “Multi-Signature Transactions” are cryptographic
22 contracts encoded in the blockchain, often involving third-
23 party arbitrators or oracles, which are finalized when a
24 pre-set number of involved parties sign off. In a three-
25 party multi-signature transaction involving an arbitrator,

1 the transaction may be finalized only when two (2) out
2 of the three (3) parties—a buyer, a seller, and/or the arbi-
3 trator—sign off on the transaction.

4 (k) “Cryptographic Escrow Services” are services
5 that allow for fund transfers subject to the authorization
6 of an arbitrator or other intermediary. These transactions
7 can utilize multi-signature technology, allowing for the
8 possibility of arbitration without requiring any actual
9 transfer of funds through the intermediary.

10 (l) “Oracles” are automated programs or algorithms
11 acting as signatories to multi-signature transactions. Uti-
12 lizing databases and information amalgamators, an oracle
13 automatically executes its signature when predetermined
14 threshold is met.

15 (m) “Cryptocurrency Economy Transactions” or
16 “Bitcoin Economy Transactions” are transactions involv-
17 ing financial instruments denominated in Bitcoin or an-
18 other cryptocurrency underlying a transaction which is
19 also denominated in Bitcoin or another cryptocurrency. A
20 Bitcoin-denominated credit default swap that references a
21 Bitcoin-denominated loan would be a Bitcoin Economy
22 Transaction.

23 **SEC. 4. DECLARATION OF MORATORIUM.**

24 (a) IN GENERAL.—It is the public policy of the
25 United States that no new statutes, regulations or advi-

1 sory opinions be passed, implemented, enforced or issued
2 governing the creation, use, possession or taxation of
3 cryptocurrencies, the protocols governing each and the
4 data, codes, algorithms or other calculations comprising
5 each, until the expiration of the moratorium as provided
6 in this Act.

7 (b) PUBLIC INTEREST.—It is further the public pol-
8 icy of the United States that the development and use of
9 any medium of exchange which utilizes cryptographic
10 proof of and for a transaction of cryptocurrency without
11 the need for or reliance upon third-party intermediaries
12 or verification will enhance the economic well-being of the
13 American people and result in significant economic
14 growth. Given the blockchain’s capacity to serve as a pub-
15 lic ledger, software developers are creating mechanisms for
16 “smart” technologies that will eliminate the need for many
17 forms of costly intermediation ranging from third-party
18 arbitration in legal disputes to key-exchanges in car and
19 hotel rentals. The capacity for publicly recorded multi-sig-
20 nature transactions will allow for the seamless property
21 transfers that are certifiable, public and secure without
22 the use of an intermediary. These and other uses increase
23 market efficiency and facilitate economic activity and
24 growth. Moreover, these advances promote the autonomy

1 and liberty of individuals and small businesses at the ex-
2 pense of needless bureaucracy.

3 **SEC. 5. DECLARATION OF NEUTRAL TAX TREATMENT.**

4 (a) IN GENERAL.—It is the public policy of the
5 United States that the production, possession or use of
6 cryptocurrency, whether in trade, commerce or personal
7 non-commercial transfers, should not be disfavored or dis-
8 couraged by the Federal tax code or other Federal or
9 State statute or regulation.

10 (b) TAX TREATMENT.—It is the public policy of the
11 United States that the current guidance just promulgated
12 and released by the Service in its Notice 2014–21 is advi-
13 sory, subject to public comment and not in final form
14 pending the expiration of the comment period. As such,
15 Congress believes that the current guidance is less than
16 optimal for the American people and economy, and directs
17 the Service to issue or revise interim regulations consistent
18 with the following.

19 (c) TREATMENT AS CURRENCY.—It is the public pol-
20 icy of the United States that virtual currencies should be
21 treated as currency instead of property in order to foster
22 an equitable tax treatment and prevent a tax treatment
23 that would discourage the use of any cryptocurrency. Tax
24 treatment of cryptocurrency as property does not account
25 for the substantial illiquidity and highly limited acceptance

1 and use of cryptocurrency, and substantially and unfairly
2 discourages taxpayers engaging in a trade or business
3 from using cryptocurrency in commerce. This cir-
4 cumstance is likely to discourage economic activity and sti-
5 fle innovation and growth. At present, a taxpayer accept-
6 ing cryptocurrency for goods or services will be taxed on
7 the fair market value of the cryptocurrency despite the
8 fact that exchange rates (from cryptocurrency to conven-
9 tional currency) are both highly volatile and published or
10 available only on a small number of proto-exchanges in
11 the early stages of development, acceptance and awareness
12 by cryptocurrency users. As a result, current tax treat-
13 ment will measure income on the basis of an illiquid and
14 likely inaccurate fair market value that exceeds the tax-
15 payer's true fair market value and hence income, resulting
16 in the risk of a consistent overtaxation or overpayment
17 that will act as a strong deterrent to or penalty for accept-
18 ing cryptocurrency in payment. Such tax treatment is in-
19 consistent with the tax treatment of secured notes for pay-
20 ment in trade or commerce, which recognizes a discount
21 from the face value of the note due to the illiquid nature
22 of the payment. (Note: See IRS Pub. 525 at 4.)

23 (d) REVENUE IN TRADE OR BUSINESS; TAXATION
24 UPON MONETIZING EVENT.—It is the public policy of the
25 United States that taxpayers accepting cryptocurrency in

1 trade or commerce should be deemed to realize actual in-
2 come only when cryptocurrency is monetized through con-
3 version or exchange into dollars or any official government
4 currency, and that fair market value should be calculated
5 as net proceeds from the conversion. (Note: This treat-
6 ment seeks to achieve the most accurate and fair measure
7 of actual income received, as distinguished from theo-
8 retical income in the form of cryptocurrency which, until
9 its conversion to dollars, remains under substantial risk
10 of diminution from illiquidity or other conversion risks or
11 inefficiencies. This treatment is consistent with tax treat-
12 ment of statutory stock options where the taxable event
13 is not the receipt or exercise of the option, but the sale
14 of the underlying stock for proceeds in cash. The goal here
15 is to have income taxed when the income is actual instead
16 of theoretical and subject to substantial if not total risk
17 of loss through liquidity problems, exchange problems or
18 other barriers to monetization.) Accordingly, as it is the
19 further public policy of the United States that income on
20 cryptocurrency received in trade or business should be de-
21 fined as the net proceeds from conversion of the received
22 cryptocurrency into dollars, the Service is hereby directed
23 to revise or issue interim regulations consistent herewith.

24 (e) REVENUE FROM MINING OR CREATION OF
25 CRYPTOCURRENCY.—It is the public policy of the United

1 States that the Service’s guidance that taxpayers should
2 have the fair market value of the cryptocurrency they suc-
3 cessfully “mine” or produce included in gross income is
4 inequitable, overstates actual income by overstating fair
5 market value by not accounting for the liquidity risk or
6 the risk that substantial effort may yield no production,
7 and strongly and unfairly penalizes or discourages such
8 income producing efforts and deters economic growth, ac-
9 tivity and innovation. Accordingly, as it is the further pub-
10 lic policy of the United States that mined produced
11 cryptocurrency should be taxed as income only when ac-
12 tual a transfer and conversion of proceeds into dollars re-
13 alize income, the Service is hereby directed to revise or
14 issue interim regulations consistent herewith.

15 **SEC. 6. SEVERABILITY.**

16 If any provision of this title, or any amendment made
17 by this title, or the application of that provision to any
18 person or circumstance, is held by a court of competent
19 jurisdiction to violate any provision of the Constitution of
20 the United States, then the other provisions of that title,
21 and the application of that provision to other persons and
22 circumstances, shall not be affected.

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