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Text of H.R. 4763, the Financial Innovation and Technology for the 21st Century Act[Showing the text of H.R. 4763, as ordered reported by the Committee on Financial Services and the Committee on Agriculture, with modifications]

A BILL

~~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.~~

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. ~~Joint rulemakings~~ 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. ~~1110~~ 1110. 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. ~~201~~ 301. Exempted transactions in digital assets.
- Sec. ~~202~~ 302. Requirements for offers and sales of certain digital assets.
- Sec. ~~203~~ 303. Enhanced disclosure requirements.
- Sec. ~~204~~ 304. Certification of certain digital assets.
- Sec. ~~205~~ 305. Effective date.

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

- Sec. ~~301~~ 401. Treatment of digital commodities and other digital assets.
- Sec. ~~302~~ 402. ~~Anti-fraud a~~ Authority over permitted payment stablecoins and restricted digital assets.
- Sec. ~~303~~ 403. Registration of digital asset trading systems.
- Sec. ~~304~~ 404. Requirements for digital asset trading systems.
- Sec. ~~305~~ 405. Registration of digital asset brokers and digital asset dealers.
- Sec. ~~306~~ 406. Requirements of digital asset brokers and digital asset dealers.
- Sec. ~~307~~ 407. Rules related to conflicts of interest.
- Sec. ~~308~~ 408. Treatment of certain digital assets in connection with federally regulated intermediaries.
- Sec. ~~309~~ 409. Exclusion for ~~ancillary~~ decentralized finance activities.

- Sec. ~~310.~~ 410. Registration and requirements for notice-registered digital asset clearing agencies.
- Sec. ~~311.~~ 411. Treatment of custody activities by banking institutions.
- Sec. ~~312.~~ 412. Effective date; administration.

Sec. 413.

Discretionary Surplus Fund.

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

- Sec. ~~401.~~ 501. Commission jurisdiction over digital commodity transactions.
- Sec. ~~402.~~ 502. Requiring futures commission merchants to use qualified digital commodity custodians.
- Sec. ~~403.~~ 503. Trading certification and approval for digital commodities.
- Sec. ~~404.~~ 504. Registration of digital commodity exchanges.
- Sec. ~~405.~~ 505. Qualified digital commodity custodians.
- Sec. ~~406.~~ 506. Registration and regulation of digital commodity brokers and dealers.
- Sec. ~~407.~~ 507. Registration of associated persons.
- Sec. ~~408.~~ 508. Registration of commodity pool operators and commodity trading advisors.
- Sec. ~~409.~~ 509. Exclusion for ~~ancillary~~ *decentralized finance* activities.
- Sec. ~~410.~~ 510. *Funding for implementation and enforcement.*

Sec. 511. Effective date.

TITLE ~~V~~~~VI~~—INNOVATION AND TECHNOLOGY IMPROVEMENTS

- Sec. ~~501.~~ 601. *Findings; sense of Congress.*
- Sec. 602.* Codification of the SEC Strategic Hub for Innovation and Financial Technology.
- Sec. ~~502.~~ 603. Codification of LabCFTC.
- Sec. ~~503.~~ 604. CFTC-SEC Joint Advisory Committee on Digital Assets.
- Sec. ~~504.~~ 605. Study on decentralized finance.
- Sec. ~~505.~~ 606. Study on non-fungible digital assets.
- Sec. ~~506.~~ 607. Study on expanding financial literacy amongst digital asset holders.
- Sec. ~~507.~~ 608. Study on financial market infrastructure improvements.

TITLE VI—MISCELLANEOUS

Sec. 601. Findings; sense of Congress.

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—

“(A) 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; *and/or*

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

“(B) with respect to any digital asset—

“(i) beneficially owns 5 percent or more of the units of such digital asset that are then outstanding; *and/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 NETWORK.—~~WITH RESPECT TO A BLOCKCHAIN SYSTEM TO WHICH A DIGITAL ASSET RELATES, THE TERM ‘DECENTRALIZED NETWORK 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. ~~“(25) 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~~

~~For purposes or of 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~~

~~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 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~~*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, ~~or~~ 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 NETWORK SYSTEM.—With respect to a blockchain system to which a digital asset relates, the term ‘functional network 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’—

~~“(A)~~

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; ~~and~~

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

“(B) *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) ~~any unit of a digital asset held by a person, other than the digital asset issuer, a related person, or an affiliated person,~~ prior to the first date on which each blockchain system to which ~~the~~ *a* digital asset relates is a functional network system and certified to be a decentralized

~~network 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) ~~any 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 not a functional ~~network system~~ or not certified to be a decentralized ~~network system~~ under section 44 of the Securities Exchange Act of ~~1934; or~~ 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; ~~or~~

“(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) Mixed digital asset transaction.—The term ‘mixed digital asset transaction’ means an agreement, contract, or transaction involving a restricted digital asset and a digital commodity.”~~

~~“(88)~~

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).

~~“(8988) ADDITIONAL DIGITAL ASSET-RELATED TERMS.—~~

~~“(A) SECURITIES ACT OF 1933.—The terms ‘affiliated person’, ‘blockchain system’, ‘decentralized governance system’, ‘decentralized networksystem’, ‘digital asset’, ‘digital asset issuer’, ‘digital asset maturity date’, ‘end user distribution’, ‘functional network’, ‘mixed digital asset transactionsystem’, ‘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) ~~ancillary~~any excluded activities~~activity~~, as ~~defined~~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 ~~a contract for~~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 ~~a contract for~~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 ~~a contract for~~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 ~~a contract for~~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 ~~a~~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 ~~network~~system and certified to be a decentralized ~~network~~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;~~or~~

“(ii) any unit of a digital asset held by a person, other than ~~a~~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 ~~network~~system and certified to be a decentralized ~~network~~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 ~~network~~system and certified to be a decentralized ~~network~~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 ~~customer~~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 ~~customer~~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;~~or~~

“(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 ~~a bank or trust company~~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) ~~regularly enters into digital commodity transactions with counterparties as an ordinary course of business~~ 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) ~~regularly~~ 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; ~~or~~

“(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 ~~network~~ system’, ‘digital asset’, ‘digital asset issuer’, ‘end user distribution’, ‘functional ~~network~~ 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’ ~~has the meaning given that term under section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))~~ 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”, ~~and~~ “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 network system”, “digital asset”, “digital asset issuer”, “digital asset maturity date”, “digital asset trading system”, “end user distribution”, “functional network 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”, ~~“mixed digital asset transaction”~~, 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. ~~JOINT~~ 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 network system”, “decentralized governance system”, “digital asset”, “digital asset issuer”, “digital asset maturity date”, “end user distribution”, “functional network system”, “related person”, “restricted digital asset”, and “source code”, as defined under section 2(a) of the Securities Act of 1933.

(2) ~~The term “mixed digital asset transaction”, as defined under section 3(a) of the Securities Exchange Act of 1934.~~

(3)

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 ~~as a digital commodity exchange and with~~ ~~and~~ the Securities and Exchange Commission ~~as a digital asset trading system~~ 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 ~~authority~~ ~~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) ~~FILING CONDITIONS.~~—A person ~~desiring to file~~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—~~

~~(A)~~

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

~~(B) the information required by subsections (b) and (c)~~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;~~and~~

(D) potential conflicts of ~~interest.~~

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

~~(A)~~

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 fulfillment rules;

(D) risk management procedures;

and

(E)

(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 consumerscustomers—

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

(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.

(34) 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~~ calculate the total digital asset obligations of the person, and at all times hold money, assets, ~~and/or~~ property ~~received from any customer of the person from the funds of the person~~ 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 ~~prevent the account of a customer from becoming under-segregated~~ 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 ~~AND ENFORCEMENT~~.—

(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 ~~not be subject to an enforcement action by the Securities and Exchange Commission for—~~

~~(A) listing or offering a digital asset deemed a security; or~~

~~(B) failing~~

be exempt from Securities and Exchange Commission rules and regulations pertaining to register ~~registering~~ as a national securities exchange, broker, dealer, or clearing agency, for activities related to a digital assets deemed a security ~~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, ~~anti-fraud,~~ or false reporting enforcement authority of the ~~Commission or~~ 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 ~~or~~ and the Securities and Exchange Commission to jointly require a person to delist an asset for trading if the Commission ~~or~~ 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) ~~Final~~ 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 FINAL REGISTRATION.—

~~(A) ONGOING DEFERRAL FOR ENTITIES REGISTERED WITH THE COMMISSION.—Subsection (e)(1) shall continue to apply to a person who has submitted a notice of intent to register while the person is registered with the Commission as a digital commodity exchange, a digital commodity broker, or a digital commodity dealer, as appropriate.~~

~~(B) END OF DEFERRAL.—~~

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

~~(iA)~~ 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

~~(iiB)~~ the digital commodity exchange, digital commodity broker, or digital commodity dealer that filed a notice of intent to register failed to register apply for registration as such with the Commission within 180 days after the ~~Commission finalized 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 ~~knowingly~~ 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) ~~FILING~~ CONDITIONS.—A person ~~desiring to file~~ 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~~—

~~(A)~~

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

~~and~~

~~(B) the information required by subsections (b) and (c)~~

(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;~~and~~

(D) potential conflicts of ~~interest.~~

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

~~(A)~~

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 fulfillment rules;

~~(B) risk management procedures; and~~

~~(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) ~~NATIONAL SECURITIES ASSOCIATION.—THE PERSON SHALL BE A MEMBER~~ STATUTORY DISQUALIFICATION.—Except to the extent otherwise specifically provided by Commission ~~or~~ a national securities association registered rule, regulation, or order, the person may not permit an individual who is subject to a statutory

disqualification (as defined under section *15A3(a)* of the Securities Exchange Act of *1934 (15 U.S.C. 78o-3)*, and shall comply with the rules of the association, including the rules of the association pertaining to customer disclosures and protection of customer assets *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;

and

{€

(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~~ 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 ~~deemed a security~~.

(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 or~~ 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) ~~Final~~ 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 ~~FINAL~~ 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 ~~shall~~ may adopt ~~rules for membership with such association for persons required to be members of such association under subsection (d)(1) within 180 days after the date of enactment of this Act~~ 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 ~~regulation under~~ 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.”

i

(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. ~~11090~~. 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. ~~110~~. ~~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. ~~201.~~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 *network system* and a decentralized *network 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 *network system* and certified to be a decentralized *network 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 ~~INTERMEDIARY~~ISSUER.—For purposes of determining whether a transaction meets the requirements described under subparagraph (A) through (C) of section 4(a)(8), ~~a digital asset issuer~~an intermediary may rely on the efforts of ~~an intermediary~~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 anti-fraud 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).

~~“(4) DIGITAL ASSETS DEEMED RESTRICTED DIGITAL ASSET.—A unit of a digital asset acquired directly or indirectly from the digital asset issuer in reliance on the exemption provided under section 4(a)(8) is deemed a restricted digital asset.~~

”

(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. 202.302. 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 *networksystem* 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 *owned originally acquired* the digital *commodityasset* while it was a restricted digital asset *for 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 *networksystem* 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 ~~network~~ 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. ~~203.303~~ ENHANCED DISCLOSURE REQUIREMENTS.

Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), as amended by section ~~202.302~~, 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 ~~network~~ system and decentralized ~~network~~ 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.—Where appropriate, provide under the caption ‘Risk Factors’ a description of the material risks surrounding ownership of a unit of a digital asset.

~~This discussion shall be organized logically with relevant headings and each risk factor shall be set forth under a subcaption that adequately describes the risk.~~ *“(b) Certification.—*

~~“(b) CERTIFICATION IN GENERAL.—~~With respect to a digital asset and any blockchain system to which the digital asset relates, the information ~~required to be made available~~ *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. ~~204.304~~. 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 ~~203.303~~, 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 ~~network~~ *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 ~~network~~ *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 **network 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 **network 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.

~~“(i) LIABILITY FOR PROVIDING FALSE INFORMATION.—It shall be unlawful for any person to provide false information in support of a certification under this section if such person knew or reasonably should have known such information was false.~~

”

SEC. ~~205.305~~ 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 ~~III~~~~V~~—REGISTRATION FOR DIGITAL ASSET INTERMEDIARIES AT THE SECURITIES AND EXCHANGE COMMISSION

SEC. ~~301.401~~ 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~~ 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: “~~Subject to subsection (i), the~~ 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. ~~302. ANTI-FRAUD~~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 ~~stablecoins with respect to those circumstances in which the permitted payment stablecoins are brokered, traded, or custodied~~ 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 ~~platform~~ 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 ~~on a permitted payment stablecoin issuer regarding the operations~~ or limitation ~~of~~ a permitted payment stablecoin issuer or a ~~permitted payment stablecoin, including~~ digital asset issuer regarding any aspect of the ~~operation~~ operations of a permitted payment stablecoin ~~issuer or 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 ~~304,404,~~ 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 ~~platform~~ 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. ~~303,403,~~ 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 ~~subparagraph (A)~~ 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~~ 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 ~~subparagraph~~ clause (A) 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. ~~304.404~~ 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) ~~IN GENERAL~~ QUALIFIED DIGITAL ASSET CUSTODIAN REQUIRED.—A digital asset trading system 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~~ 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, ~~and/or~~ property of the customer.

“(2) ~~QUALIFIED DIGITAL ASSET CUSTODIAN REQUIRED.—A~~ property.

“(3) Custody in other capacity.—Nothing in this Act may be construed to prohibit a person registered as a digital asset trading system ~~shall from~~ hold ~~holding~~ customer restricted digital assets described in paragraph (1) with a qualified digital asset custodian described under section 6B.

“(3) ~~CUSTODY PROHIBITED.—A digital asset trading system, in its capacity as such, may not hold~~ 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 ~~or~~ property 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.—

“(1) IN GENERAL.—

A digital asset custodian ~~shall~~

“(A) be

~~that is not~~ subject to ~~adequate~~ supervision and ~~appropriate regulation by~~

“(i) the Board of Governors of the Federal Reserve System;

“(ii) the Comptroller of the Currency;

“(iii) the Federal Deposit Insurance Corporation;

“(iv)

examination by an appropriate Federal banking agency, the National Credit Union Administration, the Commodity Futures Trading ~~Commission;~~

“(v)

Commission, or the Securities and Exchange ~~Commission;~~ Commission shall be subject to adequate supervision and appropriate regulation by—

“(vi) a State bank supervisor (within the meaning of section 3 of the Federal Deposit Insurance Act);

~~or~~

“(vii)

“(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;~~ and ~~custodian.~~

“(c) Other Requirements.—

~~“(B1) not NOT BE OTHERWISE PROHIBITED BY THE APPLICABLE SUPERVISOR FROM ENGAGING IN AN ACTIVITY WITH RESPECT TO THE CUSTODY AND SAFEKEEPING OF DIGITAL ASSETS.~~

~~“(2) ADEQUATE SUPERVISION AND APPROPRIATE REGULATION.— FOR PURPOSES OF PARAGRAPH 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 (1b), 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 ~~minimum~~ standards relating to—

~~“(A) accessibility of customer assets;~~

~~“(B) financial resources;~~

to the licensing, examination, and supervisory processes that require the digital asset custodian to, at a minimum—

~~“(CA) risk management requirements;~~

~~“(D) governance arrangements;~~

~~“(E) fitness standards for officers and directors;~~

~~“(F) recordkeeping~~

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;

~~“(GB) information sharing; and hold capital sufficient for the financial integrity of the digital asset custodian;~~

~~“(HC) conflicts of interest; protect customer assets;~~

~~“(3D) Deemed compliance.—A digital asset custodian shall be deemed to be subject to adequate supervision and appropriate regulation, if—~~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);

~~“(AF) it is supervised by an agency described under any of clauses (i) through (v) of paragraph (1)(A); or~~

~~“(B) it is a bank supervised by a State bank supervisor (within the meaning of section 3 of the Federal Deposit Insurance Act)~~

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.

“(42) RULEMAKING WITH RESPECT TO DEFINITIONS.—

“(A) In general.—For purposes of this ~~sub~~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.

~~“(eB) INFORMATION SHARING.— EACH DIGITAL ASSET~~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 custodian custody and shall periodically share of information with the Commission, as the Commission determines by rule to be reasonably necessary to effectuate any of the provisions, or to accomplish any 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) ~~of~~ on the ~~purposes, of this Act~~ effective date of the rulemaking.”

SEC. ~~305.405~~ 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 ~~any facility of~~ a digital asset trading ~~platform~~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~~;

~~“(ii) the term ‘dealer’ includes a~~
~~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 ~~a~~~~such~~ digital asset broker ~~and~~~~or~~ digital asset dealer—

~~“(i) rules of such national securities association written specifically for digital asset brokers and~~
~~or digital asset dealers; dealers;~~

~~“(3) Exception.—A digital asset broker or digital asset dealer may register under~~~~ii) the~~
~~provisions of the Financial Innovation and Technology for the 21st Century Act and rules issued~~
~~thereunder this section without obtaining membership in a national securities association until~~
~~the end of the 360-day period beginning~~~~applicable to digital asset brokers and digital asset~~
~~dealers; and~~

~~“(iii) the provisions~~ ~~on~~~~of~~ the ~~date~~ the first national securities association adopts rules to
~~admit~~~~securities laws and the rules thereunder applicable to~~ digital asset brokers ~~or~~~~and~~ digital
asset dealers ~~as members~~.

“(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. ~~306.406~~ 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

305,

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 (34), money, assets, and property of customers of a digital asset broker or digital asset dealer described in paragraph (34) 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 (34), such share of the money, assets, and property described in paragraph (34) 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 (34) 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 (34) 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 (34) by utilizing any unit of such restricted digital asset to participate in a blockchain service (as defined in paragraph (45)(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 ~~value of such digital assets as assets or liabilities of the digital asset broker or digital asset dealer.~~

“(3) COORDINATION OF CAPITAL REQUIREMENTS.—

“(A) COMMISSION RULE.—The Commission shall, by rule, provide appropriate offsets to any applicable capital requirement for a person with multiple registrations, including as a broker, dealer, digital asset broker, or digital asset dealer.

“(B) JOINT RULE.—The Commission and the Commodity Futures Trading Commission shall jointly, by rule, provide appropriate offsets to any applicable capital requirement for a person with multiple registrations, including as a digital asset broker, digital asset dealer, digital asset trading system, digital commodity broker, digital commodity dealer, or digital commodity exchange

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. ~~307.407~~. 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. ~~308.408~~. 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—

“(A)

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. ~~309.409~~. EXCLUSION FOR ~~ANCILLARY~~ *DECENTRALIZED FINANCE* ACTIVITIES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), as amended by section ~~305.405~~, is further amended by inserting after section 15H the following:

“SEC. 15I. ~~EXCLUSION FOR ANCILLARY ACTIVITIES~~ *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 ~~solely~~ based on the person ~~undertaking~~ *directly or indirectly engaging in* any ~~ancillary activities.~~

“(b) EXCEPTIONS.—Subsection (a) shall not be construed to apply to the anti-fraud and anti-manipulation authorities of the Commission.

“(c) ANCILLARY ACTIVITIES

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 this section, the term ‘ancillary activities’ means any of the following activities related to the operation of a blockchain system 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 ~~the~~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. ~~310~~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 ~~“(other than~~after the first sentence the following: “The previous sentence shall not apply to a notice-registered digital asset clearing ~~agency)”~~agency)” after ~~“unlawful for any clearing agency~~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);~~or~~

“(ii) is a ~~bank engaging in a business involving digital assets, in compliance with applicable banking law and regulation relating to the custody and safekeeping of such assets~~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 ~~providing~~filing with the Commission ~~with~~a notice of the activities of the person or planned activities in such form as the Commission determines appropriate.

~~Such notice shall include information describing the person’s policies and procedures relating to the holding of customer assets~~“(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.

“(ED) 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. ~~311~~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. ~~312~~412. EFFECTIVE DATE; ADMINISTRATION.

(a) IN GENERAL.—

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.

(b) LIMITATION.—During fiscal years 2024, 2025, and 2026, registration fees collected by the Securities and Exchange Commission shall not be deposited in the Securities and Exchange Commission Reserve Fund.

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

SEC. ~~401.~~ 501. COMMISSION JURISDICTION OVER DIGITAL COMMODITY TRANSACTIONS.

(a) ~~IN GENERAL~~ 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 ~~regulation under~~ 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) ~~IN GENERAL~~ 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) ~~IN GENERAL~~ 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) ~~(ii)~~—

(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,” before “that”; and

~~(B)~~

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 ~~that—~~

~~“(aa)~~

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;

~~or~~

~~“(bb)~~

“(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) Oversight of mixed digital asset transactions.—

“(aa) ON A CFTC REGULATED PLATFORM.—A mixed digital asset transaction that occurs on or subject to the rules of a registered entity or by any other entity registered with the Commission—

“(AA) shall not occur except on or subject to the rules of a registered entity or by any other entity that is dually registered with the Commission and the Securities and Exchange Commission; and

“(BB) shall be subject to the jurisdiction of the Commission and the Securities and Exchange Commission.

“(bb) OFF EXCHANGE.—A mixed digital asset transaction that does not occur on or subject to the rules of a registered entity or by any other entity registered with the Commission shall be subject to the exclusive jurisdiction of the Securities and Exchange Commission.

“(III)

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.—~~Except as provided in~~ *Subject to* clauses (ii) and (iii), the Commission shall ~~only~~ 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 *by with* the Commission.

“(ii) PERMITTED PAYMENT STABLECOIN TRANSACTION RULES.—This Act shall ~~only~~ apply to a transaction described in clause (i) *only* for the ~~purposes~~ *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 ~~by the Commission with respect to requirements imposed with respect to~~—

“(I) recordkeeping;

“(II) custody;

“(III) segregation;

“(IV) reporting;

“(V) trading procedures and trade processing requirements;

“(VI) information sharing;

“(VII) conflicts of interest;

“(VIII) antifraud, antimanipulation, or false reporting; or

“(IX) any other transaction level requirement imposed on the registered entity or other entity registered by the Commission that the Commission by rule determines 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~~

with the Commission, as if the permitted payment stablecoin were a digital commodity.

“(iii) NO AUTHORITY OVER PERMITTED PAYMENT STABLECOINS.—Notwithstanding ~~clause~~*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 ~~by~~*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, including a requirement or obligation regarding —~~

~~“(I) design;~~

~~“(II) structure;~~

~~“(III) issuance;~~

~~“(IV) redemption;~~

~~“(V) financial resources;~~

~~“(VI) collateral; or~~

~~“(VII) any other aspect of such an operation or such a~~

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)~~(F)~~ of this section or” before “section 19”.

SEC. ~~402.502~~. 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. ~~403.503~~. 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 thereunder 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 ~~asset~~ 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 ~~requirement~~ 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 asset, ~~unless a 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 ~~has been made under this section for the digital asset.~~

“(7

hat 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. ~~404.~~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 ~~deemed securities~~.

“(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 ~~as such~~ 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 registered~~

“(A) In general.—A digital commodity exchange or any affiliate of such an exchange shall not ~~act as counterparty to any transaction executed on or subject to the rules of the registered digital commodity exchange~~ 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 ~~deemed a security~~.

“(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~~ 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) ~~which may include information partitions~~ *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 ~~registered under section 5i of this Act~~ 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 ~~maintain~~ *permit* an affiliated digital commodity broker to facilitate access to the digital commodity exchange, ~~if—~~

~~“(A) no other digital commodity brokers are permitted to facilitate access to the exchange;~~

~~“(B) the affiliated digital commodity broker limits its activities only to providing customer access to the digital commodity exchange; and~~

~~“(C) the affiliated digital commodity broker is not also registered as a digital commodity dealer~~

“(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.—

~~“(A) IN GENERAL.—~~

The Commission may, by rule, impose any additional requirements related to the operations and activities of the digital commodity exchange and ~~the~~ *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.

~~“(B) DELEGATION OF AUTHORITY.—The Commission may delegate to a registered futures association such oversight and regulatory requirements as the Commission determines are necessary to—~~

~~“(i) supervise the activities of the digital commodity exchange and an affiliated digital commodity broker; and~~

~~“(ii) 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~~, or 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 government/governmental authorities in the home country of the exchange/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 ~~any~~ 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 ~~registered~~ 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. ~~405.505~~. 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.—~~For purposes of this Act, A digital commodity custodian is~~ a qualified digital commodity custodian ~~is if the~~ digital commodity custodian ~~who meets the following conditions:~~ complies with the requirements of this section.

“(1b) SUPERVISION.—~~THE SUPERVISION REQUIREMENT.—~~A digital commodity custodian ~~is that is not~~ subject to adequate supervision and appropriate regulation.

“(2) NO PROHIBITION.—The digital commodity custodian is—

“(A)

~~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 of—

“(i)

~~an~~ and appropriate ~~Federal banking agency; regulation by—~~

“(ii) a State bank supervisor (within the meaning of section 3 of the Federal Deposit Insurance Act);

or

“(iii)

~~(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; and custodian.~~

~~(c) Other Requirements.—~~

~~(B) not NOT PROHIBITED BY THE APPLICABLE SUPERVISOR REFERRED TO IN SUBPARAGRAPH (A) OTHERWISE PROHIBITED.—The digital commodity custodian has not been prohibited by a supervisor of the digital commodity custodian from engaging in any activity with respect to the holding custody and safekeeping of digital commodities.~~

“(32) INFORMATION SHARING.—

“(A) IN GENERAL.—~~The~~A digital commodity custodian ~~agrees to such~~ 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 shall bear reasonably necessary to effectuate any of the provisions, or to accomplish any of the purposes, of this Act.

“(B) PROVISION OF INFORMATION.—Any person entity that is subject to regulation and examination by a prudential regulator ~~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 person entity.

“(bd) ADEQUATE SUPERVISION AND APPROPRIATE REGULATION ~~FURTHER DEFINED.~~—

“(1) IN GENERAL.—~~In~~For purposes of subsection (ab), 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 ~~minimum~~ standards relating to—

“(A) accessibility of customer assets;

“(B) financial resources;

“(C) risk management requirements

~~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;~~

~~(DB) governance arrangements hold capital sufficient for the financial integrity of the digital commodity custodian;~~

~~(C) protect customer assets;~~

~~“(E) fitness standards;~~

~~“(F) recordkeeping;~~

~~“(G) information sharing; and~~

establish and maintain books and records regarding the business of the digital commodity custodian;

~~“(HE) conflicts of interest.~~

~~“(2) DEEMED COMPLIANCE.—For purposes of subsection (a), a bank subject to the supervision of an appropriate Federal banking agency or a State bank supervisor (within the meaning of section 3 of the Federal Deposit Insurance Act) is deemed to be subject to adequate supervision~~

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

~~appropriate regulation~~

“(I) establish policies and procedures to resolve complaints.

~~“(32) RULEMAKING AUTHORITY WITH RESPECT TO DEFINITIONS.—~~

~~“(A) IN GENERAL.—For purposes of subsection (a) this section, the Commission may, by rule or order, may rule, further define the terms ‘adequate supervision’ and ‘appropriate regulation’ as necessary in the public interest, as appropriate for the protection of customers, and consistent with the purposes of this Act 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.~~

~~“(ee) 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. ~~406.506.~~ 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) TRANSITION.—Within 180 days after the date of the enactment of this section, the Commission shall prescribe rules providing for the registration of digital commodity brokers and digital commodity dealers under this section.~~

~~“(4)~~

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.

~~“(54) LIMITATIONS ON CERTAIN ASSETS.—A registered digital commodity broker or registered 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, ~~as applicable, if the digital asset broker or digital asset dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contract of sale of digital assets.~~

“(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 ~~as such~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ 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;

~~“(B) conduct an orderly wind-down of the activities of the digital commodity broker or digital commodity dealer, respectively;~~

and

“(B) in the case of a digital commodity dealer, fulfill the *customer 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.—

~~“(A) IN GENERAL.—~~

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.).

~~“(B) COORDINATION OF CAPITAL REQUIREMENTS.—~~

~~“(i) COMMISSION RULE.—The Commission shall, by rule, provide appropriate offsets to any applicable capital requirement for a person with multiple registrations as a digital commodity dealer, digital commodity broker, futures commission merchant, or introducing broker.~~

~~“(ii) JOINT RULE.—The Commission and the Securities and Exchange Commission shall jointly, by rule, provide appropriate offsets to any applicable capital requirement for a person with multiple registrations as a digital commodity dealer, digital commodity broker, futures commission merchant, introducing broker, broker, or dealer.~~

“(f) REPORTING AND RECORDKEEPING.—Each ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ digital commodity dealer shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.

“(h) BUSINESS CONDUCT STANDARDS.—

“(1) IN GENERAL.—Each ~~registered~~ digital commodity broker and ~~registered~~ 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; ~~and~~

“(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 ~~platform~~ *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 ~~registered~~ digital commodity broker or ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ 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 ~~digital commodity transaction intermediaries~~ *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 ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ digital commodity dealer shall treat and deal with all money, assets, and property that is received by the ~~registered~~ digital

commodity broker or ~~registered~~ 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 ~~registered~~ digital commodity broker and ~~registered~~ 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 ~~registered~~ digital commodity broker or ~~registered~~ 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 ~~registered~~ digital commodity broker or ~~registered~~ 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 ~~registered~~ digital commodity dealer and a ~~registered~~ 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 (5) 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 (56) 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.

“(I) 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 ~~or the digital commodity broker or digital commodity dealer~~ 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 ~~registered~~ digital commodity broker and a ~~registered~~ digital commodity dealer shall be treated as a financial institution for purposes of the Bank Secrecy Act.”

SEC. ~~407.507~~. 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. ~~408.508~~. 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. ~~409.509~~. EXCLUSION FOR ~~ANCILLARY~~ ~~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. ~~EXCLUSION FOR ANCILLARY ACTIVITIES~~ ~~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 solely based on the person undertaking directly or indirectly engaging in any ancillary activities.

“(b) EXCEPTIONS.—Subsection (a) shall not be construed to apply to the antimanipulation, antifraud, or false reporting enforcement authorities of the Commission.

“(c) ANCILLARY ACTIVITIES

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 this section, the term ‘ancillary activities’ means any of the following activities related to the operation of a blockchain system 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 commodity transactioncontract 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 digital commodity transactioncontract of sale of a digital asset.

“(3) Providing a user interfaceuser-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) FILING FEE.—

(A) 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.

(B) AMOUNT.—The amount of the filing fee shall be—

(i) \$800,000, in the case of a notice of intent to register as a digital commodity exchange; or

(ii) \$400,000, in the case of a notice of intent to register as a digital commodity broker or a digital commodity dealer.

(C) TIMING.—The Commission shall charge and collect the filing fee when the person files the notice.

(2) ANNUAL FEE.—

(A) IN GENERAL.—The Commission shall charge and collect an annual fee from each person that maintains with the Commission a notice referred to in paragraph (1).

(B) AMOUNT.—

(i) IN GENERAL.—Subject to clause (ii), the amount of the annual fee shall be—

(I) \$800,000, in the case of a notice of intent to register as a digital commodity exchange;

or

(II) \$400,000, in the case of a notice of intent to register as a digital commodity broker or a digital commodity dealer.

(ii) ANNUAL LIMIT.—The Commission shall increase or decrease the dollar amounts specified in clause (i) to ensure that the total of the amounts collected under this paragraph for a fiscal year does not exceed the lesser of—

(I) the total costs of carrying out the functions of the Commission under this Act during the fiscal year, as estimated by the Commission; or

(II) \$40,000,000.

(C) TIMING.—The Commission shall charge and collect the annual fee from the person in each fiscal year that begins after the person files the notice.

(3) TERMINATION FEE.—

(A) IN GENERAL.—The Commission shall charge and collect a termination fee from each person that maintained with the Commission a notice referred to in paragraph (1).

(B) AMOUNT.—Subject to clause (ii), the amount of the termination fee shall be—

(i) \$1,600,000, in the case of a notice of intent to register as a digital commodity exchange; or

(ii) \$800,000, in the case of a notice of intent to register as a digital commodity broker or a digital commodity dealer.

(C) TIMING.—The Commission shall charge and collect the termination fee from the person in the fiscal year in which a notice to of intent to register is—

(i) terminated by the filer;

(ii) revoked by the Commission for noncompliance; or

(iii) subsumed by registration.

(4) 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 filing fees and annual fees collected under this section during a fiscal year that begins after the date of the enactment of this Act exceeds the maximum amount determined under subsection (a)(2)(B)(ii) 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.—

(1) FILING AND ANNUAL FEES.—All amounts collected under paragraph (1) or (2) of subsection (a) and not reimbursed under subsection (d) shall be deposited in an account established in the Treasury solely for the receipt of the amounts.

(2) TERMINATION FEES.—All amounts collected under subsection (a)(3) or (c), and not reimbursed under subsection (d), shall be deposited in the Treasury as miscellaneous receipts.

(f) USE OF FUNDS.—In addition to amounts otherwise made available to the Commission, the Commission may use the amounts in the account established under subsection (e)(1) to cover the costs of carrying out the functions of the Commission under this Act, without further appropriation.

(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. ~~410.511~~. 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 ~~V~~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. ~~501.602~~. 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:

“(1) 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 ~~in the financial industry~~.

“(B) To examine financial technology innovations ~~within capital markets~~, *among* market participants, ~~and investors~~.

“(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 ~~law~~*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 ~~oversight~~ 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 the 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 back-up 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. ~~502.603~~. 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 back-up 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. ~~503.604~~. 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 ~~with a wide diversity of opinion and~~ who represent a broad spectrum of interests ~~representing the digital asset ecosystem~~, 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.—The Commissions shall jointly fund the Committee.

SEC. ~~504.605~~. 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 or~~ *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)~~ *(B)* interoperability of blockchain ~~based~~ systems;
 - ~~(C)~~ *(C)* market competition and innovation;
 - ~~(D)~~ *(D)* transaction efficiency;
 - ~~(E)~~ *(E)* transparency and traceability of transactions; and
 - ~~(F)~~ *(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 ~~to~~ *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)~~ *(11)* how decentralized finance may increase the accessibility of cross-border transactions; and
- ~~(12)~~ *(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).

(ed) 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 ~~ANCILLARY~~EXCLUDED ACTIVITIES.—The term “decentralized finance” shall not be interpreted to limit or exclude any activity from the ~~meaning of “ancillary activities”, as defined~~*activities described* in section 15H(c) of the Securities Exchange Act of 1934 or section 4v(c) 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. ~~505.606~~. 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 ~~Secretary of Commerce~~ Comptroller General, shall make publicly available a report that includes the results of the study required by subsection (a).

SEC. ~~506.607.~~ 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. ~~507.608.~~ 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.

~~TITLE VI—MISCELLANEOUS~~

~~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) 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.~~

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