

1 Title: To provide for responsible financial innovation and to bring digital assets within the
2 regulatory perimeter.

3
4 Be it enacted by the Senate and House of Representatives of the United States of America in
5 Congress assembled,

6 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

7 (a) Short Title.—This Act may be cited as the “Lummis-Gillibrand Responsible Financial
8 Innovation Act”.

9 (b) Table of Contents.—The table of contents for this Act is as follows:

10 Sec.1.Short title; table of contents.

11 Sec.2.Definitions.

12 TITLE I—DEFINITIONS

13 Sec.101.Definitions.

14 TITLE II—RESPONSIBLE TAXATION OF DIGITAL 15 ASSETS

16 Sec.201.Gain or loss from disposition of virtual currency.

17 Sec.202.Information reporting requirements imposed on brokers with respect to digital assets.

18 Sec.203.Sources of income.

19 Sec.204.Decentralized autonomous organizations.

20 Sec.205.Tax treatment of digital asset lending agreements and related matters.

21 Sec.206.Implementing effective IRS guidance.

22 Sec.207.Analysis of retirement investing in digital assets.

23 Sec.208.Digital asset mining and staking.

24 Sec.209.Conforming amendments.

25 TITLE III—RESPONSIBLE SECURITIES INNOVATION

26 Sec.301.Securities offerings involving certain intangible assets.

27 Sec.302.Termination of specified periodic disclosure requirements.

28 Sec.303.Guidance relating to satisfactory control location.

29 Sec.304.Custody and customer protection rules.

30 TITLE IV—RESPONSIBLE COMMODITIES INNOVATION

31 Sec.401.Definitions.

32 Sec.402.Reporting and recordkeeping; standards and examinations.

1 Sec.403.CFTC jurisdiction over digital asset transactions.

2 Sec.404.Registration of digital asset exchanges.

3 Sec.405.Violations.

4 Sec.406.Market reports.

5 Sec.407.Bankruptcy treatment of digital assets.

6 Sec.408.Identified banking products.

7 Sec.409.Financial institutions definition.

8 Sec.410.Offsetting the costs of digital asset regulation.

9 TITLE V—RESPONSIBLE CONSUMER PROTECTION

10 Sec.501.Responsible consumer protection.

11 Sec.502.Source code version of digital assets.

12 Sec.503.Settlement finality.

13 Sec.504.Notice to customers; enforcement.

14 Sec.505.Right to individual management of digital assets.

15 Sec.506.Technical and conforming amendments.

16 TITLE VI—RESPONSIBLE PAYMENTS INNOVATION

17 Sec.601.Issuance of payment stablecoins.

18 Sec.602.Sanctions compliance responsibilities of payment stablecoin issuers.

19 Sec.603.Use of the official digital currency of the People’s Republic of China on government
20 devices.

21 Sec.604.Certificate of authority to commence banking.

22 Sec.605.Holding company supervision of covered depository institutions.

23 Sec.606.Implementation rules to preserve adequate competition in payment stablecoins.

24 Sec.607.Financial Crimes Enforcement Network Innovation Laboratory.

25 TITLE VII—RESPONSIBLE BANKING INNOVATION

26 Sec.701.Study on use of distributed ledger technology for reduction of risk in depository
27 institutions.

28 Sec.702.Eligibility for Federal Reserve services to depository institutions.

29 Sec.703.Routing transit number issuance.

30 Sec.704.Clarifying application review times with respect to the Federal banking agencies.

31 Sec.705.Examination standards for digital asset activities.

32 Sec.706.Asset custody for depository institutions and certain other entities.

1 Sec.707.Reputation risk; requirements for account termination requests and orders.

2 Sec.708.Conforming amendments.

3 TITLE VIII—RESPONSIBLE INTERAGENCY 4 COORDINATION

5 Sec.801.Timeline for interpretive guidance issued by Federal financial agencies.

6 Sec.802.Interstate sandbox activities.

7 Sec.803.State money transmission coordination relating to digital assets.

8 Sec.804.Information sharing among federal and state financial regulators.

9 Sec.805.Analysis of decentralized finance markets and technologies.

10 Sec.806.Analysis of energy consumption in digital asset markets.

11 Sec.807.Analysis of self-regulatory organizations for digital assets.

12 Sec.808.Cybersecurity standards for digital asset intermediaries.

13 Sec.809.Advisory committee on financial innovation.

14 SEC. 2. DEFINITIONS.

15 In this Act:

16 (1) COMMODITY.—The term “commodity” has the meaning given the term in section 1a
17 of the Commodity Exchange Act (7 U.S.C. 1a).

18 (2) DIGITAL ASSET; DIGITAL ASSET INTERMEDIARY; DISTRIBUTED LEDGER TECHNOLOGY;
19 PAYMENT STABLECOIN; SMART CONTRACT; VIRTUAL CURRENCY.—The terms “digital asset”,
20 “digital asset intermediary”, “distributed ledger technology”, “payment stablecoin”, “smart
21 contract”, and “virtual currency” have the meanings given the terms in section 9801 of title
22 31, United States Code, as added by section 101 of this Act.

23 (3) SECURITY.—Except as otherwise expressly provided, the term “security” has the
24 meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C.
25 78c(a)).

26 TITLE I—DEFINITIONS

27 SEC. 101. DEFINITIONS.

28 (a) In General.—Subtitle VI of title 31, United States Code, is amended by adding after
29 chapter 97 the following:

30 “CHAPTER 98—DIGITAL ASSETS

31 “Sec.

32 “9801. Definitions.

33 “9801. Definitions

1 “In this chapter:

2 “(1) DEPOSITORY INSTITUTION.—The term ‘depository institution’ has the meaning given
3 the term in section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)).

4 “(2) DIGITAL ASSET.—The term ‘digital asset’—

5 “(A) means a natively electronic asset that—

6 “(i) confers economic, proprietary, or access rights or powers; and

7 “(ii) is recorded using cryptographically secured distributed ledger technology,
8 or any similar analogue; and

9 “(B) includes:

10 “(i) virtual currency and ancillary assets, consistent with section 2(c)(2)(F) of
11 the Commodity Exchange Act;

12 “(ii) payment stablecoins, consistent with section 403 of the Legal Certainty
13 for Bank Products Act of 2000 (7 U.S.C. 27a); and

14 “(iii) other securities and commodities, subject to subparagraph (A).

15 “(3) DIGITAL ASSET INTERMEDIARY.—The term ‘digital asset intermediary’—

16 “(A) means a person who holds a license, registration, or other similar authorization,
17 as specified by this chapter, the Commodity Exchange Act (7 U.S.C. 1 et seq.), the
18 Securities Act of 1933 (15 U.S.C. 77a et seq.), the Corporation of Foreign Bondholders
19 Act, 1933 (15 U.S.C. 77bb et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa
20 et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Securities
21 Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), the Investment Company
22 Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C.
23 80b–1), and the Omnibus Small Business Capital Formation Act of 1980 (15 U.S.C.
24 80c), that may conduct market activities relating in digital assets, or a person who is
25 required by law to hold such a license, registration or other similar authorization; and

26 “(B) includes a person who holds a license, registration, or other similar
27 authorization under State or Federal law that issues a payment stablecoin, or person
28 who is required by law to hold such a license, registration or other similar
29 authorization; and

30 “(C) does not include a depository institution.

31 “(4) DISTRIBUTED LEDGER TECHNOLOGY.—The term ‘distributed ledger technology’
32 means technology that enables the operation and use of a ledger that—

33 “(A) is shared across a set of distributed nodes that participate in a network and store
34 a complete or partial replica of the ledger;

35 “(B) is synchronized between the nodes;

36 “(C) has data appended to the ledger by following the specified consensus
37 mechanism of the ledger;

38 “(D) may be accessible to anyone or restricted to a subset of participants; and

1 “(E) may require participants to have authorization to perform certain actions or
2 require no authorization.

3 “(5) PAYMENT STABLECOIN.—The term ‘payment stablecoin’ means a digital asset that
4 is—

5 “(A) redeemable, on demand, on a one-to-one basis for instruments denominated in
6 United States dollars and defined as legal tender under section 5103 or for instruments
7 defined as legal tender under the laws of a foreign country (excluding digital assets
8 defined as legal tender under the laws of a foreign country);

9 “(B) issued by a business entity;

10 “(C) accompanied by a statement from the issuer that the asset is redeemable as
11 specified in subparagraph (A) from the issuer or another identified person;

12 “(D) backed by 1 or more financial assets (excluding other digital assets), consistent
13 with subparagraph (A); and

14 “(E) intended to be used as a medium of exchange.

15 “(6) PERSON WHO PROVIDES DIGITAL ASSET SERVICES.—The term ‘person who provides
16 digital asset services’ means—

17 “(A) a digital asset intermediary;

18 “(B) a financial institution, as defined in section 1a of the Commodity Exchange Act
19 (7 U.S.C. 1a); and

20 “(C) any other person conducting digital asset activities pursuant to a Federal or
21 State charter, license, registration, or other similar authorization, or a person who is
22 required by law to hold such a license, registration or other similar authorization.

23 “(7) SECURITY.—The term ‘security’ has the meaning given the term in section 3(a) of
24 the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

25 “(8) SMART CONTRACT.—The term ‘smart contract’—

26 “(A) means—

27 “(i) computer code deployed to a distributed ledger technology network that
28 executes an instruction based on the occurrence or nonoccurrence of specified
29 conditions; or

30 “(ii) any similar analogue; and

31 “(B) may include taking possession or control of a digital asset and transferring the
32 asset or issuing executable instructions for these actions.

33 “(9) SOURCE CODE VERSION.—The term ‘source code version’—

34 “(A) means the source code version comprising a digital asset; and

35 “(B) does not include software used to manage or facilitate transactions in a digital
36 asset.

37 “(10) VIRTUAL CURRENCY.—The term ‘virtual currency’—

1 “(A) means a digital asset that—

2 “(i) is used primarily as a medium of exchange, unit of account, store of value,
3 or any combination of such functions;

4 “(ii) is not legal tender, as described in section 5103; and

5 “(iii) does not derive value from or is backed by an underlying financial asset
6 (except other digital assets); and

7 “(B) includes a digital asset, consistent with subparagraph (A) that is accompanied
8 by a statement from the issuer that a denominated or pegged value will be maintained
9 and be available upon redemption from the issuer or other identified person, based
10 solely on a smart contract.”.

11 (b) Technical and Conforming Amendment.—The table of contents for subtitle VI of title 31,
12 United States Code, is amended by adding at the end the following:

13 “98.Digital assets
14 9801”.

15 TITLE II—RESPONSIBLE TAXATION OF DIGITAL 16 ASSETS

17 SEC. 201. GAIN OR LOSS FROM DISPOSITION OF 18 VIRTUAL CURRENCY.

19 (a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is
20 amended by inserting after section 139I the following new section:

21 “SEC. 139J. GAIN OR LOSS FROM DISPOSITION OF 22 VIRTUAL CURRENCY.

23 “(a) In General.—Gross income shall not include gain or loss from the disposition of virtual
24 currency in a personal transaction (as such term is defined in section 988(e)) for the purchase of
25 goods or services.

26 “(b) Limitation.—

27 “(1) IN GENERAL.—The amount of gain or loss excluded from gross income under
28 subsection (a) with respect to a disposition shall not exceed \$200.

29 “(2) AGGREGATION RULE.—For purposes of this subsection, all dispositions which are
30 part of the same transaction (or a series of related transactions) shall be treated as one
31 disposition.

32 “(3) OTHER DISPOSITIONS.—For purposes of this subsection, subsection (a) shall not
33 include dispositions in which virtual currency is sold or exchanged for cash, cash equivalents,
34 digital assets (as defined in section 9801, title 31, United States Code), or other securities or
35 commodities.

1 “(c) Virtual Currency.—For purposes of this section, the term ‘virtual currency’ means as
2 defined in section 9801, title 31, United States Code.

3 “(d) Inflation Adjustment.—In the case of any taxable year beginning in a calendar year after
4 2023, the dollar amount in subsection (b) shall be increased by an amount equal to—

5 “(1) such dollar amount, multiplied by

6 “(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year
7 in which the taxable year begins, determined by substituting ‘calendar year 2023’ for ‘calendar
8 year 1992’ in subparagraph (B) thereof. Any increase determined under the preceding sentence
9 shall be rounded to the nearest multiple of \$50.”.

10 (b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 of
11 the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 139I
12 the following new item:

13 “Sec.139J. Gain or loss from disposition of virtual currency.”.

14 (c) Reporting of Gains or Losses.—The Secretary shall issue regulations providing for
15 information returns on virtual currency transactions for which gain or loss is recognized.

16 (d) Effective Date.—The amendments made by this section shall apply with respect to
17 transactions entered into after December 31, 2022.

18 SEC. 202. INFORMATION REPORTING REQUIREMENTS 19 IMPOSED ON BROKERS WITH RESPECT TO DIGITAL 20 ASSETS.

21 (a) Clarification of Definition of Broker.—Section 6045(c)(1)(D) of the Internal Revenue
22 Code of 1986 is amended to read as follows:

23 “(D) any person who (for consideration) stands ready in the ordinary course of a
24 trade or business to effect sales of digital assets at the direction of their customers.”.

25 (b) Reporting of Digital Assets.—

26 (1) BROKERS.—

27 (A) DEFINITION OF DIGITAL ASSET.—Section 6045(g)(3)(D) of the Internal Revenue
28 Code of 1986 is amended to read as follows:

29 “(D) DIGITAL ASSET.— The term ‘digital asset’ has the meaning given such term in
30 section 9801 of title 31, United States Code.

31 (B) APPLICABLE DATE.—Section 6045(g)(3)(C)(iii) of such Code is amended to read
32 as follows:

33 “(iii) January 1, 2025, in the case of any specified security which is a digital
34 asset, and”.

35 (2) FURNISHING OF INFORMATION.—Section 6045A(d) of such Code is amended to read
36 as follows:

1 “(d) Return Requirement for Certain Transfers of Digital Assets Not Otherwise Subject to
2 Reporting.—Any broker, with respect to any transfer (which is not part of a sale or exchange
3 executed by such broker) during a calendar year of a covered security which is a digital asset
4 from an account wholly controlled and maintained by such broker to an account which is not
5 maintained by, or an address not associated with, a person that such broker knows or has reason
6 to know is also a broker, shall make a return for such calendar year, in such form as determined
7 by the Secretary, showing the information otherwise required to be furnished with respect to
8 transfers subject to subsection (a). Information reported by brokers under this section shall be
9 limited to customer information that is voluntarily provided by the customer and held by the
10 broker for a legitimate business purpose.”.

11 (c) Effective Dates.—The amendments made by this section shall apply to returns required to
12 be filed and statements required to be furnished after December 31, 2025.

13 SEC. 203. SOURCES OF INCOME.

14 (a) In General.—Paragraph (2) of section 864(b) of the Internal Revenue Code of 1986 is
15 amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after
16 subparagraph (B) the following new subparagraph:

17 “(C) DIGITAL ASSETS.—

18 “(i) IN GENERAL.—Trading in digital assets through a resident broker,
19 commission agent, custodian, digital asset exchange, or other independent agent.

20 “(ii) TRADING FOR TAXPAYER’S OWN ACCOUNT.—Trading in digital assets for
21 the taxpayer’s own account, whether by the taxpayer or the taxpayer’s employees
22 or through a resident broker, commission agent, custodian, digital asset exchange,
23 or other agent, and whether or not any such employee or agent has discretionary
24 authority to make decisions in effecting the transactions. This clause shall not
25 apply in the case of a dealer in digital assets.

26 “(iii) DEFINITIONS.—For purposes of this subparagraph—

27 “(I) DIGITAL ASSET EXCHANGE.—The term ‘digital asset exchange’ means
28 a centralized or decentralized platform which facilitates the transfer of digital
29 assets.

30 “(II) DIGITAL ASSET.—The term ‘digital asset’ has the meaning given such
31 term in section 9801 of title 31, United States Code.

32 “(iv) LIMITATION.—This subparagraph shall apply only if the digital assets are
33 of a kind customarily dealt in on a digital asset exchange and if the transaction is
34 of a kind customarily consummated at such exchange.”.

35 (b) Conforming Amendment.—Subparagraph (D) of section 864(b)(2) of the Internal Revenue
36 Code of 1986, as redesignated by subsection (a), is amended by striking “(A)(i) and (B)(i)” and
37 inserting “(A)(i), (B)(i), and (C)(i)”.

38 (c) Effective Date.—The amendments made by this section shall apply to sales and exchanges
39 after December 31, 2022.

40

1 SEC. 204. DECENTRALIZED AUTONOMOUS 2 ORGANIZATIONS.

3 (a) In General.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding
4 at the end the following new paragraph:

5 “(51) DECENTRALIZED AUTONOMOUS ORGANIZATIONS.—

6 “(A) IN GENERAL.—For purposes of this title, the default classification of a
7 decentralized autonomous organization shall be as a business entity which is not a
8 disregarded entity.

9 “(B) CLASSIFICATION OF OTHER ACTIVITIES.—The following shall not be considered
10 a business activity of such organization for purposes of determining whether such
11 organization is described in section 501(c)(7):

12 “(i) Treasury management, including mining and staking of digital assets (as
13 defined in section 9801 of title 31, United States Code).

14 “(ii) Raising funds for a charitable purpose.

15 “(C) DECENTRALIZED AUTONOMOUS ORGANIZATION.—The term ‘decentralized
16 autonomous organization’ means an organization—

17 “(i) which utilizes smart contracts (as defined in section 9801 of title 31, United
18 States Code) to effectuate collective action for a business, commercial, charitable,
19 or similar entity,

20 “(ii) governance of which is achieved primarily on a distributed basis, and

21 “(iii) which is properly incorporated or organized under the laws of a State or
22 foreign jurisdiction as a decentralized autonomous organization, cooperative,
23 foundation or any similar entity.”

24 (b) Effective Date.—Except as provided by subsection (c), the amendments made by this
25 section shall apply to taxable years beginning after December 31, 2022.

26 SEC. 205. TAX TREATMENT OF DIGITAL ASSET 27 LENDING AGREEMENTS AND RELATED MATTERS.

28 (a) In General.—Subsection (a) of section 1058 of the Internal Revenue Code of 1986 is
29 amended by striking “(as defined in section 1236(c))”.

30 (b) Fixed Term.—Paragraph (1) of subsection (b) of section 1058 of the Internal Revenue
31 Code of 1986 is amended by inserting “, including a fixed-term transfer that occurs in the
32 ordinary course of a securities lending or investment management business” after “subsection
33 (b).”.

34 (c) Basis.—Subsection (c) of section 1058 of the Internal Revenue Code of 1986 is amended
35 by adding at the end the following: “All appropriate basis adjustments to an agreement under
36 subsection (b) shall be made, as determined by the Secretary, including upon the return of the
37 lent securities to the taxpayer.”.

38 (d) Securities.—Section 1058 of the Internal Revenue Code of 1986 is amended by adding at

1 the end the following new subsections:

2 “(d) Securities.—For purposes of this section, the term ‘securities’ has the meaning given such
3 term by section 1236(c), except that such term includes any digital asset (as defined in section
4 9801 of title 31, United States Code) and, with respect to a digital asset, does not require a call
5 option.

6 “(e) Income.—An amount equal to the income which would otherwise accrue to the lender but
7 for a lending transaction under this section shall be included in gross income of the lender.”.

8 (e) Rule of Construction.—Nothing in this section shall be construed to create any inference
9 with respect to the classification of any digital asset as security under the Securities Act of 1933
10 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

11 (f) Rulemaking Authority.—The Secretary of the Treasury (or the Secretary’s delegate) may
12 adopt rules to implement this section, including the application of this section to forks, airdrops,
13 and similar subsidiary value.

14 (g) Effective Date.—The amendments made by this section shall apply to sales and exchanges
15 after December 31, 2022.

16 SEC. 206. IMPLEMENTING EFFECTIVE IRS GUIDANCE.

17 (a) In General.—Not later than 1 year after the date of the enactment of this Act, the Secretary
18 of the Treasury (or the Secretary’s delegate) shall adopt guidance relating to the following:

19 (1) Classification of forks, airdrops, and similar subsidiary value as taxable, contingent
20 upon the affirmative claim and disposition of the subsidiary value by a taxpayer. Such
21 guidance shall also permit a taxpayer to provide notification through an annual return or
22 other appropriate means to the Internal Revenue Service relating to the claim and
23 disposition, or disclaimer of, subsidiary value.

24 (2) Merchant acceptance of digital assets and the tax treatment of payments and receipts,
25 consistent with the amendments made by section 80603 of the Infrastructure Investment and
26 Jobs Act, as amended by section 203.

27 (3) Treatment of digital asset mining and staking, including mining and staking rewards,
28 in which income is not realized until disposition of the assets produced or received in
29 connection with such activity, in accordance with section 451(l) of the Internal Revenue
30 Code of 1986 (as added by this Act).

31 (4) Allowance of charitable contributions of digital assets greater than \$5,000, and which
32 are traded on established financial markets, as readily valued property not requiring a
33 qualified appraisal for purposes of section 170(f)(11)(A) of the Internal Revenue Code of
34 1986, as amended by this Act.

35 (5) Characterization of payment stablecoins (as defined in section 9801 of title 31, United
36 States Code) as indebtedness.

37 (b) Effective Date.—The guidance adopted under this section shall be applicable on a
38 prospective basis for taxable years beginning after December 31, 2023.

39

1 SEC. 207. ANALYSIS OF RETIREMENT INVESTING IN 2 DIGITAL ASSETS.

3 (a) Not later than March 1, 2023, the Comptroller General of the United States shall
4 conduct a study and provide a report to the entities specified by subsection (b) regarding the
5 following issues relating to retirement investing in digital assets:

6 (i) Potential benefits to diversification and return of the retirement portfolio
7 of an investor;

8 (ii) Appropriate asset allocations, including amongst other alternative
9 investments;

10 (iii) Consumer education, financial literacy and investment adviser training
11 relating to digital assets;

12 (iv) Risk;

13 (v) Legal and operational barriers to effective retirement investing in digital
14 assets; and

15 (vi) Any other topic determined to be material by the Comptroller General
16 relating to retirement investing in digital assets.

17 (b) The Comptroller General shall provide the report specified by subsection (a) of
18 this section to the following:

19 (i) The Committee on Banking, Housing and Urban Affairs of the Senate;

20 (ii) The Committee on Finance of the Senate;

21 (iii) The Committee on Health, Labor and Pensions of the Senate;

22 (iv) The Committee on Financial Services of the House of Representatives;

23 (v) The Committee on Ways and Means of the House of Representatives;

24 (vi) The Committee on Education and Labor of the House of Representatives;

25 (vii) The Secretary of the Treasury; and

26 (viii) The Secretary of Labor.

27 SEC. 208. DIGITAL ASSET MINING AND STAKING.

28 (a) Internal Revenue Code of 1986—

29 (1) TAXABLE YEAR OF INCLUSION.—Section 451 of the Internal Revenue Code of 1986 is
30 amended by adding at the end the following new subsection:

31 “(l) Deferral of Income Recognition for Digital Asset Activities.—In the case of a taxpayer
32 who conducts digital asset mining or staking activities, the amount of income relating to such
33 activities shall not be included in the gross income of the taxpayer until the taxable year of the
34 disposition of the assets produced or received in connection with the mining or staking
35 activities.”.

36

1 SEC. 209. CONFORMING AMENDMENTS.

2 (a) Conforming Amendments.--

3 (1) CHARITABLE CONTRIBUTIONS.—Subclause (I) of section 170(f)(11)(A)(ii) of the
4 Internal Revenue Code of 1986 is amended by inserting “, digital assets (as defined in
5 section 9801 of title 31, United States Code)” after “6050L(a)(2)(B)”.

6 (2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable
7 years beginning after December 31, 2022.

8 (b) Other Conforming Amendments.—

9 (1) IN GENERAL.—Title 31, United States Code, is amended—

10 (A) in section 5312(a)(2)—

11 (i) by redesignating subparagraphs (A) through (Z) as clauses (i) through
12 (xxvi), respectively;

13 (ii) in the matter preceding clause (i), as so designated, by striking “‘institution’
14 means—” and inserting “‘institution—

15 “(A) means—”;

16 (iii) in clause (xxvi), as so designated, by striking the period at the end and
17 inserting “; and”; and

18 (iv) by adding at the end the following:

19 “(B) does not include a decentralized autonomous organization, as defined in section
20 7701(a) of the Internal Revenue Code of 1986.”; and

21 (B) in section 5336(a)(11)(B)(2)—

22 (i) by redesignating clause (xxv) as clause (xxvi); and

23 (ii) by adding after clause (xxv) the following:

24 “(xxv) A decentralized autonomous organization, as defined in section 7701(a)
25 of the Internal Revenue Code of 1986; and”.

26 (2) ANTI-MONEY LAUNDERING ACT OF 2020.—Section 6110(a) of the Anti-Money
27 Laundering Act of 2020 (division F of Public Law 116–283) is amended by striking
28 paragraph (1) and inserting the following:

29 “(A) by redesignating clauses (xxv) and (xxvi) as clauses (xxvi) and (xxvii),
30 respectively, and adjust the margins accordingly; and

31 “(B) by inserting after clause (xxiv) the following:

32 “(Y) a person engaged in the trade of antiquities, including an advisor, consultant,
33 or any other person who engages as a business in the solicitation or the sale of
34 antiquities, subject to regulations prescribed by the Secretary;’.”.

35

36

1 TITLE III—RESPONSIBLE SECURITIES INNOVATION

2 SEC. 301. Securities offerings involving certain intangible
3 assets.

4 Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at
5 the end the following:

6 “SEC. 41. SECURITIES OFFERINGS INVOLVING
7 CERTAIN INTANGIBLE ASSETS.

8 “(a) Definitions.—In this section:

9 “(1) ANCILLARY ASSET.—

10 “(A) IN GENERAL.—The term ‘ancillary asset’ means an intangible, fungible asset
11 that is offered, sold, or otherwise provided to a person in connection with the purchase
12 and sale of a security through an arrangement or scheme that constitutes an investment
13 contract, as that term is used in section 2(a)(1) of the Securities Act of 1933 (15 U.S.C.
14 77b(a)(1)).

15 “(B) EXCLUSION.—The term ‘ancillary asset’ does not include an asset that provides
16 the holder of the asset with any of the following rights in a business entity:

17 “(i) A debt or equity interest in that entity.

18 “(ii) Liquidation rights with respect to that entity.

19 “(iii) An entitlement to an interest or dividend payment from that entity.

20 “(iv) A profit or revenue share in that entity derived solely from the
21 entrepreneurial or managerial efforts of others.

22 “(v) Any other financial interest in that entity.”

23 “(2) FOREIGN PRIVATE ISSUER.—The term ‘foreign private issuer’ means a foreign issuer,
24 other than a foreign government, except that the term does not include a foreign issuer that,
25 as of the last business day of the most recently completed fiscal quarter of the issuer,
26 satisfies the following conditions:

27 “(A) More than 50 percent of the outstanding voting securities of the issuer are
28 directly or indirectly owned by residents of the United States.

29 “(B) Any of the following:

30 “(i) The majority of the executive officers or directors of the issuer are citizens
31 or residents of the United States.

32 “(ii) More than 50 percent of the assets of the issuer are located in the United
33 States.

34 “(iii) The business of the issuer is principally administered in the United States.

35 “(b) Disclosure Requirements.—

1 “(1) INITIAL COMPLIANCE WITH SPECIFIED PERIODIC DISCLOSURE REQUIREMENTS.—
2 Subject to paragraphs (4) and (5), an issuer engaged in business in or affecting interstate
3 commerce, or that is organized outside of the United States and is not a foreign private
4 issuer, that offers, sells, or otherwise provides a security through an arrangement or scheme
5 that constitutes an investment contract, as that term is used in section 2(a)(1) of the
6 Securities Act of 1933 (15 U.S.C. 77b(a)(1)), and that provides or proposes to provide any
7 holder of the security with an ancillary asset, shall be subject to the periodic disclosure
8 requirements under subsection (c) for the 1-year period beginning on the date that is 180
9 days after the first date on which the security is offered, sold, or otherwise provided by the
10 issuer, if—

11 “(A) the average daily aggregate value of all ancillary assets offered, sold, or
12 otherwise provided by the issuer in relation to the offer, sale, or provision of the
13 security in all spot markets open to the public in the United States (based on the
14 knowledge of the issuer after due inquiry) is greater than \$5,000,000 for the 180-day
15 period immediately succeeding the date of that first offer, sale, or provision; and

16 “(B) during the 180-day period described in subparagraph (A), the issuer, or any
17 person owning not less than 10 percent of any class of equity securities of the issuer,
18 engaged in entrepreneurial or managerial efforts that primarily determined the value of
19 the ancillary asset.

20 “(2) ONGOING COMPLIANCE WITH SPECIFIED PERIODIC DISCLOSURE REQUIREMENTS.—
21 Subject to paragraphs (4) and (5), an issuer that is engaged in business in or affecting
22 interstate commerce, or that is organized outside of the United States and is not a foreign
23 private issuer, that offers, sells, or otherwise provides a security through an arrangement or
24 scheme that constitutes an investment contract, as that term is used in section 2(a)(1) of the
25 Securities Act of 1933 (15 U.S.C. 77b(a)(1)), and that provides the holder of the security
26 with an ancillary asset in connection with the acquisition of the security, shall be subject to
27 the periodic disclosure requirements under subsection (c) for a given fiscal year of that
28 issuer, if, in the immediately preceding fiscal year of the issuer (or any portion thereof)—

29 “(A) the average daily aggregate value of all trading in the ancillary asset in all spot
30 markets open to the public in the United States was greater than \$5,000,000, based on
31 the knowledge of the issuer after due inquiry; and

32 “(B) the issuer, or any person owning not less than 10 percent of any class of equity
33 securities of the issuer, engaged in entrepreneurial or managerial efforts that primarily
34 determined the value of the ancillary asset.

35 “(3) TRANSITION RULE.—Subject to paragraphs (4) and (5), an issuer that is engaged in
36 business in or affecting interstate commerce, or that is organized outside of the United
37 States and is not a foreign private issuer, that offers, sells, or otherwise provides a security
38 through an arrangement or scheme that constitutes an investment contract, as that term is
39 used in section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)), and that
40 provides the holder of the security with an ancillary asset before January 1, 2023, in
41 connection with the acquisition of the security shall be subject to the periodic disclosure
42 requirements under subsection (c) beginning in the first fiscal year of the issuer that begins
43 on or after that date, if, in the immediately preceding fiscal year of the issuer—

1 “(A) the average daily aggregate value of trading in the ancillary asset in all spot
2 markets open to the public for which trading volume is generally available was greater
3 than \$5,000,000, based on the knowledge of the issuer after due inquiry; and

4 “(B) the issuer, or any person owning not less than 10 percent of any class of equity
5 securities of the issuer, engaged in entrepreneurial or managerial efforts that primarily
6 determined the value of the ancillary asset.

7 “(4) TREATMENT OF ANCILLARY ASSETS.—

8 “(A) IN GENERAL.—Notwithstanding any other provision of law, if an issuer issues a
9 security through an arrangement or scheme that constitutes an investment contract, as
10 that term is used in section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)),
11 is subject to paragraph (1), (2), or (3), and is in compliance with the periodic disclosure
12 requirements under subsection (c), an ancillary asset provided directly or indirectly by
13 the issuer shall be presumed to be a commodity, consistent with section 2(c)(2)(F) of
14 the Commodity Exchange Act, and not to be a security under—

15 “(i) section 3(a);

16 “(ii) such section 2(a)(1);

17 “(iii) section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–
18 2(a));

19 “(iv) section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–
20 2(a)); or

21 “(v) any applicable provision of State law.

22 “(B) OTHER PERSONS.—A person who is not an issuer, an entity controlled by the
23 issuer (including a person that acquires an ancillary asset from such an issuer for the
24 purpose of resale or distribution of the ancillary asset), or a person acting at the
25 direction or on the behalf of such an issuer, shall be not required to treat an ancillary
26 asset provided by such an issuer as a security under this Act or any other provision of
27 law specified by subparagraph (A).

28 “(C) EXCEPTION.—Subparagraph (A) shall not apply if a court of the United States
29 of competent jurisdiction, after an appropriate proceeding, issues an order finding that
30 there is not a substantial basis for the presumption that an ancillary asset is a
31 commodity and not a security under subparagraph (A). This subparagraph shall not
32 preclude the Commission from entering into a settlement agreement relating to
33 violations or alleged violations of this section. Compliance with the provisions of this
34 section shall not be used in any administrative or judicial proceeding as evidence that
35 an ancillary asset is a security.

36 “(5) CALCULATION.—For the purposes of paragraphs (1), (2), and (3), the calculation of
37 daily aggregate value shall be based on data disclosed by spot markets or otherwise
38 available to the public for inspection.

39 “(c) Specified Periodic Disclosure Requirements.—If an issuer is subject to paragraph (1), (2),
40 or (3) of subsection (b), the issuer shall furnish, or cause the relevant affiliate to furnish, to the
41 Commission, on a semi-annual basis, information that the Commission may, by rule, require

1 relating to the issuer and any relevant ancillary asset, as necessary or appropriate in the public
2 interest or for the protection of investors, which shall be exclusively comprised of the following:

3 “(1) Basic corporate information regarding the issuer, including the following:

4 “(A) The experience of the issuer in developing assets similar to the ancillary asset.

5 “(B) If the issuer has previously provided ancillary assets to purchasers of securities,
6 information on the subsequent history of those previously provided ancillary assets,
7 including price history, if the information is publicly available.

8 “(C) The activities that the issuer has taken in the relevant disclosure period, and is
9 projecting to take in the 1-year period following the submission of the disclosure, with
10 respect to promoting the use, value, or resale of the ancillary asset (including any
11 activity to facilitate the creation or maintenance of a trading market for the ancillary
12 asset and any network or system that utilizes the ancillary asset).

13 “(D) The anticipated cost of the activities of the issuer in subparagraph (D) and
14 whether the issuer has unencumbered, liquid funds equal to that amount.

15 “(E) To the extent the ancillary asset involves the use of a particular technology, the
16 experience of the issuer with the use of that technology.

17 “(F) The backgrounds of the board of directors (or equivalent body), senior
18 management, and key employees of the issuer, the experience or functions of whom
19 are material to the value of the ancillary asset, as well as any personnel changes
20 relating to the issuer during the period covered by the disclosure.

21 “(G) A description of the assets and liabilities of the issuer, to the extent material to
22 the value of the ancillary asset.

23 “(H) A description of any legal proceedings in which the issuer is engaged
24 (including inquiries by governmental agencies into the activities of the issuer), to the
25 extent material to the value of the ancillary asset.

26 “(I) Risk factors relating to the impact of the issuer on, or unique knowledge relating
27 to, the value of the ancillary asset.

28 “(J) Information relating to ownership of the ancillary asset by—

29 “(i) persons owning not less than 10 percent of any class of equity security of
30 the issuer; and

31 “(ii) the management of the issuer.

32 “(K) Information relating to transactions involving the ancillary asset by the issuer
33 with related persons, promoters, and control persons.

34 “(L) Recent sales or similar dispositions of ancillary assets by the issuer and
35 affiliates of the issuer.

36 “(M) Purchases or similar dispositions of ancillary assets by the issuer and affiliates
37 of the issuer.

38 “(N) A going concern statement from the chief financial officer of the issuer or
39 equivalent official, signed under penalty of perjury, stating whether the issuer

1 maintains the financial resources to continue business as a going concern for the 1-year
2 period following the submission of the disclosure, absent a material change in
3 circumstances.

4 “(2) Information relating to the ancillary asset, including the following:

5 “(A) A general description of the ancillary asset, including the standard unit of
6 measure with respect to the ancillary asset, the intended or known functionality and
7 uses of the ancillary asset, the market for the ancillary asset, other assets or services
8 that may compete with the ancillary asset, and the total supply of the ancillary asset or
9 the manner and rate of the ongoing production or creation of the ancillary asset.

10 “(B) If ancillary assets have been offered, sold, or otherwise provided by the issuer
11 to investors, intermediaries, or resellers, a description of the amount of assets offered,
12 sold, or provided, the terms of each such transaction, and any contractual or other
13 restrictions on the resale of the assets by intermediaries.

14 “(C) If ancillary assets were distributed without charge, a description of each
15 distribution, including the identity of any recipient that received more than 5 percent of
16 the total amount of the ancillary assets in any such distribution.

17 “(D) The amount of ancillary assets owned by the issuer.

18 “(E) For the 1-year period following the submission of the disclosure, a description
19 of the plans of the issuer to support (or to cease supporting) the use or development of
20 the ancillary asset, including markets for the ancillary asset and each platform or
21 system that uses the ancillary asset.

22 “(F) Each third party not affiliated with the issuer, the activities of which may have a
23 material impact on the value of the ancillary asset.

24 “(G) Risk factors known to the issuer that may limit demand for, or interest in, the
25 ancillary asset.

26 “(H) The names and locations of the markets in which the ancillary asset is known
27 by the issuer to be available for sale or purchase.

28 “(I) To the extent available to the issuer, the average daily price for a constant unit
29 of value of the ancillary asset during the relevant reporting period, as well as the 12-
30 month high and low prices for the ancillary asset.

31 “(J) If applicable, information relating to any external audit of the code and
32 functionality of the ancillary asset, including the entity performing the audit and the
33 experience of the entity in conducting similar audits.

34 “(K) If applicable, any third-party valuation report or economic analysis regarding
35 the ancillary asset or the projected market of the ancillary asset, which shall include the
36 entity performing the valuation or analysis and the experience of the entity in
37 conducting similar reports or analyses.

38 “(L) Information relating to custody by the owner of the ancillary asset or a third
39 party.

40 “(M) Information on intellectual property rights claimed or disputed relating to the

1 ancillary asset.

2 “(N) A description of the technology underlying the ancillary asset.

3 “(O) Any material tax considerations applicable to owning, storing, using, or trading
4 the ancillary asset.

5 “(P) Any material legal or regulatory considerations applicable to owning, storing,
6 using, or trading the ancillary asset, including any legal proceeding that may impact
7 the value of the ancillary asset.

8 “(Q) Any other material factor or information that may impact the value of the
9 ancillary asset and about which the issuer is reasonably aware.

10 “(d) Application to Successor Entities and Certain Affiliates.—

11 “(1) IN GENERAL.—If an issuer would otherwise be subject to specified periodic
12 disclosure requirements under subsection (c) and is no longer in operation, any successor
13 entity that directly or indirectly received not less than 50 percent of the proceeds raised by
14 the sale of the related securities of that issuer, and that is engaged in entrepreneurial or
15 managerial efforts that primarily determine the value of the applicable ancillary asset, shall
16 furnish, or cause to be furnished, to the Commission the information required under that
17 subsection.

18 “(2) CERTAIN AFFILIATES.—If an entity controlled by the issuer is subject to specified
19 periodic disclosure requirements under subsection (c) is engaged in entrepreneurial or
20 managerial efforts that primarily determine the value of an ancillary asset, then such entity
21 may furnish to the Commission the information required under that subsection.

22 “(e) Voluntary Disclosure.—An issuer that is not subject to the specified periodic disclosure
23 requirements under subsection (c) and that offers or sells a security through an arrangement or
24 scheme that constitutes an investment contract, as that term is used in section 2(a)(1) of the
25 Securities Act of 1933 (15 U.S.C. 77b(a)(1)), and that provides the holder of that security with an
26 ancillary asset in connection with the acquisition of the security may voluntarily furnish to the
27 Commission the information required under that subsection if the issuer believes that it is
28 reasonably likely that the issuer will become subject to those requirements in the future.

29 “(f) Exemptions.—The Commission may, by order, exempt an ancillary asset from the
30 specified periodic disclosure requirements under subsection (c) if the Commission determines
31 that the public policy goals of disclosure and consumer protection are not satisfied by requiring
32 disclosures relating to an ancillary asset.

33 “(g) Rule of Construction.—If an issuer fails to comply with a provision of this section, an
34 ancillary asset provided by the issuer shall not be presumed to be a security under a provision of
35 law described in subsection (b)(4)(A), solely because of such failure.

36 “(h) Rules.—The Commission may adopt rules and guidance to implement this section,
37 consistent with the statutory intent of this section.

38 SEC. 302. TERMINATION OF SPECIFIED PERIODIC 39 DISCLOSURE REQUIREMENTS.

40 Section 41 of the Securities Exchange Act of 1934, as added by section 301 of this Act, is

1 amended by adding at the end the following:

2 “(i) Termination of Specified Periodic Disclosure Requirements.—

3 “(1) IN GENERAL.—The obligation of an issuer to furnish the information required under
4 subsection (c) shall terminate on the date that is 90 days, or such shorter period as the
5 Commission may determine, after the date on which the issuer files a certification described
6 in paragraph (2).

7 “(2) CERTIFICATION.—

8 “(A) IN GENERAL.—A certification filed under paragraph (1) shall be supported by
9 reasonable evidence, based on the knowledge of the issuer filing the certification, after
10 due inquiry, that—

11 “(i) the average daily aggregate value of all trading in the applicable ancillary
12 asset in all spot markets open to the public in the United States in the 12-month
13 period preceding the date on which the certification is filed was not greater than
14 \$5,000,000; or

15 “(ii) during the 12-month period preceding the date on which the certification is
16 filed, neither the applicable issuer, nor any entity controlled by the issuer,
17 engaged in entrepreneurial or managerial efforts that primarily determined the
18 value of the ancillary asset.

19 “(B) DENIAL.—

20 “(i) IN GENERAL.—Subject to subparagraph (C)(ii), the Commission, may, by
21 majority vote, after notice and opportunity for hearing, deny a certification filed
22 under paragraph (1) if the Commission finds that the certification is not supported
23 by substantial evidence.

24 “(ii) EFFECT.—The denial, under clause (i), of a certification filed under
25 paragraph (1)—

26 “(I) shall terminate the certification so filed; and

27 “(II) shall not prevent the applicable issuer from filing another
28 certification under paragraph (1), if the re-filed certification is filed not
29 earlier than 180 days after the date on which the original certification is
30 denied.

31 “(C) PENDING STATUS.—

32 “(i) IN GENERAL.—Termination of the disclosure requirements described in
33 paragraph (1) applicable to an issuer that has filed a certification under that
34 paragraph shall be deferred pending review by the Commission of the evidence
35 supporting the certification.

36 “(ii) EFFECT OF DELAY.—If, as of the date that is 90 days after receiving a
37 certification filed under paragraph (1), the Commission has not requested
38 additional evidence with respect to the certification from the applicable issuer, the
39 disclosure obligations that are the subject of the certification shall terminate.”.

1 SEC. 303. GUIDANCE RELATING TO SATISFACTORY 2 CONTROL LOCATION.

3 Not later than 180 days after the date of the enactment of this Act, the Securities and Exchange
4 Commission shall issue guidance relating to section 240.15c3-3 of title 17, Code of Federal
5 Regulations, or any successor regulation, providing that the requirement to designate a
6 satisfactory control location for a digital asset that is, or may represent ownership of, a security
7 may be satisfied by protecting the digital asset through commercially reasonable cybersecurity
8 practices to maintain control of sufficient private key material to transfer control of the digital
9 asset to another person, or to cause another person to obtain control of the digital asset, including
10 by means of a smart contract that generates private key material without the involvement of a
11 natural person.

12 SEC. 304. CUSTODY AND CUSTOMER PROTECTION 13 RULES.

14 (a) In General.—

15 (1) MODERNIZATION OF EXISTING RULES AND ADOPTION OF NEW RULES.—Not later than
16 18 months after the date of enactment of this Act, the Commission shall—

17 (A) complete the multi-year study of the Commission with respect to the
18 modernization of the rules of the Commission relating to customer protection (section
19 240.15c3-3 of title 17, Code of Federal Regulations) and custody of securities, digital
20 assets, and client funds (section 275.206(4)-2 of title 17, Code of Federal
21 Regulations); and

22 (B) consistent with the results of the study described in subparagraph (A), adopt
23 final rules relating to the issues described in paragraph (2).

24 (2) CONTENTS.—The final rules adopted under paragraph (1)(B) shall address the
25 following concepts:

26 (A) Investor protection and education with respect to digital assets.

27 (B) Digital assets, distributed ledger technology, and use of collaborative custody or
28 multi-signature arrangements, including distribution of private key material and
29 resulting obligations.

30 (C) Changes in market structure and asset characteristics, including disuse of
31 physical securities and assets and appropriate custodial methods for electronically
32 native assets.

33 (D) Reduction of regulatory burden.

34 (E) Use of technology to facilitate regulatory compliance and risk management.

35 (F) Parity of State- and nationally-chartered banks, as defined in section 202(a) of
36 the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)), with respect to asset
37 custody in a manner consistent with that Act (15 U.S.C. 80b-1 et seq.) and other
38 existing law.

1 (G) Standards under which an issuer of an unregistered digital asset that is, or may
2 represent ownership of, a security is not required to utilize a registered transfer agent.

3 (H) Specification of the digital assets which constitute customer funds under section
4 275.206(4)–2 of title 17, Code of Federal Regulations.

5 (b) Digital Assets and Securities.—Not later than 270 days after the date of enactment of this
6 Act, the Commission shall adopt final guidance permitting, for the purposes of section 240.15c3–
7 3(b) of title 17, Code of Federal Regulations, a broker or a dealer to perform, within the same
8 legal entity, both trading and custodial activities relating to fully-paid and excess margin digital
9 assets, including virtual currency and digital assets that are securities or may represent ownership
10 of securities, in addition to traditional securities, client funds, and other assets permitted by the
11 Commission to be within the control of a broker or dealer.

12 TITLE IV—RESPONSIBLE COMMODITIES INNOVATION

13 SEC. 401. DEFINITIONS.

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

15 (1) in paragraph (9), by striking “and frozen concentrated orange juice” and inserting
16 “frozen concentrated orange juice, and a digital asset (consistent with section 2(c)(2)(F))”;

17 (2) by inserting after paragraph (15) the following:

18 “(15A) DIGITAL ASSET.—

19 “(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the term
20 ‘digital asset’ has the meaning given the term in section 9801 of title 31, United States
21 Code.

22 “(B) EXCLUSION.—The term ‘digital asset’ does not include an asset that provides
23 the holder of the asset with any of the following rights in a business entity:

24 “(i) A debt or equity interest in that entity.

25 “(ii) Liquidation rights with respect to that entity.

26 “(iii) An entitlement to an interest or dividend payment from that entity.

27 “(iv) A profit or revenue share in that entity derived solely from the
28 entrepreneurial or managerial efforts of others.

29 “(v) Any other financial interest in that entity.”

30 “(15B) DIGITAL ASSET EXCHANGE.—The term ‘digital asset exchange’ means a trading
31 facility that lists for trading at least 1 digital asset.”;

32 (4) in paragraph (28)(A)(i)—

33 (A) in subclause (I)—

34 (i) in item (aa)—

35 (I) in subitem (EE), by striking “or” at the end; and

36 (II) by adding at the end the following:

- 1 “(GG) the purchase or sale of a digital asset that is traded on or
2 subject to the rules of a registered entity;”
3 (ii) in item (bb), by striking “and” and inserting “or”; and
4 (iii) by adding at the end the following:
5 “(cc) acting as a counterparty to any cash or spot agreement, contract,
6 or transaction involving a digital asset with a person who is not an
7 eligible contract participant, unless the activity is—
8 “(AA) conducted in compliance with the laws of the State in which
9 the activity occurs;
10 “(BB) subject to regulation by another Federal authority; or
11 “(CC) separately regulated under this Act; and”; and
12 (B) in subclause (II), by striking “items (aa) or (bb)” and inserting “item (aa), (bb),
13 or (cc)”;
14 (5) by inserting after paragraph (39) the following:
15 “(39A) REGISTERED DIGITAL ASSET EXCHANGE.—The term ‘registered digital asset
16 exchange’ means a digital asset exchange registered under section 5i.”; and
17 (6) in paragraph (40)—
18 (A) in subparagraph (E), by striking “and” at the end;
19 (B) by redesignating subparagraph (F) as subparagraph (G); and
20 (C) by inserting after subparagraph (E) the following:
21 “(F) a registered digital asset exchange; and”.

22 SEC. 402. REPORTING AND RECORDKEEPING; 23 STANDARDS AND EXAMINATIONS.

24 Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended—

- 25 (1) in subsection (a), by inserting “digital assets or” before “commodities”; and
26 (2) in subsection (d), in the second sentence, by striking “commodity futures.” and
27 inserting “commodities.”.

28 SEC. 403. CFTC JURISDICTION OVER DIGITAL ASSET 29 TRANSACTIONS.

30 (a) Commission Jurisdiction Over Retail Digital Asset Transactions.—

31 (1) IN GENERAL.—Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) is
32 amended—

33 (A) in subparagraph (D)(ii)—

- 34 (i) in subclause (III), in the matter preceding item (aa), by inserting “of a

1 commodity, other than a digital asset,” before “that”;

2 (ii) by redesignating subclauses (IV) and (V) as subclauses (V) and (VI),
3 respectively; and

4 (iii) by inserting after subclause (III) the following:

5 “(IV) a contract of sale of a digital asset that—

6 “(aa) results in actual delivery within 2 days or such other period as
7 the Commission may determine by rule based upon the typical
8 commercial practice in cash or spot markets for the digital asset
9 involved; or

10 “(bb) is executed on or subject to the rules of a registered digital asset
11 exchange or with a registered futures commission merchant;” and

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

13 “(F) COMMISSION JURISDICTION OVER DIGITAL ASSET TRANSACTIONS.—

14 “(i) IN GENERAL.—

15 “(I) JURISDICTION.—Subject to sections 6d, 12(e) and section 403 of the
16 Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27a), the
17 Commission shall have exclusive jurisdiction over any agreement, contract,
18 or transaction involving a contract of sale of a digital asset in interstate
19 commerce, including ancillary assets (consistent with section 41(b)(4) of the
20 Securities Exchange Act of 1934), except that specified periodic reporting
21 requirements made by an issuer which provided the holder of the security
22 with an ancillary asset under that section, and the security that constitutes an
23 investment contract (within the meaning of section 2(a)(1) of the Securities
24 Act of 1933 (15 U.S.C. 77b(a)(1))), shall remain within the jurisdiction of
25 the Securities and Exchange Commission.

26 “(II) FUNGIBILITY REQUIREMENT.—The Commission shall only exercise
27 jurisdiction over an agreement, contract, or transaction involving a contract
28 of sale of a digital asset that is fungible, which shall not include digital
29 collectibles and other unique digital assets.

30 “(ii) WITHHOLDING OF RULEMAKING AUTHORITY OVER CERTAIN
31 TRANSACTIONS.—Notwithstanding clause (i), this subparagraph shall not be
32 interpreted to permit the Commission to issue any rule regarding any agreement,
33 contract, or transaction that is not offered, solicited, traded, facilitated, executed,
34 cleared, reported, or otherwise dealt in—

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

36 “(II) by any other entity registered by the Commission.

37 “(iii) LIMITATION.—Clause (i) shall not apply with respect to custodial
38 activities with respect to a digital asset of an entity supervised or regulated by a
39 State or other Federal regulatory agency.”

40 (2) CONFORMING AMENDMENT.—Section 2(a)(1)(A) of the Commodity Exchange Act (7

1 U.S.C. 2(a)(1)(A)) is amended, in the first sentence, by striking “section 19 of this Act” and
2 inserting “subsection (c)(2)(F) or section 19”.

3 (b) Segregation of Digital Assets.—Section 4d of the Commodity Exchange Act (7 U.S.C. 6d)
4 is amended by adding at the end the following:

5 “(i) Segregation of Digital Assets.—

6 “(1) HOLDING OF CUSTOMER ASSETS.—

7 “(A) IN GENERAL.—Each futures commission merchant shall hold customer money,
8 assets, and property in a manner to minimize the customer’s risk of loss of, or
9 unreasonable delay in the access to, the money, assets, and property.

10 “(B) CUSTODIAN.—A futures commission merchant shall hold the property of a
11 customer of the futures commission merchant with an licensed, chartered or registered
12 entity subject to regulation by 1 of the following agencies:

13 “(i) The Commission.

14 “(ii) The Securities and Exchange Commission.

15 “(iii) An appropriate Federal banking agency (as defined in section 3 of the
16 Federal Deposit Insurance Act (12 U.S.C. 1813)).

17 “(iv) A State bank supervisor (as defined in that section).

18 “(v) An appropriate foreign governmental authority in the home country of the
19 custodian.

20 “(2) SEGREGATION OF FUNDS.—

21 “(A) DEFINITION OF DIGITAL ASSET CUSTOMER.—In this paragraph, the term ‘digital
22 asset customer’ means a customer involved in a cash or spot, leveraged, margined, or
23 financed digital asset transaction in which the futures commission merchant is acting
24 as the counterparty.

25 “(B) REQUIREMENTS.—

26 “(i) IN GENERAL.—A futures commission merchant shall treat and deal with all
27 money, assets, and property of any digital asset customer received as belonging to
28 the customer.

29 “(ii) COMMINGLING PROHIBITED.—Money, assets, and property of a digital
30 asset customer described in clause (i)—

31 “(I) shall be separately accounted for; and

32 “(II) shall not be—

33 “(aa) commingled with the funds of the futures commission
34 merchant; or

35 “(bb) used to margin, secure, or guarantee any trades or accounts of
36 any customer or person other than the person for whom the money,
37 assets, or property are held.

38 “(C) EXCEPTIONS.—

1 “(i) USE OF FUNDS.—

2 “(I) IN GENERAL.—Notwithstanding subparagraph (B), money, assets, and
3 property of a digital asset customer may, for convenience, be commingled
4 and deposited in the same account or accounts with an entity described in
5 paragraph (1)(B).

6 “(II) WITHDRAWAL.—Notwithstanding subparagraph (B), the share of the
7 money, assets, and property described in subclause (I) as in the normal
8 course of business is necessary to margin, guarantee, secure, transfer, adjust,
9 or settle a digital asset transaction with a registered entity may be withdrawn
10 and applied to those purposes, including the payment of commissions,
11 brokerage, interest, taxes, storage, and other charges, lawfully accruing in
12 connection with the digital asset transaction.

13 “(ii) COMMISSION ACTION.—Notwithstanding subparagraph (B), in accordance
14 with such terms and conditions as the Commission may prescribe by rule or order,
15 any money, assets, or property of a digital asset customer may be commingled
16 and deposited in customer accounts with any other money, assets, or property
17 received by the futures commission merchant and required by the Commission to
18 be separately accounted for and treated and dealt with as belonging to the digital
19 asset customer.

20 “(D) PERMITTED INVESTMENTS.—Money of a digital asset customer may be
21 invested—

22 “(i) in—

23 “(I) obligations of the United States;

24 “(II) general obligations of any State or of any political subdivision of a
25 State;

26 “(III) obligations fully guaranteed as to principal and interest by the
27 United States; or

28 “(IV) any other investment that the Commission may by rule prescribe;
29 and

30 “(ii) in accordance with such rules and subject to such conditions as the
31 Commission may prescribe.

32 “(E) PROHIBITION.—It shall be unlawful for any person, including any derivatives
33 clearing organization or depository institution, that has received any money, assets, or
34 property for deposit in a separate account or accounts as required by subparagraph (B)
35 to hold, dispose of, or use any of the money, assets, or property that belongs to the
36 depositing futures commission merchant or any person other than the digital asset
37 customer of the futures commission merchant.

38 “(3) CUSTOMER RIGHT TO OPT OUT.—

39 “(A) IN GENERAL.—A customer shall have the right to waive any requirement under
40 this subsection by affirmatively electing, in writing to the futures commission
41 merchant, to waive the requirement.

1 “(B) LIMITATIONS.—The Commission may, by rule, establish notice and disclosure
2 requirements, segregation requirements, investment limitations, and other rules relating
3 to the waiving of any requirement under this subsection that are reasonably necessary
4 to protect customers, including eligible contract participants, non-eligible contract
5 participants, and any other class of customers.”.

6 (c) Limitation on Futures Commission Merchants Acting as a Counterparty in Digital Asset
7 Transactions.—Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) (as amended by
8 subsection (b)) is amended by adding at the end the following:

9 “(j) Limitation on Futures Commission Merchants Acting as a Counterparty in Digital Asset
10 Transactions.—A registered futures commission merchant shall not act as a counterparty in any
11 agreement, contract, or transaction involving a digital asset that has not been listed for trading on
12 a registered digital asset exchange.”.

13 (d) Common Provisions Applicable to Registered Entities.—Section 5c of the Commodity
14 Exchange Act (7 U.S.C. 7a–2) is amended—

15 (1) in subsection (a)(1), by striking “5(d) and 5b(c)(2)” and inserting “5(d), 5b(c)(2), and
16 5i(c)”;

17 (2) in subsection (b), by inserting “digital asset exchange,” before “derivatives” each
18 place it appears; and

19 (3) in subsection (c)—

20 (A) in paragraph (2), by inserting “or participants” before “(in a”;

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

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

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

24 “(i) IN GENERAL.—In the case of listing for trading a digital asset that has not
25 previously been listed for trading on another registered entity—

26 “(I) paragraphs (2) and (3) shall apply as if the listing were a rule; and

27 “(II) paragraph (2) shall be applied by substituting ‘20 business days’ for
28 ‘10 business days’.

29 “(ii) TRANSITIONAL EXTENSION.—During the 1-year period beginning on the
30 date of the registration of the first digital asset exchange, the Commission shall
31 have an additional 20 business days to review any certification under clause (i).

32 “(iii) CONSIDERATION OF COMMENTS.—In conducting a review under clause (i),
33 the Commission shall consider any comments provided by the Securities and
34 Exchange Commission with respect to the legal classification of a digital asset.”.

35 SEC. 404. REGISTRATION OF DIGITAL ASSET 36 EXCHANGES.

37 (a) In General.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting
38 after section 5h the following:

1 “SEC. 5i. REGISTRATION OF DIGITAL ASSET
2 EXCHANGES.

3 “(a) Definition of Customer.—In this section, the term ‘customer’ means any person that
4 maintains an account for the trading of digital assets directly with a digital asset exchange (other
5 than a person that is owned or controlled, directly or indirectly, by the digital asset exchange) on
6 behalf of the person or any other person.

7 “(b) Registration.—

8 “(1) IN GENERAL.—Any trading facility that offers or seeks to offer a market in digital
9 assets may register with the Commission as a digital asset exchange by submitting to the
10 Commission an application in such form and containing such information as the Commission
11 may require for the purpose of making the determinations required for approval under
12 subsections (d) and (f).

13 “(2) DEEMED REGISTRATION.—A registered designated contract market or registered swap
14 execution facility that fulfills the requirements of this section may elect to be considered a
15 registered digital asset exchange, in such form and manner as the Commission shall prescribe.

16 “(3) ADDITIONAL REGISTRATION.—A registered digital asset exchange shall be registered
17 with the Secretary of the Treasury as a money services business.

18 “(c) Trading.—

19 “(1) IN GENERAL.—A registered digital asset exchange may make available for trading
20 any digital asset that is not readily susceptible to manipulation, subject to this subsection.

21 “(2) RULES GOVERNING MARGINED OR LEVERAGED TRADING.—The Commission may
22 make, promulgate, and enforce such additional rules governing margined, leveraged, or
23 financed transactions as are reasonably necessary to protect market participants and
24 promote the orderly settlement of transactions with respect to—

25 “(A) disclosure;

26 “(B) recordkeeping;

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

28 “(D) reporting;

29 “(E) business conduct;

30 “(F) documentation; and

31 “(G) such other matters as the Commission determines to be necessary.

32 “(3) PROHIBITION ON TRADING DERIVATIVES PRODUCTS.—Registration as a digital asset
33 exchange shall not permit a trading facility to offer any contract of sale of a commodity for
34 future delivery, option, or swap for trading without also being registered as a designated
35 contract market or swap execution facility.

36 “(d) Core Principles for Digital Asset Exchanges.—

37 “(1) COMPLIANCE WITH CORE PRINCIPLES.—

1 “(A) IN GENERAL.—To be registered, and maintain registration, as a digital asset
2 exchange, the digital asset exchange shall comply with—

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

4 “(ii) any requirement that the Commission may impose by rule pursuant to
5 section 8a(5).

6 “(B) REASONABLE DISCRETION OF DIGITAL ASSET EXCHANGE.—Unless otherwise
7 determined by the Commission by rule, a digital asset exchange described in
8 subparagraph (A) shall have reasonable discretion in establishing the manner in which
9 the digital asset exchange complies with the core principles described in this
10 subsection.

11 “(2) COMPLIANCE WITH RULES.—A digital asset exchange shall—

12 “(A) establish and enforce compliance with any rule of the exchange, including—

13 “(i) the terms and conditions of the trades traded or processed on or through the
14 digital asset exchange; and

15 “(ii) any limitation on access to the digital asset exchange;

16 “(B) establish and enforce trading, trade processing, and participation rules that will
17 deter abuses and have the capacity to detect, investigate and enforce those rules,
18 including means—

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

20 “(ii) to capture information that may be used in establishing whether rule
21 violations have occurred; and

22 “(C) establish rules governing the operation of the digital asset exchange, including
23 rules specifying trading procedures to be used in entering and executing orders traded
24 or posted on the digital asset exchange.

25 “(3) DIGITAL ASSETS NOT READILY SUSCEPTIBLE TO MANIPULATION.—

26 “(A) IN GENERAL.—A digital asset exchange shall permit trading only in assets that
27 are not readily susceptible to manipulation.

28 “(B) LISTING RESTRICTIONS.—A digital asset exchange shall not permit trading in a
29 digital asset, if it is reasonably likely that the—

30 “(i) transaction history of the digital asset can be fraudulently altered by any
31 person or group of persons acting collectively; or

32 “(ii) functionality or operation of the digital asset can be materially altered by
33 any person or group of persons under common control.

34 “(C) CONSIDERATIONS.—In assessing a digital asset under this paragraph, a digital
35 asset exchange shall consider—

36 “(i) the purpose and use of the digital asset;

37 “(ii) the creation or release process of the digital asset;

38 “(iii) the consensus mechanism of the digital asset;

- 1 “(iv) the governance structure of the digital asset;
- 2 “(v) the participation and distribution of the digital asset;
- 3 “(vi) the current and proposed functionality of the digital asset;
- 4 “(vii) the legal classification of the digital asset; and
- 5 “(viii) any other factor required by the Commission.

6 “(4) TREATMENT OF CUSTOMER ASSETS.—

7 “(A) REQUIRED STANDARDS AND PROCEDURES.—A digital asset exchange shall
8 establish standards and procedures that are designed to protect and ensure the safety of
9 customer money, assets, and property.

10 “(B) HOLDING OF CUSTOMER ASSETS.—

11 “(i) IN GENERAL.—A digital asset exchange shall hold customer money, assets,
12 and property in a manner to minimize the customer’s risk of loss of, or
13 unreasonable delay in the access to, the money, assets, and property.

14 “(ii) SEGREGATION OF FUNDS.—

15 “(I) IN GENERAL.—A digital asset exchange shall treat and deal with all
16 money, assets, and property of any customer received as belonging to the
17 customer.

18 “(II) COMMINGLING PROHIBITED.—Money, assets, and property of a
19 customer described in subclause (I)—

20 “(aa) shall be separately accounted for; and

21 “(bb) shall not be—

22 “(AA) commingled with the funds of the digital asset exchange; or

23 “(BB) used to margin, secure, or guarantee any trades or accounts
24 of any customer or person other than the person for whom the money,
25 assets, or property are held.

26 “(iii) EXCEPTIONS.—

27 “(I) USE OF FUNDS.—

28 “(aa) IN GENERAL.—Notwithstanding clause (ii), money, assets, and
29 property of customers of a digital asset exchange may, for convenience,
30 be commingled and deposited with an entity described in section
31 4d(i)(1)(B).

32 “(bb) WITHDRAWAL.—Notwithstanding clause (ii), the share of the
33 money, assets, and property described in item (aa) as in the normal
34 course of business is necessary to margin, guarantee, secure, transfer,
35 adjust, or settle a digital asset transaction with a registered entity may
36 be withdrawn and applied to those purposes, including the payment of
37 commissions, brokerage, interest, taxes, storage, and other charges,
38 lawfully accruing in connection with the digital asset transaction.

1 “(II) COMMISSION ACTION.—Notwithstanding clause (ii), in accordance
2 with such terms and conditions as the Commission may prescribe by rule or
3 order, any money, assets, or property of the customers of a digital asset
4 exchange may be commingled and deposited in customer accounts with any
5 other money, assets, or property received by the digital asset exchange and
6 required by the Commission to be separately accounted for and treated and
7 dealt with as belonging to the customer of the digital asset exchange.

8 “(C) PERMITTED INVESTMENTS.—Money described in subparagraph (B)(ii)(I) may
9 be invested—

10 “(i) in—

11 “(I) obligations of the United States;

12 “(II) general obligations of any State or of any political subdivision of a
13 State;

14 “(III) obligations fully guaranteed as to principal and interest by the
15 United States; or

16 “(IV) any other investment that the Commission may by rule prescribe;
17 and

18 “(ii) in accordance with such rules and subject to such conditions as the
19 Commission may prescribe.

20 “(D) MISUSE OF CUSTOMER PROPERTY.—It shall be unlawful—

21 “(i) for any digital asset exchange that has received any customer money,
22 assets, or property for custody to dispose of, or use any of the money, assets, or
23 property as belonging to the digital asset exchange; or

24 “(ii) for any other person, including any other digital asset exchange or
25 custodian that has received any customer money, assets, or property for deposit,
26 to hold, dispose of, or use any of the money, assets, or property as belonging to—

27 “(I) the digital asset exchange that deposited the money, assets, or
28 property; or

29 “(II) any person other than the customers of the digital asset exchange.

30 “(E) CUSTOMER RIGHT TO OPT OUT.—

31 “(i) IN GENERAL.—A customer shall have the right to waive any requirement
32 under subparagraph (B) by affirmatively electing, in writing to the digital asset
33 exchange, to waive the requirement.

34 “(ii) LIMITATIONS.—The Commission may, by rule, establish notice and
35 disclosure requirements, segregation requirements, investment limitations, and
36 other rules relating to the waiving of any requirement under this paragraph that is
37 reasonably necessary to protect customers, including eligible contract participants,
38 non-eligible contract participants, or any other class of customers.

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

1 “(A) IN GENERAL.—A digital asset exchange shall provide a competitive, open, and
2 efficient market and mechanism for executing transactions that protects the price
3 discovery process of trading on the digital asset exchange.

4 “(B) PROTECTION OF MARKETS AND MARKET PARTICIPANTS.—A digital asset
5 exchange shall establish and enforce rules—

6 “(i) to protect markets and market participants from abusive practices
7 committed by any party, including abusive practices committed by a party acting
8 as an agent for a participant; and

9 “(ii) to promote fair and equitable trading on the digital asset exchange.

10 “(C) PROCEDURES AND MONITORING.—A digital asset exchange shall—

11 “(i) establish and enforce rules or terms and conditions defining, or
12 specifications detailing—

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

15 “(II) procedures for trade processing of digital assets on or through the
16 facilities of the digital asset exchange; and

17 “(ii) monitor trading in digital assets to prevent manipulation, price distortion,
18 and disruptions of the delivery or cash settlement process through surveillance,
19 and compliance, including methods for conducting real-time monitoring of
20 trading and comprehensive and accurate trade reconstructions.

21 “(6) ABILITY TO OBTAIN INFORMATION.—A digital asset exchange shall—

22 “(A) establish and enforce rules that will allow the digital asset exchange to obtain
23 any necessary information to perform any of the functions described in this section;

24 “(B) provide the information to the Commission on request; and

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

27 “(7) EMERGENCY AUTHORITY.—A digital asset exchange shall adopt rules to provide for
28 the exercise of emergency authority, in consultation or cooperation with the Commission or
29 a registered entity, as is necessary and appropriate, including the authority to facilitate the
30 liquidation or transfer of open positions in any digital asset or to suspend or curtail trading
31 in a digital asset.

32 “(8) REPORTING REQUIREMENTS.—

33 “(A) IN GENERAL.—A digital asset exchange shall provide to the Commission
34 information that is determined by the Commission to be necessary to perform any
35 responsibility of the Commission under this Act.

36 “(B) TIMELY PUBLICATION OF TRADING INFORMATION.—

37 “(i) IN GENERAL.—

38 “(I) PUBLICATION.—A digital asset exchange shall make public timely
39 information on price, trading volume, and other trading data on digital assets

1 to the extent prescribed by the Commission.

2 “(II) ACCESSIBILITY.—A digital asset exchange may make trading data
3 freely accessible to the public under rules established by the Commission.

4 “(ii) CAPACITY OF DIGITAL ASSET EXCHANGE.—A digital asset exchange shall
5 be required to have the capacity to electronically capture and transmit trade
6 information with respect to transactions executed on the digital asset exchange.

7 “(9) RECORDKEEPING AND REPORTING.—

8 “(A) IN GENERAL.—A digital asset exchange shall—

9 “(i) maintain records of all activities relating to the business of the digital asset
10 exchange, including a complete audit trail, in a form and manner acceptable to the
11 Commission for a period of 5 years;

12 “(ii) report to the Commission, in a form and manner acceptable to the
13 Commission, such information as the Commission determines to be necessary or
14 appropriate for the Commission to perform the duties of the Commission under
15 this Act; and

16 “(iii) keep any records relating to ancillary assets open to inspection and
17 examination by the Securities and Exchange Commission.

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

20 “(i) a self-regulatory organization;

21 “(ii) the Securities and Exchange Commission;

22 “(iii) an appropriate Federal banking agency (as defined in section 3 of the
23 Federal Deposit Insurance Act (12 U.S.C. 1813));

24 “(iv) a State bank supervisor (as defined in that section);

25 “(v) a State securities or commodities regulator;

26 “(vi) the Financial Stability Oversight Council;

27 “(vii) the Department of Justice; and

28 “(viii) any other person that the Commission determines to be appropriate,
29 including—

30 “(I) foreign financial supervisors (including foreign futures authorities);

31 “(II) foreign central banks; and

32 “(III) foreign ministries.

33 “(C) CONFIDENTIALITY AGREEMENT.—Before the Commission may share
34 information with any entity described in subparagraph (B), the Commission shall
35 receive a written agreement from each entity stating that the entity shall abide by the
36 confidentiality requirements described in section 8 relating to the information on
37 digital asset transactions that is provided.

1 “(D) PROVIDING INFORMATION.—Each digital asset exchange shall provide to the
2 Commission (including any designee of the Commission) information under
3 subparagraph (A) in such form and at such frequency as is required by the
4 Commission.

5 “(10) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the
6 purposes of this Act, a digital asset exchange shall not—

7 “(A) adopt any rules or take any actions that result in any unreasonable restraint of
8 trade; or

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

10 “(11) CONFLICTS OF INTEREST.—A digital asset exchange shall—

11 “(A) establish and enforce rules to minimize conflicts of interest in the
12 decisionmaking process of the digital asset exchange; and

13 “(B) establish a process for resolving conflicts of interest described in subparagraph
14 (A).

15 “(12) FINANCIAL RESOURCES.—

16 “(A) IN GENERAL.—A digital asset exchange shall have adequate financial,
17 operational, and managerial resources, as determined by the Commission, to discharge
18 each responsibility of the digital asset exchange.

19 “(B) MINIMUM AMOUNT OF FINANCIAL RESOURCES.—A digital asset exchange shall
20 possess financial resources that, at a minimum, exceed the total amount that would
21 enable the digital asset exchange to conduct an orderly wind-down of the activities of
22 the digital asset exchange.

23 “(C) ADDITIONAL FINANCIAL RESOURCES FOR LEVERAGE TRADING.—The
24 Commission may require such additional financial resources as are necessary to enable
25 a digital asset exchange that offers margined, leveraged, or financed transactions to
26 fulfill the customer obligations of the digital asset exchange.

27 “(13) GOVERNANCE FITNESS STANDARDS.—

28 “(A) GOVERNANCE ARRANGEMENTS.—A digital asset exchange shall establish
29 governance arrangements that are transparent to fulfill public interest requirements.

30 “(B) FITNESS STANDARDS.—A digital asset exchange shall establish and enforce
31 appropriate fitness standards for—

32 “(i) directors;

33 “(ii) any individual or entity with direct access to the settlement activities of the
34 digital asset exchange;

35 “(iii) any individual or entity with direct access to any custodian affiliated with
36 the digital asset exchange;

37 “(iv) any entity offering affiliated services for the digital asset exchange; and

38 “(v) any party affiliated with any individual or entity described in clauses (i)
39 through (iv).

1 “(14) SYSTEM SAFEGUARDS.—A digital asset exchange shall—

2 “(A) establish and maintain a program of risk analysis and oversight to identify and
3 minimize sources of operational and security risks, through the development of
4 appropriate controls and procedures and automated systems that—

5 “(i) are reliable and secure; and

6 “(ii) have adequate scalable capacity;

7 “(B) establish and maintain emergency procedures, backup facilities, and a plan for
8 disaster recovery that allow for—

9 “(i) the timely recovery and resumption of operations; and

10 “(ii) the fulfillment of the responsibilities and obligations of the digital asset
11 exchange; and

12 “(C) periodically conduct tests to verify that the backup resources of the digital asset
13 exchange are sufficient to ensure continued—

14 “(i) order processing and trade matching;

15 “(ii) price reporting;

16 “(iii) market surveillance; and

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

18 “(e) Appointment of Trustee.—

19 “(1) IN GENERAL.—If a proceeding under section 5e results in the suspension or
20 revocation of the registration of a digital asset exchange, or if a digital asset exchange
21 withdraws from registration, the Commission, after providing notice to the digital asset
22 exchange, may apply to the district court of the United States for the judicial district in
23 which the digital asset exchange is located for the appointment of a trustee.

24 “(2) ASSUMPTION OF JURISDICTION.—If the Commission applies to a court for
25 appointment of a trustee under paragraph (1)—

26 “(A) the court may take exclusive jurisdiction over—

27 “(i) the digital asset exchange; and

28 “(ii) the records and assets of the digital asset exchange, wherever those records
29 and assets are located; and

30 “(B) if the court takes jurisdiction under subparagraph (A), the court shall appoint
31 the Commission, or a person designated by the Commission, as trustee with power to
32 take possession and continue to operate or terminate the operations of the digital asset
33 exchange in an orderly manner for the protection of customers, subject to such terms
34 and conditions as the court may prescribe.

35 “(f) Custodian.—A digital asset exchange shall deposit with an entity described in section
36 4d(i)(1)(B) each digital asset that is—

37 “(1) the property of a customer of the digital asset exchange;

1 “(2) required to be held by the digital asset exchange under subsection (c)(2) or (d)(12);
2 or

3 “(3) otherwise required by the Commission to be so held to reasonably protect customers
4 or promote the public interest.

5 “(g) Exemptions.—

6 “(1) IN GENERAL.—To promote responsible economic or financial innovation and fair
7 competition, or protect customers, the Commission may exempt, either unconditionally or
8 on stated terms or conditions or for stated periods and either retroactively or prospectively,
9 or both, a registered digital asset exchange from the requirements of this section, if the
10 Commission determines that—

11 “(A) the exemption—

12 “(i) will be consistent with the public interest and the purposes of this Act; and

13 “(ii) will not have a material adverse effect on the ability of the Commission or
14 the digital asset exchange to discharge duties under this Act; or

15 “(B) the digital asset exchange is subject to comparable, comprehensive regulation
16 by the appropriate government authorities in the home country of the digital asset
17 exchange.

18 “(2) PROCESS.—The Commission may grant an exemption under paragraph (1)—

19 “(A) on the initiative of the Commission; or

20 “(B) after receiving an application for the exemption by the registered digital asset
21 exchange.

22 “(h) Jurisdiction.—Notwithstanding any other provision of law, the Commission shall have
23 exclusive jurisdiction over the regulation and other activities of a registered digital asset
24 exchange.

25 “(i) Implementation.—The Commission may prescribe rules to implement this section.”.

26 (b) Certain Digital Asset Exchange Functions Not Sufficient to Trigger Requirement to
27 Register as Futures Commission Merchant.—Section 4f(c) of the Commodity Exchange Act (7
28 U.S.C. 6f(c)) is amended by adding at the end the following:

29 “(12) Clarification of Scope of Registration Requirement.—A registered digital asset exchange
30 shall not be required to register as a futures commission merchant for any activity for which the
31 exchange is regulated under section 5i.”.

32 SEC. 405. VIOLATIONS.

33 Violations Generally.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

34 (1) in subsection (a), paragraph (2), by striking “subsection 4c” and inserting “section
35 4c”;

36 (2) in subsection (e)—

37 (A) in paragraph (1), by inserting “contracts for the sale of digital assets,” after
38 “options thereon,”; and

1 (B) in paragraph (2), by inserting “or contracts for the sale of digital assets” after
2 “options thereon”.

3 SEC. 406. MARKET REPORTS.

4 Section 16(a) of the Commodity Exchange Act (7 U.S.C. 20(a)) is amended—

5 (1) in the first sentence, by striking “which are the subject of futures contracts,” and
6 inserting “under the jurisdiction of the Commission,”; and

7 (2) in the second sentence, by striking “futures markets.” and inserting “markets under
8 the jurisdiction of the Commission.”.

9 SEC. 407. BANKRUPTCY TREATMENT OF DIGITAL 10 ASSETS.

11 (a) In General.—Section 20(a) of the Commodity Exchange Act (7 U.S.C. 24(a)) is amended
12 in paragraphs (1) and (2) by inserting “digital assets,” after “securities,” each place it appears.

13 (b) Commodity Broker Definition.—Section 101 of title 11, United States Code, is amended in
14 paragraph (6), by inserting “digital asset exchange, as defined in section 1a of the Commodity
15 Exchange Act,” after “futures commission merchant,”.

16 (c) Commodities Contracts.—Section 556 of title 11, United States Code, is amended by
17 inserting “a digital asset exchange, as defined in section 1a of the Commodity Exchange Act,”
18 after “a contract market designated under the Commodity Exchange Act,”.

19 (d) Contractual Rights.—Section 561 of title 11, United States Code, is amended—

20 (1) in subsections (b) and (c), by inserting “digital asset exchange, as defined in section
21 1a of the Commodity Exchange Act,” after “contract market designated under the Commodity
22 Exchange Act” wherever it appears.

23 (e) Definitions.—Section 761 of title 11, United States Code, is amended—

24 (1) in paragraph (4)—

25 (A) in subparagraph (A), by inserting “digital asset or a” before “commodity”;

26 (B) in subparagraph (I), by striking “or” at the end;

27 (C) in subparagraph (J), by adding “or” at the end; and

28 (D) by adding at the end the following:

29 “(K) a contract for the sale of a digital asset by a registered digital asset exchange;”;
30 and

31 (2) in paragraph (10)—

32 (A) in the matter preceding subparagraph (A)—

33 (i) by inserting “a digital asset,” after “a security,”; and

34 (ii) by inserting “digital asset,” after “cash, security,”;

35 (B) in subparagraph (A)—

- 1 (i) in clause (vi), by inserting “a digital asset,” after “a security,”; and
2 (ii) in clause (vii)—
3 (I) by inserting “or a digital asset” before “held as property”;
4 (II) by inserting “or digital asset” after “such security”; and
5 (III) by inserting “or digital asset” after “based on a security”; and

6 (C) in subparagraph (B)—

- 7 (i) by striking “not including property” and inserting “not including—
8 “(i) property”;
9 (ii) in clause (i), as so designated, by adding “and” at the end; and
10 (iii) by adding at the end the following:

11 “(ii) money, assets, or property with respect to which any requirement under
12 subsection (i) of section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is
13 waived pursuant to paragraph (3) of that subsection, or any requirement under
14 subparagraph (B) of paragraph (4) of section 5i(d) of that Act is waived pursuant
15 to subparagraph (E) of that paragraph;”.

16 (f) Voidable Transfers.—Section 764(b)(1) of title 11, United States Code, is amended by
17 inserting “, digital assets” before “, or other property”.

18 (g) Treatment of Customer Property.—Section 766 of title 11, United States Code, is
19 amended—

20 (1) in subsection (b)(1), by striking “physical commodity underlying” and inserting
21 “commodity underlying”;

22 (2) in subsection (c), by inserting “digital asset,” before “or commodity contract” each
23 place the term appears;

24 (3) in subsection (d), by inserting “digital asset,” before “or commodity contract” each
25 place the term appears;

26 (4) in subsection (f)—

27 (A) in striking “and other property” and inserting “digital assets, and other
28 property”; and

29 (B) by striking “or property” and inserting “, digital assets, or property”;

30 (5) in subsection (g), by striking “security or property” and inserting “security, digital
31 asset, or property”; and

32 (6) in subsection (h)(2), by inserting “digital assets,” after “customer securities,”.

33 SEC. 408. IDENTIFIED BANKING PRODUCTS.

34 Section 206(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) is amended—

35 (1) in paragraph (5)(B)(ii), by striking “or” at the end;

36 (2) in paragraph (6), by striking the period at the end and inserting “; or”; and

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

2 “(7) a payment stablecoin issued by a depository institution under section 4810, title 12,
3 United States Code.”.

4 SEC. 409. FINANCIAL INSTITUTIONS DEFINITION.

5 Section 5312(c)(1) of title 31, United States Code, is amended by adding at the end the
6 following:

7 “(B) A registered digital asset exchange, as defined in section 1a of the Commodity
8 Exchange Act.”.

9 SEC. 410. OFFSETTING THE COSTS OF DIGITAL ASSET 10 REGULATION.

11 The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end the
12 following:

13 “SEC. 24. OFFSETTING THE COSTS OF DIGITAL ASSET 14 REGULATION.

15 “(a) Recovery of Certain Costs of Annual Appropriation.—

16 “(1) IN GENERAL.—Effective beginning October 1, 2023, the Commission may, by rule,
17 collect fees—

18 “(A) to fund expenses relating to regulation of digital asset cash and spot markets;
19 and

20 “(B) that are designed to recover the costs to the Federal Government of the annual
21 appropriation to the Commission by Congress.

22 “(2) REGISTERED ENTITIES.—Fees under paragraph (1) shall only be imposed—

23 “(A) on registered entities engaged in cash or spot digital asset activities; and

24 “(B) in relation to the regulation of those activities under this Act.

25 “(3) FEE RATES.—Fees under paragraph (1) shall—

26 “(A) be strictly related to the cost to the Commission of the regulation of digital
27 asset cash and spot markets;

28 “(B) be reduced for newly registered entities with less than \$100,000,000 in daily
29 trading volume; and

30 “(C)(i) minimize negative impacts on market liquidity; and

31 “(ii) maintain the efficiency, competitiveness, and financial integrity of digital asset
32 markets.

33 “(4) COLLECTION OF FEES.—The Commission shall collect fees under this subsection in
34 such manner and within such time as may be specified by the Commission by rule.

35 “(b) Fee Rate Orders.—

1 “(1) IN GENERAL.—Not later than 60 days after the date on which a law providing a
2 regular appropriation to the Commission for a fiscal year is enacted, the Commission shall
3 adopt an order setting rates for fees to be collected under subsection (a) for that fiscal year.

4 “(2) PUBLICATION.—The Commission shall publish in the Federal Register the order
5 adopted under paragraph (1), including—

6 “(A) projections on which the fees are based; and

7 “(B) an explanation of the method used for calculating applicable fee rates.

8 “(c) Deposit of Fees.—

9 “(1) OFFSETTING COLLECTIONS.—Fees collected under subsection (a) for any fiscal
10 year—

11 “(A) shall be deposited and credited as offsetting collections to the account
12 providing appropriations to the Commission; and

13 “(B) shall not be collected or available for obligation for any fiscal year except to
14 the extent provided in advance in appropriation Acts.

15 “(2) GENERAL REVENUES PROHIBITED.—No fees collected under subsection (a) shall be
16 deposited and credited as general revenue of the Treasury.

17 “(d) Lapse of Appropriations.—If a regular appropriation to the Commission has not been
18 enacted on the first day of a fiscal year, the Commission shall continue to collect fees under this
19 section at the rates in effect on September 30 of the preceding fiscal year.

20 “(e) Limitations.—

21 “(1) LEVERAGED, MARGINED, OR FINANCED TRANSACTIONS.—Nothing in this section
22 authorizes the imposition of fees on a registered entity relating to leveraged, margined, or
23 financed transactions under this Act, including those activities relating to digital assets.

24 “(2) OTHER APPROPRIATIONS.—Notwithstanding any other provision of law, the
25 Commission may use appropriations otherwise made available by law to fund expenses
26 relating to the regulation of digital asset cash and spot markets.

27 “(f) Ceiling on Fees.—Unless otherwise provided by law, fees collected under this section
28 shall not exceed \$30,000,000.

29 “(g) Authorization Required.—The authority under this section to impose and collect fees
30 shall only be in effect during a period that a legislative authorization of the Commission is in
31 effect, as otherwise provided by law.”.

32 TITLE V—RESPONSIBLE CONSUMER PROTECTION

33 SEC. 501. RESPONSIBLE CONSUMER PROTECTION.

34 Chapter 98 of title 31, United States Code, as added by section 101(a) of this Act, is amended
35 by adding at the end the following:

36 “9802. Consumer protection standards for digital assets

37 “(a) In General.—A person or protocol that provides digital asset services shall ensure that the

1 scope of permissible transactions that may be undertaken with customer digital assets is
2 disclosed clearly in a customer agreement.

3 “(b) Notice.—A person who provides digital asset services shall provide clear notice to each
4 customer, and require acknowledgment, of the following:

5 “(1) Prior to the implementation of any updates, material source code version changes
6 relating to digital assets, except in emergencies, which may include security vulnerabilities.

7 “(2) Whether customer digital assets are segregated from other customer assets and the
8 manner of segregation.

9 “(3) How the assets of the customer would be treated in a bankruptcy or insolvency
10 scenario and the risks of loss.

11 “(4) The time period and manner in which the person is obligated to return the digital
12 asset of the customer upon the request of the customer.

13 “(5) Applicable fees.

14 “(6) The dispute resolution process of the person.

15 “(c) Subsidiary Proceeds.—

16 “(1) DEFINITIONS.—In this subsection:

17 “(A) SUBSIDIARY PROCEEDS.—The term ‘subsidiary proceeds’ includes forks,
18 airdrops, staking, and other gains that accrue to a digital asset through market
19 transactions, use as a financial asset, or being held in custody or safekeeping by a
20 person who provides digital asset services.

21 “(B) TERMS OF SERVICE.—The term ‘agreement’ includes the standard terms of
22 service of the person who provides digital asset services.

23 “(2) ACCRUAL TO CUSTOMER.—Except as otherwise specified by an agreement with a
24 customer, all ancillary or subsidiary proceeds relating to digital asset services provided to a
25 customer shall accrue to the benefit of the customer in accordance with paragraph (3).

26 “(3) ELECTION.—A person who provides digital asset services may elect not to collect
27 certain subsidiary proceeds if the election is disclosed in an agreement with the customer.

28 “(4) WITHDRAWAL.—A customer may withdraw digital assets in a method that permits
29 the collection of the subsidiary proceeds.

30 “(5) AGREEMENT.—A person who provides digital asset services shall enter into an
31 agreement with a customer, if desired by the customer, regarding the manner in which to
32 invest subsidiary proceeds or other gains attributable to the digital assets of the customer.

33 “(d) Lending Arrangements.—A person who provides digital asset services shall ensure any
34 lending arrangements relating to digital assets are—

35 “(1) clearly disclosed to customers before any lending services take place;

36 “(2) subject to the affirmative consent of the customer;

37 “(3) fully enforceable as a matter of commercial law;

38 “(4) accompanied by full disclosures of applicable terms and risks, yield, and the manner

- 1 in which the yield is calculated;
- 2 “(5) accompanied by appropriate disclosures relating to collateral requirements and
3 policies, including—
- 4 “(A) haircuts and overcollateralization requirements;
- 5 “(B) collateral the person accepts when calling for additional collateral from a
6 customer, including collateral substitution;
- 7 “(C) whether customer collateral is commingled with the collateral of other
8 customers or of the person; and
- 9 “(D) how customer collateral is invested, and whether the yield belongs to the
10 customer or to the person;
- 11 “(6) accompanied by disclosures of mark-to-market and monitoring arrangements,
12 including—
- 13 “(A) the frequency of mark-to-market monitoring and how frequently the person
14 will call for additional collateral from a customer;
- 15 “(B) the time period in which the customer must supply additional collateral to the
16 person after a collateral call; and
- 17 “(C) whether the person permits failures to deliver such collateral, and in the event
18 of a failure to deliver the period of time in which the customer must cure the failure to
19 deliver before the customer’s position is closed; and
- 20 “(7) compliant with all applicable Federal and State laws.
- 21 “(e) Rehypothecation.—
- 22 “(1) DEFINITION.—In this subsection, the term ‘rehypothecation’ means the pledging of
23 an asset as collateral for a financial transaction by a person after the pledging of the asset as
24 collateral by a customer of that person.
- 25 “(2) REHYPOTHECATION.—Before rehypothecating a digital asset, a person who provides
26 digital asset services to a customer shall clearly disclose policies on rehypothecation to
27 customers, including a clear definition of rehypothecation that is accessible to consumers.
28 The person who provides digital asset services to a customer shall obtain affirmative
29 consent and consider the following factors to appropriately mitigate risk relating to
30 rehypothecation:
- 31 “(A) The liquidity and volatility of a digital asset.
- 32 “(B) Past failures to deliver a particular digital asset.
- 33 “(C) Concentration risk.
- 34 “(D) Whether an issuer or lender of last resort relating to a digital asset exists,
35 including for virtual currency with a finite supply.
- 36 “(E) The capital, leverage and market position of the person.
- 37 “(F) The legal obligations of the person to customers and other persons in the market
38 who provide digital asset services.”.

1 SEC. 502. SOURCE CODE VERSION OF DIGITAL ASSETS.

2 Chapter 98 of title 31, United States Code, as amended by section 501 of this Act, is amended
3 by adding at the end the following:

4 “9803. Source code version of digital assets

5 “(a) In General.—A customer and a person who provides digital asset services shall, at the
6 initiation of a contractual relationship, agree in writing regarding the source code version the
7 person will use for each digital asset and the treatment of each asset under the law, including
8 securities and commodities laws and the Uniform Commercial Code applicable to the
9 transaction.

10 “(b) Determination.—A person who provides digital asset services—

11 “(1) may periodically determine whether to implement a source code version that uses
12 validation rules different than those of the source code version specified in a customer
13 agreement, including in circumstances where is not possible to predict in advance whether
14 utilization of the different source code version will be in the best interests of the customer;

15 “(2) shall consider the nature of proposed changes to source code versions with potential
16 effects resulting from third-party actors that may create different source code versions
17 resulting in new networks that could create economic value for customers;

18 “(3) shall not be required to support digital assets and source code versions that the
19 person has not entered into an agreement with customers to support; and

20 “(4) shall not capriciously redefine a digital asset or the corresponding source code or
21 alter customer agreements with respect to this subsection.

22 “(c) Standards.—A person who provides digital asset services—

23 “(1) shall adopt and maintain standards for changes to digital asset source code versions
24 that use differing validation rules than those of the source code version specified in the
25 customer agreement, which shall include customer notice and approval, as appropriate
26 based on the circumstances; and

27 “(2) may specify differing standards based on source code changes which occur as the
28 result of emergencies, including security vulnerabilities.”.

29 SEC. 503. SETTLEMENT FINALITY.

30 Chapter 98 of title 31, United States Code, as amended by section 502 of this Act, is amended
31 by adding at the end the following:

32 “9804. Settlement finality

33 “To promote legal certainty and customer protection, a person who provides digital asset
34 services and a customer shall agree on the terms of settlement finality for all transactions,
35 including the following:

36 “(1) The conditions under which a digital asset may be deemed fully transferred,
37 provided that these legal conditions may diverge from operational conditions under which
38 digital assets are considered transferred, based on the distributed and probabilistic nature of

1 digital assets.

2 “(2) The exact moment of transfer of a digital asset.

3 “(3) The discharge of any obligations upon transfer of a digital asset.

4 “(4) Conformity to applicable provisions of the Uniform Commercial Code.”.

5 SEC. 504. NOTICE TO CUSTOMERS; ENFORCEMENT.

6 Chapter 98 of title 31, United States Code, as amended by section 503 of this Act, is amended
7 by adding at the end the following:

8 “9805. Notice to customers; enforcement

9 “(a) In General.—In providing disclosures and carrying out other duties under this chapter, a
10 person who provides digital asset services in or affecting interstate commerce shall have a duty
11 to provide higher standards of customer notice and acknowledgment if there is likely to be a
12 material impact on the economic value of the digital asset of a customer.

13 “(b) Enforcement of Standards.—The standards under this chapter—

14 “(1) shall be enforced in an appropriate manner, commensurate with other customer
15 protection standards—

16 “(A) in the case of a digital asset intermediary, by the Federal or State licensing,
17 registration or chartering authority of the intermediary; and

18 “(B) in the case of a depository institution or other financial institution, by the
19 appropriate State or Federal banking supervisor.

20 SEC. 505. RIGHT TO INDIVIDUAL MANAGEMENT OF 21 DIGITAL ASSETS.

22 Chapter 98 of title 31, United States Code, as amended by section 504 of this Act, is amended
23 by adding at the end the following:

24 “9806. Right to individual management of digital assets

25 “(a) In General.—Except as otherwise required by law, no person shall be required to use an
26 intermediary for the safekeeping of digital assets legally owned, and possessed or controlled, by
27 that person.

28 “(b) Rule of Construction.—This section shall not be construed to—

29 “(1) permit a person to engage in market activity for which authorization is required
30 under Federal or State law; or

31 “(2) restrict a person from freely entering into an agreement for digital asset services with
32 a third party.”.

33

34

1 SEC. 506. TECHNICAL AND CONFORMING
2 AMENDMENTS.

3 The table of sections of chapter 98, as added by section 101(a) of this Act, is amended by
4 adding at the end the following:

5 “9802. Consumer protection standards for digital assets.

6 “9803. Source code version of digital assets.

7 “9804. Settlement finality.

8 “9805. Notice to customers; enforcement.

9 “9806. Right to individual management of digital assets.”.

10 TITLE VI—RESPONSIBLE PAYMENTS INNOVATION
11 SEC. 601. ISSUANCE OF PAYMENT STABLECOINS.

12 Chapter 48 of title 12, United States Code, is amended by adding at the end the following:

13 “4810. ISSUANCE OF PAYMENT STABLECOINS.

14 “(a) In General.—A depository institution may issue, redeem and conduct all incidental
15 activities relating to payment stablecoins, as provided by this section.

16 “(b) Required Payment Stablecoin Assets.—A depository institution shall maintain high-
17 quality liquid assets under this section equal to not less than 100 percent of the face amount of
18 the liabilities of the institution on payment stablecoins issued by the institution. In the case of an
19 insured depository institution described in subsection (m)(1)(A) that engages in on-balance sheet
20 lending activities, assets under this subsection shall equal not less than 100 percent of the face
21 amount of the liabilities of the institution on payment stablecoins issued by the institution, with
22 the assets held in balances at a Federal Reserve bank (including a segregated balance account), or
23 in the case of foreign withdrawable reserves, at a foreign central bank, in a special, custodial or
24 trust account, other off-balance sheet account, or in another equivalent manner that ensures the
25 segregation of the assets in the event of receivership. An insured depository institution may
26 segregate the issuance and management of payment stablecoins into a separate depository
27 institution affiliate under the same holding company structure. Eligible high-quality liquid assets
28 under this section shall be comprised of the following:

29 “(1) United States coins and currency and any other instrument defined as legal tender (as
30 defined by 31 U.S.C. 5103);

31 “(2) Demand deposits at a depository institution, except that deposits in an insured
32 depository institution shall not exceed the limit of deposit or share insurance available for
33 that account, which may include passthrough insurance, or shall be maintained in a special,
34 custodial or trust account or other off-balance sheet account held by the insured depository
35 institution;

36 “(3) Balances held at a Federal Reserve bank, which may be held in a master account or
37 segregated balance account.

1 “(4) Foreign withdrawable reserves, as defined in 12 C.F.R. 249.3, consistent with any
2 foreign unit of account in which the payment stablecoin is denominated or pegged.

3 “(5) A security that is issued by, or unconditionally guaranteed as to the timely payment
4 of principal and interest by, the Department of the Treasury, with an original maturity of 1-
5 year or less.

6 “(6) A reserve repurchase agreement relating to a security specified by paragraph (5);

7 “(7) Any other high-quality, liquid asset determined to be consistent with safe and sound
8 banking practices, as determined by the appropriate Federal banking agency or State bank
9 supervisor.

10 “(c) Disclosures.—A depository institution shall disclose, in a publicly accessible manner, a
11 summary description of the assets backing the payment stablecoin, the value of these assets and
12 the number of outstanding payment stablecoins, not more than 10 business days after the end of
13 each month, as of the last day of that month. Such explanation shall be filed with the appropriate
14 Federal banking agency or State bank supervisor and shall be filed under penalty of perjury by
15 the chief financial officer of the institution. The depository institution shall also report on the
16 summary description any instances in which the institution failed to comply with any
17 requirement of subsection (b). As applicable, the appropriate Federal banking agency or State
18 bank supervisor shall, as part of a regular examination of the depository institution, at the
19 frequency otherwise required by law, verify the composition of the assets and the accuracy of the
20 summary descriptions made under this subsection and reports under subsection (d).

21 “(d) Call Report.—As applicable, the appropriate Federal banking agency or State bank
22 supervisor shall require a depository institution that issues a payment stablecoin to report, in
23 detail, on the composition of the assets in each periodic report of condition, or in an alternative
24 format approved by the Federal Financial Institutions Examination Council, at the frequency
25 otherwise required by law.

26 “(e) Permission.—A depository institution shall, as applicable, obtain permission from the
27 appropriate Federal banking agency or State bank supervisor, with an application submitted not
28 less than 6 months before intended issuance of the payment stablecoin, but which may be
29 submitted as part of a charter application. As part of an application under this section, a
30 depository institution shall develop a tailored recovery and resolution plan, consistent with the
31 standards adopted under subsection (k)(1)(F), that would permit the orderly resumption of a safe
32 and sound operation or the orderly wind-down of operations in the event of distress, including
33 the redemption of all outstanding payment stablecoins. The application shall also contain a draft
34 customer agreement, flow of funds explanation, a robust information technology plan and
35 operational design of the payment stablecoin. As applicable, the appropriate Federal banking
36 agency or State banking supervisor shall render a decision on the application within 4 months of
37 the date of filing, and shall approve the application unless:

38 “(1) The payment stablecoin activities are not likely to be able to operate in a safe and
39 sound manner;

40 “(2) The depository institution does not have the required resources and expertise to
41 manage the operation of the payment stablecoin, commensurate with the size and scale of
42 projected operations; or

43 “(3) The depository institution does not have required policies and procedures relating to

1 material areas of the operation of the payment stablecoin activities.

2 “(f) Redemption of Payment Stablecoins.—Upon the demand of a customer, a depository
3 institution shall redeem an outstanding payment stablecoin at par in the coins, currency or other
4 instruments defined as legal tender under section 5103, title 31, United States Code, or the
5 similar laws of the jurisdiction of the unit of account in which the payment stablecoin is
6 denominated or to which its value is pegged. A depository institution may redeem a payment
7 stablecoin issued by another depository institution at par, upon demand. The Board of Governors
8 of the Federal Reserve System, through the Federal Reserve banks, shall provide for the clearing
9 and settlement of payment stablecoin liabilities among depository institutions under this section
10 and shall ensure competitive equality in all clearing, settlement and related services. A
11 depository institution shall also assess its ability to fulfill large redemptions without placing
12 downward pressure on the market value of the payment stablecoin.

13 “(g) Collateral Availability in the Capital Markets.—The appropriate Federal banking
14 agencies, in consultation with State bank supervisors, the Securities and Exchange Commission
15 and Commodity Futures Trading Commission, shall monitor use of the high-quality liquid assets
16 authorized under subsection (b) and the impact on collateral availability and the efficient
17 functioning of the capital markets.

18 “(h) Applicability of Gramm-Leach-Bliley Data Privacy Provisions.—Title V of the Gramm-
19 Leach-Bliley Act (12 U.S.C. 6801 et seq.) shall apply to the payment stablecoin activities of a
20 depository institution under this section.

21 “(i) Receivership Priority.—In the event of the receivership of a depository institution that has
22 issued a payment stablecoin under this section, a person that has a valid claim on a payment
23 stablecoin issued by that institution shall have priority over all other claims on the institution
24 with respect to any required payment stablecoin assets, including claims in respect of insured
25 deposits, other than administrative costs incurred by the appropriate Federal banking agency or
26 State bank supervisor, as applicable, relating to the receivership of the institution, if applicable.
27 Consistent with subsection (f) of this section, a depository institution which redeems a payment
28 stablecoin issued by a depository institution in receivership shall be considered to have a valid
29 claim, with corresponding priority under this subsection, on a payment stablecoin issued by the
30 institution in receivership.

31 “(j) Incidental Activities.—A depository institution may conduct all incidental activities
32 relating to the issuance and redemption of payment stablecoins, which shall include the
33 following:

- 34 (1) Management of required payment stablecoin assets, consistent with subsection (b)
35 of this section;
- 36 (2) Making a market in payment stablecoins;
- 37 (3) Custodial services;
- 38 (4) Settlement and clearing;
- 39 (5) Post-trade services; and
- 40 (6) All other activities consistent with a safe and sound operation, as determined by
41 the appropriate Federal banking agency or State banking supervisor.

42 (k) Rules.—

- 43 (1) The appropriate Federal banking agencies, in consultation with State bank supervisors,

1 shall adopt rules to implement this section, including—

2 “(A) capital treatment for depository institutions described in subsection (m)(1),
3 consistent with paragraph (2);

4 “(B) liquidity, leverage, and interest rate risk;

5 “(C) third-party service provider activities—

6 “(i) including custodial wallet providers; and

7 “(ii) not including licensing or capital requirements for third-party service providers;

8 “(D) management practices with respect to required payment stablecoin assets;

9 “(E) appropriate operational, compliance and information technology risk management;

10 “(F) tailored recovery and resolution standards relating to payment stablecoins; and

11 “(G) any other material topic.

12 (2) Consistent with paragraph (3)(A) of section 5169(c) of the Revised Statutes, in
13 determining capital and leverage requirements applicable to a depository institution that has no
14 material assets other than required payment stablecoin assets under this section, such a
15 depository institution shall not be subject to section 171 of the Dodd-Frank Wall Street Reform
16 and Consumer Protection Act (12 U.S.C. 5371). The appropriate Federal banking agencies shall
17 take into account the significant differences between the risks of the assets of the institution and
18 those of depository institutions whose assets consist primarily of commercial or consumer loans.

19 “(I) Non-Depository Institution Payment Stablecoin Issuers.—Nothing in this section shall be
20 construed to prohibit an entity operating under a state or Federal charter or license that is not a
21 depository institution from issuing and redeeming a payment stablecoin and conducting all
22 activities related to the management of such payment stablecoin consistent with a safe and sound
23 operation, as determined by the appropriate regulator of the entity. The entity shall be subject to
24 the requirements of subsections (b) and (c) of this section and shall redeem an outstanding payment
25 stablecoin at par in the coins, currency or other instruments defined as legal tender under section
26 5103, title 31, United States Code, or the similar laws of the jurisdiction of the unit of account in
27 which the payment stablecoin is denominated or to which its value is pegged.

28 “(m) Definitions.—In this section:

29 “(1) DEPOSITORY INSTITUTION.—The term ‘depository institution’ has the meaning given
30 the term in section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)) and
31 includes—

32 “(A) an insured depository institution; or

33 “(B) a depository institution operating under subsection (c) of section 5169 of the
34 Revised Statutes (12 U.S.C. 27) or a substantially similar State law, which is
35 exclusively engaged in issuing payment stablecoins, providing safekeeping, trust or
36 custodial services, or activities incidental to the foregoing.

37 “(2) PAYMENT STABLECOIN.—The term ‘payment stablecoin’ has the meaning given the
38 term in section 9801 of title 31, United States Code.”.

39 “(3) SEGREGATED BALANCE ACCOUNT.—The term ‘segregated balance account’ includes

1 an account of a depository institution with a Federal Reserve bank or a foreign central bank
2 to which only required payment stablecoin assets are credited.

3 **SEC. 602. SANCTIONS COMPLIANCE**
4 **RESPONSIBILITIES OF PAYMENT STABLECOIN**
5 **ISSUERS.**

6 Not later than 120 days after the date of the enactment of this Act, the Secretary of the
7 Treasury shall adopt final guidance clarifying the sanctions compliance responsibilities and
8 liability of an issuer of a payment stablecoin with respect to downstream transactions relating to
9 the stablecoin that take place after the stablecoin is first provided to a customer of the issuer.

10 **SEC. 603. USE OF THE OFFICIAL DIGITAL CURRENCY**
11 **OF THE PEOPLE’S REPUBLIC OF CHINA ON**
12 **GOVERNMENT DEVICES.**

13 (a) Definitions.—In this section—

14 (1) the term “digital yuan” means the official central bank digital currency of the People’s
15 Republic of China;

16 (2) the term “executive agency” has the meaning given that term in section 133 of title
17 41, United States Code; and

18 (3) the term “information technology” has the meaning given that term in section 11101
19 of title 40, United States Code.

20 (b) Use of Digital Yuan.—Not later than 60 days after the date of enactment of this Act, the
21 Director of the Office of Management and Budget, in consultation with the Administrator of
22 General Services, the Director of the Cybersecurity and Infrastructure Security Agency, the
23 Director of National Intelligence, and the Secretary of Defense, and consistent with the
24 information security requirements under subchapter II of chapter 35 of title 44, United States
25 Code, shall develop standards and guidelines for executive agencies which require adequate
26 security measures for use of the digital yuan on government information technology devices.

27 **SEC. 604. CERTIFICATE OF AUTHORITY TO COMMENCE**
28 **BANKING.**

29 Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended—

30 (1) in subsection (a), in the third sentence, by striking “to those of a trust company and
31 activities related thereto.” and inserting the following: “to—

32 “(1) those of a trust company and fiduciary activities related thereto; or

33 “(2) those of a depository institution required to maintain assets valued at not less than
34 100 percent of the deposits of the institution, for the purposes of issuing a payment
35 stablecoin (as defined in section 9801, title 31, United States Code) and activities related
36 thereto, consistent with subsection (c) of this section and without the requirement to
37 maintain deposit insurance under the Federal Deposit Insurance Act (12 U.S.C. 1811 et

1 seq.).”; and

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

3 “(c)(1) Notwithstanding any other provision of law, a National Bank Association described in
4 subsection (a)(2) may not engage in maturity transformation or facilitate consumer lending
5 through third parties.

6 “(2) Restrictions on affiliate transactions applicable for insured depository institutions shall
7 apply to such depository institutions.

8 “(3) The Comptroller of the Currency, in close consultation with the Board of Governors of
9 the Federal Reserve System and State bank supervisors, shall develop the following:

10 “(A) A simplified capital framework, based on the following:

11 “(i) Payment system risk.

12 “(ii) The greater of—

13 “(I) all projected costs of receivership; or

14 “(II) 3 years of projected operating expenses.

15 “(B) Appropriate standards for the depository institution to develop a community
16 contribution plan, which may include consumer education, financial literacy, charitable
17 donations, volunteerism, job training and internships or similar involvement.

18 “(C) A tailored recovery and resolution plan that would permit the orderly resumption of
19 a safe and sound operation or the orderly wind-down of operations relating to a payment
20 stablecoin in the event of distress.

21 “(D) Tailored holding company supervision, as specified by section 15 of the Bank
22 Holding Company Act of 1956.

23 “(4) In designing the simplified capital framework required by subsection (c)(3)(A), the
24 Comptroller of the Currency:

25 (A) shall not subject depository institutions to the standards of section 171 of the Dodd-
26 Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5371); and

27 (B) shall take into account the significant differences between the risks of the assets of
28 the institution and those of depository institutions whose assets consist primarily of commercial or
29 consumer loans.

30 “(d) The Comptroller of the Currency may promulgate rules to carry out this section.”.

31 SEC. 605. HOLDING COMPANY SUPERVISION OF 32 COVERED DEPOSITORY INSTITUTIONS.

33 The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

34 (1) in section 2(c) (12 U.S.C. 1841(c)), strike paragraph (2) and insert the following:

35 “(2) EXCEPTIONS.—The term ‘bank’ does not include a covered depository institution
36 subject to tailored holding company supervision under section 15.”; and

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

2 “SEC. 15. TAILORED HOLDING COMPANY
3 SUPERVISION FOR COVERED DEPOSITORY
4 INSTITUTIONS.

5 “(a) Definitions.—In this section:

6 “(1) APPROPRIATE BANKING SUPERVISOR.—The term ‘appropriate banking supervisor’
7 means the Comptroller of the Currency, a State bank supervisor, in the case of a State
8 member bank, the Board, or in the case of an insured bank, the Federal Deposit Insurance
9 Corporation, as applicable.

10 “(2) CONTROLLING INTEREST.—The term ‘controlling interest’ means a circumstance
11 when a person, directly or indirectly, or acting through or in concert with 1 or more persons—

12 “(A) owns, controls, or has the power to vote 25 percent or more of any class of
13 voting securities of a covered depository institution;

14 “(B) controls in any manner the election of a majority of the directors of the covered
15 depository institution; or

16 “(C) has the power to exercise a controlling influence over the management or
17 policies of the covered depository institution.

18 “(3) COVERED DEPOSITORY INSTITUTION.—The term ‘covered depository institution’
19 means a depository institution operating under subsection (c) of section 5169 of the Revised
20 Statutes (12 U.S.C. 27) or a substantially similar State law, other than a depository
21 institution as defined in section 3 of the Bank Holding Company Act (12 U.S.C. 1842) or an
22 insured depository institution as defined in section 3 of the Federal Deposit Insurance Act
23 (12 U.S.C. 1813), which is exclusively engaged in issuing payment stablecoins, providing
24 safekeeping, trust or custodial services, or activities incidental to the foregoing.

25 “(b) Controlling Interest.—A person with a controlling interest in a covered depository
26 institution shall—

27 “(1) submit annual audited financial statements and other information as otherwise
28 reasonably required by the appropriate banking supervisor; and

29 “(2) provide a description of all affiliated or parent entities and their relationships with
30 the institution, including annual updates.

31 “(c) Tax Allocation Agreement.—The appropriate banking supervisor may require a legal
32 entity with a controlling interest in a covered depository institution to execute a tax allocation
33 agreement with the institution that—

34 “(1) expressly states that an agency relationship exists between the person and the
35 institution with respect to tax assets generated by the institution, and that the assets are held
36 in trust by the person for the benefit of the institution and will be promptly remitted to the
37 institution; and

38 “(2) may provide that the amount and timing of any payments or refunds to the institution
39 by the person should be no less favorable than if the institution were a separate taxpayer.

1 “(d) Prohibition on Controlling Interests.—A person that is a commercial firm, as defined in
2 section 602 of the Bank and Savings Association Holding Company and Depository Institution
3 Regulatory Improvements Act of 2010 (12 U.S.C. 1815 note), may not obtain a controlling
4 interest in a covered depository institution.

5 “(e) Public Interest.—If the appropriate banking supervisor finds that it is in the public interest
6 and has reasonable cause to believe it is necessary to protect the customers of a covered
7 depository institution, the supervisor may—

8 “(1) conduct an examination of a legal entity with a controlling interest in a covered
9 depository institution or otherwise require information from the person; and

10 “(2) require a person with a controlling interest in a covered depository institution to
11 divest or sever their relationship with the institution, if necessary to maintain safety and
12 soundness.”.

13 SEC. 606. IMPLEMENTATION RULES TO PRESERVE 14 ADEQUATE COMPETITION IN PAYMENT 15 STABLECOINS.

16 (a) In General.—The application of a non-depository trust company or the holder of a State
17 license that only persons engaged in digital asset activities may obtain, which was chartered or
18 issued under the laws of a State or the National Bank Act before the date of enactment of this
19 Act, to receive a charter as a depository institution and to operate under subsection (c) of section
20 5169 of the Revised Statutes (12 U.S.C. 27), as added by section 604 of this Act, shall be
21 decided upon by the Comptroller of the Currency before an application for a charter to operate
22 under that section from another entity that is filed on or after the date of enactment of this Act.

23 (b) Application.—The application of a covered depository institution, as defined in section
24 15(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1853(a)), chartered before the date
25 of enactment of this Act to become a State member bank in the Federal Reserve System or for
26 access to Federal Reserve services under section 11A of the Federal Reserve Act (12 U.S.C.
27 248a) shall be decided upon by the Board of Governors of the Federal Reserve System, or a
28 Federal Reserve bank, as applicable, before any application to become a State member bank or
29 for Federal Reserve services from any other entity which seeks to operate as a covered
30 depository institution and which is filed on or after the date of enactment of this Act.

31 (c) Decision.—The applications described in subsections (a) and (b) of this section shall be
32 decided upon by the appropriate Federal banking agency (as defined in section 3 of the Federal
33 Deposit Insurance Act (12 U.S.C. 1813) or Federal Reserve bank, as applicable, before an
34 insured depository institution in operation before the enactment date of this Act may issue a
35 payment stablecoin under section 601 of this Act.

36 SEC. 607. FINANCIAL CRIMES ENFORCEMENT 37 NETWORK INNOVATION LABORATORY.

38 Section 310 of title 31, United States Code, is amended by adding at the end the following:

39 “(m) Innovation Laboratory.—

1 “(1) IN GENERAL.—There is established within the Financial Crimes Enforcement
2 Network an Innovation Laboratory to promote regulatory dialogue, data sharing between
3 the Financial Crimes Enforcement Network and financial companies, and an assessment of
4 potential changes in law, rules, or policies to facilitate the appropriate supervision of
5 financial technology and the laws under the jurisdiction of the agency.

6 “(2) CHIEF INNOVATION OFFICER.—The innovation officer appointed under section 6208
7 of the Anti-Money Laundering Act of 2020 (31 U.S.C. 5311 note) by the Director of the
8 Financial Crimes Enforcement Network shall manage the Innovation Laboratory.

9 “(3) DUTIES.—The Innovation Laboratory, as appropriate, shall study changes in
10 financial technology and make recommendations to Congress, the Secretary, and the
11 Director for appropriate changes in laws, rules, or policies that can more effectively
12 facilitate the supervision of financial technology with respect to the laws under the
13 jurisdiction of the Financial Crimes Enforcement Network, including digital assets,
14 distributed ledger technology and decentralized finance.

15 “(4) PILOT PROJECTS.—The Innovation Laboratory, as appropriate, shall conduct pilot
16 projects with financial companies to more effectively facilitate the supervision of financial
17 technology, consistent with applicable law.”

18 TITLE VII—RESPONSIBLE BANKING INNOVATION

19 SEC. 701. STUDY ON USE OF DISTRIBUTED LEDGER 20 TECHNOLOGY FOR REDUCTION OF RISK IN 21 DEPOSITORY INSTITUTIONS.

22 Not later than 180 days after the date of enactment of this Act, the Board of Governors of the
23 Federal Reserve System shall complete a study and submit to the Committee on Housing,
24 Banking, and Urban Affairs of the Senate and the Committee on Financial Services of the House
25 of Representatives a report regarding the manner in which distributed ledger technology may
26 reduce risk for depository institutions, as defined in section 19(b)(1) of the Federal Reserve Act
27 (12 U.S.C. 461(b)(1)), including settlement risk, operational risk and capital requirements.

28 SEC. 702. ELIGIBILITY FOR FEDERAL RESERVE 29 SERVICES TO DEPOSITORY INSTITUTIONS.

30 (a) Findings.—Congress finds the following:

31 (1) Final settlement of transactions in central bank money reduces risk in the financial
32 system, including through the reduction of counterparty exposure.

33 (2) Digital assets settle with finality in seconds or minutes, whereas traditional financial
34 transactions may take days to settle.

35 (3) This mismatch in the settlement window of digital assets and traditional financial
36 assets creates risk in the economy that may be reduced through the ability of depository
37 institutions to simultaneously conduct digital asset transactions and settle, with finality, the
38 United States dollar component of these transactions.

1 (4) The Federal Reserve Act specifies that a depository institution, as defined in section
2 19(b)(1) of that Act (12 U.S.C. 461(b)(1)), upon receiving a charter from the Office of the
3 Comptroller of the Currency, National Credit Union Administration or state bank
4 supervisor, is required to be made available services from Federal Reserve banks under the
5 Federal Reserve Act (12 U.S.C. 248a), including currency and coin services, wire transfer
6 services, automated clearinghouse services and settlement services.

7 (5) Numerous Federal courts have found that the provision of services to depository
8 institutions under section 11A of the Federal Reserve Act (12 U.S.C. 248a) is a ministerial
9 duty imposed by Congress with respect to all depository institutions.

10 (6) The Board of Governors of the Federal Reserve System has long interpreted the
11 Federal Reserve Act to mean that the Federal Reserve banks must provide services to all
12 depository institutions, noting that it has a duty “to ensure the provision of payment services
13 to all depository institutions on an equitable basis, and to do so in an atmosphere of
14 competitive fairness”.

15 (7) The Federal Reserve banks have, on occasion, provided services to non-depository,
16 non-insured institutions without appropriate statutory authority.

17 (8) Certain novel legal positions that conflict with or frustrate these precedents are not in
18 the best traditions of the Federal Reserve Act, our dual banking system, and the imperatives
19 of Congress.

20 (9) The statutory independence of the Board of Governors and the Federal Reserve banks
21 under the Constitution of the United States is properly rooted in absolute fidelity to the laws
22 enacted by Congress.

23 (10) It is appropriate for Congress to reaffirm its existing statutory intent to ensure that all
24 depository institutions may access services under the Federal Reserve Act “on an equitable
25 basis, and to do so in an atmosphere of competitive fairness”.

26 (b) Pricing of Services.—Section 11A of the Federal Reserve Act (12 U.S.C. 248a) is
27 amended by adding at the end the following:

28 “(f) A Federal Reserve bank shall provide a segregated balance account to a depository
29 institution upon the request of any institution which receives services under this section.”.

30 (c) Deposits; Exchange and Collection; Member and Nonmember Banks or Other Depository
31 Institutions; Charges.—Section 13 of the Federal Reserve Act (12 U.S.C. 342) is amended to
32 read as follows:

33 “(1) “Any Federal Reserve bank shall receive from any of its member banks or other
34 depository institutions, and from the United States, deposits of current funds in lawful
35 money, national-bank notes, Federal reserve notes, or checks, and drafts, payable upon
36 presentation or other items, and also, for collection, maturing notes and bills; or, solely for
37 purposes of exchange or of collection, shall receive from other Federal Reserve banks
38 deposits of current funds in lawful money, national-bank notes, or checks upon other
39 Federal Reserve banks, and checks and drafts, payable upon presentation within its district
40 or other items, and maturing notes and bills payable within its district; or, solely for the
41 purposes of exchange or of collection, shall receive from any non-member bank or trust
42 company or other depository institution deposits of current funds in lawful money, national-

1 bank notes, Federal reserve notes, checks and drafts payable upon presentation or other
2 items, or maturing notes and bills: Provided, Such nonmember bank or trust company or
3 other depository institutions maintains with the Federal Reserve bank of its district a
4 balance in such amount as the Board determines taking into account items in transit,
5 services provided by the Federal Reserve bank, and other factors as the Board may deem
6 appropriate: Provided further, That nothing in this or any other section of this Act shall be
7 construed as prohibiting a member or nonmember bank or other depository institution from
8 making reasonable charges, to be determined and regulated by the Board of Governors, but
9 in no case to exceed 10 cents per \$100 or fraction thereof, based on the total of checks and
10 drafts presented at any one time, for collection or payment of checks and drafts and
11 remission therefor by exchange or otherwise; but no such charges shall be made against the
12 Federal Reserve banks.”.

13 SEC. 703. ROUTING TRANSIT NUMBER ISSUANCE.

14 Not later than 2 years after the date of enactment of this Act, the Board of Governors of the
15 Federal Reserve System shall assume responsibility for issuing routing transit numbers to
16 depository institutions for all purposes relating to the clearing of transactions and the services
17 required to be made available to all depository institutions under section 11A of the Federal
18 Reserve Act (12 U.S.C. 248a).

19 SEC. 704. CLARIFYING APPLICATION REVIEW TIMES 20 WITH RESPECT TO THE FEDERAL BANKING AGENCIES.

21 Section 343 of the Riegle Community Development and Regulatory Improvement Act of 1994
22 (12 U.S.C. 4807) is amended by striking subsection (a) and inserting the following:

23 “(a) Final Action.—

24 “(1) DEFINITION.—In this subsection, the term ‘completed application’—

25 “(A) means the information requested by the Federal banking agency at the outset of
26 an application through application forms or similar means; and

27 “(B) does not include supplemental information requested by the agency after filing
28 of an application.

29 “(2) ACTION.—Each Federal banking agency, including Federal Reserve banks, shall take
30 final action on any application to the agency before the end of the 1-year period beginning
31 on the date on which a completed application is received by the agency.

32 “(b) Report.—Each Federal banking agency, including the Federal Reserve banks, shall
33 annually report to Congress a list of the applications that have been pending for 9 months or
34 longer since the date of the initial application filed by an applicant. Such list—

35 “(1) shall disclose the reason why the application has not yet been approved or denied by
36 the Federal banking agency; and

37 “(2) shall not contain confidential supervisory information.”.

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SEC. 705. EXAMINATION STANDARDS FOR DIGITAL ASSET ACTIVITIES.

(a) In General.—Not later than 18 months after the date of enactment of this Act, the Federal Financial Institutions Examination Council, in consultation with the Financial Crimes Enforcement Network, shall publish final guidance and examiner handbooks for depository institutions, as defined in section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)), on the following topics related to digital assets:

(1) Anti-money laundering, customer identification, beneficial ownership, and sanctions compliance, including with respect to payment stablecoin activities and subsidiary value (as defined in section 9802(c) of title 31, United States Code).

(2) Custody.

(3) Fiduciary and capital markets activities.

(4) Information technology standards.

(5) Payment system risk.

(6) Consumer protection.

(b) Final Guidance.—Not later than 18 months after the date of enactment of this Act, Securities and Exchange Commission and Commodity Futures Trading Commission, in consultation with the Financial Crimes Enforcement Network, shall publish final guidance and examiner handbooks relating to digital asset intermediaries regarding the topics described in paragraphs (1) and (4) of subsection (a).

SEC. 706. ASSET CUSTODY FOR DEPOSITORY INSTITUTIONS AND CERTAIN OTHER ENTITIES.

(a) Findings.—Congress finds the following:

(1) The laws surrounding custody of financial assets is largely customary, uncodified, and poorly understood.

(2) Lack of uniformity amongst various jurisdictions' laws relating to custody has largely not been addressed by regulators, can contribute to risk, and is producing uncertainty for innovators.

(3) Codifying basic principles around custody of financial assets will reduce systemic risk, clearly define the rights and duties of both custodian and customer, and contribute to a more uniform and effective banking system.

(b) Definition.—In this section, the term “custody” means the safekeeping, servicing and management of customer financial assets, including currency, securities and commodities, on an off-balance sheet basis.

(c) Custody.—

(1) IN GENERAL.—Except as provided in paragraph (2), custody of financial assets is accomplished by a bailment and established by a written customer agreement. Custody shall not be a fiduciary or trust activity unless the custodian is providing substantial discretionary

1 services with respect to an account, including through investment advice or investment
2 discretion, and the custodian owes a customer a higher standard of care or duty with respect
3 to the customer of that account.

4 (2) EXCEPTION.—A custodian and customer may establish a legal relationship other than
5 a bailment pursuant to a written customer agreement.

6 (d) Proper Documentation.—A custodial account shall be properly documented in a customer
7 agreement, with a clearly defined legal relationship between the custodian and customer.
8 Custodial assets shall be properly identified and segregated from the assets of the custodian, with
9 proper documentation of asset segregation.

10 (e) Not Assets or Liabilities.—Assets properly held in a custodial account under this section
11 are not assets or liabilities of the custodian and shall be maintained on an off-balance sheet basis,
12 including for the purpose of accounting treatment for the custodian and the customers of the
13 custodian, notwithstanding the form in which the assets are maintained.

14 (f) Applicability.—This section shall apply to depository institutions, as defined in section
15 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)), and non-depository trust companies
16 chartered under section 5169 of the Revised Statutes (12 U.S.C. 27).

17 SEC. 707. REPUTATION RISK; REQUIREMENTS FOR 18 ACCOUNT TERMINATION REQUESTS AND ORDERS.

19 (a) Reputation Risk.—An appropriate Federal banking agency may not formally or informally
20 request or order a depository institution to terminate a specific customer account or group of
21 customer accounts unless the agency has a valid reason for such request or order, consistent with
22 subsections (b) and (c).

23 (b) No Restriction.—An appropriate Federal banking agency shall not restrict or discourage a
24 depository institution from entering into or maintaining a banking relationship with a specific
25 customer or group of customers based on reputation risk, including through the examinations and
26 ratings of the depository institution.

27 (c) Treatment of National Security Threats.—If an appropriate Federal banking agency
28 believes a specific customer or group of customers is, or acting as a conduit for, an entity
29 which—

30 (1) poses a threat to national security;

31 (2) is involved in terrorist financing;

32 (3) is an agency of the Government of Iran, North Korea, Syria, or any country listed
33 from time to time on the State Sponsors of Terrorism list;

34 (4) is located in, or is subject to the jurisdiction of, any country specified in paragraph
35 (3); or

36 (5) does business with any entity described in paragraph (3) or (4), unless the appropriate
37 Federal banking agency determines that the customer or group of customers has used due
38 diligence to avoid doing business with that entity, such belief shall satisfy the requirement
39 under subsection (a).

1 (d) Notice Requirement.—

2 (1) IN GENERAL.—If an appropriate Federal banking agency formally requests or orders a
3 depository institution to terminate a specific customer account or a group of customer
4 accounts, the agency shall—

5 (A) provide such request or order to the institution in writing; and

6 (B) accompany such request or order with a written justification for why such
7 termination is needed, including any specific laws or rules the agency believes are
8 being violated by the customer or group of customers.

9 (2) JUSTIFICATION REQUIREMENT.—Consistent with subsection (b), the justification
10 described in paragraph (1)(B) may not be based on reputation risk to the depository
11 institution.

12 (e) Customer Notice.—

13 (1) NOTICE REQUIRED.—Except as provided under paragraph (2) or as otherwise
14 prohibited from being disclosed by law, if an appropriate Federal banking agency orders a
15 depository institution to terminate a specific customer account or a group of customer
16 accounts, the depository institution shall inform the specific customer or group of customers
17 of the justification for the customer’s account termination described under subsection (b).

18 (2) NOTICE PROHIBITED.—

19 (A) NOTICE PROHIBITED IN CASES OF NATIONAL SECURITY.—If an appropriate
20 Federal banking agency requests or orders a depository institution to terminate a
21 specific customer account or a group of customer accounts based on a belief that the
22 customer or customers pose a threat to national security, or are otherwise described
23 under subsection (a)(2), neither the depository institution nor the appropriate Federal
24 banking agency may inform the customer or customers of the justification for the
25 customer’s account termination.

26 (B) NOTICE PROHIBITED IN OTHER CASES.—If an appropriate Federal banking agency
27 determines that the notice required under paragraph (1) may interfere with an
28 authorized criminal investigation, neither the depository institution nor the appropriate
29 Federal banking agency may inform the specific customer or group of customers of the
30 justification for the customer’s account termination.

31 (f) Reporting Requirement.—Each appropriate Federal banking agency shall issue an annual
32 report to Congress stating—

33 (1) the aggregate number of specific customer accounts that the agency requested or
34 ordered a depository institution to terminate during the previous year; and

35 (2) the legal authority on which the agency relied in making such requests and orders and
36 the frequency on which the agency relied on each such authority.

37 (g) Definitions.—In this section:

38 (1) APPROPRIATE FEDERAL BANKING AGENCY.—The term “appropriate Federal banking
39 agency” means—

40 (A) the appropriate Federal banking agency, as defined in section 3 of the Federal

1 Deposit Insurance Act (12 U.S.C. 1813); and

2 (B) the National Credit Union Administration, in the case of an insured credit union.

3 (2) DEPOSITORY INSTITUTION.—The term “depository institution” has the meaning given
4 the term in section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

5 SEC. 708. CONFORMING AMENDMENTS.

6 (a) Federal Deposit Insurance Act.—Section 12 of the Federal Deposit Insurance Act (12
7 U.S.C. 1822) is amended by adding at the end the following:

8 “(g) Appointment of Receiver.—

9 “(1) DEFINITION.—In this subsection, the term ‘covered depository institution’ has the
10 meaning given the term in section 15(a) of the Bank Holding Company Act of 1956.

11 “(2) APPOINTMENT.—The Corporation may be appointed as receiver of a covered
12 depository institution, as defined in section 15(a) of the Bank Holding Company Act of
13 1956.

14 “(3) PREMIUMS.—A covered depository institution may not be charged deposit insurance
15 premiums for the purpose of this subsection, but the Corporation may use the capital of the
16 covered depository institution to fund the costs of the receivership.

17 “(4) REGULATIONS.—The Corporation may promulgate rules to carry out this subsection,
18 which shall—

19 “(A) be substantially consistent with the rules for receivership of an insured
20 depository institution; and

21 “(B) account for the limited activities, capital, and the required tailored recovery and
22 resolution plan of the covered depository institution.”.

23 (b) Federal Reserve Act.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

24 (1) in section 19(b)(1)(A) (12 U.S.C. 461(b)(1)(A))—

25 (A) in clause (vi), by striking “and” at the end;

26 (B) in clause (vii), by striking the period at the end and inserting “; and”; and

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

28 “(viii) a covered depository institution, as defined in section 15(a) of the Bank
29 Holding Company Act of 1956.”; and

30 (2) in the first undesignated paragraph of section 9 (12 U.S.C. 321), in the first sentence,
31 by inserting “, covered depository institutions, as defined in section 15(a) of the Bank
32 Holding Company Act of 1956 (12 U.S.C. 1853(a)),” after “Plan banks”.

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1 TITLE VIII—RESPONSIBLE INTERAGENCY
2 COORDINATION

3 SEC. 801. TIMELINE FOR INTERPRETIVE GUIDANCE
4 ISSUED BY FEDERAL FINANCIAL AGENCIES.

5 (a) In General.—Title 31, United States Code, is amended by adding after chapter 98, as added
6 by section 101(a) of this Act, the following:

7 “CHAPTER 99—RESPONSIBLE INTERAGENCY
8 COORDINATION

9 “Sec.

10 “9901. Timeline for interpretive guidance issues by Federal financial agencies.

11 “9902. Interstate sandbox activities.

12 “9901. Timeline for interpretive guidance issues by Federal
13 financial agencies

14 “(a) In General.—In this section:

15 “(1) FEDERAL FINANCIAL REGULATOR.—The term ‘Federal financial regulator’ means—

16 “(A) Board of Governors of the Federal Reserve System and the Federal Reserve
17 banks;

18 “(B) Commodity Futures Trading Commission;

19 “(C) Department of the Treasury;

20 “(D) Federal Deposit Insurance Corporation;

21 “(E) Federal Housing Finance Agency;

22 “(F) National Credit Union Administration;

23 “(G) Office of the Comptroller of the Currency;

24 “(H) Consumer Financial Protection Bureau; and

25 “(I) Securities and Exchange Commission.

26 “(2) REQUESTING PERSON.—The term ‘requesting person’—

27 “(A) means any entity that is required to be chartered, licensed, supervised or
28 registered by that agency; and

29 “(B) includes State agencies and self-regulatory organizations.

30 “(b) Response.—Not later than 180 days after filing a written request for individualized
31 interpretive guidance with respect to the application of a statute, rule or policy under the
32 jurisdiction of a Federal financial regulator, the agency shall provide a final, complete and
33 written response to the requesting person. This subsection shall not apply to requests for

1 guidance that the Federal financial regulator determine lack substance.

2 “(c) Other Matters.—With respect to matters delegated or otherwise under the jurisdiction of
3 self-regulatory organizations, including national securities exchanges, boards of trade, and
4 similar entities, the self-regulatory organization shall be subject to the same requirements as a
5 Federal financial regulator under this section.”.

6 SEC. 802. INTERSTATE SANDBOX ACTIVITIES.

7 (a) In General.—Chapter 99 of title 31, United States Code, as added by section 701 of this
8 Act, is amended by adding at the end the following:

9 “9902. Interstate sandbox activities

10 “(a) Definitions.—In this section:

11 “(1) FEDERAL FINANCIAL REGULATOR.—The term ‘Federal financial regulator’ means the
12 Federal agency described in section 9901(a)(1) that would typically exercise jurisdiction
13 over the product or service made available in the State financial regulatory sandbox, or the
14 Department of the Treasury, in the case of a matter only within the jurisdiction of a State.

15 “(2) FINANCIAL COMPANY.—The term ‘financial company’ means a business entity
16 primarily engaged in activities that are financial in nature, as described in section 4(k)(4) of
17 the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)(4)).

18 “(3) HOST STATE.—The term ‘host State’ means a State in which a financial company is
19 not operating in the State financial regulatory sandbox of that State.

20 “(4) INNOVATIVE.—The term ‘innovative’ means new or emerging technology, or new
21 uses of existing technology, that—

22 “(A) provides a financial product, service, business model, or delivery mechanism to
23 the public; and

24 “(B) has no substantially comparable, widely available analogue in common use in
25 the United States.

26 “(5) STATE FINANCIAL REGULATOR.—The term ‘State financial regulator’ includes State
27 agencies that regulate, supervise, or license banks, trust companies, credit unions, consumer
28 credit, consumer protection, money transmission, securities, commodities, and similar areas.

29 “(6) STATE FINANCIAL REGULATORY SANDBOX.—The term ‘State financial regulator
30 sandbox’ means a program created under State law that allows a financial company to make
31 an innovative financial product or service available to customers within that State during a
32 defined period in order to permit regulatory dialogue, data sharing amongst regulators and
33 financial companies, and to promote an assessment of potential changes in law, rule, or
34 policy to facilitate the appropriate supervision of financial technology.

35 “(b) Business Conducted.—Upon joint approval under subsection (d), a financial company in
36 good standing in a State financial regulatory sandbox and operating for not less than 6 months in
37 that sandbox program, may do business across state lines under the standards of this section. If
38 approved, the state financial regulator and the Federal financial regulator may agree upon
39 reasonable adjustments to the number of customers that may be served, increased bonding or

1 collateral requirements, and similar conditions which may be appropriate for conducting business
2 nationally.

3 “(c) State Sandbox Requirements.—A State financial regulatory sandbox shall contain the
4 following components for financial companies to be eligible to do business across state lines
5 under this section:

6 “(1) A limited sandbox period of not more than 24 months.

7 “(2) Consumer protection requirements, which may include disclosures, bonding,
8 insurance requirements and financial literacy programs for specified consumers;

9 “(3) Authority to conduct examinations of the financial company.

10 “(4) A background investigation of the financial company and its officers, directors,
11 members, managers and key employees, prior to commencing business.

12 “(d) Decision.—Upon submission of an application by a financial company to conduct
13 business across state lines under subsection (b), the State financial regulator and Federal
14 financial regulator shall jointly issue a decision within 120 days with respect to that application,
15 irrespective of any supplemental information with respect to the application that may be
16 requested after initial filing. The Federal financial regulator shall have the authority to conduct a
17 joint examination of any financial company doing business under this section.

18 “(e) Factors.—The State financial regulator and Federal financial regulator shall consider the
19 following factors in rendering a decision on the application:

20 “(1) Whether the product or service offered may be offered in a safe and sound manner
21 across state lines.

22 “(2) Whether the management and capital of the financial company is commensurate with
23 its scale.

24 “(3) Risk management plans of the financial company.

25 “(4) Conduct of the financial company to date in the State regulatory sandbox, and any
26 past regulatory actions, including actions against officers, directors, members, managers and
27 key employees.

28 “(5) Plans for consumer education and financial literacy, including partnerships with
29 local educational institutions and community colleges to provide financial literacy classes or
30 resources.

31 “(6) Other factors determined by the State and Federal financial regulators to be material.

32 “(f) Election.—A host State may elect not to permit financial companies operating under this
33 section to do business in their State through issuance of an executive order by the Governor of
34 that State.

35 “(g) Innovative.—A product or service made available under this section through a State
36 financial regulatory sandbox shall be innovative, as defined in this section.

37 “(h) Rules of Construction.—This section shall not be construed to extend to permit—

38 “(1) a financial company to engage in any activities for which a charter, license,
39 registration or for which permission would be required under Federal or State law but for

1 the innovative financial product or service being offered by the company, except to the
2 extent the financial company would be required to obtain a charter, license or other
3 authorization required in a host State;

4 “(2) failure to comply with any applicable portion of State law required by the State
5 financial regulatory sandbox, or failure to comply with any applicable portion of Federal
6 law, unless authorized on a limited basis by the Federal financial regulator to achieve the
7 purposes of this section and the State financial regulatory sandbox; or

8 “(3) lending activities in excess of the maximum statutory rate of interest permissible in a
9 State.”

10 (b) Technical and Conforming Amendment.—The table of contents for subtitle VI of title 31,
11 United States Code, as amended by section 101(b) of this Act, is amended by adding at the end
12 the following:

13 “99.Responsible interagency coordination

14 9901”.

15 SEC. 803. STATE MONEY TRANSMISSION 16 COORDINATION RELATING TO DIGITAL ASSETS.

17 (a) In General.—In order to increase uniformity, reduce regulatory burden, and enhance
18 consumer protection, the States, through the Conference of State Bank Supervisors and the
19 Money Transmission Regulators Association, shall, not later than 2 years after the date of
20 enactment of this Act, ensure uniform treatment of digital assets under state money transmission
21 laws relating to the following topics:

22 (1) Whether digital assets are subject to money transmission licensing requirements, as
23 appropriate, which shall include the exchange of digital assets for legal tender.

24 (2) Treatment of payment stablecoins under money transmission laws.

25 (3) Non-applicability to persons or software that engage in validation of transactions,
26 non-custodial wallet providers, or software or hardware development.

27 (4) Tangible net worth and permissible investment requirements.

28 (5) Disclosures, reporting, and recordkeeping.

29 (6) Common examination and examiner training standards, including common customer
30 identification, anti-money laundering, and sanctions best practices developed in
31 consultation with the Financial Crimes Enforcement Network and the Office of Foreign
32 Assets Control.

33 (b) Regulations.—If the Director of the Bureau of Consumer Financial Protection Bureau
34 determines that a State does not have the requirements of subsection (a) in effect by law
35 (including rules) that are substantively consistent with the requirements of the several States on
36 the date that is 2 years after the date of enactment of this section, the Director shall adopt rules
37 applicable to that State that achieve the purposes of subsection (a) and that are consistent with
38 the standards adopted in the States that have the requirements of subsection (a) in effect. The
39 Director may extend the deadline under this section for not more than 1 year if a State has shown

1 a good faith effort towards implementation. The Director may promulgate regulations to monitor
2 State compliance with this subsection.

3 SEC. 804. INFORMATION SHARING AMONG FEDERAL 4 AND STATE FINANCIAL REGULATORS.

5 Chapter 48 of title 12, United States Code, is amended by adding at the end the following:

6 “4811. INFORMATION SHARING AMONG FEDERAL AND 7 STATE FINANCIAL REGULATORS.

8 (a) Confidentiality.—Notwithstanding any other provision of law, any requirement under
9 Federal or State law regarding the privacy or confidentiality of any information or materials
10 exchanged among financial regulators and any privilege arising under Federal or State law
11 (including the rules of any Federal or State court) with respect to such information or material,
12 shall continue to apply to such information or material after the information or material has been
13 disclosed to any State or Federal financial regulator.

14 (b) Non-Applicability of Certain Requirements.—Information or material that is subject to
15 privilege or confidentiality under subsection (a) shall not be subject to—

16 (1) disclosure under any Federal or State law governing the disclosure to the public of
17 information held by an officer or an agency of the Federal Government or the respective
18 State; or

19 (2) subpoena or discovery, or admission into evidence, in any private civil action or
20 administrative process, unless with respect to any privilege held by the Nationwide
21 Mortgage Licensing System and Registry or the Director with respect to such information
22 or material, the person to whom such information or material pertains waives that privilege,
23 in whole or in part, based on the discretion of such person.

24 (c) Coordination With Other Law.—Any State or Federal law, including any State open
25 records law, relating to the disclosure of confidential supervisory information or any information
26 or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded
27 by the requirements of such provision to the extent the State or Federal law provides less
28 confidentiality or a weaker privilege.

29 (d) Conference of State Bank Supervisors.—The Conference of State Bank Supervisors shall
30 be considered the agent of the State financial regulators for the purposes of sharing information
31 under this provision.

32 (e) Definition.—In this section, the term “financial regulator” means—

33 (1) the Board of Governors of the Federal Reserve System and the Federal Reserve
34 banks;

35 (2) the Commodity Futures Trading Commission;

36 (3) the Department of the Treasury, including the Financial Crimes Enforcement Network
37 and Office of Foreign Assets Control;

38 (4) the Federal Deposit Insurance Corporation;

- 1 (5) the Federal Housing Finance Agency;
- 2 (6) the National Credit Union Administration;
- 3 (7) the Office of the Comptroller of the Currency;
- 4 (8) the Bureau of Consumer Financial Protection;
- 5 (9) the Securities and Exchange Commission; and
- 6 (10) State agencies that regulate, supervise, or license banks, trust companies, credit
- 7 unions, consumer credit, consumer protection, money transmission, securities, commodities,
- 8 and similar areas.

9 SEC. 805. ANALYSIS OF DECENTRALIZED FINANCE 10 MARKETS AND TECHNOLOGIES.

11 Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, in
12 consultation with the Commodity Futures Trading Commission, Securities and Exchange
13 Commission, and private sector developers and participants in decentralized protocols, digital
14 assets, and digital asset exchanges, shall—

15 (1) analyze the market position of decentralized finance technologies with respect to
16 digital assets; and

17 (2) submit to the Committee on Banking, Housing, and Urban Affairs and the Committee
18 on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Financial
19 Services and the Committee on Agriculture of the House of Representatives a report on—

20 (A) current development and use of decentralized finance protocols in the United
21 States and other countries;

22 (B) opportunities, benefits, and challenges relating to decentralized finance
23 protocols and self-custody of digital assets;

24 (C) a comparison of operational friction, fees, liquidity and trading opportunities in
25 decentralized finance protocols, digital asset markets, and traditional markets;

26 (D) transparency, prevention of manipulation, and customer protection;

27 (E) cybersecurity and resiliency; and

28 (F) ensuring the accuracy of information regarding the underlying smart contracts of
29 a decentralized finance protocol and the transactions facilitated by such contracts, as
30 the information appears on a website or other similar means relating to the protocol.

31 SEC. 806. ANALYSIS OF ENERGY CONSUMPTION IN 32 DIGITAL ASSET MARKETS.

33 (a) In General.—Each year, the Federal Energy Regulatory Commission, in consultation with
34 the Commodity Futures Trading Commission and Securities and Exchange Commission, shall
35 analyze the following topics with respect to digital asset markets:

- 36 (1) Energy consumption for mining and staking of digital asset transactions.

1 (2) The effect of energy consumption described in paragraph (1) on national, regional,
2 and local energy prices.

3 (3) The effects of mining and staking of digital asset transactions on baseload power
4 levels.

5 (4) The use of renewable energy sources, including use of nonrenewable sources that
6 would otherwise be wasted, and a comparison of digital asset market energy consumption
7 with the financial services industry and economy as a whole.

8 (5) The sources and reliability of the data used under this subsection.

9 (6) A process for regulated entities to make information publicly available regarding
10 energy consumption, including sources of energy and amount, and, if appropriate,
11 recommendations to Congress to establish such a process.

12 (b) Report.—Not later than December 31 of each year, the Federal Energy Regulatory
13 Commission shall submit to the Committee on Energy and Natural Resources and the Committee
14 on Environment and Public Works of the Senate and the Committee on Energy and Commerce
15 and the Committee on Natural Resources of the House of Representatives a report containing the
16 analysis required by subsection (a).

17 SEC. 807. ANALYSIS OF SELF-REGULATION AND 18 REGISTERED DIGITAL ASSET ASSOCIATIONS.

19 (a) Not later than six months after the date of enactment of this Act, the Commodity
20 Futures Trading Commission and Securities and Exchange Commission, in consultation with
21 digital asset intermediaries (as defined in section 9801, title 31 United States Code) and standard-
22 setting associations representing the digital asset industry, shall conduct a study and issue a report
23 to the committees specified by subsection (b) of this section setting forth principles for self-
24 regulation for digital asset markets and a proposal for the establishment of a self-regulatory
25 organization for digital asset markets based on delegated authority from the Commodity Futures
26 Trading Commission and Securities and Exchange Commission to facilitate innovative, efficient
27 and orderly markets for digital assets, consistent with this Act:

28 (i) Standard setting, corporate transparency requirements, and rulemaking relating to
29 digital asset market conduct;

30 (ii) Regular consultation among the Commodity Futures Trading Commission and
31 Securities and Exchange Commission with respect to rules governing digital asset
32 market conduct and the governance of registered digital asset associations;

33 (iii) Appropriate investigatory and disciplinary powers of registered digital asset
34 associations and registered digital asset exchanges, respectively;

35 (iv) Authority of digital asset intermediaries to conduct activities relating to traditional
36 assets;

37 (v) Consumer education and financial literacy;

38 (vi) Professional accreditation and education;

39 (vii) Market surveillance and oversight, including use of technology to facilitate shared
40 trade practices and market surveillance;

41 (viii) Risk-based examination authority;

42 (ix) Dispute resolution and arbitration;

1 (x) Membership of registered digital asset association members in other self-regulatory
2 organizations and mutual recognition and acceptance of rules and examination reports
3 amongst self-regulatory organizations;

4 (xi) Voluntary and compulsory membership structures;

5 (xii) The initial determination of the legal classification of a digital asset by a
6 registered digital asset association, subject to oversight by the Commodity Futures
7 Trading Commission and Securities and Exchange Commission; and

8 (xiii) Funding of registered digital asset associations based on fees.

9 (b) The report required by subsection (a) of this section shall be submitted to the
10 Committees on Banking, Housing, and Urban Affairs and Agriculture, Nutrition and Forestry of
11 the Senate and the Committees on Financial Services and Agriculture of the House of
12 Representatives.

13 (c) Not later than August 1, 2022, the Commodity Futures Trading Commission and
14 Securities and Exchange Commission shall jointly adopt an interim final rule specifying the scope
15 of the study under subsection (a), including topics of discussion and questions for digital asset
16 intermediaries and associations representing the digital asset industry, and setting forth not fewer
17 than three public meetings for Commodity Futures Trading Commission and Securities and
18 Exchange Commission staff to receive public comment. The interim final rule shall also establish
19 a comment period of not less than 120 days prior to publication of the report under subsection (a)
20 and contain proposals for the creation of registered digital asset associations by Congress.

21 SEC. 808. CYBERSECURITY STANDARDS FOR DIGITAL 22 ASSET INTERMEDIARIES.

23 (a) Definition.—In this section, the term “digital asset intermediary” has the meaning given
24 the term in section 9801 of title 31, United States Code, as added by section 101 of this Act.

25 (b) Requirement.—Not later than 18 months after the date of enactment of this Act, the
26 Commodity Futures Trading Commission and the Securities and Exchange Commission, in
27 consultation with the Secretary of the Treasury and Director of the National Institute of
28 Standards and Technology, shall develop comprehensive, principles-based guidance relating to
29 cybersecurity for digital asset intermediaries that account for, with respect to such a digital asset
30 intermediary—

31 (1) the internal governance, and organizational culture, of the cybersecurity program of
32 the digital asset intermediary;

33 (2) security operations of the digital asset intermediary, including threat identification,
34 incident response, and mitigation;

35 (3) risk identification and measurement by the digital asset intermediary;

36 (4) the mitigation of risk by the digital asset intermediary, including policies of the digital
37 asset intermediary, controls implemented by the digital asset intermediary, change
38 management with respect to the digital asset intermediary, and the supply chain integrity of
39 the digital asset intermediary; and

40 (5) assurance provided by, and testing conducted by, the digital asset intermediary,
41 including penetration testing and independent audits so conducted.

1 (6) potential for digital asset intermediaries to be used to facilitate illicit activities
2 including sanctions avoidance.

3 **SEC. 809. ADVISORY COMMITTEE ON FINANCIAL**
4 **INNOVATION.**

5 (a) Establishment.—There is established the Advisory Committee on Financial Innovation (in
6 this section referred to as the “Committee”).

7 (b) Membership.—

8 (1) COMPOSITION.—The Committee shall be composed of 10 members, as follows:

9 (A) 2 members appointed by the President from the financial technology industry.

10 (B) 4 members appointed by the President with specializations in consumer
11 protection, consumer education, financial literacy or financial inclusion.

12 (C) A commissioner from the Securities and Exchange Commission, as designated
13 by the Chair of the Commission.

14 (D) A commissioner from the Commodity Futures Trading Commission, as
15 designated by the Chair of the Commission.

16 (E) A member of the Board of Governors of the Federal Reserve System, as
17 designated by the Chair of the Board.

18 (F) A State financial regulator, as jointly designated by the National Association of
19 State Securities Administrators and the Conference of State Bank Supervisors.

20 (2) POLITICAL AFFILIATION.—Not more than 5 of the members of the Committee shall be
21 from the same political party.

22 (3) APPOINTMENT DATE.—The appointments of the members of the Committee shall be
23 made not later than 60 days after the date of enactment of this Act.

24 (4) PERIOD OF APPOINTMENT; VACANCIES.—

25 (A) IN GENERAL.—A member of the Committee shall be appointed for a term of four
26 years.

27 (B) VACANCIES.—A vacancy in the Committee—

28 (i) shall not affect the powers of the Committee; and

29 (ii) shall be filled in the same manner as the original appointment.

30 (5) MEETINGS.—

31 (A) INITIAL MEETING.—Not later than 60 days after the date on which all members
32 of the Committee have been appointed, the Committee shall hold its first meeting.

33 (B) FREQUENCY.—The Committee shall meet at the call of the Chair.

34 (C) QUORUM.—A majority of the members of the Committee shall constitute a
35 quorum, but a lesser number of members may hold hearings.

36 (6) CHAIRPERSON.—The members described in subparagraphs (C) and (D) of paragraph

1 (1) shall alternate, on a yearly basis, as Chair of the Committee, with the member from the
2 Commodity Futures Trading Commission serving as the Chair for the 1-year period
3 following establishment of the Committee.

4 (c) Duties.—

5 (1) MATTERS STUDIED.—The matters studied by the Committee shall include—

6 (A) digital assets;

7 (B) consumer education and financial literacy;

8 (C) market structure in the securities and commodities markets;

9 (D) banking, payments and settlement;

10 (E) consumer credit;

11 (F) financial inclusion, including reducing the cost of financial services for all
12 people of the United States and promoting access to those services;

13 (G) efficiency in the financial system;

14 (H) reduction of systemic risk;

15 (I) competition in financial services;

16 (J) the State-Federal partnership in financial services regulation; and

17 (2) REPORT.—On an annual basis, or as otherwise determined necessary by the
18 Chairperson of the Committee, the Committee shall report to the President and to Congress
19 on, and provide recommendations for legislation, regulation, and supervision relating to
20 innovation in, the matters studied under paragraph (1).

21 (d) Powers.—

22 (1) HEARINGS.—The Committee shall hold not less than 2 hearings per calendar year to
23 hear from interested parties and to discuss the work of the Committee.

24 (2) INFORMATION FROM FEDERAL AGENCIES.—

25 (A) IN GENERAL.—The Committee may secure directly from a Federal department or
26 agency such information as the Committee considers necessary to carry out this Act.

27 (B) FURNISHING INFORMATION.—On request of the Chair of the Committee, the head
28 of the department or agency shall furnish the information to the Committee.

29 (3) POSTAL SERVICES.—The Committee may use the United States mails in the same
30 manner and under the same conditions as other departments and agencies of the Federal
31 Government.

32 (e) Duration.—Paragraph (2) of section 14(b) of the Federal Advisory Committee Act (5
33 U.S.C. App.) shall not apply the Committee.

34 (f) Compensation.—All members of the Committee shall serve without compensation in
35 addition to that received for their services as officers or employees of the United States, but may
36 receive per diem for travel expenses. All other members of the Committee shall serve without
37 compensation, but may receive per diem for travel expenses.

1 (g) Staff.—

2 (1) IN GENERAL.—The Chair of the Committee may, without regard to the civil service
3 laws (including regulations), appoint and terminate an executive director and such other
4 additional personnel as may be necessary to enable the Committee to perform its duties, except
5 that the employment of an executive director shall be subject to confirmation by the Committee.

6 (2) COMPENSATION.—The Chair of the Committee may fix the compensation of the
7 executive director and other personnel without regard to chapter 51 and subchapter III of chapter
8 53 of title 5, United States Code, relating to classification of positions and General Schedule pay
9 rates, except that the rate of pay for the executive director and other personnel may not exceed
10 the rate payable for level V of the Executive Schedule under section 5316 of that title.

11 (h) Detail of Government Employees.—A Federal Government employee may be detailed to
12 the Committee without reimbursement, and such detail shall be without interruption or loss of
13 civil service status or privilege.

14 (i) Procurement of Temporary and Intermittent Services.—The Chair of the Committee may
15 procure temporary and intermittent services under section 3109(b) of title 5, United States Code,
16 at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay
17 prescribed for level V of the Executive Schedule under section 5316 of that title.

18 (j) Authorization of Appropriations.—

19 (a) IN GENERAL.—There is authorized to be appropriated to the Committee to carry out
20 this section \$2,000,000 for fiscal years 2023 and 2024.

21 (b) AVAILABILITY.—Any sums appropriated under subsection (a) shall remain available,
22 without fiscal year limitation, until expended.