

117TH CONGRESS  
2D SESSION

# H. R. 7614

To provide for orderly and secure digital commodity exchange markets, and  
for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2022

Mr. THOMPSON of Pennsylvania (for himself, Mr. KHANNA, Mr. SOTO, and  
Mr. EMMER) introduced the following bill; which was referred to the  
Committee on Agriculture

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## A BILL

To provide for orderly and secure digital commodity exchange  
markets, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Digital Commodity Ex-  
5 change Act of 2022”.

6 **SEC. 2. AMENDMENTS TO THE COMMODITY EXCHANGE**  
7 **ACT.**

8 (a) DEFINITIONS.—Section 1a of the Commodity Ex-  
9 change Act (7 U.S.C. 1a) is amended—

10 (1) in paragraph (28)(A)(i)—

1 (A) in subclause (I)—

2 (i) in item (aa)—

3 (I) by striking “or” at the end of  
4 subitem (EE); and

5 (II) by adding at the end the fol-  
6 lowing:

7 “(GG) the purchase or  
8 sale of a unit of a digital  
9 commodity that is traded on  
10 or subject to the rules of a  
11 registered entity;”;

12 (ii) in item (bb), by striking “and”  
13 and inserting “or”; and

14 (iii) by adding at the end the fol-  
15 lowing:

16 “(cc) acting as a  
17 counterparty to any cash or spot  
18 agreement, contract, or trans-  
19 action involving a digital com-  
20 modity with a person who is not  
21 an eligible contract participant,  
22 unless the activity is—

23 “(AA) conducted in  
24 compliance with the laws of

1 the State in which the activ-  
2 ity occurs;

3 “(BB) subject to regu-  
4 lation by another Federal  
5 authority; or

6 “(CC) separately regu-  
7 lated under this Act; and”;

8 and

9 (B) in subclause (II), by striking “(aa) or  
10 (bb)” and inserting “(aa), (bb), or (cc)”;

11 (2) in paragraph (40)—

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

14 (B) by redesignating subparagraph (F) as  
15 subparagraph (G) and inserting after subpara-  
16 graph (E) the following:

17 “(F) a digital commodity exchange reg-  
18 istered under section 5i; and”;

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

20 “(52) DIGITAL COMMODITY.—

21 “(A) IN GENERAL.—The term ‘digital com-  
22 modity’ means any form of fungible intangible  
23 personal property that can be exclusively pos-  
24 sessed and transferred person to person without  
25 necessary reliance on an intermediary.

1           “(B) EXCLUSIONS.—The term ‘digital  
2 commodity’ does not include any asset that con-  
3 veys—

4           “(i) an equity or debt interest in a  
5 company, partnership, or fund;

6           “(ii) a profit or revenue share derived  
7 solely from the managerial efforts of oth-  
8 ers; or

9           “(iii) an entitlement to any interest or  
10 dividend payment.

11           “(C) FURTHER EXCLUSIONS.—The Com-  
12 mission, by rule or regulation, may exclude  
13 from the term ‘digital commodity’ any intan-  
14 gible personal property that can be exclusively  
15 possessed and transferred person to person  
16 without necessary reliance on an intermediary  
17 that is not of the nature of a digital asset, if  
18 the Commission determines that the rule or reg-  
19 ulation will effectuate the purposes of this Act.

20           “(53) DIGITAL COMMODITY CUSTODIAN.—The  
21 term ‘digital commodity custodian’ means an entity  
22 that holds, maintains, or safeguards digital commod-  
23 ities and other assets on behalf of digital commodity  
24 market participants.

1           “(54) DIGITAL COMMODITY EXCHANGE.—The  
2 term ‘digital commodity exchange’ means a trading  
3 facility that lists for trading at least one digital com-  
4 modity.

5           “(55) DIGITAL COMMODITY PRESALE.—The  
6 term ‘digital commodity presale’ means the delivery  
7 of a unit of a digital commodity, or any promise or  
8 right to a future unit of a digital commodity, before  
9 the listing of the digital commodity for trading on  
10 a registered digital commodity exchange, to—

11                   “(A) a participant in a securities offering  
12 that is—

13                           “(i) intended to finance the develop-  
14 ment of the digital commodity; and

15                           “(ii) conducted in compliance with the  
16 Securities Act of 1933;

17                   “(B) a founder, promoter, developer, man-  
18 ager, affiliated organization, or other person di-  
19 rectly associated with the development of the  
20 digital commodity; or

21                   “(C) any other person the Commission de-  
22 termines has personal knowledge of the activi-  
23 ties of individuals directly associated with the  
24 development of the digital commodity.”.

1 (b) COMMISSION JURISDICTION OVER RETAIL DIG-  
2 ITAL COMMODITY TRANSACTIONS.—

3 (1) IN GENERAL.—Section 2(c)(2) of such Act  
4 (7 U.S.C. 2(c)(2)) is amended—

5 (A) in subparagraph (D)(ii)—

6 (i) in subclause (III), in the matter  
7 that precedes item (aa), by inserting “of a  
8 commodity, other than a digital com-  
9 modity,” before “that”; and

10 (ii) by redesignating subclauses (IV)  
11 and (V) as subclauses (V) and (VI) and in-  
12 serting after subclause (III) the following:

13 “(IV) a contract of sale of a dig-  
14 ital commodity that—

15 “(aa) results in actual deliv-  
16 ery within 2 days or such other  
17 period as the Commission may  
18 determine by rule or regulation  
19 based upon the typical commer-  
20 cial practice in cash or spot mar-  
21 kets for the digital commodity in-  
22 volved; or

23 “(bb) is executed on or sub-  
24 ject to the rules of a registered  
25 digital commodity exchange or

1 with a registered futures commis-  
2 sion merchant;” and

3 (B) by adding at the end the following:

4 “(F) COMMISSION JURISDICTION OVER DIGITAL  
5 COMMODITY TRANSACTIONS.—

6 “(i) IN GENERAL.—Subject to sections 6d and  
7 12(e), the Commission shall have exclusive jurisdic-  
8 tion over any agreement, contract, or transaction in-  
9 volving a contract of sale of a digital commodity in  
10 interstate commerce.

11 “(ii) WITHHOLDING OF RULEMAKING AUTHOR-  
12 ITY OVER CERTAIN TRANSACTIONS.—Notwith-  
13 standing clause (i), this subparagraph shall not be  
14 interpreted to permit the Commission to issue any  
15 rule or regulation regarding any agreement, con-  
16 tract, or transaction that is not offered, solicited,  
17 traded, facilitated, executed, cleared, reported, or  
18 otherwise dealt in—

19 “(I) on or subject to the rules of a reg-  
20 istered entity;

21 “(II) by any other entity registered by the  
22 Commission; or

23 “(III) for the purpose of transferring a  
24 digital commodity, or any promise or right to a  
25 future unit of a digital commodity, obtained

1 through a digital commodity presale and subject  
2 to section 4e(h).

3 “(iii) LIMITATIONS.—Clause (i) shall not apply  
4 with respect to—

5 “(I) custodial or depository activities for a  
6 digital commodity, or custodial or depository ac-  
7 tivities for any promise or right to a future dig-  
8 ital commodity, of an entity regulated by a  
9 State or other Federal regulatory agency; or

10 “(II) a securities offering or transaction  
11 associated with—

12 “(aa) a digital commodity presale; or

13 “(bb) a sale described in section  
14 4e(h)(3)(A).”.

15 (2) CONFORMING AMENDMENT.—Section  
16 2(a)(1)(A) of such Act (7 U.S.C. 2(a)(1)(A)) is  
17 amended in the 1st sentence by inserting “sub-  
18 section (c)(2)(F) of this section or” before “section  
19 19”.

20 (c) PROHIBITED TRANSACTIONS.—Section 4e of such  
21 Act (7 U.S.C. 6e) is amended by adding at the end the  
22 following:

23 “(h) PROHIBITED DIGITAL COMMODITY TRANS-  
24 ACTIONS.—



1           “(1) IN GENERAL.—It shall be a violation of  
2 this Act for any person who owns or controls a unit  
3 of a digital commodity, or any promise or right to  
4 a future unit of a digital commodity, obtained  
5 through a digital commodity presale and subject to  
6 the restrictions in this subsection, to offer to enter  
7 into, to enter into, or to execute a contract for the  
8 purchase or sale of the unit, promise, or right, ex-  
9 cept as provided in paragraph (3).

10           “(2) UNLAWFUL FACILITATION OF PROHIBITED  
11 TRANSACTIONS.—It shall be a violation of this Act  
12 for any person willfully to execute, confirm the exe-  
13 cution of, or conduct any office or business for the  
14 purpose of soliciting, accepting any order for, or oth-  
15 erwise dealing in, any transaction in, or in connec-  
16 tion with, a contract for the purchase or sale of a  
17 unit of a digital commodity, or any promise or right  
18 to a future unit of a digital commodity, which such  
19 person has reason to believe is obtained through a  
20 digital commodity presale and subject to the restric-  
21 tions in this subsection, except as provided in para-  
22 graph (3).

23           “(3) EXCEPTIONS.—

24           “(A) OFF-EXCHANGE TRANSACTIONS.—

1           “(i) SALE OF A PROMISE OR RIGHT.—  
2           A promise or right to a future unit of a  
3           digital commodity obtained through a dig-  
4           ital commodity presale may be sold pursu-  
5           ant to a securities transaction conducted in  
6           compliance with the Securities Act of  
7           1933.

8           “(ii) SALE OF A DIGITAL COM-  
9           MODITY.—A unit of a digital commodity  
10          obtained through a digital commodity  
11          presale may be sold—

12                   “(I) pursuant to a securities  
13                   transaction conducted in compliance  
14                   with the Securities Act of 1933; or

15                   “(II) to an accredited investor  
16                   (as defined in section 2(a)(15) of such  
17                   Act).

18          “(iii) TREATMENT.—For purposes of  
19          this subsection, a unit of a digital com-  
20          modity or any promise or right to a future  
21          unit of a digital commodity obtained  
22          through a transaction utilizing this excep-  
23          tion shall continue to be considered to be  
24          obtained through a digital commodity  
25          presale.

1 “(B) ON-EXCHANGE TRANSACTIONS.—

2 “(i) IN GENERAL.—A unit of a digital  
3 commodity that is obtained through a dig-  
4 ital commodity presale or a transaction de-  
5 scribed in subparagraph (A) may be of-  
6 fered for sale or exchange on a registered  
7 digital commodity exchange, subject to any  
8 limitations imposed by the exchange.

9 “(ii) TREATMENT.—For purposes of  
10 this subsection, a unit of a digital com-  
11 modity obtained through a transaction uti-  
12 lizing this exception shall not be considered  
13 to be obtained through a digital commodity  
14 presale.

15 “(C) UTILIZATION OF PRESOLD DIGITAL  
16 COMMODITIES.—

17 “(i) IN GENERAL.—A unit of a digital  
18 commodity that is obtained through a dig-  
19 ital commodity presale may be—

20 “(I) utilized for the purposes of  
21 receiving the non-financial rights or  
22 services associated with the digital  
23 commodity; or

24 “(II) exchanged or sold in such  
25 limited quantities as the Commission

1 determines support the public use and  
2 functioning of services and rights as-  
3 sociated with the digital commodity.

4 “(ii) TREATMENT.—For purposes of  
5 this subsection, a unit of a digital com-  
6 modity obtained through a transaction uti-  
7 lizing this exception shall not be considered  
8 to be obtained through a digital commodity  
9 presale.

10 “(D) PRIOR DIGITAL COMMODITIES.—A  
11 unit of a digital commodity shall not be subject  
12 to this subsection if, before the date of the en-  
13 actment of this subsection, the digital com-  
14 modity was publicly available for trading on a  
15 trading facility licensed as a money services  
16 business with the Department of the Treasury.

17 “(4) TRANSITION RULES.—

18 “(A) IN GENERAL.—For the purpose of a  
19 transaction described in paragraph (3)(B), the  
20 Commission shall consider a trading facility to  
21 be a registered digital commodity exchange if—

22 “(i) the trading facility—

23 “(I) has been continuously li-  
24 censed as a money services business

1 with the Department of the Treasury  
2 since August 1, 2019;

3 “(II) is a registered designated  
4 contract market; or

5 “(III) is a registered swap execu-  
6 tion facility;

7 “(ii) the trading facility submits a no-  
8 tice to the Commission containing—

9 “(I) documentation dem-  
10 onstrating its licensing referred to in  
11 clause (i)(I); and

12 “(II) an assessment of the digital  
13 commodity and all units of the digital  
14 commodity to be permitted to trade,  
15 in accordance with section 5i(c)(3);  
16 and

17 “(iii) the Commission has not issued a  
18 notice of disapproval.

19 “(B) DISAPPROVAL PROCESS.—In making  
20 a disapproval under subparagraph (A), the  
21 Commission shall—

22 “(i) issue any disapproval within 20  
23 business days after receipt of a completed  
24 notice; and

1           “(ii) identify the specific deficiencies  
2           with the notice that necessitated the dis-  
3           approval.

4           “(C) EXTENSIONS.—The Commission may  
5           extend the time for consideration under sub-  
6           paragraph (B)—

7                   “(i) once, for 20 business days,  
8                   through written notice to the digital com-  
9                   modity exchange; and

10                   “(ii) once, for an additional 90 busi-  
11                   ness days, through notice to the digital  
12                   commodity exchange which includes a de-  
13                   scription of any deficiencies with the listing  
14                   notice, including any—

15                           “(I) novel or complex issues  
16                           which require additional time to ana-  
17                           lyze;

18                           “(II) missing information or in-  
19                           adequate explanations; or

20                           “(III) potential inconsistencies  
21                           with this Act.

22           “(D) EXPIRATION.—The authority pro-  
23           vided by this subparagraph shall expire 1 year  
24           after the date of the final promulgation of the  
25           digital commodity exchange registration re-

1            requirements, or on the first registration of a dig-  
2            ital commodity exchange, whichever occurs ear-  
3            lier.”.

4            (d) SEGREGATION OF DIGITAL COMMODITIES.—Sec-  
5            tion 4d of such Act (7 U.S.C. 6d) is amended by adding  
6            at the end the following:

7            “(i) SEGREGATION OF DIGITAL COMMODITIES.—

8                  “(1) HOLDING OF CUSTOMER ASSETS.—

9                          “(A) IN GENERAL.—Each futures commis-  
10            sion merchant shall hold customer money, as-  
11            sets, and property in a manner to minimize the  
12            customer’s risk of loss or unreasonable delay in  
13            the access to the money, assets, and property of  
14            the customer.

15                  “(B) QUALIFIED DIGITAL COMMODITY  
16            CUSTODIAN.—A futures commission merchant  
17            shall hold in a qualified digital commodity cus-  
18            todian each unit of a digital commodity that  
19            is—

20                          “(i) the property of a customer of the  
21            futures commission merchant; or

22                          “(ii) otherwise so required by the  
23            Commission to reasonably protect cus-  
24            tomers or promote the public interest.

25                  “(2) SEGREGATION OF FUNDS.—

1           “(A) IN GENERAL.—A futures commission  
2 merchant shall treat and deal with all money,  
3 assets, and property of any digital commodity  
4 customer received as belonging to the customer.

5           “(B) COMMINGLING PROHIBITED.—Money,  
6 assets, and property of a customer described in  
7 subparagraph (A) shall be separately accounted  
8 for, and shall not be commingled with the funds  
9 of the futures commission merchant or be used  
10 to margin, secure, or guarantee any trades or  
11 accounts of any customer or person other than  
12 the person for whom the same are held.

13           “(C) DIGITAL COMMODITY CUSTOMER DE-  
14 FINED.—For the purposes of this paragraph,  
15 the term ‘digital commodity customer’ means a  
16 customer involved in a cash or spot, leveraged,  
17 margined, or financed digital commodity trans-  
18 action in which the futures commission mer-  
19 chant is acting as the counterparty.

20           “(3) EXCEPTIONS.—

21           “(A) USE OF FUNDS.—

22           “(i) IN GENERAL.—Notwithstanding  
23 paragraph (2), money, assets, and property  
24 of customers of a futures commission mer-  
25 chant described in paragraph (2) may, for



1 convenience, be commingled and deposited  
2 in the same account or accounts with any  
3 bank, trust company, derivatives clearing  
4 organization, or qualified digital com-  
5 modity custodian.

6 “(ii) WITHDRAWAL.—Notwithstanding  
7 paragraph (2), the share of the money, as-  
8 sets, and property described in clause (i)  
9 as in the normal course of business shall  
10 be necessary to margin, guarantee, secure,  
11 transfer, adjust, or settle a digital com-  
12 modity transaction with a registered entity  
13 may be withdrawn and applied to such  
14 purposes, including the payment of com-  
15 missions, brokerage, interest, taxes, stor-  
16 age, and other charges, lawfully accruing  
17 in connection with the digital commodity  
18 transaction.

19 “(B) COMMISSION ACTION.—Notwith-  
20 standing paragraph (2), in accordance with  
21 such terms and conditions as the Commission  
22 may prescribe by rule, regulation, or order, any  
23 money, assets, or property of the customers of  
24 a futures commission merchant described in  
25 paragraph (2) may be commingled and depos-

1           ited in customer accounts with any other  
2           money, assets, or property received by the fu-  
3           tures commission merchant and required by the  
4           Commission to be separately accounted for and  
5           treated and dealt with as belonging to the cus-  
6           tomer of the futures commission merchant.

7           “(4) PERMITTED INVESTMENTS.—Money de-  
8           scribed in paragraph (2) may be invested in obliga-  
9           tions of the United States, in general obligations of  
10          any State or of any political subdivision of a State,  
11          and in obligations fully guaranteed as to principal  
12          and interest by the United States, or in any other  
13          investment that the Commission may by rule or reg-  
14          ulation prescribe, and the investments shall be made  
15          in accordance with such rules and regulations and  
16          subject to such conditions as the Commission may  
17          prescribe.

18          “(5) PROHIBITION.—It shall be unlawful for  
19          any person, including any derivatives clearing orga-  
20          nization or depository institution that has received  
21          any money, securities, or property for deposit in a  
22          separate account or accounts as provided in para-  
23          graph (2) to hold, dispose of, or use any of the  
24          money, assets, or property that belongs to the depos-  
25          iting futures commission merchant or any person

1 other than the digital commodity customer of the fu-  
2 tures commission merchant.

3 “(6) CUSTOMER RIGHT TO OPT OUT.—

4 “(A) IN GENERAL.—A customer shall have  
5 the right to waive the restrictions in this sub-  
6 section, by affirmatively electing, in writing to  
7 the futures commission merchant, to waive the  
8 restrictions.

9 “(B) LIMITATIONS.—The Commission  
10 may, by rule, establish notice and disclosure re-  
11 quirements, segregation requirements, invest-  
12 ment limitations, and other rules related to the  
13 waiving of any restrictions under this sub-  
14 section that are reasonably necessary to protect  
15 customers, including eligible contract partici-  
16 pants, non-eligible contract participants, or any  
17 other class of customers.

18 “(7) CUSTOMER PROTECTION DURING BANK-  
19 RUPTCY.—

20 “(A) CUSTOMER PROPERTY.—All money,  
21 assets, or property described in paragraph (2)  
22 shall be considered customer property for pur-  
23 poses of section 761 of title 11, United States  
24 Code.

1           “(B) TRANSACTIONS.—A cash or spot, le-  
2           veraged, margined, or financed digital com-  
3           modity transaction in which the futures com-  
4           mission merchant is acting as the counterparty  
5           shall be considered a ‘contract for the purchase  
6           or sale of a commodity for future delivery on,  
7           or subject to the rules of, a contract market or  
8           board of trade’ for purposes of the definition of  
9           ‘commodity contract’ in section 761 of title 11,  
10          United States Code.

11           “(C) ASSETS REMOVED FROM SEGREGA-  
12          TION.—Assets removed from segregation due to  
13          a customer election under paragraph (6) shall  
14          not be considered customer property for pur-  
15          poses of section 761 of title 11, United States  
16          Code.”.

17          (e) LIMITATION ON FUTURES COMMISSION MER-  
18          CHANT ACTING AS A COUNTERPARTY IN DIGITAL COM-  
19          MODITY TRANSACTIONS.—Section 4d of such Act (7  
20          U.S.C. 6d) is further amended by adding at the end the  
21          following:

22           “(j) LIMITATION ON FUTURES COMMISSION MER-  
23          CHANT ACTING AS A COUNTERPARTY IN DIGITAL COM-  
24          MODITY TRANSACTIONS.—A registered futures commis-  
25          sion merchant shall not act as a counterparty in any

1 agreement, contract, or transaction involving a digital  
2 commodity that has not been listed for trading on a reg-  
3 istered digital commodity exchange.”.

4 (f) COMMON PROVISIONS APPLICABLE TO REG-  
5 ISTERED ENTITIES.—Section 5e of such Act (7 U.S.C.  
6 7a–2) is amended—

7 (1) in subsection (a), by striking “5(d) and  
8 5b(c)(2)” and inserting “5(d), 5b(c)(2), and 5i(e)”;

9 (2) in subsection (b)—

10 (A) in each of paragraphs (1) and (2), by  
11 inserting “digital commodity exchange,” before  
12 “derivatives”; and

13 (B) in paragraph (3), by inserting “digital  
14 commodity exchange,” before “derivatives” each  
15 place it appears; and

16 (3) in subsection (c)—

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

19 (B) in paragraph (4)(B), by striking  
20 “1a(10)” and inserting “1a(9)”;

21 (C) in paragraph (5), by adding at the end  
22 the following:

23 “(D) SPECIAL RULES FOR THE LISTING OF  
24 CERTAIN DIGITAL COMMODITIES.—

1           “(i) IN GENERAL.—In the case of list-  
2           ing a digital commodity for trading which  
3           has not yet been listed for trading on an-  
4           other registered entity, paragraphs (2) and  
5           (3) shall apply as if the listing were a rule,  
6           and paragraph (2) shall be applied by sub-  
7           stituting ‘20 business days’ for ‘10 busi-  
8           ness days’.

9           “(ii) TRANSITIONAL EXTENSION.—  
10          For 1 year after the registration of the  
11          first digital commodity exchange, the Com-  
12          mission shall have an additional 20 busi-  
13          ness days to review any certification under  
14          clause (i).

15          “(iii) DIGITAL COMMODITY  
16          PRESALES.—

17               “(I) IN GENERAL.—In conjunc-  
18               tion with listing a digital commodity  
19               in which any unit of the digital com-  
20               modity was obtained through a digital  
21               commodity presale, a registered entity  
22               shall prohibit any transaction with  
23               any unit of the digital commodity ob-  
24               tained in violation of section 4c(h).

1                   “(II) RELIANCE ON DISCLOSURE  
2                   BY REGISTERED DEVELOPER.—In  
3                   complying with subclause (I), a reg-  
4                   istered entity may rely on the records  
5                   and disclosures of a registered digital  
6                   commodity developer submitted to the  
7                   Commission or its designee under sec-  
8                   tion 4v in determining whether a unit  
9                   of a digital commodity was obtained  
10                  in violation of section 4e(h).

11                  “(iv) CONSIDERATION OF COM-  
12                  MENTS.—In conducting a review under  
13                  clause (i), the Commission shall consider  
14                  any comments provided by the Securities  
15                  and Exchange Commission regarding any  
16                  inconsistencies with this Act posed by the  
17                  potential listing of an asset that is not a  
18                  digital commodity.”.

19                  (g) REGISTRATION OF DIGITAL COMMODITY EX-  
20                  CHANGES; QUALIFIED DIGITAL COMMODITY  
21                  CUSTODIANS.—

22                  (1) IN GENERAL.—The Commodity Exchange  
23                  Act (7 U.S.C. 1 et seq.) is amended by inserting  
24                  after section 5h the following:

1 **“SEC. 5i. REGISTRATION OF DIGITAL COMMODITY EX-**  
2 **CHANGES.**

3 “(a) IN GENERAL.—

4 “(1) REGISTRATION.—

5 “(A) IN GENERAL.—Any trading facility  
6 that offers or seeks to offer a market in digital  
7 commodities may register with the Commission  
8 as a digital commodity exchange.

9 “(B) APPLICATION.—A person desiring to  
10 register as a digital commodity exchange shall  
11 submit to the Commission an application in  
12 such form and containing such information as  
13 the Commission may require for the purpose of  
14 making the determinations required for ap-  
15 proval under subsections (c) and (e).

16 “(2) DEEMED REGISTRATION.—A registered  
17 designated contract market or registered swap exe-  
18 cution facility which fulfills the requirements of this  
19 section may elect to be considered a registered dig-  
20 ital commodity exchange, in such form and manner  
21 as the Commission shall prescribe.

22 “(3) ADDITIONAL REGISTRATIONS.—A reg-  
23 istered digital commodity exchange shall be—

24 “(A) a member of a registered futures as-  
25 sociation; and



1           “(B) registered with the Secretary of the  
2           Treasury as a Money Services Business.

3           “(b) TRADING.—

4           “(1) IN GENERAL.—A digital commodity ex-  
5           change that is registered under subsection (a) may  
6           make available for trading any digital commodity  
7           that is not readily susceptible to manipulation, sub-  
8           ject to this subsection.

9           “(2) RULES GOVERNING MARGINED OR LEVER-  
10          AGED TRADING.—The Commission may make, pro-  
11          mulgate, and enforce such additional rules governing  
12          margined, leveraged, or financed transactions as are  
13          reasonably necessary to protect market participants  
14          and promote the orderly settlement of transactions  
15          with respect to—

16                 “(A) disclosure;

17                 “(B) recordkeeping;

18                 “(C) capital, margin, and other financial  
19          resources;

20                 “(D) reporting;

21                 “(E) business conduct;

22                 “(F) documentation; and

23                 “(G) such other matters as the Commis-  
24          sion demonstrates to be necessary.

1           “(3) PROHIBITION ON CERTAIN TRADING PRAC-  
2           TICES.—Sections 4b, 4c, and 6(c) shall apply to any  
3           agreement, contract, or transaction in a digital com-  
4           modity as if the agreement, contract, or transaction  
5           were a contract of sale of a commodity for future de-  
6           livery.

7           “(4) PROHIBITION ON TRADING DERIVATIVES  
8           PRODUCTS.—Registration as a digital commodity ex-  
9           change shall not permit a trading facility to offer  
10          any contract of sale of a commodity for future deliv-  
11          ery, option, or swap for trading without also being  
12          registered as a designated contract market or swap  
13          execution facility.

14          “(5) RULES FOR DIGITAL COMMODITY  
15          PRESALES.—The digital commodity exchange shall  
16          have in place such rules as may be necessary to rea-  
17          sonably ensure the orderly sale of any unit of a dig-  
18          ital commodity obtained through a digital commodity  
19          presale.

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

22                  “(1) COMPLIANCE WITH CORE PRINCIPLES.—

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

1 exchange, the 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 de-  
12 scribed in subparagraph (A) shall have reason-  
13 able discretion in establishing the manner in  
14 which the digital commodity exchange complies  
15 with the core principles described in this sub-  
16 section.

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

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

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

1                   “(ii) any limitation on access to the  
2                   digital commodity exchange;

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

8                   “(i) to provide market participants  
9                   with impartial access to the market; and

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

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

18                   “(3) DIGITAL COMMODITIES NOT READILY SUS-  
19                   CEPTIBLE TO MANIPULATION.—

20                   “(A) IN GENERAL.—The digital commodity  
21                   exchange shall permit trading in only digital  
22                   commodities that are not readily susceptible to  
23                   manipulation.

1           “(B) LISTING RESTRICTIONS.—A digital  
2 commodity exchange shall not permit trading  
3 in—

4           “(i) a unit of a digital commodity, if  
5 it is reasonably likely that the transaction  
6 history of the digital commodity can be  
7 fraudulently altered by any person or  
8 group of persons acting collectively; or

9           “(ii) a unit of a digital commodity  
10 subject to the restrictions in section 4c(h),  
11 if it is reasonably likely that the  
12 functionality or operation of the digital  
13 commodity can be materially altered by  
14 any person or group of persons under com-  
15 mon control.

16           “(C) CONSIDERATIONS.—In assessing a  
17 digital commodity under this paragraph, the ex-  
18 change shall consider, with respect to the digital  
19 commodity—

20           “(i) its purpose and use;

21           “(ii) its unit creation or release proc-  
22 ess;

23           “(iii) its consensus mechanism;

24           “(iv) its governance structure;

25           “(v) its participation and distribution;

1                   “(vi) its current and proposed  
2                   functionality; and

3                   “(vii) any other factor required by the  
4                   Commission.

5                   “(D) RULES FOR FIXED-VALUE DIGITAL  
6                   COMMODITIES.—A fixed-value digital com-  
7                   modity shall be determined to be not readily  
8                   susceptible to manipulation under this section if  
9                   the issuer of the fixed-value digital commodity  
10                  is registered as a fixed-value digital commodity  
11                  operator or subject to comparable, comprehen-  
12                  sive supervision and regulation by another Fed-  
13                  eral regulator or an appropriate government au-  
14                  thority in the home country of the fixed-value  
15                  digital commodity operator.

16                  “(4) TREATMENT OF CUSTOMER ASSETS.—

17                  “(A) REQUIRED STANDARDS AND PROCE-  
18                  DURES.—Each digital commodity exchange  
19                  shall establish standards and procedures that  
20                  are designed to protect and ensure the safety of  
21                  customer money, assets, and property.

22                  “(B) HOLDING OF CUSTOMER ASSETS.—

23                  “(i) IN GENERAL.—Each digital com-  
24                  modity exchange shall hold customer  
25                  money, assets, and property in a manner

1 to minimize the customer’s risk of loss or  
2 unreasonable delay in the access to the  
3 money, assets, and property of the cus-  
4 tomer.

5 “(ii) SEGREGATION OF FUNDS.—

6 “(I) IN GENERAL.—A digital  
7 commodity exchange shall treat and  
8 deal with all money, assets, and prop-  
9 erty of any customer received as be-  
10 longing to the customer.

11 “(II) COMMINGLING PROHIB-  
12 ITED.—Money, assets, and property of  
13 a customer described in subclause (I)  
14 shall be separately accounted for and  
15 shall not be commingled with the  
16 funds of the digital commodity ex-  
17 change or be used to margin, secure,  
18 or guarantee any trades or accounts  
19 of any customer or person other than  
20 the person for whom the same are  
21 held.

22 “(iii) EXCEPTIONS.—

23 “(I) USE OF FUNDS.—

24 “(aa) IN GENERAL.—Not-  
25 withstanding clause (ii), money,

1 assets, and property of customers  
2 of a digital commodity exchange  
3 described in clause (ii) may, for  
4 convenience, be commingled and  
5 deposited in the same account or  
6 accounts with any bank, trust  
7 company, or qualified digital  
8 commodity custodian.

9 “(bb) WITHDRAWAL.—Not-  
10 withstanding clause (ii), such  
11 share of the money, assets, and  
12 property described in item (aa)  
13 as in the normal course of busi-  
14 ness shall be necessary to mar-  
15 gin, guarantee, secure, transfer,  
16 adjust, or settle a digital com-  
17 modity transaction with a reg-  
18 istered entity may be withdrawn  
19 and applied to such purposes, in-  
20 cluding the payment of commis-  
21 sions, brokerage, interest, taxes,  
22 storage, and other charges, law-  
23 fully accruing in connection with  
24 the digital commodity trans-  
25 action.



1                   “(II) COMMISSION ACTION.—  
2                   Notwithstanding clause (ii), in accord-  
3                   ance with such terms and conditions  
4                   as the Commission may prescribe by  
5                   rule, regulation, or order, any money,  
6                   assets, or property of the customers of  
7                   a digital commodity exchange de-  
8                   scribed in clause (ii) may be commin-  
9                   gled and deposited in customer ac-  
10                  counts with any other money, assets,  
11                  or property received by the digital  
12                  commodity exchange and required by  
13                  the Commission to be separately ac-  
14                  counted for and treated and dealt  
15                  with as belonging to the customer of  
16                  the digital commodity exchange.

17                  “(C) PERMITTED INVESTMENTS.—Money  
18                  described in clause (ii) may be invested in obli-  
19                  gations of the United States, in general obliga-  
20                  tions of any State or of any political subdivision  
21                  of a State, and in obligations fully guaranteed  
22                  as to principal and interest by the United  
23                  States, or in any other investment that the  
24                  Commission may by rule or regulation pre-  
25                  scribe, and such investments shall be made in

1 accordance with such rules and regulations and  
2 subject to such conditions as the Commission  
3 may prescribe.

4 “(D) CUSTOMER PROTECTION DURING  
5 BANKRUPTCY.—

6 “(i) CUSTOMER PROPERTY.—All as-  
7 sets held on behalf of a customer by a dig-  
8 ital commodity exchange registered under  
9 section 5i of this Act, and all money, as-  
10 sets, and property of any customer re-  
11 ceived by a digital commodity exchange  
12 registered under section 5i of this Act for  
13 trading or custody, or to facilitate, margin,  
14 guarantee, or secure digital commodity  
15 transactions (including money, assets, or  
16 property accruing to the customer as the  
17 result of the transactions), shall be consid-  
18 ered customer property for purposes of sec-  
19 tion 761 of title 11, United States Code.

20 “(ii) TRANSACTIONS.—A transaction  
21 involving a unit of a digital commodity oc-  
22 ccurring on or subject to the rules of a dig-  
23 ital commodity exchange registered under  
24 section 5i of this Act shall be considered a  
25 ‘contract for the purchase or sale of a com-

1           modity for future delivery, on or subject to  
2           the rules of, a contract market or board of  
3           trade’ for the purposes of the definition of  
4           a ‘commodity contract’ in section 761 of  
5           title 11, United States Code.

6           “(iii) EXCHANGES.—A digital com-  
7           modity exchange registered under section  
8           5i of this Act shall be considered a futures  
9           commission merchant for purposes of sec-  
10          tion 761 of title 11, United States Code.

11          “(iv) ASSETS REMOVED FROM SEG-  
12          REGATION.—Notwithstanding clause (i),  
13          assets that have been removed from seg-  
14          regation due to a customer election under  
15          subparagraph (F) shall not be considered  
16          customer property for purposes of section  
17          761 of title 11, United States Code.

18          “(E) MISUSE OF CUSTOMER PROPERTY.—

19           It shall be unlawful—

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

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

11          “(F) CUSTOMER RIGHT TO OPT OUT.—

12           “(i) IN GENERAL.—A customer shall  
13           have the right to waive the restrictions in  
14           subparagraph (B), by affirmatively elect-  
15           ing, in writing to the digital commodity ex-  
16           change, to waive the restrictions.

17           “(ii) LIMITATIONS.—The Commission  
18           may, by rule, establish notice and disclo-  
19           sure requirements, segregation require-  
20           ments, investment limitations, and other  
21           rules related to the waiving of any restric-  
22           tions under this paragraph that are rea-  
23           sonably necessary to protect customers, in-  
24           cluding eligible contract participants, non-

1 eligible contract participants, or any other  
2 class of customers.

3 “(5) MONITORING OF TRADING AND TRADE  
4 PROCESSING.—

5 “(A) IN GENERAL.—The digital commodity  
6 exchange shall provide a competitive, open, and  
7 efficient market and mechanism for executing  
8 transactions that protects the price discovery  
9 process of trading on the exchange.

10 “(B) PROTECTION OF MARKETS AND MAR-  
11 KET PARTICIPANTS.—The digital commodity ex-  
12 change shall establish and enforce rules—

13 “(i) to protect markets and market  
14 participants from abusive practices com-  
15 mitted by any party, including abusive  
16 practices committed by a party acting as  
17 an agent for a participant; and

18 “(ii) to promote fair and equitable  
19 trading on the exchange.

20 “(C) The digital commodity exchange  
21 shall—

22 “(i) establish and enforce rules or  
23 terms and conditions defining, or specifica-  
24 tions detailing—

1           “(I) trading procedures to be  
2           used in entering and executing orders  
3           traded on or through the facilities of  
4           the digital commodity exchange; and

5           “(II) procedures for trade pro-  
6           cessing of digital commodities on or  
7           through the facilities of the digital  
8           commodity exchange; and

9           “(ii) monitor trading in digital com-  
10          modities to prevent manipulation, price  
11          distortion, and disruptions of the delivery  
12          or cash settlement process through surveil-  
13          lance, compliance, and disciplinary prac-  
14          tices and procedures, including methods  
15          for conducting real-time monitoring of  
16          trading and comprehensive and accurate  
17          trade reconstructions.

18          “(6) ABILITY TO OBTAIN INFORMATION.—The  
19          digital commodity exchange shall—

20                 “(A) establish and enforce rules that will  
21                 allow the facility to obtain any necessary infor-  
22                 mation to perform any of the functions de-  
23                 scribed in this section;

24                 “(B) provide the information to the Com-  
25                 mission on request; and

1           “(C) have the capacity to carry out such  
2 international information-sharing agreements as  
3 the Commission may require.

4           “(7) EMERGENCY AUTHORITY.—The digital  
5 commodity exchange shall adopt rules to provide for  
6 the exercise of emergency authority, in consultation  
7 or cooperation with the Commission or a registered  
8 entity, as is necessary and appropriate, including the  
9 authority to facilitate the liquidation or transfer of  
10 open positions in any digital commodity or to sus-  
11 pend or curtail trading in a digital commodity.

12           “(8) REPORTING REQUIREMENTS.—

13           “(A) DUTY OF DIGITAL COMMODITY EX-  
14 CHANGE.—Each digital commodity exchange  
15 shall provide to the Commission all information  
16 that is determined by the Commission to be  
17 necessary to perform each responsibility of the  
18 Commission under this Act.

19           “(B) TIMELY PUBLICATION OF TRADING  
20 INFORMATION.—

21           “(i) IN GENERAL.—The digital com-  
22 modity exchange shall make public timely  
23 information on price, trading volume, and  
24 other trading data on digital commodities

1 to the extent prescribed by the Commis-  
2 sion.

3 “(ii) CAPACITY OF DIGITAL COM-  
4 MODITY EXCHANGE.—The digital com-  
5 modity exchange shall be required to have  
6 the capacity to electronically capture and  
7 transmit trade information with respect to  
8 transactions executed on the exchange.

9 “(9) RECORDKEEPING AND REPORTING.—

10 “(A) IN GENERAL.—A digital commodity  
11 exchange shall—

12 “(i) maintain records of all activities  
13 relating to the business of the facility, in-  
14 cluding a complete audit trail, in a form  
15 and manner acceptable to the Commission  
16 for a period of 5 years;

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

24 “(iii) keep any such records of digital  
25 commodities which relate to a security



1 open to inspection and examination by the  
2 Securities and Exchange Commission.

3 “(B) INFORMATION-SHARING.—Subject to  
4 section 8, and on request, the Commission shall  
5 share information collected under subparagraph  
6 (A) with—

7 “(i) the Board;

8 “(ii) the Securities and Exchange  
9 Commission;

10 “(iii) each appropriate Federal bank-  
11 ing agency;

12 “(iv) each appropriate State bank su-  
13 pervisor (within the meaning of section 3  
14 of the Federal Deposit Insurance Act);

15 “(v) the Financial Stability Oversight  
16 Council;

17 “(vi) the Department of Justice; and

18 “(vii) any other person that the Com-  
19 mission determines to be appropriate, in-  
20 cluding—

21 “(I) foreign financial supervisors  
22 (including foreign futures authorities);

23 “(II) foreign central banks; and

24 “(III) foreign ministries.

1           “(C) CONFIDENTIALITY AGREEMENT.—Be-  
2 fore the Commission may share information  
3 with any entity described in subparagraph (B),  
4 the Commission shall receive a written agree-  
5 ment from each entity stating that the entity  
6 shall abide by the confidentiality requirements  
7 described in section 8 relating to the informa-  
8 tion on digital commodity transactions that is  
9 provided.

10           “(D) PROVIDING INFORMATION.—Each  
11 digital commodity exchange shall provide to the  
12 Commission (including any designee of the  
13 Commission) information under subparagraph  
14 (A) in such form and at such frequency as is  
15 required by the Commission.

16           “(10) ANTITRUST CONSIDERATIONS.—Unless  
17 necessary or appropriate to achieve the purposes of  
18 this Act, the digital commodity exchange shall not—

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

22           “(B) impose any material anticompetitive  
23 burden on trading.

24           “(11) CONFLICTS OF INTEREST.—The digital  
25 commodity exchange shall—

1           “(A) establish and enforce rules to mini-  
2           mize conflicts of interest in its decision-making  
3           process; and

4           “(B) establish a process for resolving the  
5           conflicts of interest.

6           “(12) FINANCIAL RESOURCES.—

7           “(A) IN GENERAL.—Each digital com-  
8           modity exchange shall have adequate financial,  
9           operational, and managerial resources, as deter-  
10          mined by the Commission, to discharge each re-  
11          sponsibility of the digital commodity exchange.

12          “(B) MINIMUM AMOUNT OF FINANCIAL RE-  
13          SOURCE.—Each digital commodity exchange  
14          shall possess financial resources that, at a min-  
15          imum, exceed the total amount that would en-  
16          able the digital commodity exchange to conduct  
17          an orderly wind-down of its activities.

18          “(C) ADDITIONAL FINANCIAL RESOURCES  
19          FOR LEVERAGE TRADING.—The Commission  
20          may require such additional financial resources  
21          as are necessary to enable a digital commodity  
22          exchange which offers margined, leveraged, or  
23          financed transactions to fulfill its customer obli-  
24          gations.

25          “(13) GOVERNANCE FITNESS STANDARDS.—

1           “(A) GOVERNANCE ARRANGEMENTS.—  
2           Each digital commodity exchange shall establish  
3           governance arrangements that are transparent  
4           to fulfill public interest requirements.

5           “(B) FITNESS STANDARDS.—Each digital  
6           commodity exchange shall establish and enforce  
7           appropriate fitness standards for—

8                   “(i) directors;

9                   “(ii) any individual or entity with di-  
10                  rect access to the settlement activities of  
11                  the digital commodity exchange;

12                  “(iii) any individual or entity with di-  
13                  rect access to any affiliated digital com-  
14                  modity custodian;

15                  “(iv) any entity offering affiliated  
16                  services for the digital commodity ex-  
17                  change; and

18                  “(v) any party affiliated with any in-  
19                  dividual or entity described in this clause.

20           “(14) SYSTEM SAFEGUARDS.—The digital com-  
21           modity exchange shall—

22                   “(A) establish and maintain a program of  
23                   risk analysis and oversight to identify and mini-  
24                   mize sources of operational and security risks,

1 through the development of appropriate controls  
2 and procedures, and automated systems, that—

3 “(i) are reliable and secure; and

4 “(ii) have adequate scalable capacity;

5 “(B) establish and maintain emergency  
6 procedures, backup facilities, and a plan for dis-  
7 aster recovery that allow for—

8 “(i) the timely recovery and resump-  
9 tion of operations; and

10 “(ii) the fulfillment of the responsibil-  
11 ities and obligations of the digital com-  
12 modity exchange; and

13 “(C) periodically conduct tests to verify  
14 that the backup resources of the digital com-  
15 modity exchange are sufficient to ensure contin-  
16 ued—

17 “(i) order processing and trade  
18 matching;

19 “(ii) price reporting;

20 “(iii) market surveillance; and

21 “(iv) maintenance of a comprehensive  
22 and accurate audit trail.

23 “(d) APPOINTMENT OF TRUSTEE.—

24 “(1) IN GENERAL.—If a proceeding under sec-  
25 tion 5e results in the suspension or revocation of the

1 registration of a digital commodity exchange, or if a  
2 digital commodity exchange withdraws from registra-  
3 tion, the Commission, on notice to the digital com-  
4 modity exchange, may apply to the appropriate  
5 United States district court where the digital com-  
6 modity exchange is located for the appointment of a  
7 trustee.

8 “(2) ASSUMPTION OF JURISDICTION.—If the  
9 Commission applies for appointment of a trustee  
10 under paragraph (1)—

11 “(A) the court may take exclusive jurisdic-  
12 tion over the digital commodity exchange and  
13 the records and assets of the digital commodity  
14 exchange, wherever located; and

15 “(B) if the court takes jurisdiction under  
16 subparagraph (A), the court shall appoint the  
17 Commission, or a person designated by the  
18 Commission, as trustee with power to take pos-  
19 session and continue to operate or terminate  
20 the operations of the digital commodity ex-  
21 change in an orderly manner for the protection  
22 of customers subject to such terms and condi-  
23 tions as the court may prescribe.

24 “(e) QUALIFIED DIGITAL COMMODITY CUSTO-  
25 DIAN.—A digital commodity exchange shall hold in a

1 qualified digital commodity custodian each unit of a digital  
2 commodity that is—

3 “(1) the property of a customer of the digital  
4 commodity exchange;

5 “(2) required to be held by the digital com-  
6 modity exchange under subsection (b)(2) or (c)(12)  
7 of this section; or

8 “(3) otherwise so required by the Commission  
9 to reasonably protect customers or promote the pub-  
10 lic interest.

11 “(f) EXEMPTIONS.—In order to promote responsible  
12 economic or financial innovation and fair competition, or  
13 protect customers, the Commission may (on its own initia-  
14 tive or on application of the registered digital commodity  
15 exchange) exempt, either unconditionally or on stated  
16 terms or conditions or for stated periods and either retro-  
17 actively or prospectively, or both, a registered digital com-  
18 modity exchange from the requirements of this section, if  
19 the Commission determines that—

20 “(1)(A) the exemption would be consistent with  
21 the public interest and the purposes of this Act; and

22 “(B) the exemption will not have a material ad-  
23 verse effect on the ability of the Commission or the  
24 digital commodity exchange to discharge regulatory  
25 or self-regulatory duties under this Act; or

1           “(2) the digital commodity exchange is subject  
2           to comparable, comprehensive supervision and regu-  
3           lation by the appropriate government authorities in  
4           the home country of the organization.

5           “(g) CUSTOMER DEFINED.—In this section, the term  
6 ‘customer’ means any person that maintains an account  
7 for the trading of digital commodities directly with a dig-  
8 ital commodity exchange (other than a person that is  
9 owned or controlled, directly or indirectly, by the digital  
10 commodity exchange) for its own behalf or on behalf of  
11 other any person.

12          “(h) FEDERAL PREEMPTION.—Notwithstanding any  
13 other provision of law, the Commission shall have exclusive  
14 jurisdiction over any digital commodity exchange reg-  
15 istered under this section.

16 **“SEC. 5j. QUALIFIED DIGITAL COMMODITY CUSTODIANS.**

17          “(a) IN GENERAL.—The Commission shall designate  
18 a digital commodity custodian as a qualified digital com-  
19 modity custodian, if—

20           “(1) the Commission finds the digital com-  
21           modity custodian is subject to adequate supervision  
22           and appropriate regulation by the Commission, the  
23           Securities and Exchange Commission, an appro-  
24           priate Federal banking agency, a State bank super-  
25           visor (within the meaning of section 3 of the Federal



1       Deposit Insurance Act), or an appropriate foreign  
2       governmental authority in the home country of the  
3       digital commodity custodian; and

4               “(2) the digital commodity custodian agrees to  
5       such regular and periodic sharing of information as  
6       the Commission determines by rule shall be reason-  
7       ably necessary to effectuate any of the provisions, or  
8       to accomplish any of the purposes, of this Act.

9       “(b) RULEMAKING AUTHORITY.—For purposes of  
10      subsection (a), the Commission, by rule or order, shall de-  
11      fine ‘adequate supervision’ and ‘appropriate regulation’ as  
12      any regulatory regime which meets such minimum stand-  
13      ards for supervision and regulation as the Commission de-  
14      termines are reasonably necessary to protect the property  
15      of customers of a registered digital commodity exchange,  
16      including minimum standards relating to—

17               “(1) accessibility of customer assets;

18               “(2) financial resources;

19               “(3) risk management requirements;

20               “(4) governance arrangements;

21               “(5) fitness standards;

22               “(6) recordkeeping;

23               “(7) information-sharing; and

24               “(8) conflicts of interest.

1       “(c) AUTHORITY TO TEMPORARILY SUSPEND  
2 STANDARDS.—The Commission may, by rule or order,  
3 temporarily suspend, in whole or in part, any requirement  
4 imposed under, or any standard referred to in, this section  
5 if the Commission determines that the suspension would  
6 be consistent with the public interest and the purposes of  
7 this Act.”.

8               (2) CERTAIN DIGITAL COMMODITY EXCHANGE  
9       FUNCTIONS NOT SUFFICIENT TO TRIGGER REQUIRE-  
10       MENT TO REGISTER AS FUTURES COMMISSION MER-  
11       CHANT.—Section 4f(c) of the Commodity Exchange  
12       Act (7 U.S.C. 6f(c)) is amended by adding at the  
13       end the following:

14               “(12) CLARIFICATION OF SCOPE OF REGISTRA-  
15       TION REQUIREMENT.—A registered digital com-  
16       modity exchange shall not be required to register as  
17       a futures commission merchant for any activity for  
18       which the exchange is regulated under section 5i.”.

19       (h) REGISTRATION AND REGULATION OF FIXED-  
20       VALUE DIGITAL COMMODITY OPERATORS.—

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

24               “(56) FIXED-VALUE DIGITAL COMMODITY.—

1           “(A) IN GENERAL.—The term ‘fixed-value  
2 digital commodity’ means a digital commodity  
3 which is redeemable for a fixed amount of fiat  
4 currency or another commodity, or the value  
5 thereof.

6           “(B) FURTHER DEFINITION.—The Com-  
7 mission, by rule or regulation, may include  
8 within, or exclude from, the term ‘fixed-value  
9 digital commodity’ any digital commodity if the  
10 Commission determines that the rule or regula-  
11 tion will effectuate the purposes of this Act.

12           “(57) FIXED-VALUE DIGITAL COMMODITY OP-  
13 ERATOR.—

14           “(A) IN GENERAL.—The term ‘fixed-value  
15 digital commodity operator’ means any per-  
16 son—

17                   “(i) engaged in a business that solie-  
18 its, accepts, or receives funds, property, or  
19 other assets from others for the purpose of  
20 issuing units of a fixed-value digital com-  
21 modity; or

22                   “(ii) who is registered with the Com-  
23 mission as a fixed-value digital commodity  
24 operator.

1           “(B) FURTHER DEFINITION.—The Com-  
2           mission, by rule or regulation, may include  
3           within, or exclude from, the term ‘fixed-value  
4           digital commodity operator’ any person engaged  
5           in a business of issuing fixed-value digital com-  
6           modities, if the Commission determines that the  
7           rule or regulation will effectuate the purposes of  
8           this Act.”.

9           (2) REGISTRATION AND REGULATION.—The  
10          Commodity Exchange Act (7 U.S.C. 1 et seq.) is  
11          amended by inserting after section 4t the following:

12       **“SEC. 4u. REGISTRATION AND REGULATION OF FIXED-**  
13               **VALUE DIGITAL COMMODITY OPERATORS.**

14       “(a) REGISTRATION.—

15           “(1) IN GENERAL.—A person may register with  
16           the Commission as a fixed-value digital commodity  
17           operator.

18           “(2) FILING REQUIREMENT.—A person desiring  
19           to register with the Commission as a fixed-value dig-  
20           ital commodity operator shall file with the Commis-  
21           sion a registration application, in such form and  
22           manner as is prescribed by the Commission.

23           “(3) APPLICATION CONTENTS.—The application  
24           shall include—

1           “(A) a description of the operation of the  
2 fixed-value digital commodity, including the  
3 process for issuing, redeeming, and calculating  
4 the value of the outstanding redeemable units  
5 of the fixed-value digital commodity;

6           “(B) the process by which the fixed-value  
7 digital commodity operator would wind-down its  
8 business, including—

9                   “(i) transferring the funds and prop-  
10 erty available for the redemption of units  
11 of the fixed-value digital commodity to an-  
12 other fixed-value digital commodity oper-  
13 ator; or

14                   “(ii) redeeming outstanding units of  
15 the fixed-value digital commodity in an or-  
16 derly manner; and

17           “(C) such other information as the Com-  
18 mission considers necessary concerning the  
19 business in which the applicant is or will be en-  
20 gaged.

21           “(b) PROHIBITIONS; ENFORCEMENT.—

22                   “(1) STATUTORY DISQUALIFICATION.—Except  
23 to the extent otherwise specifically provided by rule,  
24 regulation, or order, it shall be unlawful for a reg-  
25 istered fixed-value digital commodity operator to

1 permit any person who is associated with the oper-  
2 ator and is subject to a statutory disqualification, to  
3 take any action in relation to the fixed-value digital  
4 commodity on behalf of the operator, if the operator  
5 knew, or in the exercise of reasonable care should  
6 have known, of the statutory disqualification.

7 “(2) REVOCATION.—

8 “(A) IN GENERAL.—The failure of a reg-  
9 istered fixed-value digital commodity operator  
10 to comply with any provision of this Act or any  
11 regulation or order of the Commission under  
12 this Act shall be cause for the suspension for a  
13 period not to exceed 180 days, or revocation, of  
14 the registration of the operator as a fixed-value  
15 digital commodity operator, in accordance with  
16 the procedures and subject to the judicial re-  
17 view provided in section 6(b).

18 “(B) TRUSTEE.—If a proceeding under  
19 subparagraph (A) results in the suspension or  
20 revocation of the registration of a fixed-value  
21 digital commodity operator, or if such an oper-  
22 ator withdraws from registration, the Commis-  
23 sion, on notice to the operator, may apply to  
24 the appropriate United States district court for

1 the judicial district in which the operator is lo-  
2 cated for the appointment of a trustee.

3 “(C) ASSUMPTION OF JURISDICTION.—If  
4 the Commission applies for appointment of a  
5 trustee under subparagraph (B)—

6 “(i) the court may take exclusive ju-  
7 risdiction over the fixed-value digital com-  
8 modity operator and the records and assets  
9 of the operator, wherever located; and

10 “(ii) if the court takes jurisdiction  
11 under clause (i), the court shall appoint  
12 the Commission, or a person designated by  
13 the Commission, as trustee with power to  
14 take possession and continue to operate or  
15 terminate the operations of the fixed-value  
16 digital commodity operator in an orderly  
17 manner for the protection of participants,  
18 subject to such terms and conditions as the  
19 court may prescribe.

20 “(c) DUTIES OF A REGISTERED FIXED-VALUE DIG-  
21 ITAL COMMODITY OPERATOR.—A registered fixed-value  
22 digital commodity operator shall comply, in such manner  
23 as the Commission shall by rule or order determine, with  
24 the following requirements:

1           “(1) DISCLOSURE OF GENERAL INFORMA-  
2           TION.—For each fixed-value digital commodity it op-  
3           erates, such an operator shall—

4                   “(A) disclose to the Commission informa-  
5           tion concerning—

6                           “(i) the terms and conditions of the  
7                           fixed-value digital commodity transactions;

8                           “(ii) the fixed-value digital commodity  
9                           operations, mechanisms, and practices;

10                          “(iii) the process for the issuance and  
11                          redemption of units of the fixed-value dig-  
12                          ital commodity;

13                          “(iv) the financial integrity protec-  
14                          tions relating to the fixed-value digital  
15                          commodity; and

16                          “(v) other information relevant to  
17                          transacting in the fixed-value digital com-  
18                          modity; and

19                          “(B) continue to submit to the Commission  
20           reports that contain such information per-  
21           taining to the business of the operator as the  
22           Commission may require.

23           “(2) PUBLICLY AVAILABLE INFORMATION.—  
24           For each fixed-value digital commodity it operates,



1 such an operator shall make available to the public,  
2 information concerning—

3 “(A) the fixed-value digital commodity op-  
4 erations, mechanisms, and practices;

5 “(B) the process for the issuance and re-  
6 demption of the units of the fixed-value digital  
7 commodity;

8 “(C) information about the material risks  
9 and characteristics of the fixed-value digital  
10 commodity;

11 “(D) the total value of the outstanding  
12 units of the fixed-value digital commodity;

13 “(E) the total value of funds and other  
14 property held by the operator for redemption;

15 “(F) any material incentives or conflicts of  
16 interest that the operator may have in connec-  
17 tion with the fixed-value digital commodity; and

18 “(G) any other information the Commis-  
19 sion determines is relevant to the public’s un-  
20 derstanding of the operation of the fixed-value  
21 digital commodity.

22 “(3) RECORD OF ASSETS AND LIABILITIES.—

23 For each fixed-value digital commodity it operates,  
24 such an operator shall maintain daily redemption  
25 fund records reflecting the total amount of funds or

1 property held by the operator for redemption and  
2 the total value of outstanding redeemable units of  
3 the fixed-value digital commodity.

4 “(4) ABILITY TO OBTAIN INFORMATION.—Such  
5 an operator shall—

6 “(A) establish and enforce internal systems  
7 and procedures to obtain any necessary infor-  
8 mation to perform any of the functions de-  
9 scribed in this section; and

10 “(B) provide the information to the Com-  
11 mission, as applicable, on request.

12 “(5) CONFLICTS OF INTEREST.—Such an oper-  
13 ator shall implement conflict-of-interest systems and  
14 procedures that address such issues as the Commis-  
15 sion determines to be appropriate.

16 “(6) RISK MANAGEMENT PROCEDURES.—Such  
17 an operator shall establish robust and professional  
18 risk management systems adequate for managing  
19 the day-to-day business of the operator.

20 “(7) REPORTING AND RECORDKEEPING.—Such  
21 an operator shall—

22 “(A) make such reports as are required by  
23 the Commission by rule or regulation regarding  
24 the issuance and redemption transactions, and

1 positions and financial condition of the reg-  
2 istered fixed-value digital commodity operator;

3 “(B) keep books and records in such form  
4 and manner and for such period as may be pre-  
5 scribed by the Commission by rule or regula-  
6 tion; and

7 “(C) keep the books and records referred  
8 to in subparagraph (B) open to inspection and  
9 examination by any representative of the Com-  
10 mission.

11 “(8) BUSINESS CONDUCT STANDARDS.—Such  
12 an operator shall conform with such business con-  
13 duct standards as the Commission may prescribe, re-  
14 lated to—

15 “(A) fraud, manipulation, and other abu-  
16 sive practices involving the issuance and re-  
17 demption of any unit of the fixed-value digital  
18 commodity;

19 “(B) diligent supervision of the business of  
20 the operator;

21 “(C) communicating with the public in a  
22 fair and balanced manner based on principles of  
23 fair dealing and good faith; and

24 “(D) such other standards and require-  
25 ments as the Commission may determine are

1 appropriate in the public interest, for the pro-  
2 tection of participants in the fixed-value digital  
3 commodity, or otherwise in furtherance of the  
4 purposes of this section.

5 “(9) REQUIREMENTS FOR ISSUANCE AND RE-  
6 DEMPTION TRANSACTION RECORDS.—

7 “(A) IN GENERAL.—For each fixed-value  
8 digital commodity it operates, such an operator  
9 shall maintain daily transaction records of the  
10 units of the fixed-value digital commodity  
11 issued or redeemed by the operator for such pe-  
12 riod as may be required by the Commission by  
13 rule or regulation.

14 “(B) COUNTERPARTY RECORDS.—For each  
15 fixed-value digital commodity it operates, such  
16 an operator shall maintain daily transaction  
17 records for each counterparty to an issuance or  
18 redemption transaction in a manner and form  
19 that is identifiable with each fixed-value digital  
20 commodity transaction.

21 “(C) AUDIT TRAIL.—For each fixed-value  
22 digital commodity it operates, such an operator  
23 shall maintain a complete audit trail for con-  
24 ducting comprehensive and accurate issuance  
25 and redemption transaction reconstructions.

1           “(D) INFORMATION REQUIREMENTS.—

2           Such a daily transaction record shall include  
3           such information as the Commission shall re-  
4           quire by rule or regulation.

5           “(d) FUNDS HELD FOR REDEMPTION.—

6           “(1) AMOUNT OF FUNDS.—For each fixed-value  
7           digital commodity it operates, a registered fixed-  
8           value digital commodity operator shall maintain  
9           funds or other property equal to the total value of  
10          any outstanding redeemable fixed-value digital com-  
11          modities issued by the operator, as determined in ac-  
12          cordance with such requirements and limitations on  
13          valuation as the Commission shall, by rule, pre-  
14          scribe.

15          “(2) SEGREGATION REQUIREMENTS.—

16          “(A) FUNDS HELD FOR REDEMPTION.—

17          For each fixed-value digital commodity it oper-  
18          ates, a registered fixed-value digital commodity  
19          operator shall—

20                  “(i) segregate the funds or other  
21                  property held for redemption; and

22                  “(ii) in accordance with such rules  
23                  and regulations as the Commission may  
24                  promulgate, maintain the funds or other  
25                  property in a segregated account separate

1 from the assets and other interests of the  
2 operator.

3 “(B) APPLICABILITY.—Subparagraph (A)  
4 shall not preclude any commercial arrangement  
5 regarding the investment of segregated funds or  
6 other property that may only be invested in  
7 such investments as the Commission may per-  
8 mit by rule or regulation.

9 “(C) CUSTODIANS.—The segregated ac-  
10 count referred to in subparagraph (A) shall be  
11 carried by a qualified digital commodity custo-  
12 dian for any digital commodity held for redemp-  
13 tion.

14 “(e) FINANCIAL RESOURCES.—

15 “(1) IN GENERAL.—A registered fixed-value  
16 digital commodity operator shall meet such min-  
17 imum capital requirements as the Commission shall  
18 by rule or regulation prescribe, pursuant to the  
19 standards in paragraph (2).

20 “(2) STANDARDS FOR CAPITAL REQUIRE-  
21 MENTS.—

22 “(A) The requirements imposed under  
23 paragraph (1) shall—

1 “(i) help ensure the safety and sound-  
2 ness of the fixed-value digital commodity  
3 operator;

4 “(ii) be appropriate for the risk asso-  
5 ciated with the funds for redemption held  
6 by such an operator; and

7 “(iii) be sufficient for the operator to  
8 comply with its plan for an orderly wind-  
9 down of its activities.

10 “(B) ADJUSTMENTS.—In setting capital  
11 requirements for a registered fixed-value digital  
12 commodity operator, the Commission shall take  
13 into account—

14 “(i) the risks associated with other ac-  
15 tivities conducted by the operator or affili-  
16 ated entity for activities not subject to reg-  
17 ulations providing for a minimum capital  
18 standard; and

19 “(ii) any other capital requirement  
20 imposed on the operator or affiliated entity  
21 for activities subject to regulations pro-  
22 viding for a minimum capital standard.

23 “(f) EXEMPTIONS.—In order to promote responsible  
24 economic or financial innovation and fair competition, or  
25 protect customers, the Commission may (on its own initia-

1 tive or on application of the registered fixed-value digital  
2 commodity operator) exempt, either unconditionally or on  
3 stated terms or conditions or for stated periods and either  
4 retroactively or prospectively, or both, a registered fixed-  
5 value digital commodity operator from the requirements  
6 of this section, if the Commission determines that—

7           “(1) the exemption would be consistent with the  
8 public interest and the purposes of this Act; and

9           “(2) the exemption will not have a material ad-  
10 verse effect on the ability of the Commission or the  
11 operator to discharge any duty of the Commission or  
12 the operator, respectively, under this Act.

13           “(g) RULEMAKING.—

14           “(1) IN GENERAL.—The Commission shall  
15 adopt rules for registered fixed-value digital com-  
16modity operators and to effectuate the requirements  
17 of this section.

18           “(2) PROHIBITION ON THE COLLECTION OF  
19 CERTAIN INFORMATION.—This section shall not be  
20 construed to—

21           “(A) require a registered fixed-value digital  
22 commodity operator to solicit, collect, maintain,  
23 report, or otherwise make available to the Com-  
24 mission, any other State or Federal agency, or  
25 any foreign authority, any record or informa-



1           tion relating to any person, counterparty,  
2           amount, or account utilizing a unit of the fixed-  
3           value digital commodity in a transaction which  
4           does not involve the issuance or redemption of  
5           a unit of the fixed-value digital commodity, or  
6           to cause any other person to do the same; or

7           “(B) permit the Commission to require  
8           such an operator to solicit, collect, maintain, re-  
9           port, or otherwise make available to the Com-  
10          mission, any other State or Federal agency, or  
11          any foreign authority, any record or informa-  
12          tion relating to any person, counterparty,  
13          amount, or account utilizing a unit of the fixed-  
14          value digital commodity in a transaction which  
15          does not involve the issuance or redemption of  
16          a unit of the fixed-value digital commodity, or  
17          to cause any other person to do the same.”.

18           (i) VOLUNTARY REGISTRATION AND DISCLOSURES  
19 BY DIGITAL COMMODITY DEVELOPERS.—

20           (1) DEFINITION.—Section 1a of the Commodity  
21 Exchange Act (7 U.S.C. 1a) is further amended by  
22 adding at the end the following:

23           “(58) DIGITAL COMMODITY DEVELOPER.—The  
24 term ‘digital commodity developer’ means a person  
25 who creates or develops a digital commodity.”.

1           (2) REGISTRATION AND DISCLOSURES.—The  
2           Commodity Exchange Act (7 U.S.C. 1 et seq.), as  
3           amended by subsection (f)(2) of this section, is fur-  
4           ther amended by inserting after section 4t the fol-  
5           lowing:

6           **“SEC. 4v. REGISTRATION AND DISCLOSURES BY DIGITAL**  
7                                   **COMMODITY DEVELOPERS.**

8           “(a) REGISTRATION.—Any person may register with  
9           the Commission as a digital commodity developer by filing  
10          a registration application with the Commission.

11          “(b) REQUIREMENTS.—

12               “(1) IN GENERAL.—The application shall be  
13               made in such form and manner as prescribed by the  
14               Commission, and shall contain such information, as  
15               the Commission determines by rule is necessary to  
16               effectuate the purposes of this Act.

17               “(2) MEMBERSHIP.—Any person registered as  
18               a digital commodity developer shall be a member of  
19               a registered futures association for the duration of  
20               the registration.

21               “(3) EXPIRATION.—Each registration under  
22               this section shall expire—

23                       “(A) when the applicant withdraws from  
24                       registration;

1           “(B) when the applicant fails to comply  
2 with the requirements of this section; or

3           “(C) at such other time as the Commission  
4 may prescribe by rule or regulation.

5       “(c) DISCLOSURES.—For each digital commodity, a  
6 registered digital commodity developer shall submit to the  
7 Commission or its designee, and maintain on a publicly  
8 available website, in such form and manner as prescribed  
9 by the Commission, the following:

10           “(1) INITIAL DISCLOSURES.—

11           “(A) PROJECT DISCLOSURES.—A general  
12 description of the digital commodity, includ-  
13 ing—

14           “(i) its purpose and use;

15           “(ii) its unit creation or release proc-  
16 ess;

17           “(iii) its consensus mechanism;

18           “(iv) its governance structure;

19           “(v) its participation and distribution;

20           “(vi) its current and proposed  
21 functionality; and

22           “(vii) any other such information the  
23 Commission determines will effectuate the  
24 purposes of this Act.

1           “(B) DEVELOPMENT DISCLOSURES.—A  
2 list of all individuals who are—

3           “(i) participants in a related digital  
4 commodity presale;

5           “(ii) holders of units of the digital  
6 commodity subject to the limitations in  
7 section 4c(h);

8           “(iii) holders of rights or promises to  
9 future units of the digital commodity; or

10           “(iv) compensated in any fashion for  
11 providing material support for the develop-  
12 ment of the digital commodity.

13           “(C) TECHNICAL DISCLOSURES.—Tech-  
14 nical documentation related to the digital com-  
15 modity, including any—

16           “(i) whitepaper;

17           “(ii) source code;

18           “(iii) development guide; or

19           “(iv) other similar material.

20           “(2) PERIODIC DISCLOSURES.—The digital  
21 commodity developer shall periodically update the  
22 disclosures made pursuant to subsection (c)(1), at  
23 such frequency as prescribed by the Commission.

24           “(3) POST-FILING DIGITAL COMMODITY SALE  
25 DISCLOSURES.—

1           “(A) IN GENERAL.—The digital commodity  
2           developer shall publicly disclose the sale or  
3           transfer of any unit, or any promise or right to  
4           any future unit, of the digital commodity, that  
5           is subject to the restrictions in section 4c(h).

6           “(B) CONTENTS.—Each disclosure re-  
7           quired under subparagraph (A) shall include  
8           the date of sale, number of digital commodities  
9           sold, number of purchasers if identifiable, any  
10          limitations or restrictions on the transferability  
11          of the digital commodities sold, price per digital  
12          commodity, and the type and amount of consid-  
13          eration received.

14          “(4) SUBSTITUTE DISCLOSURES.—The Com-  
15          mission may exempt, conditionally or uncondition-  
16          ally, a digital commodity developer from the disclo-  
17          sure requirements under this section if the Commis-  
18          sion determines that the digital commodity developer  
19          complies with the comparable disclosure require-  
20          ments of another federal regulator.

21          “(d) NO REQUIREMENT TO REGISTER.—The creator  
22          or developer of a digital commodity shall not be required  
23          to be registered under this section in order for a digital  
24          commodity created or developed by the creator or devel-

- 1 oper to be listed for trading on a registered digital com-
- 2 modity exchange.”.

○