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119TH CONGRESS
2D SESSION

S. _____

[Report No. 119-_____]]

To provide for a system of regulation of the offer and sale of digital commodities by the Commodity Futures Trading Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____, from the Committee on _____, reported
the following original bill; which was read twice and placed on the calendar

A BILL

To provide for a system of regulation of the offer and sale of digital commodities by the Commodity Futures Trading Commission, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Digital Commodity Intermediaries Act”.

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

2

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; RULEMAKING

Sec. 101. Definitions under the Commodity Exchange Act.

Sec. 102. Definitions under this Act.

Sec. 103. Rulemakings.

Sec. 104. Expedited registration for digital commodity exchanges, brokers, and dealers; provisional status.

Sec. 105. Commodity Exchange Act savings provisions.

Sec. 106. Administrative requirements.

Sec. 107. International cooperation.

Sec. 108. Implementation.

Sec. 109. Effective date.

Sec. 110. Sense of Congress.

TITLE II—REGISTRATION FOR DIGITAL COMMODITY INTER-MEDIARIES AT THE COMMODITY FUTURES TRADING COMMISSION

Sec. 201. Commission jurisdiction over digital commodity transactions.

Sec. 202. Requiring Futures Commission merchants to use qualified digital asset custodians.

Sec. 203. Trading certification and approval for digital commodities.

Sec. 204. Registration of digital commodity exchanges.

Sec. 205. Registration and regulation of digital commodity brokers and dealers.

Sec. 206. Registration of associated persons.

Sec. 207. Software developer protections.

Sec. 208. Portfolio margining.

Sec. 209. Clarification on customer property.

Sec. 210. Resources for implementation.

Sec. 211. Digital commodity retail advocate.

Sec. 212. Report.

1 TITLE I—DEFINITIONS; 2 RULEMAKING

3 SEC. 101. DEFINITIONS UNDER THE COMMODITY EX- 4 CHANGE ACT.

5 (a) IN GENERAL.—Section 1a of the Commodity Ex-
6 change Act (7 U.S.C. 1a) is amended—

7 (1) by redesignating paragraphs (3), (4), (5)
8 through (14), (15), (16) through (34), (35) through
9 (39), and (40) through (51) as paragraphs (5), (6),

1 (11) through (20), (24), (31) through (49), (51)
2 through (55), and (57) through (68), respectively;

3 (2) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) ASSOCIATED PERSON OF A DIGITAL COM-
6 MODITY BROKER.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), the term ‘associated person
9 of a digital commodity broker’ means a person
10 who is associated with a digital commodity
11 broker as a partner, officer, employee, or agent
12 (or any person occupying a similar status or
13 performing similar functions) in any capacity
14 that involves—

15 “(i) the solicitation or acceptance of
16 an order for the purchase or sale of a dig-
17 ital commodity; or

18 “(ii) the supervision of any person en-
19 gaged in the solicitation or acceptance of
20 an order for the purchase or sale of a dig-
21 ital commodity.

22 “(B) EXCLUSION.—The term ‘associated
23 person of a digital commodity broker’ does not
24 include any person associated with a digital

1 commodity broker the functions of which are
2 solely clerical or ministerial.

3 “(4) ASSOCIATED PERSON OF A DIGITAL COM-
4 MODITY DEALER.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), the term ‘associated person
7 of a digital commodity dealer’ means a person
8 who is associated with a digital commodity deal-
9 er as a partner, officer, employee, or agent (or
10 any person occupying a similar status or per-
11 forming similar functions) in any capacity that
12 involves—

13 “(i) the solicitation or acceptance of a
14 contract for the purchase or sale of a dig-
15 ital commodity; or

16 “(ii) the supervision of any person en-
17 gaged in the solicitation or acceptance of a
18 contract for the purchase or sale of a dig-
19 ital commodity.

20 “(B) EXCLUSION.—The term ‘associated
21 person of a digital commodity dealer’ does not
22 include any person associated with a digital
23 commodity dealer the functions of which are
24 solely clerical or ministerial.”;

1 (3) by inserting after paragraph (6) (as so re-
2 designated) the following:

3 “(7) BLOCKCHAIN.—The term ‘blockchain’
4 means technology—

5 “(A) through which data is shared across
6 a network that creates a public blockchain of
7 verified transactions or information among net-
8 work participants; and

9 “(B) in which cryptography is used to link
10 the data described in subparagraph (A)—

11 “(i) to maintain the integrity of the
12 blockchain described in that subparagraph;
13 and

14 “(ii) to execute other functions.

15 “(8) BLOCKCHAIN APPLICATION.—The term
16 ‘blockchain application’ means any executable soft-
17 ware that is deployed to and maintained on a
18 blockchain and composed of a blockchain protocol,
19 including a smart contract or any network of smart
20 contracts, or other similar technology.

21 “(9) BLOCKCHAIN PROTOCOL.—The term
22 ‘blockchain protocol’ means publicly available source
23 code of a blockchain or blockchain application that
24 is executed by the network participants of a

1 blockchain to facilitate its functioning, or other simi-
2 lar technology.

3 “(10) BLOCKCHAIN SYSTEM.—The term
4 ‘blockchain system’ means any blockchain,
5 blockchain application, or network of blockchain ap-
6 plications, together with its blockchain protocol.”;

7 (4) by inserting after paragraph (20) (as so re-
8 designated) the following:

9 “(21) DECENTRALIZED FINANCE MESSAGING
10 SYSTEM.—

11 “(A) IN GENERAL.—The term ‘decentral-
12 ized finance messaging system’ means a soft-
13 ware application that provides a user with the
14 ability to create or submit an instruction, com-
15 munication, or message to a decentralized fi-
16 nance trading protocol.

17 “(B) ADDITIONAL REQUIREMENTS.—The
18 term ‘decentralized finance messaging system’
19 does not include any system that provides any
20 person other than the user with—

21 “(i) control over the funds of the user;

22 or

23 “(ii) the authority to execute any of
24 the transactions of the user.

1 “(22) DECENTRALIZED FINANCE TRADING PRO-
2 TOCOL.—

3 “(A) IN GENERAL.—The term ‘decentral-
4 ized finance trading protocol’ means a
5 blockchain system through which multiple par-
6 ticipants can execute a financial transaction—

7 “(i) in accordance with an automated
8 rule or algorithm that is predetermined
9 and nondiscretionary; and

10 “(ii) without reliance on a person
11 other than the user to maintain custody or
12 control of any digital assets subject to the
13 financial transaction.

14 “(B) EXCLUSIONS.—

15 “(i) IN GENERAL.—The term ‘decent-
16 ralized finance trading protocol’ does not
17 include a blockchain system if—

18 “(I) a person or group of persons
19 under common control or acting pur-
20 suant to an agreement to act in con-
21 cert has the authority, directly or in-
22 directly, through any contract, ar-
23 rangement, understanding, relation-
24 ship, or otherwise, to control or mate-
25 rially alter the functionality, oper-

1 ation, or rules of consensus or agree-
2 ment of the blockchain system;

3 “(II) the blockchain system does
4 not operate, execute, and enforce its
5 operations and transactions based
6 solely on pre-established, transparent
7 rules encoded directly within the
8 source code of the blockchain system;
9 or

10 “(III) a person or group of per-
11 sons under common control has the
12 unilateral authority, via operation of
13 the blockchain system, to restrict, cen-
14 sor, or prohibit the use of the
15 blockchain system, including any ap-
16 plicable system-based user activity.

17 “(ii) SPECIAL RULE.—For purposes of
18 clause (i), a decentralized governance sys-
19 tem shall not be considered to be a person
20 or a group of persons under common con-
21 trol or acting pursuant to an agreement to
22 act in concert.

23 “(23) DECENTRALIZED GOVERNANCE SYS-
24 TEM.—

1 “(A) IN GENERAL.—The term ‘decentral-
2 ized governance system’ means, with respect to
3 a blockchain system, any transparent, rules-
4 based system permitting persons to form con-
5 sensus or reach agreement in the development,
6 provision, publication, maintenance, or adminis-
7 tration of such blockchain system, in which par-
8 ticipation is not limited to, or under the effec-
9 tive control of, any person or group of persons
10 under common control (within the meaning of
11 section 104(b) of the Digital Asset Market
12 Clarity Act of 2026).

13 “(B) RELATIONSHIP OF PERSONS TO DE-
14 CENTRALIZED GOVERNANCE SYSTEMS.—With
15 respect to a decentralized governance system,
16 the decentralized governance system and any
17 persons participating in the decentralized gov-
18 ernance system shall be treated as separate per-
19 sons unless such persons are under common
20 control or acting pursuant to an agreement to
21 act in concert.

22 “(C) LEGAL ENTITIES FOR DECENTRAL-
23 IZED GOVERNANCE SYSTEMS.—

24 “(i) IN GENERAL.—The term ‘decen-
25 tralized governance system’ shall include a

1 legal entity, including a decentralized unin-
2 corporated nonprofit association or other
3 entity created pursuant to State law, used
4 to implement the rules-based system de-
5 scribed in subparagraph (A), provided that
6 the legal entity does not operate pursuant
7 to centralized management.

8 “(ii) EFFECT OF CERTAIN DELEGA-
9 TIONS.—For the purposes of this subpara-
10 graph, the delegation of ministerial or ad-
11 ministrative authority at the direction of
12 the participants in a decentralized govern-
13 ance system shall not be construed to be
14 centralized management.”;

15 (5) by inserting after paragraph (24) (as so re-
16 designated) the following:

17 “(25) DIGITAL ASSET.—The term ‘digital asset’
18 means any digital representation of value which is
19 recorded on a cryptographically secured blockchain.

20 “(26) DIGITAL ASSET CUSTODIAN.—The term
21 ‘digital asset custodian’ means a person who, as a
22 regular business, holds, maintains, or safeguards
23 digital assets for others.

24 “(27) DIGITAL COMMODITY.—

1 “(A) IN GENERAL.—The term ‘digital com-
2 modity’ means any fungible digital asset that
3 can be exclusively possessed and transferred,
4 person to person, without necessary reliance on
5 an intermediary, and is recorded on a
6 blockchain.

7 “(B) NETWORK TOKENS.—The term ‘dig-
8 ital commodity’ includes a network token (as
9 defined in section 4B(a) of the Securities Act of
10 1933) unless the network token is excluded
11 from the definition under clauses (iii) through
12 (vii) of subparagraph (D).

13 “(C) MEME COINS.—

14 “(i) IN GENERAL.—The term ‘digital
15 commodity’ includes a meme coin unless
16 the meme coin is excluded from the defini-
17 tion under subparagraph (D).

18 “(ii) DEFINITION.—For the purposes
19 of this paragraph, the term ‘meme coin’
20 means a digital asset inspired by an inter-
21 net meme, character, current event, or
22 trend for which the promoter seeks to at-
23 tract an enthusiastic online community to
24 purchase and engage in trading of the dig-

1 ital asset primarily for speculative pur-
2 poses.

3 “(iii) EXCLUSIONS.—The Commis-
4 sion, by rule or regulation, may exclude
5 from the term ‘meme coin’ any digital
6 asset or class of digital assets if the Com-
7 mission determines that the rule or regula-
8 tion will effectuate the purposes of this
9 Act.

10 “(D) EXCLUSIONS.—The term ‘digital
11 commodity’ does not include any of the fol-
12 lowing:

13 “(i) SECURITY.—Any security.

14 “(ii) SECURITY DERIVATIVE.—A dig-
15 ital asset that, based on its terms and
16 other characteristics, is, represents, or is
17 functionally equivalent to an agreement,
18 contract, or transaction that is—

19 “(I) a security future (as defined
20 in section 2(a) of the Securities Act of
21 1933 (15 U.S.C. 77b(a)));

22 “(II) a security-based swap; or

23 “(III) a put, call, straddle, op-
24 tion, or privilege on any security, cer-
25 tificate of deposit, or group or index

1 of securities (including any interest
2 therein or based on the value thereof)
3 (within the meaning of section 2(a)(1)
4 of the Securities Act of 1933 (15
5 U.S.C. 77b(a)(1))).

6 “(iii) PERMITTED PAYMENT
7 STABLECOIN.—A payment stablecoin (as
8 defined in section 2 of the GENIUS Act
9 (Public Law 119–27; 139 Stat. 419)) that
10 is issued by a permitted payment
11 stablecoin issuer (as defined in that sec-
12 tion).

13 “(iv) BANKING DEPOSIT.—

14 “(I) A deposit (as defined in sec-
15 tion 3 of the Federal Deposit Insur-
16 ance Act (12 U.S.C. 1813)), regard-
17 less of the technology used to record
18 the deposit.

19 “(II) An account (as defined in
20 section 101 of the Federal Credit
21 Union Act (12 U.S.C. 1752)), regard-
22 less of the technology used to record
23 the account.

1 “(v) COMMODITY.—A digital asset
2 that references, represents an interest in,
3 or is functionally equivalent to—

4 “(I) an agricultural commodity;

5 “(II) an excluded commodity,
6 other than a security; or

7 “(III) an exempt commodity,
8 other than the digital commodity
9 itself, as shall be further defined by
10 the Commission.

11 “(vi) COMMODITY DERIVATIVE.—A
12 digital asset that, based on its terms and
13 other characteristics, is, represents, or is
14 functionally equivalent to an agreement,
15 contract, or transaction that is—

16 “(I) a contract of sale of a com-
17modity for future delivery or an op-
18tion thereon;

19 “(II) a security futures product;

20 “(III) a swap;

21 “(IV) an agreement, contract, or
22 transaction described in subparagraph
23 (C)(i) or (D)(i) of section 2(c)(2);

24 “(V) a commodity option author-
25 ized under section 4c; or

1 “(VI) a leverage transaction au-
2 thorized under section 19.

3 “(vii) POOLED INVESTMENT VEHI-
4 CLE.—

5 “(I) IN GENERAL.—A digital
6 asset not described in clause (i) that,
7 based on its terms and other charac-
8 teristics, is, represents, or is function-
9 ally equivalent to an interest in—

10 “(aa) a commodity pool; or

11 “(bb) a pooled investment
12 vehicle.

13 “(II) POOLED INVESTMENT VE-
14 HICLE DEFINED.—In this clause, the
15 term ‘pooled investment vehicle’
16 means—

17 “(aa) any investment com-
18 pany (as defined in section 3(a)
19 of the Investment Company Act
20 of 1940 (15 U.S.C. 80a–3(a)));

21 “(bb) any company (as de-
22 fined in section 2 of such Act (15
23 U.S.C. 80a–2)) that would be an
24 investment company under sec-
25 tion 3(a) of such Act (15 U.S.C.

1 80a–3(a)), but for the exclusions
2 provided from that definition by
3 section 3(c) of such Act (15
4 U.S.C. 80a–3(c)), if for purposes
5 of this subclause the company
6 were assumed to be an issuer (as
7 defined in section 2 of such Act
8 (15 U.S.C. 80a–2)); or

9 “(cc) any entity or person
10 that is not an investment com-
11 pany but holds or will hold assets
12 other than securities.

13 “(viii) GOOD, COLLECTIBLE, AND
14 OTHER NONCOMMODITY DIGITAL ASSET.—

15 “(I) IN GENERAL.—A digital
16 asset that has value, utility, or signifi-
17 cance beyond its mere existence as a
18 digital asset, including the digital
19 equivalent of a tangible or intangible
20 good or a nonfungible token (as de-
21 fined in section 602(a) of the Digital
22 Asset Market Clarity Act of 2026),
23 such as—

1 “(aa) a work of art, a musi-
2 cal composition, a literary work,
3 or other intellectual property;

4 “(bb) collectibles, merchan-
5 dise, virtual land, and in-game or
6 in-application assets;

7 “(cc) affinity, rewards, or
8 loyalty points, including airline
9 miles or credit card points; or

10 “(dd) rights, licenses, and
11 tickets.

12 “(II) EXCEPTION.—The Commis-
13 sion may determine, by rule or regula-
14 tion or order, that a good, collectible,
15 or other noncommodity digital asset
16 or class of goods, collectibles, or other
17 noncommodity digital assets is traded
18 in such a manner or form that the
19 asset or class of assets should be con-
20 sidered a digital commodity, such as a
21 mass-minted series of items with sub-
22 stantially similar or nearly identical
23 traits that are marketed or sold inter-
24 changeably and are primarily specula-
25 tive in nature.

1 “(28) DIGITAL COMMODITY BROKER.—

2 “(A) IN GENERAL.—The term ‘digital com-
3 modity broker’ means any person who—

4 “(i) as a regular business, in a digital
5 commodity cash or spot market—

6 “(I)(aa) solicits or accepts an
7 order from a person who is not an eli-
8 gible contract participant for the pur-
9 chase or sale of a unit of a digital
10 commodity; and

11 “(bb) in conjunction with the ac-
12 tivity described in item (aa), accepts
13 or maintains control over the funds or
14 other property or assets of the person
15 or the execution of the transaction;

16 “(II) solicits or accepts an order
17 from a person who is not an eligible
18 contract participant on behalf of a
19 digital commodity dealer for the pur-
20 chase or sale of a unit of a digital
21 commodity; or

22 “(III) solicits or accepts an order
23 from a person who is not an eligible
24 contract participant for the purchase
25 or sale of a unit of a digital com-

1 modity on or subject to the rules of a
2 registered digital commodity ex-
3 change; or

4 “(ii) is registered with the Commis-
5 sion as a digital commodity broker.

6 “(B) EXCEPTIONS.—The term ‘digital
7 commodity broker’ does not include a person
8 solely because the person—

9 “(i) enters into 1 or more digital com-
10 modity transactions that are attributable
11 or solely incidental to making, sending, re-
12 ceiving, or facilitating payments, whether
13 involving a payment service provider or on
14 a peer-to-peer basis; or

15 “(ii) is a bank (as defined in section
16 3(a) of the Securities Exchange Act of
17 1934 (15 U.S.C. 78c(a))) engaging in cer-
18 tain banking activities with respect to a
19 digital commodity in the same or a similar
20 manner as a bank is excluded from the
21 definition of a broker under section 3(a)(4)
22 of that Act (15 U.S.C. 78c(a)(4)), as de-
23 termined by the Commission.

24 “(C) FURTHER DEFINITION.—The Com-
25 mission, by rule or regulation, may exclude

1 from the term ‘digital commodity broker’ any
2 person or class of persons if the Commission
3 determines that the rule or regulation is in the
4 public interest and will effectuate the purposes
5 of this Act.

6 “(29) DIGITAL COMMODITY DEALER.—

7 “(A) IN GENERAL.—The term ‘digital com-
8 modity dealer’ means any person who—

9 “(i) as a regular business, in a spot or
10 cash digital commodity market, enters into,
11 or offers to enter into, a purchase or sale
12 of a unit of a digital commodity—

13 “(I) with a counterparty that is
14 not an eligible contract participant;
15 and

16 “(II) not on or through a reg-
17 istered digital commodity exchange or
18 decentralized finance trading protocol;
19 or

20 “(ii) is registered with the Commis-
21 sion as a digital commodity dealer.

22 “(B) EXCEPTION.—The term ‘digital com-
23 modity dealer’ does not include a person solely
24 because the person—

1 “(i) enters into 1 or more digital com-
2 modity transactions that are attributable
3 or solely incidental to making, sending, re-
4 ceiving, or facilitating payments, whether
5 involving a payment service provider or on
6 a peer-to-peer basis; or

7 “(ii) is a bank (as defined in section
8 3(a) of the Securities Exchange Act of
9 1934 (15 U.S.C. 78c(a))) engaging in cer-
10 tain banking activities with respect to a
11 digital commodity in the same or a similar
12 manner as a bank is excluded from the
13 definition of a dealer under section 3(a)(5)
14 of that Act (15 U.S.C. 78c(a)(5)), as de-
15 termined by the Commission.

16 “(C) FURTHER DEFINITION.—The Com-
17 mission, by rule or regulation, may exclude
18 from the term ‘digital commodity dealer’ any
19 person or class of persons if the Commission
20 determines that the rule or regulation is in the
21 public interest and will effectuate the purposes
22 of this Act.

23 “(30) DIGITAL COMMODITY EXCHANGE.—The
24 term ‘digital commodity exchange’ means a trading

1 facility that offers or seeks to offer a cash or spot
2 market in at least 1 digital commodity.”;

3 (6) by inserting after paragraph (49) (as so re-
4 designated) the following:

5 “(50) MIXED DIGITAL ASSET TRANSACTION.—

6 The term ‘mixed digital asset transaction’ means a
7 transaction in which a digital commodity is traded
8 for a security.”;

9 (7) by inserting after paragraph (55) (as so re-
10 designated) the following:

11 “(56) QUALIFIED DIGITAL ASSET CUSTO-
12 DIAN.—

13 “(A) IN GENERAL.—The term ‘qualified
14 digital asset custodian’ means a digital asset
15 custodian that—

16 “(i) holds digital assets on behalf of a
17 person registered under this Act or a cus-
18 tomer of a person registered under this
19 Act; and

20 “(ii) is in compliance with subpara-
21 graphs (B) through (D).

22 “(B) SUPERVISION REQUIREMENT.—A dig-
23 ital asset custodian is in compliance with this
24 subparagraph if the digital asset custodian is
25 subject to—

1 “(i) supervision and examination for
2 custody and safekeeping of digital assets
3 by an appropriate Federal banking agency,
4 the National Credit Union Administration,
5 the Commission, or the Securities and Ex-
6 change Commission; or

7 “(ii) adequate supervision and appro-
8 priate regulation for custody and safe-
9 keeping of digital assets by—

10 “(I) a State bank supervisor (as
11 defined in section 3 of the Federal
12 Deposit Insurance Act (12 U.S.C.
13 1813));

14 “(II) a State officer, agency, or
15 other entity that has primary regu-
16 latory authority over nondepository
17 State trust companies;

18 “(III) a State credit union super-
19 visor (as defined in section 6003 of
20 the Anti-Money Laundering Act of
21 2020 (31 U.S.C. 5311 note; division
22 F of Public Law 116–283)); or

23 “(IV) an appropriate foreign gov-
24 ernmental authority in the home
25 country of the digital asset custodian.

1 “(C) OTHER REQUIREMENTS.—A digital
2 asset custodian is in compliance with this sub-
3 paragraph if the following requirements are
4 met:

5 “(i) NOT OTHERWISE PROHIBITED.—
6 The digital asset custodian has not been
7 prohibited by the applicable supervisor de-
8 scribed in subparagraph (B) from engaging
9 in an activity with respect to the custody
10 and safekeeping of digital assets.

11 “(ii) INFORMATION SHARING.—
12 “(I) IN GENERAL.—The digital
13 asset custodian shares information
14 with the Commission on request and
15 complies with such requirements for
16 periodic sharing of information re-
17 garding customer accounts that the
18 digital asset custodian holds on behalf
19 of an entity registered with the Com-
20 mission as the Commission determines
21 by rule are reasonably necessary to ef-
22 fectuate any of the provisions, or to
23 accomplish any of the purposes, of
24 this Act.

1 “(II) PROVISION OF INFORMA-
2 TION.—If the digital asset custodian
3 is subject to regulation and examina-
4 tion by an appropriate Federal bank-
5 ing agency, the digital asset custodian
6 may satisfy any information request
7 described in subclause (I) by pro-
8 viding the Commission with a detailed
9 listing, in writing, of the digital assets
10 of a customer in the custody of, or
11 use by, the digital asset custodian.

12 “(D) RULEMAKING.—

13 “(i) IN GENERAL.—The Commission
14 shall prescribe rules to permit a person
15 registered with the Commission to be a
16 qualified digital asset custodian.

17 “(ii) CONTENT.—In prescribing the
18 rules under clause (i), to be a qualified dig-
19 ital asset custodian, the Commission shall
20 require a person registered with the Com-
21 mission—

22 “(I) to implement requirements
23 consistent with the requirements de-
24 scribed in subparagraph (E)(i);

1 “(II) to establish sufficient sys-
2 tem safeguards;

3 “(III) to prevent or mitigate con-
4 flicts of interest, as appropriate; and

5 “(IV) to establish separate gov-
6 ernance arrangements for the custo-
7 dial function of the entity.

8 “(E) ADEQUATE SUPERVISION AND APPRO-
9 PRIATE REGULATION.—

10 “(i) IN GENERAL.—For purposes of
11 subparagraph (B), the terms ‘adequate su-
12 pervision’ and ‘appropriate regulation’
13 mean such minimum standards for super-
14 vision and regulation as are reasonably
15 necessary to protect the digital assets held
16 by a person registered under this Act, in-
17 cluding standards relating to the licensing,
18 examination, and supervisory processes
19 that require the person to, at a min-
20 imum—

21 “(I) receive a review and evalua-
22 tion of ownership, character and fit-
23 ness, conflicts of interest, business
24 model, financial statements, funding

1 resources, and policies and procedures
2 of the digital asset custodian;

3 “(II) hold capital sufficient to
4 conduct an orderly wind-down and
5 resolution of the digital asset custo-
6 dian;

7 “(III) protect customer assets;

8 “(IV) establish and maintain
9 books and records regarding the busi-
10 ness of the digital asset custodian;

11 “(V) submit financial statements
12 and audited financial statements to
13 the applicable supervisor described in
14 subparagraph (B);

15 “(VI) provide disclosures to the
16 applicable supervisor described in sub-
17 paragraph (B) regarding actions, pro-
18 ceedings, and other items as deter-
19 mined by the supervisor;

20 “(VII) maintain and enforce poli-
21 cies and procedures for compliance
22 with applicable State and Federal
23 laws, including those related to anti-
24 money laundering and cybersecurity;

1 “(VIII) establish a business con-
2 tinuity plan to ensure functionality in
3 cases of disruption; and

4 “(IX) establish policies and pro-
5 cedures to resolve complaints.

6 “(ii) RULEMAKING WITH RESPECT TO
7 DEFINITIONS.—

8 “(I) IN GENERAL.—For purposes
9 of this paragraph, the Commission
10 shall, by rule, further define the terms
11 ‘adequate supervision’ and ‘appro-
12 priate regulation’ as necessary and
13 appropriate for the protection of cus-
14 tomers, and consistent with the pur-
15 poses of this Act.

16 “(II) EXISTING DIGITAL ASSET
17 CUSTODIANS.—A State depository in-
18 stitution or a trust company operating
19 as a digital asset custodian before the
20 effective date of a rulemaking under
21 subclause (I) is deemed subject to
22 adequate supervision and appropriate
23 regulation if—

24 “(aa) the State depository
25 institution or trust company is

1 expressly permitted by a State
2 bank supervisor to engage in the
3 custody and safekeeping of dig-
4 ital assets;

5 “(bb) the State bank super-
6 visor has established licensing,
7 examination, and supervisory
8 processes that require the State
9 depository institution or trust
10 company to, at a minimum, meet
11 the conditions described in sub-
12 clauses (I) through (IX) of clause
13 (i); and

14 “(cc) the State depository
15 institution or trust company is in
16 good standing with its State
17 bank supervisor.

18 “(III) TRANSITION PERIOD FOR
19 CERTAIN CUSTODIANS.—In imple-
20 menting the rulemaking under sub-
21 clause (I), the Commission shall pro-
22 vide a transition period of not less
23 than 2 years for any State depository
24 institution or trust company that is
25 deemed subject to adequate super-

1 vision and appropriate regulation
2 under subclause (II) on the effective
3 date of the rulemaking.

4 “(F) AUTHORITY TO TEMPORARILY SUS-
5 PEND STANDARDS.—The Commission may, by
6 rule or order, temporarily suspend, in whole or
7 in part, any requirement imposed under, or any
8 standard referred to in, this section, or any re-
9 quirement to utilize a qualified digital asset
10 custodian, if the Commission determines that
11 the suspension would be consistent with the
12 public interest and the purposes of this Act.”;
13 and

14 (8) in paragraph (57) (as so redesignated)—

15 (A) in subparagraph (E), by striking
16 “and” at the end;

17 (B) in subparagraph (F), by striking the
18 period at the end and inserting “; and”; and

19 (C) by adding at the end the following:

20 “(G) a digital commodity exchange reg-
21 istered under section 5i.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 1a of the Commodity Exchange Act
24 (7 U.S.C. 1a) is amended—

1 (A) in paragraph (32)(A) (as redesignated
2 by subsection (a)(1)), in the matter preceding
3 clause (i), by striking “(18)(A)” and inserting
4 “(33)(A)”; and

5 (B) in paragraph (33)(A)(vii)(III)(aa) (as
6 redesignated by subsection (a)(1)), by striking
7 “(17)(A)” and inserting “(32)(A)”.

8 (2) Section 4(c)(1)(A)(i)(I) of the Commodity
9 Exchange Act (7 U.S.C. 6(c)(1)(A)(i)(I)) is amended
10 by striking “paragraphs (2), (3), (4), (5), and (7),
11 paragraph (18)(A)(vii)(III), paragraphs (23), (24),
12 (31), (32), (38), (39), (41), (42), (46), (47), (48),
13 and (49) of section 1a” and inserting “paragraphs
14 (2), (5), (6), (11), (13), (33)(A)(vii)(III), (38), (39),
15 (46), (47), (54), (55), (58), (59), (63), (64), (65),
16 and (66) of section 1a”.

17 (3) Section 4q(a)(1) of the Commodity Ex-
18 change Act (7 U.S.C. 6q(a)(1)) is amended by strik-
19 ing “1a(9)” and inserting “1a(15)”.

20 (4) Section 4s of the Commodity Exchange Act
21 (7 U.S.C. 6s) is amended—

22 (A) in subsection (f)(1)(D), by striking
23 “1a(47)(A)(v)” and inserting “1a(64)(A)(v)”;
24 and

1 (B) in subsection (h)(5)(A)(i), in the mat-
2 ter preceding subclause (I), by striking “1a(18)
3 of this Act” and inserting “1a(33)”.

4 (5) Section 4t(b)(1)(C) of the Commodity Ex-
5 change Act (7 U.S.C. 6t(b)(1)(C)) is amended by
6 striking “1a(47)(A)(v),” and inserting
7 “1a(64)(A)(v),”.

8 (6) Section 5 of the Commodity Exchange Act
9 (7 U.S.C. 7) is amended—

10 (A) in subsection (d)(23), by striking
11 “1a(47)(A)(v)” and inserting “1a(64)(A)(v)”;
12 and

13 (B) in subsection (e)(1), by striking
14 “1a(9)” and inserting “1a(15)”.

15 (7) Section 5b(k)(3)(A) of the Commodity Ex-
16 change Act (7 U.S.C. 7a–1(k)(3)(A)) is amended by
17 striking “1a(47)(A)(v)” and inserting
18 “1a(64)(A)(v)”.

19 (8) Section 5h(f)(10)(A)(iii) of the Commodity
20 Exchange Act (7 U.S.C. 7b–3(f)(10)(A)(iii)) is
21 amended by striking “1a(47)(A)(v)” and inserting
22 “1a(64)(A)(v)”.

23 (9) Section 21(f)(4)(C) of the Commodity Ex-
24 change Act (7 U.S.C. 24a(f)(4)(C)) is amended by
25 striking “1a(48)” and inserting “1a(65)”.

1 (10) Section 5(e) of the Securities Act of 1933
2 (15 U.S.C. 77e(e)) is amended by striking “section
3 1a(18) of the Commodity Exchange Act (7 U.S.C.
4 1a(18))” and inserting “section 1a of the Com-
5 modity Exchange Act (7 U.S.C. 1a)”.

6 (11) Section 3C(g)(3)(A)(v) of the Securities
7 Exchange Act of 1934 (15 U.S.C. 78c-
8 3(g)(3)(A)(v)) is amended by striking “section
9 1a(10) of the Commodity Exchange Act;” and in-
10 serting “section 1a of the Commodity Exchange Act
11 (7 U.S.C. 1a);”.

12 (12) Section 6(g)(5)(B)(i) of the Securities Ex-
13 change Act of 1934 (15 U.S.C. 78f(g)(5)(B)(i)) is
14 amended—

15 (A) in subclause (I), by striking “section
16 1a(18)(B)(ii) of the Commodity Exchange Act”
17 and inserting “subparagraph (B)(ii) of section
18 1a(33) of the Commodity Exchange Act (7
19 U.S.C. 1a(33))”; and

20 (B) in subclause (II), by striking “such
21 section 1a(18))” and inserting “that section”.

22 (13) Section 15F(h)(5)(A)(i) of the Securities
23 Exchange Act of 1934 (15 U.S.C. 78o-
24 10(h)(5)(A)(i)) is amended, in the matter preceding

1 subclause (I), by striking “1a(18)” and inserting
2 “1a(33)”.

3 (14) Section 712 of the Wall Street Trans-
4 parency and Accountability Act of 2010 (15 U.S.C.
5 8302) is amended—

6 (A) in subsection (a)(8), by striking
7 “1a(47)(D)” each place it appears and insert-
8 ing “1a(64)(D)”;

9 (B) in subsection (d)(1), by striking
10 “1a(47)(A)(v)” each place it appears and in-
11 serting “1a(64)(A)(v)”.

12 (15) Section 752(a) of the Dodd-Frank Wall
13 Street Reform and Consumer Protection Act (15
14 U.S.C. 8325(a)) is amended by striking “section
15 1a(39) of the Commodity Exchange Act),” and in-
16 serting “section 1a of the Commodity Exchange Act
17 (7 U.S.C. 1a)),”.

18 (16) Section 403 of the Legal Certainty for
19 Bank Products Act of 2000 (7 U.S.C. 27a) is
20 amended—

21 (A) in subsection (a)(2), by striking
22 “1a(47)(A)(v)” and inserting “1a(64)(A)(v)”;
23 and

1 (B) in each of subsections (b)(1) and
2 (c)(2), by striking “1a(47)” and inserting
3 “1a(64)”.

4 **SEC. 102. DEFINITIONS UNDER THIS ACT.**

5 In this Act, the terms “blockchain”, “decentralized
6 finance messaging system”, “decentralized finance trading
7 protocol”, “decentralized governance system”, “digital
8 asset”, “digital commodity”, “digital commodity broker”,
9 “digital commodity dealer”, “digital commodity ex-
10 change”, and “mixed digital asset transaction” have the
11 meanings given those terms, respectively, in section 1a of
12 the Commodity Exchange Act (7 U.S.C. 1a).

13 **SEC. 103. RULEMAKINGS.**

14 (a) DEFINITIONS.—The Commodity Futures Trading
15 Commission shall issue rules to further define the terms
16 “associated person of a digital commodity broker”, “asso-
17 ciated person of a digital commodity dealer”,
18 “blockchain”, “blockchain application”, “blockchain pro-
19 tocol”, “blockchain system”, “decentralized finance mes-
20 saging system”, “decentralized finance trading protocol”,
21 “decentralized governance system”, and “digital com-
22 modity”(as defined in section 1a of the Commodity Ex-
23 change Act (7 U.S.C. 1a)).

24 (b) JOINT RULEMAKING FOR EXCHANGES AND
25 INTERMEDIARIES.—The Commodity Futures Trading

1 Commission and the Securities and Exchange Commission
2 shall jointly issue rules to exempt persons dually registered
3 with the Commodity Futures Trading Commission and the
4 Securities and Exchange Commission from duplicative,
5 conflicting, or unduly burdensome provisions of this Act,
6 the securities laws (as defined in section 3(a) of the Secu-
7 rities Exchange Act of 1934 (15 U.S.C. 78c(a))), and the
8 Commodity Exchange Act (7 U.S.C. 1 et seq.), and the
9 rules under those Acts, to the extent that the exemption
10 would—

11 (1) foster the development of fair and orderly
12 markets in digital assets;

13 (2) be necessary or appropriate for the protec-
14 tion of customers; and

15 (3) be consistent with the protection of inves-
16 tors.

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

23 (d) JOINT RULEMAKING, PROCEDURES, OR GUID-
24 ANCE FOR DELISTING.—Not later than 180 days after the
25 date of enactment of this Act, the Commodity Futures

1 Trading Commission and the Securities and Exchange
2 Commission (referred to in this subsection as the “Com-
3 missions”) shall jointly issue rules, procedures, or guid-
4 ance (as determined appropriate by the Commissions) re-
5 garding the process to delist an asset for trading under
6 section 104 if the Commissions determine that the listing
7 is inconsistent with the Commodity Exchange Act (7
8 U.S.C. 1 et seq.), the securities laws (as defined in section
9 3(a) of the Securities Exchange Act of 1934 (15 U.S.C.
10 78c(a))) (including regulations under those laws), or this
11 Act.

12 (e) JOINT RULES FOR PORTFOLIO MARGINING DE-
13 TERMINATIONS.—

14 (1) IN GENERAL.—Not later than 360 days
15 after the date of enactment of this Act, the Com-
16modity Futures Trading Commission and the Securi-
17ties and Exchange Commission shall jointly issue
18rules with respect to margin, customer protection,
19segregation, or other requirements as necessary to
20facilitate portfolio margining of securities (including
21related extensions of credit), security-based swaps,
22contracts for future delivery, options on a contract
23for future delivery, swaps, and digital commodities,
24or any subset thereof, in—

1 (A) a securities account carried by a reg-
2 istered broker or dealer or a security-based
3 swap account carried by a registered security-
4 based swap dealer;

5 (B) a futures or cleared swap account car-
6 ried by a registered futures commission mer-
7 chant (as defined in section 1a of the Com-
8 modity Exchange Act (7 U.S.C. 1a));

9 (C) a swap account carried by a swap deal-
10 er; or

11 (D) a digital commodity account carried by
12 a registered digital commodity broker or digital
13 commodity dealer that is also registered in such
14 other capacity as is necessary to also carry the
15 other customer or counterparty positions being
16 held in the account.

17 (2) REQUIREMENTS.—With respect to a joint
18 rulemaking described in paragraph (1)—

19 (A) the joint rule shall be in the public in-
20 terest and provide for the appropriate protec-
21 tion of customers;

22 (B) the Commodity Futures Trading Com-
23 mission and the Securities and Exchange Com-
24 mission shall consider the public interest of the

1 joint rule through the solicitation of public com-
2 ments; and

3 (C) the Commodity Futures Trading Com-
4 mission and the Securities and Exchange Com-
5 mission shall consult with other relevant foreign
6 or domestic regulators, including the Board of
7 Governors of the Federal Reserve System, the
8 Federal Deposit Insurance Corporation, and the
9 Office of the Comptroller of the Currency, as
10 appropriate.

11 (f) CONFLICTS OF INTEREST RULEMAKING.—

12 (1) RULEMAKING.—Not later than 18 months
13 after the date of enactment of this Act, the Com-
14modity Futures Trading Commission shall issue
15 rules establishing requirements for the identification,
16 mitigation, and resolution of conflicts of interest
17 among and across registered entities (as defined in
18 section 1a of the Commodity Exchange Act (7
19 U.S.C. 1a)) and persons required to be registered
20 with the Commodity Futures Trading Commission,
21 including conflicts of interest related to vertically in-
22tegrated market structures.

23 (2) MINIMUM STANDARDS.—The rules issued
24 under paragraph (1) shall, at a minimum—

1 (A) establish governance, personnel, and fi-
2 nancial resource separation among affiliated en-
3 tities that perform distinct regulated functions;

4 (B) prohibit trading facilities or inter-
5 mediaries from acting as counterparties to cus-
6 tomer transactions or otherwise engaging in
7 self-dealing, except as provided in section
8 5i(b)(2)(B) of the Commodity Exchange Act;

9 (C) require appropriate safeguards for cus-
10 tody and use of customer assets to prevent con-
11 flicts arising from commingling or misuse;

12 (D) mandate disclosure and management
13 of material conflicts, including those involving
14 affiliated entities or proprietary trading; and

15 (E) ensure independent oversight and deci-
16 sion-making in market operations and compli-
17 ance.

18 **SEC. 104. EXPEDITED REGISTRATION FOR DIGITAL COM-**
19 **MODITY EXCHANGES, BROKERS, AND DEAL-**
20 **ERS; PROVISIONAL STATUS.**

21 (a) REGISTRATION.—

22 (1) IN GENERAL.—Unless exempted from reg-
23 istration, a person shall not act as a digital com-
24 modity exchange, digital commodity broker, or dig-
25 ital commodity dealer after the end of the 90-day pe-

1 riod beginning on the date the process described in
2 paragraph (2) is adopted by the Commodity Futures
3 Trading Commission, unless, as the case may be, the
4 person is registered as a—

5 (A) digital commodity exchange pursuant
6 to section 5i of the Commodity Exchange Act;

7 (B) digital commodity broker pursuant to
8 section 4u of the Commodity Exchange Act; or

9 (C) digital commodity dealer pursuant to
10 section 4u of the Commodity Exchange Act.

11 (2) EXPEDITED PROCESS.—Not later than 180
12 days after the date of enactment of this Act, the
13 Commodity Futures Trading Commission shall
14 adopt, by rule, regulation, or order, a process for ex-
15 pedited registration of persons required to be reg-
16 istered pursuant to paragraph (1).

17 (b) PROVISIONAL STATUS.—

18 (1) IN GENERAL.—A person who is registered
19 in accordance with subsection (a) shall be in provi-
20 sional status until—

21 (A) in the case of a digital commodity
22 broker or digital commodity dealer, the date
23 that is 270 days after the final effective date of
24 the rulemakings required under section 4u of
25 the Commodity Exchange Act; or

1 (B) in the case of a digital commodity ex-
2 change, the date that is 270 days after the final
3 effective date of the rulemakings required under
4 section 5i of such Act.

5 (2) PAYMENT OF FEES.—A person in provi-
6 sional status shall pay all fees required of persons
7 registered with the Commodity Futures Trading
8 Commission under section 8e of the Commodity Ex-
9 change Act.

10 (c) OPERATIONS PRIOR TO REGULATIONS.—

11 (1) REQUIREMENTS.—A person in provisional
12 status pursuant to subsection (b) shall be subject to
13 the requirements of this section and the Commodity
14 Exchange Act (7 U.S.C. 1 et seq.) and any rules or
15 regulations promulgated under this section or that
16 Act, as applicable.

17 (2) LISTINGS.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), a person in provisional sta-
20 tus pursuant to subsection (b) may continue to
21 offer, solicit, trade, facilitate, execute, clear, re-
22 port, or otherwise deal in any digital asset of-
23 fered on or through the facilities of the person
24 before the date of registration under this sec-
25 tion, until such time as the rulemaking on defi-

1 nitions required under section 103(a) is effective.
2 tive.

3 (B) DELISTING.—Before the effective date
4 of the rulemaking on definitions under section
5 103(a), a person in provisional status pursuant
6 to subsection (b) shall cease offering, soliciting,
7 trading, facilitating, executing, clearing, report-
8 ing, or otherwise dealing in any digital asset re-
9 quired to be delisted pursuant to a joint
10 delisting process established under section
11 103(e).

12 (3) EXEMPTIVE AUTHORITY.—In order to pro-
13 mote responsible innovation and fair competition, or
14 protect customers, the Commodity Futures Trading
15 Commission may exempt any persons or class of per-
16 sons in provisional status pursuant to subsection (b)
17 from any requirements of this section or the Com-
18 modity Exchange Act (7 U.S.C. 1 et seq.) or any
19 rules or regulations promulgated under this section
20 or that Act, as applicable.

21 (d) CUSTOMER DISCLOSURE BEFORE REGISTRA-
22 TION.—

23 (1) IN GENERAL.—Beginning 30 days after the
24 date of enactment of this Act, any person acting as
25 a digital commodity exchange, digital commodity

1 broker, or digital commodity dealer shall disclose to
2 the customers of the person so acting, in the disclo-
3 sure documents, offering documents, and pro-
4 motional material of the person so acting, in a
5 prominent manner, that the person is not registered
6 with or regulated by the Commodity Futures Trad-
7 ing Commission.

8 (2) EXCEPTION.—Paragraph (1) shall not
9 apply to any person who registers pursuant to sub-
10 section (a).

11 **SEC. 105. COMMODITY EXCHANGE ACT SAVINGS PROVI-**
12 **SIONS.**

13 (a) IN GENERAL.—Nothing in this Act or any
14 amendment made by this Act shall affect or apply to, or
15 be interpreted to affect or apply to—

16 (1) any agreement, contract, or transaction that
17 is subject to the Commodity Exchange Act (7 U.S.C.
18 1a et seq.) as—

19 (A) a contract of sale of a commodity for
20 future delivery or an option on such a contract
21 (as those terms are defined in section 1a of the
22 Commodity Exchange Act (7 U.S.C. 1a));

23 (B) a swap (as defined in that section);

24 (C) a security futures product (as defined
25 in that section);

1 (D) an option authorized under section 4c
2 of that Act (7 U.S.C. 6c);

3 (E) an agreement, contract, or transaction
4 described in section 2(c)(2)(C)(i) of that Act (7
5 U.S.C. 2(c)(2)(C)(i)); or

6 (F) a leverage transaction authorized
7 under section 19 of that Act (7 U.S.C. 23); or

8 (2) the activities of any person with respect to
9 any agreement, contract, or transaction described in
10 paragraph (1).

11 (b) PROHIBITIONS ON SPOT DIGITAL COMMODITY
12 ENTITIES.—Nothing in this Act authorizes, or shall be in-
13 terpreted to authorize, a digital commodity exchange, dig-
14 ital commodity broker, or digital commodity dealer to en-
15 gage in any activities involving any transaction, contract,
16 or agreement described in subsection (a)(1), solely by vir-
17 tue of being registered as a digital commodity exchange,
18 digital commodity broker, or digital commodity dealer.

19 (c) EFFECT.—An agreement, contract, or transaction
20 described in subsection (a)(1) shall not be regulated as
21 a digital commodity agreement, contract, or transaction
22 solely because it is issued, recorded, represented, or trans-
23 ferred on a blockchain or other similar technology.

1 **SEC. 106. ADMINISTRATIVE REQUIREMENTS.**

2 Section 4c(a) of the Commodity Exchange Act (7
3 U.S.C. 6c(a)) is amended—

4 (1) in paragraph (3)—

5 (A) in subparagraph (B), by striking “or”
6 at the end;

7 (B) in subparagraph (C), by striking the
8 period and inserting “; or”; and

9 (C) by adding at the end the following:

10 “(D) a contract of sale of a digital com-
11 modity.”; and

12 (2) in paragraph (4)—

13 (A) in subparagraph (A)—

14 (i) in clause (ii), by striking “or” at
15 the end;

16 (ii) in clause (iii), by striking the pe-
17 riod and inserting “; or”; and

18 (iii) by adding at the end the fol-
19 lowing:

20 “(iv) a contract of sale of a digital
21 commodity.”;

22 (B) in subparagraph (B)—

23 (i) in clause (ii), by striking “or” at
24 the end;

25 (ii) in clause (iii), by striking the pe-
26 riod and inserting “; or”; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(iv) a contract of sale of a digital
4 commodity.”; and

5 (C) in subparagraph (C)—

6 (i) by redesignating clauses (i)
7 through (iii) as subclauses (I) through
8 (III), respectively, and indenting appro-
9 priately;

10 (ii) in the matter preceding subclause
11 (I) (as so redesignated), by striking “It
12 shall” and inserting the following:

13 “(i) IN GENERAL.—It shall”;

14 (iii) in clause (i) (as so designated)—

15 (I) in subclause (II), by striking
16 “or” at the end; and

17 (II) in subclause (III), by strik-
18 ing “a swap, provided, however, that
19 nothing” and inserting the following:

20 “a swap; or

21 “(IV) a contract of sale of a dig-
22 ital commodity.

23 “(ii) EFFECT.—Nothing”; and

24 (iv) in clause (ii) (as so designated),
25 by striking “clauses (i), (ii), or (iii)” and

1 inserting “any of subclauses (I) through
2 (IV) of clause (i)”.

3 **SEC. 107. INTERNATIONAL COOPERATION.**

4 In order to promote greater consistency in effective
5 and consistent global regulation of digital commodities,
6 the Commodity Futures Trading Commission, as appro-
7 priate—

8 (1) shall consult and coordinate with foreign
9 regulatory authorities on the application of con-
10 sistent international standards with respect to the
11 regulation of digital commodities; and

12 (2) may enter into such information-sharing ar-
13 rangements as are determined necessary or appro-
14 priate for the protection of investors, customers, and
15 users of digital commodities.

16 **SEC. 108. IMPLEMENTATION.**

17 (a) GLOBAL RULEMAKING TIMEFRAME.—Unless oth-
18 erwise provided in this Act or an amendment made by this
19 Act, the Commodity Futures Trading Commission and the
20 Securities and Exchange Commission, or both, shall indi-
21 vidually, and jointly where required, promulgate rules and
22 regulations required of each Commission under this Act
23 or an amendment made by this Act not later than 18
24 months after the date of enactment of this Act.

1 (b) RULES AND REGISTRATION BEFORE FINAL EF-
2 FECTIVE DATES.—

3 (1) IN GENERAL.—In order to prepare for the
4 implementation of this Act and the amendments
5 made by this Act, the Commodity Futures Trading
6 Commission and the Securities and Exchange Com-
7 mission may, before any effective date provided in
8 this Act or an amendment made by this Act—

9 (A) promulgate rules, regulations, or or-
10 ders permitted or required by this Act or the
11 amendments made by this Act;

12 (B) conduct studies and prepare reports
13 and recommendations required by this Act or
14 the amendments made by this Act;

15 (C) register persons under this Act or the
16 amendments made by this Act; and

17 (D) exempt persons, agreements, contracts,
18 or transactions from provisions of this Act or
19 the amendments made by this Act, in accord-
20 ance with this Act or those amendments.

21 (2) LIMITATION ON EFFECTIVENESS.—An ac-
22 tion by the Commodity Futures Trading Commission
23 or the Securities and Exchange Commission under
24 paragraph (1) shall not become effective before the

1 effective date otherwise applicable to the action
2 under this Act or the amendments made by this Act.

3 (c) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that prior to implementation of this Act the Com-
5 modity Futures Trading Commission—

6 (1) be fully constituted as described in section
7 2(a)(2) of the Commodity Exchange Act (7 U.S.C.
8 2(a)(2)) to carry out all existing responsibilities and
9 those directed by this Act, with not fewer than 2 of
10 the Commissioners nominated, prior to such ap-
11 pointments, following consultation and coordination
12 with the ranking minority member of the Committee
13 on Agriculture, Nutrition, and Forestry of the Sen-
14 ate; and

15 (2) be appropriately staffed to ensure sufficient
16 regulatory capacity, expertise, and enforcement read-
17 iness necessary to implement this Act and the
18 amendments made by this Act.

19 **SEC. 109. EFFECTIVE DATE.**

20 (a) IN GENERAL.—Except as provided in subsection
21 (b) and as otherwise provided in this Act or an amendment
22 made by this Act, this Act and the amendments made by
23 this Act shall take effect on the date that is 18 months
24 after the date of enactment of this Act.

1 (b) RULEMAKING PROVISIONS.—To the extent that
2 a provision of this Act or an amendment made by this
3 Act requires a rulemaking, the provision shall take effect
4 on the later of—

5 (1) 18 months after the date of enactment of
6 this Act; and

7 (2) 120 days after the publication in the Fed-
8 eral Register of the final rule implementing the pro-
9 vision.

10 **SEC. 110. SENSE OF CONGRESS.**

11 It is the sense of Congress that nothing in this Act
12 or any amendment made by this Act should be interpreted
13 to authorize any entity to regulate any commodity, other
14 than a digital commodity, on any spot market.

15 **TITLE II—REGISTRATION FOR**
16 **DIGITAL COMMODITY INTER-**
17 **MEDIARIES AT THE COM-**
18 **MODITY FUTURES TRADING**
19 **COMMISSION**

20 **SEC. 201. COMMISSION JURISDICTION OVER DIGITAL COM-**
21 **MODITY TRANSACTIONS.**

22 (a) SAVINGS CLAUSE.—Section 2(a)(1) of the Com-
23 modity Exchange Act (7 U.S.C. 2(a)(1)) is amended by
24 adding at the end the following:

1 “(J)(i) Except as expressly provided in this
2 Act, nothing in the Digital Commodity Inter-
3 mediaries Act or any amendment made by that
4 Act shall affect or apply to, or be interpreted to
5 affect or apply to—

6 “(I) any agreement, contract, or
7 transaction that is subject to this Act as—

8 “(aa) a contract of sale of a com-
9 modity for future delivery or an op-
10 tion on such a contract;

11 “(bb) a swap;

12 “(cc) a security futures product;

13 “(dd) an option authorized under
14 section 4e;

15 “(ee) an agreement, contract, or
16 transaction described in subparagraph
17 (C)(i) or (D)(i) of subsection (c)(2);

18 or

19 “(ff) a leverage transaction au-
20 thorized under section 19; or

21 “(II) the activities of any person with
22 respect to any such agreement, contract, or
23 transaction.

24 “(ii) An agreement, contract, or trans-
25 action described in clause (i)(I) shall not be

1 regulated as a digital commodity agreement,
2 contract, or transaction solely because it is
3 issued, recorded, represented, or transferred on
4 a blockchain or other similar technology.”.

5 (b) LIMITATION ON AUTHORITY OVER PERMITTED
6 PAYMENT STABLECOINS.—Section 2(c)(1) of the Com-
7 modity Exchange Act (7 U.S.C. 2(c)(1)) is amended—

8 (1) in the matter preceding subparagraph (A),
9 by striking “section, 5b, or” and inserting “section
10 5b or”;

11 (2) in subparagraph (F), by striking “or” at
12 the end;

13 (3) in subparagraph (G), by striking the period
14 and inserting “; or”; and

15 (4) by adding at the end the following:

16 “(H) a payment stablecoin (as defined in
17 section 2 of the GENIUS Act (Public Law
18 119–27; 139 Stat. 419)) that is issued by a
19 permitted payment stablecoin issuer (as defined
20 in that section) (referred to in this subsection
21 as a ‘permitted payment stablecoin’).”.

22 (c) COMMISSION JURISDICTION OVER DIGITAL COM-
23 MODITY TRANSACTIONS.—Section 2(c)(2) of the Com-
24 modity Exchange Act (7 U.S.C. 2(c)(2)) is amended—

25 (1) in subparagraph (D)—

1 (A) in clause (ii)—

2 (i) in subclause (I), by inserting after
3 “paragraph (1)” the following: “(other
4 than an agreement, contract, or trans-
5 action in a permitted payment
6 stablecoin)”;

7 (ii) by striking subclause (IV); and

8 (iii) by redesignating subclause (V) as
9 subclause (IV);

10 (B) by redesignating clause (iv) as clause
11 (v);

12 (C) by inserting after clause (iii) the fol-
13 lowing:

14 “(iv) DIGITAL COMMODITIES; PER-
15 MITTED PAYMENT STABLECOINS.—This
16 subparagraph shall not apply to a contract
17 of sale of a digital commodity or a per-
18 mitted payment stablecoin that results in
19 actual delivery within 2 days or such other
20 period as the Commission may determine
21 by rule or regulation based upon the typ-
22 ical commercial practice in cash or spot
23 markets for the digital commodity or per-
24 mitted payment stablecoin involved.”; and

1 (D) by inserting after clause (v) (as so re-
2 designated) the following:

3 “(vi) RETAIL COMMODITY TRANS-
4 ACTION RULEMAKING.—The Commission
5 shall, by rule or regulation, establish ap-
6 propriate conditions, requirements, or limi-
7 tations with respect to the extension of le-
8 verage, margin, or financing in connection
9 with any cash or spot digital commodity
10 agreement, contract, or transaction subject
11 to this subparagraph.

12 “(vii) FURTHER RULEMAKING AU-
13 THORITY.—In order to promote responsible
14 innovation and fair competition, or protect
15 customers, the Commission may by rule or
16 regulation exempt, either unconditionally
17 or on stated terms or conditions or for
18 stated periods, and either retroactively or
19 prospectively, or both, a digital commodity
20 exchange or a digital commodity broker
21 from the requirements of this subpara-
22 graph, if the Commission determines that
23 the exemption would be consistent with the
24 public interest and the purposes of this
25 Act.”; and

1 (2) by adding at the end the following:

2 “(F) COMMISSION JURISDICTION WITH RE-
3 SPECT TO DIGITAL COMMODITY TRANS-
4 ACTIONS.—

5 “(i) IN GENERAL.—Subject to sec-
6 tions 6d and 12(e), the Commission shall
7 have exclusive jurisdiction with respect to
8 any account, agreement, contract, or trans-
9 action involving a contract of sale of a dig-
10 ital commodity in interstate commerce, in-
11 cluding in a digital commodity cash or spot
12 market, that is offered, solicited, traded,
13 facilitated, executed, cleared, reported, or
14 otherwise dealt in—

15 “(I) on or subject to the rules of
16 a registered entity or an entity that is
17 required to be registered as a reg-
18 istered entity; or

19 “(II) by any other entity reg-
20 istered, or required to be registered,
21 with the Commission.

22 “(ii) LIMITATIONS.—Clause (i) shall
23 not apply with respect to—

1 “(I) custodial or depository ac-
2 tivities for a digital commodity of an
3 entity regulated by—

4 “(aa) an appropriate Fed-
5 eral banking agency; or

6 “(bb) a State bank super-
7 visor (as defined in section 3 of
8 the Federal Deposit Insurance
9 Act (12 U.S.C. 1813));

10 “(II) an offer or sale of an in-
11 vestment contract involving a digital
12 commodity or a securities offer or sale
13 involving a digital commodity; or

14 “(III) a mixed digital asset
15 transaction.

16 “(G) AGREEMENTS, CONTRACTS, AND
17 TRANSACTIONS IN STABLECOINS.—

18 “(i) TREATMENT OF PERMITTED PAY-
19 MENT STABLECOINS ON COMMISSION-REG-
20 ISTERED ENTITIES.—Subject to clauses (ii)
21 and (iii), the Commission shall have juris-
22 diction over a cash or spot agreement, con-
23 tract, or transaction in a permitted pay-
24 ment stablecoin that is offered, offered to
25 enter into, entered into, executed, solicited,

1 or accepted, or for which the execution of
2 is confirmed—

3 “(I) on or subject to the rules of
4 a registered entity; or

5 “(II) by any other entity reg-
6 istered with the Commission.

7 “(ii) PERMITTED PAYMENT
8 STABLECOIN TRANSACTION RULES.—This
9 Act shall apply to a transaction described
10 in clause (i) only for the purpose of regu-
11 lating the offer, execution, solicitation, or
12 acceptance of a cash or spot permitted
13 payment stablecoin transaction on a reg-
14 istered entity or by any other entity reg-
15 istered with the Commission, as if the per-
16 mitted payment stablecoin were a digital
17 commodity.

18 “(iii) NO AUTHORITY OVER PER-
19 MITTED PAYMENT STABLECOINS.—Not-
20 withstanding clauses (i) and (ii), the Com-
21 mission shall not make a rule or regula-
22 tion, impose a requirement or obligation on
23 a registered entity or other entity reg-
24 istered with the Commission, or impose a
25 requirement or obligation on a permitted

1 payment stablecoin issuer regarding the
2 operation of a permitted payment
3 stablecoin issuer or a permitted payment
4 stablecoin.”.

5 (d) NETWORK TOKENS AND ANCILLARY ASSETS.—
6 Section 2 of the Commodity Exchange Act (7 U.S.C. 2)
7 is amended by adding at the end the following:

8 “(k) TREATMENT OF SECONDARY MARKET NET-
9 WORK TOKENS AND CERTIFIED ANCILLARY ASSETS.—
10 The secondary market offer or sale of a network token
11 (as defined in section 4B(a) of the Securities Act of 1933)
12 other than the offer or sale of an investment contract pur-
13 suant to which an ancillary asset is offered or sold by an
14 ancillary asset originator, or an underwriter with respect
15 to an investment contract pursuant to which such ancillary
16 asset was originally sold, shall be considered an offer or
17 sale of a digital commodity.”.

18 (e) CONFORMING AMENDMENTS.—

19 (1) Paragraph (15) of section 1a of the Com-
20modity Exchange Act (7 U.S.C. 1a) (as amended by
21 section 17(f) of the GENIUS Act (Public Law 119–
22 27; 139 Stat. 463) and as redesignated by section
23 101(a)(1)) is amended by striking the second sen-
24 tence.

1 (2) Section 2(a)(1)(A) of the Commodity Ex-
2 change Act (7 U.S.C. 2(a)(1)(A)) is amended, in the
3 first sentence, by striking “section 19 of this Act”
4 and inserting “subparagraph (F) or (G) of sub-
5 section (c)(2) or section 19”.

6 (3) Section 4(c)(1) of the Commodity Exchange
7 Act (7 U.S.C. 6(c)(1)) is amended by adding after
8 subparagraph (B) the following:

9 “For purposes of this paragraph, an agreement, contract,
10 or transaction that is subject to the jurisdiction of the
11 Commission under any of the amendments made to this
12 Act by the Digital Commodity Intermediaries Act shall be
13 subject to subsection (a).”.

14 **SEC. 202. REQUIRING FUTURES COMMISSION MERCHANTS**
15 **TO USE QUALIFIED DIGITAL ASSET**
16 **CUSTODIANS.**

17 Section 4d of the Commodity Exchange Act (7 U.S.C.
18 6d) is amended—

19 (1) in subsection (a)(2)—

20 (A) in the first proviso, by striking “any
21 bank or trust company” and inserting “any
22 bank, trust company, or qualified digital asset
23 custodian, as applicable,”; and

24 (B) by inserting “: *Provided further*, That
25 any such property that is a digital asset shall

1 be held in a qualified digital asset custodian”
2 before the period at the end; and
3 (2) in subsection (f)(3)(A)(i), by striking “any
4 bank or trust company or with a” and inserting
5 “any bank, trust company, qualified digital asset
6 custodian, or”.

7 **SEC. 203. TRADING CERTIFICATION AND APPROVAL FOR**
8 **DIGITAL COMMODITIES.**

9 Section 5c of the Commodity Exchange Act (7 U.S.C.
10 7a–2) is amended—

11 (1) in subsection (a)(1), by striking “5(d) and
12 5b(c)(2)” and inserting “5(d), 5b(c)(2), and 5i(c)”;

13 (2) in subsection (b)—

14 (A) in each of paragraphs (1) and (2), by
15 inserting “digital commodity exchange,” before
16 “derivatives”; and

17 (B) in paragraph (3), by inserting “digital
18 commodity exchange,” before “derivatives” each
19 place it appears;

20 (3) in subsection (c)—

21 (A) in paragraph (2), by inserting “or par-
22 ticipants” before “(in”;

23 (B) in paragraph (4)(B), by striking
24 “1a(10)” and inserting “1a(16)”;

1 (C) in paragraph (5), by adding at the end
2 the following:

3 “(D) SPECIAL RULES FOR DIGITAL COM-
4 MODITY CONTRACTS.—In certifying any new
5 rule or rule amendment, or listing any new con-
6 tract or instrument, in connection with a con-
7 tract of sale of a commodity for future delivery,
8 option, swap, or other agreement, contract, or
9 transaction, that is based on or references a
10 digital commodity, a registered entity may
11 make or rely on a certification under subsection
12 (d) for the digital commodity.”; and

13 (4) by inserting after subsection (c) the fol-
14 lowing:

15 “(d) CERTIFICATIONS FOR DIGITAL COMMODITY
16 TRADING.—

17 “(1) IN GENERAL.—Notwithstanding subsection
18 (c), for the purposes of listing or offering a digital
19 commodity for trading in a digital commodity cash
20 or spot market, an eligible entity shall submit a
21 written certification to the Commission that the dig-
22 ital commodity meets the requirements of this Act
23 (including the regulations prescribed under this
24 Act).

1 “(2) CONTENTS OF THE CERTIFICATION.—In
2 making a written certification under this subsection,
3 an eligible entity shall furnish to the Commission an
4 analysis of how the digital commodity meets the re-
5 quirements of section 5i(c)(3).

6 “(3) MODIFICATIONS.—

7 “(A) IN GENERAL.—An eligible entity shall
8 modify a certification made under paragraph
9 (1) to account for material changes in any in-
10 formation provided in connection with the re-
11 quirements of section 5i(c)(3).

12 “(B) RECERTIFICATION.—Modifications
13 required by this subsection shall be subject to
14 the same disapproval and review process as a
15 new certification under paragraphs (4) and (5).

16 “(4) DISAPPROVAL.—

17 “(A) IN GENERAL.—The written certifi-
18 cation described in paragraph (1) shall become
19 effective unless the Commission finds that the
20 listing of the digital commodity is inconsistent
21 with the requirements of this Act or the rules
22 and regulations prescribed under this Act.

23 “(B) ANALYSIS REQUIRED.—The Commis-
24 sion shall include, with any findings referred to

1 in subparagraph (A), a detailed analysis of the
2 factors on which the decision was based.

3 “(C) PUBLIC FINDINGS.—The Commission
4 shall make public any disapproval decision, and
5 any related findings and analysis, made under
6 this paragraph.

7 “(5) REVIEW.—

8 “(A) IN GENERAL.—Unless the Commis-
9 sion makes a disapproval decision under para-
10 graph (4), the written certification described in
11 paragraph (1) shall become effective, pursuant
12 to the certification by the eligible entity and no-
13 tice of the certification to the public (in a man-
14 ner determined by the Commission) on the date
15 that is—

16 “(i) 20 business days after the date
17 the Commission receives the certification
18 (or such shorter period as determined by
19 the Commission by rule or regulation), in
20 the case of a digital commodity that has
21 not been certified under this section or for
22 which a certification is being modified
23 under paragraph (3); or

24 “(ii) 1 business day after the date the
25 Commission receives the certification (or

1 such shorter period as determined by the
2 Commission by rule or regulation) for any
3 digital commodity that has been certified
4 under this section.

5 “(B) EXTENSIONS.—The time for consid-
6 eration under subparagraph (A) may be ex-
7 tended—

8 “(i) once, for 30 business days,
9 through written notice to the eligible entity
10 by the Commission—

11 “(I) that there are novel or com-
12 plex issues that require additional
13 time to analyze;

14 “(II) that the explanation by the
15 submitting eligible entity is inad-
16 equate; or

17 “(III) of a potential inconsistency
18 with this Act; and

19 “(ii) once, for an additional 30 busi-
20 ness days, through written notice to the el-
21 igible entity from the Commission that in-
22 cludes a description of any issues with the
23 certification, including any—

24 “(I) novel or complex issues that
25 require additional time to analyze;

1 “(II) missing information or in-
2 adequate explanations; or

3 “(III) potential inconsistencies
4 with this Act.

5 “(6) PRIOR APPROVAL BEFORE REGISTRA-
6 TION.—

7 “(A) IN GENERAL.—A person applying for
8 registration with the Commission for the pur-
9 poses of listing or offering a digital commodity
10 for trading in a digital commodity cash or spot
11 market may request that the Commission grant
12 prior approval for the person to list or offer the
13 digital commodity on being registered with the
14 Commission.

15 “(B) REQUEST FOR PRIOR APPROVAL.—A
16 person seeking prior approval under subpara-
17 graph (A) shall furnish the Commission with a
18 written certification that the digital commodity
19 meets the requirements of this Act (including
20 the regulations prescribed under this Act) and
21 the information described in paragraph (2).

22 “(C) DEADLINE.—The Commission shall
23 take final action on a request for prior approval
24 not later than 90 business days after submis-
25 sion of the request, unless the person submit-

1 ting the request agrees to an extension of the
2 time limitation established under this subpara-
3 graph.

4 “(D) DISAPPROVAL.—

5 “(i) IN GENERAL.—The Commission
6 shall approve the listing of the digital com-
7 modity requested under subparagraph (A)
8 unless the Commission finds that the list-
9 ing is inconsistent with this Act or the
10 rules and regulations prescribed under this
11 Act.

12 “(ii) ANALYSIS REQUIRED.—The
13 Commission shall include, with any find-
14 ings made under clause (i), a detailed anal-
15 ysis of the factors on which the decision is
16 based.

17 “(iii) PUBLIC FINDINGS.—The Com-
18 mission shall make public any disapproval
19 decision, and any related findings and
20 analysis, made under this subparagraph.

21 “(7) ELIGIBLE ENTITY DEFINED.—In this sub-
22 section, the term ‘eligible entity’ means a registered
23 entity or group of registered entities acting jointly.”.

1 **SEC. 204. REGISTRATION OF DIGITAL COMMODITY EX-**
2 **CHANGES.**

3 (a) IN GENERAL.—The Commodity Exchange Act is
4 amended by inserting after section 5h (7 U.S.C. 7b–3) the
5 following:

6 **“SEC. 5i. REGISTRATION OF DIGITAL COMMODITY EX-**
7 **CHANGES.**

8 “(a) IN GENERAL.—

9 “(1) REGISTRATION.—

10 “(A) IN GENERAL.—A trading facility that
11 offers or seeks to offer a cash or spot market
12 in at least 1 digital commodity shall register
13 with the Commission as a digital commodity ex-
14 change.

15 “(B) APPLICATION.—

16 “(i) IN GENERAL.—A person desiring
17 to register as a digital commodity exchange
18 shall submit to the Commission an applica-
19 tion in such form and containing such in-
20 formation as the Commission shall require
21 for the purpose of making the determina-
22 tions required for approval.

23 “(ii) RULEMAKING REQUIRED.—The
24 Commission shall, by rule, prescribe the
25 contents of an application under clause (i),
26 including governance, resources, systems

1 safeguards, surveillance, and conflict man-
2 agement.

3 “(C) EXEMPTIONS.—A trading facility
4 that offers or seeks to offer a cash or spot mar-
5 ket in at least 1 digital commodity shall not be
6 required to register under this section if the
7 trading facility—

8 “(i) serves only customers in a single
9 State, territory, or possession of the
10 United States;

11 “(ii) permits no more than a de mini-
12 mis amount of trading activity, as the
13 Commission may determine by rule or reg-
14 ulation, in a digital commodity; or

15 “(iii) is already registered as a des-
16 ignated contract market, provided that the
17 trading facility shall—

18 “(I) provide reasonable notice to
19 the Commission of its intention to en-
20 gage in offering a cash or spot market
21 in at least 1 digital commodity; and

22 “(II) comply with all other provi-
23 sions of this Act and the rules pro-
24 mulgated thereunder as they apply to
25 a digital commodity exchange.

1 “(2) ADDITIONAL REGISTRATIONS.—

2 “(A) RULES.—In order to foster the devel-
3 opment of fair and orderly markets, protect
4 customers, and promote responsible innovation,
5 the Commission shall—

6 “(i) prescribe rules to exempt an enti-
7 ty registered with the Commission under
8 more than 1 section of this Act from dupli-
9 cative, conflicting, or unduly burdensome
10 provisions of this Act and the rules under
11 this Act;

12 “(ii) prescribe rules establishing re-
13 quirements for the identification, mitiga-
14 tion, and resolution of conflicts of interest
15 among and across affiliated entities or en-
16 tities with multiple registrations under this
17 Act, including conflicts of interest related
18 to vertically integrated market structures
19 and their varying responsibilities and ac-
20 tivities; and

21 “(iii) after an analysis of the risks
22 and benefits, prescribe rules to provide for
23 portfolio margining in accordance with sec-
24 tion 103(e) of the Digital Commodity
25 Intermediaries Act.

1 “(B) REGISTRATION REQUIRED.—A person
2 required to be registered as a digital commodity
3 exchange under this section shall register with
4 the Commission as such regardless of whether
5 the person is registered with another State or
6 Federal regulator.

7 “(b) TRADING.—

8 “(1) PROHIBITION ON CERTAIN TRADING PRAC-
9 TICES.—

10 “(A) CONTRACTS DESIGNED TO DEFRAUD
11 OR MISLEAD.—Section 4b shall apply to any
12 agreement, contract, or transaction in a digital
13 commodity as if the agreement, contract, or
14 transaction were a contract of sale of a com-
15 modity for future delivery.

16 “(B) PROHIBITED TRANSACTIONS.—Sec-
17 tion 4c shall apply to any agreement, contract,
18 or transaction in a digital commodity as if the
19 agreement, contract, or transaction were a
20 transaction involving the purchase or sale of a
21 commodity for future delivery.

22 “(C) ENFORCEMENT AUTHORITY.—Section
23 4b–1 shall apply to any agreement, contract, or
24 transaction in a digital commodity as if the

1 agreement, contract, or transaction were a con-
2 tract of sale of a commodity for future delivery.

3 “(2) PROHIBITION ON ACTING AS A
4 COUNTERPARTY.—

5 “(A) IN GENERAL.—A digital commodity
6 exchange or any affiliate of a digital commodity
7 exchange shall not trade on or subject to the
8 rules of the digital commodity exchange for its
9 own account.

10 “(B) EXCEPTIONS.—Subject to the limita-
11 tions described in subparagraph (C), a digital
12 commodity exchange or any affiliate of a digital
13 commodity exchange may trade on the digital
14 commodity exchange for its own account so long
15 as the trading is not solely for the purpose of
16 the profit of the digital commodity exchange,
17 including the following transactions:

18 “(i) CUSTOMER DIRECTION.—A trans-
19 action for, or entered into at the direction
20 of, or for the benefit of, an unaffiliated
21 customer.

22 “(ii) LIQUIDITY PROVISION.—A trans-
23 action in connection with the provision of
24 liquidity on the digital commodity ex-
25 change if conducted pursuant to policies

1 and procedures reasonably designed to
2 limit such activity to the reasonably ex-
3 pected customer demand for liquidity on
4 the digital commodity exchange.

5 “(iii) RISK-MITIGATING HEDGING.—A
6 transaction in connection with risk-miti-
7 gating hedging activities that are designed
8 to reduce specific risks to the digital com-
9 modity exchange or its affiliate in connec-
10 tion with and related to its digital com-
11 modity activities.

12 “(C) RULEMAKING.—The Commission
13 shall adopt rules establishing appropriate condi-
14 tions, requirements, or other limitations on the
15 use of the exceptions described in subparagraph
16 (B) that are necessary for the protection of cus-
17 tomers, the promotion of innovation, or the
18 maintenance of fair, orderly, and efficient mar-
19 kets, which shall require that the digital com-
20 modity exchange has put in place adequate pro-
21 tections against conflicts of interest, such as
22 timely and effective disclosure to clients, cus-
23 tomers, and counterparties of any material con-
24 flict of interest or information barriers reason-

1 ably designed to protect against such conflicts
2 of interest.

3 “(D) NOTICE REQUIREMENT.—In order
4 for a digital commodity exchange or any affil-
5 iate of a digital commodity exchange to engage
6 in trading on the affiliated digital commodity
7 exchange pursuant to subparagraph (B), the
8 digital commodity exchange or affiliate shall
9 provide to the Commission notice that shall
10 enumerate how any proposed activity is con-
11 sistent with the exceptions described in sub-
12 paragraph (B) and the purposes of this Act.

13 “(E) COMMISSION VISIBILITY INTO LI-
14 QUIDITY PROVISION.—A digital commodity ex-
15 change shall report to the Commission such
16 quantitative metrics as the Commission deter-
17 mines, by rule, to be appropriate to provide the
18 Commission with sufficient visibility into the ac-
19 tivities of the digital commodity exchange or its
20 affiliates in reliance on subparagraph (B)(ii).

21 “(c) CORE PRINCIPLES FOR DIGITAL COMMODITY
22 EXCHANGES.—

23 “(1) COMPLIANCE WITH CORE PRINCIPLES.—

24 “(A) IN GENERAL.—To be registered, and
25 maintain registration, as a digital commodity

1 exchange, a digital commodity exchange shall
2 comply with—

3 “(i) the core principles described in
4 this subsection; and

5 “(ii) any requirement that the Com-
6 mission may impose by rule or regulation
7 pursuant to section 8a(5).

8 “(B) REASONABLE DISCRETION OF A DIG-
9 ITAL COMMODITY EXCHANGE.—Unless other-
10 wise determined by the Commission by rule or
11 regulation, a digital commodity exchange shall
12 have reasonable discretion in establishing the
13 manner in which the digital commodity ex-
14 change complies with the core principles de-
15 scribed in this subsection.

16 “(2) COMPLIANCE WITH RULES.—A digital
17 commodity exchange shall—

18 “(A) establish and enforce compliance with
19 any rule of the digital commodity exchange, in-
20 cluding—

21 “(i) the terms and conditions of the
22 trades traded or processed on or through
23 the digital commodity exchange; and

24 “(ii) any limitation on access to the
25 digital commodity exchange;

1 “(B) establish and enforce trading, trade
2 processing, and participation rules that will
3 deter abuses and have the capacity to detect,
4 investigate, and enforce those rules, including
5 means—

6 “(i) to provide market participants
7 with impartial access to the market; and

8 “(ii) to capture information that may
9 be used in establishing whether rule viola-
10 tions have occurred; and

11 “(C) establish rules governing the oper-
12 ation of the exchange, including rules specifying
13 trading procedures to be used in entering and
14 executing orders traded or posted on the ex-
15 change.

16 “(3) LISTING STANDARDS FOR DIGITAL COM-
17 MODITIES.—

18 “(A) NOT READILY SUSCEPTIBLE TO MA-
19 NIPULATION.—A digital commodity exchange
20 shall permit trading only in a digital commodity
21 that is not readily susceptible to manipulation.

22 “(B) DISCLOSURES TO THE SECURITIES
23 AND EXCHANGE COMMISSION.—A digital com-
24 modity exchange shall establish policies and

1 procedures to permit trading in a digital com-
2 modity only if—

3 “(i) disclosures with respect to the
4 digital commodity required under, as appli-
5 cable, section 4B of the Securities Act of
6 1933 have been filed with the Securities
7 and Exchange Commission; or

8 “(ii) such other similar information
9 that is related to the ongoing development
10 plan of the blockchain system and is able
11 to be publicly ascertained, as the Commis-
12 sion may, by rule or regulation, require,
13 has been provided to the public.

14 “(C) PUBLIC INFORMATION REQUIRE-
15 MENTS.—

16 “(i) IN GENERAL.—A digital com-
17 modity exchange shall—

18 “(I) permit trading in a digital
19 commodity only if the digital com-
20 modity exchange reasonably deter-
21 mines that the information required
22 by clause (ii) is correct, current, and
23 available to the public;

24 “(II) establish policies and proce-
25 dures to determine that the informa-

1 tion provided pursuant to clause (ii) is
2 correct, current, and available to the
3 public; and

4 “(III) communicate in a fair and
5 balanced manner based on principles
6 of fair dealing and good faith.

7 “(ii) REQUIRED INFORMATION.—With
8 respect to a digital commodity and each
9 blockchain system to which the digital
10 commodity relates for which the digital
11 commodity exchange will make the digital
12 commodity available to the customers of
13 the digital commodity exchange, the infor-
14 mation required by this clause is the fol-
15 lowing:

16 “(I) SOURCE CODE.—The source
17 code for any blockchain system to
18 which the digital commodity relates.

19 “(II) TRANSACTION HISTORY.—A
20 description of the steps necessary to
21 independently access, search, and
22 verify the transaction history of any
23 blockchain system to which the digital
24 commodity relates, to the extent any
25 such independent access, search, and

1 verification activities are technically
2 feasible with respect to such
3 blockchain system.

4 “(III) DIGITAL COMMODITY ECO-
5 NOMICS.—A narrative description of
6 the purpose of any blockchain system
7 to which the digital commodity relates
8 and the operation of any such
9 blockchain system, including—

10 “(aa) information explaining
11 the launch and supply process,
12 including the number of digital
13 assets to be issued in an initial
14 allocation, the total number of
15 digital commodities to be created,
16 the release schedule for the dig-
17 ital commodities, and the total
18 number of digital commodities
19 then outstanding;

20 “(bb) information detailing
21 any applicable consensus mecha-
22 nism or process for validating
23 transactions, method of gener-
24 ating or mining digital commod-
25 ities, and any process for burning

1 or destroying digital commodities
2 on the blockchain system;

3 “(cc) an explanation of gov-
4 ernance mechanisms for imple-
5 menting changes to the
6 blockchain system or forming
7 consensus among holders of the
8 digital commodities; and

9 “(dd) sufficient information
10 for a third party to create a tool
11 for verifying the transaction his-
12 tory of the digital commodity.

13 “(IV) TRADING VOLUME AND
14 VOLATILITY.—The trading volume
15 and volatility of the digital commodity
16 on the exchange.

17 “(V) CUSTOMER PROTEC-
18 TIONS.—

19 “(aa) Information about the
20 material risks and characteristics
21 of the digital commodity.

22 “(bb) Any material incen-
23 tives or conflicts of interest that
24 the digital commodity exchange

1 may have in connection with the
2 listing of the digital commodity.

3 “(cc) Information required
4 by the Commission by rule or
5 regulation pertaining to mar-
6 keting and advertising, including
7 testimonials and endorsements.

8 “(VI) ADDITIONAL INFORMA-
9 TION.—Such additional information
10 as the Commission shall determine by
11 rule or regulation to be necessary for
12 a customer to understand the finan-
13 cial and operational risks of a digital
14 commodity, and to be practically fea-
15 sible to provide.

16 “(4) MONITORING OF TRADING AND TRADE
17 PROCESSING.—

18 “(A) IN GENERAL.—A digital commodity
19 exchange shall provide a competitive, open, and
20 efficient market and mechanism for executing
21 transactions that protects the price discovery
22 process of trading on the exchange.

23 “(B) PROTECTION OF MARKETS AND MAR-
24 KET PARTICIPANTS.—A digital commodity ex-
25 change shall establish and enforce rules—

1 “(i) to protect markets and market
2 participants from abusive practices com-
3 mitted by any party, including abusive
4 practices committed by a party acting as
5 an agent for a participant; and

6 “(ii) to promote fair and equitable
7 trading on the exchange.

8 “(C) TRADING PROCEDURES.—A digital
9 commodity exchange shall—

10 “(i) establish and enforce rules or
11 terms and conditions defining, or specifica-
12 tions detailing—

13 “(I) trading procedures to be
14 used in entering and executing orders
15 traded on or through the facilities of
16 the digital commodity exchange; and

17 “(II) procedures for trade proc-
18 essing of digital commodities on or
19 through the facilities of the digital
20 commodity exchange; and

21 “(ii) monitor trading in digital com-
22 modities to prevent manipulation, price
23 distortion, and disruptions, through sur-
24 veillance, compliance, and disciplinary
25 practices and procedures, including meth-

1 ods for conducting real-time monitoring of
2 trading and comprehensive and accurate
3 trade reconstructions.

4 “(5) ABILITY TO OBTAIN INFORMATION.—A
5 digital commodity exchange shall—

6 “(A) establish and enforce rules that will
7 allow the exchange to obtain any necessary in-
8 formation to perform any of the functions de-
9 scribed in this section;

10 “(B) provide the information to the Com-
11 mission on request; and

12 “(C) have the capacity to carry out such
13 international information-sharing agreements as
14 the Commission may require.

15 “(6) EMERGENCY AUTHORITY.—A digital com-
16 modity exchange shall adopt rules to provide for the
17 exercise of emergency authority, in consultation or
18 cooperation with the Commission or a registered en-
19 tity, as is necessary and appropriate, including the
20 authority to facilitate the liquidation or transfer of
21 open positions in any digital commodity or to sus-
22 pend or curtail trading in a digital commodity.

23 “(7) TIMELY PUBLICATION OF TRADING INFOR-
24 MATION.—

1 “(A) IN GENERAL.—A digital commodity
2 exchange shall make public on its website time-
3 ly information on price, trading volume, and
4 other trading data on digital commodities to the
5 extent prescribed by the Commission by rule or
6 regulation.

7 “(B) CAPACITY OF DIGITAL COMMODITY
8 EXCHANGE.—A digital commodity exchange
9 shall have the capacity to electronically capture
10 and transmit trade information with respect to
11 transactions executed on the exchange.

12 “(8) RECORDKEEPING AND REPORTING.—

13 “(A) IN GENERAL.—A digital commodity
14 exchange shall—

15 “(i) maintain records relating to the
16 business of the digital commodity ex-
17 change, including a complete audit trail, in
18 a form and manner acceptable to the Com-
19 mission for a period of 5 years;

20 “(ii) report to the Commission, in a
21 form and manner acceptable to the Com-
22 mission, such information as the Commis-
23 sion determines to be necessary or appro-
24 priate for the Commission to perform the
25 duties of the Commission under this Act;

1 “(iii) keep any such records of digital
2 commodities that relate to a security open
3 to inspection and examination by the Secu-
4 rities and Exchange Commission; and

5 “(iv) provide to the Commission an
6 annual financial statement certified by an
7 independent public accountant.

8 “(B) PROVIDING INFORMATION.—A digital
9 commodity exchange shall provide to the Com-
10 mission (including any designee of the Commis-
11 sion) information under subparagraph (A) in
12 such form and at such frequency as is required
13 by the Commission.

14 “(9) ANTITRUST CONSIDERATIONS.—Unless
15 necessary or appropriate to achieve the purposes of
16 this Act, a digital commodity exchange shall not—

17 “(A) adopt any rules or take any actions
18 that result in any unreasonable restraint of
19 trade; or

20 “(B) impose any material anticompetitive
21 burden on trading.

22 “(10) CONFLICTS OF INTEREST.—A digital
23 commodity exchange shall establish and enforce
24 rules—

1 “(A) to minimize conflicts of interest in
2 the decision-making processes of the digital
3 commodity exchange, including conflicts of in-
4 terest that might potentially bias the judgement
5 or supervision of the digital commodity ex-
6 change and contravene the principles of fair
7 and equitable trading;

8 “(B) to minimize conflicts of interest that
9 might arise—

10 “(i) out of transactions or arrange-
11 ments with affiliates (including affiliates
12 engaging in digital commodity activities);
13 or

14 “(ii) as a result of multiple registra-
15 tions under this Act;

16 “(C) to establish a process for resolving
17 conflicts of interest referred to in subpara-
18 graphs (A) and (B);

19 “(D) to require disclosure by the digital
20 commodity exchange of any material incentives
21 or conflicts of interest that the digital com-
22 modity exchange is unable to resolve, or pro-
23 hibit the conditions giving rise to such conflicts
24 of interest not able to be resolved, as the Com-
25 mission may determine to be appropriate; and

1 “(E) relating to such additional matters as
2 the Commission shall determine by rule or reg-
3 ulation to be necessary in the public interest.

“(F) AFFILIATES.—A digital commodity exchange may permit an affiliated digital commodity broker or digital commodity dealer to facilitate impartial access to the digital commodity exchange, subject to the rules prescribed by the Commission with respect to conflicts of interest regarding transactions or arrangements with affiliates.

12 “(11) FINANCIAL RESOURCES.—

“(A) IN GENERAL.—A digital commodity exchange shall have adequate financial, operational, and managerial resources, as shall be determined by the Commission by rule or regulation, to discharge each responsibility of the digital commodity exchange.

19 “(B) MINIMUM AMOUNT OF FINANCIAL RE-
20 SOURCES.—A digital commodity exchange shall
21 possess financial resources that, at a minimum,
22 exceed the sum of—

23 “(i) the total amount that would en-
24 able the digital commodity exchange to
25 cover the operating costs of the digital

1 commodity exchange for a 1-year period,
2 as calculated on a rolling basis; and

3 “(ii) the total amount necessary to
4 meet the financial obligations of the digital
5 commodity exchange to all customers of
6 the digital commodity exchange.

7 “(C) PROHIBITION.—The resources used
8 to meet the requirements under subparagraph
9 (B) shall not include digital commodities origi-
10 nated by the digital commodity exchange or af-
11 filiates of the digital commodity exchange.

12 “(12) DISCIPLINARY PROCEDURES.—A digital
13 commodity exchange shall establish and enforce dis-
14 ciplinary procedures that authorize the digital com-
15modity exchange to discipline, suspend, or expel
16 members or market participants that violate the
17 rules of the digital commodity exchange, or similar
18 methods for performing the same functions, includ-
19 ing delegation of the functions to third parties.

20 “(13) GOVERNANCE FITNESS STANDARDS.—

21 “(A) GOVERNANCE ARRANGEMENTS.—A
22 digital commodity exchange shall establish gov-
23 ernance arrangements that are transparent to
24 fulfill public interest requirements.

1 “(B) FITNESS STANDARDS.—A digital
2 commodity exchange shall establish and enforce
3 appropriate fitness standards for—

4 “(i) officers and directors;

5 “(ii) any individual or entity with di-
6 rect access to, or control of, customer as-
7 sets; and

8 “(iii) other persons, as determined by
9 the Commission by rule or regulation.

10 “(C) BOARD OF DIRECTORS.—Except as
11 otherwise provided by the Commission by rule,
12 regulation, or order, a digital commodity ex-
13 change shall be governed by a board of direc-
14 tors, subject to the following requirements:

15 “(i) The composition of the board of
16 directors shall be sufficient to maintain ap-
17 propriate independence, as determined by
18 the Commission.

19 “(ii) A digital commodity exchange
20 shall endeavor to recruit individuals to
21 serve on the board of directors from
22 among, and to have the composition of the
23 board reflect, a broad and culturally di-
24 verse pool of qualified candidates.

1 “(14) SYSTEM SAFEGUARDS.—A digital com-
2 modity exchange shall—

3 “(A) establish and maintain a program of
4 risk analysis and oversight to identify and mini-
5 mize sources of operational and security risks
6 (including cybersecurity risks), through the de-
7 velopment of appropriate controls and proce-
8 dures, and automated systems that—

9 “(i) are reliable and secure; and

10 “(ii) have adequate scalable capacity;

11 “(B) establish and maintain emergency
12 procedures, backup resources, and a plan for
13 disaster recovery that allow for—

14 “(i) the timely recovery and resump-
15 tion of operations;

16 “(ii) the fulfillment of the responsibil-
17 ities and obligations of the digital com-
18 modity exchange; and

19 “(iii) the appropriate safeguarding
20 and ability to access the private keys or
21 other credentials necessary to transmit dig-
22 ital commodities in the possession, custody,
23 or control of the digital commodity ex-
24 change; and

1 “(C) periodically conduct tests to verify
2 that the backup resources of the digital com-
3 modity exchange are sufficient to ensure contin-
4 ued—

5 “(i) order processing and trade
6 matching;

7 “(ii) price reporting;

8 “(iii) market surveillance;

9 “(iv) maintenance of a comprehensive
10 and accurate audit trail; and

11 “(v) access and ability to transfer dig-
12 ital commodities in the possession, custody,
13 or control of the digital commodity ex-
14 change.

15 “(15) RISK MANAGEMENT PROCEDURES.—A
16 digital commodity exchange shall establish robust
17 and professional risk management systems adequate
18 for managing the day-to-day business of the digital
19 commodity exchange.

20 “(d) CONSUMER PROTECTION.—The Commission
21 shall adopt rules or regulations imposing customer protec-
22 tion requirements that—

23 “(1) require disclosure by a digital commodity
24 exchange to a customer (other than another digital
25 commodity exchange registered under this section),

1 which shall be updated in a timely manner to reflect
2 material changes, and in accordance with paragraph
3 (5), of—

4 “(A) the underlying technology of any dig-
5 ital commodity that is listed on the digital com-
6 modity exchange;

7 “(B) the functionality and utility of any
8 digital commodity that is listed on the digital
9 commodity exchange;

10 “(C) the governance structure of any dig-
11 ital commodity that is listed on the digital com-
12 modity exchange;

13 “(D) the trading volume and volatility of
14 any digital commodity that is listed on the dig-
15 ital commodity exchange;

16 “(E) information about the material risks
17 and characteristics of any applicable digital
18 commodities; and

19 “(F) any material incentives or conflicts of
20 interest that the digital commodity exchange
21 may have in connection with the listing of any
22 applicable digital commodities;

23 “(2) establish a duty for a digital commodity
24 exchange to communicate in a fair and balanced

1 manner based on principles of fair dealing and good
2 faith;

3 “(3) establish standards governing digital com-
4 modity exchange marketing and advertising, includ-
5 ing testimonials and endorsements;

6 “(4) establish such other standards and re-
7 quirements as the Commission may determine are—

8 “(A) appropriate for the protection of cus-
9 tomers; or

10 “(B) otherwise in furtherance of the pur-
11 poses of this Act; and

12 “(5) standardize and simplify disclosures under
13 paragraph (1), including requiring that disclosures—

14 “(A) be conspicuous;

15 “(B) use plain language comprehensible to
16 customers; and

17 “(C) succinctly explain the information
18 that is required to be communicated to the cus-
19 tomer.

20 “(e) INFORMATION-SHARING.—

21 “(1) IN GENERAL.—Subject to section 8, and
22 on request, the Commission shall share information
23 collected under subsection (c)(8)(A) with—

24 “(A) the Board of Governors of the Fed-
25 eral Reserve System;

1 “(B) the Securities and Exchange Commis-
2 sion;

3 “(C) each appropriate Federal banking
4 agency;

5 “(D) each appropriate State bank super-
6 visor (as defined in section 3 of the Federal De-
7 posit Insurance Act (12 U.S.C. 1813));

8 “(E) the Financial Stability Oversight
9 Council;

10 “(F) the Department of Justice;

11 “(G) State securities regulators; and

12 “(H) any other person that the Commis-
13 sion determines to be appropriate, including—

14 “(i) foreign financial supervisors (in-
15 cluding foreign futures authorities);

16 “(ii) foreign central banks; and

17 “(iii) foreign ministries.

18 “(2) CONFIDENTIALITY AGREEMENT.—Before
19 the Commission may share information with any en-
20 tity described in paragraph (1), the Commission
21 shall receive a written agreement from the entity
22 stating that the entity shall abide by the confiden-
23 tiality requirements described in section 8 relating to
24 the information on digital commodities that is pro-
25 vided.

1 “(f) HOLDING OF CUSTOMER ASSETS.—

2 “(1) IN GENERAL.—A digital commodity ex-
3 change shall hold customer money, assets, and prop-
4 erty in a manner to minimize the risk of loss to the
5 customer or unreasonable delay in customer access
6 to the money, assets, and property of the customer.

7 “(2) QUALIFIED DIGITAL ASSET CUSTODIAN.—
8 Each digital commodity exchange shall hold in a
9 qualified digital asset custodian each unit of a dig-
10 ital asset that is—

11 “(A) the property of a customer of the dig-
12 ital commodity exchange;

13 “(B) required to be held by the digital
14 commodity exchange under subsection (c)(11);
15 or

16 “(C) otherwise so required by the Commis-
17 sion to reasonably protect customers and cus-
18 tomer assets or promote the public interest.

19 “(3) SEGREGATION OF FUNDS.—

20 “(A) IN GENERAL.—A digital commodity
21 exchange shall treat and deal with all money,
22 assets, and property that is received by the dig-
23 ital commodity exchange, or accrues to a cus-
24 tomer as the result of trading in digital com-
25 modities, as belonging to the customer.

1 “(B) COMMINGLING PROHIBITED.—Money,
2 assets, and property described in subparagraph
3 (A) shall be separately accounted for and shall
4 not be commingled with the funds of the digital
5 commodity exchange or be used to margin, se-
6 cure, or guarantee any trades or accounts of
7 any customer or person other than the person
8 for whom the same are held.

9 “(C) EXCEPTIONS.—

10 “(i) USE OF FUNDS.—

11 “(I) IN GENERAL.—Notwith-
12 standing subparagraph (A), money,
13 assets, and property described in sub-
14 paragraph (A) may, for convenience,
15 be commingled and deposited in the
16 same account or accounts with any
17 bank, trust company, derivatives
18 clearing organization, or qualified dig-
19 ital asset custodian.

20 “(II) WITHDRAWAL.—Notwith-
21 standing subparagraph (A), such
22 share of the money, assets, and prop-
23 erty described in subparagraph (A) as
24 in the normal course of business shall
25 be necessary to margin, guarantee, se-

1 cure, transfer, adjust, or settle a con-
2 tract of sale of a digital commodity
3 with a registered entity may be with-
4 drawn and applied to such purposes,
5 including the payment of commis-
6 sions, brokerage, interest, taxes, stor-
7 age, and other charges, lawfully ac-
8 cruing in connection with the contract
9 of sale.

10 “(ii) COMMISSION ACTION.—Notwith-
11 standing subparagraph (A), in accordance
12 with such terms and conditions as the
13 Commission may prescribe by rule, regula-
14 tion, or order, any money, assets, or prop-
15 erty of the customers of a digital com-
16 modity exchange may be commingled and
17 deposited in customer accounts with any
18 other money, assets, or property received
19 by the digital commodity exchange and re-
20 quired by the Commission to be separately
21 accounted for and treated and dealt with
22 as belonging to the customer of the digital
23 commodity exchange.

24 “(4) PERMITTED INVESTMENTS.—Money de-
25 scribed in paragraph (3) may be invested in obliga-

1 tions of the United States, in general obligations of
2 any State or of any political subdivision of a State,
3 and in obligations fully guaranteed as to principal
4 and interest by the United States, or in any high-
5 quality liquid asset that the Commission may by rule
6 or regulation prescribe, and such investments shall
7 be made in accordance with such rules and regula-
8 tions and subject to such conditions as the Commis-
9 sion shall prescribe.

10 “(5) CUSTOMER PROTECTION DURING BANK-
11 RUPTCY.—

12 “(A) CUSTOMER PROPERTY.—All assets
13 held on behalf of a customer by a digital com-
14 modity exchange, and all money, assets, and
15 property of any customer received by a digital
16 commodity exchange for trading or custody, or
17 to facilitate, margin, guarantee, or secure con-
18 tracts of sale of a digital commodity (including
19 money, assets, or property accruing to the cus-
20 tomer as the result of the transactions), shall
21 be considered customer property for purposes of
22 section 761 of title 11, United States Code.

23 “(B) TRANSACTIONS.—A transaction in-
24 volving the sale of a unit of a digital commodity
25 occurring on or subject to the rules of a digital

1 commodity exchange shall be considered a con-
2 tract for the purchase or sale of a commodity
3 for future delivery, on or subject to the rules of,
4 a contract market or board of trade for pur-
5 poses of the definition of ‘commodity contract’
6 in section 761 of title 11, United States Code.

7 “(C) EXCHANGES.—A digital commodity
8 exchange shall be considered a futures commis-
9 sion merchant for purposes of section 761 of
10 title 11, United States Code.

11 “(D) ASSETS REMOVED FROM SEGREGA-
12 TION.—Assets removed from segregation due to
13 a customer election under paragraph (7) shall
14 not be considered customer property for pur-
15 poses of section 761 of title 11, United States
16 Code.

17 “(6) MISUSE OF CUSTOMER PROPERTY.—

18 “(A) IN GENERAL.—It shall be unlawful—

19 “(i) for any digital commodity ex-
20 change that has received any customer
21 money, assets, or property for custody to
22 dispose of, or use any such money, assets,
23 or property as belonging to the digital
24 commodity exchange or any person other

1 than a customer of the digital asset ex-
2 change; or

3 “(ii) for any other person, including
4 any depository, other digital commodity ex-
5 change, or digital asset custodian that has
6 received any customer money, assets, or
7 property for deposit, to hold, dispose of, or
8 use any such money, assets, or property as
9 belonging to the depositing digital com-
10 modity exchange or any person other than
11 the customers of the digital commodity ex-
12 change.

13 “(B) USE FURTHER DEFINED.—For pur-
14 poses of this paragraph, the term ‘use’ with re-
15 spect to a digital commodity, includes utilizing
16 any unit of a digital asset to participate in a
17 blockchain service (as defined in paragraph
18 (7)(D)) or a decentralized governance system
19 associated with the digital commodity or the
20 blockchain system to which the digital com-
21 modity relates in any manner other than that
22 expressly directed by the customer from whom
23 the unit of a digital commodity was received.

24 “(7) PARTICIPATION IN BLOCKCHAIN SERV-
25 ICES.—

1 “(A) USE OF FUNDS.—A digital com-
2 modity exchange (or a designee of a digital
3 commodity exchange) may use a unit of a dig-
4 ital commodity belonging to a customer to pro-
5 vide a blockchain service for a blockchain sys-
6 tem to which the unit of the digital commodity
7 relates if for each use—

8 “(i) the customer expressly permits
9 the use, in writing, to the digital com-
10 modity exchange; and

11 “(ii) the digital commodity exchange
12 complies with subparagraph (B).

13 “(B) LIMITATIONS.—

14 “(i) IN GENERAL.—The Commission
15 shall, by rule, establish notice and written
16 disclosure requirements and any other limi-
17 tations and rules related to a permission
18 provided under subparagraph (A) or the
19 treatment of customer assets in the event
20 of an insolvency, resolution, or liquidation
21 proceeding, including a description of the
22 manner in which any digital commodity
23 would be treated in an insolvency, resolu-
24 tion, or liquidation proceeding, and how
25 the treatment of digital commodities dif-

1 fers from the treatment of any other assets
2 in the event of an insolvency, resolution, or
3 liquidation proceeding, that are reasonably
4 necessary to protect customers, including
5 eligible contract participants, non-eligible
6 contract participants, and any other class
7 of customers.

8 “(ii) CUSTOMER CHOICE.—A digital
9 commodity exchange may not—

10 “(I) require a customer to pro-
11 vide the permission referred to in sub-
12 paragraph (A) as a condition of doing
13 business on the exchange; or

14 “(II) penalize a customer for not
15 providing the permission referred to
16 in subparagraph (A).

17 “(C) REQUIREMENTS.—The Commission
18 may, by rule, modify the requirements of para-
19 graph (2) or (3) to facilitate the use of a unit
20 of a digital commodity belonging to a customer
21 to provide a blockchain service.

22 “(D) BLOCKCHAIN SERVICE DEFINED.—In
23 this paragraph, the term ‘blockchain service’
24 means any activity relating to validating trans-
25 actions on a blockchain system, providing secu-

1 rity for a blockchain system, or other similar
2 activity required for the ongoing operation of a
3 blockchain system.

4 “(g) MARKET ACCESS REQUIREMENTS.—

5 “(1) AFFILIATED COMMODITY BROKERS.—A
6 registered digital commodity exchange may permit
7 an affiliated digital commodity broker to facilitate
8 impartial access to the digital commodity exchange.

9 “(2) ADDITIONAL REQUIREMENTS.—The Com-
10 mission shall, by rule, impose any additional require-
11 ments related to the operations and activities of the
12 digital commodity exchange and an affiliated digital
13 commodity broker necessary to protect market par-
14 ticipants, promote fair and equitable trading on the
15 digital commodity exchange, provide market partici-
16 pants with impartial access to the market, protect
17 customer funds, and promote responsible innovation.

18 “(h) DESIGNATION OF CHIEF COMPLIANCE OFFI-
19 CER.—

20 “(1) IN GENERAL.—A digital commodity ex-
21 change shall designate an individual to serve as a
22 chief compliance officer, who shall be solely respon-
23 sible to the digital commodity exchange and not to
24 any other affiliated entity or other entity regulated
25 under this Act.

1 “(2) DUTIES.—The chief compliance officer of
2 a digital commodity exchange shall—

3 “(A) report directly to the board or to the
4 senior officer of the exchange;

5 “(B) review compliance with the core prin-
6 ciples in this section;

7 “(C) in consultation with the board of the
8 exchange, a body performing a function similar
9 to that of a board, or the senior officer of the
10 exchange, resolve any conflicts of interest that
11 may arise;

12 “(D) establish and administer the policies
13 and procedures required to be established pur-
14 suant to this section;

15 “(E) ensure compliance with this Act and
16 the rules and regulations issued under this Act,
17 including rules prescribed by the Commission
18 pursuant to this section; and

19 “(F) establish procedures for the remedi-
20 ation of noncompliance issues found during
21 compliance office reviews, look-backs, internal
22 or external audit findings, self-reported errors,
23 or through validated complaints.

24 “(3) REQUIREMENTS FOR PROCEDURES.—In
25 establishing procedures under paragraph (2)(F), the

1 chief compliance officer shall design the procedures
2 to establish the handling, management response, re-
3 mediation, retesting, and closing of noncompliance
4 issues.

5 “(4) ANNUAL REPORTS.—

6 “(A) IN GENERAL.—In accordance with
7 rules that shall be prescribed by the Commis-
8 sion, the chief compliance officer of a digital
9 commodity exchange shall annually prepare and
10 sign a report that contains a description of—

11 “(i) the compliance of the digital com-
12 modity exchange with this Act; and

13 “(ii) the policies and procedures, in-
14 cluding the code of ethics and conflicts of
15 interest policies, of the digital commodity
16 exchange.

17 “(B) REQUIREMENTS.—The chief compli-
18 ance officer shall—

19 “(i) submit each report described in
20 subparagraph (A) with the appropriate fi-
21 nancial report of the digital commodity ex-
22 change that is required to be submitted to
23 the Commission pursuant to this section;
24 and

1 “(ii) include in the report a certifi-
2 cation that, under penalty of law, the re-
3 port is accurate and complete.

4 “(i) APPOINTMENT OF TRUSTEE.—

5 “(1) IN GENERAL.—If a proceeding under sec-
6 tion 5e results in the suspension or revocation of the
7 registration of a digital commodity exchange, or if a
8 digital commodity exchange withdraws from registra-
9 tion, the Commission, on notice to the digital com-
10 modity exchange, may apply to the appropriate
11 United States district court for the judicial district
12 in which the digital commodity exchange is located
13 for the appointment of a trustee.

14 “(2) ASSUMPTION OF JURISDICTION.—If the
15 Commission applies for appointment of a trustee
16 under paragraph (1)—

17 “(A) the court may take exclusive jurisdic-
18 tion over the digital commodity exchange and
19 the records and assets of the digital commodity
20 exchange, wherever located; and

21 “(B) if the court takes jurisdiction under
22 subparagraph (A), the court shall appoint the
23 Commission, or a person designated by the
24 Commission, as trustee with power to take pos-
25 session and continue to operate or terminate

1 the operations of the digital commodity ex-
2 change in an orderly manner for the protection
3 of customers, subject to such terms and condi-
4 tions as the court may prescribe.

5 “(j) EXEMPTIONS.—

6 “(1) IN GENERAL.—In order to promote re-
7 sponsible innovation and fair competition, or protect
8 customers, the Commission may (on its own initia-
9 tive or on application of the digital commodity ex-
10 change) exempt, either unconditionally or on stated
11 terms or conditions or for stated periods and either
12 retroactively or prospectively, or both, a digital com-
13 modity exchange from the requirements of this Act,
14 if the Commission determines that—

15 “(A) the exemption would be consistent
16 with the public interest and the purposes of this
17 Act; and

18 “(B) the exemption will not have a mate-
19 rial adverse effect on the ability of the Commis-
20 sion or the digital commodity exchange to dis-
21 charge regulatory or self-regulatory duties
22 under this Act.

23 “(2) FOREIGN EXCHANGES.—

24 “(A) IN GENERAL.—The Commission may
25 exempt, conditionally or unconditionally, a dig-

ital commodity exchange from registration under this section if the Commission finds that the digital commodity exchange is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the appropriate governmental authorities in the home country of the digital commodity exchange.

“(B) TRANSITION PERIOD.—The Commission may exempt a foreign digital commodity exchange from registration under this section for the 2-year period following the date of enactment of this section if—

“(i) the foreign digital commodity exchange—

“(I) keeps the books and records of the foreign digital commodity exchange open to inspection and examination by any representative of the Commission upon reasonable request; and

“(II) reports to the Commission, in a form and manner acceptable to the Commission, such information as the Commission determines to be reasonably necessary or appropriate for

1 the Commission to perform the duties
2 of the Commission under this Act;
3 and

4 “(ii) the appropriate government au-
5 thorities in the home country of the foreign
6 digital commodity exchange—

7 “(I) certify that the foreign dig-
8 ital commodity exchange—

9 “(aa) is subject to—

10 “(AA) supervision and
11 regulation on a consolidated
12 basis by a governmental au-
13 thority in its home country,
14 including requirements relat-
15 ing to beneficial ownership,
16 control persons, governance,
17 risk management, financial
18 reporting, and market integ-
19 rity; and

20 “(BB) clear and en-
21 forceable managerial and su-
22 pervisory responsibility at
23 the consolidated level; and

24 “(bb) is in good standing
25 and not subject to unresolved,

1 material enforcement actions re-
2 lating to market integrity, cus-
3 tomer protection, or financial
4 crime; and

5 “(II) enter into a memorandum
6 of understanding with the Commission
7 in which those appropriate govern-
8 ment authorities agree to provide to
9 the Commission information regarding
10 the foreign digital commodity ex-
11 change that the Commission requests
12 during that 2-year period.

13 “(C) SUSPENSION OR REVOCATION.—The
14 Commission may suspend or revoke an exemp-
15 tion under subparagraph (B) if the Commission
16 determines that the foreign digital commodity
17 exchange or the appropriate government au-
18 thority in the home country of the foreign dig-
19 ital commodity exchange fails to substantially
20 comply with the requirements described in sub-
21 paragraph (B).

22 “(k) FEDERAL PREEMPTION.—

23 “(1) IN GENERAL.—The Commission shall have
24 exclusive jurisdiction over any digital commodity ex-

1 change registered under this section with respect to
2 activities and transactions subject to this Act.

3 “(2) PRESERVATION OF AUTHORITY.—Nothing
4 in this subsection shall affect the ability of a State
5 or local agency to investigate and bring enforcement
6 actions regarding fraud, deceit, or unfair or decep-
7 tive acts or practices.

8 “(1) REGULATIONS.—The Commission shall prescribe
9 such rules and regulations as are appropriate for the im-
10 plementation of this section.

11 “(m) CUSTOMER DEFINED.—In this section, the
12 term ‘customer’ means any person that maintains an ac-
13 count for the trading of digital commodities directly with
14 a digital commodity exchange (other than a person that
15 is owned or controlled, directly or indirectly, by the digital
16 commodity exchange) for its own behalf or on behalf of
17 any other person.”.

18 (b) PRIVATE RIGHTS OF ACTION.—Section 22 of the
19 Commodity Exchange Act (7 U.S.C. 25) is amended—

20 (1) in subsection (a)(1)—

21 (A) in subparagraph (B)—

22 (i) by striking “commodity) or any
23 swap;” and inserting “commodity), any
24 swap, or any digital commodity trans-
25 action;”; and

1 (ii) by striking “to make such con-
2 tract” and all that follows through the
3 semicolon at the end and inserting “to
4 make such contract, any swap, or any dig-
5 ital commodity transaction;”;

6 (B) in subparagraph (C), by conforming
7 the margin of clause (iv) to the margin of
8 clauses (i) through (iii); and

9 (C) in subparagraph (D)—

10 (i) in the matter preceding clause (i),
11 by striking “subparagraph (B) hereof or
12 swap” and inserting “subparagraph (B), a
13 swap, or a digital commodity”; and

14 (ii) in clause (ii), by striking “any
15 such contract or swap” and inserting “any
16 such contract, swap, or digital com-
17 modity”; and

18 (2) in subsection (b)(1)(A), by inserting “5i,”
19 after “5h.”

20 **SEC. 205. REGISTRATION AND REGULATION OF DIGITAL**
21 **COMMODITY BROKERS AND DEALERS.**

22 The Commodity Exchange Act is amended by insert-
23 ing after section 4t (7 U.S.C. 6t) the following:

1 **“SEC. 4u. REGISTRATION AND REGULATION OF DIGITAL**
2 **COMMODITY BROKERS AND DEALERS.**

3 “(a) REGISTRATION.—

4 “(1) REQUIREMENT.—It shall be unlawful for
5 any person to act as a digital commodity broker or
6 digital commodity dealer unless the person is reg-
7 istered as such with the Commission.

8 “(2) EXEMPTIONS.—A person acting as a dig-
9 ital commodity broker or digital commodity dealer
10 shall not be required to register under this section
11 if the person—

12 “(A) engages in no more than a de mini-
13 mis amount of brokering or dealing activity, as
14 the Commission may determine by rule or regu-
15 lation, in a digital commodity;

16 “(B) serves only customers in a single
17 State or territory; or

18 “(C) is already registered as a futures
19 commission merchant, provided that the person
20 shall—

21 “(i) provide written notice to the
22 Commission and to any self-regulatory or-
23 ganization of which it is a member of its
24 intention to act as a digital commodity
25 broker; and

1 “(ii) comply with all other provisions
2 of this Act and the rules promulgated
3 thereunder and any self-regulatory organi-
4 zation rules as they apply to a digital com-
5 modity broker.

6 “(3) ADDITIONAL REGISTRATION.—

7 “(A) RULES.—In order to foster the devel-
8 opment of fair and orderly markets, protect
9 customers, and promote responsible innovation,
10 the Commission shall—

11 “(i) prescribe rules to exempt an enti-
12 ty registered with the Commission under
13 more than 1 section of this Act from dupli-
14 cative, conflicting, or unduly burdensome
15 provisions of this Act and the rules under
16 this Act;

17 “(ii) prescribe rules establishing re-
18 quirements for the identification, mitiga-
19 tion, and resolution of conflicts of interest
20 among and across affiliated entities or en-
21 tities with multiple registrations under this
22 Act, including conflicts of interest related
23 to vertically integrated market structures
24 and their varying responsibilities and ac-
25 tivities; and

1 “(iii) after an analysis of the risks
2 and benefits, prescribe rules to provide for
3 portfolio margining in accordance with sec-
4 tion 103(e) of the Digital Commodity
5 Intermediaries Act.

6 “(B) MEMBERSHIP IN A REGISTERED FU-
7 TURES ASSOCIATION.—Any person required to
8 be registered as a digital commodity broker or
9 digital commodity dealer under this section
10 shall become and remain a member of a reg-
11 istered futures association.

12 “(C) HARMONIZATION.—In prescribing
13 rules for digital commodity brokers or digital
14 commodity dealers, the Commission shall, to the
15 greatest extent feasible, seek to avoid dupli-
16 cation, inconsistencies, or burdens for a person
17 registered in multiple capacities.

18 “(b) REQUIREMENTS.—

19 “(1) IN GENERAL.—A person shall register as
20 a digital commodity broker or digital commodity
21 dealer by filing a registration application with the
22 Commission.

23 “(2) CONTENTS.—

24 “(A) IN GENERAL.—The application under
25 paragraph (1) shall be made in such form and

1 manner as is prescribed by the Commission,
2 and shall contain such information as the Com-
3 mission considers necessary concerning the
4 business in which the applicant is or will be en-
5 gaged.

6 “(B) CONTINUAL REPORTING.—A person
7 that is registered as a digital commodity broker
8 or digital commodity dealer shall continue to
9 submit to the Commission reports that contain
10 such information pertaining to the business of
11 the person as the Commission may require.

12 “(3) STATUTORY DISQUALIFICATION.—Except
13 to the extent otherwise specifically provided by rule,
14 regulation, or order, it shall be unlawful for a digital
15 commodity broker or digital commodity dealer to
16 permit any person who is associated with a digital
17 commodity broker or a digital commodity dealer and
18 who is subject to a statutory disqualification to ef-
19 fect or be involved in effecting a contract of sale of
20 a digital commodity on behalf of the digital com-
21 modity broker or the digital commodity dealer, re-
22 spectively, if the digital commodity broker or digital
23 commodity dealer, respectively, knew, or in the exer-
24 cise of reasonable care should have known, of the
25 statutory disqualification.

1 “(c) CAPITAL REQUIREMENTS.—

2 “(1) IN GENERAL.—Each digital commodity
3 broker and digital commodity dealer shall meet such
4 minimum capital requirements as the Commission
5 may prescribe to address the risks associated with
6 digital commodity trading and to ensure that the
7 digital commodity broker or digital commodity deal-
8 er, respectively, is able, at all times, to meet and
9 continue to meet the obligations of such a registrant.

10 “(2) FUTURES COMMISSION MERCHANTS AND
11 OTHER DEALERS.—Each futures commission mer-
12 chant, introducing broker, digital commodity broker,
13 digital commodity dealer, broker, and dealer shall
14 maintain sufficient capital to comply with the strict-
15 er of any applicable capital requirements to which
16 the futures commission merchant, introducing
17 broker, digital commodity broker, digital commodity
18 dealer, broker, or dealer, respectively, is subject
19 under this Act or the Securities Exchange Act of
20 1934 (15 U.S.C. 78a et seq.).

21 “(d) DIGITAL COMMODITY TRADING NOT READILY
22 SUSCEPTIBLE TO MANIPULATION.—A digital commodity
23 broker or digital commodity dealer may only offer trades
24 in digital commodities that are not readily susceptible to
25 manipulation.

1 “(e) EXECUTION.—The Commission shall prescribe
2 rules and regulations regarding the execution of digital
3 commodity transactions by a digital commodity broker or
4 a digital commodity dealer with or on behalf of customers,
5 which shall address—

6 “(1) fair and objective pricing;

7 “(2) the recording, maintaining, and disclosure
8 of information;

9 “(3) the protection of the price discovery proc-
10 ess; and

11 “(4) requirements specific to digital commodity
12 transactions with or on behalf of a customer who is
13 not an eligible contract participant.

14 “(f) REPORTING AND RECORDKEEPING.—Each dig-
15 ital commodity broker and digital commodity dealer
16 shall—

17 “(1) make such reports as are required by the
18 Commission by rule or regulation regarding the
19 transactions, positions, and financial condition of the
20 digital commodity broker or digital commodity deal-
21 er, respectively;

22 “(2) keep books and records in such form and
23 manner and for such period as shall be prescribed
24 by the Commission by rule or regulation; and

1 “(3) keep the books and records open to inspec-
2 tion and examination by any representative of the
3 Commission.

4 “(g) DAILY TRADING RECORDS.—

5 “(1) IN GENERAL.—Each digital commodity
6 broker and digital commodity dealer shall maintain
7 daily trading records of the transactions of the dig-
8 ital commodity broker or digital commodity dealer,
9 respectively, and all related records (including re-
10 lated forward or derivatives transactions) and re-
11 corded communications, including electronic mail, in-
12 stant messages, and recordings of telephone calls,
13 for such period as the Commission shall require by
14 rule or regulation.

15 “(2) INFORMATION REQUIREMENTS.—The daily
16 trading records described in paragraph (1) shall in-
17 clude such information as the Commission shall re-
18 quire by rule or regulation.

19 “(3) COUNTERPARTY RECORDS.—Each digital
20 commodity broker and digital commodity dealer shall
21 maintain daily trading records for each customer or
22 counterparty in a manner and form that is identifi-
23 able with each digital commodity transaction.

24 “(4) AUDIT TRAIL.—Each digital commodity
25 broker and digital commodity dealer shall maintain

1 a complete audit trail for conducting comprehensive
2 and accurate trade reconstructions.

3 “(h) BUSINESS CONDUCT STANDARDS.—

4 “(1) IN GENERAL.—Each digital commodity
5 broker and digital commodity dealer shall conform
6 with such business conduct standards as the Com-
7 mission, by rule or regulation, shall prescribe related
8 to—

9 “(A) fraud, manipulation, and other abu-
10 sive practices involving spot digital commodity
11 transactions (including transactions that are of-
12 fered but not entered into);

13 “(B) diligent supervision of the business of
14 the registered digital commodity broker or dig-
15 ital commodity dealer, respectively; and

16 “(C) such other matters as the Commis-
17 sion determines appropriate.

18 “(2) BUSINESS CONDUCT REQUIREMENTS.—

19 The Commission shall, by rule, prescribe business
20 conduct requirements that—

21 “(A) require disclosure by a registered dig-
22 ital commodity broker and registered digital
23 commodity dealer to any counterparty to the
24 transaction (other than an eligible contract par-
25 ticipant) of—

1 “(i) information about the material
2 risks and characteristics of the digital com-
3 modity; and

4 “(ii) information about the material
5 risks and characteristics of the transaction;

6 “(B) establish a duty for such a digital
7 commodity broker and such a digital commodity
8 dealer to communicate in a fair and balanced
9 manner based on principles of fair dealing and
10 good faith;

11 “(C) establish standards governing digital
12 commodity broker and digital commodity dealer
13 marketing and advertising, including
14 testimonials and endorsements;

15 “(D) establish a duty for digital com-
16 modity brokers and digital commodity dealers
17 to provide fair, transparent, and objective pric-
18 ing; and

19 “(E) establish such other standards and
20 requirements as the Commission may determine
21 are appropriate for the protection of customers.

22 “(3) PROHIBITION ON FRAUDULENT PRAC-
23 TICES.—It shall be unlawful for a digital commodity
24 broker or digital commodity dealer to—

1 “(A) employ any device, scheme, or artifice
2 to defraud any customer or counterparty;

3 “(B) engage in any transaction, practice,
4 or course of business that operates as a fraud
5 or deceit on any customer or counterparty; or

6 “(C) engage in any act, practice, or course
7 of business that is fraudulent, deceptive, or ma-
8 nipulative.

9 “(i) DUTIES.—

10 “(1) RISK MANAGEMENT PROCEDURES.—Each
11 digital commodity broker and digital commodity
12 dealer shall establish robust and professional risk
13 management systems adequate for managing the
14 day-to-day business of the digital commodity broker
15 or digital commodity dealer, respectively.

16 “(2) DISCLOSURE OF GENERAL INFORMA-
17 TION.—Each digital commodity broker and digital
18 commodity dealer shall disclose to the Commission
19 information concerning—

20 “(A) the terms and conditions of the trans-
21 actions of the digital commodity broker or dig-
22 ital commodity dealer, respectively;

23 “(B) the trading operations, mechanisms,
24 and practices of the digital commodity broker
25 or digital commodity dealer, respectively;

1 “(C) financial integrity protections relating
2 to the activities of the digital commodity broker
3 or digital commodity dealer, respectively; and

4 “(D) other information relevant to trading
5 in digital commodities by the digital commodity
6 broker or digital commodity dealer, respectively.

7 “(3) ABILITY TO OBTAIN INFORMATION.—Each
8 digital commodity broker and digital commodity
9 dealer shall—

10 “(A) establish and enforce internal systems
11 and procedures to obtain any necessary infor-
12 mation to perform any of the functions de-
13 scribed in this section; and

14 “(B) provide the information to the Com-
15 mission, on request.

16 “(4) CONFLICTS OF INTEREST.—Each digital
17 commodity broker and digital commodity dealer shall
18 establish, maintain, and enforce written policies and
19 procedures reasonably designed, taking into consid-
20 eration the nature of the business of the person, as
21 a result of multiple registrations under this Act—

22 “(A) to establish a process for resolving
23 conflicts of interest;

24 “(B) to require disclosure by a digital com-
25 modity broker or digital commodity dealer of

1 any material incentives or conflicts of interest
2 that the digital commodity broker or digital
3 commodity dealer is unable to resolve, as the
4 Commission may determine to be appropriate;
5 and

6 “(C) to address such other issues as the
7 Commission determines by rule or regulation to
8 be necessary in the public interest.

9 “(5) ANTITRUST CONSIDERATIONS.—Unless
10 necessary or appropriate to achieve the purposes of
11 this Act, a digital commodity broker or digital com-
12 modity dealer shall not—

13 “(A) adopt any process or take any action
14 that results in any unreasonable restraint of
15 trade; or

16 “(B) impose any material anticompetitive
17 burden on trading or clearing.

18 “(j) DESIGNATION OF CHIEF COMPLIANCE OFFI-
19 CER.—

20 “(1) IN GENERAL.—Each digital commodity
21 broker and digital commodity dealer shall designate
22 an individual to serve as a chief compliance officer,
23 who shall be solely responsible to the digital com-
24 modity broker or digital commodity dealer and not

1 to any other affiliated entity or other entity regu-
2 lated under this Act.

3 “(2) DUTIES.—The chief compliance officer of
4 a registered digital commodity broker or a registered
5 digital commodity dealer shall—

6 “(A) report directly to the board or to the
7 senior officer of the registered digital com-
8 modity broker or registered digital commodity
9 dealer;

10 “(B) review the compliance of the reg-
11 istered digital commodity broker or registered
12 digital commodity dealer with respect to the
13 registered digital commodity broker and reg-
14 istered digital commodity dealer requirements
15 described in this section;

16 “(C) in consultation with the board of di-
17 rectors, a body performing a function similar to
18 the board, or the senior officer of the organiza-
19 tion, resolve any conflicts of interest that may
20 arise;

21 “(D) be responsible for administering each
22 policy and procedure that is required to be es-
23 tablished pursuant to this section;

1 “(E) ensure compliance with this Act (in-
2 cluding regulations), including each rule pre-
3 scribed by the Commission under this section;

4 “(F) establish procedures for the remedi-
5 ation of noncompliance issues identified by the
6 chief compliance officer through any—

7 “(i) compliance office review;

8 “(ii) look-back;

9 “(iii) internal or external audit find-
10 ing;

11 “(iv) self-reported error; or

12 “(v) validated complaint; and

13 “(G) establish and follow appropriate pro-
14 cedures for the handling, management response,
15 remediation, retesting, and closing of non-
16 compliance issues.

17 “(3) ANNUAL REPORTS.—

18 “(A) IN GENERAL.—In accordance with
19 rules that shall be prescribed by the Commis-
20 sion, the chief compliance officer of a registered
21 digital commodity broker or a registered digital
22 commodity dealer shall annually prepare and
23 sign a report that contains a description of—

24 “(i) the compliance of the registered
25 digital commodity broker or registered dig-

1 ital commodity dealer with this Act (in-
2 cluding regulations); and

3 “(ii) each policy and procedure of the
4 registered digital commodity broker or reg-
5 istered digital commodity dealer followed
6 by the chief compliance officer (including
7 the code of ethics and conflict of interest
8 policies).

9 “(B) REQUIREMENTS.—The chief compli-
10 ance officer shall ensure that a compliance re-
11 port under subparagraph (A)—

12 “(i) accompanies each appropriate fi-
13 nancial report of the registered digital
14 commodity broker or registered digital
15 commodity dealer that is required to be
16 furnished to the Commission pursuant to
17 this section; and

18 “(ii) includes a certification that,
19 under penalty of law, the compliance re-
20 port is accurate and complete.

21 “(k) SEGREGATION OF DIGITAL COMMODITIES.—

22 “(1) HOLDING OF CUSTOMER ASSETS.—

23 “(A) IN GENERAL.—Each digital com-
24 modity broker and digital commodity dealer
25 shall hold customer money, assets, and property

1 in a manner to minimize the risk of loss to the
2 customer or unreasonable delay in customer ac-
3 cess to the money, assets, and property of the
4 customer.

5 “(B) QUALIFIED DIGITAL ASSET CUSTO-
6 DIAN.—Each digital commodity broker and dig-
7 ital commodity dealer shall hold in a qualified
8 digital asset custodian each unit of a digital
9 asset that is—

10 “(i) the property of a customer or
11 counterparty of the digital commodity
12 broker or digital commodity dealer, respec-
13 tively;

14 “(ii) required to be held by the digital
15 commodity broker or digital commodity
16 dealer under subsection (c); or

17 “(iii) otherwise so required by the
18 Commission to reasonably protect cus-
19 tomers and customer assets or promote the
20 public interest.

21 “(2) SEGREGATION OF FUNDS.—

22 “(A) IN GENERAL.—Each digital com-
23 modity broker and digital commodity dealer
24 shall treat and deal with all money, assets, and
25 property that is received by the digital com-

1 modity broker or digital commodity dealer, or
2 accrues to a customer as the result of trading
3 in digital commodities, as belonging to the cus-
4 tomer.

5 “(B) COMMINGLING PROHIBITED.—

6 “(i) IN GENERAL.—Except as pro-
7 vided in clause (ii), each digital commodity
8 broker and digital commodity dealer shall
9 separately account for money, assets, and
10 property of a digital commodity customer,
11 and shall not commingle any such money,
12 assets, or property with the funds of the
13 digital commodity broker or digital com-
14 modity dealer, respectively, or use any such
15 money, assets, or property to margin, se-
16 cure, or guarantee any trades or accounts
17 of any customer or person other than the
18 person for whom the money, assets, or
19 property are held.

20 “(ii) EXCEPTIONS.—

21 “(I) USE OF FUNDS.—

22 “(aa) IN GENERAL.—A dig-
23 ital commodity broker or digital
24 commodity dealer may, for con-
25 venience, commingle and deposit

1 in the same account or accounts
2 with any bank, trust company,
3 derivatives clearing organization,
4 or qualified digital asset custo-
5 dian money, assets, and property
6 of customers.

7 “(bb) WITHDRAWAL.—The
8 share of the money, assets, and
9 property described in item (aa)
10 as in the normal course of busi-
11 ness shall be necessary to mar-
12 gin, guarantee, secure, transfer,
13 adjust, or settle a contract of sale
14 of a digital commodity with a
15 registered entity may be with-
16 drawn and applied to such pur-
17 poses, including the payment of
18 commissions, brokerage, interest,
19 taxes, storage, and other charges,
20 lawfully accruing in connection
21 with the contract.

22 “(II) COMMISSION ACTION.—In
23 accordance with such terms and con-
24 ditions as the Commission may pre-
25 scribe by rule, regulation, or order,

1 any money, assets, or property of the
2 customers of a digital commodity
3 broker or digital commodity dealer
4 may be commingled and deposited in
5 customer accounts with any other
6 money, assets, or property received by
7 the digital commodity broker or dig-
8 ital commodity dealer, respectively,
9 and required by the Commission to be
10 separately accounted for and treated
11 and dealt with as belonging to the
12 customer of the digital commodity
13 broker or digital commodity dealer,
14 respectively.

15 “(3) PERMITTED INVESTMENTS.—Money de-
16 scribed in paragraph (2) may be invested in obliga-
17 tions of the United States, in general obligations of
18 any State or of any political subdivision of a State,
19 in obligations fully guaranteed as to principal and
20 interest by the United States, or in any high-quality
21 liquid asset that the Commission may by rule or reg-
22 ulation allow.

23 “(4) CUSTOMER PROTECTION DURING BANK-
24 RUPTCY.—

1 “(A) CUSTOMER PROPERTY.—All assets
2 held on behalf of a customer by a digital com-
3 modity broker or digital commodity dealer, and
4 all money, assets, and property of any customer
5 received by a digital commodity broker or dig-
6 ital commodity dealer for trading or custody, or
7 to facilitate, margin, guarantee, or secure con-
8 tracts of sale of a digital commodity (including
9 money, assets, or property accruing to the cus-
10 tomer as the result of the transactions), shall
11 be considered customer property for purposes of
12 section 761 of title 11, United States Code.

13 “(B) TRANSACTIONS.—A purchase, sale,
14 loan of, margin loan or other extension of credit
15 on, repurchase, reverse repurchase, or other
16 transaction involving a unit of a digital com-
17 modity occurring with a digital commodity
18 broker or digital commodity dealer shall be con-
19 sidered—

20 “(i) a ‘contract for the purchase or
21 sale of a commodity for future delivery on,
22 or subject to the rules of, a contract mar-
23 ket or board of trade’ for purposes of the
24 definition of a ‘commodity contract’ in sec-
25 tion 761 of title 11, United States Code,

1 section 11 of the Federal Deposit Insur-
2 ance Act (12 U.S.C. 1821), and section
3 210 of the Dodd-Frank Wall Street Re-
4 form and Consumer Protection Act (12
5 U.S.C. 5390); and

6 “(ii) a ‘commodity contract’ for pur-
7 poses of section 5(b)(2)(C) of the Securi-
8 ties Investor Protection Act of 1970 (15
9 U.S.C. 78eee(b)(2)(C)).

10 “(C) BROKERS AND DEALERS.—A digital
11 commodity broker and a digital commodity
12 dealer shall be considered a futures commission
13 merchant for purposes of section 761 of title
14 11, United States Code, section 11 of the Fed-
15 eral Deposit Insurance Act (12 U.S.C. 1821),
16 and section 210 of the Dodd-Frank Wall Street
17 Reform and Consumer Protection Act (12
18 U.S.C. 5390).

19 “(D) ASSETS REMOVED FROM SEGREGA-
20 TION.—Assets removed from segregation due to
21 a customer election under paragraph (6) shall
22 not be considered customer property for pur-
23 poses of section 761 of title 11, United States
24 Code.

25 “(5) MISUSE OF CUSTOMER PROPERTY.—

1 “(A) IN GENERAL.—It shall be unlawful—

2 “(i) for any digital commodity broker
3 or digital commodity dealer that has re-
4 ceived any customer money, assets, or
5 property for custody to dispose of, or use
6 any such money, assets, or property as be-
7 longing to the digital commodity broker or
8 digital commodity dealer, respectively, or
9 any person other than a customer of the
10 digital commodity broker or digital com-
11 modity dealer, respectively; or

12 “(ii) for any other person, including
13 any depository, digital commodity ex-
14 change, other digital commodity broker,
15 other digital commodity dealer, or digital
16 asset custodian that has received any cus-
17 tomer money, assets, or property for de-
18 posit, to hold, dispose of, or use any such
19 money, assets, or property, as belonging to
20 the depositing digital commodity broker or
21 digital commodity dealer or any person
22 other than the customers of the digital
23 commodity broker or digital commodity
24 dealer, respectively.

1 “(B) USE FURTHER DEFINED.—For pur-
2 poses of this section, ‘use’ of a digital com-
3 modity includes utilizing any unit of a digital
4 asset to participate in a blockchain service de-
5 fined in paragraph (6) or a decentralized gov-
6 ernance system associated with the digital com-
7 modity or the blockchain system to which the
8 digital commodity relates in any manner other
9 than that expressly directed by the customer
10 from whom the unit of a digital commodity was
11 received.

12 “(6) PARTICIPATION IN BLOCKCHAIN SERV-
13 ICES.—

14 “(A) USE OF FUNDS.—A digital com-
15 modity broker or digital commodity dealer (or a
16 designee of a digital commodity broker or dig-
17 ital commodity dealer) may use a unit of a dig-
18 ital commodity belonging to a customer to pro-
19 vide a blockchain service for a blockchain sys-
20 tem to which the unit of the digital commodity
21 relates if—

22 “(i) the customer expressly permits
23 the use, in writing, to the digital com-
24 modity broker or digital commodity dealer,
25 as the case may be; and

1 “(ii) the digital commodity broker or
2 digital commodity dealer, as the case may
3 be, complies with subparagraph (B).

4 “(B) LIMITATIONS.—

5 “(i) IN GENERAL.—The Commission
6 shall, by rule, establish notice and written
7 disclosure requirements and any other limi-
8 tations and rules related to a permission
9 provided under subparagraph (A) or the
10 treatment of customer assets in the event
11 of an insolvency, resolution, or liquidation
12 proceeding, including a description of the
13 manner in which any digital commodity
14 would be treated in an insolvency, resolu-
15 tion, or liquidation proceeding, and how
16 the treatment of digital commodities dif-
17 fers from the treatment of any other assets
18 in the event of an insolvency, resolution, or
19 liquidation proceeding, that are reasonably
20 necessary to protect customers, including
21 eligible contract participants, non-eligible
22 contract participants, and any other class
23 of customers.

1 “(ii) CUSTOMER CHOICE.—A digital
2 commodity broker or digital commodity
3 dealer may not—

4 “(I) require a customer to pro-
5 vide the permission referred to in sub-
6 paragraph (A) as a condition of doing
7 business with the digital commodity
8 broker or digital commodity dealer; or

9 “(II) penalize a customer for not
10 providing the permission referred to
11 in subparagraph (A).

12 “(C) REQUIREMENTS.—The Commission
13 may, by rule, modify the requirements of para-
14 graph (2) or subsection (g) to facilitate the use
15 of a unit of a digital commodity belonging to a
16 customer to provide a blockchain service.

17 “(D) BLOCKCHAIN SERVICE DEFINED.—In
18 this paragraph, the term ‘blockchain service’
19 means any activity relating to validating trans-
20 actions on a blockchain system, providing secu-
21 rity for a blockchain system, or other similar
22 activity required for the ongoing operation of a
23 blockchain system.

24 “(7) PROPERTY HELD IN PORTFOLIO MARGIN
25 ACCOUNTS.—

1 “(A) IN GENERAL.—Notwithstanding para-
2 graph (2), and the rules and regulations there-
3 under, and pursuant to an exemption granted
4 by the Commission under section 4(c) or pursu-
5 ant to a rule or regulation—

6 “(i) a digital commodity broker or
7 digital commodity dealer registered under
8 subsection (b)(1) and also registered as a
9 futures commission merchant pursuant to
10 section 4f(a)(1) may, pursuant to a port-
11 folio margining program approved by the
12 Commission, hold digital commodity cus-
13 tomer money, assets, and property in a
14 portfolio margining account carried as a
15 futures account or cleared swaps account;
16 and

17 “(ii) a digital commodity broker or
18 digital commodity dealer registered under
19 subsection (b)(1) and also registered as a
20 broker or dealer pursuant to section
21 15(b)(1) of the Securities Exchange Act of
22 1934 (15 U.S.C. 78o(b)(1)) may, pursuant
23 to a portfolio margining program approved
24 by the Securities and Exchange Commis-
25 sion pursuant to section 19(b) of that Act

1 (15 U.S.C. 78s(b)), hold digital commodity
2 customer money, assets, and property in a
3 portfolio margining account carried as a
4 securities account subject to section
5 15(c)(3) of that Act (15 U.S.C. 78o(c)(3))
6 and the rules and regulations thereunder.

7 “(B) CONSULTATION.—The Commission
8 shall consult with the Securities and Exchange
9 Commission to adopt rules to ensure that such
10 transactions and accounts are subject to com-
11 parable requirements to the extent practical for
12 similar products.

13 “(I) FEDERAL PREEMPTION.—

14 “(1) IN GENERAL.—The Commission shall have
15 exclusive jurisdiction over any digital commodity
16 broker or digital commodity dealer registered under
17 this section with respect to activities subject to this
18 Act.

19 “(2) PRESERVATION OF AUTHORITY.—Nothing
20 in this subsection shall affect the ability of a State
21 or local agency to investigate and bring enforcement
22 actions regarding fraud, deceit, or unfair or decep-
23 tive acts or practices.

24 “(m) EXEMPTIONS.—In order to promote responsible
25 innovation and fair competition, or protect customers, the

1 Commission may (on its own initiative or on application
2 of the digital commodity broker or digital commodity deal-
3 er) exempt, unconditionally or on stated terms or condi-
4 tions, or for stated periods, and retroactively or prospec-
5 tively, or both, a digital commodity broker or digital com-
6 modity dealer from the requirements of this Act, if the
7 Commission determines that—

8 “(1) the exemption—

9 “(A) would be consistent with the public
10 interest and the purposes of this Act; and

11 “(B) will not have a material adverse ef-
12 fect on the ability of the Commission to dis-
13 charge regulatory duties under this Act; or

14 “(2) the digital commodity broker or digital
15 commodity dealer is subject to comparable, com-
16 prehensive supervision and regulation by the appro-
17 priate government authorities in the home country
18 of the digital commodity broker or digital commodity
19 dealer, respectively.

20 “(n) REGULATIONS.—The Commission shall pre-
21 scribe such rules and regulations as are appropriate for
22 the implementation of this section.”.

1 **SEC. 206. REGISTRATION OF ASSOCIATED PERSONS.**

2 (a) IN GENERAL.—Section 4k of the Commodity Ex-
3 change Act (7 U.S.C. 6k) is amended by adding at the
4 end the following:

5 “(7) ASSOCIATED PERSONS OF DIGITAL COM-
6 MODITY BROKERS AND DIGITAL COMMODITY DEAL-
7 ERS.—

8 “(A) IN GENERAL.—It shall be unlawful
9 for any person to act as an associated person
10 of a digital commodity broker or an associated
11 person of a digital commodity dealer unless the
12 person is registered with the Commission under
13 this Act and such registration shall not have ex-
14 pired, been suspended (and the period of sus-
15 pension has not expired), or been revoked.

16 “(B) DUTY OF DIGITAL COMMODITY BRO-
17 KERS AND DEALERS.—It shall be unlawful for
18 a digital commodity broker or a digital com-
19 modity dealer to permit a person described in
20 subparagraph (A) to become or remain associ-
21 ated with the digital commodity broker or dig-
22 ital commodity dealer if the digital commodity
23 broker or digital commodity dealer knew or
24 should have known that the person was not so
25 registered or that the registration had expired,

1 been suspended (and the period of suspension
2 has not expired), or been revoked.”.

3 (b) APPLICATION.—Section 4k(4) of the Commodity
4 Exchange Act (7 U.S.C. 6k(4)) is amended, in the first
5 sentence, by striking “or of a commodity trading advisor”
6 and inserting “of a commodity trading advisor, of a digital
7 commodity broker, or of a digital commodity dealer”.

8 **SEC. 207. SOFTWARE DEVELOPER PROTECTIONS.**

9 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
10 is amended by inserting after section 4u (as added by sec-
11 tion 205) the following:

12 **“SEC. 4v. APPLICATION TO SOFTWARE DEVELOPERS.**

13 “(a) IN GENERAL.—Notwithstanding any other pro-
14 vision of this Act, except as provided in subsection (b),
15 a person shall not be subject to this Act and the regula-
16 tions promulgated under this Act based on the person di-
17 rectly or indirectly engaging in any of the following activi-
18 ties, whether singly or in combination, in relation to the
19 operation of a blockchain system or in relation to a decen-
20 tralized finance trading protocol:

21 “(1) Compiling network transactions or relay-
22 ing, searching, sequencing, validating, or acting in a
23 similar capacity.

24 “(2) Providing computational work, operating a
25 node or oracle service, procuring, offering, or uti-

1 lizing network bandwidth, or providing other similar
2 incidental services.

3 “(3) Providing a user-interface that enables a
4 user to read and access data about a blockchain sys-
5 tem.

6 “(4) Developing, publishing, or otherwise dis-
7 tributing a blockchain system or a decentralized fi-
8 nance messaging system.

9 “(5) Constituting, administering, or maintain-
10 ing a decentralized finance messaging system or de-
11 centralized finance trading protocol, or operating or
12 participating in a liquidity pool with respect thereto,
13 for the purpose of executing a spot transaction for
14 the purchase or sale of a digital commodity.

15 “(6) Developing, publishing, constituting, ad-
16 ministering, maintaining, or otherwise distributing
17 software or systems that create or deploy hardware
18 or software, including wallets or other systems, fa-
19 cilitating an individual user’s own personal ability to
20 keep, safeguard, or custody the user’s digital assets
21 or related private keys.

22 “(b) EXCEPTIONS.—Subsection (a) shall not be inter-
23 preted to apply to the anti-fraud, anti-manipulation, or
24 false reporting enforcement authorities of the Commis-
25 sion.”.

1 **SEC. 208. PORTFOLIO MARGINING.**

2 (a) IN GENERAL.—Section 4d(h) of the Commodity
3 Exchange Act (7 U.S.C. 6d(h)) is amended in the first
4 sentence—

5 (1) by inserting “or subsection (f)(2)” after
6 “subsection (a)(2)”; and

7 (2) by inserting “or a cleared swap” after “an
8 option on such a contract”.

9 (b) COMMODITY BROKER DEBTORS.—Section 20(c)
10 of the Commodity Exchange Act (7 U.S.C. 24(c)) is
11 amended—

12 (1) by inserting “and digital commodities” after
13 “securities”; and

14 (2) by inserting “or cleared swaps account”
15 after “futures account”.

16 **SEC. 209. CLARIFICATION ON CUSTOMER PROPERTY.**

17 Section 20(a) of the Commodity Exchange Act (7
18 U.S.C. 24(a)) is amended—

19 (1) in paragraph (4), by striking “and” at the
20 end;

21 (2) in paragraph (5), by striking the period at
22 the end and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(6) that cash, securities, or other property of
25 the estate of a commodity broker, including the
26 trading or operating accounts of the commodity

1 broker and commodities held in inventory by the
2 commodity broker, shall, subject to any otherwise
3 unavoidable security interest, or otherwise unavoid-
4 able contractual offset or netting rights of creditors
5 (including rights set forth in a rule or bylaw of a de-
6 rivatives clearing organization or a clearing agency)
7 in respect of such property, be included in customer
8 property, but only to the extent that the property
9 that is otherwise customer property is insufficient to
10 satisfy the net equity claims of public customers (as
11 such term may be defined by the Commission by
12 rule or regulation) of the commodity broker.”.

13 **SEC. 210. RESOURCES FOR IMPLEMENTATION.**

14 The Commodity Exchange Act is amended by insert-
15 ing after section 8d (7 U.S.C. 12d) the following:

16 **“SEC. 8e. RESOURCES FOR IMPLEMENTATION REGARDING**
17 **DIGITAL COMMODITY EXCHANGES, BROKERS,**
18 **AND DEALERS.**

19 **“(a) COLLECTION OF FEES.—**

20 **“(1) IN GENERAL.—**The Commission shall, in
21 accordance with this subsection, assess and collect
22 fees from registered digital commodity brokers, dig-
23 ital commodity dealers, digital commodity exchanges,
24 and qualified digital asset custodians—

1 “(A) on the filing of the initial application
2 for registration; and

3 “(B) on an annual basis thereafter.

4 “(2) PURPOSE.—The fees under paragraph (1)
5 shall be used to recover the annual costs of—

6 “(A) registering digital commodity ex-
7 changes, digital commodity brokers, digital
8 commodity dealers, and qualified digital asset
9 custodians;

10 “(B) conducting oversight of digital com-
11 modity exchanges, digital commodity brokers,
12 digital commodity dealers, qualified digital asset
13 custodians, and digital commodity transactions;

14 “(C) carrying out education and outreach
15 under subsection (b); and

16 “(D) carrying out such other activities as
17 are required by the Digital Commodity Inter-
18 mediaries Act and the amendments made by
19 that Act.

20 “(3) DETERMINATION OF FEE RATES.—In de-
21 termining fee rates under paragraph (1), the Com-
22 mission shall consider—

23 “(A) the volume of business of the digital
24 commodity exchange, digital commodity broker,

1 digital commodity dealer, or qualified digital
2 asset custodian; and

3 “(B) the registration category of the dig-
4 ital commodity exchange, digital commodity
5 broker, digital commodity dealer, or qualified
6 digital asset custodian.

7 “(4) PROHIBITION.—The Commission shall not
8 require a digital commodity exchange, digital com-
9 modity broker, digital commodity dealer, or qualified
10 digital asset custodian to collect directly from cus-
11 tomers a transaction-based fee for each digital com-
12 modity transaction.

13 “(5) PUBLICATION.—

14 “(A) 1ST FISCAL YEAR.—Not later than
15 30 days after the date of enactment of this sec-
16 tion, the Commission shall publish the fee rates
17 determined pursuant to this subsection for the
18 fiscal year in which this section is enacted.

19 “(B) SUBSEQUENT FISCAL YEARS.—Not
20 later than 60 days after the date of enactment
21 of an Act making a regular appropriation to the
22 Commission for a fiscal year, the Commission
23 shall publish in the Federal Register a notice
24 of—

1 “(i) the fee rates determined pursuant
2 to this subsection for that fiscal year; and

3 “(ii) any estimates or projections on
4 which those fee rates are based.

5 “(6) RECORDS AND DISCLOSURE.—In carrying
6 out this subsection, the Commission shall not be re-
7 quired to comply with section 553 of title 5, United
8 States Code.

9 “(7) NO JUDICIAL REVIEW.—A fee rate pre-
10 scribed under this subsection shall not be subject to
11 judicial review.

12 “(8) DEPOSIT OF FEES.—Fees collected pursu-
13 ant to this subsection for any fiscal year shall be de-
14 posited and credited as offsetting collections to the
15 account providing appropriations to the Commission.

16 “(9) ANNUAL ADJUSTMENT.—For each fiscal
17 year, the Commission shall, by order, determine fee
18 rates pursuant to this subsection that are reasonably
19 likely to produce aggregate fee collections that are
20 equal to the annual appropriation to the Commission
21 by Congress for the activities described in paragraph
22 (2).

23 “(10) LAPSE OF APPROPRIATION.—If, on the
24 first day of a fiscal year, a regular appropriation to
25 the Commission has not been enacted, the Commis-

1 sion shall continue to collect (as offsetting collec-
2 tions) fees pursuant to this subsection at each of the
3 rates in effect during the preceding fiscal year.

4 “(11) BUDGET REQUESTS.—The Commissions
5 shall itemize in each budget submitted to the Presi-
6 dent or the Office of Management and Budget the
7 estimated annual costs of—

8 “(A) registering digital commodity ex-
9 changes, digital commodity brokers, digital
10 commodity dealers, and qualified digital asset
11 custodians;

12 “(B) conducting oversight of digital com-
13 modity exchanges, digital commodity brokers,
14 digital commodity dealers, qualified digital asset
15 custodians, and digital commodity transactions;

16 “(C) carrying out education and outreach
17 under subsection (b); and

18 “(D) carrying out such other activities as
19 are required by the Digital Commodity Inter-
20 mediaries Act and the amendments made by
21 that Act.

22 “(12) LIMITATIONS.—

23 “(A) IN GENERAL.—Fees may only be as-
24 sessed and imposed pursuant to this subsection
25 on digital commodity exchanges, digital com-

1 modity brokers, digital commodity dealers, and
2 qualified digital asset custodians regulated by
3 the Commission pursuant to the Digital Com-
4 modity Intermediaries Act and the amendments
5 made by that Act.

6 “(B) USE OF FEES.—Fees authorized
7 under this subsection are prohibited from fund-
8 ing any Commission activity not directly related
9 to the activities described in paragraph (2).

10 “(b) CUSTOMER EDUCATION AND OUTREACH.—The
11 Commission shall provide education and outreach to cus-
12 tomers participating in digital commodity markets.

13 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
14 is authorized to be appropriated to carry out the Digital
15 Commodity Intermediaries Act and the amendments made
16 by that Act \$150,000,000, to remain available until ex-
17 pended, until the Commission has established and is col-
18 lecting registration fees pursuant to subsection (a).

19 “(d) EXPEDITED HIRING AUTHORITY.—

20 “(1) APPOINTMENT AUTHORITY.—The Chair-
21 man of the Commission may appoint individuals to
22 a position described in paragraph (2)—

23 “(A) in accordance with the statutes, rules,
24 and regulations governing appointments to posi-

1 tions in the excepted service (as defined in sec-
2 tion 2103 of title 5, United States Code); and

3 “(B) without regard to any statute, rule,
4 or regulation governing appointments to posi-
5 tions in the competitive service (as defined in
6 section 2102 of such title).

7 “(2) POSITION DESCRIBED.—A position re-
8 ferred to in paragraph (1) is a position at the Com-
9 mission that—

10 “(A) is in the competitive service (as de-
11 fined in section 2102 of title 5, United States
12 Code); and

13 “(B) requires specialized knowledge of dig-
14 ital commodities markets, financial and capital
15 market formation or regulation, financial mar-
16 ket structures or surveillance, data collection or
17 analysis, or information technology, cybersecu-
18 rity, or system safeguards.

19 “(3) RULE OF CONSTRUCTION.—The appoint-
20 ment of a candidate to a position under this sub-
21 section shall not be considered to cause the position
22 to be converted from the competitive service (as de-
23 fined in section 2102 of title 5, United States Code)
24 to the excepted service (as defined in section 2103
25 of such title).”.

1 **SEC. 211. DIGITAL COMMODITY RETAIL ADVOCATE.**

2 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
3 is amended by adding at the end the following:

4 **“SEC. 24. OFFICE OF THE DIGITAL COMMODITY RETAIL AD-
5 VOCATE.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) CHAIRMAN.—The term ‘Chairman’ means
8 the Chairman of the Commission.

9 “(2) OFFICE.—The term ‘Office’ means the Of-
10 fice of the Digital Commodity Retail Advocate estab-
11 lished by subsection (b).

12 “(3) RETAIL PARTICIPANT.—The term ‘retail
13 participant’ means a person that—

14 “(A) is not an eligible contract participant;

15 “(B) is participating in a spot or cash dig-
16 ital commodity market; and

17 “(C) has engaged or is engaging in a dig-
18 ital commodity transaction with a person reg-
19 istered with the Commission.

20 “(b) OFFICE ESTABLISHED.—There is established
21 within the Commission the Office of the Digital Com-
22 modity Retail Advocate.

23 “(c) DIGITAL COMMODITY RETAIL ADVOCATE.—

24 “(1) IN GENERAL.—The Digital Commodity
25 Retail Advocate shall—

26 “(A) report directly to the Chairman; and

1 “(B) be appointed by the Chairman from
2 among individuals with experience in advocating
3 for the interests of digital commodity market
4 retail participants.

5 “(2) COMPENSATION.—The annual rate of pay
6 for the Digital Commodity Retail Advocate shall be
7 equal to the highest rate of annual pay for other
8 senior executives who report to the Chairman.

9 “(3) LIMITATION ON SERVICE.—An individual
10 who serves as the Digital Commodity Retail Advo-
11 cate may not be employed by the Commission—

12 “(A) during the 2-year period ending on
13 the date of appointment as Digital Commodity
14 Retail Advocate; or

15 “(B) during the 5-year period beginning on
16 the date on which the person ceases to serve as
17 the Digital Commodity Retail Advocate.

18 “(d) FUNCTIONS OF THE DIGITAL COMMODITY RE-
19 TAIL ADVOCATE.—The Digital Commodity Retail Advo-
20 cate shall—

21 “(1) assist retail participants in resolving sig-
22 nificant problems they may have with the Commis-
23 sion or a registered futures association;

24 “(2) identify areas in which retail participants
25 would benefit from changes in the regulations of the

1 Commission or the rules of registered futures asso-
2 ciations;

3 “(3) identify problems that retail participants
4 have with persons registered with the Commission;

5 “(4) analyze the potential impact on retail par-
6 ticipants of—

7 “(A) proposed regulations of the Commis-
8 sion; and

9 “(B) proposed rules of registered futures
10 associations;

11 “(5) to the extent practicable, propose to the
12 Commission changes in the regulations or orders of
13 the Commission, and to Congress any legislative, ad-
14 ministrative, or personnel changes, that may be ap-
15 propriate—

16 “(A) to mitigate problems identified under
17 this subsection; and

18 “(B) to promote the interests of retail par-
19 ticipants;

20 “(6) conduct research to identify and under-
21 stand issues that affect retail participants; and

22 “(7) cooperate with and provide assistance to
23 the Office of Customer Education and Outreach to
24 conduct initiatives and outreach for retail partici-
25 pants.

1 “(e) ACCESS TO DOCUMENTS.—

2 “(1) IN GENERAL.—At the discretion of the
3 Chairman, the Digital Commodity Retail Advocate
4 shall have full access to the documents of the Com-
5 mission and registered futures associations as nec-
6 essary to carry out the functions of the Office.

7 “(2) EFFECT.—Nothing in the subsection au-
8 thorizes the Digital Commodity Retail Advocate, or
9 staff of the Office, to have access to, or to release
10 publicly or internally within the Commission, propri-
11 etary or sensitive market data.

12 “(3) POLICIES AND PROCEDURES.—The Office
13 shall establish and make public on the website of the
14 Commission policies and procedures in place to safe-
15 guard the confidentiality of any documents the Dig-
16 ital Commodity Retail Advocate or staff of the Of-
17 fice has access to.

18 “(f) ANNUAL REPORTS.—

19 “(1) REPORT ON OBJECTIVES.—

20 “(A) IN GENERAL.—Not later than June
21 30 of each year, the Digital Commodity Retail
22 Advocate shall submit to the Committee on Ag-
23 riculture, Nutrition, and Forestry of the Senate
24 and the Committee on Agriculture of the House
25 of Representatives a report describing the ob-

1 jeetives of the Digital Commodity Retail Advo-
2 cate for the following fiscal year.

“(B) CONTENTS.—Each report required under subparagraph (A) shall contain full and substantive analysis and explanation.

6 “(2) REPORT ON ACTIVITIES.—

“(A) IN GENERAL.—Not later than December 31 of each year, the Digital Commodity Retail Advocate shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the activities of the Digital Commodity Retail Advocate during the immediately preceding fiscal year.

16 “(B) CONTENTS.—Each report required
17 under subparagraph (A) shall include—

18 “(i) appropriate statistical information
19 and full and substantive analysis;

“(ii) information on steps that the Digital Commodity Retail Advocate has taken during the reporting period to improve—

24 “(I) services to and communica-
25 tion with retail participants; and

1 “(II) the responsiveness of the
2 Commission and registered futures as-
3 sociations to retail participant con-
4 cerns;

5 “(iii) a summary of the most serious
6 problems reported to the Office or the
7 Commission by retail participants during
8 the reporting period;

9 “(iv) an inventory of the items de-
10 scribed in clause (iii) that includes—

11 “(I) identification of any action
12 taken by the Commission or a reg-
13 istered futures association and the re-
14 sult of that action;

15 “(II) the period of time that each
16 item has remained on the inventory;
17 and

18 “(III) for items with respect to
19 which no action has been taken, the
20 reasons for inaction, and an identi-
21 fication of any official who is respon-
22 sible for the action;

23 “(v) recommendations for such admin-
24 istrative and legislative actions as may be

1 appropriate to resolve problems encoun-
2 tered by retail participants; and

3 “(vi) any other information, as deter-
4 mined appropriate by the Digital Com-
5 modity Retail Advocate.

6 “(C) INDEPENDENCE.—Each report re-
7 quired under subparagraph (A) shall be pro-
8 vided directly to the committees described in
9 that subparagraph without any prior review or
10 comment from the Commission, any Commis-
11 sioner, any other officer or employee of the
12 Commission, or the Office of Management and
13 Budget.

14 “(D) CONFIDENTIALITY.—No report re-
15 quired under subparagraph (A) may contain
16 confidential information.

17 “(g) OMBUDSMAN.—

18 “(1) APPOINTMENT.—Not later than 180 days
19 after the date on which the first Digital Commodity
20 Retail Advocate is appointed under subsection
21 (c)(1)(B), the Digital Commodity Retail Advocate
22 shall appoint an Ombudsman, who shall report di-
23 rectly to the Digital Commodity Retail Advocate.

24 “(2) DUTIES.—The Ombudsman appointed
25 under paragraph (1) shall—

1 “(A) act as a liaison between the Commis-
2 sion and any retail participant in resolving
3 problems the retail participant may have with
4 the Commission or a registered futures associa-
5 tion;

6 “(B) review and make recommendations
7 regarding policies and procedures to encourage
8 persons to present questions to the Digital
9 Commodity Retail Advocate regarding compli-
10 ance with this Act; and

11 “(C) establish safeguards to maintain the
12 confidentiality of communications between the
13 persons described in subparagraph (B) and the
14 Ombudsman.

15 “(3) LIMITATION.—

16 “(A) PERSONNEL.—In carrying out the
17 duties of the Ombudsman under paragraph (2),
18 the Ombudsman shall utilize personnel of the
19 Commission, to the extent practicable.

20 “(B) EFFECT.—Nothing in this paragraph
21 shall be construed as replacing, altering, or di-
22 minishing the activities of any ombudsman or
23 similar office of any other agency.

24 “(4) REPORT.—

“(A) REPORT ON ACTIVITIES.—The Ombudsman shall submit to the Digital Commodity Retail Advocate an annual report that describes the activities and evaluates the effectiveness of the Ombudsman during the preceding 1-year period.

7 “(B) SUBMISSION.—The Digital Com-
8 modity Retail Advocate shall include the reports
9 required under subparagraph (A) in the reports
10 required to be submitted by the Digital Com-
11 modity Retail Advocate under subsection (f).”.

12 SEC. 212. REPORT.

Not later than 180 days after the date of enactment
of this Act, the Commodity Futures Trading Commission
(referred to in this section as the “Commission”) shall—

(1) examine the racial, ethnic, and gender demographics of customers participating in digital commodity markets;

19 (2) submit to the Committee on Agriculture,
20 Nutrition, and Forestry of the Senate and the Com-
21 mittee on Agriculture of the House of Representa-
22 tives a report—

(A) describing how those demographics will inform the rules and regulations of the Commission relating to customer protection;

1 (B) proposing ways in which the Commis-
2 sion can provide outreach to historically under-
3 served customers participating in digital com-
4 modity markets; and

5 (C) containing policy recommendations re-
6 lating to any other activities the Commission
7 determines to be necessary to provide appro-
8 priate protection, outreach, or other similar ac-
9 tivities relating to historically underserved cus-
10 tomers participating in digital commodity mar-
11 kets; and

12 (3) in preparing the report under this sub-
13 section, seek and consider information and input
14 from a broad range of stakeholders, including mar-
15 ket participants, customers, and consumer advo-
16 cates.