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Fitzgerald
Fitzpatrick
Fleischmann
Flood
Foxx
Franklin, Scott
Fry
Fulcher
Gaetz
Garbarino
Garcia, Mike
Gimenez
Gonzales, Tony
Good (VA)
Gooden (TX)
Gosar
Graves (LA)
Graves (MO)
Green (TN)
Greene (GA)
Griffith
Grothman
Guest
Guthrie
Hageman
Harris
Harshbarger
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Higgins (LA)
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Hudson
Huizenga
Issa
Jackson (TX)
James
Johnson (LA)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Kean (NJ)
Kelly (MS)
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Kim (CA)
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Roy
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Salazar
Scott, Austin
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Thompson (PA)
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Valadao
Van Drew
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Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams (NY)
Williams (TX)
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NOES—203

Adams
Aguilar
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Bishop (GA)
Blunt Rochester
Bonamici
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Boyle (PA)
Brown
Brownley
Budzinski
Bush
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Cárdenas
Carson
Carter (LA)
Cartwright
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Case
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Castor (FL)
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Chu
Clark (MA)
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DeLauro
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Deluzio
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Frankel, Lois
Frost
Gallego
Garamendi
García (IL)
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Gonzalez, Vicente
Gottheimer
Green, Al (TX)
Harder (CA)
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Hoyle (OR)
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Nickel
Norcross
Ocasio-Cortez
Omar
Pallone
Panetta
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Trahan
Trone
Underwood
Vargas
Vasquez
Veasey
Wasserman Schultz
Waters
Watson Coleman
Wexton
Wild
Williams (GA)
Wilson (FL)

NOT VOTING—23

Alford
Blumenauer
Evans
Ferguson
Granger
Grijalva
Hunt
Jackson Lee
Jayapal
Lamborn
Landsman
Loudermilk
Luttrell
Magaziner
Massie
Moore (WI)
Murphy
Nunn (IA)
Scalise
Schweikert
Stansbury
Velázquez
Yakym

□ 1443

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. YAKYM. Mr. Speaker, I was unavoidably detained. Had I been present, I would have voted YEA on Roll Call No. 222.

PERSONAL EXPLANATION

Mr. NUNN of Iowa. Mr. Speaker, due to a natural disaster event in the district, I made an emergency trip back to Iowa to provide assistance to my constituents who have been left devastated by the tornado. Had I been present, I would have voted YEA on Roll Call No. 221, ordering the Previous Question on H. Res. 1243 and YEA on Roll Call No. 222, Adoption of H. Res. 1243.

FINANCIAL INNOVATION AND TECHNOLOGY FOR THE 21ST CENTURY ACT

GENERAL LEAVE

Mr. McHENRY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill (H.R. 4763).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 1243 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 4763.

The Chair appoints the gentleman from Mississippi (Mr. GUEST) to preside over the Committee of the Whole.

□ 1448

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 4763) to provide for a system of regulation of digital assets by the Commodity Futures Trading Commission and the Securities and Exchange Commission, and for other purposes, with Mr. GUEST in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall be confined to the bill and shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services or their respective designees.

The gentleman from North Carolina (Mr. McHENRY) and the gentlewoman from California (Ms. WATERS) each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. McHENRY).

Mr. McHENRY. Mr. Chairman, I yield myself such time as I may consume.

Today, Congress will establish a new high-water mark for digital asset policy. To be clear, this joint effort between the Financial Services Committee and the Agriculture Committee did not come together overnight. Far from it. We formed subcommittees, convened working groups, heard from countless stakeholders, and received input from Members across the ideological spectrum in the House of Representatives.

Last July, we passed the bipartisan Financial Innovation and Technology for the 21st Century Act, FIT21, out of our respective committees. Each step in this process has created a new high-water mark.

The next step will be a broad bipartisan vote today to finally provide the robust consumer protections and clear regulatory framework established by this bill. FIT21 will cement the United States' global leadership in technological innovation, invention, and adoption.

Unfortunately, our current regulatory framework is preventing digital assets innovation from reaching its full potential. The SEC and the CFTC are currently in a food fight for control of these asset classes. They have created an impossible situation where the same firms are subject to competing and contradictory enforcement actions by the two different agencies, leaving consumers behind, leaving innovators behind.

FIT21 fixes this by creating a regulatory framework that will provide clear rules of the road and strong guardrails for Americans engaging with the digital asset ecosystem.

At its core, FIT21 applies time-tested consumer protections to ensure that the 20 percent of Americans who engage in the digital asset ecosystem can do so safely and so more Americans can engage, as well.

Today, we have the opportunity to answer the calls of consumers, digital asset innovators, and the Biden administration. We can establish the next

high-water mark for digital assets here in the United States.

Mr. Chair, I urge my colleagues to support consumer protection, innovation, and American leadership by voting for FIT21, and I reserve the balance of my time.

Ms. WATERS. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, I rise in strong opposition to H.R. 4763, which I am calling the not fit for purpose act.

This bill would deregulate a substantial portion of the crypto industry, taking them out of the purview of the Securities and Exchange Commission, or SEC. It would allow them to operate either under a lighter touch regulatory regime under the Commodity Futures Trading Commission or in what I have called a regulatory no-man's-land, with no primary regulator and virtually no regulations. For crypto that would remain under the SEC's purview, this bill still provides major exemptions from critical securities laws.

If this wasn't bad enough, this bill is not just about crypto. Language was added to the bill after it was marked up by the committees of jurisdiction that would allow even some traditional securities to also exist in this regulatory no-man's-land.

Specifically, I am referring to title II of the bill that defines the term ''investment contract asset.'' Assets that fall under this definition are explicitly deemed not to be securities and, therefore, not under the SEC's purview, but the bill doesn't provide an alternative legal framework for these assets.

This represents an extreme MAGA, libertarian approach where companies can operate without regulatory scrutiny, and consumers and investors are on their own in detecting and avoiding fraudulent schemes.

While Republican defenders of this bill have argued that this definition of investment contract asset is limited to digital assets under the bill, this is disputed by legal experts and SEC Chair Gary Gensler himself, who confirmed in a recent statement regarding this bill that it would have a broader impact on traditional securities.

Interestingly, I didn't hear any arguments from the Republicans at the Rules Committee hearing disputing that this would, in fact, be a regulatory no-man's-land, even if they insist it is just for crypto.

Even for crypto that would be transferred over to the CFTC, I have serious concerns about the loss of protections for consumers and investors. The CFTC is generally designed to deal with sophisticated institutional investors and traders. It doesn't have the same kind of protections that the SEC has for retail investors and consumers.

Under all three avenues provided for crypto under this bill: The CFTC's lighter touch regulatory regime, SEC's weaker regulatory regime for restricted digital assets, or the regulatory no-man's-land, these are just a few examples of protections that would be stripped away: the right of an investor to sue, gone; protections against conflicts of interest, gone; the right to critical disclosures that help investors make informed choices, gone; and enforcement by States against fraud; and enforcement by the SEC for all of the above protections, including antifraud.

H.R. 4763 would also upend more than 170 enforcement cases the SEC has brought related to crypto violations. These actions have been brought by both Democratic and Republican administrations to protect investors against crypto bad actors.

The SEC is the Federal agency on the front lines of enforcing our existing securities laws on crypto firms that have willfully chosen to ignore the law and defrauded consumers out of billions of dollars with these get-rich-quick schemes. Giving this industry a free pass to avoid most all regulations cannot be the answer to the serious concerns that Members have raised about crypto fraud.

I have seen many efforts by Republicans, acting at the behest of the industry to pass deregulatory regulation, but this is perhaps the worst, most harmful proposal I have seen in a long time. This bill would deregulate crypto and certain traditional securities to the extent that I and other experts have expressed serious concerns about this bill causing a potential market crash and recession.

I am also reminded of how, over the warnings of regulators, Congress moved to deregulate the over-the-counter derivatives. Remember the derivatives market back in 2000? The resulting financial crisis triggered the implosion of financial institutions, a wave of foreclosures, and trillions of dollars in lost wealth.

Mr. Chair, I urge my colleagues not to forget. They should not repeat history with this bill.

The Biden administration has released a Statement of Administration Policy opposing this bill. The bill is also opposed by a long list of investors and consumer advocates, State securities administrators concerned about State preemption, labor organizations worried about the retirement funds of their members, environmental groups concerned about the undisclosed risk of crypto mining, civic organizations worried about the undue influence of the financial and crypto industry over Congress' actions, academics, legal experts, and technologists.

Mr. Chair, I urge my colleagues to stand up and to not be afraid of Big Crypto, to stand up for everyday investors and consumers.

Mr. Chair, I urge my colleagues to vote ''no'' on this bill, and I reserve the balance of my time.

□ 1500

Mr. MCHENRY. Mr. Chair, I yield 4 minutes to the gentleman from Pennsylvania (Mr. THOMPSON), the chair of the Agriculture Committee and partner in FIT21.

Mr. THOMPSON of Pennsylvania. Mr. Chairman, I rise today in support of H.R. 4763, the Financial Innovation and Technology for the 21st Century Act, or FIT21, which establishes a regulatory framework for digital assets while protecting consumers and fostering innovation within the United States.

This legislation has been a long time coming. Since 2018, the House Committee on Agriculture has held numerous hearings, roundtables, and meetings and introduced multiple pieces of legislation to bring certainty and clarity to the digital asset markets.

For Congress to establish a comprehensive digital assets market framework, it was clear the House Committee on Agriculture and the House Committee on Financial Services needed to work in a collaborative manner.

Chairman MCHENRY and I first met nearly 2 years ago to discuss this ambitious plan, and together, we aimed to develop the best policies possible.

Over this Congress, members of both committees have engaged in robust and collaborative debates and educational sessions on current securities and commodities laws and regulations, as well as gaining a deeper understanding of the digital asset ecosystem.

Through this process, we learned several key points, including: that the current process to determine if a digital asset is a security or not is unclear, unworkable, and impractical; the Commodity Futures Trading Commission lacks essential regulatory authority over retail-serving intermediaries in the digital commodity spot market; and the treatment of customer assets held by intermediaries needs to be strengthened.

Mr. Chairman, my colleagues on the other side of the aisle have claimed that this bill will allow a substantial portion of crypto and some traditional securities to escape nearly all laws and regulations, operating without any primary regulator. That is far from the truth. The legislation before us today enhances existing securities and commodities regulations to create an appropriate framework for digital assets.

For example, a registered digital commodity exchange would follow regulations similar to those of the CFTC for derivatives exchanges, including monitoring trading activity, prohibiting abusive practices, reporting trading information, managing conflicts of interest, ensuring governance standards, upholding cybersecurity, and more.

Mr. Chairman, Congress has a historic opportunity to enact legislation that not only protects consumers but also ensures that the United States remains at the forefront of technical innovation.

By supporting FIT21, we can foster and create a safer, more transparent, and more competitive environment for digital assets.

Let us seize this moment to provide clear guidelines and robust protections,

fostering a future where innovation can thrive responsibly within our borders.

Mr. Chairman, I urge all of my colleagues to support this bill.

Mr. Chairman, I understand that the gentlewoman from Washington State, the chair of the Energy and Commerce Committee, has a few questions for clarification.

Mrs. RODGERS of Washington. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of Pennsylvania. Mr. Chairman, I yield to the gentlewoman for the purpose of a colloquy.

Mrs. RODGERS of Washington. Mr. Chairman, I rise in support of H.R. 4763.

Blockchains are a new foundational technology that will reshape our daily lives. Through innovative design approaches, blockchains can be used in all kinds of applications, like tracking products through supply chains or facilitating the tokenization of financial assets.

Unfortunately, many American innovators are being pushed abroad by overzealous regulators. According to a report by Electric Capital, the U.S. share of blockchain developers has declined from 40 percent in 2017 to 29 percent in 2022.

I am excited about this legislation providing clear rules of the road. This is a clear complement to some of the work that we have been doing in the Energy and Commerce Committee to ensure American leadership in blockchain technology.

I will clarify some of the nonfinancial applications and uses that may be unintentionally captured by the bill.

The CHAIR. The time of the gentleman has expired.

Mr. McHENRY. Mr. Chairman, I yield an additional 1 minute to the gentlewoman from Washington.

Mrs. RODGERS of Washington. Mr. Chairman, I thank the gentleman for yielding time.

Based on conversations I have had, it is my understanding that the intent of this bill is to ensure that the current authority over certain restricted digital asset transactions remains with the SEC and that the CFTC would only be authorized to regulate certain intermediaries in spot digital commodity markets. Is this correct?

Mr. THOMPSON of Pennsylvania. Mr. Chairman, the gentlewoman's understanding of the legislation is correct.

The intent of FIT21 is to draw jurisdictional lines between the SEC and the CFTC as it relates to certain spot digital asset transactions.

Mrs. RODGERS of Washington. Can the gentleman clarify the intent when it comes to exclusive jurisdiction of the CFTC and how this would impact the current protections for Americans against fraud and market manipulation?

Mr. THOMPSON of Pennsylvania. FIT21 provides the CFTC with exclusive jurisdiction over digital commodity spot market transactions that occur on or through entities registered with CFTC. FIT21 does not provide CFTC with the authority to directly regulate any transaction between two people which is not intermediated by an entity registered with the CFTC.

Separate from FIT21, CFTC has existing authority to police spot market commodities for fraud and market manipulation, which FIT21 does not change.

Mrs. RODGERS of Washington. Mr. Chairman, I thank Chairman THOMPSON, Chairman McHENRY, and Representative HILL for the clarification and for all of their work.

Ms. WATERS. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. LYNCH), who is also the ranking member of the Subcommittee on Digital Assets, Financial Technology and Inclusion.

Mr. LYNCH. Mr. Chairman, I thank the gentlewoman for yielding time.

Mr. Chairman, I have been a Member of Congress for over 20 years, and I have to say that while this may not be the worst, it is in the top three in terms of the worst bills that I have seen actually progress to the floor of the House.

Anybody who is excited about this bill either has not read it or does not understand it. This bill is a radical rewrite of the securities laws in this country.

As most people who know our history realize, in 1929, when the markets crashed, we established the Securities and Exchange Commission in 1934, shortly after the crash.

What that did was it created an agency that became the cop on the beat in financial services. They became the protectors of investors.

Since that time in 1934, as courts have interpreted that law that is protecting investors, we built up a body of case law that now makes the United States financial markets the most robust, and they have become the marvel of the world. Everyone comes to the United States for investment because they know that their investment is protected and that they will be treated fairly in the courts because we have well-defined laws.

This bill undoes all of that. This bill is a radical rewriting of the securities laws since 1934. It redefines what a security is. It allows financial companies to escape the cop on the beat. Now, they can leave the jurisdiction of the SEC and go over to the CFTC, which is about six times as small as the SEC.

What will happen here is you will see a migration of companies going out from under the SEC jurisdiction over to the CFTC, and this will cause havoc in our financial markets eventually.

The one amendment I would have liked to see on this bill is that any company that becomes insolvent because of their involvement with crypto cannot receive a taxpayer bailout because that is where this bill is heading. This is going to cause infirmity in the financial institutions in this country as they get commingled with crypto, and eventually, we will be forced into a situation where we are going to have to bail some of these banks out because of their involvement in crypto.

Mr. Chairman, this is a very bad bill, and I urge my colleagues to vote against it.

Mr. McHENRY. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. HILL), the chairman of the Subcommittee on Digital Assets, Financial Technology and Inclusion, who has shepherded this bill along very well.

Mr. HILL. Mr. Chairman, I thank the gentleman for yielding time.

Mr. Chairman, for those watching at home, it is like the tale of two cities, where one side is offering a work of fiction and the other side a work of nonfiction.

I think, over here, those who support this bill are supporting exactly the opposite of what I have heard on the other side of the aisle.

Since last January, our two committees, Agriculture and Financial Services, have collaborated to make sure that we protect consumers and investors in the digital marketplace by preventing fraud, manipulation, front-running, and other abusive practices; applying Bank Secrecy Act/AML requirements and know-your-customer rules; mitigating conflicts of interest; requiring firms to hold capital and segregate customer funds; have the right kind of custody policy; have registration for exchanges, dealers, and brokers that are working in digital assets; imposing reporting and bookkeeping requirements; and building on the existing exemption regime for the offer and sale of digital securities to include robust disclosures to anyone considering a purchase.

With that said, we hear a lot about the lack of legal clarity for the treatment of digital assets, which was the impetus for this legislation. What does that even mean?

Mr. Chairman, to this day, the SEC and the CFTC still contradict each other in court about whether a digital asset like Ethereum should be treated as a security or a commodity. Both cannot be true.

When two Federal agencies in the same administration cannot agree on the law, it should be up to Congress, and that is the regulatory clarity that this FIT21 bill will bring.

In fact, I would argue, Mr. Chairman, that FIT21 is responsive to President Biden's own executive order and the Financial Stability Oversight Council report calling on Congress to enact a framework for digital assets that are not securities. That is what we have done.

I am also proud that this measure is the product of committee work done through regular order and through good-faith bipartisan efforts.

Mr. Chairman, all Members should support this bill, and I encourage a full "yes" vote from both sides of the aisle.

Ms. WATERS. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. CASTEN).

Mr. CASTEN. Mr. Chairman, we have heard several times this legislation is better than the status quo. There are a whole lot of reasons that is not true, but I want to focus specifically on this bill's utter failure to address the use of cryptocurrency by terrorists, foreign adversaries, and criminals.

By the way, Treasury asked us specifically to address those issues with a whole bunch of reasonable changes. We introduced amendments. Every one of those amendments was rejected.

The anti-money laundering provisions that are in this bill simply duplicate existing requirements. Yet, the bill's supporters have actually argued, and Treasury has agreed, that the status quo is not sufficient to address the challenges created by cryptocurrencies.

How do we know that cryptocurrencies are a problem for money laundering? Because the bad guys love crypto. Let's give some examples.

North Korean hackers have stolen $3 billion in cryptocurrency since 2017. White House national security officials said last year that crypto theft and cybercrime have funded half of North Korea's nuclear program.

Russia and Venezuela are both using crypto to evade U.S. sanctions.

Venezuela recently said that because of the bite of sanctions, they are now moving to accept payments in crypto because that allows them to get money that we, in Washington, cannot track.

The Treasury Department is reviewing more than $20 billion of cryptocurrency that was laundered through a Russian-based cryptocurrency exchange.

The Treasury Department has noted that Hamas, the Palestinian Islamic Jihad, ISIS, and al-Qaida are all using crypto to finance terrorist attacks globally.

Crypto is the preferred means of payment for fentanyl trafficking. Chinese businesses that sell fentanyl chemical ingredients to Mexican cartels have accepted millions in crypto payments. They have sold enough ingredients to make more than $54 billion worth of fentanyl pills. That is enough to kill 8.6 billion people, if you are counting.

Blockchain analytics firm Chainalysis said in January that virtual currency is the dominant choice for buyers and sellers of child sexual abuse content.

FinCEN basically said the same thing. It said that perpetrators of online child sexual exploitation are increasingly using convertible virtual currency to avoid detection.

I could go on and on. These are not cherry-picked statistics. These are statistics from U.S. officials and from crypto firms, people who are entrusted with protecting our national security and who care about this stuff.

The Treasury Department asked for new rules to address this. Every single one of those proposals was objected to either in the Financial Services Committee, the Ag Committee, or in the Rules Committee.

□ 1515

If that was all this bill did, that would be one thing. In fact, this bill goes out of its way to make it weaker by basically saying that anybody who uses unhosted wallets, decentralized, or DeFi services is exempted from regulation, ignoring recommendations from both the Trump and Biden administrations.

My Republican colleagues will boast that in this rule there is specific language that says brokers and dealers are required to comply with anti-money laundering requirements. They are already required to do that. This bill does nothing to address that. It is exactly the same. They are going to brag about saying it is now illegal to speed.

What we should have done is we should have made provisions to ban anonymous actors, to prevent you from saying: I want to move crypto from my account to yours, and I am going to move it through an anonymous party so you can't tell what a bad guy I am. It should have banned people from using digital asset mixers that allow you to take a whole bunch of people, combine all their money together, and then give you something where you can't trace it through.

If you want to understand how crazy this is, I would encourage you to go to your bank and try to deposit $10,000 in cash at your bank. Your bank will say: You have to tell me where that money came from. I am going to take you behind the counter, and we are going to have to take your picture and get your fingerprints, because I do not like money laundering, and I am obliged to protect it.

By comparison, if you want to move a million dollars of crypto from one person's account to another, send it through these mixers or send it through these anonymizers, you can do it.

The CHAIR. The time of the gentleman has expired.

Ms. WATERS. Mr. Chair, I yield an additional 30 seconds to the gentleman from Illinois.

Mr. CASTEN. Mr. Chair, we have got all of these mixers that are used. Why were they not included in there? I don't know.

I know why the crypto industry doesn't want them included in there, because they are profiting from people who are using these illicit services.

The largest cryptocurrency exchange that stands to benefit from this regime helped to finance a legal challenge to the Treasury Department's case against Tornado Cash, which was the largest asset mixer in the world.

This is a bad bill. It fails to address known problems. What it does do, however, is make the United States safer for drug traffickers, for terrorist funders, for child and drug traffickers, and for those who buy and sell child pornography. I did not know those groups had such advocates in Congress, but I am proud to oppose them and encourage all my colleagues to do the same.

Mr. MCHENRY. Mr. Chair, I yield 2 minutes to the gentleman from South Dakota (Mr. JOHNSON), my good friend and the chair of the Commodity Markets, Digital Assets, and Rural Development Subcommittee of the Agriculture Committee.

Mr. JOHNSON of South Dakota. Mr. Chair, here in Congress, we are supposed to be in the problem-solving business. My, oh, my, do we have problems in the digital asset space.

In recent years, we have seen the FTX debacle, a debacle that happened under the regulatory regime that some Members are apparently so enamored with, a regime that does not work today. We have seen chronic and disruptive overreach by the Securities and Exchange Commission.

We have seen innovation and investment flow overseas. Mr. Chair, they seek markets that are more predictable. We are the only G7 country that hasn't figured this out yet.

Clearly, we have problems. I would submit that FIT21 is the solution. For more than a year, FRENCH HILL and I, working with Chairs MCHENRY and THOMPSON and Members on both sides of the aisle, have worked hard together to craft a solution that increases regulatory predictability, which increases consumer protection, and that will foster innovation.

I know that success has many fathers and mothers, and so I do thank Messrs. MCHENRY, THOMPSON, HILL, EMMER, and DAVIDSON on the Republican side, and I do need to especially recognize my colleagues on the Democratic side of the aisle, particularly Mr. NICKEL and Ms. CARAVEO, who have invested countless hours in getting this bill right. They have been joined by Representatives HIMES, CROCKETT, TORRES, SOTO, GOTTHEIMER, and DAVIS. This success would not be possible without their good-faith efforts, and I thank them.

Ms. WATERS. Mr. Chair, I yield myself such time as I may consume.

It is no mystery why the crypto industry prefers to be regulated by the CFTC rather than the SEC. Let's start with the substantial differences in funding and staff for the CFTC compared to SEC.

In 2023, the CFTC employed roughly 680 full-time employees with an annual budget of $365 million. Wow. The Securities and Exchange Commission, the SEC, employed over 4,500 employees and had a budget of over $2 billion.

Even with the limited funding provided to the CFTC under this bill, which is capped at $40 million and set to expire after 4 years, the CFTC's funding would be only one-fifth of the SEC's budget. Mr. Chair, $40 billion is not sufficient to oversee more than 16,000 cryptocurrencies.

Let's not forget that the same Republicans who are bringing this bill to the floor are the same ones who proposed cutting CFTC's budget last year. Moreover, the CFTC is designed to deal mostly with sophisticated institutional investors and traders rather than retail investors and consumers. Therefore, the CFTC does not have the same level of protections for retail investors and consumers.

Mr. Chair, I would simply say that we should look at this example. The CFTC has no mandate like the SEC that requires entities to act in the best interests of the investors or to put their clients' interests first. This is just another reason why I am very concerned about the light-touch regulatory regime under the CFTC.

Mr. Chair, I yield 5 minutes to the gentleman from California (Mr. SHERMAN), who is also the ranking member of the Subcommittee on Capital Markets.

Mr. SHERMAN. Mr. Chair, last week we had police week. This week, the Republicans show us that they support crime in the suites. The effect of this bill in the short term will be to disempower the most effective investor protection crime investigation organization in the world, the SEC.

The long-term objective of the crypto billionaire bros is to create a new currency, and they have named it well. Cryptocurrency literally means hidden money. If it ever becomes a currency, it means we will not be able to enforce our tax laws, except on wage earners, and we will not be able to enforce our laws against child traffickers, drug dealers, and those who violate our sanctions.

The crypto bros have a lot of money. They make money by literally making money. They spread it around all of Washington. They had Sam Bankman-Fried do it. Now he is in jail, and others have stepped forward.

They have a PR campaign. The Lakers don't play at ''enforce tax laws arena.'' They don't play at an arena dedicated to law enforcement. They play at Crypto.com Arena.

In spite of all that money and power, three-quarters of Democrats voted ''no'' on this bill when it was before our committee. There are those who say they want clarity. We have clarity. The SEC has jurisdiction. What they really want is a patina of regulation, as little regulation as possible to claim to be regulated.

Now, this bill would be bad enough if we were dealing with the original statute. I know a lot of my colleagues have had meetings in their offices, and they were told about this bill weeks ago or months ago. Some are leaning toward voting for it because they don't know that they dropped a new title in the bill just a few weeks ago.

What does that new title do? Does it prohibit secret wallets, self-custody wallets? No. Does it outlaw the mixers whose sole purpose is to mix up law enforcement? No. What does this new title do? It defines an investment contract in a new way, designed to make this bill not just applicable to crypto, but it says our regular stocks and bonds can be put on blockchain and have no regulation from the SEC. It is a dagger at the hundred-trillion-dollar capital markets we have that finance our whole economy. It doesn't just say you are moving from the SEC's tough regulation to the CFTC's weak regulation. It allows crypto to get no regulation by defining themselves as an investment contract.

This is a bill that will gut regulation of crypto and may gut regulation of all our capital markets, but it goes beyond that. Its ultimate purpose is to move forward with this cryptocurrency project.

Right now, crypto is not a currency. There are very few purchases of goods with crypto. You can't buy a sandwich, but the very few times, as Mr. CASTEN pointed out, that crypto is used as a means of exchange, it is used by the worst criminals in the world. If crypto does become a currency, then we will not be able to enforce our other laws.

Now, we have to understand every time a billionaire cheats on his taxes, a member of the Freedom Caucus earns his wings. The patriotic anarchists come forward and say we want a strong America and we want to destroy the power of the American Government. You can't have it both ways.

This is a bill that in the short term means no regulation of crypto; not just lighter regulation under the CFTC but no regulation under their new title. It is a bill that could gut all securities regulation for the stocks and bonds that power the American economy.

In the longer term, it creates a competitor to the U.S. dollar which has one advantage right in the name: hidden money. Hide your money from the IRS, from our sanctions enforcers, from everyone involved in the U.S. Government.

Finally, crypto declares that it wants to partially displace the U.S. dollar as a reserve currency.

The Acting CHAIR (Mr. CURTIS). The time of the gentleman has expired.

Ms. WATERS. Mr. Chair, I yield an additional 30 seconds to the gentleman from California.

Mr. SHERMAN. Mr. Chair, you have to understand how important it is.

We, frankly, are not fiscally responsible in this House. We don't collect nearly as much in taxes as we spend in benefits. We are able to do that without too much harm because of the role of the U.S. dollar as a reserve currency. We have fiscal policies that would make Argentina blush, but we are able to do it. The crypto bros see the incredible amount of money and power the U.S. Government has by being the world's reserve currency and they say no. They want to appropriate that for themselves.

Mr. MCHENRY. Mr. Chair, may I inquire how much time I have remaining.

The Acting CHAIR. The gentleman from North Carolina has 19½ minutes remaining.

The gentlewoman from California has 7½ minutes remaining.

Mr. MCHENRY. Mr. Chair, I yield 1½ minutes to the gentleman from North Carolina (Mr. NICKEL), my colleague and friend who has been a great leader on digital assets and pragmatic policy here in the House.

Mr. NICKEL. Mr. Chair, I rise in support of the Financial Innovation and Technology for the 21st Century Act, or FIT21, which I am proud to cosponsor.

This legislation is a product of hundreds and hundreds of hours of bipartisan collaboration, and I was proud to work with Chair MCHENRY, Digital Assets Subcommittee Chair HILL, and members of the House Financial Services Committee to get this bill on the floor.

This is a big deal. We are currently relying on 90-year-old securities laws written before the internet even existed. Congress has never voted on a regulatory structure for crypto.

Roughly 20 percent of Americans have invested, traded, or used crypto. It is not going anywhere. Whether you love crypto or you hate it, you should support regulation, because the status quo just isn't working. We can't wait for the next FTX to take action.

It is clear there are regulatory gaps between the SEC and the CFTC. Right now, the United States is the global leader in financial services and technology. If we still want to hold this position in 50 years, then we need to pass FIT21.

Support for U.S. leadership in digital assets shouldn't be a partisan issue. I urge my colleagues on both sides of the aisle to support this legislation.

Mr. Chair, I include in the RECORD a letter of support from the Chamber of Progress outlining how FIT21 lays out strong rules of the road, consumer protections, and supports innovation.

[From Chamber of Progress]

HR 4763: FINANCIAL INNOVATION AND TECHNOLOGY FOR THE 21ST CENTURY ACT (FIT21): STRONG RULES, CONSUMER PROTECTIONS, AND MORE OVERSIGHT OVER DIGITAL ASSETS

We need strong, clear federal rules and oversight over the digital assets industry that embrace innovation while protecting consumers and the integrity of markets.

HR 4763, the Financial Innovation and Technology for the 21st Century Act (FIT21), is the first bill regulating the digital assets industry that has received bipartisan approval from both the House Financial Services and House Agriculture Committees. It is scheduled for a floor vote this week.

HOUSE DEMOCRATS SUPPORTED THIS LEGISLATION

A cross section of Members spanning the Democratic Caucus have recognized that this bill provides an effective and needed regulatory framework for digital assets. The legislation:

Passed the House Financial Services Committee on July 26 with six Democratic votes: Reps. Himes, Gottheimer, Torres, Horsford, Nickel, Pettersen.

Passed the House Agriculture Committee by voice vote on July 27.

WHAT HOUSE DEMS ARE SAYING ABOUT HR 4763

Rep. Ritchie Torres (D–NY): ''For me, the lack of protection for retail investors underscores the fierce urgency around passing a

market structure bill to protect the average American consumer.''

Rep. Jim Himes (D–CT): ''I'm a deep skeptic of this industry, but we deserve better than the status quo.''

Rep, Wiley Nickel (D–NC): ''I firmly believe in the SEC's mission to protect investors, but for this to be effective, Congress needs to pass legislation with a clear regulatory framework.''

Rep. Yadira Caraveo (D–CO): ''This is not a perfect bill. But I believe that it is a good step in the right direction.''

BILL EXPANDS THE FEDERAL GOVERNMENT'S ROLE IN REGULATING DIGITAL ASSETS

Current securities laws and regulations do not account for the complexities of digital assets. This legislation expands the authority of the CFTC and SEC, giving them joint oversight over all digital assets, allowing them to issue joint rulemakings, and ensuring market safety and investor protection. HR 4763 also gives the SEC clear authority over certain digital assets that do not meet requirements to be regulated by the CFTC. This allows the SEC to allocate their limited resources to regulating solely those digital assets that fall within its jurisdiction. Additionally, the CFTC will receive an increase in funding to adequately fulfill their oversight responsibilities.

HR 4763 also requires the GAO to conduct studies on the development of emerging technology in digital assets, like non-fungible tokens (NFTs), and directs the CFTC and SEC to study the impact of digital assets on markets and investors through codified FinTech programs and Joint Advisory Committees.

PROTECTS CONSUMERS FROM THE NEXT FTX

Given that roughly 20 percent of Americans have invested, traded or used cryptocurrency, the digital asset industry will continue to attract American investors for years to come. HR 4763 provides much-needed consumer protection by filling the regulatory gaps between the SEC and CFTC, creating accountability for digital asset companies through registration and disclosures, requiring companies to establish policies to mitigate potential conflicts of interest, and giving regulators increased power over bad actors.

Communities of color are investing in digital assets at a higher rate than most Americans. According to Pew Research Center polls in 2021 and 2022, some 20 percent of Black, Hispanic and Asian U.S. adults have bought, traded or used cryptocurrency, compared with 13 percent of white adults. These communities are at increased risk of losing their investments if similar events like FTX, Terra/Luna and others continue to happen without regulatory safeguards for Americans.

PROTECTS AMERICA'S NATIONAL SECURITY & ENSURES AMERICAN OVERSIGHT OVER CRYPTO

By enhancing oversight of digital assets through the CFTC and SEC, HR 4763 ensures all digital assets will be subjected to transparency and compliance metrics that would deter illicit financing, money laundering and other financial crimes. The ability for regulators to issue clear rules for the digital asset industry will prevent threats to our financial system and keep digital asset companies from relocating abroad to countries with fewer rules.

There are good national security reasons to keep the industry under the Federal government's watchful eye. For example, after Vladimir Putin ordered an invasion of Ukraine, the U.S. government released economic sanctions against Russia that included instructions for American digital asset exchanges to block Russian users from handling currency through their services.

While U.S.-based digital asset exchanges abided by our sanctions, international exchanges like Binance refused, continuing to serve Russian users and creating a potential loophole for Russian actors to finance war operations through their markets. Throwing away our jurisdiction over an emerging global financial industry, no matter its flaws, would jeopardize America's influence on the world stage.

□ 1530

Ms. WATERS. Mr. Chair, I yield 4 minutes to the gentleman from Illinois (Mr. FOSTER), who is the ranking member of the Subcommittee on Financial Institutions and Monetary Policy.

Mr. FOSTER. Mr. Chair, I thank Chair WATERS for yielding.

Mr. Chair, I rise in opposition to this bill.

I am encouraged by the dialogue and collaboration that has taken place between the House Financial Services Committee and the House Ag Committee on this bill. I believe in the potential of distributive ledger technology. I am, in fact, the co-chair of the Congressional Blockchain Caucus and perhaps the only Member of Congress who has actually programmed a blockchain client.

However, I cannot support this bill in its current form. To that end, my office submitted three constructive clarifying amendments, none of which were made in order by the Rules Committee.

This legislation contains several fatal flaws.

First, this legislation largely shifts oversight of the digital assets industry away from the Securities and Exchange Commission which has a long track record of successfully protecting retail investors from abuse in the financial markets toward the CFTC which has traditionally overseen markets with significantly less retail participation.

Secondly, it would create a safe harbor for wannabe pirates through a so-called intent to register that shields crypto firms from SEC investor protection rules before the agencies even have time to write the rules.

Thirdly, the bill was not crafted through regular order. This version of the bill contains a new and dangerous title that was never considered by the Financial Services Committee, title II, which would create a new class of investment in contract assets which has the potential to undermine decades of legal precedent governing the securities laws, and it would create opportunities for regulatory arbitrage.

Instead, it was airdropped in during closed-door negotiations and before it was materialized for a final vote today. That is not regular order.

Finally, this bill also fails to address fundamental challenges of digital assets related to uncontrolled anonymity of self-hosted digital wallets that I believe must be addressed for the digital asset industry to accede to a healthy and sustainable future over the long term.

For example, to be regulated as a commodity under this bill, no person or group can have owned more than 20 percent of the assets at any point over the preceding 12 months.

Mr. Chair, how can this possibly be guaranteed when unknown fractions of ownership are held in anonymous self-hosted wallets?

This bill requires the SEC to issue beneficial ownership disclosure rules, however, the SEC has little or no means of compelling individuals or firms in other countries to comply with such a requirement.

This beneficial ownership test could be skewed by noncompliant foreign owners, by individuals spreading their holdings across multiple wallets, or by dead or lost crypto that artificially inflates the amount of the asset that is currently judged to be in circulation.

The list goes on.

This legislation actually ties the hands of the top financial crimes watchdog, the FinCEN, by limiting their ability to respond to issues related to self-custody of digital wallets which they will tell you is the main issue that they struggle with every day in trying to prevent financial crimes.

Given the widespread use of digital assets by bad actors, we should strengthen the authorities of FinCEN and not weaken them.

My colleagues and I, as I said, offered several constructive amendments to this bill to clarify and address these issues, and the Rules Committee, controlled by the majority, unfortunately, chose to exclude every one of them from today's debate.

Given the content of this bill and its failure to address these issues, I cannot support this bill, and I encourage my colleagues to vote ''no.''

Mr. MCHENRY. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. EMMER), who is a great leader for digital assets, cryptocurrency, and innovation.

Mr. EMMER. Mr. Chair, today we have an opportunity to determine whether the next iteration of the internet will be designed by Americans or if it will, instead, reflect the values of some other nation. FIT21 gives us that opportunity and unlocks a larger conversation beyond innovation.

This bill is about national security. It is about consumer protection. It is about global competitiveness. It is about shaping what the future global digital economy looks like and how it functions.

Currently, all online transactions are intermediated, but as we move deeper into the digital age, digital assets are key to decentralizing the internet so Americans can transact directly with each other, no intermediary needed.

Without crypto, we don't have this ability, and I think giving Americans the choice to do business through an intermediary or directly with each other is important. Having that choice will fundamentally alter the digital economy, unlocking new opportunities for Americans and individuals across the world in ways we haven't even begun to contemplate.

However, this Congress can no longer stand by as regulators squander this opportunity right within our grasp. This administration has demonstrated they simply are not willing to allow the digital asset industry to innovate in the United States. For every legal inconsistency or regulatory hurdle they produce, instead of coherent and informed guidance, they drive American digital asset users into less safe jurisdictions.

Mr. Chair, this is why FIT21 is significant. It sets clear and consistent rules for American innovators. Among the many important provisions in this bill is my Securities Clarity Act, bipartisan language tailored specifically to digital assets that provides the legal flexibility for a digital asset project to transition from centralization to decentralization.

This transition is critical to the future of the peer-to-peer digital economy. I thank the chairmen and my friends on the other side of the aisle for working with me to incorporate this section into the bill today. Their work on this extensive framework will allow Americans to, once again, lead the way.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, may I inquire as to the time remaining on both sides.

The Acting CHAIR (Mr. VAN DREW). The gentleman from North Carolina has 16 minutes remaining. The gentlewoman from California has 4 minutes remaining.

Mr. MCHENRY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado (Ms. CARAVEO), who has been a fantastic leader on the Agriculture Committee on digital assets.

Ms. CARAVEO. Mr. Chair, I thank Mr. MCHENRY for yielding.

Mr. Chair, I rise today in support of H.R. 4763, the Financial Innovation and Technology for the 21st Century Act, because the time has come for us to establish a comprehensive regulatory system for digital assets.

About 70 percent of digital assets are currently unregulated. That leaves a large number of retail investors unprotected in a volatile market where many people have already lost their life savings.

There is clearly a gap in oversight over our digital asset cash markets, and I believe the status quo is unacceptable. Despite previous volatility, a significant number of Americans continue to own and invest in digital assets in an unprotected manner.

As Congress falls behind other nations in the race to establish a clear regulatory framework, we run the risk of industry players taking their services and customers abroad, including to foreign jurisdictions with insufficient regulations.

Since we began this process over a year ago, I made it a point to work across the aisle with Chairs THOMPSON and JOHNSON to improve this bill as much as possible. I am happy to report that the bill retains many of the provisions that I fought for, with one of the most important pieces being a funding mechanism for the CFTC. Increased funding will be vital for the CFTC as they take on further oversight activities and engage in a rulemaking process.

I thank my colleagues, both Democrats and Republicans, who have helped strengthen the consumer protections in this bill, including strengthening disclosure requirements, market integrity, and transparency. Further protections include stricter regulatory requirements for emerging financial technologies, prohibiting commingling of customer funds with firm funds, and establishing a process of temporary oversight before rulemaking is complete.

I am excited about the innovation these technologies have to offer, which is why I believe they deserve a comprehensive regulatory environment, but making sure customers and retail investors are protected as they navigate this space remains a top priority. I believe we have made significant improvements in that direction.

I am looking forward to continuing to move this bill forward and taking a first real step toward regulation of a market that more of our constituents are engaging in every day.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, the gentlewoman from California has indeed been a great advocate for consumer protection.

Mr. Chair, I yield 1 minute to the gentleman from New Jersey (Mr. GOTTHEIMER).

Mr. GOTTHEIMER. Mr. Chairman, I rise in support of the bipartisan Financial Innovation and Technology for the 21st Century Act. This well-reasoned and thoughtful bipartisan legislation is the result of rigorous research and bipartisan negotiation by the Financial Services Committee, which I proudly helped lead with Representatives MCHENRY and HILL.

I thank them both and all of my colleagues on both sides of the aisle who have worked so hard to make sure that consumers in our country are protected.

Cryptocurrency is here, and it has a tremendous economic potential for our country. My State, New Jersey, ranks second nationwide in crypto ownership by proportion, and the key is now in making sure we protect Americans who own it and ensure our country can realize the economic and jobs potential it has to offer.

For that to happen, we need rules of the road to guide entrepreneurs and businesses, to embrace innovators, and to protect consumers.

This bill offers protections that are fit for the 21st century. FIT21 takes commonsense steps to safeguard consumers in their investments and strengthen market oversight.

The legislation includes key transparency and accountability measures.

The Acting CHAIR. The time of the gentleman has expired.

Mr. MCHENRY. Mr. Chair, I yield an additional 30 seconds to the gentleman from New Jersey.

Mr. GOTTHEIMER. At the same time, FIT21 eliminates regulatory redundancies so the SEC and CFTC work together to protect investors and crack down on nefarious crypto users.

Finally, this legislation spurs American-led innovation, encouraging entrepreneurs and businesses to invest here instead of going abroad to other nations with no consumer protections.

Mr. Chair, I encourage my colleagues to vote for this important innovative and bipartisan legislation. It is fit to become law if we work together.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I yield 1 minute to the gentleman from New York (Mr. MOLINARO), who is a leader on the Agriculture Committee.

Mr. MOLINARO. Mr. Chairman, for far too long, the U.S. digital asset ecosystem has been plagued by regulatory uncertainty. Consumers, yes, have fallen victim to scams, hacks, market manipulation, and bankruptcies after intermediaries misused customer funds and were unable to meet their obligations.

Thanks to the leadership of Chairmen McHenry and Thompson, Representatives DUSTY JOHNSON and FRENCH HILL, we finally have a framework, thanks to the work of many before us today that will set a regulatory foundation to protect consumers and innovators alike all the while ensuring future American leadership in this space.

This bipartisan bill does, in fact, provide consumer protections in a functional, regulatory framework that will ensure the digital asset ecosystem is safe for investors.

This bill accomplishes this by delivering the transparency consumers expect and need to make informed decisions and prevent brokers from engaging in manipulative practices that harm American investors.

This regulatory certainty will also drive financial inclusion by promoting technology that can foster economic growth in underserved communities and expand opportunities for economic participation.

Mr. Chair, I encourage my colleagues to support the bill.

Ms. WATERS. Mr. Chair, I continue to reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I yield 1½ minutes to the gentleman from Ohio (Mr. DAVIDSON), who is the vice chair of the Individual Assets and Financial Technology Subcommittee and the OG, as they say, in the crypto space.

Mr. DAVIDSON. Mr. Chair, I rise in strong support of this long overdue legislation. It builds on the framework that my colleagues and I have worked on for at least 6 years beginning with the Token Taxonomy Act in 2018.

Its core is a bright-line test to define what digital assets or securities are regulated by the SEC and which are commodities under the jurisdiction of the CFTC.

Innovators and investors will no longer risk their freedom and their fortunes by simply launching a company and raising capital. The law will be clear, and regulation by selective enforcement must end.

Additionally, and perhaps most notably, this bill also provides first-ever Federal level protection for self-custody of digital assets. This protection, which is very intentional, mirrors my Keep Your Coins Act, and it is a giant step toward restoring the right to privacy and private property protecting permissionless transactions using digital assets.

In an account-based financial system where Americans must rely on intermediaries, self-custody provides the only protection against third parties controlling the individual's transactions.

Thirdly, self-custody provides the first line of consumer protection where individuals can eliminate third-party liabilities who hold their assets.

For too long we have pushed innovation and investment in digital asset projects overseas as Congress has constantly failed to bring the clarity that we need. We finally have the chance to end this trend and solidify ourselves as the leaders in this industry.

Mr. Chair, I urge the Senate to quickly take up this bipartisan legislation and send it to the President's desk as soon as possible. Please vote ''yes.''

□ 1545

Ms. WATERS. Mr. Chair, I include in the RECORD the following statements:

The Statement of Administration Policy from the Biden administration opposing this bill;

The statement from SEC Chair Gensler raising serious concerns about this bill;

A letter from the Treasury Department to me, dated July 20, 2023, expressing serious concerns about this bill;

A letter from the North American Securities Administrators Association opposing this bill; and

A letter from 48 stakeholders opposing this bill.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4763—FINANCIAL INNOVATION AND TECHNOLOGY FOR THE 21ST CENTURY ACT—REP. THOMPSON, R–PA, AND 11 COSPONSORS

The Administration opposes passage of H.R. 4763, which would affect the regulatory structure for digital assets in the United States. The Administration is eager to work with Congress to ensure a comprehensive and balanced regulatory framework for digital assets, building on existing authorities, which will promote the responsible development of digital assets and payment innovation and help reinforce United States leadership in the global financial system. H.R. 4763 in its current form lacks sufficient protections for consumers and investors who engage in certain digital asset transactions. The Administration looks forward to continued collaboration with Congress on developing legislation for digital assets that includes adequate guardrails for consumers and investors while creating the conditions needed for innovation, and further time will be needed for such collaboration.

MAY 22, 2024.

STATEMENT ON THE FINANCIAL INNOVATION AND TECHNOLOGY FOR THE 21ST CENTURY ACT

(By Gary Gensler, Chair, Securities and Exchange Commission)

INTRODUCTION

For 90 years, the federal securities laws have played a crucial role in protecting the public. These critical protections were created in the wake of the Great Depression after many Americans suffered the consequences of inadequately regulated capital markets. We saw sky-high unemployment, bread lines, and shantytowns springing up due to mass foreclosures.

Back then, the rules didn't exist. That's why President Roosevelt and Congress created the SEC and the laws it administers.

At their core is the critical concept of registering securities that will be offered to the public and registering the intermediaries that facilitate the exchange of those securities. For securities, registration means that issuers provide robust disclosures and are liable if their material statements are untruthful. For intermediaries, registration brings with it rulebooks that prevent fraud and manipulation, safeguards against conflicts of interest, proper disclosures, segregation of customer assets, oversight by a self-regulatory organization, and routine inspection by the SEC.

Today, these rules do exist.

Many market participants in the crypto industry, however, have shown their unwillingness to comply with applicable laws and regulations for more than a decade, variously arguing that the laws do not apply to them or that a new set of rules should be created and retroactively applied to them to excuse their past conduct. Widespread noncompliance has resulted in widespread fraud, bankruptcies, failures, and misconduct. As a result of criminal charges and convictions, some of the best-known leaders in the crypto industry are now in prison, awaiting sentencing, or subject to extradition back to the United States.

The SEC, during both Republican and Democratic Administrations, has allocated enforcement resources to holding crypto market participants accountable. Courts have time and again agreed with the SEC, ruling that the securities laws apply when crypto assets or crypto-related investment schemes are offered or sold as investment contracts.

THE FINANCIAL INNOVATION AND TECHNOLOGY FOR THE 21ST CENTURY ACT

The Financial Innovation and Technology for the 21st Century Act (''FIT21'') would create new regulatory gaps and undermine decades of precedent regarding the oversight of investment contracts, putting investors and capital markets at immeasurable risk.

First, the bill would remove investment contracts that are recorded on a blockchain from the statutory definition of securities and the time-tested protections of much of the federal securities laws.

Further, by removing this set of investment contracts from the statutory list of securities, the bill implies what courts have repeatedly ruled—but what crypto market participants have attempted to deny—that many crypto assets are being offered and sold as securities under existing law.

Second, the bill allows issuers of crypto investment contracts to self-certify that their products are a ''decentralized'' system and then be deemed a special class of ''digital commodities'' and thus not subject to SEC oversight. Whether something is a ''digital commodity'' would be subject to self-certification by ''any person'' that files a certification. The SEC would only have 60 days to review and challenge the certification that a product is a digital commodity. Those that the SEC successfully challenges would be reclassified as restricted digital assets and subject to the bill's lighter-touch SEC oversight regime that excludes many core protections. There are more than 16,000 crypto assets that currently exist. Given limits on staff resources, and no new resources provided by the bill, it is implausible that the SEC could review and challenge more than a fraction of those assets. The result could be that the vast majority of the market might avoid even limited SEC oversight envisioned by the bill for crypto asset securities.

Third, the bin's regulatory structure abandons the Supreme Court's long-standing Howey test that considers the economic realities of an investment to determine whether it is subject to the securities laws. Instead, the bill makes that determination based on labels and the accounting ledger used to record transactions. It is akin to determining the level of investor protection based on whether a transaction is recorded in a notebook or a software database. But it's the economic realities that should determine whether an asset is subject to the federal securities laws, not the type of recordkeeping ledger. The bill's result would be weaker investor protection than currently exists for those assets that meet the Howey test.

Fourth, for those crypto investment contracts that would still fall under the SEC's remit the bill seeks to replace Roosevelt's investor protection framework with fewer protections than investors are afforded in every other type of investment. Doing so increases risk to the American public.

Fifth, the bill specifically excludes crypto asset trading systems from the definition of an exchange and thus removes, for investors on crypto asset trading platforms, the protections that benefit investors on registered exchanges. These crypto trading platforms would be able to legally comingle their functions in a way that fosters conflicts of interest, may allow trading against their customers, and reduces custody protections for their customers.

Sixth, the legislation creates an exemption from regulation under this Act for any entity or organization that falls under a broadly defined category called ''Decentralized Finance.'' Any number of firms would qualify for the exemption, regardless of potential conflicts of interest. This would include firms that intermediate crypto securities transactions.

Finally, the bill could be read to functionally eliminate the current Regulation A and Regulation D offering restrictions for crypto securities by creating a new exempt offering framework. Non-accredited investors would be allowed to purchase crypto assets worth up to 10 percent of their net worth or annual income before the issuer would be required to provide any disclosure. That's a lot of risk for ordinary investors to take on without disclosure.

RISKS TO THE BROADER CAPITAL MARKETS

The self-certification process contemplated by the bill risks investor protection not just in the crypto space; it could undermine the broader $100 trillion capital markets by providing a path for those trying to escape robust disclosures, prohibitions preventing the loss and theft of customer funds, enforcement by the SEC, and private rights of action for investors in the federal courts. It

could encourage non-compliant entities to try to choose what regulatory regimes they wish to be subjected to—not based on economic realities, but potentially based on a label.

What if perpetrators of pump and dump schemes and penny stock pushers contend that they're outside of the securities laws by labeling themselves as crypto investment contracts or self-certifying that they are decentralized systems? The SEC would only have 60 days to contest their self-certification.

CONCLUSION

History has shown for 90 years that robust securities regulation both creates trust in markets and fosters innovation. There are countless examples of American companies across many industries that have made world-changing innovations while also registering their securities. It is through the securities laws that we get full, fair, and truthful disclosure that arms investors with the information they need to make investment decisions and enables regulators to guard against the types of fraud we've seen in the crypto field.

The crypto industry's record of failures, frauds, and bankruptcies is not because we don't have rules or because the rules are unclear. It's because many players in the crypto industry don't play by the rules. We should make the policy choice to protect the investing public over facilitating business models of noncompliant firms.

DEPARTMENT OF THE TREASURY,
Washington, DC, July 20, 2023.

Hon. MAXINE WATERS,
Ranking Member, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE WATERS: Thank you for your June 23, 2023, letter requesting feedback on a legislative proposal to revise the market structure for digital assets.

As you know, in response to President Biden's March 9, 2022, Executive Order 14067 on Ensuring Responsible Development of Digital Assets, the U.S. Department of the Treasury (''Treasury'') prepared reports covering a range of topics related to digital assets, including current use cases of digital assets and their effects on consumers, investors, and businesses. In addition, the Financial Stability Oversight Council (''FSOC'') published a report on the potential financial stability risks posed by digital assets. Events that have occurred since publishing these reports—including the failures of large crypto firms, runs on stablecoins, and losses to investors and consumers—have confirmed and reinforced many of the risks and concerns identified in the reports.

These events have also reinforced the reports' recommendations for how to address these risks. First, the existing market regulatory framework is designed to address many of the risks posed by digital assets. For example, the protections and principles of the existing framework—including governance and risk management standards, and protections against commingling of customer assets—are directly responsive to the failures of large crypto platforms. Accordingly, where existing requirements apply, they must be enforced rigorously so that the same protections and principles that apply in markets for other financial assets apply in markets for digital assets.

At the same time, the FSOC report also identified discrete gaps in existing regulatory authority and recommended that Congress expand regulators' authorities to address these gaps. First, the FSOC recommended that Congress provide authority over the spot market for non-security digital assets. Today, these markets are subject to limited direct federal regulation and, as a result, are not subject to the same protections that are designed to ensure orderly trading, prevent conflicts of interest, and protect investors. Second, the FSOC recommended that Congress ensure that regulators have visibility into the activities of affiliates and subsidiaries of federally regulated intermediaries. Today, digital asset platforms may have affiliates or subsidiaries operating under different regulatory frameworks, and no single regulator may have visibility into the risks across the entire business. Finally, and as we have discussed previously, FSOC recommended establishing a regulatory framework for stablecoins.

In developing these recommendations and when considering legislative proposals, we are guided by our and the FSOC's prior work on digital assets. More specifically,

Existing authorities should be preserved. As discussed above, the existing market regulatory framework is designed to address many of the risks of digital assets. Exceptions and limitations to the existing framework—whether on a provisional or ongoing basis—would leave investors without critical protections and undermine market integrity. For example, provisional or temporary exemptions should not exclude core protections that are critical to an effective market regulatory regime, such as requirements that ensure orderly trading and to protect against conflicts of interest. Immunizing issuers and platforms from enforcement of prior violations prevents redress of harms done to investors and undermines market integrity. On an ongoing basis, limiting market regulators ability and discretion to act would undermine their ability to provide clarity to market participants.

Same risk, same activity, same regulatory outcome. Activities that bear the same risks should be subject to the same regulatory outcome. To that end, when creating new regulatory categories—e.g., new pathways to access capital markets, or distinguishing a type of trading platforms—policymakers must consider carefully how existing products or services may be affected, either disadvantaged relative to the new category or migrating to take advantage of more favorable treatment. Technological differences may be relevant to regulatory treatment, but only insofar as these distinctions inform the conduct of the activity and how risks manifest. The process for accessing capital markets, along with the conduct of secondary market activity within those markets, should reflect the underlying risks, not the technology used. Fraud, misstatements, and other misconduct in digital asset markets do not suggest that the underlying technology is associated with a reduction in or change to the underlying risks for investors. Moreover, regulatory distinctions based on technology alone are prone to arbitrage or obsolescence, in part because they do not always appropriately reflect the underlying risks. Finally, regulatory arbitrage also may have a wide range of financial stability and other risks if activities that bear the same risks are subject to different rules or if firms can operate in a manner that prevents regulators from assessing the totality of the organization's risks. Today, the operations and organizational structures of digital asset trading platforms may result in having different regulatory regimes for different affiliates or subsidiaries, such that no single regulator has a view into operations of the whole. By adding new regulatory distinctions without appropriately addressing the underlying risks of the activity or conduct, the proposal could amplify these risks.

Robust regulation of spot markets. Investors in non-security digital asset spot markets, which includes many retail investors, should have the same basic protections as are present in other trading markets. Accordingly, and consistent with the principles above, regulatory authority should cover a range of subjects, including conflicts of interest, abusive trading practices, margin, trade reporting, governance, capital, recordkeeping, governance, custody, and settlement. Regulatory authority should be accompanied by resources sufficient to ensure that implementation is effective.

We appreciate your leadership on these issues and share your concerns that many digital assets present significant risks to consumers, investors, and businesses, and have the potential to pose significant risks to the broader financial system. We also appreciate your engagement with Treasury on these issues, and we look forward to working with you and your staff in the future. If you have any further questions, please do not hesitate to contact the Office of Legislative Affairs.

Sincerely,

JONATHAN DAVIDSON.

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.,
May 21, 2024.

Re Vote NO on H.R. 4763, the Financial Innovation and Technology Act for the 21st Century Act, As Amended

Hon. MIKE JOHNSON,
Speaker, House of Representatives, Washington, DC.

Hon. HAKEEM JEFFRIES,
Democratic Leader, House of Representatives, Washington, DC.

DEAR SPEAKER JOHNSON AND DEMOCRATIC LEADER JEFFRIES: On behalf of the North American Securities Administrators Association, Inc. (''NASAA''), I write to express strong opposition to H.R. 4763, the Financial Innovation and Technology for the 21st Century Act, as amended (''H.R. 4763''). In short, H.R. 4763 would create a bespoke, light-touch regime under federal securities and commodities laws to benefit market participants that elect to use blockchain and other distributed ledger technologies (''DLTs'') to raise capital, manage risk, and trade products. As explained below, over time, this bill could upend decades of industry, judicial, legislative, and regulatory work to build capital markets that are the gold standard. Near-term, the bill would nullify or otherwise severely complicate the ability of securities regulators to fulfill their missions.

To begin, H.R. 4763 would supplant longstanding and critical components of securities laws through the introduction of new defined terms into our federal market frameworks for products such as ''digital assets,'' ''investment contract assets,'' and ''digital commodities.'' Indeed, the point of entry to access this regime would be the definition of a ''digital asset.'' The bill would define such products as any fungible digital representation of value that (i) can be exclusively possessed and transferred, person to person, without necessary reliance on an intermediary, (ii) is recorded on a cryptographically secured public distributed ledger, and (iii) is not a product enumerated in H.R. 4763, which in short is a list of selected products treated as securities and commodities under federal law. With respect to ''digital assets'' that run on a DLT that is certified as ''decentralized,'' meaning no one person or entity had ''unilateral authority'' during the lookback period to control the operation of or access to the system, H.R. 4763 would treat them as ''digital commodities.'' This designation would place them and associated intermediaries under the Commodity Futures Trading Commission (''CFTC''). By contrast, for those ''digital assets'' that run

on a DLT that is not ''decentralized'' enough to qualify as a ''digital commodity,'' H.R. 4763 would treat them as ''digital assets,'' ''restricted digital assets'' or ''securities,'' depending on the facts. This designation would place or keep them and associated intermediaries under the Securities and Exchange Commission (''SEC''). Alarmingly, H.R. 4763 would define ''investment contract assets'' by carrying over the ''digital assets'' definition and then essentially carving the product out of federal securities laws, thereby creating a new gap, specifically the investment contracts assets gap with no federal market regulator in charge.

Staying on the bill's impact on the SEC's regulation of ''digital assets,'' the legislation would establish a new minimally transparent market for transactions ''involving the offer or sale of units of a digital asset'' that meet specified criteria. In short, H.R. 4763 would create an exemptive pathway for raising capital under the Securities Act of 1933 (''1933 Act''). Issuers relying on the exemption could raise as much as $75 million within a 12-month period with certain limits on sales to non-accredited investors.

Importantly, while H.R. 4763 would prevent state governments from requiring issuers to register their digital asset offerings with the states, the legislation would preserve the ability of states to investigate and if appropriate bring enforcement actions for fraud and require notice filings and associated fees. Anti-fraud authority and notice filings are important tools that mirror existing state authority for certain other federal ''covered securities.'' However, they are insufficient regulatory tools when it comes to authority meant to stop potential harm before it is inflicted on retail investors. Unfortunately, fraud tied to the offer and sale of digital asset securities has been and continues to be a top investor threat.

Further, H.R. 4763 would introduce several new defined terms under federal securities law for intermediaries associated with ''digital assets'' such as a new category called a ''digital asset broker.'' Creating such bespoke new categories, particularly when they would or could be redundant of existing categories such as broker-dealer agents, would add complexity and costs to our federal market frameworks, with no net-benefit for investors. Indeed, years after the adoption of SEC Regulation Best Interest and Form CRS, many investors still struggle to distinguish between broker-dealer agents and investment adviser representatives. Injecting new, largely redundant digital asset intermediaries would only create more confusion and more conflicts for retail investors.

Undoubtedly, the deregulatory nature of this bill would prompt so-called traditional market participants to explore the use of DLTs if only to access a regime that has less transparency and less robust standards than the present one. We have seen time-and-again that market behaviors shift to more opaque areas of the markets, a move observable most recently in the now widespread use of the SEC Regulation D, Rule 506(b) exemption in lieu of public offerings. In addition to further reducing transparency in our markets, such a shift would create new competition concerns, particularly for small market participants who generally cannot afford to use the latest technology.

In sum, we believe this legislation began as a well-intentioned effort to fill what was described initially as a potential regulatory gap for so-called virtual currencies. Fast forward to today, the legislation that has emerged in the form of H.R. 4763 introduces anti-competitive, overly complicated, costly, and unwarranted changes to the laws that have protected investors and promoted robust capital markets for decades.

Should you have any questions, please do not hesitate to contact me or Kristen Hutchens, NASAA's Director of Policy and Government Affairs, and Policy Counsel.

Respectfully,

JOSEPH BRADY,
NASAA Executive Director.

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May 20, 2024.

Hon. MIKE JOHNSON,
Speaker of the House, House of Representatives, Washington, DC.

Hon. HAKEEM JEFFRIES,
Minority Leader, House of Representatives, Washington, DC.

DEAR SPEAKER JOHNSON AND MINORITY LEADER JEFFRIES, We, the undersigned organizations and individuals, write to you today to express our opposition to H.R. 4763, the Financial Innovation and Technology for the 21st Century Act (The ''FIT'' Act). We urge you and Members of Congress to vote against this bill when it comes to floor this week. Many signatories of this letter also wrote to the House Financial Services and Agriculture Committees last year expressing their opposition to this bill when it was marked up in Committee. We see little in the new version of this bill (despite format and cosmetic changes) to assuage our concerns.

Consumers have lost trillions due to the 2022–2023 crypto collapse, in addition to the billions lost directly to widespread scams, fraud and theft found throughout the industry. Public opinion has largely soured on these speculative investments. Venture capital funding, which pumped crypto hype for years, often for their own firms' benefit, plummeted during the crash, migrating to the next shiny object of discussion—AI. Most of the industry's wounds are self-inflicted, and are a result of either failure to adhere to the most basic financial management principles, rampant fraud, or both. Even now, after the prosecutions of Sam Bankman-Fried, Changpeng Zhao, and other seminal crypto players, many industry players large and small are still facing civil and criminal enforcement actions at the state, national and international level, as well as class-action lawsuits from defrauded customers. After 15 years, crypto still struggles to demonstrate viable use cases outside of speculative investment. While other tech has proven its usefulness many times over, crypto's big moment is always just over the horizon. The industry has superficially recovered this year, in part due to controversial approval of spot BTC ETPs by the Securities Exchange Commission. Yet, the scams, hacks, theft, instability, reckless promotional activities, and regulatory evasion that were present during the last crypto bull market remain endemic in the industry today.

In the midst of this new bubble, a concentrated lobbying effort by the crypto industry, backed primarily by wealthy venture capital investors seeking short-term returns on risky investments, has moved lawmakers to advance this proposal with potentially radical implications that would, in the name of ''crypto innovation'' and so-called ''regulatory clarity,'' complicate and weaken consumer and investor protections for both traditional and crypto investors. It would also broadly reshape financial regulatory agencies' jurisdictions and weaken regulatory oversight of financial products and services writ large. All this could result in real harm to consumers and investors, whether they invest in crypto or not.

We have numerous concerns about the bill; we discuss a set of crucial problems below.

A potential backdoor path to undermine the Howey Test. For decades, the Howey Test—a legal framework outlined by a Supreme Court ruling that is used to determine whether certain transactions qualify as investment contracts, and thus must adhere to robust investor safeguards—has a been a vetted and reliable formula used by the courts and regulators to determine whether certain investment activities, assets and actors should subject to investor protection standards under securities law. The crypto industry's efforts to contest the notion that crypto assets aren't securities under Howey have had a rocky trajectory—a few wins, many more losses and settlements in court. As described further below, much of this bill seeks to circumvent these standards, in part by creating a fast-track, rubber stamp process to designate crypto assets as ''commodities,'' thus narrowing application of securities regulation to those assets and related actors.

But, leaving nothing to chance, Title II of the FIT Act also declares that, if enacted, all ''investment contracts assets''—which are defined in the bill as digital assets—are not securities, full stop. This would likely not only undermine application of the Howey Test to crypto assets and activities writ large (even when evidently appropriate) but would also invite non-crypto actors to use this new terminology to evade coverage of the Howey Test for their investment products and activities as well. Instead of applying the principles of ''same activities, same risks, same rules'' which helps create consistent regulatory standards, this bill seeks to re-write large swathes of securities law to create special exceptions and lighter regulations for crypto. And it does so in ways that are likely to undermine consistent regulation and investor protection more broadly. That means even investors who never touch crypto may be harmed by this bill if enacted.

A blueprint for unregistered stock offerings. This bill creates a blueprint for crypto asset issuers to effectively issue ''unregistered stock,'' by enacting a static decentralized system definition that would allow crypto asset issuers and traders to qualify as decentralized when certain conditions are met, and therefore be exempt from most meaningful securities regulatory oversight. This approach effectively codifies existing crypto business models that are all too often used to exploit retail investors for the benefit of a smaller group of initial investors.

A roadmap for traditional financial firms to use ''decentralized networks'' to evade more rigorous oversight. Not only could the decentralization framework named above allow crypto firms to largely continue with dangerous business practices as usual; it could also enable traditional financial firms to evade more robust regulatory oversight by claiming their products and platforms meet this decentralization rubric (e.g. ''slap a blockchain on it''), and thus are exempt from conventional regulatory requirements for securities issuers and actors. This would create huge potential risks for consumers, investors, and markets due to less rigorous oversight than they would otherwise see with traditional regulatory approaches.

A rubber-stamp certification scheme for crypto ''commodities.'' The bill's self-certification process for crypto industry actors makes it very easy for anyone to declare they fall under CFTC jurisdiction (as crypto commodity issuers, brokers, etc.) The SEC is given nominal authority to intervene in these certifications, but the bill sets a 60-day time limit for such interventions, requires the agency to do extensive legal analysis, and allows the CFTC to intervene and applicants to file appeals. This process and unreasonable timeline stacks the deck against the appropriate securities regulation of crypto assets that should fall under the SEC's jurisdiction, and all but guarantees many asset issuers and traders will flood the system seeking registration under the CFTC. This

also flies in the face of arguments that this bill is intended to address a targeted gap in crypto spot market regulation, when it's clear the scope of assets and actors that can and would likely seek registration with the CFTC is far greater.

A vague mandate for CFTC that lacks clarity or sufficient investor and consumer protections. The bill grants the CFTC new regulatory authority over crypto commodities and crypto commodity traders, but the language regarding consumer and investor protection provisions in the bill is vague, narrowly cast, or left up to rulemakings, and not fully commensurate with investor protection provisions found in the securities regulatory framework. If and when the agency sought to further define these elements—especially if they were to do so in a robust way—they would likely face significant litigation from crypto and non-crypto entities alike, as the bill's proposals are not fully supported by or consistent with its current statutory mandate, which is largely focused on anti-fraud and market manipulation measures meant to address activity by large, sophisticated trading firms, not retail crypto investors buying crypto from their phone on an app.

The legal wrangling that would likely ensue could take years, if not decades, to resolve—leaving crypto investors without adequate regulatory protections in the interim. Lastly, it's possible the regulatory authority given to the CFTC under this bill could undermine the authority of agencies such as the CFPB to regulate and oversee crypto consumer financial products and services as well. All told, instead of the so-called ''regulatory clarity'' the crypto industry claims it needs to be compliant with basic investor protection safeguards, this bill is more likely to introduce regulatory chaos for crypto and non-crypto actors alike.

Weaker regulatory requirements for many crypto securities. The bill's regulatory provisions for those crypto assets that are deemed 'securities' allow for major exemptions for crypto asset issuers whose sales are under $75 million a year—a threshold that would exclude thousands of tokens currently on the market. This exemption would allow crypto securities issuers to issue what amount to private offerings to the broader investor public, without adequate regulatory oversight. Numerous crypto scams and pump and dump schemes have fleeced crypto consumers with sales volumes of far less.

An expansive temporary safe harbor that tacitly rewards non-compliance. Finally, this bill, via a ''notice of intent to file'' provision, creates an expansive safe harbor for crypto platforms and crypto asset issuers, whereby firms can offer nominal information about their business regulators and ''provisionally'' register with the SEC or CFTC while these agencies enact more formal rules. By giving such safe harbor (which given rulemaking timelines, could potentially last for years) crypto firms currently out of compliance with existing financial regulatory laws would be sheltered from current or future legal action, and would be free to continue with business as usual. We fear this would give such firms a patina of legitimacy which could draw unwary consumers back to crypto, exposing them to more risk and harm.

A lack of action to protect the right to private action for consumers and investors. The recent collapse or bankruptcy of multiple crypto firms—Terraform Labs, 3AC, Voyager Digital, Celsius Network, BlockFI, Genesis Global Capital, Gemini Trust, FTX, and many others—has illustrated how important it is to preserve investor rights that provide to access US courts, help hold bad actors accountable and enable investors to recover their losses. Yet, this bill fails to create such protections within this framework, does nothing to preserve existing investor rights and does not include a savings clause to retain these rights under state law as well. The bill also fails to address the widespread use by crypto firms of forced arbitration clauses and other onerous limitations on consumers' and investors' rights.

All told, we believe this bill as written introduces a policy ''cure'' that would be far worse than the disease and create significant harm within and far beyond the crypto industry. Regulators already have extensive existing powers to regulate this industry, the same way other financial products and services are regulated. Those regulatory gaps that may exist require a targeted, narrow, and measured approach, but this bill is sweeping and broad in scope, and should it become law it would profoundly undermine the SEC's ability to support orderly markets and protect investors from harm.

Instead of pursuing this ill-advised proposal, the best immediate step Congress could take to protect consumers who choose to participate in crypto markets would be to support regulators' ongoing efforts to enforce existing regulatory standards that apply to crypto actors, assets and activities—the very basic elements of securities, banking and consumer finance regulation which provide the foundation for consumer and investor protections in the financial regulatory realm.

Thank you.

Signed,

ORGANIZATIONS

American Federation of State, County and Municipal Employees (AFSCME); American Association for Justice; American Economic Liberties Project; AFL–CIO; Americans for Financial Reform; Center for American Progress; Center for Economic Integrity: Center for Responsible Lending; Clean Energy Action; Communication Workers of America; Consumer Federation of America; Consumer Federation of California; Consumer Reports; DC Consumer Rights Coalition; Demand Progress; Democracy for America Advocacy Fund; Economic Action Maryland; Empower Our Future.

Food and Water Watch; Groundwork Data; ISAIAH (MN); Institute for Agriculture and Trade Policy; Maine People's Alliance; National Community Reinvestment Coalition; National Consumer Law Center, on behalf of its low-income clients; P Street; Public Citizen; RAISE Texas; Revolving Door Project; Rise Economy; US PIRG; Take On Wall Street; Texas Appleseed; THIS! Is What We Did; Virginia Poverty Law Center; Woodstock Institute; 20/20 Vision; 350Hawaii.

INDIVIDUALS (TITLES AND INSTITUTIONS PROVIDED FOR IDENTIFICATION PURPOSES ONLY AND DO NOT CONSTITUTE INSTITUTIONAL ENDORSEMENTS)

Anat Admati, George G.C. Parker Professor of Finance and Economics, Graduate School of Business, Stanford University

Hilary J. Allen, Professor of Law, Associate Dean for Scholarship, American University Washington College of Law

Raúl Carrillo, Academic Fellow, Columbia Law School

Brian Flick, Ohio State Chair, National Association of Consumer Advocates

Richard W. Painter, S. Walter Richey Professor of Corporate Law, University of Minnesota Law School

Todd Phillips, Assistant Professor of Legal Studies, Robinson College of Business, Georgia State University

Lee Reiners, Lecturing Fellow, Duke Financial Economics Center and Duke Law

Jennifer Taub, Professor of Law, Wayne State University Law School (Fall 2024)

Urska Velikonja, Associate Dean For Academic Affairs, Professor of Law and Anne Fleming Research Professor, Georgetown Law School

Arthur E. Wilmarth, Jr., Professor Emeritus of Law, George Washington University Law School

Ms. WATERS. Mr. Chair, I also include an excerpt from Coinbase's Form S–1 filing acknowledging the risk that Coinbase could be found to be illegally acting outside of securities laws, excerpts from the SEC's complaint against Coinbase alleging that Coinbase was illegally acting outside of securities laws; and a summary of, and key excerpt from, the decision in the case of SEC v. Coinbase, finding that Coinbase was indeed acting illegally by failing to comply with existing laws.

SEC V. COINBASE

EXCERPT FROM COINBASE S–1 FILING ON ''RISK FACTORS''

As indicated in the above complaint, in its Form S–1 filing with the SEC Coinbase acknowledged the risks that the crypto assets it makes available on its platform could be deemed securities, and therefore Coinbase could be found to be engaging in unregistered brokerage, exchange, and/or clearing-agency activity:

''A particular crypto asset's status as a ''security'' in any relevant jurisdiction is subject to a high degree of uncertainty and if we are unable to properly characterize a crypto asset, we may be subject to regulatory scrutiny, investigations, fines, and other penalties, which may adversely affect our business, operating results, and financial condition. The SEC and its staff have taken the position that certain crypto assets fall within the definition of a ''security'' under the U.S. federal securities laws. The legal test for determining whether any given crypto asset is a security is a highly complex, fact-driven analysis that evolves over time, and the outcome is difficult to predict. The SEC generally does not provide advance guidance or confirmation on the status of any particular crypto asset as a security. Furthermore, the SEC's views in this area have evolved over time and it is difficult to predict the direction or timing of any continuing evolution. It is also possible that a change in the governing administration or the appointment of new SEC commissioners could substantially impact the views of the SEC and its staff . . . With respect to all other crypto assets, there is currently no certainty under the applicable legal test that such assets are not securities, notwithstanding the conclusions we may draw based on our risk-based assessment regarding the likelihood that a particular crypto asset could be deemed a ''security'' under applicable laws.

The classification of a crypto asset as a security under applicable law has wide-ranging implications for the regulatory obligations that flow from the offer, sale, trading, and clearing of such assets. Persons that effect transactions in crypto assets that are securities in the United States may be subject to registration with the SEC as a ''broker'' or ''dealer.'' Platforms that bring together purchasers and sellers to trade crypto assets that are securities in the United States are generally subject to registration as national securities exchanges, or must qualify for an exemption, such as by being operated by a registered broker-dealer as an alternative trading system, or ATS, in compliance with rules for ATSs. Persons facilitating clearing and settlement of securities may be subject to registration with the SEC as a clearing agency.

SUMMARY AND EXCERPT FROM OPINION OF THE JUDGE FROM THE US DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, DENYING COINBASE'S MOTION TO DISMISS IN THE CASE OF SEC V. COINBASE

In March 2024, U.S. District Court Judge Katherine Polk Failla of the Southern District of New York made a preliminary ruling in the Coinbase case, holding that because at least some crypto trades on the Coinbase platform met the longstanding definition of an investment contract, the SEC can move ahead with claims that Coinbase improperly operated as a securities exchange, broker and clearing agency. She also said the SEC adequately alleged that Coinbase sold unregistered securities through its staking program. In an 84-page opinion, the judge asserted, among other things, that ''the 'crypto' nomenclature may be of recent vintage, but the challenged transactions fall comfortably within the framework that courts have used to identify securities for nearly eighty years.''

EXCERPTS FROM THE SEC'S COMPLAINT FILED AGAINST COINBASE IN JUNE 2023

''In September 2019, Coinbase released a framework for analyzing crypto assets that assigned to the crypto asset a score ranging from 1 to 5, with a score of 1 indicating that an ''asset has few or no characteristics consistent with treatment as an investment contract,'' and a score of 5 meaning that an ''asset has many characteristics strongly consistent with treatment as a security.'' Meanwhile, between 2019 and 2020, Coinbase more than doubled the number of crypto assets available for trading on its platform, and it more than doubled that number again in 2021. During this period, Coinbase made available on its platform crypto assets with high ''risk'' scores under the CRC framework it had adopted. In other words, to realize exponential growth of the Coinbase Platform and boost its own trading profits, Coinbase made the strategic business decision to add crypto assets to the Coinbase Platform even where it recognized the crypto assets had the characteristics of securities.''

Coinbase generates most of its revenue from transaction fees collected on crypto asset trades made through the Coinbase Platform, Prime, and Wallet. Fox example, in 2021, Coinbase generated $6.8 billion in ''transaction revenue,'' out of a total net revenue of $7.4 billion. Likewise, in 2022, Coinbase generated over $2.2 billion in transaction revenue out of a total net revenue of $3.1 billion.

''Coinbase also worked closely with issuers of crypto assets who sought to have their crypto assets listed on Coinbase. Coinbase's ''Listings Team'' engaged in a dialogue with issuers focused on identifying potential ''roadblocks'' under Howey. For example, on one occasion, Coinbase identified ''problematic statements'' by an issuer that described its crypto asset ''with language traditionally associated with securities,'' ''implying that the asset is an investment or way to earn profit,'' ''emphasizing the profitability of a project and/or the historic or potential appreciation of the value of the assets,'' and ''using terms referring to the assets that are commonly associated with securities such as 'dividend,' 'interest,' 'investment' or 'investors.''' As ''possible mitigation,'' Coinbase suggested that the issuer ''remove any existing problematic statements, and refrain from making problematic statements in the future.'' Coinbase was thus aware of the risk that it could be making available for trading on the Coinbase Platform crypto assets that were being offered and sold as securities. Indeed, Coinbase touted to the investing public its familiarity with the relevant legal analysis governing the offer and sale of securities.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I yield 1 minute to the gentleman from Kansas (Mr. MANN).

Mr. MANN. Mr. Chair, my home State of Kansas is a leader when it comes to agriculture innovation. A lesson that I have learned from Kansans is that we must be ready to respond to new technological developments as they come to life. Digital asset markets are no exception.

As these markets have grown, they have lacked congressional guidance over who has regulatory and enforcement authority over them. Currently, participants are at the mercy of regulators who continue to assert jurisdiction and extend their authority through enforcement actions, all without legislation and direction from Congress.

Mr. Chair, I urge my colleagues to support this bill to establish a framework consistent with existing financial market requirements while acknowledging the uniqueness of digital assets. We can and should give consumers, developers, and institutions a clear set of rules that provide certainty as they explore this new, innovative technology.

Digital assets and related blockchain technology have the potential to lead us to the next generation of internet technology. Everyone here should want America to be a place where this flourishes. That is what FIT21 does. It allows America to build on this potential. If we do not act now, we cede American leadership, talent, and innovation.

Mr. Chair, I urge my colleagues to vote ''yes'' on FIT21.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I yield 1 minute to the gentleman from Nebraska (Mr. FLOOD), a great legislator in the innovation space.

Mr. FLOOD. Mr. Chair, I would like to focus on one particular aspect of this bill. It is exactly responsive to the problems in the digital assets market that we have seen over the last couple of years.

In the aftermath of the collapse of FTX in 2022, we need to ensure that there are investor protection rules that prevent anything from happening like that again in the United States.

Under the regulatory structure created by this bill, FTX would not have been able to register. FTX would not have been able to comingle customer funds that hurt so many of their investors.

Some of my friends on the other side of the aisle have spoken about protecting investors. The great irony is that they are opposing a bill that would do just that. If you believe in investor protection, if you believe we need to respond to the disaster of FTX, then we need to pass a bill that would prevent the next FTX.

The status quo will not work. It did not work in 2022, and it will not work today.

Mr. Chair, I urge my colleagues to support this bill.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I yield 1 minute to the gentleman from Tennessee (Mr. ROSE), a great leader on the Agriculture and Financial Services Committees.

Mr. ROSE. Mr. Chair, I rise in support of H.R. 4763, the Financial Innovation and Technology for the 21st Century Act, or the FIT21.

As a member of the House Financial Services and Agriculture Committees, I am proud to support this bill. This product is a joint effort between both committees. I commend both Chairman MCHENRY and Chairman THOMPSON for working on this bipartisan legislation.

This bill confronts the litigation-heavy approach toward digital assets of the Securities and Exchange Commission led by rogue regulator Gary Gensler. Chair Gensler has blown past the SEC's statutory mandate and instead forced investors and companies to operate in the dark, thus risking the United States' standing as a world leader in digital innovation.

The Financial Innovation and Technology for the 21st Century Act will allow the U.S. to reclaim our place as a world leader in innovation and provides clear rules of the road for cryptocurrencies.

Mr. Chair, I urge Members to join me in voting ''yes.''

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, may I inquire how much time is remaining.

The Acting CHAIR. The gentleman from North Carolina has 7 minutes remaining. The gentlewoman from California 4 has minutes remaining.

Mr. MCHENRY. Mr. Chair, I yield 1 minute to the gentleman from Oklahoma (Mr. LUCAS), a leader on the Agriculture Committee, a former chair of the Agriculture Committee, a great leader on the Financial Services Committee, and also the chair of the Science Committee, before I forget.

Mr. LUCAS. Mr. Chair, the United States has no meaningful Federal regulation of the digital asset markets. The attempts by regulators to apply existing laws are arbitrary and unclear.

The fact is, the status quo does not work. Without a clear Federal framework, we fail to provide adequate consumer protections and forfeit our international competitiveness. This hurts U.S. consumers, investors, and the entire economy.

This is why this bill is so important. The legislation establishes a market structure framework that accounts for the unique characteristics of digital assets, adhering to the core principles of the Commodity Exchange Act.

U.S. consumers are actively participating in the digital asset market, and we should ensure they are protected from fraud and scams. This bill does that.

Mr. Chair, I thank Chairman MCHENRY and Chairman THOMPSON for

all of their work on this legislation, and I urge my colleagues to support the bill.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. McHENRY. Mr. Chair, I yield 1 minute to the gentleman from Michigan (Mr. HUIZENGA), the chair of the Oversight and Investigations Subcommittee of the House Financial Services Committee.

Mr. HUIZENGA. Mr. Chair, since the first cryptocurrency network was created nearly 15 years ago, the rules governing the digital asset ecosystem have remained unclear.

As I learned while serving as chairman of the Capital Markets Subcommittee, regulators have been using opaque guidelines and regulation by enforcement. Meanwhile, Congress has been working on a bipartisan path forward.

Digital assets have the potential to revolutionize payment systems in the United States by allowing financial systems to become more efficient and more accessible to consumers.

By passing a comprehensive market structure framework, responsible actors will now have greater certainty and consumers will have greater protection from bad actors.

Mr. Chair, our markets are the envy of the world. We must not cede any ground. American innovation is a critical element of job creation and economic opportunity here in the United States. Congress must look to preserve this competitive advantage and not let it leave our shores. FIT21 is a historic first step.

Mr. Chair, I urge all of my colleagues to support this legislation.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. McHENRY. Mr. Chair, does the gentlewoman have any additional speakers?

Ms. WATERS. Mr. Chair, if the gentleman has no more speakers, I am prepared to close.

Mr. McHENRY. Mr. Chair, I yield 1 minute to the gentlewoman from California (Mrs. KIM).

Mrs. KIM of California. Mr. Chair, millions of Americans from all backgrounds see digital assets as one of the many options to take wealth creation into their own hands. Unfortunately, the U.S. is falling behind compared to other countries, and we have yet to establish a viable regulatory framework for digital assets.

H.R. 4763 establishes a much-needed digital asset market structure framework that provides clear rules for digital asset firms while providing robust consumer protections. Thus, I believe this bill is very fit for the 21st century.

FIT21 would enable innovation to flourish and the United States to lead the world in the development of digital assets. The EU, the U.K., Hong Kong—and the list goes on—have established or are in the process of establishing a regulatory framework.

The development of technologies and new financial services tools should be taking place here, not elsewhere. Mr. Chair, I urge a ''yes'' vote on H.R. 4763.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. McHENRY. Mr. Chair, I yield 1 minute to the gentleman from Wisconsin (Mr. STEIL), the chair of the House Administration Committee and a great member of the Financial Services Committee on innovation policy.

Mr. STEIL. Mr. Chair, I rise in support of the Financial Innovation and Technology for the 21st Century Act.

Blockchain and digital assets are transforming finance and reshaping, in particular, the way the internet works, but responsible innovators are being held back by stubborn Washington bureaucrats. It is pushing jobs and opportunities overseas.

For the first time in generations, the U.S. is at risk of missing out on leading the next wave of technology. FIT21 provides clear rules for digital assets and related businesses. It protects consumers and strengthens transparency and accountability. It establishes the United States as a technology leader.

Mr. Chair, I urge my colleagues to support the bill and bring jobs, opportunities, and innovation in digital assets to the United States.

Ms. WATERS. Mr. Chair, I reserve the balance of my time.

Mr. McHENRY. Mr. Chair, I yield 1 minute to the gentleman from Utah (Mr. CURTIS).

Mr. CURTIS. Mr. Chair, I rise in favor of the Financial Innovation and Technology for the 21st Century Act, which establishes a much-needed regulatory framework for digital assets.

Currently, the lack of clear direction from Congress, combined with broad definitions of securities and commodities, has allowed the SEC to insert itself into the regulation of cryptocurrency. This has created uncertainty and hindered innovation.

Meanwhile, other countries like Singapore, UAE, and even China have capitalized on our unclear regulatory environment. They have developed their own framework, positioning themselves as hubs for the digital asset ecosystem.

I believe the United States, and particularly Utah's Silicon Slopes, which boasts a growing and thriving blockchain industry, should be the global center for digital assets.

This bill creates an appropriate framework for cryptocurrency regulation that fosters innovation and ensures U.S. leadership in blockchain technology while also protecting against bad actors like FTX.

The Financial Innovation and Technology for the 21st Century Act realigns the SEC with its appropriate regulatory role and designates the Commodity Futures Trading Commission as the primary regulator of cryptocurrency as a commodity. It also clarifies the SEC's role in regulating digital assets.

Ms. WATERS. Mr. Chair, I yield myself the balance of my time.

Mr. Chair, as we have heard today, the entities that stand to benefit from this bill are not ordinary investors trying to build wealth but rather the crypto firms that have chosen not to register with the SEC or otherwise comply with the securities laws.

They have already made billions of dollars unlawfully issuing or facilitating the buying and selling of crypto securities, and Republicans are now proposing to reward these illegal activities by making these activities legal. This is truly preposterous.

Mr. LYNCH, when he spoke, said this was one of the worst pieces of legislation he has experienced during his entire career. I understood why when I examined this bill and I saw that the Republicans created this new definition. This new definition is known as the investment contract assets.

We have talked about this, but even in the Rules Committee, while they were talking about how this bill was going to protect consumers, they did not debate us about this investment contract asset because they know that it created a void. It created a no-man's-land. This was created basically so that the crypto companies could be in a space without regulation, but it goes further than that.

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It also covers traditional securities so they can be in a space without regulations.

It is not enough to say this is a bad bill. This is not only a bad bill, this is a bill where the crypto companies decided they didn't like the SEC, they do not want to be regulated, and they were going to come to the Congress of the United States. They were going to use their power, they were going to use their influence to change the rules of the game, and they were going to now go to where the commodities are regulated, and they are going to take the securities over there.

I explained to you that the CFTC is a small agency. I explained to you that they don't have a lot of money. I explained to you how much smaller they are than the SEC.

The SEC are the experts. They have been developing regulations for this country for 90 years. The SEC is 90 years old, and it is respected all over the world. We are the envy of the world because we have an SEC.

When I talk about this void that has been created, there is no way that the Members of this Congress can allow that to happen, to allow this no-man's-land to exist where the same crypto companies are now refusing to register, who are unlawful, that you are going to exonerate and then you are going to further give them the opportunity to operate without regulation.

This is unbelievable. How can this happen in the Congress of the United States in the House of Representatives where we are supposed to represent the people?

We have an SEC that is a cop on the block. We have an SEC that is expert

in securities. The SEC goes into the courts, and they fight tough battles. These battles are long. These battles are hard because they are fought by the crypto companies. They don't give up because at least they have people who can begin to work on it. We try to give the SEC more money to do their work, but they are denied additional appropriations by the other side of the aisle.

The Acting CHAIR (Mr. FULCHER). The time of the gentlewoman has expired.

Mr. MCHENRY. Mr. Chair, may I inquire as to how much time I have remaining.

The Acting CHAIR. The gentleman from North Carolina has 2 minutes remaining.

Mr. MCHENRY. Mr. Chair, I yield myself the balance of my time.

Let me speak to this. The void is the lack of a definition of what is a digital asset in Federal law. We have none. This bill establishes it. We have no consumer protections for crypto today. This bill establishes it both at the CFTC with a robust oversight of this industry and the SEC with real clarity. That is what this bill does is provide clarity for investors and consumers and innovators.

We are falling behind Europe. This bill catches us up so that we do not lose out on innovation policy to the Europeans, to the folks in the U.K., to Singapore, to Japan, to Hong Kong that all have regimes similar to what we are doing in this bill.

This is an important bill. It is bipartisan work. Hundreds of hours have been put into developing this bill with Members and staff.

I thank the great partnership I have had with FRENCH HILL of the Financial Services Committee and Chairman GT THOMPSON on the Ag Committee and DUSTY JOHNSON on the Ag Committee. I also thank the great staff on the House Financial Services Committee, Allison Behuniak, who has shepherded this bill to this point and Paul Balzano on the Ag Committee. They have worked in great partnership and friendship and worked through major issues. I thank them for this important legislative product.

We can promote American innovation, consumer protection, and leadership with a clear regulatory framework for digital assets. The next generation of internet technology is being written. It should be written by American innovators here in the United States. We can allow that innovation to pass us by, or we can seize the opportunity and pass this bill to provide real clarity for innovation policy here in the United States.

Regulatory clarity and consumer protection, that is FIT21.

Let's vote ''yes'' on this bill and establish bipartisan support for crypto in America. Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

In lieu of the amendments in the nature of a substitute recommended by the Committees on Agriculture and Financial Services, printed in the bill, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 118–33, modified by the amendment printed in part A of House Report 118–516, shall be considered as adopted. The bill, as amended, shall be considered as the original bill for purpose of further amendment under the 5-minute rule and shall be considered as read.

The text of the bill, as amended, is as follows:

H.R. 4763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Financial Innovation and Technology for the 21st Century Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; RULEMAKING; NOTICE OF INTENT TO REGISTER

Sec. 101. Definitions under the Securities Act of 1933.
Sec. 102. Definitions under the Securities Exchange Act of 1934.
Sec. 103. Definitions under the Commodity Exchange Act.
Sec. 104. Definitions under this Act.
Sec. 105. Rulemakings.
Sec. 106. Notice of intent to register for digital commodity exchanges, brokers, and dealers.
Sec. 107. Notice of intent to register for digital asset brokers, dealers, and trading systems.
Sec. 108. Commodity Exchange Act savings provisions.
Sec. 109. Administrative requirements.
Sec. 110. International harmonization.
Sec. 111. Implementation.

TITLE II—CLARITY FOR ASSETS OFFERED AS PART OF AN INVESTMENT CONTRACT

Sec. 201. Short title.
Sec. 202. Treatment of investment contract assets.

TITLE III—OFFERS AND SALES OF DIGITAL ASSETS

Sec. 301. Exempted transactions in digital assets.
Sec. 302. Requirements for offers and sales of certain digital assets.
Sec. 303. Enhanced disclosure requirements.
Sec. 304. Certification of certain digital assets.
Sec. 305. Effective date.

TITLE IV—REGISTRATION FOR DIGITAL ASSET INTERMEDIARIES AT THE SECURITIES AND EXCHANGE COMMISSION

Sec. 401. Treatment of digital commodities and other digital assets.
Sec. 402. Authority over permitted payment stablecoins and restricted digital assets.
Sec. 403. Registration of digital asset trading systems.
Sec. 404. Requirements for digital asset trading systems.
Sec. 405. Registration of digital asset brokers and digital asset dealers.
Sec. 406. Requirements of digital asset brokers and digital asset dealers.
Sec. 407. Rules related to conflicts of interest.
Sec. 408. Treatment of certain digital assets in connection with federally regulated intermediaries.
Sec. 409. Exclusion for decentralized finance activities.
Sec. 410. Registration and requirements for notice-registered digital asset clearing agencies.
Sec. 411. Treatment of custody activities by banking institutions.
Sec. 412. Effective date; administration.
Sec. 413. Discretionary Surplus Fund.

TITLE V—REGISTRATION FOR DIGITAL ASSET INTERMEDIARIES AT THE COMMODITY FUTURES TRADING COMMISSION

Sec. 501. Commission jurisdiction over digital commodity transactions.
Sec. 502. Requiring futures commission merchants to use qualified digital commodity custodians.
Sec. 503. Trading certification and approval for digital commodities.
Sec. 504. Registration of digital commodity exchanges.
Sec. 505. Qualified digital commodity custodians.
Sec. 506. Registration and regulation of digital commodity brokers and dealers.
Sec. 507. Registration of associated persons.
Sec. 508. Registration of commodity pool operators and commodity trading advisors.
Sec. 509. Exclusion for decentralized finance activities.
Sec. 510. Funding for implementation and enforcement.
Sec. 511. Effective date.

TITLE VI—INNOVATION AND TECHNOLOGY IMPROVEMENTS

Sec. 601. Findings; sense of Congress.
Sec. 602. Codification of the SEC Strategic Hub for Innovation and Financial Technology.
Sec. 603. Codification of LabCFTC.
Sec. 604. CFTC-SEC Joint Advisory Committee on Digital Assets.
Sec. 605. Study on decentralized finance.
Sec. 606. Study on non-fungible digital assets.
Sec. 607. Study on expanding financial literacy amongst digital asset holders.
Sec. 608. Study on financial market infrastructure improvements.

TITLE I—DEFINITIONS; RULEMAKING; NOTICE OF INTENT TO REGISTER

SEC. 101. DEFINITIONS UNDER THE SECURITIES ACT OF 1933.

Section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)) is amended by adding at the end the following:

''(20) AFFILIATED PERSON.—

''(A) IN GENERAL.—The term 'affiliated person' means a person (including a related person) that—

''(i) with respect to a digital asset issuer—

''(I) directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such digital asset issuer; or

''(II) was described under clause (i) at any point in the previous 3-month period; or

''(ii) with respect to any digital asset—

''(I) beneficially owns 5 percent or more of the units of such digital asset that are then outstanding; or

''(II) was described under clause (i) at any point in the previous 3-month period.

''(B) BENEFICIAL OWNERSHIP DISCLOSURE.—The Commission shall issue rules to require a person that beneficially owns 5 percent or more of the units of a digital asset that are then outstanding to file with the Commission a report at such time as the Commission determines appropriate.

''(21) BLOCKCHAIN.—The term 'blockchain' means any technology—

''(A) where data is—

''(i) shared across a network to create a public ledger of verified transactions or information among network participants;

''(ii) linked using cryptography to maintain the integrity of the public ledger and to execute other functions; and

''(iii) distributed among network participants in an automated fashion to concurrently update network participants on the state of the public ledger and any other functions; and

''(B) composed of source code that is publicly available.

''(22) BLOCKCHAIN PROTOCOL.—The term 'blockchain protocol' means any executable software deployed to a blockchain composed of source code that is publicly available and accessible, including a smart contract or any network of smart contracts.

''(23) BLOCKCHAIN SYSTEM.—The term 'blockchain system' means any blockchain or blockchain protocol.

''(24) DECENTRALIZED GOVERNANCE SYSTEM.—

''(A) IN GENERAL.—The term 'decentralized governance system' means, with respect to a blockchain system, any rules-based system permitting persons using the blockchain system or the digital assets related to such blockchain system to form consensus or reach agreement in the development, provision, publication, management, or administration of such blockchain system.

''(B) RELATIONSHIP OF PERSONS TO DECENTRALIZED GOVERNANCE SYSTEMS.—Persons acting through a decentralized governance system shall be treated as separate persons unless such persons are under common control.

''(C) EXCLUSION.—The term 'decentralized governance system' does not include a system in which—

''(i) a person or group of persons under common control have the ability to—

''(I) unilaterally alter the rules of consensus or agreement for the blockchain system; or

''(II) determine the final outcome of decisions related to the development, provision, publication, management, or administration of such blockchain system;

''(ii) a person or group of persons is directly engaging in an activity that requires registration with the Commission or the Commodity Futures Trading Commission other than—

''(I) developing, providing, publishing, managing, or administering a blockchain system; or

''(II) an activity with respect to which the organization is exempt from such registration; or

''(iii) a person or group of persons seeking to knowingly evade the requirements imposed on a digital asset issuer, a related person, an affiliated person, or any other person registered (or required to be registered) under the securities laws, the Financial Innovation and Technology for the 21st Century Act, or the Commodity Exchange Act.

''(25) DECENTRALIZED SYSTEM.—With respect to a blockchain system to which a digital asset relates, the term 'decentralized system' means the following conditions are met:

''(A) During the previous 12-month period, no person—

''(i) had the unilateral authority, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise, to control or materially alter the functionality or operation of the blockchain system; or

''(ii) had the unilateral authority to restrict or prohibit any person who is not a digital asset issuer, related person, or an affiliated person from—

''(I) using, earning, or transmitting the digital asset;

''(II) deploying software that uses or integrates with the blockchain system;

''(III) participating in a decentralized governance system with respect to the blockchain system; or

''(IV) operating a node, validator, or other form of computational infrastructure with respect to the blockchain system.

''(B) During the previous 12-month period—

''(i) no digital asset issuer or affiliated person beneficially owned, in the aggregate, 20 percent or more of the total amount of units of such digital asset that—

''(I) can be created, issued, or distributed in such blockchain system; and

''(II) were freely transferrable or otherwise used or available to be used for the purposes of such blockchain system;

''(ii) no digital asset issuer or affiliated person had the unilateral authority to direct the voting, in the aggregate, of 20 percent or more of the outstanding voting power of such digital asset or related decentralized governance system; or

''(iii) the digital asset did not include voting power with respect to any decentralized governance system of the blockchain system.

''(C) During the previous 3-month period, the digital asset issuer, any affiliated person, or any related person has not implemented or contributed any intellectual property to the source code of the blockchain system that materially alters the functionality or operation of the blockchain system, unless such implementation or contribution to the source code—

''(i) addressed vulnerabilities, errors, regular maintenance, cybersecurity risks, or other technical changes to the blockchain system; or

''(ii) were adopted through the consensus or agreement of a decentralized governance system.

''(D) During the previous 3-month period, neither any digital asset issuer nor any affiliated person described under paragraph (20)(A) has marketed to the public the digital assets as an investment.

''(E) During the previous 12-month period, all issuances of units of such digital asset through the programmatic functioning of the blockchain system were end user distributions. For purposes of the previous sentence, any units of such digital asset that are made available over time and were created in the initial block of the blockchain system shall be considered issued at the point in time of creation.

''(26) DIGITAL ASSET.—

''(A) IN GENERAL.—The term 'digital asset' means any fungible digital representation of value that can be exclusively possessed and transferred, person to person, without necessary reliance on an intermediary, and is recorded on a cryptographically secured public distributed ledger.

''(B) EXCLUSIONS.—The term 'digital asset' does not include—

''(i) any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof); or

''(ii) any asset which, based on its terms and other characteristics, is, represents, or is functionally equivalent to an agreement, contract, or transaction that is—

''(I) a contract of sale of a commodity (as defined under section 1a of the Commodity Exchange Act) for future delivery or an option thereon;

''(II) a security futures product;

''(III) a swap;

''(IV) an agreement, contract, or transaction described in section 2(c)(2)(C)(i) or 2(c)(2)(D)(i) of the Commodity Exchange Act;

''(V) a commodity option authorized under section 4c of the Commodity Exchange Act; or

''(VI) a leverage transaction authorized under section 19 of the Commodity Exchange Act.

''(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to create a presumption that a digital asset is a representation of any type of security not excluded from the definition of digital asset.

''(D) RELATIONSHIP TO A BLOCKCHAIN SYSTEM.—A digital asset is considered to relate to a blockchain system if the digital asset is intrinsically linked to the blockchain system, including—

''(i) where the digital asset's value is reasonably expected to be generated by the programmatic functioning of the blockchain system;

''(ii) where the digital asset has voting rights with respect to the decentralized governance system of the blockchain system; or

''(iii) where the digital asset is issued through the programmatic functioning of the blockchain system.

''(E) TREATMENT OF CERTAIN DIGITAL ASSETS SOLD PURSUANT TO AN INVESTMENT CONTRACT.—A digital asset offered or sold or intended to be offered or sold pursuant to an investment contract is not and does not become a security as a result of being sold or otherwise transferred pursuant to that investment contract.

''(27) DIGITAL ASSET ISSUER.—

''(A) IN GENERAL.—With respect to a digital asset, the term 'digital asset issuer' means any person that, in exchange for any consideration—

''(i) issues or causes to be issued a unit of such digital asset to a person; or

''(ii) offers or sells a right to a future issuance of a unit of such digital asset to a person.

''(B) EXCLUSION.—The term 'digital asset issuer' does not include any person solely because such person deploys source code that creates or issues units of a digital asset that are only distributed in end user distributions.

''(C) PROHIBITION ON EVASION.—It shall be unlawful for any person to knowingly evade classification as a 'digital asset issuer' and facilitate an arrangement for the primary purpose of effecting a sale, distribution, or other issuance of a digital asset.

''(28) DIGITAL ASSET MATURITY DATE.—The term 'digital asset maturity date' means, with respect to any digital asset, the first date on which 20 percent or more of the total units of such digital asset that are then outstanding as of such date are—

''(A) digital commodities; or

''(B) digital assets that have been registered with the Commission.

''(29) DIGITAL COMMODITY.—The term 'digital commodity' has the meaning given that term under section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(30) END USER DISTRIBUTION.—

''(A) IN GENERAL.—The term 'end user distribution' means an issuance of a unit of a digital asset that—

''(i) does not involve an exchange of more than a nominal value of cash, property, or other assets; and

''(ii) is distributed in a broad, equitable, and non-discretionary manner based on conditions capable of being satisfied by any participant in the blockchain system, including, as incentive-based rewards—

''(I) to users of the digital asset or any blockchain system to which the digital asset relates;

''(II) for activities directly related to the operation of the blockchain system, such as mining, validating, staking, or other activity directly tied to the operation of the blockchain system; or

''(III) to the existing holders of another digital asset, in proportion to the total units of such other digital asset as are held by each person.

''(B) PROHIBITION ON EVASION.—It shall be unlawful for any person to facilitate an end user distribution to knowingly evade classification as a digital asset issuer, related person, or an affiliated person, or the requirements related to a digital asset issuance.

''(31) FUNCTIONAL SYSTEM.—With respect to a blockchain system to which a digital asset relates, the term 'functional system' means the

network allows network participants to use such digital asset for—

''(A) the transmission and storage of value on the blockchain system;

''(B) the participation in services provided by or an application running on the blockchain system; or

''(C) the participation in the decentralized governance system of the blockchain system.

''(32) PERMITTED PAYMENT STABLECOIN.—

''(A) IN GENERAL.—The term 'permitted payment stablecoin' means a digital asset—

''(i) that is or is designed to be used as a means of payment or settlement;

''(ii) the issuer of which—

''(I) is obligated to convert, redeem, or repurchase for a fixed amount of monetary value; or

''(II) represents will maintain or creates the reasonable expectation that it will maintain a stable value relative to the value of a fixed amount of monetary value;

''(iii) the issuer of which is subject to regulation by a Federal or State regulator with authority over entities that issue payment stablecoins; and

''(iv) that is not—

''(I) a national currency; or

''(II) a security issued by an investment company registered under section 8(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(a)).

''(B) MONETARY VALUE DEFINED.—For purposes of subparagraph (A), the term 'monetary value' means a national currency, deposit (as defined under section 3 of the Federal Deposit Insurance Act), or an equivalent instrument that is denominated in a national currency.

''(33) RELATED PERSON.—With respect to a digital asset issuer, the term 'related person' means—

''(A) a founder, promoter, employee, consultant, advisor, or person serving in a similar capacity;

''(B) any person that is or was in the previous 6-month period an executive officer, director, trustee, general partner, advisory board member, or person serving in a similar capacity;

''(C) any equity holder or other security holder; or

''(D) any other person that received a unit of digital asset from such digital asset issuer through—

''(i) an exempt offering, other than an offering made in reliance on section 4(a)(8); or

''(ii) a distribution that is not an end user distribution described under section 42(d)(1) of the Securities Exchange Act of 1934.

''(34) RESTRICTED DIGITAL ASSET.—

''(A) IN GENERAL.—The term 'restricted digital asset' means—

''(i) prior to the first date on which each blockchain system to which a digital asset relates is a functional system and certified to be a decentralized system under section 44 of the Securities Exchange Act of 1934, any unit of the digital asset held by a person, other than the digital asset issuer, a related person, or an affiliated person, that was—

''(I) issued to such person through a distribution, other than an end user distribution described under section 42(d)(1) of the Securities Exchange Act of 1934; or

''(II) acquired by such person in a transaction that was not executed on a digital commodity exchange;

''(ii) during any period when any blockchain system to which a digital asset relates is not a functional system or not certified to be a decentralized system under section 44 of the Securities Exchange Act of 1934, any digital asset held by a related person or an affiliated person; and

''(iii) any unit of a digital asset held by the digital asset issuer.

''(B) EXCLUSION.—The term 'restricted digital asset' does not include a permitted payment stablecoin.

''(35) SECURITIES LAWS.—The term 'securities laws' has the meaning given that term under section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

''(36) SOURCE CODE.—With respect to a blockchain system, the term 'source code' means a listing of commands to be compiled or assembled into an executable computer program.''.

SEC. 102. DEFINITIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(8) by redesignating the second paragraph (80) (relating to funding portals) as paragraph (81); and

(9) by adding at the end the following:

''(82) BANK SECRECY ACT.—The term 'Bank Secrecy Act' means—

''(A) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

''(B) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.); and

''(C) subchapter II of chapter 53 of title 31, United States Code.

''(83) DIGITAL ASSET BROKER.—The term 'digital asset broker'—

''(A) means any person engaged in the business of effecting transactions in restricted digital assets for the account of others; and

''(B) does not include—

''(i) a blockchain protocol or a person or group of persons solely because of their development of a blockchain protocol; or

''(ii) a bank engaging in certain banking activities with respect to a restricted digital asset in the same manner as a bank is excluded from the definition of a broker under paragraph (4).

''(84) DIGITAL ASSET CUSTODIAN.—The term 'digital asset custodian' means an entity in the business of providing custodial or safekeeping services for restricted digital assets for others.

''(85) DIGITAL ASSET DEALER.—The term 'digital asset dealer'—

''(A) means any person engaged in the business of buying and selling restricted digital assets for such person's own account through a broker or otherwise; and

''(B) does not include—

''(i) a person that buys or sells restricted digital assets for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business;

''(ii) a blockchain protocol or a person or group of persons solely because of their development of a blockchain protocol; or

''(iii) a bank engaging in certain banking activities with respect to a restricted digital asset in the same manner as a bank is excluded from the definition of a dealer under paragraph (5).

''(86) DIGITAL ASSET TRADING SYSTEM.—The term 'digital asset trading system'—

''(A) means any organization, association, person, or group of persons, whether incorporated or unincorporated, that constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of restricted digital assets or for otherwise performing with respect to restricted digital assets the functions commonly performed by a stock exchange within the meaning of section 240.3b–16 of title 17, Code of Federal Regulations, as in effect on the date of enactment of this paragraph; and

''(B) does not include a blockchain protocol or a person or group of persons solely because of their development of a blockchain protocol.

''(87) NOTICE-REGISTERED DIGITAL ASSET CLEARING AGENCY.—The term 'notice-registered digital asset clearing agency' means a clearing agency that has registered with the Commission pursuant to section 17A(b)(9).

''(88) ADDITIONAL DIGITAL ASSET-RELATED TERMS.—

''(A) SECURITIES ACT OF 1933.—The terms 'affiliated person', 'blockchain system', 'decentralized governance system', 'decentralized system', 'digital asset', 'digital asset issuer', 'digital asset maturity date', 'end user distribution', 'functional system', 'permitted payment stablecoin', 'related person', 'restricted digital asset', and 'source code' have the meaning given those terms, respectively, under section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)).

''(B) COMMODITY EXCHANGE ACT.—The terms 'digital commodity', 'digital commodity broker', 'digital commodity dealer', and 'digital commodity exchange' have the meaning given those terms, respectively, under section 1a of the Commodity Exchange Act (7 U.S.C. 1a).''.

SEC. 103. DEFINITIONS UNDER THE COMMODITY EXCHANGE ACT.

Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) in paragraph (10)(A)—

(A) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(B) by inserting after clause (ii) the following:

''(iii) digital commodity;'';

(2) in paragraph (11)—

(A) in subparagraph (A)(i)—

(i) by redesignating subclauses (III) and (IV) as subclauses (IV) and (V), respectively; and

(ii) by inserting after subclause (II) the following:

''(III) digital commodity;''; and

(B) by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following:

''(B) EXCLUSION.—The term 'commodity pool operator' does not include—

''(i) a decentralized governance system; or

''(ii) any excluded activity, as described in section 4v.'';

(3) in paragraph (12)(A)(i)—

(A) in subclause (II), by adding at the end a semicolon;

(B) by redesignating subclauses (III) and (IV) as subclauses (IV) and (V), respectively; and

(C) by inserting after subclause (II) the following:

''(III) a digital commodity;'';

(4) in paragraph (40)—

(A) by striking ''and'' at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting ''; and''; and

(C) by adding at the end the following:

''(G) a digital commodity exchange registered under section 5i.''; and

(5) by adding at the end the following:

''(52) ASSOCIATED PERSON OF A DIGITAL COMMODITY BROKER.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'associated person of a digital commodity broker' means a person who is associated with a digital commodity broker as a partner, officer, employee, or agent (or any person occupying a similar status or performing similar functions) in any capacity that involves—

''(i) the solicitation or acceptance of an order for the purchase or sale of a digital commodity; or

''(ii) the supervision of any person engaged in the solicitation or acceptance of an order for the purchase or sale of a digital commodity.

''(B) EXCLUSION.—The term 'associated person of a digital commodity broker' does not include any person associated with a digital commodity broker the functions of which are solely clerical or ministerial.

''(53) ASSOCIATED PERSON OF A DIGITAL COMMODITY DEALER.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'associated person of a digital commodity dealer' means a person who is associated with a digital commodity dealer as a partner, officer, employee, or agent (or any person occupying a similar status or performing similar functions) in any capacity that involves—

''(i) the solicitation or acceptance of an order for the purchase or sale of a digital commodity; or

''(ii) the supervision of any person engaged in the solicitation or acceptance of an order for the purchase or sale of a digital commodity.

''(B) EXCLUSION.—The term 'associated person of a digital commodity dealer' does not include any person associated with a digital commodity dealer the functions of which are solely clerical or ministerial.

''(54) BANK SECRECY ACT.—The term 'Bank Secrecy Act' means—

''(A) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

''(B) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.); and

''(C) subchapter II of chapter 53 of title 31, United States Code.

''(55) DIGITAL COMMODITY.—

''(A) IN GENERAL.—The term 'digital commodity' means—

''(i) any unit of a digital asset held by a person, other than the digital asset issuer, a related person, or an affiliated person, before the first date on which each blockchain system to which the digital asset relates is a functional system and certified to be a decentralized system under section 44 of the Securities Exchange Act of 1934, that was—

''(I) issued to the person through an end user distribution described under section 42(d)(1) of the Securities Exchange Act of 1934; or

''(II) acquired by such person in a transaction that was executed on a digital commodity exchange;

''(ii) any unit of a digital asset held by a person, other than the digital asset issuer, a related person, or an affiliated person, after the first date on which each blockchain system to which the digital asset relates is a functional system and certified to be a decentralized system under section 44 of the Securities Exchange Act of 1934; and

''(iii) any unit of a digital asset held by a related person or an affiliated person during any period when any blockchain system to which the digital asset relates is a functional system and certified to be a decentralized system under section 44 of the Securities Exchange Act of 1934.

''(B) EXCLUSION.—The term 'digital commodity' does not include a permitted payment stablecoin.

''(C) TREATMENT OF ADJUDICATED NON-SECURITIES.—If, before enactment of this paragraph, a Federal court in a Securities and Exchange Commission enforcement action determines that a digital asset transaction is not an offer or sale of a security, any unit of a digital asset transferred pursuant to the transaction shall be considered a digital commodity, unless the determination is overturned.

''(56) DIGITAL COMMODITY BROKER.—

''(A) IN GENERAL.—The term 'digital commodity broker' means any person who, in a digital commodity cash or spot market, is—

''(i) engaged in soliciting or accepting orders for the purchase or sale of a unit of a digital commodity from a person that is not an eligible contract participant;

''(ii) engaged in soliciting or accepting orders for the purchase or sale of a unit of a digital commodity from a person on or subject to the rules of a registered entity; or

''(iii) registered with the Commission as a digital commodity broker.

''(B) EXCEPTIONS.—The term 'digital commodity broker' does not include a person solely because the person—

''(i) enters into a digital commodity transaction the primary purpose of which is to make, send, receive, or facilitate payments, whether involving a payment service provider or on a peer-to-peer basis;

''(ii) validates a digital commodity transaction, operates a node, or engages in similar activity to participate in facilitating, operating, or securing a blockchain system; or

''(iii) is a bank (as defined under section 3(a) of the Securities Exchange Act of 1934) engaging in certain banking activities with respect to a digital commodity in the same manner as a bank is excluded from the definition of a broker under section 3(a)(4) of the Securities Exchange Act of 1934.

''(57) DIGITAL COMMODITY CUSTODIAN.—The term 'digital commodity custodian' means an entity in the business of holding, maintaining, or safeguarding digital commodities for others.

''(58) DIGITAL COMMODITY DEALER.—

''(A) IN GENERAL.—The term 'digital commodity dealer' means any person who—

''(i) in digital commodity cash or spot markets—

''(I) holds itself out as a dealer in a digital commodity;

''(II) makes a market in a digital commodity;

''(III) has an identifiable business of dealing in a digital commodity as principal for its own account; or

''(IV) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in a digital commodity;

''(ii) has an identifiable business of entering into any agreement, contract, or transaction described in subsection (c)(2)(D)(i) involving a digital commodity; or

''(iii) is registered with the Commission as a digital commodity dealer.

''(B) EXCEPTION.—The term 'digital commodity dealer' does not include a person solely because the person—

''(i) enters into a digital commodity transaction with an eligible contract participant;

''(ii) enters into a digital commodity transaction on or through a registered digital commodity exchange;

''(iii) enters into a digital commodity transaction for the person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business;

''(iv) enters into a digital commodity transaction the primary purpose of which is to make, send, receive, or facilitate payments, whether involving a payment service provider or on a peer-to-peer basis;

''(v) validates a digital commodity transaction, operates a node, or engages in similar activity to participate in facilitating, operating, or securing a blockchain system; or

''(vi) is a bank (as defined under section 3(a) of the Securities Exchange Act of 1934) engaging in certain banking activities with respect to a digital commodity in the same manner as a bank is excluded from the definition of a dealer under section 3(a)(5) of the Securities Exchange Act of 1934.

''(59) DIGITAL COMMODITY EXCHANGE.—The term 'digital commodity exchange' means a trading facility that offers or seeks to offer a cash or spot market in at least 1 digital commodity.

''(60) DIGITAL ASSET-RELATED DEFINITIONS.—

''(A) SECURITIES ACT OF 1933.—The terms 'affiliated person', 'blockchain system', 'decentralized governance system', 'decentralized system', 'digital asset', 'digital asset issuer', 'end user distribution', 'functional system', 'permitted payment stablecoin', 'related person', and 'restricted digital asset' have the meaning given the terms, respectively, under section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)).

''(B) SECURITIES EXCHANGE ACT OF 1934.—The terms 'digital asset broker' and 'digital asset dealer' have the meaning given those terms, respectively, under section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

''(61) MIXED DIGITAL ASSET TRANSACTION.—The term 'mixed digital asset transaction' means an agreement, contract, or transaction involving a digital commodity and—

''(A) a security; or

''(B) a restricted digital asset.''.

SEC. 104. DEFINITIONS UNDER THIS ACT.

In this Act:

(1) DEFINITIONS UNDER THE COMMODITY EXCHANGE ACT.—The terms ''digital commodity'', ''digital commodity broker'', ''digital commodity dealer'', ''digital commodity exchange'', and ''mixed digital asset transaction'' have the meaning given those terms, respectively, under section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

(2) DEFINITIONS UNDER THE SECURITIES ACT OF 1933.—The terms ''affiliated person'', ''blockchain'', ''blockchain system'', ''blockchain protocol'', ''decentralized system'', ''digital asset'', ''digital asset issuer'', ''digital asset maturity date'', ''digital asset trading system'', ''end user distribution'', ''functional system'', ''permitted payment stablecoin'', ''restricted digital asset'', ''securities laws'', and ''source code'' have the meaning given those terms, respectively, under section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)).

(3) DEFINITIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934.—The terms ''Bank Secrecy Act'', ''digital asset broker'', ''digital asset dealer'', ''digital asset trading system'', and ''self-regulatory organization'' have the meaning given those terms, respectively, under section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

SEC. 105. RULEMAKINGS.

(a) DEFINITIONS.—The Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly issue rules to further define the following terms:

(1) The terms ''affiliated person'', ''blockchain'', ''blockchain system'', ''blockchain protocol'', ''decentralized system'', ''decentralized governance system'', ''digital asset'', ''digital asset issuer'', ''digital asset maturity date'', ''end user distribution'', ''functional system'', ''related person'', ''restricted digital asset'', and ''source code'', as defined under section 2(a) of the Securities Act of 1933.

(2) The term ''digital commodity'', as defined under section 1a of the Commodity Exchange Act.

(b) JOINT RULEMAKING FOR EXCHANGES AND INTERMEDIARIES.—The Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly issue rules to exempt persons dually registered with the Commodity Futures Trading Commission and the Securities and Exchange Commission from duplicative, conflicting, or unduly burdensome provisions of this Act, the securities laws, and the Commodity Exchange Act and the rules thereunder, to the extent such exemption would foster the development of fair and orderly markets in digital assets, be necessary or appropriate in the public interest, and be consistent with the protection of investors.

(c) JOINT RULEMAKING FOR MIXED DIGITAL ASSET TRANSACTIONS.—The Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly issue rules applicable to mixed digital asset transactions under this Act and the amendments made by this Act, including by further defining such term.

(d) PROTECTION OF SELF-CUSTODY.—

(1) IN GENERAL.—The Financial Crimes Enforcement Network may not issue any rule or order that would prohibit a U.S. individual from—

(A) maintaining a hardware wallet, software wallet, or other means to facilitate such individual's own custody of digital assets; or

(B) conducting transactions with and self-custody of digital assets for any lawful purpose.

(2) RULE OF CONSTRUCTION.—Paragraph (1) may not be construed to limit the ability of Financial Crimes Enforcement Network to carry out any enforcement action.

(e) JOINT RULEMAKING, PROCEDURES, OR GUIDANCE FOR DELISTING.—Not later than 30 days after the date of the enactment of this Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly issue rules, procedures, or guidance (as determined appropriate by the Commissions) regarding the process to delist an asset for trading under sections 106 and 107 of this Act if the Commissions determine that the listing is inconsistent with the Commodity Exchange Act, the securities laws (including regulations under those laws), or this Act.

(f) JOINT RULEMAKING FOR CAPITAL REQUIREMENTS.—The Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly issue rules to require a person with multiple registrations with the Commodity Futures Trading Commission, the Securities and Exchange Commission, or both such agencies to maintain sufficient capital to comply with the stricter of any applicable capital requirements to which such person is subject to by reason of such registrations.

SEC. 106. NOTICE OF INTENT TO REGISTER FOR DIGITAL COMMODITY EXCHANGES, BROKERS, AND DEALERS.

(a) IN GENERAL.—

(1) NOTICE OF INTENT TO REGISTER.—Any person may file a notice of intent to register with the Commodity Futures Trading Commission (in this subsection referred to as the ''Commission'') as a—

(A) digital commodity exchange, for a person intending to register as a digital commodity exchange under section 5i of the Commodity Exchange Act;

(B) digital commodity broker, for a person intending to register as a digital commodity broker under section 4u of such Act; or

(C) digital commodity dealer, for a person intending to register as a digital commodity dealer under section 4u of such Act.

(2) CONDITIONS.—A person filing a notice of intent to register under paragraph (1) shall be in compliance with this section if the person—

(A) submits to the Commission and continues to materially update a statement of the nature of the registrations the filer intends to pursue;

(B) submits to the Commission and continues to materially update the information required by subsections (b) and (c);

(C) complies with subsection (d);

(D) is a member of a futures association registered under section 17 of the Commodity Exchange Act, and complies with the rules of the association, including the rules of the association pertaining to customer disclosures and protection of customer assets; and

(E) pays all fees and penalties imposed on the person under section 510 of this Act.

(b) DISCLOSURE OF GENERAL INFORMATION.—A person filing a notice of intent to register under subsection (a) shall disclose to the Commission the following:

(1) Information concerning the management of the person, including information describing—

(A) the ownership and management of the person;

(B) the financial condition of the person;

(C) affiliated entities;

(D) potential conflicts of interest;

(E) the address of the person, including—

(i) the place of incorporation;

(ii) principal place of business; and

(iii) an address for service of process; and

(F) a list of the States in which the person has operations.

(2) Information concerning the operations of the person, including—

(A) a general description of the person's business and the terms of service for United States customers;

(B) a description of the person's account approval process;

(C) any rulebook or other customer order fulfilment rules;

(D) risk management procedures;

(E) a description of the product listing process; and

(F) anti-money laundering policies and procedures.

(c) LISTING INFORMATION.—A person filing a notice of intent to register under subsection (a) shall provide to the Commission and the Securities and Exchange Commission a detailed description of—

(1) the specific characteristics of each digital asset listed or offered by the person, including information regarding the digital asset's market activity, distribution, and functional use; and

(2) the product listing determination made by the person for each asset listed or offered for trading by the person.

(d) REQUIREMENTS.—A person filing a notice of intent to register under subsection (a) shall comply with the following requirements:

(1) STATUTORY DISQUALIFICATIONS.—Except to the extent otherwise specifically provided by Commission or registered futures association rule, regulation, or order, the person shall not permit an individual who is subject to a statutory disqualification under paragraph (2) or (3) of section 8a of the Commodity Exchange Act to effect or be involved in effecting transactions on behalf of the person, if the person knew, or in the exercise of reasonable care should have known, of the statutory disqualification.

(2) BOOKS AND RECORDS.—The person shall keep their books and records open to inspection and examination by the Commission and by any registered futures association of which the person is a member.

(3) CUSTOMER DISCLOSURES.—The person shall disclose to customers—

(A) information about the material risks and characteristics of the assets listed for trading on the person;

(B) information about the material risks and characteristics of the transactions facilitated by the person;

(C) information about the location and manner in which the digital assets of the customer will be and are custodied;

(D) information concerning the policies and procedures of the person that are related to the protection of the data of customers of the person; and

(E) in their disclosure documents, offering documents, and promotional material—

(i) in a prominent manner, that they are not registered with or regulated by the Commission; and

(ii) the contact information for the whistleblower, complaint, and reparation programs of the Commission.

(4) CUSTOMER ASSETS.—

(A) IN GENERAL.—The person shall—

(i) hold customer money, assets, and property in a manner to minimize the risk of loss to the customer or unreasonable delay in customer access to money, assets, and property of the customer;

(ii) treat and deal with all money, assets, and property, including any rights associated with any such money, assets, or property, of any customer received as belonging to the customer;

(iii) calculate the total digital asset obligations of the person, and at all times hold money, assets, or property equal to or in excess of the total digital asset obligations; and

(iv) not commingle such money, assets and property held to meet the total commodity obligation with the funds of the person or use the money, assets, or property to margin, secure, or guarantee any trade or contract, or to secure or extend the credit, of any customer or person other than the one for whom the same are held, except that—

(I) the money, assets, and property of any customer may be commingled with that of any other customer, if separately accounted for; and

(II) the share of the money, assets, and property, as in the normal course of business are necessary to margin, guarantee, secure, transfer, adjust, or settle a contract of sale of a commodity asset, may be withdrawn and applied to do so, including the payment of commissions, brokerage, interest, taxes, storage, and other charges lawfully accruing in connection with the contract of sale of a digital commodity.

(B) ADDITIONAL RESOURCES.—

(i) IN GENERAL.—This section shall not prevent or be construed to prevent the person from adding to the customer money, assets, and property required to be segregated under subparagraph (A), additional amounts of money, assets, or property from the account of the person as the person determines necessary to hold money, assets, or property equal to or in excess of the total digital asset obligations of the person.

(ii) TREATMENT AS CUSTOMER FUNDS.—Any money, assets, or property deposited pursuant to clause (i) shall be considered customer property within the meaning of this subsection.

(e) COMPLIANCE.—

(1) IN GENERAL.—A person who has filed a notice of intent to register under this section and is in compliance with this section shall be exempt from Securities and Exchange Commission rules and regulations pertaining to registering as a national securities exchange, broker, dealer, or clearing agency, for activities related to a digital asset.

(2) NONCOMPLIANCE.—Paragraph (1) shall not apply if, after notice from the Commission and a reasonable opportunity to correct the deficiency, a person who has submitted a notice of intent to register is not in compliance with this section.

(3) ANTI-FRAUD AND ANTI-MANIPULATION.—Paragraph (1) shall not be construed to limit any anti-fraud, anti-manipulation, or false reporting enforcement authority of the Commission, the Securities and Exchange Commission, a registered futures association, or a national securities association.

(4) DELISTING.—Paragraph (1) shall not be construed to limit the authority of the Commission and the Securities and Exchange Commission to jointly require a person to delist an asset for trading if the Commission and the Securities and Exchange Commission determines that the listing is inconsistent with the Commodity Exchange Act, the securities laws (including regulations under those laws), or this Act.

(f) REGISTRATION.—

(1) IN GENERAL.—A person may not file a notice of intent to register with the Commission after the Commission has finalized its rules for the registration of digital commodity exchanges, digital commodity brokers, or digital commodity dealers, as appropriate.

(2) TRANSITION TO REGISTRATION.—Subsection (e)(1) shall not apply to a person who has submitted a notice of intent to register if—

(A) the Commission—

(i) determines that the person has failed to comply with the requirements of this section; or

(ii) denies the application of the person to register; or

(B) the digital commodity exchange, digital commodity broker, or digital commodity dealer that filed a notice of intent to register failed to apply for registration as such with the Commission within 180 days after the effective date of the final rules of the Commission for the registration of digital commodity exchanges, digital commodity brokers, or digital commodity dealers, as appropriate.

(g) RULEMAKING.—

(1) IN GENERAL.—Within 180 days after the date of the enactment of this Act, a registered futures association shall adopt and enforce rules applicable to persons required by subsection (a)(3) to be members of the association.

(2) FEES.—The rules adopted under paragraph (1) may provide for dues in accordance with section 17(b)(6) of the Commodity Exchange Act.

(3) EFFECT.—A registered futures association shall submit to the Commission any rule adopted under paragraph (1), which shall take effect pursuant to the requirements of section 17(j) of the Commodity Exchange Act.

(h) LIABILITY OF THE FILER.—It shall be unlawful for any person to provide false information in support of a filing under this section if the person knew or reasonably should have known that the information was false.

(i) WHISTLEBLOWER ENFORCEMENT.—For purposes of section 23 of the Commodity Exchange Act, the term ''this Act'' includes this section.

SEC. 107. NOTICE OF INTENT TO REGISTER FOR DIGITAL ASSET BROKERS, DEALERS, AND TRADING SYSTEMS.

(a) IN GENERAL.—

(1) NOTICE OF INTENT TO REGISTER.—Any person may file a notice of intent to register with

the Securities and Exchange Commission (in this section referred to as the ''Commission'') as—

(A) a digital asset trading system, for a person intending to register as a digital asset trading system under section 6(m) of the Securities Exchange Act of 1934;

(B) a digital asset broker, for a person intending to register as a digital asset broker under section 15H of the Securities Exchange Act of 1934; or

(C) a digital asset dealer, for a person intending to register as a digital asset dealer under section 15H of the Securities Exchange Act of 1934.

(2) CONDITIONS.—A person filing a notice of intent to register under paragraph (1) shall be in compliance with this section if the person—

(A) submits to the Commission and continues to materially update a statement of the nature of the registrations the filer intends to pursue;

(B) submits to the Commission and continues to materially update the information required by subsections (b) and (c);

(C) complies with the requirements of subsection (d); and

(D) is a member of a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) and complies with the rules of the association, including the rules of the association pertaining to customer disclosures and protection of customer assets.

(b) DISCLOSURE OF GENERAL INFORMATION.—A person filing a notice of intent to register under subsection (a) shall disclose to the Commission the following:

(1) Information concerning the management of the person, including information describing—

(A) the ownership and management of the person;

(B) the financial condition of the person;

(C) affiliated entities;

(D) potential conflicts of interest;

(E) the address of the person, including—

(i) the place of incorporation;

(ii) the principal place of business; and

(iii) an address for service of process; and

(F) a list of the States in which the person has operations.

(2) Information concerning the operations of the person, including—

(A) a general description of the person's business and the terms of service for United States customers;

(B) a description of the person's account approval process;

(C) any rulebook or other customer order fulfilment rules;

(D) risk management procedures;

(E) a description of the product listing process; and

(F) anti-money laundering policies and procedures.

(c) LISTING INFORMATION.—A person filing a notice of intent to register under subsection (a) shall provide to the Commission and the Commodity Futures Trading Commission a detailed description of—

(1) the specific characteristics of each digital asset listed or offered for trading by the person, including information regarding the digital asset's market activity, distribution, and functional use; and

(2) the product listing determination made by the person for each asset listed or offered for trading by the person.

(d) REQUIREMENTS.—A person filing a notice of intent to register under subsection (a) shall comply with the following requirements:

(1) STATUTORY DISQUALIFICATION.—Except to the extent otherwise specifically provided by Commission or a national securities association rule, regulation, or order, the person may not permit an individual who is subject to a statutory disqualification (as defined under section 3(a) of the Securities Exchange Act of 1934) to effect or be involved in effecting transactions on behalf of the person if the person knows, or in the exercise of reasonable discretion should know, the individual is subject to a statutory disqualification.

(2) BOOKS AND RECORDS.—The person shall keep their books and records open to inspection and examination by the Commission and any national securities association of which they are a member.

(3) CUSTOMER DISCLOSURES.—The person shall disclose to customers—

(A) information about the material risks and characteristics of the assets listed for trading on the person;

(B) information about the material risks and characteristics of the transactions facilitated by the person;

(C) information about the location and manner in which the digital assets of the customer will be and are custodied;

(D) information concerning the person's policies and procedures related to the protection of customers' data; and

(E) in their disclosure documents, offering documents, and promotional material—

(i) in a prominent manner, that they are not registered with or regulated by the Commission; and

(ii) the contact information for the whistleblower, complaint, and reparation programs of the Commission.

(4) CUSTOMER ASSETS.—

(A) IN GENERAL.—The person shall—

(i) hold customer money, assets, and property in a manner to minimize the risk of loss to the customer or unreasonable delay in customer access to money, assets, and property of the customer;

(ii) treat and deal with all money, assets, and property, including any rights associated with any such money, assets, or property, of any customer received as belonging to the customer;

(iii) segregate all money, assets, and property received from any customer of the person from the funds of the person, except that—

(I) the money, assets, and property of any customer may be commingled with that of any other customer, if separately accounted for; and

(II) the share of the money, assets, and property, as in the normal course of business are necessary to margin, guarantee, secure, transfer, adjust, or settle a contract of sale of a digital asset, may be withdrawn and applied to do so, including the payment of commissions, brokerage, interest, taxes, storage, and other charges lawfully accruing in connection with the contract of sale of a digital asset.

(B) ADDITIONAL RESOURCES.—

(i) IN GENERAL.—This section shall not prevent or be construed to prevent the person from adding to the customer money, assets, and property required to be segregated under subparagraph (A) additional amounts of money, assets, or property from the account of the person as the person determines necessary to hold money, assets, or property equal to or in excess of the total digital asset obligation of the person.

(ii) TREATMENT AS CUSTOMER FUNDS.—Any money, assets, or property deposited pursuant to clause (i) shall be considered customer property within the meaning of this subsection.

(e) COMPLIANCE.—

(1) IN GENERAL.—A person who has filed a notice of intent to register under this section and is in compliance with this section shall be exempt from Commission rules and regulations pertaining to registering as a national securities exchange, broker, dealer, or clearing agency, for activities related to a digital asset.

(2) NONCOMPLIANCE.—Paragraph (1) shall not apply if, after notice from the Commission and a reasonable opportunity to correct the deficiency, a person who has submitted a notice of intent to register is not in compliance with this section.

(3) ANTI-FRAUD AND ANTI-MANIPULATION.—Paragraph (1) shall not be construed to limit any fraud, anti-manipulation, or false reporting enforcement authority of the Commission, the Commodity Futures Trading Commission, a registered futures association, or a national securities association.

(4) DELISTING.—Paragraph (1) shall not be construed to limit the authority of the Commission and the Commodity Futures Trading Commission to jointly require a person to delist an asset for trading if the Commission and the Commodity Futures Trading Commission determines that the listing is inconsistent with the Commodity Exchange Act, the securities laws (including regulations under those laws), or this Act.

(f) REGISTRATION.—

(1) IN GENERAL.—A person may not file a notice of intent to register with the Commission after the Commission has finalized its rules for the registration of digital asset brokers, digital asset dealers, digital asset trading systems, and notice-registered clearing agencies, as appropriate.

(2) TRANSITION TO REGISTRATION.—Subsection (e)(1) shall not apply to a person who has submitted a notice of intent to register if—

(A) the Commission—

(i) determines that the person has failed to comply with the requirements of this section; or

(ii) denies the application of the person to register; or

(B) the digital asset broker, digital asset dealer, or digital asset trading system that filed a notice of intent to register failed to apply for registration as such with the Commission within 180 days after the effective date of the Commission's final rules for the registration of digital asset brokers, digital asset dealers, and digital asset trading systems, as appropriate.

(g) LIABILITY OF THE FILER.—It shall be unlawful for any person to provide false information in support of a filing under this section if the person knew or reasonably should have known that the information was false.

(h) NATIONAL SECURITIES ASSOCIATION.—

(1) IN GENERAL.—A national securities association may adopt and enforce rules written specifically for persons filing a notice of intent to register under subsection (a), including rules that prescribe reasonable fees and charges to defray the costs of the national securities association related to overseeing such persons.

(2) APPROVAL BY THE COMMISSION.—With respect to a provisional rule described under paragraph (1) filed with the Commission, the Commission shall—

(A) not later than 90 days following the date of such filing, approve the rule if the Commission determines that the rule effectuates the purposes of this section; and

(B) make such approval on a summary basis pursuant to section 19(b)(3)(B) of the Securities Exchange Act of 1934.

(i) WHISTLEBLOWER ENFORCEMENT.—For purposes of section 21F of the Securities Exchange Act of 1934 (15 U.S.C. 78u-6), the term ''securities laws'' includes this section.

SEC. 108. COMMODITY EXCHANGE ACT SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this Act shall affect or apply to, or be interpreted to affect or apply to—

(1) any agreement, contract, or transaction that is subject to the Commodity Exchange Act as—

(A) a contract of sale of a commodity for future delivery or an option on such a contract;

(B) a swap;

(C) a security futures product;

(D) an option authorized under section 4c of such Act;

(E) an agreement, contract, or transaction described in section 2(c)(2)(C)(i) of such Act; or

(F) a leverage transaction authorized under section 19 of such Act; or

(2) the activities of any person with respect to any such agreement, contract, or transaction.

(b) PROHIBITIONS ON SPOT DIGITAL COMMODITY ENTITIES.—Nothing in this Act authorizes, or shall be interpreted to authorize, a digital commodity exchange, digital commodity

broker, or digital commodity dealer to engage in any activities involving any transaction, contract, or agreement described in subsection (a)(1), solely by virtue of being registered or filing notice of intent to register as a digital commodity exchange, digital commodity broker, or digital commodity dealer.

(c) DEFINITIONS.—In this section, each term shall have the meaning provided in the Commodity Exchange Act or the regulations prescribed under such Act.

SEC. 109. ADMINISTRATIVE REQUIREMENTS.

(a) SECURITIES AND EXCHANGE ACT OF 1934.—Section 21A of the Securities and Exchange Act of 1934 (15 U.S.C. 78u-1) is amended by adding at the end the following:

''(j) DUTY OF MEMBERS AND FEDERAL EMPLOYEES RELATED TO DIGITAL ASSETS.—

''(1) IN GENERAL.—Solely for purposes of the insider trading prohibitions arising under this Act, including section 10 and Rule 10b–5 thereunder, each individual who is a Member of Congress, an employee of Congress, or an employee or agent of any department or agency of the Federal Government owes a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States with respect to material, nonpublic information related to a restricted digital asset that is derived from such individual's position as a Member of Congress, employee of Congress, or as an employee or agent of a department or agency of the Federal Government or gained from the performance of such individual's official responsibilities.

''(2) DEFINITIONS.—In this subsection, the terms 'Member of Congress' and 'employee of Congress' have the meaning given those terms, respectively, under subsection (g)(2).''.

(b) COMMODITY EXCHANGE ACT.—Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(D) a contract of sale of a digital commodity.'';

(2) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (ii), by striking ''or'' at the end;

(ii) in clause (iii), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(iv) a contract of sale of a digital commodity.'';

(B) in subparagraph (B)—

(i) in clause (ii), by striking ''or'' at the end;

(ii) in clause (iii), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(iv) a contract of sale of a digital commodity.''; and

(C) in subparagraph (C)—

(i) in clause (ii), by striking ''or'' at the end;

(ii) by striking ''(iii) a swap, provided however,'' and inserting the following:

''(iii) a swap; or

''(iv) a contract of sale of a digital commodity, provided, however,''; and

(iii) by striking ''clauses (i), (ii), or (iii)'' and insert ''any of clauses (i) through (iv)''.

SEC. 110. INTERNATIONAL HARMONIZATION.

In order to promote effective and consistent global regulation of digital assets, the Commodity Futures Trading Commission and the Securities and Exchange Commission, as appropriate—

(1) shall consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation of digital assets, restricted digital assets, and digital commodities; and

(2) may agree to such information-sharing arrangements as may be deemed to be necessary or appropriate in the public interest or for the protection of investors, customers, and users of digital assets.

SEC. 111. IMPLEMENTATION.

(a) GLOBAL RULEMAKING TIMEFRAME.—Unless otherwise provided in this Act or an amendment made by this Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission, or both, shall individually, and jointly where required, promulgate rules and regulations required of each Commission under this Act or an amendment made by this Act not later than 360 days after the date of enactment of this Act.

(b) RULES AND REGISTRATION BEFORE FINAL EFFECTIVE DATES.—

(1) IN GENERAL.—In order to prepare for the implementation of this Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission may, before any effective date provided in this Act—

(A) promulgate rules, regulations, or orders permitted or required by this Act;

(B) conduct studies and prepare reports and recommendations required by this Act;

(C) register persons under this Act; and

(D) exempt persons, agreements, contracts, or transactions from provisions of this Act, under the terms contained in this Act.

(2) LIMITATION ON EFFECTIVENESS.—An action by the Commodity Futures Trading Commission or the Securities and Exchange Commission under paragraph (1) shall not become effective before the effective date otherwise applicable to the action under this Act.

TITLE II—CLARITY FOR ASSETS OFFERED AS PART OF AN INVESTMENT CONTRACT

SEC. 201. SHORT TITLE.

This title may be referred to as the ''Securities Clarity Act of 2024''.

SEC. 202. TREATMENT OF INVESTMENT CONTRACT ASSETS.

(a) SECURITIES ACT OF 1933.—Section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)), as amended by section 101, is further amended—

(1) in paragraph (1), by adding at the end the following: ''The term 'security' does not include an investment contract asset.''; and

(2) by adding at the end the following:

''(37) The term 'investment contract asset' means a fungible digital representation of value—

''(A) that can be exclusively possessed and transferred, person to person, without necessary reliance on an intermediary, and is recorded on a cryptographically secured public distributed ledger;

''(B) sold or otherwise transferred, or intended to be sold or otherwise transferred, pursuant to an investment contract; and

''(C) that is not otherwise a security pursuant to the first sentence of paragraph (1).''.

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 202(a)(18) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(18)) is amended by adding at the end the following: ''The term 'security' does not include an investment contract asset (as such term is defined under section 2(a) of the Securities Act of 1933).''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(36)) is amended by adding at the end the following: ''The term 'security' does not include an investment contract asset (as such term is defined under section 2(a) of the Securities Act of 1933).''.

(d) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)) is amended by adding at the end the following: ''The term 'security' does not include an investment contract asset (as such term is defined under section 2(a) of the Securities Act of 1933).''.

(e) SECURITIES INVESTOR PROTECTION ACT OF 1970.—Section 16(14) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll(14)) is amended by adding at the end the following: ''The term 'security' does not include an investment contract asset (as such term is defined under section 2(a) of the Securities Act of 1933).''.

TITLE III—OFFERS AND SALES OF DIGITAL ASSETS

SEC. 301. EXEMPTED TRANSACTIONS IN DIGITAL ASSETS.

(a) IN GENERAL.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended—

(1) in section 4(a), by adding at the end the following:

''(8) transactions involving the offer or sale of units of a digital asset by a digital asset issuer, if—

''(A) the aggregate amount of units of the digital asset sold by the digital asset issuer in reliance on the exemption provided under this paragraph, during the 12-month period preceding the date of such transaction, including the amount sold in such transaction, is not more than $75,000,000 (as such amount is annually adjusted by the Commission to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor);

''(B) with respect to a transaction involving the purchase of units of a digital asset by a person who is not an accredited investor, the aggregate amount of all units of digital assets purchased by such person during the 12-month period preceding the date of such transaction, including the unit of a digital asset purchased in such transaction, does not exceed the greater of—

''(i) 10 percent of the person's annual income or joint income with that person's spouse or spousal equivalent; or

''(ii) 10 percent of the person's net worth or joint net worth with the person's spouse or spousal equivalent;

''(C) after the completion of the transaction, the purchaser does not own more than 10 percent of the total amount of the units of the digital asset sold in reliance on the exemption under this paragraph;

''(D) the transaction does not involve the offer or sale of any digital asset not offered as part of an investment contract;

''(E) the transaction does not involve the offer or sale of a unit of a digital asset by a digital asset issuer that—

''(i) is not organized under the laws of a State, a territory of the United States, or the District of Columbia;

''(ii) is a development stage company that either—

''(I) has no specific business plan or purpose; or

''(II) has indicated that the business plan of the company is to merge with or acquire an unidentified company;

''(iii) is an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3), or is excluded from the definition of investment company by section 3(b) or section 3(c) of that Act (15 U.S.C. 80a–3(b) or 80a–3(c));

''(iv) is issuing fractional undivided interests in oil or gas rights, or a similar interest in other mineral rights;

''(v) is, or has been, subject to any order of the Commission entered pursuant to section 12(j) of the Securities Exchange Act of 1934 during the 5-year period before the filing of the offering statement; or

''(vi) is disqualified pursuant to section 230.262 of title 17, Code of Federal Regulations; and

''(F) the issuer meets the requirements of section 4B(a).''; and

(2) by inserting after section 4A the following:

''SEC. 4B. REQUIREMENTS WITH RESPECT TO CERTAIN DIGITAL ASSET TRANSACTIONS.

''(a) REQUIREMENTS FOR DIGITAL ASSET ISSUERS.—

''(1) INFORMATION REQUIRED IN STATEMENT.—A digital asset issuer offering or selling a unit of digital asset in reliance on section 4(a)(8) shall file with the Commission a statement containing the following information:

''(A) The name, legal status (including the jurisdiction in which the issuer is organized and the date of organization), and website of the digital asset issuer.

''(B) The address and telephone number of the issuer or a legal representative of the issuer.

''(C) A certification that the digital asset issuer meets the relevant requirements described under section 4(a)(8).

''(D) An overview of the material aspects of the offering.

''(E) A description of the purpose and intended use of the offering proceeds.

''(F) A description of the plan of distribution of any unit of a digital asset that is to be offered.

''(G) A description of the material risks surrounding ownership of a unit of a digital asset.

''(H) A description of the material aspects of the digital asset issuer's business.

''(I) A description of exempt offerings conducted within the past three years by the digital asset issuer.

''(J) A description of the digital asset issuer and the current number of employees of the digital asset issuer.

''(K) A description of any material transactions or relationships between the digital asset issuer and affiliated persons.

''(L) A description of exempt offerings conducted within the past three years.

''(2) INFORMATION REQUIRED FOR PURCHASERS.—A digital asset issuer that has filed a statement under paragraph (1) to offer and sell a unit of a digital asset in reliance on section 4(a)(8) shall disclose the information described under section 43 of the Securities Exchange Act of 1934 on a freely accessible public website.

''(3) ONGOING DISCLOSURE REQUIREMENTS.—A digital asset issuer that has filed a statement under paragraph (1) to offer and sell a unit of a digital asset in reliance on section 4(a)(8) shall file the following with the Commission:

''(A) ANNUAL REPORTS.—An annual report that includes any material changes to the information described under paragraph (2) for the current fiscal year and for any fiscal year thereafter, unless the issuer is no longer obligated to file such annual report pursuant to paragraph (4).

''(B) SEMIANNUAL REPORTS.—Along with each annual report required under subparagraph (A), and separately six months thereafter, a report containing—

''(i) an updated description of the current state and timeline for the development of the blockchain system to which the digital asset relates, showing how and when the blockchain system intends or intended to be considered a functional system and a decentralized system;

''(ii) the amount of money raised by the digital asset issuer in reliance on section 4(a)(8), how much of that money has been spent, and the general categories and amounts on which that money has been spent; and

''(iii) any material changes to the information in the most recent annual report.

''(C) CURRENT REPORTS.—A current report shall be filed with the Commission reflecting any material changes to the information previously reported to the Commission by the digital asset issuer.

''(4) TERMINATION OF REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The ongoing reporting requirements under paragraph (3) shall not apply to a digital asset issuer 180 days after the end of the covered fiscal year.

''(B) COVERED FISCAL YEAR DEFINED.—In this paragraph, the term 'covered fiscal year' means the first fiscal year of an issuer in which the blockchain system to which the digital asset relates is a functional system and certified to be a decentralized system under section 44 of the Securities Exchange Act of 1934.

''(b) REQUIREMENTS FOR INTERMEDIARIES.—

''(1) IN GENERAL.—A person acting as an intermediary in a transaction involving the offer or sale of a unit of a digital asset in reliance on section 4(a)(8) shall—

''(A) register with the Commission as a digital asset broker; and

''(B) be a member of a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3).

''(2) PURCHASER QUALIFICATION.—

''(A) IN GENERAL.—Each time, before accepting any commitment (including any additional commitment from the same person), an intermediary or digital asset issuer shall have a reasonable basis for believing that the purchaser satisfies the requirements of section 4(a)(8).

''(B) RELIANCE ON PURCHASER'S REPRESENTATIONS.—For purposes of subparagraph (A), an intermediary or digital asset issuer may rely on a purchaser's representations concerning the purchaser's annual income and net worth and the amount of the purchaser's other investments made, unless the intermediary or digital asset issuer has reason to question the reliability of the representation.

''(C) RELIANCE ON ISSUER.—For purposes of determining whether a transaction meets the requirements described under subparagraph (A) through (C) of section 4(a)(8), an intermediary may rely on the efforts of a digital asset issuer.

''(c) ADDITIONAL PROVISIONS.—

''(1) ACCEPTANCE OF WRITTEN OFFERS; SALES.—After an issuer files a statement under paragraph (1) to offer and sell a digital asset in reliance on section 4(a)(8)—

''(A) written offers of the digital asset may be made; and

''(B) the issuer may sell the digital assets in reliance on section 4(a)(8), if such sales meet all other requirements.

''(2) SOLICITATION OF INTEREST.—

''(A) IN GENERAL.—At any time before the filing of a statement under paragraph (1), a digital asset issuer may communicate orally or in writing to determine whether there is any interest in a contemplated offering. Such communications are deemed to be an offer of a unit of a digital asset for sale for purposes of the antifraud provisions of the Federal securities laws. No solicitation or acceptance of money or other consideration, nor of any commitment, binding or otherwise, from any person is permitted until the statement is filed.

''(B) CONDITIONS.—In any communication described under subparagraph (A), the digital asset issuer shall—

''(i) state that no money or other consideration is being solicited, and if sent in response, will not be accepted;

''(ii) state that no offer to buy a unit of a digital asset can be accepted and no part of the purchase price can be received until the statement is filed and then only through an intermediary; and

''(iii) state that a person's indication of interest involves no obligation or commitment of any kind.

''(C) INDICATIONS OF INTEREST.—Any written communication described under subparagraph (A) may include a means by which a person may indicate to the digital asset issuer that such person is interested in a potential offering. A digital asset issuer may require a name, address, telephone number, or email address in any response form included with a communication described under subparagraph (A).

''(3) DISQUALIFICATION PROVISIONS.—The Commission shall issue rules to apply the disqualification provisions under section 230.262 of title 17, Code of Federal Regulations, to the exemption provided under section 4(a)(8).''.

(b) ADDITIONAL EXEMPTIONS.—

(1) CERTAIN REGISTRATION REQUIREMENTS.—Section 12(g)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(6)) is amended by striking ''under section 4(6)'' and inserting ''under section 4(a)(6) or 4(a)(8)''.

(2) EXEMPTION FROM STATE REGULATION.—Section 18(b)(4) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)) is amended—

(A) in section (B), by striking ''section 4(4)'' and inserting ''section 4(a)(4)'';

(B) in section (C), by striking ''section 4(6)'' and inserting ''section 4(a)(6)'';

(C) in subparagraph (F)—

(i) by striking ''section 4(2)'' each place such term appears and inserting ''section 4(a)(2)'';

(ii) by striking ''or'' at the end;

(D) in subparagraph (G), by striking the period and inserting ''; or''; and

(E) by adding at the end the following:

''(H) section 4(a)(8).''.

SEC. 302. REQUIREMENTS FOR OFFERS AND SALES OF CERTAIN DIGITAL ASSETS.

(a) IN GENERAL.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:

''SEC. 42. REQUIREMENTS FOR OFFERS AND SALES OF CERTAIN DIGITAL ASSETS.

''(a) OFFERS AND SALES OF CERTAIN RESTRICTED DIGITAL ASSETS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, subject to paragraph (2), a restricted digital asset may be offered and sold on a digital asset trading system by any person other than a digital asset issuer if, at the time of such offer or sale, any blockchain system to which the restricted digital asset relates is a functional system and the information described in section 43 has been certified and made publicly available for any blockchain system to which the restricted digital asset relates.

''(2) ADDITIONAL RULES FOR RELATED PERSONS AND AFFILIATED PERSONS.—Except as provided under subsection (c), a restricted digital asset owned by a related person or an affiliated person may only be offered or sold after 12 months after the later of—

''(A) the date on which such restricted digital asset was acquired; or

''(B) the digital asset maturity date.

''(b) OFFERS AND SALES OF CERTAIN DIGITAL COMMODITIES.—

''(1) IN GENERAL.—Subject to paragraph (2), a digital commodity may be offered and sold by any person.

''(2) RULES FOR RELATED AND AFFILIATED PERSONS.—Except as provided under subsection (c), a digital commodity may only be offered or sold by a related person or an affiliated person if—

''(A) the holder of the digital commodity originally acquired the digital asset while it was a restricted digital asset not less than 12 months after the later of—

''(i) the date on which such restricted digital asset was acquired; or

''(ii) the digital asset maturity date;

''(B) any blockchain system to which the digital commodity relates is certified to be a decentralized system under section 44; and

''(C) the digital commodity is offered or sold on or subject to the rules of a digital commodity exchange registered under section 5i of the Commodity Exchange Act.

''(3) NOT AN INVESTMENT CONTRACT.—For purposes of the securities laws, an offer or sale of a digital commodity that does not violate paragraph (2) shall not be a transaction in an investment contract.

''(c) SALES RESTRICTIONS FOR AFFILIATED PERSONS.—A digital asset may be offered and sold by an affiliated person under subsection (a) or (b) if—

''(1) the aggregate amount of such digital assets sold in any 3-month period by the affiliated person is not greater than one percent of the digital assets then outstanding; or

''(2) the affiliated person promptly, following the placement of an order to sell one percent or more of the digital assets then outstanding during any 3-month period, reports the sale to—

''(A) the Commodity Futures Trading Commission, in the case of an order to sell a digital

commodity on or subject to the rules of a digital commodity exchange; or

''(B) the Securities and Exchange Commission, in the case of a sell order for a restricted digital asset placed with a digital asset trading system.

''(d) TREATMENT OF CERTAIN END USER DISTRIBUTIONS UNDER THE SECURITIES LAWS.—

''(1) IN GENERAL.—With respect to a digital asset, an end user distribution is described under this paragraph if—

''(A) each blockchain system to which such digital asset relates is a functional system; and

''(B) with respect to the digital asset and each blockchain system to which such digital asset relates, the information described in section 43 has been certified and made publicly available.

''(2) NOT AN INVESTMENT CONTRACT.—For purposes of the securities laws, an end user distribution described under paragraph (1) shall not be a transaction in an investment contract.

''(3) EXEMPTION.—Section 5 of the Securities Act of 1933 (15 U.S.C. 77e) shall not apply to an end user distribution described under paragraph (1) or a transaction in a unit of digital asset issued in such a distribution.''.

(b) RULE OF CONSTRUCTION.—Nothing in this Act or the amendments made by this Act may be construed to restrict the use of a digital asset, except as expressly provided in connection with—

(1) the offer or sale of a restricted digital asset or digital commodity; or

(2) an intermediary's custody of a restricted digital asset or digital commodity.

SEC. 303. ENHANCED DISCLOSURE REQUIREMENTS.

Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), as amended by section 302, is further amended by adding at the end the following:

''SEC. 43. ENHANCED DISCLOSURE REQUIREMENTS WITH RESPECT TO DIGITAL ASSETS.

''(a) DISCLOSURE INFORMATION.—With respect to a digital asset and any blockchain system to which the digital asset relates, the information described under this section is as follows:

''(1) SOURCE CODE.—The source code for any blockchain system to which the digital asset relates.

''(2) TRANSACTION HISTORY.—A description of the steps necessary to independently access, search, and verify the transaction history of any blockchain system to which the digital asset relates.

''(3) DIGITAL ASSET ECONOMICS.—A description of the purpose of any blockchain system to which the digital asset relates and the operation of any such blockchain system, including—

''(A) information explaining the launch and supply process, including the number of digital assets to be issued in an initial allocation, the total number of digital assets to be created, the release schedule for the digital assets, and the total number of digital assets then outstanding;

''(B) information on any applicable consensus mechanism or process for validating transactions, method of generating or mining digital assets, and any process for burning or destroying digital assets on the blockchain system;

''(C) an explanation of governance mechanisms for implementing changes to the blockchain system or forming consensus among holders of such digital assets; and

''(D) sufficient information for a third party to create a tool for verifying the transaction history of the digital asset.

''(4) PLAN OF DEVELOPMENT.—The current state and timeline for the development of any blockchain system to which the digital asset relates, showing how and when the blockchain system intends or intended to be considered a functional system and decentralized system.

''(5) DEVELOPMENT DISCLOSURES.—A list of all persons who are related persons or affiliated persons who have been issued a unit of a digital asset by a digital asset issuer or have a right to a unit of a digital asset from a digital asset issuer.

''(6) RISK FACTOR DISCLOSURES.—A description of the material risks surrounding ownership of a unit of a digital asset.

''(b) CERTIFICATION.—

''(1) IN GENERAL.—With respect to a digital asset and any blockchain system to which the digital asset relates, the information described under this section has been certified if the digital asset issuer, an affiliated person, a decentralized governance system, or a digital commodity exchange certifies on a quarterly basis to the Commodity Futures Trading Commission and the Securities and Exchange Commission that the information is true and correct.

''(2) PRIOR DISCLOSURES.—Information described under this section which was made available to the public prior to the date of enactment of this section may be certified as true and correct on the date such information was published in final form.

''(3) RULEMAKING.—The Commission and the Commodity Futures Trading Commission may jointly issue rules regarding the certification process described under paragraph (1).''.

SEC. 304. CERTIFICATION OF CERTAIN DIGITAL ASSETS.

Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), as amended by section 303, is further amended by adding at the end the following:

''SEC. 44. CERTIFICATION OF CERTAIN DIGITAL ASSETS.

''(a) CERTIFICATION.—Any person may certify to the Securities and Exchange Commission that the blockchain system to which a digital asset relates is a decentralized system.

''(b) FILING REQUIREMENTS.—A certification described under subsection (a) shall be filed with the Commission, and include—

''(1) information regarding the person making the certification;

''(2) a description of the blockchain system and the digital asset which relates to such blockchain system, including—

''(A) the operation of the blockchain system;

''(B) the functionality of the related digital asset;

''(C) any decentralized governance system which relates to the blockchain system; and

''(D) the process to develop consensus or agreement within such decentralized governance system;

''(3) a description of the development of the blockchain system and the digital asset which relates to the blockchain system, including—

''(A) a history of the development of the blockchain system and the digital asset which relates to such blockchain system;

''(B) a description of the issuance process for the digital asset which relates to the blockchain system;

''(C) information identifying the digital asset issuer of the digital asset which relates to the blockchain system; and

''(D) a list of any affiliated person related to the digital asset issuer;

''(4) an analysis of the factors on which such person based the certification that the blockchain system is a decentralized system, including—

''(A) an explanation of the protections and prohibitions available during the previous 12 months against any one person being able to—

''(i) control or materially alter the blockchain system;

''(ii) exclude any other person from using or participating on the blockchain system; and

''(iii) exclude any other person from participating in a decentralized governance system;

''(B) information regarding the beneficial ownership of the digital asset which relates to such blockchain system and the distribution of voting power in any decentralized governance system during the previous 12 months;

''(C) information regarding the history of upgrades to the source code for such blockchain system during the previous 3 months, including—

''(i) a description of any consensus or agreement process utilized to process or approve changes to the source code;

''(ii) a list of any material changes to the source code, the purpose and effect of the changes, and the contributor of the changes, if known; and

''(iii) any changes to the source code made by the digital asset issuer, a related person, or an affiliated person;

''(D) information regarding any activities conducted to market the digital asset which relates to the blockchain system during the previous 3 months by the digital asset issuer or an affiliated person of the digital asset issuer; and

''(E) information regarding any issuance of a unit of the digital asset which relates to such blockchain system during the previous 12 months; and

''(5) with respect to a blockchain system for which a certification has previously been rebutted under this section or withdrawn under section 5i(m) of the Commodity Exchange Act, specific information relating to the analysis provided in subsection (f)(2) in connection with such rebuttal or such section 5i(m)(1)(C) in connection with such withdrawal.

''(c) REBUTTABLE PRESUMPTION.—The Commission may rebut a certification described under subsection (a) with respect to a blockchain system if the Commission, within 60 days of receiving such certification, determines that the blockchain system is not a decentralized system.

''(d) CERTIFICATION REVIEW.—

''(1) IN GENERAL.—Any blockchain system that relates to a digital asset for which a certification has been made under subsection (a) shall be considered a decentralized system 60 days after the date on which the Commission receives a certification under subsection (a), unless the Commission notifies the person who made the certification within such time that the Commission is staying the certification due to—

''(A) an inadequate explanation by the person making the certification; or

''(B) any novel or complex issues which require additional time to consider.

''(2) PUBLIC NOTICE.—The Commission shall make the following available to the public and provide a copy to the Commodity Futures Trading Commission:

''(A) Each certification received under subsection (a).

''(B) Each stay of the Commission under this section, and the reasons therefore.

''(C) Any response from a person making a certification under subsection (a) to a stay of the certification by the Commission.

''(3) CONSOLIDATION.—The Commission may consolidate and treat as one submission multiple certifications made under subsection (a) for the same blockchain system which relates to a digital asset which are received during the review period provided under this subsection.

''(e) STAY OF CERTIFICATION.—

''(1) IN GENERAL.—A notification by the Commission pursuant to subsection (d)(1) shall stay the certification once for up to an additional 120 days from the date of the notification.

''(2) PUBLIC COMMENT PERIOD.—Before the end of the 60-day period described under subsection (d)(1), the Commission may begin a public comment period of at least 30 days in conjunction with a stay under this section.

''(f) DISPOSITION OF CERTIFICATION.—

''(1) IN GENERAL.—A certification made under subsection (a) shall—

''(A) become effective—

''(i) upon the publication of a notification from the Commission to the person who made the certification that the Commission does not object to the certification; or

''(ii) at the expiration of the certification review period; and

''(B) not become effective upon the publication of a notification from the Commission to the person who made the certification that the Commission has rebutted the certification.

''(2) DETAILED ANALYSIS INCLUDED WITH REBUTTAL.—The Commission shall include, with each publication of a notification of rebuttal described under paragraph (1)(B), a detailed analysis of the factors on which the decision was based.

''(g) RECERTIFICATION.—With respect to a blockchain system for which a certification has been rebutted under this section, no person may make a certification under subsection (a) with respect to such blockchain system during the 90-day period beginning on the date of such rebuttal.

''(h) APPEAL OF REBUTTAL.—

''(1) IN GENERAL.—If a certification is rebutted under this section, the person making such certification may appeal the decision to the United States Court of Appeals for the District of Columbia, not later than 60 days after the notice of rebuttal is made.

''(2) REVIEW.—In an appeal under paragraph (1), the court shall have de novo review of the determination to rebut the certification.''.

SEC. 305. EFFECTIVE DATE.

Unless otherwise provided in this title, this title and the amendments made by this title shall take effect 360 days after the date of enactment of this Act, except that, to the extent a provision of this title requires a rulemaking, the provision shall take effect on the later of—

(1) 360 days after the date of enactment of this Act; or

(2) 60 days after the publication in the Federal Register of the final rule implementing the provision.

TITLE IV—REGISTRATION FOR DIGITAL ASSET INTERMEDIARIES AT THE SECURITIES AND EXCHANGE COMMISSION

SEC. 401. TREATMENT OF DIGITAL COMMODITIES AND OTHER DIGITAL ASSETS.

(a) SECURITIES ACT OF 1933.—Section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) is amended by adding at the end the following: ''The term does not include a digital commodity or permitted payment stablecoin.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in paragraph (1), by adding at the end the following: ''The term 'exchange' does not include a digital asset trading system or a blockchain protocol offering digital assets, or any person or group of persons solely because of their development of such a blockchain protocol.'';

(2) in paragraph (2), by adding at the end the following: ''A digital asset trading system is not a 'facility' of an exchange.'';

(3) in paragraph (4)(A), by inserting '', other than restricted digital assets,'' after ''securities'';

(4) in paragraph (5)(A), by inserting ''restricted digital assets or'' after ''not including'';

(5) in paragraph (26) by inserting ''(other than a notice-registered digital asset clearing agency)'' after ''or registered clearing agency'';

(6) in paragraph (28) by inserting ''(other than a notice-registered digital asset clearing agency)'' after ''registered clearing agency''; and

(7) in paragraph (10), by adding at the end the following: ''The term does not include a digital commodity or permitted payment stablecoin.''.

(c) INVESTMENT ADVISERS ACT OF 1940.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended—

(1) in paragraph (18), by adding at the end the following: ''The term does not include a digital commodity or permitted payment stablecoin.'';

(2) by redesignating the second paragraph (29) (relating to commodity pools) as paragraph (31);

(3) by adding at the end, the following:

''(32) DIGITAL ASSET-RELATED TERMS.—The terms 'digital commodity' and 'permitted payment stablecoin' have the meaning given those terms, respectively, under section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)).''.

(d) INVESTMENT COMPANY ACT OF 1940.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2) is amended—

(1) in paragraph (36), by adding at the end the following: ''The term does not include a digital commodity or permitted payment stablecoin.''; and

(2) by adding at the end, the following:

''(55) DIGITAL ASSET-RELATED TERMS.—The terms 'digital commodity' and 'permitted payment stablecoin' have the meaning given those terms, respectively, under section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)).''.

SEC. 402. AUTHORITY OVER PERMITTED PAYMENT STABLECOINS AND RESTRICTED DIGITAL ASSETS.

(a) IN GENERAL.—Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) is amended—

(1) by moving subsection (c) so as to appear after subsection (b);

(2) by designating the undesignated matter at the end of that section as subsection (d); and

(3) by adding at the end the following:

''(e)(1) Rules promulgated under subsection (b) that prohibit fraud, manipulation, or insider trading (but not rules imposing or specifying reporting or recordkeeping requirements, procedures, or standards as prophylactic measures against fraud, manipulation, or insider trading), and judicial precedents decided under subsection (b) and rules promulgated thereunder that prohibit fraud, manipulation, or insider trading, shall apply with respect to permitted payment stablecoin transactions and restricted digital assets transactions engaged in by a broker, dealer, digital asset broker, or digital asset dealer or through an alternative trading system or digital asset trading system to the same extent as they apply to securities transactions.

''(2) Judicial precedents decided under section 17(a) of the Securities Act of 1933 and sections 9, 15, 16, 20, and 21A of this title, and judicial precedents decided under applicable rules promulgated under such sections, shall apply to permitted payment stablecoins and restricted digital assets with respect to those circumstances in which the permitted payment stablecoins or restricted digital assets are brokered, traded, or custodied by a broker, dealer, digital asset broker, digital asset dealer, or through an alternative trading system or digital asset trading system to the same extent as they apply to securities.

''(3) Nothing in this subsection may be construed to provide the Commission authority to make any rule, regulation, or requirement or impose any obligation or limitation on a permitted payment stablecoin issuer or a digital asset issuer regarding any aspect of the operations of a permitted payment stablecoin issuer, a digital asset issuer, a permitted payment stablecoin, or a restricted digital asset.''.

(b) TREATMENT OF PERMITTED PAYMENT STABLECOINS.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), as amended by section 404, is amended by inserting after section 6B the following

''SEC. 6C. TREATMENT OF TRANSACTIONS IN PERMITTED PAYMENT STABLECOINS.

''(a) AUTHORITY TO BROKER, TRADE, AND CUSTODY PERMITTED PAYMENT STABLECOINS.—Permitted payment stablecoins may be brokered, traded, or custodied by a broker, dealer, digital asset broker, or digital asset dealer or through an alternative trading system or digital asset trading system.

''(b) COMMISSION JURISDICTION.—The Commission shall only have jurisdiction over a transaction in a permitted payment stablecoin with respect to those circumstances in which a permitted payment stablecoin is brokered, traded, or custodied—

''(1) by a broker, dealer, digital asset broker, or digital asset dealer; or

''(2) through an alternative trading system or digital asset trading system.

''(c) LIMITATION.—Subsection (b) shall only apply to a transaction described in subsection (b) for the purposes of regulating the offer, execution, solicitation, or acceptance of a permitted payment stablecoin in those circumstances in which the permitted payment stablecoin is brokered, traded, or custodied—

''(1) by a broker, dealer, digital asset broker, or digital asset dealer; or

''(2) through an alternative trading system or digital asset trading system.''.

SEC. 403. REGISTRATION OF DIGITAL ASSET TRADING SYSTEMS.

Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

''(m) DIGITAL ASSET TRADING SYSTEM.—

''(1) IN GENERAL.—It shall be unlawful for any digital asset trading system to make use of the mails or any means or instrumentality of interstate commerce within or subject to the jurisdiction of the United States to effect any transaction in a restricted digital asset, unless such digital asset trading system is registered with the Commission.

''(2) APPLICATION.—A person desiring to register as a digital asset trading system shall submit to the Commission an application in such form and containing such information as the Commission may require for the purpose of making the determinations required for approval.

''(3) EXEMPTIONS.—A digital asset trading system that offers or seeks to offer at least one restricted digital asset shall not be required to register under this section (and paragraph (1) shall not apply to such digital asset trading system) if the trading system satisfies any exemption contained on a list of exemptions prepared by the Commission to be as close as practicable to those exemptions set forth in section 240.3b–16(b) of title 17, Code of Federal Regulations, applicable to the definition of an exchange.

''(4) ADDITIONAL REGISTRATIONS.—

''(A) WITH THE COMMISSION.—

''(i) IN GENERAL.—A registered digital asset trading system shall be permitted to maintain any other registration with the Commission relating to the other activities of the registered digital asset trading system, including as a—

''(I) national securities exchange;

''(II) broker;

''(III) dealer;

''(IV) alternative trading system, pursuant to part 242 of title 17, Code of Federal Regulations, as in effect on the date of enactment of this subsection;

''(V) digital asset broker; or

''(VI) digital asset dealer.

''(ii) RULEMAKING.—The Commission shall prescribe rules for an entity with multiple registrations described under clause (i) to exempt the entity from duplicative, conflicting, or unduly burdensome provisions of this Act and the rules under this Act, to the extent such an exemption would protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

''(B) WITH THE COMMODITY FUTURES TRADING COMMISSION.—A registered digital asset trading system shall be permitted to maintain a registration with the Commodity Futures Trading Commission as a digital commodity exchange to offer contracts of sale for digital commodities.''.

SEC. 404. REQUIREMENTS FOR DIGITAL ASSET TRADING SYSTEMS.

Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 6 the following:

''SEC. 6A. REQUIREMENTS FOR DIGITAL ASSET TRADING SYSTEMS.

''(a) HOLDING OF CUSTOMER ASSETS.—

''(1) QUALIFIED DIGITAL ASSET CUSTODIAN REQUIRED.—A digital asset trading system shall hold customer restricted digital assets with a qualified digital asset custodian described under section 6B.

''(2) CUSTODY PROHIBITED.—A digital asset trading system, in its capacity as such, may not hold custody of customer money, assets, or property.

''(3) CUSTODY IN OTHER CAPACITY.—Nothing in this Act may be construed to prohibit a person registered as a digital asset trading system from holding custody of customer money, assets, or property in any other permitted capacity, including as a digital asset broker, digital asset dealer, or qualified digital asset custodian in compliance with the requirements of this Act.

''(b) RULEMAKING.—The Commission shall prescribe rules for digital asset trading systems relating to the following:

''(1) NOTICE.—Notice to the Commission of the initial operation of a digital asset trading system or any material change to the operation of the digital asset trading system.

''(2) ORDER DISPLAY.—The thresholds at which a digital asset trading system is required to display the orders of the digital asset trading system, and the manner of such display.

''(3) FAIR ACCESS.—The thresholds at which a digital asset trading system is required to have policies regarding providing fair access to the digital asset trading system.

''(4) CAPACITY, INTEGRITY, AND SECURITY OF AUTOMATED SYSTEMS.—Policies and procedures reasonably designed to ensure the capacity, integrity, and security of the digital asset trading system, taking into account the particular nature of digital asset trading systems.

''(5) EXAMINATIONS, INSPECTIONS, AND INVESTIGATIONS.—The examination and inspection of the premises, systems, and records of the digital asset trading system by the Commission or by a self-regulatory organization of which such digital asset trading system is a member.

''(6) RECORDKEEPING.—The making, keeping current, and preservation of records related to trading activity on the digital asset trading system.

''(7) REPORTING.—The reporting of transactions in digital assets that occur through the digital asset trading system.

''(8) PROCEDURES.—The establishment of adequate written safeguards and written procedures to protect confidential trading information.

''(c) NAME REQUIREMENT.—A digital asset trading system may not use the word 'exchange' in the name of the digital asset trading system, unless the digital asset trading system—

''(1) is operated by a registered national securities exchange; and

''(2) is clearly indicated as being provided outside of the system's capacity as a national securities exchange.

''(d) TREATMENT UNDER THE BANK SECRECY ACT.—A digital asset trading system shall be treated as a financial institution for purposes of the Bank Secrecy Act.

''SEC. 6B. REQUIREMENTS FOR QUALIFIED DIGITAL ASSET CUSTODIANS.

''(a) IN GENERAL.—A digital asset custodian is a qualified digital asset custodian if the digital asset custodian complies with the requirements of this section.

''(b) SUPERVISION REQUIREMENT.—A digital asset custodian that is not subject to supervision and examination by an appropriate Federal banking agency, the National Credit Union Administration, the Commodity Futures Trading Commission, or the Securities and Exchange Commission shall be subject to adequate supervision and appropriate regulation by—

''(1) a State bank supervisor (within the meaning of section 3 of the Federal Deposit Insurance Act);

''(2) a State credit union supervisor, as defined under section 6003 of the Anti-Money Laundering Act of 2020; or

''(3) an appropriate foreign governmental authority in the home country of the digital asset custodian.

''(c) OTHER REQUIREMENTS.—

''(1) NOT OTHERWISE PROHIBITED.—The digital asset custodian has not been prohibited by a supervisor of the digital asset custodian from engaging in an activity with respect to the custody and safekeeping of digital assets.

''(2) INFORMATION SHARING.—

''(A) IN GENERAL.—A digital asset custodian shall share information with the Commission on request and comply with such requirements for periodic sharing of information regarding customer accounts that the digital asset custodian holds on behalf of an entity registered with the Commission as the Commission determines by rule are reasonably necessary to effectuate any of the provisions, or to accomplish any of the purposes, of this Act.

''(B) PROVISION OF INFORMATION.—Any entity that is subject to regulation and examination by an appropriate Federal banking agency may satisfy any information request described in subparagraph (A) by providing the Commission with a detailed listing, in writing, of the restricted digital assets of a customer within the custody or use of the entity.

''(d) ADEQUATE SUPERVISION AND APPROPRIATE REGULATION.—

''(1) IN GENERAL.—For purposes of subsection (b), the terms 'adequate supervision' and 'appropriate regulation' mean such minimum standards for supervision and regulation as are reasonably necessary to protect the digital assets of customers of an entity registered with the Commission, including standards relating to the licensing, examination, and supervisory processes that require the digital asset custodian to, at a minimum—

''(A) receive a review and evaluation of ownership, character and fitness, conflicts of interest, business model, financial statements, funding resources, and policies and procedures of the digital asset custodian;

''(B) hold capital sufficient for the financial integrity of the digital asset custodian;

''(C) protect customer assets;

''(D) establish and maintain books and records regarding the business of the digital asset custodian;

''(E) submit financial statements and audited financial statements to the applicable supervisor described in subsection (b);

''(F) provide disclosures to the applicable supervisor described in subsection (b) regarding actions, proceedings, and other items as determined by such supervisor;

''(G) maintain and enforce policies and procedures for compliance with applicable State and Federal laws, including those related to anti-money laundering and cybersecurity;

''(H) establish a business continuity plan to ensure functionality in cases of disruption; and

''(I) establish policies and procedures to resolve complaints.

''(2) RULEMAKING WITH RESPECT TO DEFINITIONS.—

''(A) IN GENERAL.—For purposes of this section, the Commission may, by rule, further define the terms 'adequate supervision' and 'appropriate regulation' as necessary in the public interest, as appropriate for the protection of investors, and consistent with the purposes of this Act.

''(B) CONDITIONAL TREATMENT OF CERTAIN CUSTODIANS BEFORE RULEMAKING.—Before the effective date of a rulemaking under subparagraph (A), a trust company is deemed subject to adequate supervision and appropriate regulation if—

''(i) the trust company is expressly permitted by a State bank supervisor to engage in the custody and safekeeping of digital assets;

''(ii) the State bank supervisor has established licensing, examination, and supervisory processes that require the trust company to, at a minimum, meet the conditions described in subparagraphs (A) through (I) of paragraph (1); and

''(iii) the trust company is in good standing with its State bank supervisor.

''(C) TRANSITION PERIOD FOR CERTAIN CUSTODIANS.—In implementing the rulemaking under subparagraph (A), the Commission shall provide a transition period of not less than two years for any trust company which is deemed subject to adequate supervision and appropriate regulation under subparagraph (B) on the effective date of the rulemaking.''.

SEC. 405. REGISTRATION OF DIGITAL ASSET BROKERS AND DIGITAL ASSET DEALERS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15G the following:

''SEC. 15H. REGISTRATION OF DIGITAL ASSET BROKERS AND DIGITAL ASSET DEALERS.

''(a) REGISTRATION.—

''(1) IN GENERAL.—It shall be unlawful for any digital asset broker or digital asset dealer (other than a natural person associated with a registered digital asset broker or registered digital asset dealer, and other than such a digital asset broker or digital asset dealer whose business is exclusively intrastate and who does not make use of a digital asset trading system) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any restricted digital asset unless such digital asset broker or digital asset dealer is registered in accordance with this section.

''(2) APPLICATION.—A person desiring to register as a digital asset broker or digital asset dealer shall submit to the Commission an application in such form and containing such information as the Commission may require for the purpose of making the determinations required for approval.

''(b) NATIONAL SECURITIES ASSOCIATION MEMBERSHIP.—

''(1) IN GENERAL.—A digital asset broker or digital asset dealer may not register or maintain registration under this section unless such digital asset broker or digital asset dealer is a member of a national securities association registered under section 15A.

''(2) TREATMENT UNDER SECTION 15A.—

''(A) IN GENERAL.—For purposes of section 15A—

''(i) the term 'broker' includes a digital asset broker and the term 'registered broker' includes a registered digital asset broker;

''(ii) the term 'dealer' includes a digital asset dealer and the term 'registered dealer' includes a registered digital asset dealer; and

''(iii) the term 'security' includes a restricted digital asset.

''(B) CLARIFICATION.—Notwithstanding subparagraph (A), a national securities association shall, with respect to the restricted digital asset activities of a digital asset broker or a digital asset dealer, only examine for and enforce against such digital asset broker or digital asset dealer—

''(i) rules of such national securities association written specifically for digital asset brokers or digital asset dealers;

''(ii) the provisions of the Financial Innovation and Technology for the 21st Century Act and rules issued thereunder applicable to digital asset brokers and digital asset dealers; and

''(iii) the provisions of the securities laws and the rules thereunder applicable to digital asset brokers and digital asset dealers.

''(c) ADDITIONAL REGISTRATIONS WITH THE COMMISSION.—

''(1) IN GENERAL.—A registered digital asset broker or registered digital asset dealer shall be permitted to maintain any other registration with the Commission relating to the other activities of the registered digital asset broker or registered digital asset dealer, including as—

''(A) a national securities exchange;

''(B) a broker;

''(C) a dealer;

''(D) an alternative trading system, pursuant to part 242 of title 17, Code of Federal Regulations, as in effect on the date of enactment of this section; or

''(E) a digital asset trading system.

''(2) RULEMAKING.—The Commission shall prescribe rules for an entity with multiple registrations described under paragraph (1) to exempt the entity from duplicative, conflicting, or unduly burdensome provisions of this Act and the rules under this Act, to the extent such an exemption would protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

''(3) SELF-REGULATORY ORGANIZATIONS.—The Commission shall require any self-regulatory organization with a registered digital asset broker or registered digital asset dealer as a member to provide such rules as may be necessary to further compliance with this section, protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

''(d) ADDITIONAL REGISTRATIONS WITH THE COMMODITY FUTURES TRADING COMMISSION.—A registered digital asset broker or registered digital asset dealer shall be permitted to maintain a registration with the Commodity Futures Trading Commission as a digital commodity broker or digital commodity dealer, to list or trade contracts of sale for digital commodities.''.

SEC. 406. REQUIREMENTS OF DIGITAL ASSET BROKERS AND DIGITAL ASSET DEALERS.

(a) IN GENERAL.—Section 15H of the Securities Exchange Act of 1934, as added by section 405, is amended by adding at the end the following:

''(e) ANTI-FRAUD.—No digital asset broker or digital asset dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any restricted digital asset by means of any manipulative, deceptive, or other fraudulent device or contrivance.

''(f) HOLDING OF CUSTOMER ASSETS.—

''(1) IN GENERAL.—A digital asset broker or digital asset dealer shall hold customer money, assets, and property in a manner to minimize the risk of loss to the customer or unreasonable delay in the access to the money, assets, and property of the customer.

''(2) QUALIFIED DIGITAL ASSET CUSTODIAN REQUIRED.—A digital asset broker or digital asset dealer shall hold customer restricted digital assets described in paragraph (1) with a qualified digital asset custodian described under section 6B.

''(3) SEGREGATION OF FUNDS.—

''(A) IN GENERAL.—A digital asset broker or digital asset dealer shall treat and deal with all money, assets, and property held for a customer of the digital asset broker or digital asset dealer, or that accrues to a customer as a result of trading in restricted digital assets, as belonging to the customer.

''(B) COMMINGLING PROHIBITED.—Money, assets, and property of a customer described in subparagraph (A) shall be separately accounted for and shall not be commingled with the funds of the digital asset broker or digital asset dealer or be used to margin, secure, or guarantee any trades of any person other than the customer of the digital asset broker or digital asset dealer for whom the same are held.

''(4) EXCEPTIONS.—

''(A) USE OF FUNDS.—

''(i) IN GENERAL.—Notwithstanding paragraph (4), money, assets, and property of customers of a digital asset broker or digital asset dealer described in paragraph (4) may be maintained and deposited in the same account or accounts with any bank, trust company, or qualified digital asset custodian described under section 6B, if the money, assets, and property remain segregated from the money, assets, and property of the digital asset broker or digital asset dealer.

''(ii) WITHDRAWAL.—Notwithstanding paragraph (4), such share of the money, assets, and property described in paragraph (4) as in the normal course of business shall be necessary to transfer, adjust, or settle a restricted digital asset transaction pursuant to a customer's instruction (standing or otherwise) may be withdrawn and applied to such purposes, including the withdrawal and payment of commissions, brokerage, interest, taxes, storage, and other charges lawfully accruing in connection with a restricted digital asset transaction.

''(iii) COMMISSION ACTION.—In accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, any money, assets, or property of a customer of a digital asset broker or digital asset dealer described in paragraph (4) may be commingled and deposited as provided in this section with any other money, assets, or property received by the digital asset broker or digital asset dealer and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customer of the digital asset broker or digital asset dealer.

''(B) PARTICIPATION IN BLOCKCHAIN SERVICES.—

''(i) IN GENERAL.—A customer shall have the right to waive the restrictions in paragraph (4) for any unit of a digital asset to be used under clause (ii), by affirmatively electing, in writing to the digital asset broker or digital asset dealer, to waive the restrictions.

''(ii) USE OF FUNDS.—Customer digital assets removed from segregation under clause (i) may be pooled and used by the digital asset broker or digital asset dealer or its designee to provide a blockchain service for a blockchain system to which the unit of the digital asset removed from segregation under clause (i) relates.

''(iii) LIMITATIONS.—

''(I) IN GENERAL.—The Commission may, by rule, establish notice and disclosure requirements, and any other limitations and rules related to the waiving of any restrictions under this subparagraph that are reasonably necessary to protect customers.

''(II) CUSTOMER CHOICE.—A digital asset broker or digital asset dealer may not require a waiver from a customer described in clause (i) as a condition of doing business with the digital asset broker or digital asset dealer.

''(iv) BLOCKCHAIN SERVICE DEFINED.—In this subparagraph, the term 'blockchain service' means any activity relating to validating transactions on a blockchain system, providing security for a blockchain system, or other similar activity required for the ongoing operation of a blockchain system.

''(5) FURTHER LIMITATIONS.—No person shall treat or deal with a restricted digital asset held on behalf of any customer pursuant to paragraph (4) by utilizing any unit of such restricted digital asset to participate in a blockchain service (as defined in paragraph (5)(B)(iv)) or a decentralized governance system associated with the restricted digital asset or the blockchain system to which the restricted digital asset relates in any manner other than that which is expressly directed by the customer from which such unit of a restricted digital asset was received.

''(g) CAPITAL REQUIREMENTS.—

''(1) IN GENERAL.—Each registered digital asset broker and registered digital asset dealer shall meet such minimum capital requirements as the Commission may prescribe to ensure that the digital asset broker or digital asset dealer is able to—

''(A) conduct an orderly wind-down of the activities of the digital asset broker or digital asset dealer; and

''(B) fulfill the customer obligations of the digital asset broker or digital asset dealer.

''(2) CALCULATION.—For purposes of any Commission rule or order adopted under this section or any interpretation thereof regulating a digital asset broker or digital asset dealer's financial responsibility obligations and capital requirements, a registered digital asset broker or digital asset dealer that maintains control of customer digital assets in a manner that satisfies the rules issued by the Commission under subsection (f)(2) shall not be required to include the custodial obligation with respect to such digital assets as liabilities or such digital assets as assets of the digital asset broker or digital asset dealer.

''(h) REPORTING AND RECORDKEEPING.—Each registered digital asset broker and digital asset dealer—

''(1) shall make such reports as are required by the Commission by rule or regulation regarding the transactions, positions, and financial condition of the digital asset broker or digital asset dealer;

''(2) shall keep books and records in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

''(3) shall keep the books and records open to inspection and examination by any representative of the Commission.

''(i) TREATMENT UNDER THE BANK SECRECY ACT.—A digital asset broker and a digital asset dealer shall be treated as a financial institution for purposes of the Bank Secrecy Act.''.

(b) DEFINITION OF CLEARING AGENCY.—Section 3(a)(23)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(23)(B)) is amended by inserting ''digital asset broker, digital asset dealer,'' after ''broker, dealer,'' each place such term appears.

SEC. 407. RULES RELATED TO CONFLICTS OF INTEREST.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 10D the following:

''SEC. 10E. CONFLICTS OF INTEREST RELATED TO DIGITAL ASSETS.

''Each registered digital asset trading system, registered digital asset broker, registered digital asset dealer, and notice-registered digital asset clearing agency shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such person's business, to mitigate any conflicts of interest and transactions or arrangements with affiliates.''.

SEC. 408. TREATMENT OF CERTAIN DIGITAL ASSETS IN CONNECTION WITH FEDERALLY REGULATED INTERMEDIARIES.

Section 18(b) of the Securities Act of 1933 (15 U.S.C. 77r(b)) is amended by adding at the end the following:

''(5) EXEMPTION FOR CERTAIN DIGITAL ASSETS IN CONNECTION WITH FEDERALLY REGULATED INTERMEDIARIES.—A restricted digital asset is treated as a covered security with respect to a transaction that is exempt from registration under this Act when it is—

''(A) brokered, traded, custodied, or cleared by a digital asset broker or digital asset dealer registered under section 15H of the Securities Exchange Act of 1934; or

''(B) traded through a digital asset trading system.''.

SEC. 409. EXCLUSION FOR DECENTRALIZED FINANCE ACTIVITIES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), as amended by section 405, is further amended by inserting after section 15H the following:

''SEC. 15I. DECENTRALIZED FINANCE ACTIVITIES NOT SUBJECT TO THIS ACT.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, a person shall not be subject to this Act and the regulations thereunder based on the person directly or indirectly engaging in any of the following activities, whether singly or in combination thereof, in relation to the operation of a blockchain system or in relation to decentralized finance (as defined in section 605(d) of the Financial Innovation and Technology for the 21st Century Act):

''(1) Compiling network transactions, operating or participating in a liquidity pool, relaying, searching, sequencing, validating, or acting in a similar capacity with respect to a digital asset.

''(2) Providing computational work, operating a node, or procuring, offering, or utilizing network bandwidth, or other similar incidental services with respect to a digital asset.

''(3) Providing a user-interface that enables a user to read and access data about a blockchain system, send messages, or otherwise interact with a blockchain system.

''(4) Developing, publishing, constituting, administering, maintaining, or otherwise distributing a blockchain system.

''(5) Developing, publishing, constituting, administering, maintaining, or otherwise distributing software or systems that create or deploy a hardware or software wallet or other system facilitating an individual user's own personal ability to keep, safeguard, or custody such user's digital assets or related private keys.

''(b) EXCEPTIONS.—Subsection (a) shall not be construed to apply to the anti-fraud and anti-manipulation authorities of the Commission.''.

SEC. 410. REGISTRATION AND REQUIREMENTS FOR NOTICE-REGISTERED DIGITAL ASSET CLEARING AGENCIES.

Section 17A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(b)) is amended—

(1) in subsection (1), by inserting after the first sentence the following: ''The previous sentence shall not apply to a notice-registered digital asset clearing agency with respect to a restricted digital asset.''; and

(2) by adding at the end the following:

''(9) REGISTRATION AND REQUIREMENTS FOR NOTICE-REGISTERED DIGITAL ASSET CLEARING AGENCY.—

''(A) ELIGIBILITY.—A person may register with the Commission as a notice-registered digital asset clearing agency if the person—

''(i) is otherwise registered as a digital asset broker or digital asset dealer with the Commission and is engaging in a business involving restricted digital assets, in compliance with Commission rules pursuant to section 15H(f);

''(ii) is a bank; or

''(iii) is a clearing agency already registered with the Commission pursuant to this section.

''(B) REGISTRATION.—A person may register with the Commission as a notice-registered digital asset clearing agency by filing with the Commission a notice of the activities of the person or planned activities in such form as the Commission determines appropriate.

''(C) EFFECTIVENESS OF REGISTRATION.—

''(i) IN GENERAL.—The registration of a person filing a notice described under subparagraph (B) as a notice-registered digital asset clearing agency shall be effective upon publication by the Commission of such notice, which shall occur no later than 14 days after the date of such filing.

''(ii) INITIAL REGISTRATIONS.—

''(I) IN GENERAL.—A person registered as a notice-registered digital asset clearing agency before the date on which the Commission adopts rules under subparagraph (D) shall, after such rules are adopted, renew the person's registration pursuant to such rules.

''(II) EXCEPTION.—Notwithstanding subclause (I), a person registered as a notice-registered digital asset clearing agency before the end of the 2-year period beginning on the date of the enactment of this section shall have such registration remain in effect until the end of such 2-year period.

''(D) RULEMAKING.—The Commission may adopt rules, which may not take effect until at least 360 days following the date of enactment of this paragraph, with regard to the activities of notice-registered digital asset clearing agencies, taking into account the nature of restricted digital assets.''.

SEC. 411. TREATMENT OF CUSTODY ACTIVITIES BY BANKING INSTITUTIONS.

(a) TREATMENT OF CUSTODY ACTIVITIES.—The appropriate Federal banking agency (as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the National Credit Union Administration (in the case of a credit union), and the Securities and Exchange Commission may not require, or take supervisory action that would cause, a depository institution, national bank, Federal credit union, State credit union, or trust company, or any affiliate (as such term is defined under section 2 of the Bank Holding Company Act of 1956) thereof—

(1) to include assets held in custody or safekeeping, or the assets associated with a cryptographic key held in custody or safekeeping, as a liability on such institution's financial statement or balance sheet, except that cash held for a third party by such institution that is commingled with the general assets of such institution may be reflected as a liability on a financial statement or balance sheet;

(2) to hold additional regulatory capital against assets in custody or safekeeping, or the assets associated with a cryptographic key held in custody or safekeeping, except as necessary to mitigate against operational risks inherent with the custody or safekeeping services, as determined by—

(A) the appropriate Federal banking agency;

(B) the National Credit Union Administration (in the case of a credit union);

(C) a State bank supervisor (as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)); or

(D) a State credit union supervisor (as defined under section 6003 of the Anti-Money Laundering Act of 2020);

(3) to recognize a liability for any obligations related to activities or services performed for digital assets with respect to which such institution does not have beneficial ownership if that liability would exceed the expense recognized in the income statement as a result of the corresponding obligation.

(b) DEFINITIONS.—In this section:

(1) DEPOSITORY INSTITUTION.—The term ''depository institution'' has the meaning given that term under section 3 of the Federal Deposit Insurance Act.

(2) CREDIT UNION TERMS.—The terms ''Federal credit union'' and ''State credit union'' have the meaning given those terms, respectively, under section 101 of the Federal Credit Union Act.

SEC. 412. EFFECTIVE DATE; ADMINISTRATION.

Except as otherwise provided under this title, this title and the amendments made by this title shall take effect 360 days after the date of enactment of this Act, except that, to the extent a provision of this title requires a rulemaking, the provision shall take effect on the later of—

(1) 360 days after the date of enactment of this Act; or

(2) 60 days after the publication in the Federal Register of the final rule implementing the provision.

SEC. 413. DISCRETIONARY SURPLUS FUND.

(a) IN GENERAL.—The dollar amount specified under section 7(a)(3)(A) of the Federal Reserve Act (12 U.S.C. 289(a)(3)(A)) is reduced by $15,000,000.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 30, 2034.

TITLE V—REGISTRATION FOR DIGITAL ASSET INTERMEDIARIES AT THE COMMODITY FUTURES TRADING COMMISSION

SEC. 501. COMMISSION JURISDICTION OVER DIGITAL COMMODITY TRANSACTIONS.

(a) SAVINGS CLAUSE.—Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)) is amended by adding at the end the following:

''(J) Except as expressly provided in this Act, nothing in the Financial Innovation and Technology for the 21st Century Act shall affect or apply to, or be interpreted to affect or apply to—

''(i) any agreement, contract, or transaction that is subject to this Act as—

''(I) a contract of sale of a commodity for future delivery or an option on such a contract;

''(II) a swap;

''(III) a security futures product;

''(IV) an option authorized under section 4c of this Act;

''(V) an agreement, contract, or transaction described in subparagraph (C)(i) or (D)(i) of subsection (c)(2) of this section; or

''(VI) a leverage transaction authorized under section 19 of this Act; or

''(ii) the activities of any person with respect to any such an agreement, contract, or transaction.''.

(b) LIMITATION ON AUTHORITY OVER PERMITTED PAYMENT STABLECOINS.—Section 2(c)(1) of the Commodity Exchange Act (7 U.S.C. 2(c)(1)) is amended—

(1) in subparagraph (F), by striking ''or'' at the end;

(2) in subparagraph (G), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(H) permitted payment stablecoins.''.

(c) COMMISSION JURISDICTION OVER DIGITAL ASSET TRANSACTIONS.—Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) is amended—

(1) in subparagraph (D)—

(A) in clause (ii)—

(i) in subclause (I) by inserting ''(other than an agreement, contract, or transaction in a permitted payment stablecoin)'' after ''paragraph (1)'';

(ii) in subclause (III)—

(I) in the matter that precedes item (aa), by inserting ''of a commodity, other than a digital commodity or a permitted payment stablecoin,'' before ''that''; and

(II) in item (bb), by striking ''or'' at the end; and

(iii) by redesignating subclauses (IV) and (V) as subclauses (VI) and (VII) and inserting after subclause (III) the following:

''(IV) a contract of sale of a digital commodity or a permitted payment stablecoin that results in actual delivery, as the Commission shall by rule determine, within 2 days or such other period as the Commission may determine by rule or regulation based upon the typical commercial practice in cash or spot markets for the digital commodity involved;

''(V) a contract of sale of a digital commodity or a permitted payment stablecoin that—

''(aa) is executed with a registered digital commodity dealer—

''(AA) directly;

''(BB) through a registered digital commodity broker; or

''(CC) on or subject to the rules of a registered digital commodity exchange; and

''(bb) is not a contract of sale of—

''(AA) a digital commodity or a permitted payment stablecoin that references, represents an interest in, or is functionally equivalent to an agricultural commodity, an excluded commodity, or an exempt commodity, other than the digital commodity itself, as shall be further defined by the Commission; or

''(BB) a digital commodity or a permitted payment stablecoin to which the Commission determines, by rule or regulation, it is not in the public interest for this section to apply;''; and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following:

''(iv) The Commission shall adopt rules and regulations applicable to digital commodity dealers and digital commodity brokers in connection with the agreements, contracts or transactions in digital commodities or permitted payment stablecoins described in clause (ii)(V) of this subparagraph, which shall set forth minimum requirements related to disclosure, recordkeeping, margin and financing arrangements, capital, reporting, business conduct, documentation, and supervision of employees and agents. Except as prohibited in subparagraph (G)(iii), the Commission may also make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of,

or to accomplish any of the purposes of, this Act in connection with agreements, contracts, or transactions described in such clause (ii)(V), which may include, without limitation, requirements regarding registration with the Commission and membership in a registered futures association.''; and

(2) by adding at the end the following:

''(F) COMMISSION JURISDICTION WITH RESPECT TO DIGITAL COMMODITY TRANSACTIONS.—

''(i) IN GENERAL.—Subject to sections 6d and 12(e), the Commission shall have exclusive jurisdiction with respect to any account, agreement, contract, or transaction involving a contract of sale of a digital commodity in interstate commerce, including in a digital commodity cash or spot market, that is offered, solicited, traded, facilitated, executed, cleared, reported, or otherwise dealt in—

''(I) on or subject to the rules of a registered entity or an entity that is required to be registered as a registered entity; or

''(II) by any other entity registered, or required to be registered, with the Commission.

''(ii) LIMITATIONS.—Clause (i) shall not apply with respect to custodial or depository activities for a digital commodity, or custodial or depository activities for any promise or right to a future digital commodity, of an entity regulated by an appropriate Federal banking agency or a State bank supervisor (within the meaning of section 3 of the Federal Deposit Insurance Act).

''(iii) MIXED DIGITAL ASSET TRANSACTIONS.—

''(I) IN GENERAL.—Clause (i) shall not apply to a mixed digital asset transaction.

''(II) REPORTS ON MIXED DIGITAL ASSET TRANSACTIONS.—A digital asset issuer, related person, affiliated person, or other person registered with the Securities and Exchange Commission that engages in a mixed digital asset transaction, shall, on request, open to inspection and examination by the Commodity Futures Trading Commission all books and records relating to the mixed digital asset transaction, subject to the confidentiality and disclosure requirements of section 8.

''(G) AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN STABLECOINS.—

''(i) TREATMENT OF PERMITTED PAYMENT STABLECOINS ON COMMISSION-REGISTERED ENTITIES.—Subject to clauses (ii) and (iii), the Commission shall have jurisdiction over a cash or spot agreement, contract, or transaction in a permitted payment stablecoin that is offered, offered to enter into, entered into, executed, confirmed the execution of, solicited, or accepted—

''(I) on or subject to the rules of a registered entity; or

''(II) by any other entity registered with the Commission.

''(ii) PERMITTED PAYMENT STABLECOIN TRANSACTION RULES.—This Act shall apply to a transaction described in clause (i) only for the purpose of regulating the offer, execution, solicitation, or acceptance of a cash or spot permitted payment stablecoin transaction on a registered entity or by any other entity registered with the Commission, as if the permitted payment stablecoin were a digital commodity.

''(iii) NO AUTHORITY OVER PERMITTED PAYMENT STABLECOINS.—Notwithstanding clauses (i) and (ii), the Commission shall not make a rule or regulation, impose a requirement or obligation on a registered entity or other entity registered with the Commission, or impose a requirement or obligation on a permitted payment stablecoin issuer, regarding the operation of a permitted payment stablecoin issuer or a permitted payment stablecoin.''.

(d) CONFORMING AMENDMENT.—Section 2(a)(1)(A) of such Act (7 U.S.C. 2(a)(1)(A)) is amended in the 1st sentence by inserting ''subparagraphs (F) and (G) of subsection (c)(2) of this section or'' before ''section 19''.

SEC. 502. REQUIRING FUTURES COMMISSION MERCHANTS TO USE QUALIFIED DIGITAL COMMODITY CUSTODIANS.

Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended—

(1) in subsection (a)(2)—

(A) in the 1st proviso, by striking ''any bank or trust company'' and inserting ''any bank, trust company, or qualified digital commodity custodian''; and

(B) by inserting '': Provided further, That any such property that is a digital commodity shall be held in a qualified digital commodity custodian'' before the period at the end; and

(2) in subsection (f)(3)(A)(i), by striking ''any bank or trust company'' and inserting ''any bank, trust company, or qualified digital commodity custodian''.

SEC. 503. TRADING CERTIFICATION AND APPROVAL FOR DIGITAL COMMODITIES.

Section 5c of the Commodity Exchange Act (7 U.S.C. 7a–2) is amended—

(1) in subsection (a), by striking ''5(d) and 5b(c)(2)'' and inserting ''5(d), 5b(c)(2), and 5i(c)'';

(2) in subsection (b)—

(A) in each of paragraphs (1) and (2), by inserting ''digital commodity exchange,'' before ''derivatives''; and

(B) in paragraph (3), by inserting ''digital commodity exchange,'' before ''derivatives'' each place it appears;

(3) in subsection (c)—

(A) in paragraph (2), by inserting ''or participants'' before ''(in'';

(B) in paragraph (4)(B), by striking ''1a(10)'' and inserting ''1a(9)''; and

(C) in paragraph (5), by adding at the end the following:

''(D) SPECIAL RULES FOR DIGITAL COMMODITY CONTRACTS.—In certifying any new rule or rule amendment, or listing any new contract or instrument, in connection with a contract of sale of a commodity for future delivery, option, swap, or other agreement, contract, or transaction, that is based on or references a digital commodity, a registered entity shall make or rely on a certification under subsection (d) for the digital commodity.''; and

(4) by inserting after subsection (c) the following:

''(d) CERTIFICATIONS FOR DIGITAL COMMODITY TRADING.—

''(1) IN GENERAL.—Notwithstanding subsection (c), for the purposes of listing or offering a digital commodity for trading in a digital commodity cash or spot market, an eligible entity shall issue a written certification that the digital commodity meets the requirements of this Act (including the regulations prescribed under this Act).

''(2) CONTENTS OF THE CERTIFICATION.—

''(A) IN GENERAL.—In making a written certification under this paragraph, the eligible entity shall furnish to the Commission—

''(i) an analysis of how the digital commodity meets the requirements of section 5i(c)(3);

''(ii) information about the digital commodity regarding—

''(I) its purpose and use;

''(II) its unit creation or release process;

''(III) its consensus mechanism;

''(IV) its governance structure;

''(V) its participation and distribution; and

''(VI) its current and proposed functionality; and

''(iii) any other information, analysis, or documentation the Commission may, by rule, require.

''(B) RELIANCE ON PRIOR DISCLOSURES.—In making a certification under this subsection, an eligible entity may rely on the records and disclosures of any relevant person registered with the Securities and Exchange Commission or other State or Federal agency.

''(3) MODIFICATIONS.—

''(A) IN GENERAL.—An eligible entity shall modify a certification made under paragraph (1) to—

''(i) account for significant changes in any information provided to the Commission under paragraph (2)(A)(ii); or

''(ii) permit or restrict trading in units of a digital commodity held by a related person or an affiliated person.

''(B) RECERTIFICATION.—Modifications required by this subsection shall be subject to the same disapproval and review process as a new certification under paragraphs (4) and (5).

''(4) DISAPPROVAL.—

''(A) IN GENERAL.—The written certification described in paragraph (1) shall become effective unless the Commission finds that the digital asset does not meet the requirements of this Act or the rules and regulations thereunder.

''(B) ANALYSIS REQUIRED.—The Commission shall include, with any findings referred to in subparagraph (A), a detailed analysis of the factors on which the decision was based.

''(C) PUBLIC FINDINGS.—The Commission shall make public any disapproval decision, and any related findings and analysis, made under this paragraph.

''(5) REVIEW.—

''(A) IN GENERAL.—Unless the Commission makes a disapproval decision under paragraph (4), the written certification described in paragraph (1) shall become effective, pursuant to the certification by the eligible entity and notice of the certification to the public (in a manner determined by the Commission) on the date that is—

''(i) 20 business days after the date the Commission receives the certification (or such shorter period as determined by the Commission by rule or regulation), in the case of a digital commodity that has not been certified under this section or for which a certification is being modified under paragraph (3); or

''(ii) 2 business days after the date the Commission receives the certification (or such shorter period as determined by the Commission by rule or regulation) for any digital commodity that has been certified under this section.

''(B) EXTENSIONS.—The time for consideration under subparagraph (A) may be extended through notice to the eligible entity that there are novel or complex issues that require additional time to analyze, that the explanation by the submitting eligible entity is inadequate, or of a potential inconsistency with this Act—

''(i) once, for 30 business days, through written notice to the eligible entity by the Chairman; and

''(ii) once, for an additional 30 business days, through written notice to the digital commodity exchange from the Commission that includes a description of any deficiencies with the certification, including any—

''(I) novel or complex issues which require additional time to analyze;

''(II) missing information or inadequate explanations; or

''(III) potential inconsistencies with this Act.

''(6) CERTIFICATION REQUIRED.—Notwithstanding any other provision of this Act, a registered entity or other entity registered with the Commission shall not list for trading, accept for clearing, offer to enter into, enter into, execute, confirm the execution of, or conduct any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting, or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a digital commodity, unless a certification has been made under this section for the digital commodity.

''(7) PRIOR APPROVAL BEFORE REGISTRATION.—

''(A) IN GENERAL.—A person applying for registration with the Commission for the purposes of listing or offering a digital commodity for trading in a digital commodity cash or spot market may request that the Commission grant prior approval for the person to list or offer the digital commodity on being registered with the Commission.

''(B) REQUEST FOR PRIOR APPROVAL.—A person seeking prior approval under subparagraph (A) shall furnish the Commission with a written certification that the digital commodity meets

the requirements of this Act (including the regulations prescribed under this Act) and the information described in paragraph (2).

''(C) DEADLINE.—The Commission shall take final action on a request for prior approval not later than 90 business days after submission of the request, unless the person submitting the request agrees to an extension of the time limitation established under this subparagraph.

''(D) DISAPPROVAL.—

''(i) IN GENERAL.—The Commission shall approve a new contract or other instrument unless the Commission finds that the new contract or other instrument would violate this Act (including a regulations prescribed under this Act).

''(ii) ANALYSIS REQUIRED.—The Commission shall include, with any findings made under clause (i), a detailed analysis of the factors on which the decision is based.

''(iii) PUBLIC FINDINGS.—The Commission shall make public any disapproval decision, and any related findings and analysis, made under this paragraph.

''(8) ELIGIBLE ENTITY DEFINED.—In this subsection, the term 'eligible entity' means a registered entity or group of registered entities acting jointly.''.

SEC. 504. REGISTRATION OF DIGITAL COMMODITY EXCHANGES.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 5h the following:

''SEC. 5i. REGISTRATION OF DIGITAL COMMODITY EXCHANGES.

''(a) IN GENERAL.—

''(1) REGISTRATION.—

''(A) IN GENERAL.—A trading facility that offers or seeks to offer a cash or spot market in at least 1 digital commodity shall register with the Commission as a digital commodity exchange.

''(B) APPLICATION.—A person desiring to register as a digital commodity exchange shall submit to the Commission an application in such form and containing such information as the Commission may require for the purpose of making the determinations required for approval.

''(C) EXEMPTIONS.—A trading facility that offers or seeks to offer a cash or spot market in at least 1 digital commodity shall not be required to register under this section if the trading facility—

''(i) permits no more than a de minimis amount of trading activity in a digital commodity; or

''(ii) serves only customers in a single State or territory.

''(2) ADDITIONAL REGISTRATIONS.—

''(A) WITH THE COMMISSION.—

''(i) IN GENERAL.—A registered digital commodity exchange may also register as—

''(I) a designated contract market; or

''(II) a swap execution facility.

''(ii) RULES.—For an entity with multiple registrations under clause (i), the Commission—

''(I) shall prescribe rules to exempt the entity from duplicative, conflicting, or unduly burdensome provisions of this Act and the rules under this Act, to the extent such an exemption would foster the development of fair and orderly cash or spot markets in digital commodities, be necessary or appropriate in the public interest, and be consistent with the protection of customers; and

''(II) may, after an analysis of the risks and benefits, prescribe rules to provide for portfolio margining, as may be necessary to protect market participants, promote fair and equitable trading in digital commodity markets, and promote responsible economic or financial innovation.

''(B) WITH THE SECURITIES AND EXCHANGE COMMISSION.—A registered digital commodity exchange may register with the Securities and Exchange Commission as a digital asset trading system to list or trade contracts of sale for restricted digital assets.

''(C) WITH A REGISTERED FUTURES ASSOCIATION.—

''(i) IN GENERAL.—A registered digital commodity exchange shall also be a member of a registered futures association and comply with rules related to such activity, if the registered digital commodity exchange accepts customer funds required to be segregated under subsection (d).

''(ii) RULEMAKING REQUIRED.—The Commission shall require any registered futures association with a digital commodity exchange as a member to provide such rules as may be necessary to further compliance with subsection (d), protect customers, and promote the public interest.

''(D) REGISTRATION REQUIRED.—A person required to be registered as a digital commodity exchange under this section shall register with the Commission as such regardless of whether the person is registered with another State or Federal regulator.

''(b) TRADING.—

''(1) PROHIBITION ON CERTAIN TRADING PRACTICES.—

''(A) Section 4b shall apply to any agreement, contract, or transaction in a digital commodity as if the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.

''(B) Section 4c shall apply to any agreement, contract, or transaction in a digital commodity as if the agreement, contract, or transaction were a transaction involving the purchase or sale of a commodity for future delivery.

''(C) Section 4b-1 shall apply to any agreement, contract, or transaction in a digital commodity as if the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.

''(2) PROHIBITION ON ACTING AS A COUNTERPARTY.—

''(A) IN GENERAL.—A digital commodity exchange or any affiliate of such an exchange shall not trade on or subject to the rules of the digital commodity exchange for its own account.

''(B) EXCEPTIONS.—The Commission shall, by rule, permit a digital commodity exchange or any affiliate of a digital commodity exchange to engage in trading on an affiliated exchange so long as the trading is not solely for the purpose of the profit of the exchange, including the following:

''(i) CUSTOMER DIRECTION.—A transaction for, or entered into at the direction of, or for the benefit of, an unaffiliated customer.

''(ii) RISK MANAGEMENT.—A transaction to manage the risks associated with the digital commodity business of the exchange.

''(iii) FUNCTIONAL USE.—A transaction related to the functional operation of a blockchain network.

''(C) NOTICE REQUIREMENT.—In order for a digital commodity exchange or any affiliate of a digital commodity exchange to engage in trading on the affiliated exchange pursuant to subsection (B), notice must be given to the Commission that shall enumerate how any proposed activity is consistent with the exceptions in subsection (B) and the principles of the Act.

''(D) DELEGATION.—The Commission may, by rule, delegate authority to the Director of the Division of Market Oversight, or such other employee or employees as the Director of the Division of Market Oversight may designate from time to time, to carry out these provisions.

''(3) TRADING SECURITIES.—A registered digital commodity exchange that is also registered with the Securities and Exchange Commission may offer a contract of sale of a restricted digital asset.

''(4) RULES FOR CERTAIN DIGITAL ASSET SALES.—The digital commodity exchange shall have in place such rules as may be necessary to reasonably ensure the orderly sale of any unit of a digital commodity sold by a related person or an affiliated person.

''(c) CORE PRINCIPLES FOR DIGITAL COMMODITY EXCHANGES.—

''(1) COMPLIANCE WITH CORE PRINCIPLES.—

''(A) IN GENERAL.—To be registered, and maintain registration, as a digital commodity exchange, a digital commodity exchange shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(B) REASONABLE DISCRETION OF A DIGITAL COMMODITY EXCHANGE.—Unless otherwise determined by the Commission by rule or regulation, a digital commodity exchange described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the digital commodity exchange complies with the core principles described in this subsection.

''(2) COMPLIANCE WITH RULES.—A digital commodity exchange shall—

''(A) establish and enforce compliance with any rule of the digital commodity exchange, including—

''(i) the terms and conditions of the trades traded or processed on or through the digital commodity exchange; and

''(ii) any limitation on access to the digital commodity exchange;

''(B) establish and enforce trading, trade processing, and participation rules that will deter abuses and have the capacity to detect, investigate, and enforce those rules, including means—

''(i) to provide market participants with impartial access to the market; and

''(ii) to capture information that may be used in establishing whether rule violations have occurred; and

''(C) establish rules governing the operation of the exchange, including rules specifying trading procedures to be used in entering and executing orders traded or posted on the facility.

''(3) LISTING STANDARDS FOR DIGITAL COMMODITIES.—

''(A) IN GENERAL.—A digital commodity exchange shall permit trading only in a digital commodity that is not readily susceptible to manipulation.

''(B) PUBLIC INFORMATION REQUIREMENTS.—

''(i) IN GENERAL.—A digital commodity exchange shall permit trading only in a digital commodity if the information required in clause (ii) is correct, current, and available to the public.

''(ii) REQUIRED INFORMATION.— With respect to a digital commodity and each blockchain system to which the digital commodity relates for which the digital commodity exchange will make the digital commodity available to the customers of the digital commodity exchange, the information required in this clause is as follows:

''(I) SOURCE CODE.—The source code for any blockchain system to which the digital commodity relates.

''(II) TRANSACTION HISTORY.—A narrative description of the steps necessary to independently access, search, and verify the transaction history of any blockchain system to which the digital commodity relates.

''(III) DIGITAL ASSET ECONOMICS.—A narrative description of the purpose of any blockchain system to which the digital asset relates and the operation of any such blockchain system, including—

''(aa) information explaining the launch and supply process, including the number of digital assets to be issued in an initial allocation, the total number of digital assets to be created, the release schedule for the digital assets, and the total number of digital assets then outstanding;

''(bb) information detailing any applicable consensus mechanism or process for validating transactions, method of generating or mining digital assets, and any process for burning or destroying digital assets on the blockchain system;

''(cc) an explanation of governance mechanisms for implementing changes to the blockchain system or forming consensus among holders of the digital assets; and

''(dd) sufficient information for a third party to create a tool for verifying the transaction history of the digital asset.

''(IV) TRADING VOLUME AND VOLATILITY.—The trading volume and volatility of the digital commodity.

''(V) ADDITIONAL INFORMATION.—Such additional information as the Commission may, by rule, determine to be necessary for a customer to understand the financial and operational risks of a digital commodity, and to be in the public interest or in furtherance of the requirements of this Act.

''(iii) FORMAT.—The Commission shall prescribe rules and regulations for the standardization and simplification of disclosures under clause (ii), including requiring that disclosures—

''(I) be conspicuous;

''(II) use plain language comprehensible to customers; and

''(III) succinctly explain the information that is required to be communicated to the customer.

''(C) ADDITIONAL LISTING CONSIDERATIONS.—In addition to the requirements of subparagraphs (A) and (B), a digital commodity exchange shall consider—

''(i) if a sufficient percentage of the units of the digital asset are units of a digital commodity to permit robust price discovery;

''(ii) if it is reasonably unlikely that the transaction history can be fraudulently altered by any person or group of persons acting collectively;

''(iii) if the operating structure and system of the digital commodity is secure from cybersecurity threats;

''(iv) if the functionality of the digital commodity will protect holders from operational failures;

''(v) if sufficient public information about the operation, functionality, and use of the digital commodity is available; and

''(vi) any other factor which the Commission has, by rule, determined to be in the public interest or in furtherance of the requirements of this Act.

''(D) RESTRICTED DIGITAL ASSETS.—A digital commodity exchange shall not permit the trading of a unit of a digital asset that is a restricted digital asset.

''(4) TREATMENT OF CUSTOMER ASSETS.—A digital commodity exchange shall establish standards and procedures that are designed to protect and ensure the safety of customer money, assets, and property.

''(5) MONITORING OF TRADING AND TRADE PROCESSING.—

''(A) IN GENERAL.—A digital commodity exchange shall provide a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading on the exchange.

''(B) PROTECTION OF MARKETS AND MARKET PARTICIPANTS.—A digital commodity exchange shall establish and enforce rules—

''(i) to protect markets and market participants from abusive practices committed by any party, including abusive practices committed by a party acting as an agent for a participant; and

''(ii) to promote fair and equitable trading on the exchange.

''(C) TRADING PROCEDURES.—A digital commodity exchange shall—

''(i) establish and enforce rules or terms and conditions defining, or specifications detailing—

''(I) trading procedures to be used in entering and executing orders traded on or through the facilities of the digital commodity exchange; and

''(II) procedures for trade processing of digital commodities on or through the facilities of the digital commodity exchange; and

''(ii) monitor trading in digital commodities to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

''(6) ABILITY TO OBTAIN INFORMATION.—A digital commodity exchange shall—

''(A) establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this section;

''(B) provide the information to the Commission on request; and

''(C) have the capacity to carry out such international information-sharing agreements as the Commission may require.

''(7) EMERGENCY AUTHORITY.—A digital commodity exchange shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission or a registered entity, as is necessary and appropriate, including the authority to facilitate the liquidation or transfer of open positions in any digital commodity or to suspend or curtail trading in a digital commodity.

''(8) TIMELY PUBLICATION OF TRADING INFORMATION.—

''(A) IN GENERAL.—A digital commodity exchange shall make public timely information on price, trading volume, and other trading data on digital commodities to the extent prescribed by the Commission.

''(B) CAPACITY OF DIGITAL COMMODITY EXCHANGE.—A digital commodity exchange shall have the capacity to electronically capture and transmit trade information with respect to transactions executed on the exchange.

''(9) RECORDKEEPING AND REPORTING.—

''(A) IN GENERAL.—A digital commodity exchange shall—

''(i) maintain records of all activities relating to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of 5 years;

''(ii) report to the Commission, in a form and manner acceptable to the Commission, such information as the Commission determines to be necessary or appropriate for the Commission to perform the duties of the Commission under this Act; and

''(iii) keep any such records of digital commodities which relate to a security open to inspection and examination by the Securities and Exchange Commission.

''(B) INFORMATION-SHARING.—Subject to section 8, and on request, the Commission shall share information collected under subparagraph (A) with—

''(i) the Board;

''(ii) the Securities and Exchange Commission;

''(iii) each appropriate Federal banking agency;

''(iv) each appropriate State bank supervisor (within the meaning of section 3 of the Federal Deposit Insurance Act);

''(v) the Financial Stability Oversight Council;

''(vi) the Department of Justice; and

''(vii) any other person that the Commission determines to be appropriate, including—

''(I) foreign financial supervisors (including foreign futures authorities);

''(II) foreign central banks; and

''(III) foreign ministries.

''(C) CONFIDENTIALITY AGREEMENT.—Before the Commission may share information with any entity described in subparagraph (B), the Commission shall receive a written agreement from the entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on digital commodities that is provided.

''(D) PROVIDING INFORMATION.—A digital commodity exchange shall provide to the Commission (including any designee of the Commission) information under subparagraph (A) in such form and at such frequency as is required by the Commission.

''(10) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, a digital commodity exchange shall not—

''(A) adopt any rules or take any actions that result in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading.

''(11) CONFLICTS OF INTEREST.—A registered digital commodity exchange shall implement conflict-of-interest systems and procedures that—

''(A) establish structural and institutional safeguards—

''(i) to minimize conflicts of interest that might potentially bias the judgment or supervision of the digital commodity exchange and contravene the principles of fair and equitable trading and the business conduct standards described in this Act, including conflicts arising out of transactions or arrangements with affiliates (including affiliates engaging in digital commodity activities) or between self-regulatory obligations and commercial interests, which may include information partitions, restrictions on employees and directors, and the legal separation of different persons or entities involved in digital commodity activities; and

''(ii) to ensure that the activities of any person within the digital commodity exchange or any affiliated entity relating to research or analysis of the price or market for any digital commodity or acting in a role of providing dealing, brokering, or advising activities are separated by appropriate informational partitions within the digital commodity exchange or any affiliated entity from the review, pressure, or oversight of persons whose involvement in pricing, trading, exchange, or clearing activities might potentially bias their judgment or supervision and contravene the core principles of open access and the business conduct standards described in this Act; and

''(B) address such other issues as the Commission determines to be appropriate.

''(12) FINANCIAL RESOURCES.—

''(A) IN GENERAL.—A digital commodity exchange shall have adequate financial, operational, and managerial resources, as determined by the Commission, to discharge each responsibility of the digital commodity exchange.

''(B) MINIMUM AMOUNT OF FINANCIAL RESOURCES.—A digital commodity exchange shall possess financial resources that, at a minimum, exceed the greater of—

''(i) the total amount that would enable the digital commodity exchange to conduct an orderly wind-down of its activities or

''(ii) the total amount that would enable the digital commodity exchange to cover the operating costs of the digital commodity exchange for a 1-year period, as calculated on a rolling basis.

''(13) DISCIPLINARY PROCEDURES.—A digital commodity exchange shall establish and enforce disciplinary procedures that authorize the digital commodity exchange to discipline, suspend, or expel members or market participants that violate the rules of the digital commodity exchange, or similar methods for performing the same functions, including delegation of the functions to third parties.

''(14) GOVERNANCE FITNESS STANDARDS.—

''(A) GOVERNANCE ARRANGEMENTS.—A digital commodity exchange shall establish governance arrangements that are transparent to fulfill public interest requirements.

''(B) FITNESS STANDARDS.—A digital commodity exchange shall establish and enforce appropriate fitness standards for—

''(i) directors; and

''(ii) any individual or entity with direct access to, or control of, customer assets.

''(15) SYSTEM SAFEGUARDS.—A digital commodity exchange shall—

''(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational and security risks, through the development of appropriate controls and procedures, and automated systems, that—

''(i) are reliable and secure; and
''(ii) have adequate scalable capacity;
''(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allow for—
''(i) the timely recovery and resumption of operations; and
''(ii) the fulfillment of the responsibilities and obligations of the digital commodity exchange; and
''(C) periodically conduct tests to verify that the backup resources of the digital commodity exchange are sufficient to ensure continued—
''(i) order processing and trade matching;
''(ii) price reporting;
''(iii) market surveillance; and
''(iv) maintenance of a comprehensive and accurate audit trail.
''(d) HOLDING OF CUSTOMER ASSETS.—
''(1) IN GENERAL.—A digital commodity exchange shall hold customer money, assets, and property in a manner to minimize the risk of loss to the customer or unreasonable delay in the access to the money, assets, and property of the customer.
''(A) SEGREGATION OF FUNDS.—
''(i) IN GENERAL.—A digital commodity exchange shall treat and deal with all money, assets, and property that is received by the digital commodity exchange, or accrues to a customer as the result of trading in digital commodities, as belonging to the customer.
''(ii) COMMINGLING PROHIBITED.—Money, assets, and property of a customer described in clause (i) shall be separately accounted for and shall not be commingled with the funds of the digital commodity exchange or be used to margin, secure, or guarantee any trades or accounts of any customer or person other than the person for whom the same are held.
''(B) EXCEPTIONS.—
''(i) USE OF FUNDS.—
''(I) IN GENERAL.—Notwithstanding subparagraph (A), money, assets, and property of customers of a digital commodity exchange described in subparagraph (A) may, for convenience, be commingled and deposited in the same account or accounts with any bank, trust company, derivatives clearing organization, or qualified digital commodity custodian.
''(II) WITHDRAWAL.—Notwithstanding subparagraph (A), such share of the money, assets, and property described in item (aa) as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle a contract of sale of a digital commodity with a registered entity may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with the contract of sale of a digital commodity.
''(ii) COMMISSION ACTION.—Notwithstanding subparagraph (A), in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, any money, assets, or property of the customers of a digital commodity exchange described in subparagraph (A) may be commingled and deposited in customer accounts with any other money, assets, or property received by the digital commodity exchange and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customer of the digital commodity exchange.
''(2) PERMITTED INVESTMENTS.—Money described in subparagraph (A) may be invested in obligations of the United States, in general obligations of any State or of any political subdivision of a State, and in obligations fully guaranteed as to principal and interest by the United States, or in any other investment that the Commission may by rule or regulation prescribe, and such investments shall be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.
''(3) CUSTOMER PROTECTION DURING BANKRUPTCY.—
''(A) CUSTOMER PROPERTY.—All assets held on behalf of a customer by a digital commodity exchange, and all money, assets, and property of any customer received by a digital commodity exchange for trading or custody, or to facilitate, margin, guarantee, or secure contracts of sale of a digital commodity (including money, assets, or property accruing to the customer as the result of the transactions), shall be considered customer property for purposes of section 761 of title 11, United States Code.
''(B) TRANSACTIONS.—A transaction involving a unit of a digital commodity occurring on or subject to the rules of a digital commodity exchange shall be considered a 'contract for the purchase or sale of a commodity for future delivery, on or subject to the rules of, a contract market or board of trade' for the purposes of the definition of a 'commodity contract' in section 761 of title 11, United States Code.
''(C) EXCHANGES.—A digital commodity exchange shall be considered a futures commission merchant for purposes of section 761 of title 11, United States Code.
''(D) ASSETS REMOVED FROM SEGREGATION.—Assets removed from segregation due to a customer election under paragraph (5) shall not be considered customer property for purposes of section 761 of title 11, United States Code.
''(4) MISUSE OF CUSTOMER PROPERTY.—
''(A) IN GENERAL.—It shall be unlawful—
''(i) for any digital commodity exchange that has received any customer money, assets, or property for custody to dispose of, or use any such money, assets, or property as belonging to the digital commodity exchange or any person other than a customer of the digital commodity exchange; or
''(ii) for any other person, including any depository, other digital commodity exchange, or digital commodity custodian that has received any customer money, assets, or property for deposit, to hold, dispose of, or use any such money, assets, or property, or property, as belonging to the depositing digital commodity exchange or any person other than the customers of the digital commodity exchange.
''(B) USE FURTHER DEFINED.—For purposes of this section, 'use' of a digital commodity includes utilizing any unit of a digital asset to participate in a blockchain service defined in paragraph (5) or a decentralized governance system associated with the digital commodity or the blockchain system to which the digital commodity relates in any manner other than that expressly directed by the customer from whom the unit of a digital commodity was received.
''(5) PARTICIPATION IN BLOCKCHAIN SERVICES.—
''(A) IN GENERAL.—A customer shall have the right to waive the restrictions in paragraph (1) for any unit of a digital commodity to be used under subparagraph (B), by affirmatively electing, in writing to the digital commodity exchange, to waive the restrictions.
''(B) USE OF FUNDS.—Customer digital commodities removed from segregation under subparagraph (A) may be pooled and used by the digital commodity exchange or its designee to provide a blockchain service for a blockchain system to which the unit of the digital asset removed from segregation in subparagraph (A) relates.
''(C) LIMITATIONS.—
''(i) IN GENERAL.—The Commission may, by rule, establish notice and disclosure requirements, and any other limitations and rules related to the waiving of any restrictions under this paragraph that are reasonably necessary to protect customers, including eligible contract participants, non-eligible contract participants, or any other class of customers.
''(ii) CUSTOMER CHOICE.—A digital commodity exchange may not require a waiver from a customer described in subparagraph (A) as a condition of doing business on the exchange.
''(D) BLOCKCHAIN SERVICE DEFINED.—In this subparagraph, the term 'blockchain service' means any activity relating to validating transactions on a blockchain system, providing security for a blockchain system, or other similar activity required for the ongoing operation of a blockchain system.
''(e) MARKET ACCESS REQUIREMENTS.—
''(1) IN GENERAL.—A digital commodity exchange shall require any person who is not an eligible contract participant to access trading on the exchange through a digital commodity broker.
''(2) AFFILIATED COMMODITY BROKERS.—A registered digital commodity exchange may permit an affiliated digital commodity broker to facilitate access to the digital commodity exchange.
''(3) DIRECT ACCESS FOR ELIGIBLE CONTRACT PARTICIPANTS.—Nothing in this section shall prohibit a digital commodity exchange in compliance with this section from permitting direct access for eligible contract participants.
''(4) ADDITIONAL REQUIREMENTS.—The Commission may, by rule, impose any additional requirements related to the operations and activities of the digital commodity exchange and an affiliated digital commodity broker necessary to protect market participants, promote fair and equitable trading on the digital commodity exchange, and promote responsible economic or financial innovation.
''(f) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—
''(1) IN GENERAL.—A digital commodity exchange shall designate an individual to serve as a chief compliance officer.
''(2) DUTIES.—The chief compliance officer shall—
''(A) report directly to the board or to the senior officer of the exchange;
''(B) review compliance with the core principles in this subsection;
''(C) in consultation with the board of the exchange, a body performing a function similar to that of a board, or the senior officer of the exchange, resolve any conflicts of interest that may arise;
''(D) establish and administer the policies and procedures required to be established pursuant to this section;
''(E) ensure compliance with this Act and the rules and regulations issued under this Act, including rules prescribed by the Commission pursuant to this section; and
''(F) establish procedures for the remediation of noncompliance issues found during compliance office reviews, look backs, internal or external audit findings, self-reported errors, or through validated complaints.
''(3) REQUIREMENTS FOR PROCEDURES.—In establishing procedures under paragraph (2)(F), the chief compliance officer shall design the procedures to establish the handling, management response, remediation, retesting, and closing of noncompliance issues.
''(4) ANNUAL REPORTS.—
''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—
''(i) the compliance of the digital commodity exchange with this Act; and
''(ii) the policies and procedures, including the code of ethics and conflict of interest policies, of the digital commodity exchange.
''(B) REQUIREMENTS.—The chief compliance officer shall—
''(i) submit each report described in subparagraph (A) with the appropriate financial report of the digital commodity exchange that is required to be submitted to the Commission pursuant to this section; and
''(ii) include in the report a certification that, under penalty of law, the report is accurate and complete.
''(g) APPOINTMENT OF TRUSTEE.—
''(1) IN GENERAL.—If a proceeding under section 5e results in the suspension or revocation of the registration of a digital commodity exchange, or if a digital commodity exchange

withdraws from registration, the Commission, on notice to the digital commodity exchange, may apply to the appropriate United States district court where the digital commodity exchange is located for the appointment of a trustee.

''(2) ASSUMPTION OF JURISDICTION.—If the Commission applies for appointment of a trustee under paragraph (1)—

''(A) the court may take exclusive jurisdiction over the digital commodity exchange and the records and assets of the digital commodity exchange, wherever located; and

''(B) if the court takes jurisdiction under subparagraph (A), the court shall appoint the Commission, or a person designated by the Commission, as trustee with power to take possession and continue to operate or terminate the operations of the digital commodity exchange in an orderly manner for the protection of customers subject to such terms and conditions as the court may prescribe.

''(h) QUALIFIED DIGITAL COMMODITY CUSTODIAN.—A digital commodity exchange shall hold in a qualified digital commodity custodian each unit of a digital commodity that is—

''(1) the property of a customer of the digital commodity exchange;

''(2) required to be held by the digital commodity exchange under subsection (c)(12) of this section; or

''(3) otherwise so required by the Commission to reasonably protect customers or promote the public interest.

''(i) EXEMPTIONS.—

''(1) In order to promote responsible economic or financial innovation and fair competition, or protect customers, the Commission may (on its own initiative or on application of the registered digital commodity exchange) exempt, either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, a registered digital commodity exchange from the requirements of this section, if the Commission determines that—

''(A) the exemption would be consistent with the public interest and the purposes of this Act; and

''(B) the exemption will not have a material adverse effect on the ability of the Commission or the digital commodity exchange to discharge regulatory or self-regulatory duties under this Act.

''(2) The Commission may exempt, conditionally or unconditionally, a digital commodity exchange from registration under this section if the Commission finds that the digital commodity exchange is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the appropriate governmental authorities in the home country of the facility.

''(j) CUSTOMER DEFINED.—In this section, the term 'customer' means any person that maintains an account for the trading of digital commodities directly with a digital commodity exchange (other than a person that is owned or controlled, directly or indirectly, by the digital commodity exchange) for its own behalf or on behalf of any other person.

''(k) FEDERAL PREEMPTION.—Notwithstanding any other provision of law, the Commission shall have exclusive jurisdiction over any digital commodity exchange registered under this section.

''(l) TREATMENT UNDER THE BANK SECRECY ACT.—A digital commodity exchange shall be treated as a financial institution for purposes of the Bank Secrecy Act.

''(m) WITHDRAWAL OF CERTIFICATION OF A BLOCKCHAIN SYSTEM.—

''(1) IN GENERAL.—

''(A) DETERMINATION BY A DIGITAL COMMODITY EXCHANGE.—With respect to a certification of a blockchain system that becomes effective pursuant to section 44(f) of the Securities Exchange Act of 1934, if a digital commodity exchange determines that the blockchain system may not be a decentralized system, the digital commodity exchange shall notify the Commission of such determination.

''(B) WITHDRAWAL PROCESS.—With respect to each notification received under subparagraph (A), the Commission shall initiate a withdrawal process under which the Commission shall—

''(i) publish a notice announcing the proposed withdrawal;

''(ii) provide a 30 day comment period with respect to the proposed withdrawal; and

''(iii) after the end of the 30-day comment required under clause (ii), publish either—

''(I) a notification of withdrawal of the applicable certification; or

''(II) a notice that the Commission is not withdrawing the certification.

''(C) DETAILED ANALYSIS REQUIRED.—The Commission shall include, with each publication of a notification of withdrawal described under subparagraph (B)(iii)(I), a detailed analysis of the factors on which the decision was based.

''(2) RECERTIFICATION.—With respect to a blockchain system for which a certification has been withdrawn under this subsection, no person may make a certification under section 44(a) of the Securities Exchange Act of 1934 with respect to such blockchain system during the 90-day period beginning on the date of such withdrawal.

''(3) APPEAL OF WITHDRAWAL.—

''(A) IN GENERAL.—If a certification is withdrawn under this subsection, a person making may appeal the decision to the United States Court of Appeals for the District of Columbia, not later than 60 days after the notice of withdrawal is made.

''(B) REVIEW.—In an appeal under subparagraph (A), the court shall have de novo review of the determination to withdraw the certification.''.

SEC. 505. QUALIFIED DIGITAL COMMODITY CUSTODIANS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.), as amended by the preceding provisions of this Act, is amended by inserting after section 5i the following:

''SEC. 5j. QUALIFIED DIGITAL COMMODITY CUSTODIANS.

''(a) IN GENERAL.—A digital commodity custodian is a qualified digital commodity custodian if the digital commodity custodian complies with the requirements of this section.

''(b) SUPERVISION REQUIREMENT.—A digital commodity custodian that is not subject to supervision and examination by an appropriate Federal banking agency, the National Credit Union Administration, the Commission, or the Securities and Exchange Commission shall be subject to adequate supervision and appropriate regulation by—

''(1) a State bank supervisor (within the meaning of section 3 of the Federal Deposit Insurance Act);

''(2) a State credit union supervisor, as defined under section 6003 of the Anti-Money Laundering Act of 2020; or

''(3) an appropriate foreign governmental authority in the home country of the digital commodity custodian.

''(c) OTHER REQUIREMENTS.—

''(1) NOT OTHERWISE PROHIBITED.—The digital commodity custodian has not been prohibited by a supervisor of the digital commodity custodian from engaging in an activity with respect to the custody and safekeeping of digital commodities.

''(2) INFORMATION SHARING.—

''(A) IN GENERAL.—A digital commodity custodian shall share information with the Commission on request and comply with such requirements for periodic sharing of information regarding customer accounts that the digital commodity custodian holds on behalf of an entity registered with the Commission as the Commission determines by rule are reasonably necessary to effectuate any of the provisions, or to accomplish any of the purposes, of this Act.

''(B) PROVISION OF INFORMATION.—Any entity that is subject to regulation and examination by an appropriate Federal banking agency may satisfy any information request described in subparagraph (A) by providing the Commission with a detailed listing, in writing, of the digital commodities of a customer within the custody or use of the entity.

''(d) ADEQUATE SUPERVISION AND APPROPRIATE REGULATION.—

''(1) IN GENERAL.—For purposes of subsection (b), the terms 'adequate supervision' and 'appropriate regulation' mean such minimum standards for supervision and regulation as are reasonably necessary to protect the digital commodities of customers of an entity registered with the Commission, including standards relating to the licensing, examination, and supervisory processes that require the digital commodity custodian to, at a minimum—

''(A) receive a review and evaluation of ownership, character and fitness, conflicts of interest, business model, financial statements, funding resources, and policies and procedures of the digital commodity custodian;

''(B) hold capital sufficient for the financial integrity of the digital commodity custodian;

''(C) protect customer assets;

''(D) establish and maintain books and records regarding the business of the digital commodity custodian;

''(E) submit financial statements and audited financial statements to the applicable supervisor described in subsection (b);

''(F) provide disclosures to the applicable supervisor described in subsection (b) regarding actions, proceedings, and other items as determined by the supervisor;

''(G) maintain and enforce policies and procedures for compliance with applicable State and Federal laws, including those related to anti-money laundering and cybersecurity;

''(H) establish a business continuity plan to ensure functionality in cases of disruption; and

''(I) establish policies and procedures to resolve complaints.

''(2) RULEMAKING WITH RESPECT TO DEFINITIONS.—

''(A) IN GENERAL.—For purposes of this section, the Commission may, by rule, further define the terms 'adequate supervision' and 'appropriate regulation' as necessary in the public interest, as appropriate for the protection of investors, and consistent with the purposes of this Act.

''(B) CONDITIONAL TREATMENT OF CERTAIN CUSTODIANS BEFORE RULEMAKING.—Before the effective date of a rulemaking under subparagraph (A), a trust company is deemed subject to adequate supervision and appropriate regulation if—

''(i) the trust company is expressly permitted by a State bank supervisor to engage in the custody and safekeeping of digital commodities;

''(ii) the State bank supervisor has established licensing, examination, and supervisory processes that require the trust company to, at a minimum, meet the conditions described in subparagraphs (A) through (I) of paragraph (1); and

''(iii) the trust company is in good standing with its State bank supervisor.

''(C) TRANSITION PERIOD FOR CERTAIN CUSTODIANS.—In implementing the rulemaking under subparagraph (A), the Commission shall provide a transition period of not less than 2 years for any trust company that is deemed subject to adequate supervision and appropriate regulation under subparagraph (B) on the effective date of the rulemaking.

''(e) AUTHORITY TO TEMPORARILY SUSPEND STANDARDS.—The Commission may, by rule or order, temporarily suspend, in whole or in part, any requirement imposed under, or any standard referred to in, this section if the Commission determines that the suspension would be consistent with the public interest and the purposes of this Act.''.

SEC. 506. REGISTRATION AND REGULATION OF DIGITAL COMMODITY BROKERS AND DEALERS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.), as amended by the preceding provisions of

this Act, is amended by inserting after section 4t the following:

"SEC. 4u. REGISTRATION AND REGULATION OF DIGITAL COMMODITY BROKERS AND DEALERS.

"(a) REGISTRATION.—It shall be unlawful for any person to act as a digital commodity broker or digital commodity dealer unless the person is registered as such with the Commission.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—A person shall register as a digital commodity broker or digital commodity dealer by filing a registration application with the Commission.

"(2) CONTENTS.—

"(A) IN GENERAL.—The application shall be made in such form and manner as is prescribed by the Commission, and shall contain such information as the Commission considers necessary concerning the business in which the applicant is or will be engaged.

"(B) CONTINUAL REPORTING.—A person that is registered as a digital commodity broker or digital commodity dealer shall continue to submit to the Commission reports that contain such information pertaining to the business of the person as the Commission may require.

"(3) STATUTORY DISQUALIFICATION.—Except to the extent otherwise specifically provided by rule, regulation, or order, it shall be unlawful for a digital commodity broker or digital commodity dealer to permit any person who is associated with a digital commodity broker or a digital commodity dealer and who is subject to a statutory disqualification to effect or be involved in effecting a contract of sale of a digital commodity on behalf of the digital commodity broker or the digital commodity dealer, respectively, if the digital commodity broker or digital commodity dealer, respectively, knew, or in the exercise of reasonable care should have known, of the statutory disqualification.

"(4) LIMITATIONS ON CERTAIN ASSETS.—A digital commodity broker or digital commodity dealer shall not offer, offer to enter into, enter into, or facilitate any contract of sale of a digital commodity that has not been certified under section 5c(d).

"(c) ADDITIONAL REGISTRATIONS.—

"(1) WITH THE COMMISSION.—Any person required to be registered as a digital commodity broker or digital commodity dealer may also be registered as a futures commission merchant, introducing broker, or swap dealer.

"(2) WITH THE SECURITIES AND EXCHANGE COMMISSION.—Any person required to be registered as a digital commodity broker or digital commodity dealer under this section may register with the Securities and Exchange Commission as a digital asset broker or digital asset dealer, pursuant to section 15(b) of the Securities Exchange Act of 1934.

"(3) WITH MEMBERSHIP IN A REGISTERED FUTURES ASSOCIATION.—Any person required to be registered as a digital commodity broker or digital commodity dealer under this section shall be a member of a registered futures association.

"(4) REGISTRATION REQUIRED.—Any person required to be registered as a digital commodity broker or digital commodity dealer under this section shall register with the Commission as such regardless of whether the person is registered with another State or Federal regulator.

"(d) RULEMAKING.—

"(1) IN GENERAL.—The Commission shall prescribe such rules applicable to registered digital commodity brokers and registered digital commodity dealers as are appropriate to carry out this section, including rules in the public interest that limit the activities of digital commodity brokers and digital commodity dealers.

"(2) MULTIPLE REGISTRANTS.—The Commission shall prescribe rules or regulations permitting, or may otherwise authorize, exemptions or additional requirements applicable to persons with multiple registrations under this Act, including as futures commission merchants, introducing brokers, digital commodity brokers, digital commodity dealers, or swap dealers, as may be in the public interest to reduce compliance costs and promote customer protection.

"(e) CAPITAL REQUIREMENTS.—

"(1) IN GENERAL.—Each digital commodity broker and digital commodity dealer shall meet such minimum capital requirements as the Commission may prescribe to address the risks associated with digital commodity trading and to ensure that the digital commodity broker or digital commodity dealer, respectively, is able to—

"(A) meet, and continue to meet, at all times, the obligations of such a registrant; and

"(B) in the case of a digital commodity dealer, fulfill the counterparty obligations of the digital commodity dealer for any margined, leveraged, or financed transactions.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall limit, or be construed to limit, the authority of the Securities and Exchange Commission to set financial responsibility rules for a broker or dealer registered pursuant to section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) (except for section 15(b)(11) of such Act (15 U.S.C. 78o(b)(11)) in accordance with section 15(c)(3) of such Act (15 U.S.C. 78o(c)(3)).

"(3) FUTURES COMMISSION MERCHANTS AND OTHER DEALERS.—Each futures commission merchant, introducing broker, digital commodity broker, digital commodity dealer, broker, and dealer shall maintain sufficient capital to comply with the stricter of any applicable capital requirements to which the futures commission merchant, introducing broker, digital commodity broker, digital commodity dealer, broker, or dealer, respectively, is subject under this Act or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

"(f) REPORTING AND RECORDKEEPING.—Each digital commodity broker and digital commodity dealer—

"(1) shall make such reports as are required by the Commission by rule or regulation regarding the transactions, positions, and financial condition of the digital commodity broker or digital commodity dealer, respectively;

"(2) shall keep books and records in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

"(3) shall keep the books and records open to inspection and examination by any representative of the Commission.

"(g) DAILY TRADING RECORDS.—

"(1) IN GENERAL.—Each digital commodity broker and digital commodity dealer shall maintain daily trading records of the transactions of the digital commodity broker or digital commodity dealer, respectively, and all related records (including related forward or derivatives transactions) and recorded communications, including electronic mail, instant messages, and recordings of telephone calls, for such period as the Commission may require by rule or regulation.

"(2) INFORMATION REQUIREMENTS.—The daily trading records shall include such information as the Commission shall require by rule or regulation.

"(3) COUNTERPARTY RECORDS.—Each digital commodity broker and digital commodity dealer shall maintain daily trading records for each customer or counterparty in a manner and form that is identifiable with each digital commodity transaction.

"(4) AUDIT TRAIL.—Each digital commodity broker and digital commodity dealer shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.

"(h) BUSINESS CONDUCT STANDARDS.—

"(1) IN GENERAL.—Each digital commodity broker and digital commodity dealer shall conform with such business conduct standards as the Commission, by rule or regulation, prescribes related to—

"(A) fraud, manipulation, and other abusive practices involving spot or margined, leveraged, or financed digital commodity transactions (including transactions that are offered but not entered into);

"(B) diligent supervision of the business of the registered digital commodity broker or digital commodity dealer, respectively; and

"(C) such other matters as the Commission deems appropriate.

"(2) BUSINESS CONDUCT REQUIREMENTS.—The Commission shall, by rule, prescribe business conduct requirements which—

"(A) require disclosure by a registered digital commodity broker and registered digital commodity dealer to any counterparty to the transaction (other than an eligible contract participant) of—

"(i) information about the material risks and characteristics of the digital commodity;

"(ii) information about the material risks and characteristics of the transaction;

"(B) establish a duty for such a digital commodity broker and such a digital commodity dealer to communicate in a fair and balanced manner based on principles of fair dealing and good faith;

"(C) establish standards governing digital commodity broker and digital commodity dealer marketing and advertising, including testimonials and endorsements; and

"(D) establish such other standards and requirements as the Commission may determine are—

"(i) in the public interest;

"(ii) appropriate for the protection of customers; or

"(iii) otherwise in furtherance of the purposes of this Act.

"(3) PROHIBITION ON FRAUDULENT PRACTICES.—It shall be unlawful for a digital commodity broker or digital commodity dealer to—

"(A) employ any device, scheme, or artifice to defraud any customer or counterparty;

"(B) engage in any transaction, practice, or course of business that operates as a fraud or deceit on any customer or counterparty; or

"(C) engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative.

"(i) DUTIES.—

"(1) RISK MANAGEMENT PROCEDURES.—Each digital commodity broker and digital commodity dealer shall establish robust and professional risk management systems adequate for managing the day-to-day business of the digital commodity broker or digital commodity dealer, respectively.

"(2) DISCLOSURE OF GENERAL INFORMATION.—Each digital commodity broker and digital commodity dealer shall disclose to the Commission information concerning—

"(A) the terms and conditions of the transactions of the digital commodity broker or digital commodity dealer, respectively;

"(B) the trading operations, mechanisms, and practices of the digital commodity broker or digital commodity dealer, respectively;

"(C) financial integrity protections relating to the activities of the digital commodity broker or digital commodity dealer, respectively; and

"(D) other information relevant to trading in digital commodities by the digital commodity broker or digital commodity dealer, respectively.

"(3) ABILITY TO OBTAIN INFORMATION.—Each digital commodity broker and digital commodity dealer shall—

"(A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and

"(B) provide the information to the Commission, on request.

"(4) CONFLICTS OF INTEREST.—Each digital commodity broker and digital commodity dealer shall implement conflict-of-interest systems and procedures that—

"(A) establish structural and institutional safeguards—

"(i) to minimize conflicts of interest that might potentially bias the judgment or supervision of the digital commodity broker or digital

commodity dealer, respectively, and contravene the principles of fair and equitable trading and the business conduct standards described in this Act, including conflicts arising out of transactions or arrangements with affiliates (including affiliates acting as digital asset issuers, digital commodity dealers, or qualified digital commodity custodians), which may include information partitions and the legal separation of different persons involved in digital commodity activities; and

''(ii) to ensure that the activities of any person within the digital commodity broker or digital commodity dealer relating to research or analysis of the price or market for any digital commodity or acting in a role of providing exchange activities or making determinations as to accepting exchange customers are separated by appropriate informational partitions within the digital commodity broker or digital commodity dealer from the review, pressure, or oversight of persons whose involvement in pricing, trading, exchange, or clearing activities might potentially bias their judgment or supervision and contravene the core principles of open access and the business conduct standards described in this Act; and

''(B) address such other issues as the Commission determines to be appropriate.

''(5) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, a digital commodity broker or digital commodity dealer shall not—

''(A) adopt any process or take any action that results in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading or clearing.

''(j) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each digital commodity broker and digital commodity dealer shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the registered digital commodity broker or registered digital commodity dealer;

''(B) review the compliance of the registered digital commodity broker or registered digital commodity dealer with respect to the registered digital commodity broker and registered digital commodity dealer requirements described in this section;

''(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this Act (including regulations), including each rule prescribed by the Commission under this section;

''(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the registered digital commodity broker or registered digital commodity dealer with respect to this Act (including regulations); and

''(ii) each policy and procedure of the registered digital commodity broker or registered digital commodity dealer of the chief compliance officer (including the code of ethics and conflict of interest policies).

''(B) REQUIREMENTS.—The chief compliance officer shall ensure that a compliance report under subparagraph (A)—

''(i) accompanies each appropriate financial report of the registered digital commodity broker or registered digital commodity dealer that is required to be furnished to the Commission pursuant to this section; and

''(ii) includes a certification that, under penalty of law, the compliance report is accurate and complete.

''(k) SEGREGATION OF DIGITAL COMMODITIES.—

''(1) HOLDING OF CUSTOMER ASSETS.—

''(A) IN GENERAL.—Each digital commodity broker and digital commodity dealer shall hold customer money, assets, and property in a manner to minimize the risk of loss to the customer or unreasonable delay in customer access to the money, assets, and property of the customer.

''(B) QUALIFIED DIGITAL COMMODITY CUSTODIAN.—Each digital commodity broker and digital commodity dealer shall hold in a qualified digital commodity custodian each unit of a digital commodity that is—

''(i) the property of a customer or counterparty of the digital commodity broker or digital commodity dealer, respectively;

''(ii) required to be held by the digital commodity broker or digital commodity dealer under subsection (e); or

''(iii) otherwise so required by the Commission to reasonably protect customers or promote the public interest.

''(2) SEGREGATION OF FUNDS.—

''(A) IN GENERAL.—Each digital commodity broker and digital commodity dealer shall treat and deal with all money, assets, and property that is received by the digital commodity broker or digital commodity dealer, or accrues to a customer as the result of trading in digital commodities, as belonging to the customer.

''(B) COMMINGLING PROHIBITED.—

''(i) IN GENERAL.—Except as provided in clause (ii), each digital commodity broker and digital commodity dealer shall separately account for money, assets, and property of a digital commodity customer, and shall not commingle any such money, assets, or property with the funds of the digital commodity broker or digital commodity dealer, respectively, or use any such money, assets, or property to margin, secure, or guarantee any trades or accounts of any customer or person other than the person for whom the money, assets, or property are held.

''(ii) EXCEPTIONS.—

''(I) USE OF FUNDS.—

''(aa) IN GENERAL.—A digital commodity broker or digital commodity dealer may, for convenience, commingle and deposit in the same account or accounts with any bank, trust company, derivatives clearing organization, or qualified digital commodity custodian money, assets, and property of customers.

''(bb) WITHDRAWAL.—The share of the money, assets, and property described in item (aa) as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle a contract of sale of a digital commodity with a registered entity may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with the contract.

''(II) COMMISSION ACTION.—In accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, any money, assets, or property of the customers of a digital commodity broker or digital commodity dealer may be commingled and deposited in customer accounts with any other money, assets, or property received by the digital commodity broker or digital commodity dealer, respectively, and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customer of the digital commodity broker or digital commodity dealer, respectively.

''(3) PERMITTED INVESTMENTS.—Money described in paragraph (2) may be invested in obligations of the United States, in general obligations of any State or of any political subdivision of a State, in obligations fully guaranteed as to principal and interest by the United States, or in any other investment that the Commission may by rule or regulation allow.

''(4) CUSTOMER PROTECTION DURING BANKRUPTCY.—

''(A) CUSTOMER PROPERTY.—All money, assets, or property described in paragraph (2) shall be considered customer property for purposes of section 761 of title 11, United States Code.

''(B) TRANSACTIONS.—A transaction involving a unit of a digital commodity occurring with a digital commodity dealer shall be considered a 'contract for the purchase or sale of a commodity for future delivery, on or subject to the rules of, a contract market or board of trade' for purposes of the definition of a 'commodity contract' in section 761 of title 11, United States Code.

''(C) BROKERS AND DEALERS.—A digital commodity dealer and a digital commodity broker shall be considered a futures commission merchant for purposes of section 761 of title 11, United States Code.

''(D) ASSETS REMOVED FROM SEGREGATION.—Assets removed from segregation due to a customer election under paragraph (6) shall not be considered customer property for purposes of section 761 of title 11, United States Code.

''(5) MISUSE OF CUSTOMER PROPERTY.—

''(A) IN GENERAL.—It shall be unlawful—

''(i) for any digital commodity broker or digital commodity dealer that has received any customer money, assets, or property for custody to dispose of, or use any such money, assets, or property as belonging to the digital commodity broker or digital commodity dealer, respectively, or any person other than a customer of the digital commodity broker or digital commodity dealer, respectively; or

''(ii) for any other person, including any depository, digital commodity exchange, other digital commodity broker, other digital commodity dealer, or digital commodity custodian that has received any customer money, assets, or property for deposit, to hold, dispose of, or use any such money, assets, or property, as belonging to the depositing digital commodity broker or digital commodity dealer or any person other than the customers of the digital commodity broker or digital commodity dealer, respectively.

''(B) USE FURTHER DEFINED.—For purposes of this section, 'use' of a digital commodity includes utilizing any unit of a digital asset to participate in a blockchain service defined in paragraph (6) or a decentralized governance system associated with the digital commodity or the blockchain system to which the digital commodity relates in any manner other than that expressly directed by the customer from whom the unit of a digital commodity was received.

''(6) PARTICIPATION IN BLOCKCHAIN SERVICES.—

''(A) IN GENERAL.—A customer shall have the right to waive the restrictions in paragraph (1) for any unit of a digital commodity to be used under subparagraph (B), by affirmatively electing, in writing to the digital commodity broker or digital commodity dealer, to waive the restrictions.

''(B) USE OF FUNDS.—Customer digital commodities removed from segregation under subparagraph (A) may be pooled and used by the digital commodity broker or digital commodity dealer, or one of their designees, to provide a blockchain service for a blockchain system to which the unit of the digital asset removed from segregation in subparagraph (A) relates.

''(C) LIMITATIONS.—

''(i) IN GENERAL.—The Commission may, by rule, establish notice and disclosure requirements, and any other limitations and rules related to the waiving of any restrictions under this paragraph that are reasonably necessary to protect customers, including eligible contract participants, non-eligible contract participants, or any other class of customers.

''(ii) CUSTOMER CHOICE.—A digital commodity broker or digital commodity dealer may not require a waiver from a customer described in subparagraph (A) as a condition of doing business with the broker or dealer.

''(D) BLOCKCHAIN SERVICE DEFINED.—In this subparagraph, the term 'blockchain service' means any activity relating to validating transactions on a blockchain system, providing security for a blockchain system, or other similar activity required for the ongoing operation of a blockchain system.

''(l) FEDERAL PREEMPTION.—Notwithstanding any other provision of law, the Commission shall have exclusive jurisdiction over any digital commodity broker or digital commodity dealer registered under this section.

''(m) EXEMPTIONS.—In order to promote responsible economic or financial innovation and fair competition, or protect customers, the Commission may (on its own initiative or on application of the registered digital commodity broker or registered digital commodity dealer) exempt, unconditionally or on stated terms or conditions, or for stated periods, and retroactively or prospectively, or both, a registered digital commodity broker or registered digital commodity dealer from the requirements of this section, if the Commission determines that—

''(1)(A) the exemption would be consistent with the public interest and the purposes of this Act; and

''(B) the exemption will not have a material adverse effect on the ability of the Commission to discharge regulatory duties under this Act; or

''(2) the registered digital commodity broker or registered digital commodity dealer is subject to comparable, comprehensive supervision and regulation by the appropriate government authorities in the home country of the registered digital commodity broker or registered digital commodity dealer, respectively.

''(n) TREATMENT UNDER THE BANK SECRECY ACT.—A digital commodity broker and a digital commodity dealer shall be treated as a financial institution for purposes of the Bank Secrecy Act.''.

SEC. 507. REGISTRATION OF ASSOCIATED PERSONS.

(a) IN GENERAL.—Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended—

(1) by redesignating subsections (4) through (6) as subsections (5) through (7), respectively; and

(2) by inserting after subsection (3) the following:

''(4) It shall be unlawful for any person to act as an associated person of a digital commodity broker or an associated person of a digital commodity dealer unless the person is registered with the Commission under this Act and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a digital commodity broker or a digital commodity dealer to permit such a person to become or remain associated with the digital commodity broker or digital commodity dealer if the digital commodity broker or digital commodity dealer knew or should have known that the person was not so registered or that the registration had expired, been suspended (and the period of suspension has not expired), or been revoked.''; and

(3) in subsection (5) (as so redesignated), by striking ''or of a commodity trading advisor'' and inserting ''of a commodity trading advisor, of a digital commodity broker, or of a digital commodity dealer''.

(b) CONFORMING AMENDMENTS.—The Commodity Exchange Act (7 U.S.C. 1a et seq.) is amended by striking ''section 4k(6)'' each place it appears and inserting ''section 4k(7)''.

SEC. 508. REGISTRATION OF COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS.

(a) IN GENERAL.—Section 4m(3) of the Commodity Exchange Act (7 U.S.C. 6m(3)) is amended—

(1) in subparagraph (A)—

(A) by striking ''any commodity trading advisor'' and inserting ''a commodity pool operator or commodity trading advisor''; and

(B) by striking ''acting as a commodity trading advisor'' and inserting ''acting as a commodity pool operator or commodity trading advisor''; and

(2) in subparagraph (C), by inserting ''digital commodities,'' after ''physical commodities,''.

(b) EXEMPTIVE AUTHORITY.—Section 4m of such Act (7 U.S.C. 6m) is amended by adding at the end the following:.

''(4) EXEMPTIVE AUTHORITY.—The Commission shall promulgate rules to provide appropriate exemptions for commodity pool operators and commodity trading advisors, to provide relief from duplicative, conflicting, or unduly burdensome requirements or to promote responsible innovation, to the extent the exemptions foster the development of fair and orderly cash or spot digital commodity markets, are necessary or appropriate in the public interest, and are consistent with the protection of customers.''.

SEC. 509. EXCLUSION FOR DECENTRALIZED FINANCE ACTIVITIES.

The Commodity Exchange Act (7 U.S.C. 1 et seq.), as amended by the preceding provisions of this Act, is amended by inserting after section 4u the following:

''SEC. 4v. DECENTRALIZED FINANCE ACTIVITIES NOT SUBJECT TO THIS ACT.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, a person shall not be subject to this Act and the regulations promulgated under this Act based on the person directly or indirectly engaging in any of the following activities, whether singly or in combination, in relation to the operation of a blockchain system or in relation to decentralized finance (as defined in section 605(d) of the Financial Innovation and Technology for the 21st Century Act):

''(1) Compiling network transactions, operating or participating in a liquidity pool, relaying, searching, sequencing, validating, or acting in a similar capacity with respect to contract of sale of a digital asset.

''(2) Providing computational work, operating a node, or procuring, offering, or utilizing network bandwidth, or other similar incidental services with respect to a contract of sale of a digital asset.

''(3) Providing a user-interface that enables a user to read, and access data about a blockchain system, send messages, or otherwise interact with a blockchain system.

''(4) Developing, publishing, constituting, administering, maintaining, or otherwise distributing a blockchain system.

''(5) Developing, publishing, constituting, administering, maintaining, or otherwise distributing software or systems that create or deploy hardware or software, including wallets or other systems, facilitating an individual user's own personal ability to keep, safeguard, or custody the user's digital commodities or related private keys.

''(b) EXCEPTIONS.—Subsection (a) shall not be interpreted to apply to the anti-fraud, anti-manipulation, or false reporting enforcement authorities of the Commission.''.

SEC. 510. FUNDING FOR IMPLEMENTATION AND ENFORCEMENT.

(a) COLLECTION OF FEES.—

(1) IN GENERAL.—The Commodity Futures Trading Commission (in this section referred to as the ''Commission'') shall charge and collect a filing fee from each person who files with the Commission a notice of intent to register as a digital commodity exchange, digital commodity broker, or digital commodity dealer pursuant to section 106.

(2) AMOUNT.—The fees authorized under paragraph (1) may be collected and available for obligation only in the amounts provided in advance in an appropriation Act.

(2) AUTHORITY TO ADJUST FEES.—Notwithstanding the preceding provisions of this subsection, to promote fair competition or innovation, the Commission, in its sole discretion, may reduce or eliminate any fee otherwise required to be paid by a small or medium filer under this subsection.

(b) FEE SCHEDULE.—

(1) IN GENERAL.—The Commission shall publish in the Federal Register a schedule of the fees to be charged and collected under this section.

(2) CONTENT.—The fee schedule for a fiscal year shall include a written analysis of the estimate of the Commission of the total costs of carrying out the functions of the Commission under this Act during the fiscal year.

(3) SUBMISSION TO CONGRESS.—Before publishing the fee schedule for a fiscal year, the Commission shall submit a copy of the fee schedule to the Congress.

(4) TIMING.—

(A) 1ST FISCAL YEAR.—The Commission shall publish the fee schedule for the fiscal year in which this Act is enacted, within 30 days after the date of the enactment of this Act.

(B) SUBSEQUENT FISCAL YEARS.—The Commission shall publish the fee schedule for each subsequent fiscal year, not less than 90 days before the due date prescribed by the Commission for payment of the annual fee for the fiscal year.

(c) LATE PAYMENT PENALTY.—

(1) IN GENERAL.—The Commission may impose a penalty against a person that fails to pay an annual fee charged under this section, within 30 days after the due date prescribed by the Commission for payment of the fee.

(2) AMOUNT.—The amount of the penalty shall be—

(A) 5 percent of the amount of the fee due; multiplied by

(B) the whole number of consecutive 30-day periods that have elapsed since the due date.

(d) REIMBURSEMENT OF EXCESS FEES.—To the extent that the total amount of fees collected under this section during a fiscal year that begins after the date of the enactment of this Act exceeds the amount provided under subsection (a)(2) with respect to the fiscal year, the Commission shall reimburse the excess amount to the persons who have timely paid their annual fees, on a pro-rata basis that excludes penalties, and shall do so within 60 days after the end of the fiscal year.

(e) DEPOSIT OF FEES INTO THE TREASURY.—All amounts collected under this section shall be credited to the currently applicable appropriation, account, or fund of the Commission as discretionary offsetting collections, and shall be available for the purposes authorized in subsection (f) only to the extent and in the amounts provided in advance in appropriation Acts.

(f) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated to the Commission, there is authorized to be appropriated to the Commission amounts collected under this section to cover the costs the costs of carrying out the functions of the Commission under this Act.

(g) SUNSET.—The authority to charge and collect fees under this section shall expire at the end of the 4th fiscal year that begins after the date of the enactment of this Act.

SEC. 511. EFFECTIVE DATE.

Unless otherwise provided in this title, this title and the amendments made by this title shall take effect 360 days after the date of enactment of this Act, except that, to the extent a provision of this title requires a rulemaking, the provision shall take effect on the later of—

(1) 360 days after the date of enactment of this Act; or

(2) 60 days after the publication in the Federal Register of the final rule implementing the provision.

TITLE VI—INNOVATION AND TECHNOLOGY IMPROVEMENTS

SEC. 601. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) Entrepreneurs and innovators are building and deploying this next generation of the internet.

(2) Digital asset networks represent a new way for people to join together and cooperate with one another to undertake certain activities.

(3) Digital assets have the potential to be the foundational building blocks of these networks, aligning the economic incentive for individuals to cooperate with one another to achieve a common purpose.

(4) The digital asset ecosystem has the potential to grow our economy and improve everyday lives of Americans by facilitating collaboration through the use of technology to manage activities, allocate resources, and facilitate decision making.

(5) Blockchain networks and the digital assets they empower provide creator control, enhance transparency, reduce transaction costs, and increase efficiency if proper protections are put in place for investors, consumers, our financial system, and our national security.

(6) Blockchain technology facilitates new types of network participation which businesses in the United States may utilize in innovative ways.

(7) Other digital asset companies are setting up their operations outside of the United States, where countries are establishing frameworks to embrace the potential of blockchain technology and digital assets and provide safeguards for consumers.

(8) Digital assets, despite the purported anonymity, provide law enforcement with an exceptional tracing tool to identify illicit activity and bring criminals to justice.

(9) The Financial Services Committee of the House of Representatives has held multiple hearings highlighting various risks that digital assets can pose to the financial markets, consumers, and investors that must be addressed as we seek to harness the benefits of these innovations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should seek to prioritize understanding the potential opportunities of the next generation of the internet;

(2) the United States should seek to foster advances in technology that have robust evidence indicating they can improve our financial system and create more fair and equitable access to financial services for everyday Americans while protecting our financial system, investors, and consumers;

(3) the United States must support the responsible development of digital assets and the underlying technology in the United States or risk the shifting of the development of such assets and technology outside of the United States, to less regulated countries;

(4) Congress should consult with public and private sector stakeholders to understand how to enact a functional framework tailored to the specific risks and unique benefits of different digital asset-related activities, distributed ledger technology, distributed networks, and decentralized systems; and

(5) Congress should enact a functional framework tailored to the specific risks of different digital asset-related activities and unique benefits of distributed ledger technology, distributed networks, and decentralized systems; and

(6) consumers and market participants will benefit from a framework for digital assets consistent with longstanding investor protections in securities and commodities markets, yet tailored to the unique benefits and risks of the digital asset ecosystem.

SEC. 602. CODIFICATION OF THE SEC STRATEGIC HUB FOR INNOVATION AND FINANCIAL TECHNOLOGY.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:

''(l) STRATEGIC HUB FOR INNOVATION AND FINANCIAL TECHNOLOGY.—

''(1) OFFICE ESTABLISHED.—There is established within the Commission the Strategic Hub for Innovation and Financial Technology (referred to in this section as the 'FinHub').

''(2) PURPOSES.—The purposes of FinHub are as follows:

''(A) To assist in shaping the approach of the Commission to technological advancements.

''(B) To examine financial technology innovations among market participants.

''(C) To coordinate the response of the Commission to emerging technologies in financial, regulatory, and supervisory systems.

''(3) DIRECTOR OF FINHUB.—FinHub shall have a Director who shall be appointed by the Commission, from among individuals having experience in both emerging technologies and Federal securities laws and serve at the pleasure of the Commission. The Director shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

''(4) RESPONSIBILITIES.—FinHub shall—

''(A) foster responsible technological innovation and fair competition within the Commission, including around financial technology, regulatory technology, and supervisory technology;

''(B) provide internal education and training to the Commission regarding financial technology;

''(C) advise the Commission regarding financial technology that would serve the Commission's functions;

''(D) analyze technological advancements and the impact of regulatory requirements on financial technology companies;

''(E) advise the Commission with respect to rulemakings or other agency or staff action regarding financial technology;

''(F) provide businesses working in emerging financial technology fields with information on the Commission, its rules and regulations; and

''(G) encourage firms working in emerging technology fields to engage with the Commission and obtain feedback from the Commission on potential regulatory issues.

''(5) ACCESS TO DOCUMENTS.—The Commission shall ensure that FinHub has full access to the documents and information of the Commission and any self-regulatory organization, as necessary to carry out the functions of FinHub.

''(6) REPORT TO CONGRESS.—

''(A) IN GENERAL.—Not later than October 31 of each year after 2024, FinHub shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the activities of FinHub during the immediately preceding fiscal year.

''(B) CONTENTS.—Each report required under subparagraph (A) shall include—

''(i) the total number of persons that met with FinHub;

''(ii) the total number of market participants FinHub met with, including the classification of those participants;

''(iii) a summary of general issues discussed during meetings with persons;

''(iv) information on steps FinHub has taken to improve Commission services, including responsiveness to the concerns of persons;

''(v) recommendations—

''(I) with respect to the regulations of the Commission and the guidance and orders of the Commission; and

''(II) for such legislative actions as FinHub determines appropriate; and

''(vi) any other information, as determined appropriate by the Director of FinHub.

''(C) CONFIDENTIALITY.—A report under subparagraph (A) may not contain confidential information.

''(7) SYSTEMS OF RECORDS.—

''(A) IN GENERAL.—The Commission shall establish a detailed system of records (as defined under section 552a of title 5, United States Code) to assist FinHub in communicating with interested parties.

''(B) ENTITIES COVERED BY THE SYSTEM.—Entities covered by the system required under subparagraph (A) include entities or persons submitting requests or inquiries and other information to Commission through FinHub.

''(C) SECURITY AND STORAGE OF RECORDS.—FinHub shall store—

''(i) electronic records—

''(I) in the system required under subparagraph (A); or

''(II) on the secure network or other electronic medium, such as encrypted hard drives or backup media, of the Commission; and

''(ii) paper records in secure facilities.

''(8) EFFECTIVE DATE.—This subsection shall take effect on the date that is 180 days after the date of the enactment of this subsection.''.

SEC. 603. CODIFICATION OF LABCFTC.

(a) IN GENERAL.—Section 18 of the Commodity Exchange Act (7 U.S.C. 22) is amended by adding at the end the following:

''(c) LABCFTC.—

''(1) ESTABLISHMENT.—There is established in the Commission LabCFTC.

''(2) PURPOSE.—The purposes of LabCFTC are to—

''(A) promote responsible financial technology innovation and fair competition for the benefit of the American public;

''(B) serve as an information platform to inform the Commission about new financial technology innovation; and

''(C) provide outreach to financial technology innovators to discuss their innovations and the regulatory framework established by this Act and the regulations promulgated thereunder.

''(3) DIRECTOR.—LabCFTC shall have a Director, who shall be appointed by the Commission and serve at the pleasure of the Commission. Notwithstanding section 2(a)(6)(A), the Director shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

''(4) DUTIES.—LabCFTC shall—

''(A) advise the Commission with respect to rulemakings or other agency or staff action regarding financial technology;

''(B) provide internal education and training to the Commission regarding financial technology;

''(C) advise the Commission regarding financial technology that would bolster the Commission's oversight functions;

''(D) engage with academia, students, and professionals on financial technology issues, ideas, and technology relevant to activities under this Act;

''(E) provide persons working in emerging technology fields with information on the Commission, its rules and regulations, and the role of a registered futures association; and

''(F) encourage persons working in emerging technology fields to engage with the Commission and obtain feedback from the Commission on potential regulatory issues.

''(5) ACCESS TO DOCUMENTS.—The Commission shall ensure that LabCFTC has full access to the documents and information of the Commission and any self-regulatory organization or registered futures association, as necessary to carry out the functions of LabCFTC.

''(6) REPORT TO CONGRESS.—

''(A) IN GENERAL.—Not later than October 31 of each year after 2024, LabCFTC shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on its activities.

''(B) CONTENTS.—Each report required under paragraph (1) shall include—

''(i) the total number of persons that met with LabCFTC;

''(ii) a summary of general issues discussed during meetings with the person;

''(iii) information on steps LabCFTC has taken to improve Commission services, including responsiveness to the concerns of persons;

''(iv) recommendations made to the Commission with respect to the regulations, guidance, and orders of the Commission and such legislative actions as may be appropriate; and

''(v) any other information determined appropriate by the Director of LabCFTC.

''(C) CONFIDENTIALITY.—A report under paragraph (A) shall abide by the confidentiality requirements in section 8.

''(7) SYSTEMS OF RECORDS.—

''(A) IN GENERAL.—The Commission shall establish a detailed system of records (as defined in section 552a of title 5, United States Code) to assist LabCFTC in communicating with interested parties.

''(B) PERSONS COVERED BY THE SYSTEM.—The persons covered by the system of records shall include persons submitting requests or inquiries and other information to the Commission through LabCFTC.

''(C) SECURITY AND STORAGE OF RECORDS.—The system of records shall store records electronically or on paper in secure facilities, and shall store electronic records on the secure network of the Commission and on other electronic media, such as encrypted hard drives and backup media, as needed.''.

(b) CONFORMING AMENDMENTS.—Section 2(a)(6)(A) of such Act (7 U.S.C. 2(a)(6)(A)) is amended—

(1) by striking ''paragraph and in'' and inserting ''paragraph,''; and

(2) by inserting ''and section 18(c)(3),'' before ''the executive''.

(c) EFFECTIVE DATE.—The Commodity Futures Trading Commission shall implement the amendments made by this section (including complying with section 18(c)(7) of the Commodity Exchange Act) within 180 days after the date of the enactment of this Act.

SEC. 604. CFTC-SEC JOINT ADVISORY COMMITTEE ON DIGITAL ASSETS.

(a) ESTABLISHMENT.—The Commodity Futures Trading Commission and the Securities and Exchange Commission (in this section referred to as the ''Commissions'') shall jointly establish the Joint Advisory Committee on Digital Assets (in this section referred to as the ''Committee'').

(b) PURPOSE.—

(1) IN GENERAL.—The Committee shall—

(A) provide the Commissions with advice on the rules, regulations, and policies of the Commissions related to digital assets;

(B) further the regulatory harmonization of digital asset policy between the Commissions;

(C) examine and disseminate methods for describing, measuring, and quantifying digital asset—

(i) decentralization;

(ii) functionality;

(iii) information asymmetries; and

(iv) transaction and network security;

(D) examine the potential for digital assets, blockchain systems, and distributed ledger technology to improve efficiency in the operation of financial market infrastructure and better protect financial market participants, including services and systems which provide—

(i) improved customer protections;

(ii) public availability of information;

(iii) greater transparency regarding customer funds;

(iv) reduced transaction cost; and

(v) increased access to financial market services; and

(E) discuss the implementation by the Commissions of this Act and the amendments made by this Act.

(2) REVIEW BY AGENCIES.—Each Commission shall—

(A) review the findings and recommendations of the Committee;

(B) promptly issue a public statement each time the Committee submits a finding or recommendation to a Commission—

(i) assessing the finding or recommendation of the Committee;

(ii) disclosing the action or decision not to take action made by the Commission in response to a finding or recommendation; and

(iii) explaining the reasons for the action or decision not to take action; and

(C) each time the Committee submits a finding or recommendation to a Commission, provide the Committee with a formal response to the finding or recommendation not later than 3 months after the date of the submission of the finding or recommendation.

(c) MEMBERSHIP AND LEADERSHIP.—

(1) NON-FEDERAL MEMBERS.—

(A) IN GENERAL.—The Commissions shall appoint at least 20 nongovernmental stakeholders who represent a broad spectrum of interests, equally divided between the Commissions, to serve as members of the Committee. The appointees shall include—

(i) digital asset issuers;

(ii) persons registered with the Commissions and engaged in digital asset related activities;

(iii) individuals engaged in academic research relating to digital assets; and

(iv) digital asset users.

(B) MEMBERS NOT COMMISSION EMPLOYEES.—Members appointed under subparagraph (A) shall not be deemed to be employees or agents of a Commission solely by reason of membership on the Committee.

(2) CO-DESIGNATED FEDERAL OFFICERS.—

(A) NUMBER; APPOINTMENT.—There shall be 2 co-designated Federal officers of the Committee, as follows:

(i) The Director of LabCFTC of the Commodity Futures Trading Commission.

(ii) The Director of the Strategic Hub for Innovation and Financial Technology of the Securities and Exchange Commission.

(B) DUTIES.—The duties required by chapter 10 of title 5, United States Code, to be carried out by a designated Federal officer with respect to the Committee shall be shared by the co-designated Federal officers of the Committee.

(3) COMMITTEE LEADERSHIP.—

(A) COMPOSITION; ELECTION.—The Committee members shall elect, from among the Committee members—

(i) a chair;

(ii) a vice chair;

(iii) a secretary; and

(iv) an assistant secretary.

(B) TERM OF OFFICE.—Each member elected under subparagraph (A) in a 2-year period referred to in section 1013(b)(2) of title 5, United States Code, shall serve in the capacity for which the member was so elected, until the end of the 2-year period.

(d) NO COMPENSATION FOR COMMITTEE MEMBERS.—

(1) NON-FEDERAL MEMBERS.—All Committee members appointed under subsection (c)(1) shall—

(A) serve without compensation; and

(B) while away from the home or regular place of business of the member in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(2) NO COMPENSATION FOR CO-DESIGNATED FEDERAL OFFICERS.—The co-designated Federal officers shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(e) FREQUENCY OF MEETINGS.—The Committee shall meet—

(1) not less frequently than twice annually; and

(2) at such other times as either Commission may request.

(f) DURATION.—Section 1013(a)(2) of title 5, United States Code, shall not apply to the Committee.

(g) TIME LIMITS.—The Commissions shall—

(1) adopt a joint charter for the Committee within 90 days after the date of the enactment of this section;

(2) appoint members to the Committee within 120 days after such date of enactment; and

(3) hold the initial meeting of the Committee within 180 days after such date of enactment.

(h) FUNDING.—Subject to the availability of funds, the Commissions shall jointly fund the Committee.

SEC. 605. STUDY ON DECENTRALIZED FINANCE.

(a) IN GENERAL.—The Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly carry out a study on decentralized finance that analyzes—

(1) the nature, size, role, and use of decentralized finance blockchain protocols;

(2) the operation of blockchain protocols that comprise decentralized finance;

(3) the interoperability of blockchain protocols and blockchain systems;

(4) the interoperability of blockchain protocols and software-based systems, including websites and wallets;

(5) the decentralized governance systems through which blockchain protocols may be developed, published, constituted, administered, maintained, or otherwise distributed, including—

(A) whether the systems enhance or detract from—

(i) the decentralization of the decentralized finance; and

(ii) the inherent benefits and risks of the decentralized governance system; and

(B) any procedures, requirements, or best practices that would mitigate the risks identified in subparagraph (A)(ii);

(6) the benefits of decentralized finance, including—

(A) operational resilience and availability of blockchain systems;

(B) interoperability of blockchain systems;

(C) market competition and innovation;

(D) transaction efficiency;

(E) transparency and traceability of transactions; and

(F) disintermediation;

(7) the risks of decentralized finance, including—

(A) pseudonymity of users and transactions;

(B) disintermediation; and

(C) cybersecurity vulnerabilities;

(8) the extent to which decentralized finance has integrated with the traditional financial markets and any potential risks or improvements to the stability of the markets;

(9) how the levels of illicit activity in decentralized finance compare with the levels of illicit activity in traditional financial markets;

(10) methods for addressing illicit activity in decentralized finance and traditional markets that are tailored to the unique attributes of each;

(11) how decentralized finance may increase the accessibility of cross-border transactions; and

(12) the feasibility of embedding self-executing compliance and risk controls into decentralized finance.

(b) CONSULTATION.—In carrying out the study required under subsection (a), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall consult with the Secretary of the Treasury on the factors described under paragraphs (7) through (10) of subsection (a).

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly submit

to the relevant congressional committees a report that includes the results of the study required by subsection (a).

(d) GAO STUDY.—The Comptroller General of the United States shall—

(1) carry out a study on decentralized finance that analyzes the information described under paragraphs (1) through (12) of subsection (a); and

(2) not later than 1 year after the date of enactment of this Act, submit to the relevant congressional committees a report that includes the results of the study required by paragraph (1).

(e) DEFINITIONS.—In this section:

(1) DECENTRALIZED FINANCE.—

(A) IN GENERAL.—The term ''decentralized finance'' means blockchain protocols that allow users to engage in financial transactions in a self-directed manner so that a third-party intermediary does not effectuate the transactions or take custody of digital assets of a user during any part of the transactions.

(B) RELATIONSHIP TO EXCLUDED ACTIVITIES.—The term ''decentralized finance'' shall not be interpreted to limit or exclude any activity from the activities described in section 15I(a) of the Securities Exchange Act of 1934 or section 4v(a) of the Commodity Exchange Act.

(2) RELEVANT CONGRESSIONAL COMMITTEES.—The term ''relevant congressional committees'' means—

(A) the Committees on Financial Services and Agriculture of the House of Representatives; and

(B) the Committees on Banking, Housing, and Urban Affairs and Agriculture, Nutrition, and Forestry of the Senate.

SEC. 606. STUDY ON NON-FUNGIBLE DIGITAL ASSETS.

(a) IN GENERAL.—The Comptroller General of the United States shall carry out a study of non-fungible digital assets that analyzes—

(1) the nature, size, role, purpose, and use of non-fungible digital assets;

(2) the similarities and differences between non-fungible digital assets and other digital assets, including digital commodities and payment stablecoins, and how the markets for those digital assets intersect with each other;

(3) how non-fungible digital assets are minted by issuers and subsequently administered to purchasers;

(4) how non-fungible digital assets are stored after being purchased by a consumer;

(5) the interoperability of non-fungible digital assets between different blockchain systems;

(6) the scalability of different non-fungible digital asset marketplaces;

(7) the benefits of non-fungible digital assets, including verifiable digital ownership;

(8) the risks of non-fungible tokens, including—

(A) intellectual property rights;

(B) cybersecurity risks; and

(C) market risks;

(9) whether and how non-fungible digital assets have integrated with traditional marketplaces, including those for music, real estate, gaming, events, and travel;

(10) whether non-fungible tokens can be used to facilitate commerce or other activities through the representation of documents, identification, contracts, licenses, and other commercial, government, or personal records;

(11) any potential risks to traditional markets from such integration; and

(12) the levels and types of illicit activity in non-fungible digital asset markets.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General, shall make publicly available a report that includes the results of the study required by subsection (a).

SEC. 607. STUDY ON EXPANDING FINANCIAL LITERACY AMONGST DIGITAL ASSET HOLDERS.

(a) IN GENERAL.— The Commodity Futures Trading Commission with the Securities and Exchange Commission shall jointly conduct a study to identify—

(1) the existing level of financial literacy among retail digital asset holders, including subgroups of investors identified by the Commodity Futures Trading Commission with the Securities and Exchange Commission;

(2) methods to improve the timing, content, and format of financial literacy materials regarding digital assets provided by the Commodity Futures Trading Commission and the Securities and Exchange Commission;

(3) methods to improve coordination between the Securities and Exchange Commission and the Commodity Futures Trading Commission with other agencies, including the Financial Literacy and Education Commission as well as nonprofit organizations and State and local jurisdictions, to better disseminate financial literacy materials;

(4) the efficacy of current financial literacy efforts with a focus on rural communities and communities with majority minority populations;

(5) the most useful and understandable relevant information that retail digital asset holders need to make informed financial decisions before engaging with or purchasing a digital asset or service that is typically sold to retail investors of digital assets;

(6) the most effective public-private partnerships in providing financial literacy regarding digital assets to consumers;

(7) the most relevant metrics to measure successful improvement of the financial literacy of an individual after engaging with financial literacy efforts; and

(8) in consultation with the Financial Literacy and Education Commission, a strategy (including to the extent practicable, measurable goals and objectives) to increase financial literacy of investors regarding digital assets.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly submit a written report on the study required by subsection (a) to the Committees on Financial Services and on Agriculture of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 608. STUDY ON FINANCIAL MARKET INFRASTRUCTURE IMPROVEMENTS.

(a) IN GENERAL.—The Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly conduct a study to assess whether additional guidance or rules are necessary to facilitate the development of tokenized securities and derivatives products, and to the extent such guidance or rules would foster the development of fair and orderly financial markets, be necessary or appropriate in the public interest, and be consistent with the protection of investors and customers.

(b) REPORT.—

(1) TIME LIMIT.—Not later than 1 year after the date of enactment of this Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly submit to the relevant congressional committees a report that includes the results of the study required by subsection (a).

(2) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''relevant congressional committees'' means—

(A) the Committees on Financial Services and on Agriculture of the House of Representatives; and

(B) the Committees on Banking, Housing, and Urban Affairs and on Agriculture, Nutrition, and Forestry of the Senate.

The Acting CHAIR: No further amendment to the bill, as amended, shall be in order except those printed in part B of House Report 118–516. Each such further amendment may be offered only in the order printed in the report, by a member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. CASAR

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 118–516.

Mr. CASAR. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 68, line 11, strike ''$75,000,000'' and insert ''$5,000,000''.

The Acting CHAIR. Pursuant to House Resolution 1243, the gentleman from Texas (Mr. CASAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. CASAR. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, from 2017 to 2022, Americans who invested in the SSP Index received about a 61 percent return on their investment, but Americans who invested in one of the top 12 cryptocurrencies that existed during that 5-year period did not make money. In fact, on average, they lost about half of their money. Three out of every four bitcoin traders during that time period also lost money. From FTX to Celsius to Blockchain ATMs, the industry has repeatedly lost everyday Americans their money.

Whether you are a crypto booster or a crypto sceptic, we can all agree based on the facts that crypto investment is a risk.

Since it is a risk, we should want more oversight to protect Americans. This bill before us today doesn't provide us more regulation. It doesn't even provide many Americans the same level of regulation as traditional finance.

Instead, it creates a light-touch regulatory regime that can be manipulated by bad actors in both crypto and traditional finance, putting Americans and our 90-year-old securities laws at risk.

My amendment focuses on one key area where everyday people who would invest in crypto under this bill will, in fact, receive less protection than Americans invested in traditional finance.

The current flawed bill before us creates a crowdfunding registration exemption for crypto that is 15 times weaker than the crowdfunding exemption that exists in traditional finance.

In the existing bill before us, someone could crowdfund up to $75 million from everyday Americans, and those Americans would receive just the most minimal of protections. We would never allow that in the non-crypto finance world.

My amendment changes the exemption cap to $5 million, putting that cap

in line with other current laws, so at the very least Americans making investments in crypto can get the same level of protection as crowdfunding investors in traditional finance.

I hope that whether you are for the underlying bill or against the underlying bill like me, we can agree that this commonsense amendment will help protect everyday people, and I urge everyone to support it.

Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. MCHENRY. Mr. Chair, I am opposed to this amendment. Today, digital asset issuers rely on exemptions under the current securities regime. Each exemption includes its own requirements under traditional securities law. What we provide in this act is purpose built for digital assets. What this does today is if you are raising money for a digital asset offering, the exemption is built for those other types of securities in the space.

The SEC's disclosure regime is supposed to give investors the information they need to make informed decisions, but it is not built for digital assets.

What we do in this act is provide certain disclosures for investors in digital assets, such as source code, token supply, government mechanisms, and other aspects unique to crypto. That is what this bill does.

What the gentleman from Texas is proposing to do is limit that aperture from $75 million to $5 million of those folks that can invest in these early-stage innovations. What he is doing is restricting the opportunity for average, everyday investors to get options like high-wealth investors get today under securities law.

The original exemption for regulation crowdfunding was something we put in law with bipartisan support. MAXINE WATERS was my cosponsor on the regulation crowdfunding, this very exemption.

I have enhanced this. I put additional requirements here to make sure there are more disclosures, and we open up the aperture to $75 million so more folks can participate and so those blockchains can develop. When you make it $5 million, it makes it impossible for you to actually scale up, especially with these inflationary times that our people are facing.

What I would urge is the House reject this amendment. The gentleman's arguments against this exemption have nothing to do with the exemption but have everything to do with opposition to the bill.

Mr. Chair, I urge a ''no'' vote, and I reserve the balance of my time.

Mr. CASAR. Mr. Chair, I yield 1 minute to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chair, I thank the gentleman from Texas for attempting this amendment. As a matter of fact, there have been any number of Members from this side of the aisle who have been attempting to amend this bill to try and make it better. While I have great respect for all of those attempts, if my friends had listened, if they had accepted, perhaps they could have made this a better bill. Unfortunately, at this point in time, no, with all the work that this gentleman has done, Mr. CASAR and others, my friends will not accept any amendments. They are not going to accept his amendment. They don't think that the bill can be made better, and unfortunately, the bill is so bad, I don't think it can be made better either.

Mr. MCHENRY. Mr. Chair, I am prepared to close, and I reserve the balance of my time.

Mr. CASAR. Mr. Chair, I am prepared to close, and I yield myself the balance of my time.

Our securities laws were created after the Great Depression when this country understood that strong regulation protects Americans and is necessary for innovation and for our economy to thrive. We cannot hold cryptocurrency to a lower standard than traditional finance.

My amendment ensures that when it comes to crowdfunding, cryptocurrency is held to the same standard.

Mr. Chair, I urge all Members to support my amendment, and I yield back the balance of my time.

Mr. MCHENRY. Mr. Chair, may I inquire of the Chair how much time I have remaining.

The Acting CHAIR. The gentleman from North Carolina has 3 minutes remaining.

Mr. MCHENRY. Mr. Chair, I yield myself the balance of my time. Let me close with this, Mr. Chairman. We have this push and pull on the Financial Services Committee. Generally speaking, we have elected officials that say the American people's hard-earned savings are their hard-earned savings. Then we have paternalistic amendments like the one before us today that say: No, you are not smart enough to invest your own money. We have to put in these safeguards to protect you from yourself.

Well, I think that goes way too far.

What we have done with securities laws is take average, everyday investors and disintermediate them from the greater economy so average, everyday Americans don't get the benefit of economic growth, of Wall Street doing great, and earnings going up in corporate America. We have separated it because we have made it harder for average, everyday folks to invest in companies and have ownership of companies.

What we are trying to do is open that up a little bit from $5 million of an exemption when you are raising money to $75 million. In the scope of our economy, in the scope of our capital markets, in the scope of economic opportunity and innovation, which is a very small aperture we are opening here. We have done that. We have constructed this provision with a lot of Democratic input and Republican input, and that is how we came to the number of $75 million.

It is already a compromise.

What the gentleman offers with this amendment is nothing more than saying: I am paternalistic, and I am, therefore, going to restrict your opportunity to invest your money as you see fit.

Reject the amendment. Vote ''no'' on this amendment, and vote ''yes'' on final passage.

Mr. Chair, I yield back the balance of my time.

□ 1615

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. CASAR).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. CASAR. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 2 OFFERED BY MS. PETTERSEN

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 118–516.

Ms. PETTERSEN. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

In title I, add at the end the following:

SEC. 112. APPLICATION OF THE BANK SECRECY ACT.

(a) IN GENERAL.—Section 5312 of title 31, United States Code, is amended—

(1) in subsection (a)(2)(G), by striking ''or dealer'' and inserting '', dealer, digital asset broker, digital asset dealer, or digital asset trading system''; and

(2) in subsection (c)(1)(A)—

(A) by inserting ''digital commodity broker, digital commodity dealer,'' after ''futures commission merchant,''; and

(B) by inserting before the period the following: ''and any digital commodity exchange registered, or required to register, under the Commodity Exchange Act which permits direct customer access''.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States, in consultation with the Secretary of the Treasury, shall conduct a study to—

(A) assess the risks posed by centralized intermediaries that are primarily located in foreign jurisdictions that provide services to U.S. persons without regulatory requirements that are substantially similar to the requirements of the Bank Secrecy Act; and

(B) provide any regulatory or legislative recommendations to address these risks under subparagraph (A).

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall issue a report to Congress containing all findings and determinations made in carrying out the study required under paragraph (1).

Page 105, strike lines 1 through 4.

Page 121, strike line 7 and all that follows through ''Bank Secrecy Act.'' on line 10.

Page 183, strike lines 14 through 17.

Page 215, strike line 6 and all that follows through ''Bank Secrecy Act.'' on line 9.

The Acting CHAIR. Pursuant to House Resolution 1243, the gentlewoman from Colorado (Ms. PETTERSEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Colorado.

Ms. PETTERSEN. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, more than 20 percent of Americans have owned or traded cryptocurrency.

Despite this, the U.S. still lacks a clear regulatory structure for digital assets which is hurting American competitiveness and incentivizing some companies, unfortunately, to move overseas.

While there may be disagreement about how to best establish the appropriate market regulatory structure, there is broad bipartisan agreement for preventing criminals from using cryptocurrencies for illicit purposes, such as money laundering, terrorist financing, and sanctioned evasion.

My amendment would provide clarity and conformity to how the Bank Secrecy Act and regulations safeguarding our financial system from criminals are applied to digital assets.

The base bill already calls for the Bank Secrecy Act to apply to digital assets; however, by amending the BSA directly and explicitly expanding the definition of financial institution in the BSA to cover digital asset entities, we are providing certainty to the regulators and the Department of Treasury in their authorities to protect our financial system.

Additionally, the amendment would also require a study to assess the risk posed by centralized intermediaries based in jurisdictions that lack robust anti-money laundering enforcement.

While in most cases, American digital asset companies are already complying with the applicable requirements under the Bank Secrecy Act, we also have to be thinking about the threat of foreign companies with U.S. touchpoints that are not complying with equivalent controls or reporting standards.

I thank Chairman MCHENRY and Representative HILL for working with me on this issue, and their commitment to strengthening the anti-money laundering provisions in this bill.

This amendment, combined with the underlying bill, will help provide more oversight into the digital asset market and support regulators' work to protect consumers and investors. While there is more work to be done to ensure the integrity of our digital assets market, this amendment is an important step forward and I urge my colleagues to support the adoption of the amendment and the underlying bill.

Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I ask unanimous consent to claim the time in opposition, although I am not opposed to it.

The Acting CHAIR. Is there objection to the request of the gentleman?

There was no objection.

The gentleman is recognized for 5 minutes.

Mr. MCHENRY. Mr. Chair, I am prepared to accept this amendment.

I think it is important that as we establish a new comprehensive regulatory framework for the digital asset markets, we also have to ensure that we have a consistent application of the Bank Secrecy Act and anti-money laundering provisions in existing law. These requirements on the digital asset intermediaries and exchanges are necessary so that bad actors don't exploit these markets for nefarious purposes.

Mr. Chair, I thank the gentlewoman from Colorado for her work on this amendment. She has been focused on AML/BSA-related issues in the build up to us writing FIT21 during the markup process in the Financial Services Committee and then the process through the Rules Committee. I appreciate her sincere engagement on this matter and for coming up with a very good amendment.

Mr. Chair, I urge support of this amendment, and I reserve the balance of my time.

Ms. PETTERSEN. Mr. Chair, I yield myself the balance of my time.

Mr. Chair, I, again, thank the chairman from North Carolina for working with me and others to bring a bipartisan bill with broad support to the House. This has been years in the making, and I congratulate him for getting it to this point. I appreciate his willingness to work with me. I also thank my team for helping me address an issue that I had concerns about.

Mr. Chair, I ask for the support of my colleagues, and I yield back the balance of my time.

Mr. MCHENRY. Mr. Chair, I yield such time as he may consume to the gentleman from Arkansas (Mr. HILL), the chair of the Digital Assets, Financial Technology and Inclusion Subcommittee on the Financial Services Committee.

Mr. HILL. Mr. Chair, I thank Chairman MCHENRY for the time.

Mr. Chair, I congratulate the gentlewoman from Colorado on this very effective amendment because she shares that passion that we have all had through this entire process, which is to recognize that we need to have vigorous anti-money laundering/Bank Secrecy Act and Know Your Customer protections around digital finance just like we do in the analog financial services system. Her bill will strengthen that.

I was just reviewing the Treasury Department's 2024 national security for combating terrorists and other illicit financing, and it brings to mind what a better regime it is to have blockchain.

Because a blockchain, Mr. Chair, has the identity connected with the transaction. It leaves an indelible mark cryptographically of those transactions that makes illicit finance easier to identify, not less. The Treasury Department points out that the top abusers, the top concern about illicit finance, are misuse of cash, including bulk cash, misuse of financial products and services like money orders; easy formation and limited information required to create a legal entity. An example is the use of casinos.

That is what the Treasury Department says are the toughest, most-challenging aspects of terror finance, and that is why this study will help us make sure that using blockchain is a more effective way to counter illicit finance in the world.

Mr. Chair, I thank the gentlewoman from Colorado for her support and for being such a constructive source of dynamic support for crafting FIT21.

Mr. MCHENRY. Mr. Chair, again, I will echo what Congressman HILL just stated for the RECORD.

The gentlewoman from Colorado has been a sterling advocate for enhanced BSA–AML protections, ensuring that we work against illicit finance. I thank her for the efforts, and I am willing to accept the amendment and urge its adoption.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Colorado (Ms. PETTERSEN).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. NORMAN

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 118–516.

Mr. NORMAN. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title IV, add the following:

SEC. 414. STUDIES ON FOREIGN ADVERSARY PARTICIPATION.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Commodity Futures Trading Commission and the Securities and Exchange Commission, shall, not later than 1 year after date of the enactment of this section, conduct a study and submit a report to the relevant congressional committees that—

(1) identifies any digital asset registrants which are owned by governments of foreign adversaries;

(2) determines whether any governments of foreign adversaries are collecting personal data or trading data about United States persons in the digital asset markets; and

(3) evaluates whether any proprietary intellectual property of digital asset registrants is being misused or stolen by any governments of foreign adversaries.

(b) GAO STUDY AND REPORT.—

(1) IN GENERAL.—The Comptroller General shall, not later than 1 year after date of the enactment of this section, conduct a study and submit a report to the relevant congressional committees that—

(A) identifies any digital asset registrants which are owned by governments of foreign adversaries;

(B) determines whether any governments of foreign adversaries are collecting personal

data or trading data about United States persons in the digital asset markets; and

(C) evaluates whether any proprietary intellectual property of digital asset registrants is being misused or stolen by any governments of foreign adversaries.

(c) DEFINITIONS.—In this section:

(1) DIGITAL ASSET REGISTRANT.—The term ''digital asset registrant'' means any person required to register as a digital asset trading system, digital asset broker, digital asset dealer, digital commodity exchange, digital commodity broker, or digital commodity dealer under this Act.

(2) FOREIGN ADVERSARIES.—The term ''foreign adversaries'' means the foreign governments and foreign non-government persons determined by the Secretary of Commerce to be foreign adversaries under section 7.4(a) of title 15, Code of Federal Regulations.

(3) RELEVANT CONGRESSIONAL COMMITTEES.—The term ''relevant congressional committees'' means—

(A) the Committees on Financial Services and Agriculture of the House of Representatives; and

(B) the Committees on Banking, Housing, and Urban Affairs and Agriculture, Nutrition, and Forestry of the Senate.

The Acting CHAIR. Pursuant to House Resolution 1243, the gentleman from South Carolina (Mr. NORMAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from South Carolina.

Mr. NORMAN. Mr. Chair, my amendment is pretty simple. It requires the Treasury Secretary in consultation with the CFTC and the SEC to complete a study and submit a report to Congress that identifies any digital asset registrants that are owned by governments of foreign adversaries.

The report will determine whether foreign adversary governments are collecting or trading personal data about American citizens in the digital asset markets and evaluate whether foreign adversary governments are misusing or stealing any proprietary intellectual property of digital asset registrants.

The GAO is required to complete a study and submit a report to Congress on the very same issues.

This amendment would promote transparency regarding how our Nation's strategic enemies may be exploiting the digital asset marketplace to invade the privacy of Americans and steal valuable intellectual property.

In June 2023, the Financial Services hearings that focused on the very bill that we are considering today, Aaron Kaplan, the CEO of, Prometheum, the first and only SEC/FINRA approved Special Purpose Broker-Dealer for digital assets, stated that Prometheum and its CCP partners entered into a joint agreement in December 2018 to develop a blockchain trading system where the Chinese partner took a 20 percent stake in Prometheum.

In case anyone has any doubts about the CCP ties, Prometheum's Chinese partner company was founded in 1969 by a former senior CCP official. In 2021, the party's central committee posthumously named him a ''National Excellent Communist Party member.''

In July 2023, several of my colleagues and I sent a letter to the SEC and the DOJ expressing our concerns with inconsistencies in Prometheum's public filings and the CCP's ownership of an entity that had the blessing of the SEC and FINRA to operate in the United States.

I followed up on this letter in a September 2023 hearing with the SEC Chair Gary Gensler, where he dodged my question and did not take my concerns of the 20 percent CCP ownership of Prometheum seriously.

The fact of the matter is that because Chinese companies are generally required by Chinese law to share data with the Chinese Government, these companies present substantial risks to United States individual privacy and our national security. Chinese-owned broker-dealers like Prometheum, Webull, and MooMoo operate as registered entities here in the United States, and the Biden administration and Chair Gensler do not seem to care, yet they attack American businesses operating in good faith with no regulatory clarity.

This is simply how the CCP and other foreign adversaries operate. They infiltrate our markets while the Biden administration looks the other way and punishes American companies who are only trying to operate in the United States but face endless regulation by enforcement of the Biden administration.

We need to pass FIT21 into law because the SEC's current regulation by enforcement is putting the United States at a disadvantage and allowing foreign adversaries to gain an advantage in our U.S. crypto markets, all while Gary Gensler attacks American public companies who have tried to work with the SEC and come in and register.

I urge my colleagues to vote in favor of this amendment to protect Americans from having their personal data shared with the CCP and other foreign adversaries.

Mr. Chair, I reserve the balance of my time.

Ms. WATERS. Mr. Chair, I claim the time in opposition to the amendment, but I am not opposed to it.

The Acting CHAIR. Without objection, the gentlewoman from California is recognized for 5 minutes.

There was no objection.

Ms. WATERS. Mr. Chair, while I do not oppose this amendment, I will emphasize that the broad deregulatory nature of the not fit for purpose act is such that it would severely weaken our capital markets and make us more vulnerable to bad actors, both domestic and foreign.

This amendment and the underlying bill do not protect consumers and investors. This amendment only requires a study on whether or not foreign adversaries are operating as digital asset registrants under the bill and collecting data on the U.S. consumer or investors.

We should not just be studying this issue; we should be legislating strong data privacy protections that apply all across the board.

Moreover, if TikTok was the inspiration for this bill, I will note that TikTok is not directly owned by the Chinese Government. The concern was that it was vulnerable to being unduly influenced by the Chinese Communist Party. If a China-based company was operating as a digital asset registrant under this bill, it would not fall within this study unless it was directly owned by the Chinese Communist Party. It would be easy for our adversaries to simply stand up proxy companies that appear to have no direct affiliation with them to evade the scrutiny of the study in the bill.

While I plan to support this amendment, I don't think it provides any meaningful safeguards on consumer privacy and it certainly does nothing to fix the underlying problems of the not fit for purpose act.

Mr. Chair, I reserve the balance of my time.

□ 1630

Mr. NORMAN. Mr. Speaker, may I inquire as to how much time I have remaining.

The Acting CHAIR. The gentleman from South Carolina has 45 seconds remaining.

Mr. NORMAN. Mr. Chair, I yield the balance of my time to the gentleman from Arkansas (Mr. HILL).

Mr. HILL. Mr. Chair, I thank the gentleman from South Carolina for yielding to me to speak in support of this amendment. It allows me to illustrate two things.

First is that Prometheum, while it was approved as a special purpose broker-dealer for digital assets, has not accomplished anything. It has no business, yet it also has this partnership with the CCP, so there is an illustration that FIT21 would allow us to have the guidance on how to register a broker-dealer.

Secondly, I fully support Mr. NORMAN and his concerns about the influence of foreign adversaries on people registered in the United States. It is a clear issue, and we have an investigation going on, on why the SEC has not pursued this itself.

I rise in support of Mr. NORMAN's effort. It is a good amendment. Let's add it to the bill and pass FIT21.

Ms. WATERS. Mr. Chair, I yield myself such time as I may consume.

The bill's supporters have claimed that this bill is necessary to provide legal clarity as to when a digital asset is considered a security and when it is considered a commodity, but this bill is anything but clear. It is 253 pages of highly convoluted and poorly defined language.

At the Rules Committee hearing yesterday, the Republicans testifying on the panel in defense of the bill could not answer a simple question from a fellow Republican as to whether dogecoin would qualify as a security or a commodity under this bill.

They pointed to their five-part decentralization test in the bill, which is, again, anything but clear. The current test for determining whether something is a security is called the Howey Test. It has stood the test of time, with guidance from the SEC clarifying its application, in addition to decades of case law expounding on how it applies to a variety of different assets. Even the courts have agreed with SEC's interpretation of the Howey Test, classifying digital assets as securities in a strikingly consistent manner.

The five-part decentralization test in this bill has not been tested, and it would create a slew of new litigation trying to decipher how it applies. Instead of a study, we should remember the fact that Members of Congress and legal experts struggling to agree on basic facts about what this bill would do foreshadows the mountains of litigation that this bill would result in to figure that out.

This bill provides the opposite of legal clarity, as the bill supporters claim. Instead, it provides several more convoluted and untested definitions to replace the time-tested Howey Test in place today.

The only thing clear about this 253-page bill is that it results in the substantial deregulation of crypto, just as the crypto industry has asked for.

Mr. Chair, I yield to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chair, this amendment gives the illusion that it prevents the bill from being useful to our foreign adversaries when, in fact, we see Iran using crypto to avoid sanctions, North Korea profiting from crypto, and Hamas raising huge amounts of money and being able to sneak around our efforts by using crypto. Finally, we see the crypto advocates viewing this bill as their ticket to move crypto into a competitor with the U.S. dollar. With tomorrow's bill, they try to hobble the dollar by saying it can't be digital and we can't have a better payment system involving the dollar, and that is their system for having crypto outcompete the dollar.

The administration opposes this bill. Even if you looked at it a few weeks ago, it has gotten much, much worse. I want to reemphasize that they added a new title that allows crypto to be completely unregulated and would allow for nonregulation of our stocks and bonds, so even if you liked this bill when you saw it 3 weeks ago, vote ''no.''

Ms. WATERS. Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from South Carolina (Mr. NORMAN).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Ms. WATERS. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from South Carolina will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. PERRY

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 118–516.

Mr. PERRY. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title V, add the following:

SEC. ___. SENSE OF THE CONGRESS.

It is the sense of the Congress that nothing in this Act or any amendment made by this Act should be interpreted to authorize any entity to regulate any commodity, other than a digital commodity, on any spot market.

The Acting CHAIR. Pursuant to House Resolution 1243, the gentleman from Pennsylvania (Mr. PERRY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. PERRY. Mr. Chairman, I offer a simple but important amendment.

While the underlying legislation allows the Commodity Futures Trading Commission the authority to regulate digital asset spot markets, nothing in the bill should be construed as giving the CFTC power beyond digital assets.

We all have seen good intentions around here, and nothing is punished like good intentions, so let's make clear what the strike zone is for everybody. We are trying to define that strike zone.

This amendment adds a sense of Congress that nothing in this act or any amendment made by this act should be interpreted to authorize any entity to regulate any commodity other than a digital commodity on any spot market. That is it. That is the whole thing.

Again, this amendment simply aims to combat mission creep, if you want to call it that, somewhere outside the strike zone and makes clear that Congress' intent is to only address digital asset spot markets in this bill and no more. With this amendment, the courts won't have any questions, and Mr. Gensler can't say, ''Well, I am not sure they did this,'' or ''They surely must have meant that.''

No. We cannot allow these agencies to take more and more power in the absence of express congressional approval. We have already seen Mr. Gensler aggressively pursue litigation against the crypto industry, people trying to do it the right way.

While trying to rein him in, we ought to ensure the CFTC knows exactly what they can and cannot do because he is not going to be there forever. There is going to be some next person that comes along and says that Congress wasn't really sure.

We are sure, and that is what this amendment does.

Madam Chair, I reserve the balance of my time.

Ms. WATERS. Madam Chair, I claim the time in opposition.

The Acting CHAIR (Mrs. BICE). The gentlewoman from California is recognized for 5 minutes.

Ms. WATERS. Madam Chair, under H.R. 4763, crypto that is deemed to be a digital commodity would come under the CFTC's purview, which would include a new explicit authority for the CFTC to regulate crypto spot markets. However, this amendment would ensure that this new authority for the CFTC to regulate crypto spot markets does not include traditional commodity spot markets.

It is already bad enough that this bill would result in mass deregulation of crypto and even some traditional securities, too. This amendment takes the bill to the next level by trying to preemptively block the CFTC to oversee non-crypto spot markets.

The bill's supporters continue to insist that this bill is only about crypto, but it has serious implications for traditional securities. With this amendment, it would now appear to have serious implications for traditional commodities also.

It is wholly unclear why Republicans, who have placed so much faith in the CFTC to police the spot markets of digital commodities, think that this agency is unable to oversee the spot markets of everyday commodities they currently regulate, like oil, wheat, and livestock. Excessive speculation in spot markets of tangible commodities is a real problem that can harm working families' budgets.

For this reason, Democratic CFTC Commissioner Christy Goldsmith Romero has called on the CFTC to study excessive and harmful speculations in the commodities markets. Specifically, she has stated: ''The CFTC has an impressive surveillance program and an equally impressive cadre of commodity markets experts to rely upon as it seeks to understand these pressures of working families, farmers, and producers. We should use them more, and more publicly.'' I agree with her.

Madam Chair, I urge my colleagues to stand up for working families and farmers by leaving the CFTC's existing authority to protect them from speculation in the traditional securities market fully intact.

Madam Chair, I urge my colleagues to vote ''no'' on this amendment, and I reserve the balance of my time.

Mr. PERRY. Madam Chair, I yield 2 minutes to the gentleman from South Dakota (Mr. JOHNSON).

Mr. JOHNSON of South Dakota. Madam Chair, I commend the gentleman from Pennsylvania for his thoughtful and forward-looking amendment.

I think it is important that we set the record straight. This amendment would not, as some have alleged, strip the CFTC of all of its spot market regulatory authority. All of the antifraud and antimanipulation powers that they currently hold would remain in place.

This sense of Congress simply makes it clear that, within FIT21, it does not provide the CFTC with grand new authorities over non-digital asset spot markets.

I think it is important we do that. There are clear and important differences between the traditional spot markets for commodities. Think about people buying and selling barrels of oil. That is not something everyday Americans are doing, but we do have everyday Americans engaged in the spot market for digital assets.

Also, with regard to digital asset commodities, we also have a number of intermediaries that would be interacting with these retail consumers. Some of those intermediaries would certainly hold the cash of consumers, either pending or after a trade. That is an important situation that we need to protect for that is not exactly like that in the traditional commodity markets—different marketplace, different threats, different set of tools.

As chair of the Commodity Markets, Digital Assets, and Rural Development Subcommittee, I want to make it clear that I support the gentleman's amendment. I do not want any part of FIT21 to change the CFTC's authority over non-digital asset commodities.

Madam Chair, I commend the gentleman for his work, and I urge a ''yes'' vote on the amendment.

Ms. WATERS. Madam Chair, at the Rules Committee hearing, Republicans revealed their true intentions with this bill. My friend, Mr. NORMAN, stated, regarding the investors who were defrauded by FTX:

> I blame the investor. I mean, would I get on an airplane with two wheels missing and one wing? They should have done their homework.

Representative AUSTIN SCOTT of Georgia on the Rules Committee doubled down on this kind of victim blaming, saying that he believed we should use a buyer-beware approach.

This is entirely offensive to consumers to simply say that they should have known better than to get defrauded. The very definition of fraud implies that the consumer could not have been expected to know or understand some facet of a contract.

I would venture to say that this bill is even worse than just a buyer-beware approach. This bill creates a facade of regulation that is designed to make ordinary investors and consumers think they are protected and that the investments are safe. In reality, this bill would facilitate and legitimize fraud rather than warning consumers to beware of the risk.

In addition to blaming millions of defrauded investors, Republicans continue to move forward with a bill that exempts the same crypto firms that were unlawfully issuing or facilitating crypto securities, giving them a get-out-of-jail-free card.

This is what Republicans love to do. They blame consumers and investors who have been defrauded while also advancing bills to protect those same firms that are ripping off consumers and investors.

Madam Chair, I reserve the balance of my time.

Mr. PERRY. Madam Chair, I yield the balance of my time of my time to the gentleman from Arkansas (Mr. HILL).

Mr. HILL. Madam Chair, I thank the gentleman from Pennsylvania for his constructive amendment. I think it is the absolute right approach. I want to associate myself with the comments from the chairman of the Commodity Markets, Digital Assets, and Rural Development Subcommittee from the House Ag Committee, Mr. JOHNSON, on that.

Madam Chair, FIT21 does exactly the opposite of what has been argued by the minority today. It gives a clear regulatory framework. It prevents fraud. It does require registration, custody, capital requirements. It gives clarity for the first time in American history to how we do securities and commodity oversight for digital assets.

The minority has also charged time and time again that somehow a great securities loophole is being opened in this bill.

□ 1645

It is just not true. It is not a factual statement. The term ''investment contract'' is a fungible, digital representation. It is not all these other items.

In fact, the bill specifically says the term ''digital asset'' does not include notes, stock, Treasury stock, securities, security-based swaps, and a whole list. It does not open the loophole that the ranking member of the Financial Services Committee charges.

I urge a ''yes'' vote on the bill and a ''yes'' vote for Mr. PERRY's amendment. Let's have regulatory credibility and clarity for a competitive United States in the 21st century.

Ms. WATERS. Madam Chair, I yield the balance of my time to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, this amendment illustrates the problem. A commodity other than a digital commodity, but any commodity can become a digital commodity, or you can have a contract or a derivative tied to the physical commodity that now becomes a digital coin.

We are told that the bill does not allow stocks and bonds to be digital assets, but it does allow them to be defined as investment contracts. If you get defined as an investment contract, you are without regulation.

As to the underlying bill, keep in mind, the administration opposes it, and three-quarters of Democrats voted against it before it got much worse.

The bill got much worse a few weeks ago. If you studied it before then, and I know the bill has been out there since July of last year, your analysis won't show you how this bill now allows digital crypto to go without regulation and opens the door to taking our traditional stocks and bonds out from the SEC.

Vote ''no'' on the amendment, but especially vote ''no'' on the bill.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. PERRY).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Ms. WATERS. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania will be postponed.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part B of House Report 118–516 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. CASAR of Texas.

Amendment No. 3 by Mr. NORMAN of South Carolina.

Amendment No. 4 by Mr. PERRY of Pennsylvania.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. CASAR

The Acting CHAIR. The unfinished business is the demand for a recorded vote on amendment No. 1, printed in B of House Report 118–516, offered by the gentleman from Texas (Mr. CASAR), on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 204, noes 209, not voting 23, as follows:

[Roll No. 223]

AYES—204

Adams
Aguilar
Allred
Amo
Auchincloss
Balint
Barragán
Beatty
Bera
Beyer
Bishop (GA)
Blunt Rochester
Bonamici
Bowman
Boyle (PA)
Brown
Brownley
Budzinski
Bush
Caraveo
Carbajal
Cárdenas
Carson
Carter (LA)
Cartwright
Casar
Case
Casten
Castor (FL)
Castro (TX)
Cherfilus-McCormick
Chu
Clark (MA)
Clarke (NY)
Cleaver
Clyburn
Cohen
Connolly
Correa
Courtney
Craig
Crockett
Crow
Cuellar
Davids (KS)
Davis (IL)
Davis (NC)
Dean (PA)
DeGette
DeLauro
DelBene
Deluzio
DeSaulnier
Dingell
Doggett
Escobar
Eshoo
Espaillat
Fletcher
Foster
Foushee
Frankel, Lois
Frost
Gallego
Garamendi
García (IL)
Garcia (TX)
Garcia, Robert
Golden (ME)
Goldman (NY)
Gomez
Gonzalez, Vicente
Gottheimer
Green, Al (TX)
Harder (CA)
Hayes

Himes
Horsford
Houlahan
Hoyer
Hoyle (OR)
Huffman
Ivey
Jackson (IL)
Jackson (NC)
Jacobs
Jayapal
Jeffries
Johnson (GA)
Kamlager-Dove
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kildee
Kilmer
Kim (NJ)
Krishnamoorthi
Kuster
Larsen (WA)
Larson (CT)
Lee (CA)
Lee (NV)
Lee (PA)
Leger Fernandez
Levin
Lieu
Lofgren
Lynch
Manning
Matsui
McBath
McClellan
McCollum
McGarvey
McGovern
Meeks
Menendez
Meng
Mfume
Morelle
Moskowitz
Moulton
Mrvan
Mullin
Nadler
Napolitano
Neal
Neguse
Nickel
Norcross
Norton
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Pelosi
Peltola
Perez
Peters
Pettersen
Phillips
Pingree
Plaskett
Pocan
Porter
Pressley
Quigley
Ramirez
Raskin
Ross
Ruiz
Ruppersberger
Ryan
Salinas
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Scholten
Schrier
Scott (VA)
Scott, David
Sewell
Sherman
Sherrill
Slotkin
Smith (WA)
Sorensen
Soto
Spanberger
Stanton
Stevens
Strickland
Suozzi
Swalwell
Sykes
Takano
Thanedar
Thompson (CA)
Thompson (MS)
Titus
Tlaib
Tokuda
Tonko
Torres (CA)
Torres (NY)
Trahan
Trone
Underwood
Vargas
Vasquez
Veasey
Wasserman Schultz
Waters
Watson Coleman
Wexton
Wild
Williams (GA)

NOES—209

Aderholt
Alford
Allen
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bean (FL)
Bentz
Bergman
Bice
Biggs
Bilirakis
Bishop (NC)
Boebert
Bost
Brecheen
Buchanan
Bucshon
Burchett
Burgess
Burlison
Calvert
Cammack
Carey
Carl
Carter (GA)
Carter (TX)
Chavez-DeRemer
Ciscomani
Cline
Cloud
Clyde
Cole
Collins
Comer
Crane
Crawford
Crenshaw
Curtis
D'Esposito
De La Cruz
DesJarlais
Diaz-Balart
Donalds
Duarte
Duncan
Dunn (FL)
Edwards
Ellzey
Emmer
Estes
Ezell
Fallon
Feenstra
Ferguson
Finstad
Fischbach
Fitzgerald
Fitzpatrick
Fleischmann
Flood
Foxx
Franklin, Scott
Fry
Fulcher
Gaetz
Garbarino
Garcia, Mike
Gimenez
Gonzales, Tony
Good (VA)
Gooden (TX)
Gosar
Granger
Graves (LA)
Graves (MO)
Green (TN)
Greene (GA)
Griffith
Grothman
Guest
Guthrie
Hageman
Harris
Harshbarger
Hern
Higgins (LA)
Hill
Hinson
Houchin
Hudson
Huizenga
Issa
Jackson (TX)
James
Johnson (LA)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Kean (NJ)
Kelly (MS)
Kelly (PA)
Kiggans (VA)
Kiley
Kim (CA)
Kustoff
LaHood
LaLota
Lamborn
Langworthy
Latta
LaTurner
Lawler
Lee (FL)
Lesko
Letlow
Lucas
Luetkemeyer
Luna
Luttrell
Mace
Malliotakis
Maloy
Mann
Mast
McCaul
McClain
McClintock
McCormick
McHenry
Meuser
Miller (IL)
Miller (OH)
Miller (WV)
Miller-Meeks
Mills
Molinaro
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Moran
Moylan
Nehls
Newhouse
Norman
Obernolte
Ogles
Owens
Palmer
Pence
Perry
Pfluger
Posey
Reschenthaler
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Rosendale
Rouzer
Roy
Rutherford
Salazar
Schweikert
Scott, Austin
Self
Sessions
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Stauber
Steel
Stefanik
Steil
Steube
Strong
Tenney
Thompson (PA)
Tiffany
Timmons
Turner
Valadao
Van Drew
Van Duyne
Van Orden
Wagner
Walberg
Waltz
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams (NY)
Williams (TX)
Wilson (SC)
Wittman
Womack
Yakym
Zinke

NOT VOTING—23

Blumenauer
Costa
Davidson
Evans
González-Colón
Grijalva
Hunt
Jackson Lee
LaMalfa
Landsman
Loudermilk
Magaziner
Massie
Moore (WI)
Murphy
Nunn (IA)
Radewagen
Sablan
Scalise
Spartz
Stansbury
Velázquez
Wilson (FL)

□ 1721

Messrs. ZINKE, WILLIAMS of Texas, ROGERS of Kentucky, BUCSHON, GRAVES of Missouri, Ms. VAN DUYNE, Messrs. OBERNOLTE, DUNN of Florida, ROSE, and Ms. GREENE of Georgia changed their vote from ''aye'' to ''no.''

Mrs. WATSON COLEMAN, Ms. TLAIB, and Mr. CUELLAR changed their vote from ''no'' to ''aye.''

Ms. GRANGER changed her vote from ''present'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. NORMAN

The Acting CHAIR. The unfinished business is the demand for a recorded vote on amendment No. 3, printed in part B of House Report 118–516, offered by the gentleman from South Carolina (Mr. NORMAN), on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 411, noes 0, not voting 25, as follows:

[Roll No. 224]

AYES—411

Adams
Aderholt
Aguilar
Alford
Allen
Allred
Amo
Amodei
Armstrong
Arrington
Auchincloss
Babin
Bacon
Baird
Balderson
Balint
Banks
Barr
Barragán
Bean (FL)
Beatty
Bentz
Bera
Bergman
Beyer
Bice
Biggs
Bilirakis
Bishop (GA)
Bishop (NC)
Blunt Rochester
Boebert
Bonamici
Bost
Bowman
Boyle (PA)
Brecheen
Brown
Brownley
Buchanan
Bucshon
Budzinski
Burchett
Burgess
Burlison
Bush
Cammack
Caraveo
Carbajal
Cárdenas
Carey
Carson
Carter (GA)
Carter (LA)
Carter (TX)
Cartwright
Casar
Case
Casten
Castor (FL)
Castro (TX)
Chavez-DeRemer
Cherfilus-McCormick
Chu
Ciscomani
Clark (MA)
Clarke (NY)
Cleaver
Cline
Cloud
Clyburn
Clyde
Cohen
Cole
Collins
Comer
Connolly
Correa
Courtney
Crane
Crawford
Crenshaw
Crockett
Crow
Cuellar
Curtis
D'Esposito
Davids (KS)
Davis (IL)
Davis (NC)
De La Cruz
Dean (PA)
DeGette
DeLauro
DelBene
Deluzio
DeSaulnier
DesJarlais
Diaz-Balart
Dingell
Doggett
Donalds
Duarte
Duncan
Dunn (FL)
Edwards
Ellzey
Emmer
Escobar
Eshoo
Espaillat
Estes
Ezell
Fallon
Feenstra
Ferguson
Finstad
Fischbach
Fitzgerald
Fitzpatrick
Fleischmann
Fletcher
Flood
Foster
Foushee
Foxx
Frankel, Lois
Franklin, Scott
Frost
Fry
Fulcher
Gaetz
Garamendi
Garbarino
García (IL)
Garcia (TX)
Garcia, Mike
Garcia, Robert
Gimenez
Golden (ME)
Goldman (NY)
Gomez
Gonzales, Tony
Gonzalez, Vicente
Good (VA)
Gooden (TX)
Gosar
Gottheimer
Granger
Graves (LA)
Graves (MO)
Green (TN)
Green, Al (TX)
Greene (GA)
Griffith
Grothman
Guest
Guthrie
Hageman
Harder (CA)
Harris
Harshbarger
Hayes
Hern
Higgins (LA)
Hill
Himes
Hinson
Horsford
Houchin
Houlahan
Hoyer
Hoyle (OR)
Hudson
Huffman
Huizenga
Issa
Ivey
Jackson (IL)
Jackson (NC)
Jackson (TX)
Jacobs
James
Jayapal
Jeffries
Johnson (GA)
Johnson (LA)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Kamlager-Dove
Kaptur
Kean (NJ)
Keating
Kelly (IL)
Kelly (MS)
Kelly (PA)
Kennedy
Khanna
Kiggans (VA)
Kildee
Kiley
Kilmer
Kim (CA)
Kim (NJ)
Krishnamoorthi
Kuster
Kustoff
LaHood
LaLota
LaMalfa
Lamborn
Langworthy
Larsen (WA)
Larson (CT)
Latta
LaTurner
Lawler
Lee (CA)
Lee (FL)
Lee (NV)
Lee (PA)
Leger Fernandez
Lesko
Letlow
Levin
Lieu
Lofgren
Lucas
Luetkemeyer
Luna
Luttrell
Lynch
Mace
Malliotakis
Maloy
Mann
Manning
Mast
Matsui
McBath
McCaul
McClain
McClellan
McClintock
McCollum
McCormick
McGarvey
McGovern
McHenry
Meeks
Menendez
Meng
Meuser
Mfume
Miller (IL)
Miller (OH)
Miller (WV)
Miller-Meeks
Mills
Molinaro
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Moran
Morelle
Moskowitz
Moulton
Moylan
Mrvan
Mullin
Nadler
Napolitano
Neal
Neguse
Nehls
Newhouse
Nickel
Norcross
Norman
Norton
Obernolte
Ocasio-Cortez
Ogles
Omar
Owens
Pallone
Palmer
Panetta
Pappas
Pascrell
Pelosi
Peltola
Pence
Perez
Perry
Peters
Pettersen
Pfluger
Phillips
Pingree
Plaskett
Pocan
Porter
Posey
Pressley
Quigley
Ramirez
Raskin
Reschenthaler
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Rosendale
Ross
Rouzer
Roy
Ruiz
Ruppersberger
Rutherford
Ryan
Salazar
Salinas
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Scholten
Schrier
Schweikert
Scott (VA)
Scott, Austin
Scott, David
Self
Sessions
Sewell
Sherman
Sherrill
Simpson
Slotkin
Smith (MO)
Smith (NJ)
Smith (WA)
Smucker
Sorensen
Soto
Spanberger

Spartz
Stanton
Stauber
Steel
Stefanik
Steil
Steube
Stevens
Strickland
Strong
Suozzi
Swalwell
Sykes
Takano
Tenney
Thanedar
Thompson (CA)
Thompson (MS)
Thompson (PA)
Tiffany
Timmons
Titus
Tlaib
Tokuda
Tonko
Torres (CA)
Torres (NY)
Trahan
Trone
Turner
Underwood
Valadao
Van Drew
Van Duyne
Van Orden
Vargas
Vasquez
Veasey
Wagner
Walberg
Waltz
Wasserman Schultz
Waters
Watson Coleman
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Wexton
Wild
Williams (GA)
Williams (NY)
Williams (TX)
Wilson (FL)
Wilson (SC)
Wittman
Womack
Yakym
Zinke

NOT VOTING—25

Blumenauer
Calvert
Carl
Costa
Craig
Davidson
Evans
Gallego
González-Colón
Grijalva
Hunt
Jackson Lee
Landsman
Loudermilk
Magaziner
Massie
Moore (WI)
Murphy
Nunn (IA)
Radewagen
Sablan
Scalise
Smith (NE)
Stansbury
Velázquez

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining.

□ 1726

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. PERRY

The Acting CHAIR. The unfinished business is the demand for a recorded vote on amendment No. 4, printed in part B of House Report 118–516, offered by the gentleman from Pennsylvania (Mr. PERRY), on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 225, noes 191, not voting 20, as follows:

[Roll No. 225]

AYES—225

Aderholt
Alford
Allen
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bean (FL)
Bentz
Bergman
Bice
Biggs
Bilirakis
Bishop (NC)
Boebert
Bost
Brecheen
Buchanan
Bucshon
Budzinski
Burchett
Burgess
Burlison
Calvert
Cammack
Caraveo
Carey
Carl
Carter (GA)
Carter (TX)
Chavez-DeRemer
Ciscomani
Cline
Cloud
Clyde
Cole
Collins
Comer
Craig
Crane
Crawford
Crenshaw
Curtis
D'Esposito
Davidson
De La Cruz
DesJarlais
Diaz-Balart
Donalds
Duarte
Duncan
Dunn (FL)
Edwards
Ellzey
Emmer
Estes
Ezell
Fallon
Feenstra
Ferguson
Finstad
Fischbach
Fitzgerald
Fitzpatrick
Fleischmann
Flood
Foxx
Franklin, Scott
Fry
Fulcher
Gaetz
Garbarino
Garcia, Mike
Gimenez
Golden (ME)
Gonzales, Tony
Good (VA)
Gooden (TX)
Gosar
Granger
Graves (LA)
Graves (MO)
Green (TN)
Greene (GA)
Griffith
Grothman
Guest
Guthrie
Hageman
Harder (CA)
Harris
Harshbarger
Hern
Higgins (LA)
Hill
Hinson
Houchin
Hudson
Huizenga
Issa
Jackson (TX)
James
Johnson (LA)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Kean (NJ)
Kelly (MS)
Kelly (PA)
Kiggans (VA)
Kiley
Kim (CA)
Kuster
Kustoff
LaHood
LaLota
LaMalfa
Lamborn
Langworthy
Latta
LaTurner
Lawler
Lee (FL)
Lesko
Letlow
Lofgren
Lucas
Luetkemeyer
Luna
Luttrell
Mace
Malliotakis
Maloy
Mann
Mast
McCaul
McClain
McClintock
McCormick
McHenry
Meuser
Miller (IL)
Miller (OH)
Miller (WV)
Miller-Meeks
Mills
Molinaro
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Moran
Moylan
Nehls
Newhouse
Norman
Obernolte
Ogles
Owens
Palmer
Peltola
Pence
Perez
Perry
Pfluger
Posey
Reschenthaler
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Rosendale
Rouzer
Roy
Rutherford
Salazar
Schweikert
Scott, Austin
Self
Sessions
Sherrill
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Sorensen
Spartz
Stanton
Stauber
Steel
Stefanik
Steil
Steube
Strong
Tenney
Thompson (PA)
Tiffany
Timmons
Turner
Valadao
Van Drew
Van Duyne
Van Orden
Veasey
Wagner
Walberg
Waltz
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams (NY)
Williams (TX)
Wilson (SC)
Wittman
Womack
Yakym
Zinke

NOES—191

Adams
Aguilar
Allred
Amo
Auchincloss
Balint
Barragán
Beatty
Bera
Beyer
Bishop (GA)
Blunt Rochester
Bonamici
Bowman
Boyle (PA)
Brown
Brownley
Bush
Carbajal
Cárdenas
Carson
Carter (LA)
Cartwright
Casar
Case
Casten
Castor (FL)
Castro (TX)
Cherfilus-McCormick
Chu
Clark (MA)
Clarke (NY)
Cleaver
Clyburn
Cohen
Connolly
Correa
Courtney
Crockett
Crow
Cuellar
Davids (KS)
Davis (IL)
Davis (NC)
Dean (PA)
DeGette
DeLauro
DelBene
Deluzio
DeSaulnier
Dingell
Doggett
Escobar
Eshoo
Espaillat
Fletcher
Foster
Foushee
Frankel, Lois
Frost
Garamendi
García (IL)
Garcia (TX)
Garcia, Robert
Goldman (NY)
Gomez
Gonzalez, Vicente
Gottheimer
Green, Al (TX)
Hayes
Himes
Horsford
Houlahan
Hoyer
Hoyle (OR)
Huffman
Ivey
Jackson (IL)
Jackson (NC)
Jacobs
Jayapal
Jeffries
Johnson (GA)
Kamlager-Dove
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kildee
Kilmer
Kim (NJ)
Krishnamoorthi
Larsen (WA)
Larson (CT)
Lee (CA)
Lee (NV)
Lee (PA)
Leger Fernandez
Levin
Lieu
Lynch
Manning
Matsui
McBath
McClellan
McCollum
McGarvey
McGovern
Meeks
Menendez
Meng
Mfume
Morelle
Moskowitz
Moulton
Mrvan
Mullin
Nadler
Napolitano
Neal
Neguse
Nickel
Norcross
Norton
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Pelosi
Peters
Pettersen
Phillips
Pingree
Plaskett
Pocan
Porter
Pressley
Quigley
Ramirez
Raskin
Ross
Ruiz
Ruppersberger
Ryan
Salinas
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Scholten
Schrier
Scott (VA)
Scott, David
Sewell
Sherman
Slotkin
Smith (WA)
Soto
Spanberger
Stevens
Strickland
Suozzi
Swalwell
Sykes
Takano
Thanedar
Thompson (CA)
Thompson (MS)
Titus
Tlaib
Tokuda
Tonko
Torres (CA)
Torres (NY)
Trahan
Trone
Underwood
Vargas
Vasquez
Wasserman Schultz
Waters
Watson Coleman
Wexton
Wild
Williams (GA)
Wilson (FL)

NOT VOTING—20

Blumenauer
Costa
Evans
Gallego
González-Colón
Grijalva
Hunt
Jackson Lee
Landsman
Loudermilk
Magaziner
Massie
Moore (WI)
Murphy
Nunn (IA)
Radewagen
Sablan
Scalise
Stansbury
Velázquez

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining.

□ 1730

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The Acting CHAIR. There being no further amendment, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. BICE) having assumed the chair, Ms. MALLIOTAKIS, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 4763) to provide for a system of regulation of digital assets by the Commodity Futures Trading Commission and the Securities and Exchange Commission, and for other purposes, and, pursuant to House Resolution 1243, she reported the bill back to the House with sundry further amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any further amendment reported from the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. WATERS. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 279, noes 136, not voting 15, as follows:

[Roll No. 226]

AYES—279

Aderholt
Aguilar
Alford
Allen
Allred
Amodei
Armstrong
Arrington
Auchincloss
Babin
Bacon
Baird
Balderson
Banks
Barr
Bean (FL)
Bentz
Bera
Bergman
Beyer
Bice
Bilirakis
Bishop (NC)
Boebert
Bost
Boyle (PA)
Brecheen
Buchanan
Bucshon
Budzinski
Burchett
Burgess
Burlison
Calvert
Cammack
Caraveo
Carey
Carl
Carter (GA)
Carter (TX)
Chavez-DeRemer
Ciscomani
Clark (MA)
Cline
Cloud
Clyde
Cole
Collins
Comer
Costa
Craig
Crane
Crawford
Crenshaw
Crockett
Cuellar
Curtis
D'Esposito
Davidson
Davis (NC)
De La Cruz
DelBene
DesJarlais
Diaz-Balart
Donalds
Duarte
Duncan
Dunn (FL)
Edwards
Ellzey
Emmer
Eshoo
Estes
Ezell
Fallon
Feenstra
Ferguson
Finstad
Fischbach
Fitzgerald
Fitzpatrick
Fleischmann
Flood
Foxx
Franklin, Scott
Fry
Fulcher
Gaetz
Gallego
Garbarino
Garcia, Mike
Garcia, Robert
Gimenez
Goldman (NY)
Gomez
Gonzales, Tony
Gonzalez, Vicente
Good (VA)
Gooden (TX)
Gosar
Gottheimer
Granger
Graves (LA)
Graves (MO)
Green (TN)
Greene (GA)
Griffith
Grothman
Guest
Guthrie
Hageman
Harder (CA)
Harris
Harshbarger
Hern
Higgins (LA)
Hill
Himes
Hinson
Horsford
Houchin
Houlahan
Hudson
Huizenga
Issa
Jackson (IL)
Jackson (NC)
Jackson (TX)
James
Johnson (LA)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Kamlager-Dove
Kean (NJ)
Kelly (MS)
Kelly (PA)
Kennedy
Khanna
Kiggans (VA)
Kiley
Kim (CA)
Kim (NJ)
Krishnamoorthi
Kuster
Kustoff
LaHood
LaMalfa
Lamborn
Langworthy
Latta
LaTurner
Lawler
Lee (FL)
Lee (NV)
Lesko
Letlow
Levin
Lieu
Lofgren
Lucas
Luetkemeyer
Luna
Luttrell
Mace
Malliotakis
Maloy
Mann
Mast
McBath
McCaul
McClain
McClintock
McCormick
McHenry
Menendez
Meuser
Miller (IL)
Miller (OH)
Miller (WV)
Miller-Meeks
Mills
Molinaro
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Moran
Moskowitz
Moulton
Mullin
Nehls
Newhouse
Nickel
Norman
Obernolte
Ogles
Owens
Palmer
Panetta
Pelosi
Peltola
Pence
Perry
Peters
Pettersen
Pfluger
Phillips
Posey
Quigley
Reschenthaler
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Rouzer
Roy
Rutherford
Ryan
Salazar
Schiff
Schneider
Scholten
Schweikert
Scott, Austin
Self
Sessions
Sherrill
Simpson
Slotkin
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Sorensen
Soto
Spanberger
Spartz
Stanton
Stauber
Steel
Stefanik
Steil
Steube
Stevens
Strickland
Strong
Suozzi
Swalwell
Tenney
Thanedar
Thompson (CA)
Thompson (PA)
Tiffany
Timmons
Titus
Torres (NY)
Turner
Valadao
Van Drew
Van Duyne
Van Orden
Veasey
Wagner
Walberg
Waltz
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Wild
Williams (NY)
Williams (TX)
Wilson (SC)
Wittman
Womack
Yakym
Zinke

NOES—136

Adams
Amo
Balint
Barragán
Beatty
Biggs
Bishop (GA)
Blunt Rochester
Bonamici
Bowman
Brown
Brownley
Bush
Carbajal
Cárdenas
Carson
Carter (LA)
Cartwright
Casar
Case
Casten
Castor (FL)
Castro (TX)
Cherfilus-McCormick
Chu
Clarke (NY)
Cleaver
Clyburn
Cohen
Connolly
Correa
Courtney
Crow
Davids (KS)
Davis (IL)
Dean (PA)
DeGette
DeLauro
Deluzio
DeSaulnier
Dingell
Doggett
Escobar
Espaillat
Fletcher
Foster
Foushee
Frankel, Lois
Frost
Garamendi
García (IL)
Garcia (TX)
Golden (ME)
Green, Al (TX)
Hayes
Hoyer
Hoyle (OR)
Huffman
Ivey
Jacobs
Jayapal
Jeffries
Johnson (GA)
Kaptur
Keating
Kelly (IL)
Kildee
Kilmer
LaLota
Larsen (WA)
Larson (CT)
Lee (CA)
Lee (PA)
Leger Fernandez
Lynch
Manning
Matsui
McClellan
McCollum
McGarvey
McGovern
Meeks
Meng
Mfume
Morelle
Mrvan
Nadler
Napolitano
Neal
Neguse
Norcross
Ocasio-Cortez
Omar
Pallone
Pappas
Pascrell
Perez
Pingree
Pocan
Porter
Pressley
Ramirez
Raskin
Rosendale
Ross
Ruiz
Ruppersberger
Salinas
Sánchez
Sarbanes
Scanlon
Schakowsky
Schrier
Scott (VA)
Scott, David
Sewell
Sherman
Smith (WA)
Sykes
Takano
Thompson (MS)
Tlaib
Tokuda
Tonko
Torres (CA)
Trahan
Trone
Underwood
Vargas
Vasquez
Wasserman Schultz
Waters
Watson Coleman
Wexton
Williams (GA)
Wilson (FL)

NOT VOTING—15

Blumenauer
Evans
Grijalva
Hunt
Jackson Lee
Landsman
Loudermilk
Magaziner
Massie
Moore (WI)
Murphy
Nunn (IA)
Scalise
Stansbury
Velázquez

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1738

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BLUMENAUER. Madam Speaker, had I been present for the vote today on Roll Call No. 221, Ordering the Previous Question on H. Res. 1243, I would have voted NAY.

Had I been present for the vote on Roll Call No. 222, H. Res. 1243, I would have voted "no."

Had I been present for the vote on Roll Call No. 223, Casar Amendment No. 1, I would have voted "aye."

Had I been present for the vote on Roll Call No. 224, Norman Amendment No. 3, I would have voted "aye."

Had I been present for the vote on Roll Call No. 225, Perry Amendment No. 4, I would have voted "no."

Had I been present for the vote on Roll Call No. 226, H.R. 4763, I would have voted "no."

PERSONAL EXPLANATION

Mr. LANDSMAN. Madam Speaker, for personal reasons, I was unable to make votes. Had I been present, I would have voted NAY on Roll Call No. 221, NAY on Roll Call No. 222, YEA on Roll Call No. 223, YEA on Roll Call No. 224, NAY on Roll Call No. 225, and YEA on Roll Call No. 226.

PERSONAL EXPLANATION

Mr. NUNN of Iowa. Madam Speaker, due to a natural disaster event in my district, I made an emergency trip back to Iowa to provide assistance to my constituents. Had I been present, I would have voted NAY on Roll Call No. 223, Casar Amendment No. 1 to H.R. 4763, YEA on Roll Call No. 224, Norman Amendment No. 3 to H.R. 4763, YEA on Roll Call No. 225, Perry Amendment No. 4 to H.R. 4763, and YEA on Roll Call No. 226, H.R. 4763.

HOUR OF MEETING ON TOMORROW

Mr. HILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER pro tempore (Mr. SELF). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

HONORING THE LIFE OF TIFFANY FERDON

(Mr. NEWHOUSE asked and was given permission to address the House for 1 minute.)

Mr. NEWHOUSE. Mr. Speaker, today, I rise to honor the life of a dedicated first responder from Okanogan, Washington, Tiffany Ferdon, who we tragically lost last month.

Tiffany was a volunteer firefighter, an EMT for the Tonasket Fire Department and Aeneas Valley Fire Department, as well as a member of the Samaritan Riders, a group of motorcycle enthusiasts who serve the medically challenged and socially disadvantaged children throughout our region. Her passion was making the world a better place, a quality which was clear in the work that she did.

Tiffany's death is a loss for the whole community, but her legacy will never be forgotten. May her family and community continue to be blessed with her memory, and may she rest in peace.

HONORING ROBERT L. FERRIS, JR.

(Mr. DAVIS of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of North Carolina. Mr. Speaker, with the American flag hanging, a white hearse traveled down the highway, returning the remains of Staff Sergeant Robert L. Ferris, Jr., home.

More than 80 years after his bomber crashed, Sergeant Ferris joined his family, and he was finally laid to rest.

He was a young gunner, 20 years old, during World War II when his B–17 was shot down.

This past week he was transported from Raleigh-Durham International Airport to New Bern, a journey that took him through Wilson.