

1 **Purpose: In the nature of a substitute.**

2  
3

4 **S. 4760**

5 ~~Title:~~ To amend the Commodity Exchange Act to provide the  
6 Commodity Futures Trading Commission jurisdiction to oversee  
7 the spot digital commodity market, and for other purposes.

8 **Referred to the Committee on \_\_\_\_\_ and ordered to be**  
9 **printed**

10 **Ordered to lie on the table and to be printed**

11 **AMENDMENT IN THE NATURE OF A SUBSTITUTE INTENDED TO**  
12 **BE PROPOSED BY MS. STABENOW**

13 **Viz:**

14 **Strike all after the enacting clause and insert the following:** ~~Be it enacted by the Senate~~  
15 ~~and House of Representatives of the United States of America in Congress assembled,~~

16 **SECTION 1. SHORT TITLE.**

17 This Act may be cited as the “Digital Commodities Consumer Protection Act of 2022”.

18 **SEC. 2. DEFINITIONS.**

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

20 (1) by redesignating paragraphs (3) through (15) and paragraphs (16) through (51) as  
21 paragraphs (5) through (17) and paragraphs (25) through (60), respectively;

22 (2) by inserting after paragraph (2) the following:

23 “(3) ASSOCIATED PERSON OF A DIGITAL COMMODITY BROKER.—

24 “(A) IN GENERAL.—The term ‘associated person of a digital commodity broker’  
25 means a person who is associated with a digital commodity broker as a partner, officer,  
26 employee, or agent (or any person occupying a similar status or performing similar  
27 functions) in any capacity that involves—

28 “(i) the solicitation or acceptance of a digital commodity trade; or

29 “(ii) the supervision of any person engaged in the solicitation or acceptance of a  
30 digital commodity trade.

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

1 “(4) ASSOCIATED PERSON OF A DIGITAL COMMODITY DEALER.—

2 “(A) IN GENERAL.—The term ‘associated person of a digital commodity dealer’  
3 means a person who is associated with a digital commodity dealer as a partner, officer,  
4 employee, or agent (or any person occupying a similar status or performing similar  
5 functions) in any capacity that involves—

6 “(i) the solicitation or acceptance of a digital commodity trade; or

7 “(ii) the supervision of any person engaged in the solicitation or acceptance of a  
8 digital commodity trade.

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

12 (3) in paragraph (11) (as so redesignated), by striking “and frozen concentrated orange  
13 juice” and inserting “frozen concentrated orange juice, and digital commodities,”;

14 (4) in paragraph (12)(A) (as so redesignated)—

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

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

17 “(iii) digital commodity;”;

18 (5) in paragraph (13)(A)(i) (as so redesignated)—

19 (A) by redesignating subclauses (III) and (IV) as subclauses (IV) and (V),  
20 respectively; and

21 (B) by inserting after subclause (II) the following:

22 “(III) digital commodity;”;

23 (6) in paragraph (14)(A)(i) (as so redesignated)—

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

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

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

28 “(III) a digital commodity;”;

29 (7) by inserting after paragraph (17) (as so redesignated) the following:

30 “(18) DIGITAL COMMODITY.—

31 “(A) IN GENERAL.—The term ‘digital commodity’ means a fungible digital form of  
32 personal property that can be possessed and transferred person-to-person ~~without~~  
33 ~~necessary reliance on an intermediary.~~ **through the use of distributed ledger**  
34 **technology or a similar means.**

35 “(B) INCLUSIONS.—The term ‘digital commodity’ includes property commonly  
36 known as cryptocurrency ~~or virtual currency~~, such as Bitcoin and Ether.

1 “(C) EXCLUSIONS.—The term ‘digital commodity’ does not include—

2 “(i) an interest in a physical commodity;

3 “(ii) a security;

4 “(iii) a digital form of currency backed by the full faith and credit of the United  
5 States;

6 “(iv) ~~except as provided in subparagraph (D), an instrument regulated by the~~  
7 ~~Commission pursuant to any provision of this Act other than section 2(e)(2)(F); or~~  
8 **an agreement, contract, or transaction that is—**

9 ~~“(v) any other instrument”~~**“(I) a contract for the purchase or sale of a**  
10 **commodity for future delivery, a security futures product, or a swap;**

11 **“(II) described in section 2(c)(2)(C)(i);**

12 **“(III) a commodity option authorized under section 4c; or**

13 **“(IV) a leverage transaction authorized under section 19; or**

14 **“(v) any other property or interest** that the Commission determines not to be  
15 a digital commodity.

16  
17 ~~“(D) Exception.—The exclusion described in subparagraph (C)(iv) shall not apply to a~~  
18 ~~commodity transaction that is subject only to Commission antimanipulation, antifraud, or~~  
19 ~~false reporting authority.~~

20 “(19) DIGITAL COMMODITY BROKER.—

21 “(A) IN GENERAL.—The term ‘digital commodity broker’ means a person that is  
22 engaged, as an identifiable business, in—

23 “(i) soliciting or accepting orders on behalf of another person for a digital  
24 commodity trade;

25 “(ii) accepting digital commodities from another person for the purpose of  
26 entering into digital commodity trades;

27 “(iii) arranging **the execution of** digital commodity trades on behalf of another  
28 person; or

29 “(iv) a similar activity, as determined by the Commission.

30 “(B) ~~EXCLUSION.—THE EXCLUSIONS.—~~**The** term ‘digital commodity broker’ does  
31 not include a person solely because that ~~person~~ **person**—

32 **“(i) validates digital commodity transactions; or**

33 **“(ii) develops or publishes software.**

34 “(20) DIGITAL COMMODITY CUSTODIAN.—

35 “(A) IN GENERAL.—The term ‘digital commodity custodian’ means a person that, as  
36 an identifiable business, maintains possession, custody, or control over digital  
37 commodities on behalf of another person.

1           “(B) ~~EXCLUSIONS.—THE EXCLUSIONS.—~~The term ‘digital commodity custodian’  
2 does not ~~include include~~—

3           ~~“(i) an insured depository institution (as defined in section 3 of the Federal Deposit  
4 Insurance Act (12 U.S.C. 1813)); or~~

5           ~~“(ii) an insured credit union (as defined in section 101 of the Federal Credit Union  
6 Act (12 U.S.C. 1752)).~~

7           “(21) DIGITAL COMMODITY DEALER.—

8           “(A) IN GENERAL.—The term ‘digital commodity dealer’ means a person that—

9           “(i) has an identifiable business of dealing in a digital commodity as principal  
10 for its own account;

11           “(ii) makes a market in a digital commodity;

12           “(iii) holds itself out as a dealer in a digital commodity;

13           “(iv) has as an identifiable business of buying or selling digital commodities for  
14 conversion into other digital commodities, currency, or other consideration;

15           “(v) has as an identifiable business of accepting digital commodities from  
16 another person (referred to in this clause as a ‘depositor’) with an obligation to  
17 return the digital commodities, consideration linked to the digital commodities, or  
18 both to the depositor; or

19           “(vi) engages in a similar activity, as determined by the Commission.

20           “(B) ~~EXCLUSION.—THE EXCLUSIONS.—~~The term ‘digital commodity dealer’ does  
21 not include a person solely because that ~~person person~~—

22           “(i) enters into proprietary trades;

23           “(ii) validates digital commodity transactions; or

24           “(iii) develops or publishes software.

25           “(C) EFFECT.—**Nothing in subparagraph (A)(v) affects whether an  
26 arrangement or business described in that subparagraph involves the offer or sale  
27 of, or a transaction involving, a security.**

28           “(22) DIGITAL COMMODITY PLATFORM.—

29           “(A) IN GENERAL.—The term ‘digital commodity platform’ means a person that is 1  
30 or more of the following:

31           “(i) A digital commodity broker.

32           “(ii) A digital commodity custodian.

33           “(iii) A digital commodity dealer.

34           “(iv) A digital commodity trading facility.

35           “(B) CATEGORY.—The term ‘category’, with respect to a digital commodity  
36 platform, means 1 or more categories described in clauses (i) through (iv) of  
37 subparagraph (A) of that digital commodity platform.

1 “(23) DIGITAL COMMODITY TRADE.—

2 “(A) IN GENERAL.—The term ‘digital commodity trade’ means a purchase or sale of  
3 a digital commodity in exchange for—

4 “(i) another digital commodity; or

5 “(ii) any other consideration, **provided that the Commission shall have**  
6 **nonexclusive jurisdiction with respect to any digital commodity trade**  
7 **involving both a digital commodity and a security.**

8 “(B) INCLUSIONS.—The term ‘digital commodity trade’ includes—

9 “(i) an offer to enter into a purchase or sale described in subparagraph (A); and

10 “(ii) a loan of a digital commodity, an offer to enter into a loan of a digital  
11 commodity, or a similar activity, as determined by the Commission.

12 “(C) ~~EXCLUSION.—EXCEPT AS PROVIDED IN SUBPARAGRAPH (D), THE~~  
13 **EXCLUSIONS.—The term ‘digital commodity trade’ excludes a transaction regulated**  
14 **by the Commission pursuant to any provision of this Act except section 2(c)(2)(F).**  
15 **does not include an agreement, contract, or transaction that is—**

16 ~~“(D) Exception.—The exclusion described in subparagraph (C) shall not apply~~  
17 ~~to a commodity transaction that is subject only to Commission antimaniipulation,~~  
18 ~~antifraud, or false reporting authority.~~ **“(i) a contract for the purchase or sale of**  
19 **a commodity for future delivery, a security futures product, or a swap;**

20 **“(ii) described in section 2(c)(2)(C)(i);**

21 **“(iii) a commodity option authorized under section 4c; or**

22 **“(iv) a leverage transaction authorized under section 19.**

23 **“(D) EFFECT.—Nothing in subparagraph (B)(ii) affects whether any loan, offer**  
24 **to enter into a loan, or similar activity described in that subparagraph involves an**  
25 **offer or sale of, or a transaction involving, a security.**

26 “(24) DIGITAL COMMODITY TRADING FACILITY.—

27 “(A) IN GENERAL.—The term ‘digital commodity trading facility’ means a trading  
28 facility ~~that facilitates the execution or trading of~~ **on or through which** digital  
29 commodity trades ~~between persons.~~ **are executed.**

30 ~~“(B) Exclusion.—The~~ **“(B) EXCLUSIONS.—The term ‘digital commodity trading**  
31 **facility’ does not include a person solely because that person** ~~person—~~

32 **“(i) validates digital commodity transactions.”; **transactions; or****

33 **“(ii) develops or publishes software.”;**

34 (8) in paragraph (43) (as so redesignated)—

35 (A) in the paragraph heading, by striking “; MEMBER OF A DERIVATIVES  
36 TRANSACTION EXECUTION FACILITY”;

37 (B) in the matter preceding subparagraph (A), by striking “entity or derivatives  
38 transaction execution facility,” and inserting “entity,”;

1 (C) in subparagraph (A), by striking “entity” and all that follows through the  
2 semicolon and inserting “entity;”; and

3 (D) in subparagraph (B), by striking “entity” and all that follows through the period  
4 at the end and inserting “entity.”; and

5 (9) in paragraph (49) (as so redesignated)—

6 (A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G),  
7 respectively; and

8 (B) by inserting after subparagraph (D) the following:

9 “(E) a digital commodity trading facility registered under section 5i;”.

10 (b) Conforming Amendments.—

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

12 (A) in paragraph (26)(A) (as redesignated by subsection (a)(1)), in the matter  
13 preceding clause (i), by striking “(18)(A)” and inserting “(27)(A)”; and

14 (B) in paragraph (27)(A)(vii)(III)(aa) (as redesignated by subsection (a)(1)), by  
15 striking “(17)(A)” and inserting “(26)(A)”.

16 (2) Section 4(c)(1)(A)(i)(I) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)(A)(i)(I)) is  
17 amended by striking “paragraphs (2), (3), (4), (5), and (7), paragraph (18)(A)(vii)(III),  
18 paragraphs (23), (24), (31), (32), (38), (39), (41), (42), (46), (47), (48), and (49) of section  
19 1a” and inserting “paragraphs (2), (5), (6), (7), (9), (27)(A)(vii)(III), (32), (33), (40), (41),  
20 (47), (48), (50), (51), (55), (56), (57), and (58) of section 1a”.

21 (3) Section 4q(a)(1) of the Commodity Exchange Act (7 U.S.C. 6q(a)(1)) is amended by  
22 striking “1a(9)” and inserting “1a(11)”.

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

24 (A) in subsection (f)(1)(D), by striking “1a(47)(A)(v)” and inserting “1a(56)(A)(v)”;  
25 and

26 (B) in subsection (h)(5)(A)(i), in the matter preceding subclause (I), by striking  
27 “1a(18)” and inserting “1a(27)(A)”.

28 (5) Section 4t(b)(1)(C) of the Commodity Exchange Act (7 U.S.C. 6t(b)(1)(C)) is  
29 amended by striking “1a(47)(A)(v),” and inserting “1a(56)(A)(v),”.

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

31 (A) in subsection (d)(23), by striking “1a(47)(A)(v)” and inserting “1a(56)(A)(v)”;  
32 and

33 (B) in subsection (e)(1), by striking “1a(9)” and inserting “1a(11)”.

34 (7) Section 5b(k)(3)(A) of the Commodity Exchange Act (7 U.S.C. 7a–1(k)(3)(A)) is  
35 amended by striking “1a(47)(A)(v)” and inserting “1a(56)(A)(v)”.

36 (8) Section 5c(c)(4)(B) of the Commodity Exchange Act (7 U.S.C. 7a–2(c)(4)(B)) is  
37 amended by striking “1a(10)” and inserting “1a(11)”.

1 (9) Section 5h(f)(10)(A)(iii) of the Commodity Exchange Act (7 U.S.C. 7b–  
2 3(f)(10)(A)(iii)) is amended by striking “1a(47)(A)(v)” and inserting “1a(56)(A)(v)”.

3 (10) **Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended by**  
4 **striking “derivatives transaction execution facility” each place it appears and inserting**  
5 **“digital commodity platform”.**

6 (11) Section 21(f)(4)(C) of the Commodity Exchange Act (7 U.S.C. 24a(f)(4)(C)) is  
7 amended by striking “1a(48)” and inserting “1a(57)”.

8 ~~(11)~~(12) Section 403 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27a)  
9 is amended—

10 (A) in subsection (a)(2), by striking “1a(47)(A)(v)” and inserting “1a(56)(A)(v)”;  
11 and

12 (B) in subsection (b)(1), by striking “1a(47)” and inserting “1a”.

13 ~~(12)~~(13) Section 5(e) of the Securities Act of 1933 (15 U.S.C. 77e(e)) is amended by  
14 striking “section 1a(18) of the Commodity Exchange Act (7 U.S.C. 1a(18))” and inserting  
15 “section 1a of the Commodity Exchange Act (7 U.S.C. 1a)”.

16 ~~(13)~~(14) Section 3C(g)(3)(A)(v) of the Securities Exchange Act of 1934 (15 U.S.C. 78c–  
17 3(g)(3)(A)(v)) is amended by striking “section 1a(10) of the Commodity Exchange Act,”  
18 and inserting “section 1a of the Commodity Exchange Act (7 U.S.C. 1a);”.

19 ~~(14)~~(15) Section 6(g)(5)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C.  
20 78f(g)(5)(B)(i)) is amended—

21 (A) in subclause (I), by striking “section 1a(18)(B)(ii) of the Commodity Exchange  
22 Act” and inserting “subparagraph (B)(ii) of section 1a(27) of the Commodity  
23 Exchange Act (7 U.S.C. 1a(27))”; and

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

25 ~~(15)~~(16) Section 712(a)(8) of the Dodd-Frank Wall Street Reform and Consumer  
26 Protection Act (15 U.S.C. 8302(a)(8)) is amended by striking “section 1a(47)(D) of the  
27 Commodity Exchange Act (7 U.S.C. 1a(47)(D))” and inserting “section 1a(56)(D) of the  
28 Commodity Exchange Act (7 U.S.C. 1a(56)(D))”.

29 ~~(16)~~(17) Section 752(a) of the Dodd-Frank Wall Street Reform and Consumer Protection  
30 Act (15 U.S.C. 8325(a)) is amended by striking “section 1a(39) of the Commodity  
31 Exchange Act,” and inserting “section 1a of the Commodity Exchange Act (7 U.S.C.  
32 1a),”.

### 33 SEC. 3. COMMISSION JURISDICTION OVER DIGITAL 34 COMMODITY TRADES.

35 Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

36 (1) in subsection (a)(1)(A), in the first sentence, by striking “section 19 of this Act” and  
37 inserting “subsection (c)(2)(F) or section 19”; and

38 (2) in subsection (c)(2), by adding at the end the following:

1 “(F) COMMISSION JURISDICTION OVER DIGITAL COMMODITY TRADES.—

2 “(i) IN GENERAL.—Except as provided in clause (ii), this Act applies to, and the  
3 Commission shall have exclusive jurisdiction ~~over~~ **with respect to**, any account,  
4 agreement, contract, or transaction involving a digital commodity trade.

5 “(ii) EXCEPTION.—Nothing in this Act applies to, and the Commission shall not  
6 have jurisdiction ~~over~~ **with respect to**, any digital commodity transaction by a  
7 merchant or consumer that uses a digital commodity solely for the purchase or  
8 sale of a good or service.

9 “(iii) PROHIBITION ON CERTAIN TRADING PRACTICES.—Sections 4b, 4c, and 6(c)  
10 shall apply to any digital commodity trade as if the digital commodity trade were  
11 a contract of sale of a commodity for future delivery.”.

## 12 SEC. 4. DIGITAL COMMODITY PLATFORMS.

13 The Commodity Exchange Act is amended by inserting after section 5h (7 U.S.C. 7b–3) the  
14 following:

### 15 “SEC. 5i. DIGITAL COMMODITY PLATFORMS.

16 “(a) Registration.—

17 “(1) REQUIREMENT.—It shall be unlawful for any person to act as any category of digital  
18 commodity platform unless the person is registered under this section as that category of  
19 digital commodity platform.

20 “(2) APPLICATIONS.—A person desiring to register as any category of digital commodity  
21 platform shall submit to the Commission an application in such form and containing such  
22 information as the Commission may require for the purpose of determining whether the  
23 applicant is in compliance with subsection (b) and the other requirements of this Act.

24 “(3) MULTIPLE REGISTRATIONS.—As appropriate to further the purposes of this Act ~~and~~,  
25 avoid duplicative or unnecessary requirements, **and enable the efficient transfer of**  
26 **capital**, and taking into consideration potential conflicts of interest or other risks, the  
27 Commission may prescribe rules or regulations permitting, or may otherwise authorize—

28 “(A) registration by a person in more than 1 category of digital commodity platform,  
29 **subject to the condition that a digital commodity trading facility may not also be**  
30 **registered as a digital commodity broker or a digital commodity dealer;**

31 “(B) a registered entity, a swap dealer, or a futures commission merchant registered  
32 under this Act to register under this section in 1 or more categories of digital  
33 commodity platform; and

34 “(C) exemptions or additional requirements applicable to persons with multiple  
35 registrations under this Act.

36 “(b) Core Principles for Digital Commodity Platforms.—

37 “(1) COMPLIANCE WITH CORE PRINCIPLES.—

38 “(A) IN GENERAL.—To be registered, and maintain registration, as a digital  
39 commodity platform, the digital commodity platform shall comply with—



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

2 “(ii) any requirement that the Commission may impose by rule or regulation.

3 “(B) REASONABLE DISCRETION OF DIGITAL COMMODITY PLATFORM.—Unless  
4 otherwise determined by the Commission by rule or regulation, a digital commodity  
5 platform described in subparagraph (A) shall have reasonable discretion in establishing  
6 the manner in which the digital commodity platform complies with the core principles  
7 described in this subsection.

8 “(2) CORE PRINCIPLES APPLICABLE TO DIGITAL COMMODITY TRADING FACILITIES.—

9 “(A) COMPLIANCE WITH RULES.—A digital commodity trading facility shall—

10 “(i) establish and enforce compliance with any rule of the digital commodity  
11 trading facility, including—

12 “(I) the terms and conditions of the transactions in digital commodities  
13 traded or processed on or through the digital commodity trading facility; and

14 “(II) any limitation on access to the digital commodity trading facility;

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

18 “(I) to provide market participants with impartial access to the market; and

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

21 “(iii) establish rules governing the operation of the digital commodity trading  
22 facility.

23 “(B) DIGITAL COMMODITY TRANSACTIONS NOT READILY SUSCEPTIBLE TO  
24 MANIPULATION.—A digital commodity trading facility shall permit trading only in  
25 transactions in digital commodities that are not readily susceptible to manipulation.

26 “(C) MONITORING OF TRADING AND TRADE PROCESSING.—

27 “(i) MARKETS AND MECHANISMS.—

28 “(I) IN GENERAL.—A digital commodity trading facility shall provide a  
29 competitive, open, and efficient market and mechanism for executing  
30 transactions that protects the price discovery process of trading on **or**  
31 **through** the digital commodity trading facility.

32 “(II) ~~CENTRALIZED MARKET.~~—A **CENTRAL LIMIT ORDER BOOK.**—A  
33 digital commodity trading facility shall provide a ~~centralized market~~ **central**  
34 **limit order book** for executing transactions.

35 “(ii) PROTECTION OF MARKETS AND MARKET PARTICIPANTS.—A digital  
36 commodity trading facility shall establish and enforce rules—

37 “(I) to protect markets and market participants from abusive practices  
38 committed by any party, including abusive practices committed by a party  
39 acting as an agent for a participant; and

1 “(II) to promote fair and equitable trading on the digital commodity  
2 trading facility.

3 “(iii) PROCEDURES AND MONITORING.—A digital commodity trading facility  
4 shall—

5 “(I) establish and enforce rules or terms and conditions defining, or  
6 specifications detailing—

7 “(aa) trading procedures to be used in entering and executing orders  
8 traded on or through the facilities of the digital commodity trading  
9 facility; and

10 “(bb) procedures for trade processing of digital ~~commodities~~  
11 **commodity trades** on or through the facilities of the digital commodity  
12 trading facility; and

13 “(II) monitor trading in digital commodities to prevent manipulation, price  
14 distortion, and disruptions of the delivery or settlement process through  
15 surveillance, compliance, and disciplinary practices and procedures,  
16 including investigations, sanctions, and methods for conducting real-time  
17 monitoring of trading and comprehensive and accurate trade reconstructions.

18 “(D) ABILITY TO OBTAIN INFORMATION.—A digital commodity trading facility  
19 shall—

20 “(i) establish and enforce rules that will allow the digital commodity trading  
21 facility to obtain any necessary information to perform any of the functions  
22 described in this section;

23 “(ii) provide the information to the Commission on request; and

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

26 “(E) FINANCIAL INTEGRITY OF TRANSACTIONS.—A digital commodity trading facility  
27 shall establish and enforce rules and procedures for ensuring the financial integrity of  
28 digital commodity trades entered on or through the facilities of the digital commodity  
29 trading facility.

30 “(F) EMERGENCY AUTHORITY.—A digital commodity trading facility shall adopt  
31 rules to provide for the exercise of emergency authority, in consultation or cooperation  
32 with the Commission, as is necessary and appropriate, including the authority to  
33 liquidate or transfer open positions in any digital commodity or to suspend or curtail  
34 trading in a digital commodity.

35 “(G) TIMELY PUBLICATION OF TRADING INFORMATION.—

36 “(i) IN GENERAL.—A digital commodity trading facility shall make public  
37 timely information on price, trading volume, and other trading data on digital  
38 commodities to the extent prescribed by the Commission.

39 “(ii) CAPACITY OF DIGITAL COMMODITY TRADING FACILITY.—A digital  
40 commodity trading facility shall be required to have the capacity to electronically

1 capture and transmit trade information with respect to transactions executed on  
2 the digital commodity trading facility.

3 “(H) AVAILABILITY OF GENERAL INFORMATION.—A digital commodity trading  
4 facility shall make available to market authorities, market participants, and the public  
5 accurate information concerning—

6 “(i) the terms and conditions of the contracts for transactions in digital  
7 commodities;

8 “(ii) the rules and mechanisms for executing digital commodity trades on or  
9 through the facilities of the digital commodity trading facility; and

10 “(iii) the rules and specifications describing the operation of the electronic  
11 matching platform or trade execution facility of the digital commodity trading  
12 facility.

13 “(I) DISCIPLINARY PROCEDURES.—A digital commodity trading facility shall  
14 establish and enforce—

15 “(i) disciplinary procedures that authorize the digital commodity trading facility  
16 to discipline, suspend, or expel market participants that violate the rules of the  
17 digital commodity trading facility; or

18 “(ii) similar methods for performing the functions described in clause (i),  
19 including delegation to third parties.

20 “(J) DISPUTE RESOLUTION.—A digital commodity trading facility shall establish and  
21 enforce rules regarding, and provide facilities for alternative dispute resolution, as  
22 appropriate, for, market participants and market intermediaries.

23 “(3) CORE PRINCIPLES APPLICABLE TO DIGITAL COMMODITY DEALERS AND DIGITAL  
24 COMMODITY BROKERS.—

25 “(A) EXECUTION.—A EXECUTION.—**With respect to digital commodity trades**  
26 **with or for customers, a digital commodity dealer or digital commodity broker—**

27 “(i) shall establish **or obtain** prices fairly and objectively;

28 “(ii) shall disclose the basis for those prices; and

29 “(iii) shall not disrupt market functioning or hinder the price discovery process.

30 “(B) DAILY TRADING RECORDS.—

31 “(i) IN GENERAL.—A digital commodity dealer or digital commodity broker  
32 shall keep full, complete, and systematic records (including all pertinent data and  
33 memoranda) of all transactions relating to its business of dealing or brokerage in  
34 digital commodity transactions.

35 “(ii) INCLUDED COMMUNICATIONS.—A digital commodity dealer or digital  
36 commodity broker shall keep all oral and written communications provided or  
37 received concerning quotes, solicitations, bids, offers, instructions, trading, and  
38 prices that lead to the execution of a transaction in a digital commodity.

39 “(C) BUSINESS CONDUCT STANDARDS.—A digital commodity dealer or digital

1 commodity broker shall conform with ~~such~~ **the** business conduct standards as ~~may be~~  
2 prescribed by the Commission by rule or regulation that relate to—

3 “(i) fraud, manipulation, and other abusive practices involving digital  
4 commodity trades (including digital commodity trades that are offered but not  
5 entered into);

6 “(ii) diligent supervision of the business of the digital commodity dealer or  
7 digital commodity broker; and

8 “(iii) such other matters as the Commission determines to be appropriate.

9 “(D) DUTIES.—A digital commodity dealer or digital commodity broker shall  
10 comply with the following requirements:

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

15 “(ii) DISCLOSURE OF GENERAL INFORMATION.—The digital commodity dealer or  
16 digital commodity broker shall disclose to the Commission, as applicable,  
17 information concerning—

18 “(I) terms and conditions of its digital commodity trades;

19 “(II) trading operations, mechanisms, and practices;

20 “(III) financial integrity protections relating to ~~transactions in~~ digital  
21 commodity trades; and

22 “(IV) other information relevant to its digital commodity trades.

23 “(E) ABILITY TO OBTAIN INFORMATION.—A digital commodity dealer or digital  
24 commodity broker shall—

25 “(i) establish and enforce internal systems and procedures to obtain any  
26 necessary information to perform any of the functions described in this section;  
27 and

28 “(ii) provide the information described in clause (i) to the Commission on  
29 request.

30 “(4) CORE PRINCIPLES APPLICABLE TO ALL DIGITAL COMMODITY PLATFORMS.—

31 “(A) RECORDKEEPING AND REPORTING.—A digital commodity platform shall—

32 “(i)(I) maintain records of all activities relating to the business of the digital  
33 commodity platform, including a complete audit trail, in a form and manner  
34 acceptable to the Commission for a period of 5 years; and

35 “(II) keep the records described in subclause (I) open to inspection by the  
36 Commission;

37 “(ii) provide to the Commission, in a form and manner acceptable to the  
38 Commission, such information as the Commission determines to be necessary or  
39 appropriate for the Commission to perform the duties of the Commission under

1 this Act; and

2 “(iii) make such reports as are required by the Commission relating to the  
3 transactions and positions of the customers of the digital commodity platform.

4 “(B) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the  
5 purposes of this Act, a digital commodity platform shall not—

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

8 “(ii) impose any material anticompetitive burden on trading or custody.

9 “(C) CONFLICTS OF INTEREST.—The Commission shall require conflict of interest  
10 systems and procedures that—

11 “(i) establish structural and institutional safeguards—

12 “(I) to minimize conflicts of interest that might potentially bias the  
13 judgment or supervision of a digital commodity platform and contravene the  
14 core principles of fair and equitable trading and the business conduct  
15 standards described in this Act, including conflicts arising out of transactions  
16 or arrangements with affiliates (including affiliates acting as issuers, market-  
17 makers, or custodians); and

18 “(II) which may include, as the Commission determines to be appropriate,  
19 information partitions and the legal separation of different categories of  
20 digital commodity platforms;

21 “(ii) establish a process for resolving conflicts of interest described in clause  
22 (i);

23 “(iii) require disclosure by a digital commodity platform of any material  
24 incentives or conflicts of interest that the digital commodity platform is unable to  
25 resolve; and

26 “(iv) address such other issues as the Commission determines to be appropriate.

27 “(D) FINANCIAL RESOURCES.—

28 “(i) IN GENERAL.—A digital commodity platform shall have adequate financial,  
29 operational, and managerial resources to discharge each responsibility of the  
30 digital commodity platform.

31 “(ii) FINANCIAL RESOURCES FOR MARGIN TRADING.—The Commission shall  
32 require such additional financial resources as are necessary to enable a digital  
33 commodity platform to fulfill obligations, **if any**, of the digital commodity  
34 platform arising from margined, leveraged, or financed transactions.

35 “(E) SYSTEM SAFEGUARDS.—A digital commodity platform shall—

36 “(i) establish and maintain a program of risk analysis and oversight to identify  
37 and minimize sources of operational risk (including cybersecurity risk), through  
38 the development of appropriate controls and procedures, and automated systems,  
39 that—

- 1 “(I) are reliable and secure; and
- 2 “(II) have adequate scalable capacity;
- 3 “(ii) establish and maintain emergency procedures, backup facilities, and a plan
- 4 for disaster recovery that allow for—
- 5 “(I) the timely recovery and resumption of operations; and
- 6 “(II) the fulfillment of the responsibilities and obligations of the digital
- 7 commodity platform; and
- 8 “(iii) periodically conduct tests to verify that the backup resources of the digital
- 9 commodity platform are sufficient to ensure continued—
- 10 “(I) order processing and trade matching;
- 11 “(II) price reporting;
- 12 “(III) market surveillance; and
- 13 “(IV) maintenance of a comprehensive and accurate audit trail.

14 “(F) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

- 15 “(i) IN GENERAL.—A digital commodity platform shall designate an individual
- 16 to serve as a chief compliance officer (referred to in this paragraph as a ‘chief
- 17 compliance officer’).
- 18 “(ii) DUTIES.—A chief compliance officer shall—
- 19 “(I) report directly to the board or to the senior officer of the digital
- 20 commodity platform;
- 21 “(II) review compliance with the core principles described in this
- 22 subsection;
- 23 “(III) in consultation with the board of the digital commodity platform, a
- 24 body performing a function similar to that of a board, or the senior officer of
- 25 the digital commodity platform, resolve any conflicts of interest that may
- 26 arise;
- 27 “(IV) be responsible for establishing and administering the policies and
- 28 procedures required to be established pursuant to this section;
- 29 “(V) ensure compliance with this Act and the rules and regulations issued
- 30 under this Act, including rules prescribed by the Commission pursuant to this
- 31 section; and
- 32 “(VI) establish procedures for the remediation of noncompliance issues
- 33 found during compliance office reviews, look backs, internal or external
- 34 audit findings, self-reported errors, or through validated complaints.
- 35 “(iii) REQUIREMENTS FOR PROCEDURES.—In establishing procedures under
- 36 clause (ii)(VI), a chief compliance officer shall design the procedures to establish
- 37 the handling, management response, remediation, retesting, and closing of
- 38 noncompliance issues.

1 “(iv) ANNUAL REPORTS.—

2 “(I) IN GENERAL.—In accordance with rules prescribed by the  
3 Commission, a chief compliance officer shall annually prepare and sign a  
4 report that contains a description of—

5 “(aa) the compliance of the digital commodity platform with this Act;  
6 and

7 “(bb) the policies and procedures, including the code of ethics and  
8 conflict of interest policies, of the digital commodity platform.

9 “(II) REQUIREMENTS.—A chief compliance officer shall—

10 “(aa) submit each report described in subclause (I) with the  
11 appropriate financial report of the digital commodity platform that is  
12 required to be submitted to the Commission pursuant to this section;  
13 and

14 “(bb) include in the report a certification that, under penalty of law,  
15 the report is accurate and complete.

16 “(G) GOVERNANCE; FITNESS STANDARDS.—

17 “(i) GOVERNANCE ARRANGEMENTS.—A digital commodity platform shall  
18 establish governance arrangements that are transparent to fulfill public interest  
19 requirements.

20 “(ii) FITNESS STANDARDS.—A digital commodity platform shall establish and  
21 enforce appropriate fitness standards for—

22 “(I) directors; and

23 “(II) ~~any entity offering affiliated services for the digital commodity~~  
24 ~~platform.~~ **other persons, as determined by the Commission by rule or**  
25 **regulation.**

26 “(H) TREATMENT OF CUSTOMER ASSETS.— **PROPERTY.—**

27 “(i) IN GENERAL.—A digital commodity platform shall hold customer property  
28 (including digital commodities) in a manner that minimizes the risk of loss of, or  
29 unreasonable delay in access to, the customer property.

30 “(ii) ~~SEGREGATION OF FUNDS.—~~ **HOLDINGS OF CUSTOMER PROPERTY OTHER**  
31 **THAN DIGITAL COMMODITIES.—A digital commodity platform holding**  
32 **customer property shall deposit all customer property other than digital**  
33 **commodities at an insured depository institution (as defined in section 3 of**  
34 **the Federal Deposit Insurance Act (12 U.S.C. 1813)).**

35 “(iii) SEGREGATION OF PROPERTY.—

36 “(I) IN GENERAL.—A digital commodity platform shall treat and deal with  
37 all customer property that is ~~received by~~ **delivered by or on behalf of a**  
38 **customer to the digital commodity platform or accrues to the customer as**  
39 **a result of digital commodity trades** as belonging to the customer.

1 “(II) COMMINGLING PROHIBITED.—Customer property described in  
2 subclause (I)—

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

4 “(bb) shall not be commingled with the assets of the digital  
5 commodity platform.

6 ~~“(iii)“(iv)~~ EXCEPTIONS.—

7 “(I) USE OF FUNDS.—~~NOTWITHSTANDING PROPERTY.~~—**Notwithstanding**  
8 ~~clause (ii), customer~~**(iii), the property of 2 or more customers** described in  
9 that clause may, for convenience, be commingled ~~in the same account or~~  
10 ~~accounts with—~~ **and deposited in 1 or more customer omnibus accounts**  
11 **in—**

12 “(aa) an insured depository institution (as defined in section 3 of the  
13 Federal Deposit Insurance Act (12 U.S.C. 1813)); ~~or“(bb) an insured~~  
14 ~~credit union (as defined in section 101 of the Federal Credit Union Act~~  
15 ~~(12 U.S.C. 1752)); or~~

16 ~~“(ee)“(bb)~~ **in the case of digital commodities only**, a digital  
17 commodity ~~platform~~ **custodian.**

18 “(II) WITHDRAWAL.—Notwithstanding clause ~~(ii)~~**(iii)**, such share of the  
19 customer property described in that clause as, in the normal course of  
20 business, is necessary to margin, guarantee, secure, transfer, adjust, or settle  
21 a digital commodity ~~transaction trade~~ **trade** with a digital commodity platform, or  
22 with any customer of a digital commodity platform, may be withdrawn and  
23 applied to such purposes lawfully accruing in connection with the digital  
24 commodity ~~transaction trade~~ **trade**, including the payment of commissions, taxes,  
25 and brokerage, interest, storage, and other charges.

26 “(III) COMMISSION ACTION.—Notwithstanding clause ~~(ii)~~—**(iii)**—

27 “(aa) the Commission may adopt rules or regulations permitting the  
28 lending of digital commodities by a digital commodity platform holding  
29 those digital commodities for customers, subject to such conditions as  
30 the Commission may prescribe to protect customers and achieve the  
31 purposes of this Act; and

32 “(bb) in accordance with such terms and conditions as the  
33 Commission may prescribe by rule, regulation, or order, any customer  
34 property described in that clause may be commingled and deposited in  
35 customer accounts with any other ~~money, securities, or~~ **customer**  
36 property received by the digital commodity platform and required by  
37 the Commission to be separately accounted for, treated, and dealt with  
38 as belonging to customers.

39 ~~“(iv)“(v)~~ PERMITTED INVESTMENTS.—

40 “(I) IN GENERAL.—Customer property described in clause ~~(ii)~~**(iii)** in the  
41 form of money may be invested in—



1 “(aa) obligations of the United States;

2 “(bb) obligations the principal and interest of which are fully  
3 guaranteed by the United States; and

4 “(cc) any other ~~investment~~ **high-quality liquid asset** that the  
5 Commission may by rule or regulation prescribe.

6 “(II) RULES AND CONDITIONS.—Investments under subclause (I) shall be  
7 made in accordance with such rules and regulations, and subject to such  
8 conditions, as the Commission may prescribe.

9 ~~“(v) Prohibition.—It~~“(vi) **PROHIBITION.—Except in accordance with such**  
10 **terms and conditions as the Commission may prescribe by rule, regulation,**  
11 **or order, it** shall be unlawful for any person, including a digital commodity  
12 platform or a depository institution, that has received any customer property for  
13 deposit in a separate account or accounts in accordance with clause ~~(ii)~~(iii) to  
14 hold, dispose of, or use that customer property as belonging to the depositing  
15 digital commodity platform or any person other than the customers of the digital  
16 commodity platform.

17 “(c) Rules Governing Margined or Leveraged Trading.—The Commission ~~may~~ **shall** make,  
18 promulgate, and enforce such rules governing margined, leveraged, or financed digital  
19 commodity trades ~~on~~ **involving** digital commodity platforms as are reasonably necessary to  
20 protect the public interest and promote the orderly settlement of transactions.

21 “(d) Contract Listings, Rules, and Rule Amendments for Digital Commodity Trading  
22 Facilities.—

23 “(1) IN GENERAL.—Subject to the requirements under this subsection, a digital  
24 commodity trading facility may—

25 “(A) list for trading a contract for a digital commodity; and

26 “(B) approve and implement a new rule or rule amendment.

27 “(2) CERTIFICATION FROM DIGITAL COMMODITY TRADING FACILITY.—A digital  
28 commodity trading facility that elects to carry out an activity described in subparagraph (A)  
29 or (B) of paragraph (1) shall, prior to carrying out that activity, provide to the Commission a  
30 written certification that the contract, new rule, or rule amendment, as applicable, complies  
31 with this Act (including regulations under this Act).

32 “(3) EFFECTIVE DATE OF LISTING, RULE, AND RULE AMENDMENT.—Subject to paragraph  
33 (4), a listing, rule, or rule amendment described in paragraph (1) shall become effective on  
34 the date that is—

35 “(A) in the case of a listing of a contract that has not previously been listed on any  
36 digital commodity trading facility, 30 business days after the date on which the  
37 Commission receives the certification (or such shorter period as determined by the  
38 Commission by rule or regulation); or

39 “(B) in any other case, ~~10~~ **15** business days after the date on which the Commission  
40 receives the certification (or such shorter period as determined by the Commission by  
41 rule or regulation).

1 “(4) STAY OF CERTIFICATION.—

2 “(A) IN GENERAL.—The Commission may stay a certification for a listing, rule, or  
3 rule amendment described in paragraph (1) by notifying the digital commodity trading  
4 facility that the Commission is staying the certification because there exists—

5 “(i) a novel or complex issue that requires additional time to analyze;

6 “(ii) an inadequate explanation by the submitting digital commodity trading  
7 facility; or

8 “(iii) a potential inconsistency with this Act (including regulations under this  
9 Act).

10 “(B) DURATION OF STAY.—A stay of certification by the Commission under  
11 subparagraph (A) shall be for a period of not more than 90 **business** days, beginning  
12 on the date of the notification by the Commission under that subparagraph.

13 “(C) EFFECTIVE DATE AFTER STAY.—A listing, rule, or rule amendment subject to a  
14 stay under subparagraph (A) shall become effective on the expiration of the period  
15 described in subparagraph (B), unless the Commission—

16 “(i) withdraws the stay prior to that time; or

17 “(ii) notifies the digital commodity trading facility during such period that the  
18 Commission ~~objects to the proposed certification and~~ disapproves a listing, rule,  
19 or rule amendment pursuant to paragraph (5).

20 “(D) PUBLIC COMMENT.—The Commission may provide a public comment period of  
21 not less than 30 days, within the period in which a stay is in effect under subparagraph  
22 (B), whenever the Commission reviews a listing, rule, or rule amendment pursuant to a  
23 notification by the Commission under subparagraph (A).

24 “(5) DISAPPROVAL.—

25 “(A) IN GENERAL.—The Commission may disapprove a listing, rule, or rule  
26 amendment described in paragraph (1) if the Commission determines ~~that that~~—

27 “(i) the listing, rule, or rule amendment ~~is is~~—

28 “(I) inconsistent with this Act ~~(including the considerations in~~  
29 ~~subparagraph (B) and~~ **and the** regulations under this Act; or

30 “(II) **not in the public interest, based on the considerations described**  
31 **in subparagraph (B) or other factors; or**

32 “(ii) **the information provided by the digital commodity platform under**  
33 **paragraph (2) is materially incomplete.**)

34 “(B) CONSIDERATIONS.—In making a determination described in subparagraph (A)  
35 with respect to a listing ~~for a digital commodity~~, the Commission may consider, among  
36 other things—

37 “(i) whether the operating structure and system of the digital commodity is  
38 secure from cybersecurity threats, including the possibility of material alterations  
39 by persons acting collectively;

1 “(ii) whether the functionality of the digital commodity will protect holders  
2 from operational failures;

3 “(iii) with respect to a digital commodity that purports to have a fixed value—

4 “(I) an identification and description of the issuer of the digital  
5 commodity;

6 “(II) the collateral or reserves backing the digital commodity; and

7 “(III) the terms by which the issuer will redeem the digital commodity;  
8 and

9 “(iv) whether the digital commodity and the market for the digital commodity  
10 are not readily susceptible to manipulation.

11 “(6) PRIOR APPROVAL.—

12 “(A) IN GENERAL.—A digital commodity trading facility may request that the  
13 Commission grant prior approval ~~to~~ **to**—

14 “(i) the listing of any new contract for a digital commodity;

15 “(ii) a rule; or

16 “(iii) a rule amendment.

17 “(B) DEADLINE.—If prior approval is requested under subparagraph (A), the  
18 Commission shall take final action on the request not later than 90 **business** days after  
19 submission of the request, unless the person submitting the request agrees to an  
20 extension of the time limitation established under this subparagraph.

21 “(C) ~~DISAPPROVAL.—~~ **PARAGRAPHS (4) AND DISAPPROVAL.—**Paragraph (5) shall  
22 apply to Commission action on a request under this paragraph.

23 “(7) DELISTING; REVOCATION.—After the listing of a contract for a digital commodity has  
24 taken effect, the Commission may require the delisting of the contract or disapprove the  
25 listing in accordance with paragraph (5).

26 “(8) ~~DISCLOSURES.—~~ **CONSULTATION.—**

27 ~~“(A) In general.—The Commission shall require~~“(A) **IN GENERAL.—**Before a new  
28 **contract** for a digital commodity trading facility ~~to disclose to the public, on a timely~~  
29 ~~basis, with respect to a listing described in paragraph (1)(A)—~~ **may be listed for**  
30 **trading on a digital commodity platform pursuant to paragraph (1)(A), the**  
31 **Commission shall consult with the Securities and Exchange Commission**  
32 **regarding whether the contract is a security.**

33 ~~“(i) the operating structure and system of the digital commodity; and~~

34 ~~“(ii) the trading volume and volatility of the digital commodity.~~

35 ~~“(B) Format.—The Commission shall prescribe rules and regulations for the~~  
36 ~~standardization and simplification of disclosures under subparagraph (A) and~~  
37 ~~subsection (f)(1)(A), including requiring that disclosures—~~

38 ~~“(i) are conspicuous;~~

1           ~~“(ii) use plain language comprehensible to customers; and~~“(B) DEFINITION OF NEW  
2           CONTRACT FOR A DIGITAL COMMODITY.—In this paragraph, the term ‘new  
3           contract for a digital commodity’ means a contract for a digital commodity that  
4           has not previously been listed on any digital commodity trading facility or by a  
5           digital commodity broker or a digital commodity dealer.

6  
7           \* 1 ~~“(iii) succinctly explain the information that is required to be communicated to the~~  
8           customer.

9           “(e) Product Listing for Digital Commodity Brokers and Digital Commodity Dealers.—

10           “(1) IN GENERAL.—A digital commodity broker and a digital commodity dealer may only  
11           trade, or arrange a trade, in a contract for a digital commodity that is not readily susceptible  
12           to manipulation.

13           “(2) DISCLOSURE, LISTING, AND CERTIFICATION REQUIREMENTS.—A digital commodity  
14           broker and a digital commodity dealer may only trade, or arrange for trading, in digital  
15           commodities that have met the requirements of subsection (d) (including the listing and  
16           disclosure requirements): a digital commodity if—

17           ~~“(f) Customer Protection.—The~~“(A) a digital commodity trading facility has  
18           successfully completed the certification process or received prior approval to list  
19           for trading a contract for that digital commodity under subsection (d); or

20           “(B) that digital commodity broker or digital commodity dealer has  
21           successfully completed the certification process or received prior approval to list  
22           for trading a contract for that digital commodity under subsection (d) as if that  
23           digital commodity broker or digital commodity dealer were a digital commodity  
24           trading facility.

25           “(f) Customer Protection.—

26           “(1) IN GENERAL.—The Commission shall adopt customer protection requirements  
27           that—

28           ~~“(1)“(A) require disclosure by a digital commodity platform to a customer (other~~  
29           ~~than another digital commodity platform registered under this section) of—, on a~~  
30           timely basis and in accordance with paragraph (2), of—

31           ~~“(A)“(i) the operating structure and system of any digital commodity that~~  
32           is listed on the digital commodity platform;

33           ~~“(A)“(ii) the trading volume and volatility of any digital commodity that is~~  
34           listed on the digital commodity platform;

35           ~~“(A)“(iii) information about the material risks and characteristics of any applicable~~  
36           digital commodity contracts; and

37           ~~“(B)“(iv) any material incentives or conflicts of interest that the digital~~  
38           commodity platform may have in connection with any applicable digital  
39           commodity contracts;

40           ~~“(2)“(B) establish a duty for a digital commodity platform to communicate in a fair~~

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

2 ~~“(3)“(C)~~ establish standards governing digital commodity platform marketing and  
3 advertising, including testimonials and endorsements; and

4 ~~“(4)“(D)~~ establish such other standards and requirements as the Commission may  
5 determine are—

6 ~~“(A)“(i)~~ in the public interest;

7 ~~“(B)“(ii)~~ appropriate for the protection of customers; or

8 ~~“(C)“(iii)~~ otherwise in furtherance of the purposes of this Act.

9 **“(2) FORMAT.—The Commission shall prescribe rules and regulations for the**  
10 **standardization and simplification of disclosures under paragraph (1)(A), including**  
11 **requiring that disclosures—**

12 **“(A) are conspicuous;**

13 **“(B) use plain language comprehensible to customers; and**

14 **\*\* 1 ~~“(iii)“(C)~~ succinctly explain the information that is required to be**  
15 **communicated to the customer.**

16 **“(g) Examination and Publication of Energy Consumption in Digital Commodity Markets.—**

17 **“(1) IN GENERAL.—The Commission shall examine, in ~~collaboration~~ consultation with**  
18 **other Federal regulatory agencies as the Commission determines appropriate, the energy**  
19 **consumption and sources of energy used in connection with the creation and transfer of the**  
20 **most widely traded digital commodities.**

21 **“(2) REPORT.—Not later than 180 days after the date of enactment of the Digital**  
22 **Commodities Consumer Protection Act of 2022, the Commission shall submit to the**  
23 **Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on**  
24 **Agriculture of the House of Representatives a report describing—**

25 **“(A) an estimate of the energy consumption and sources of energy used in**  
26 **connection with the creation and transfer of the most widely traded digital**  
27 **commodities; and**

28 **“(B) the methodology used by the Commission to generate the estimate described in**  
29 **subparagraph (A).**

30 **“(3) PUBLICATION.—Using the methodology described in paragraph (2)(B), the**  
31 **Commission shall publish on the website of the Commission, and periodically update on a**  
32 **timely basis, an estimate of the energy consumption and sources of energy used in**  
33 **connection with the creation and transfer of the most widely traded digital commodities.**

34 **“(h) Prohibition on Fraud, Deception, and Manipulation.—It shall be unlawful for any digital**  
35 **commodity platform to engage in any act, practice, or course of business in connection with its**  
36 **business as a digital commodity platform that is fraudulent, deceptive, or manipulative.**

37 **“(i) Self-regulation.—**

38 **“(1) IN GENERAL.—A digital commodity broker, ~~or digital commodity dealer, or digital~~**  
39 **~~commodity custodian~~ shall be a member of a registered futures association, regardless of**

1 whether such person is separately registered as a digital commodity trading facility.

2 “(2) DELEGATION OF REGISTRATION FUNCTIONS.—The Commission may authorize any  
3 registered futures association to perform any portion of the registration functions with  
4 respect to digital commodity platforms, associated persons of digital commodity brokers,  
5 and associated persons of digital commodity dealers—

6 “(A) in accordance with rules, notwithstanding any other provision of law, adopted  
7 by that registered futures association and submitted to the Commission for approval;  
8 and

9 “(B) subject to the provisions of this section applicable to registrations granted by  
10 the Commission.

11 “(j) Dual Registration.—A digital commodity platform registered under this section may also  
12 be registered with the Securities and Exchange Commission as an exchange, broker, or dealer (as  
13 those terms are defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) or  
14 another trading platform.

15 “(k) Fees for Registration.—

16 “(1) IN GENERAL.—The Commission shall, in accordance with this subsection, assess and  
17 collect fees, which shall be used to recover the annual costs of—

18 “(A) registering digital commodity platforms;

19 “(B) conducting oversight of digital commodity trades; and

20 “(C) carrying out education and outreach, **as required** under subsection (l).

21 “(2) DETERMINATION OF FEE RATES.—In determining fee rates under paragraph (1), the  
22 Commission shall consider—

23 “(A) the volume of business of the digital commodity platform; and

24 “(B) the category of the digital commodity platform.

25 “(3) **PROHIBITION.—The Prohibitions.—**

26 ~~“(A) Commission.—The Commission shall not require a digital commodity platform to~~  
27 ~~collect directly from customers a per -transaction fee for each digital commodity trade.~~

28  
29 ~~“(B) Digital commodity platforms.—A digital commodity platform shall not impose~~  
30 ~~directly on customers a per transaction fee for each digital commodity trade to pay the fees~~  
31 ~~under paragraph (1).~~

32 “(4) PUBLICATION.—Not later than 60 days after the date of enactment of an Act making  
33 a regular appropriation to the Commission for a fiscal year, the Commission shall publish in  
34 the Federal Register a notice of—

35 “(A) the fee rates determined pursuant to this subsection for that fiscal year; and

36 “(B) any estimates or projections on which those fee rates are based.

37 “(5) RECORDS AND DISCLOSURE.—In carrying out this subsection, the Commission shall  
38 not be required to comply with section 553 of title 5, United States Code.

1 “(6) NO JUDICIAL REVIEW.—A fee rate prescribed under this subsection shall not be  
2 subject to judicial review.

3 “(7) DEPOSIT OF FEES.—Fees collected pursuant to this subsection for any fiscal year shall  
4 be deposited and credited as offsetting collections to the account providing appropriations to  
5 the Commission.

6 “(8) ANNUAL ADJUSTMENT.—For each fiscal year, the Commission shall, by order,  
7 determine fee rates pursuant to this subsection that are reasonably likely to produce  
8 aggregate fee collections that are equal to the annual appropriation to the Commission by  
9 Congress for ~~activities relating to the registration of digital commodity platforms and the~~  
10 ~~oversight of digital commodity trades.~~ **the activities described in paragraph (1).**

11 “(9) LAPSE OF APPROPRIATION.—If, on the first day of a fiscal year, a regular  
12 appropriation to the Commission has not been enacted, the Commission shall continue to  
13 collect (as offsetting collections) fees pursuant to this subsection at each of the rates in  
14 effect during the preceding fiscal year.

15 “(10) BUDGET REQUESTS.—The Commission shall itemize in each budget submitted to  
16 the President or the Office of Management and Budget the estimated annual costs of—

17 “(A) registering digital commodity platforms;

18 “(B) conducting oversight of digital commodity trades; and

19 “(C) carrying out education and outreach under subsection (l).

20 “(11) LIMITATIONS.—

21 “(A) IN GENERAL.—Fees may only be assessed and imposed pursuant to this  
22 subsection on digital commodity platforms regulated by the Commission pursuant to  
23 this section.

24 “(B) USE OF FEES.—Fees authorized under this subsection are prohibited from  
25 funding any Commission activity not directly related to the registration of digital  
26 commodity platforms, the oversight of digital commodity trades, and the education and  
27 outreach carried out under subsection (l).

28 “(l) Customer Education and Outreach.—The Commission shall provide education and  
29 outreach to customers participating in digital commodity markets.

30 “(m) Inspection.—The Commission may inspect and monitor digital commodity platforms, on  
31 an ongoing basis, for the purpose of ensuring compliance with this Act.

32 “(n) Preemption of State Laws.—

33 “(1) IN GENERAL.—The registration of a digital commodity platform, an associated  
34 person of a digital commodity broker, or an associated person of a digital commodity dealer  
35 under this section—

36 “(A) shall preempt any applicable registration requirements under State laws relating  
37 to money transmission, ~~virtual currency~~ **cryptocurrency**, and commodity brokers; and

38 “(B) shall not affect the applicability of State antifraud laws.

39 “(2) COMPLIANCE.—Beginning on the effective date of a registration of a digital

1 commodity platform under this section, the digital commodity platform **(and, if the digital**  
2 **commodity platform is a digital commodity broker or a digital commodity dealer, an**  
3 **associated person of the digital commodity broker or an associated person of the**  
4 **digital commodity dealer, as applicable)** shall not be required to comply with applicable  
5 State law **registration** requirements relating to money transmission, ~~virtual currency~~  
6 **cryptocurrency**, and commodity brokerage.

7 **“(o) Regulations.—The International Harmonization.—To promote effective and**  
8 **consistent global regulation of digital commodities, the Commission—**

9 **“(1) shall consult with foreign regulatory authorities on the establishment of**  
10 **consistent international standards with respect to the regulation of digital**  
11 **commodities; and**

12 **“(2) may agree to such information-sharing arrangements with foreign regulatory**  
13 **authorities as the Commission determines to be necessary or appropriate in the public**  
14 **interest or for the protection of customers.**

15 **“(p) Suspension or Revocation of Registration as a Digital Commodity Platform.—The**  
16 **failure of a digital commodity platform to comply with any provision of this Act, or any**  
17 **regulation or order of the Commission under this Act, shall be cause for, in accordance**  
18 **with the procedures and subject to judicial review under section 6(b)—**

19 **“(1) the suspension of the digital commodity platform for a period of not more than**  
20 **180 days; or**

21 **“(2) revocation of registration as a digital commodity platform.**

22 **“(q) Regulations.—**

23 **“(1) IN GENERAL.—The Commission shall prescribe such rules and regulations as are**  
24 **appropriate for the implementation of this ~~section.~~ section.**

25 **“(2) DECENTRALIZED PROTOCOLS.—In prescribing rules and regulations under**  
26 **paragraph (1), the Commission shall be informed by the report required under section**  
27 **7(c) of the Digital Commodities Consumer Protection Act of 2022, including by**  
28 **promoting the following objectives while recognizing the attributes that are unique to**  
29 **decentralized trading protocols:**

30 **“(A) Detecting and preventing fraud, manipulation, and price distortions.**

31 **“(B) Customer protection.**

32 **“(C) Financial stability and mitigating systemic risks.**

33 **“(D) Access to safe and affordable financial services.**

34 **“(E) Countering illicit finance.**

35 **“(F) United States leadership and competitiveness in the global financial**  
36 **system.**

37 **“(G) Responsible innovation.**

38 **“(H) Any other objective that the Commission determines to be relevant.”.**



1 **SEC. 5. ADDITIONAL AMENDMENTS.**

2 (a) Retail Commodity Transactions.—Section 2(c)(2)(D)(ii) of the Commodity Exchange Act  
3 (7 U.S.C. 2(c)(2)(D)(ii)) is amended—

4 (1) in subclause (III)(bb), by striking “or” at the end;

5 (2) by redesignating subclauses (IV) and (V) as subclauses (V) and (VI), respectively;  
6 and

7 (3) by inserting after subclause (III) the following:

8 “(IV) a digital commodity trade ; **executed by or through a digital**  
9 **commodity trading facility, a digital commodity broker, or a digital**  
10 **commodity dealer;**”.

11 (b) Applicability.—Section 2(i) of the Commodity Exchange Act (7 U.S.C. 2(i)) is amended—

12 (1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,  
13 and indenting appropriately;

14 (2) in the matter preceding subparagraph (A) (as so redesignated), by striking “The  
15 provisions” and inserting the following:

16 “(1) SWAPS.—The provisions”; and

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

18 “(2) DIGITAL COMMODITIES.—The provisions of this Act (including any rule prescribed  
19 or regulation promulgated under this Act) relating to digital commodities shall not apply to  
20 activities outside the United States unless those activities—

21 “(A) have a reasonably foreseeable significant effect within the United States;

22 “(B) involve, for the purpose of soliciting or accepting any order for, or otherwise  
23 dealing in, digital commodities—

24 “(i) the offering to enter into, entering into, execution, or confirming the  
25 execution of digital commodities with any United States person; or

26 “(ii) the conducting of any office or business anywhere in the United States  
27 (including any territory or possession of the United States); or

28 “(C) contravene such rules or regulations as the Commission may prescribe or  
29 promulgate as are necessary or appropriate to prevent the evasion of any provision of  
30 this Act.”.

31 (c) Registration of Associated Persons.—

32 (1) IN GENERAL.—Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is  
33 amended—

34 (A) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7);

35 (B) by inserting after paragraph (3) the following:

36 “(4) It shall be unlawful for any person to act as an associated person of a digital  
37 commodity broker or an associated person of a digital commodity dealer unless such person

1 is registered with the Commission under this Act and such registration shall not have  
2 expired, been suspended (and the period of suspension has not expired), or been revoked. It  
3 shall be unlawful for a digital commodity broker or a digital commodity dealer to permit  
4 such a person to become or remain associated with the digital commodity broker or digital  
5 commodity dealer if such digital commodity broker or digital commodity dealer knew or  
6 should have known that such person was not so registered or that such registration had  
7 expired, been suspended (and the period of suspension has not expired), or been revoked.”;  
8 and

9 (C) in paragraph (5) (as so redesignated), by striking “or of a commodity trading  
10 advisor” and inserting “of a commodity trading advisor, of a digital commodity broker,  
11 or of a digital commodity dealer”.

12 (2) CONFORMING AMENDMENT.—The Commodity Exchange Act (7 U.S.C. 1a et seq.) is  
13 amended by striking “section 4k(6)” each place it appears and inserting “section 4k(7)”.

14 (d) Commodity Trading Advisers; Commodity Pool Operators.—

15 (1) IN GENERAL.—Section 4l of the Commodity Exchange Act (7 U.S.C. 6l) is  
16 amended—

17 (A) in paragraph (2), by striking “derivatives transaction execution facilities” and  
18 inserting “digital commodity trades on or subject to the rules of digital commodity  
19 trading facilities”; and

20 (B) in paragraph (3), by striking “derivatives transaction execution facilities” and  
21 inserting “digital commodity trading facilities”.

22 (2) USE OF MAIL OR OTHER INTERSTATE COMMERCE.—Section 4m(3)(C) of the  
23 Commodity Exchange Act (7 U.S.C. 6m(3)(C)) is amended by inserting “digital commodity  
24 trades,” before “and any monies”.

25 (3) REGISTRATION.—Section 4n(3)(B) of the Commodity Exchange Act (7 U.S.C.  
26 6n(3)(B)) is amended by inserting “or digital commodity” after “futures market”.

27 (e) Acceptable Business Practices Under Core Principles.—Section 5c(a)(1) of the  
28 Commodity Exchange Act (7 U.S.C. 7a–2(a)(1)) is amended by striking “and 5b(c)(2),” and  
29 inserting “, 5b(c)(2), and 5i(b)”.

30 (f) Public Disclosure.—Section 8(a)(1) of the Commodity Exchange Act (7 U.S.C. 12(a)(1)) is  
31 amended, in the first sentence of the matter preceding subparagraph (A), by inserting “, digital  
32 commodity platforms,” after “boards of trade”.

33 (g) Anti-money Laundering.—

34 (1) AMENDMENT.—Section 5312(a)(2) of title 31, United States Code, is amended—

35 (A) by redesignating subparagraphs (Y) and (Z) as subparagraphs (Z) and (AA),  
36 respectively; and

37 (B) by inserting after subparagraph (X) the following:

38 “(Y) a digital commodity platform (as defined in section 1a of the Commodity  
39 Exchange Act (7 U.S.C. 1a));”.

40 (2) REGULATIONS.—

1 (A) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment  
2 of this Act, the Secretary of the Treasury, after consultation with the Commodity  
3 Futures Trading Commission, shall publish proposed regulations in the Federal  
4 Register requiring a digital commodity platform (as defined in section 1a of the  
5 Commodity Exchange Act (7 U.S.C. 1a)) registered with the Commodity Futures  
6 Trading Commission to submit a report of any suspicious transaction under section  
7 5318(g) of title 31, United States Code.

8 (B) FINAL REGULATIONS.—Not later than 180 days after the date of publication of  
9 the proposed regulations under subparagraph (A), the Secretary of the Treasury shall  
10 publish those regulations in final form.

11 (h) Registration of Commodity Dealers and Associated Persons.—Section 8a of the  
12 Commodity Exchange Act (7 U.S.C. 12a) is amended—

13 (1) in paragraph (1), by inserting “digital commodity brokers, associated persons of  
14 digital commodity brokers, digital commodity dealers, associated persons of digital  
15 commodity dealers,” after “to register”;

16 (2) in paragraph (2)—

17 (A) in subparagraph (C)—

18 (i) in clause (i), by inserting “digital commodity broker, digital commodity  
19 dealer,” before “futures commission merchant”; and

20 (ii) in clause (ii), by striking “contracts of” and inserting “a digital commodity  
21 trade or a contract of”;

22 (B) in subparagraph (D)—

23 (i) in clause (i), by inserting “digital commodity trade or” before “contract of  
24 sale”; and

25 (ii) in clause (ii), by inserting “digital commodity broker, digital commodity  
26 dealer,” before “futures commission merchant”; and

27 (C) in subparagraph (E)(i), by striking “Investors” and inserting “Investor”;

28 (3) in paragraph (3)—

29 (A) in subparagraph (B)(i), by striking “Investors” and inserting “Investor”; **and**

30 (B) in subparagraph (E)—

31 (i) in clause (i), by striking “contract of sale of a commodity for future delivery  
32 or” and inserting “contract of sale of a commodity for future delivery, digital  
33 commodity trade, or”; and

34 (ii) in clause (ii), by inserting “digital commodity broker, digital commodity  
35 dealer,” before “futures commission merchant”; and

36 ~~(C) in subparagraph (J)—~~

37 ~~(i) by inserting “a digital commodity trading facility,” before “a registered entity”; and~~

38 ~~(ii) by striking “registered entity, association” and inserting “digital commodity trading~~

1 ~~facility, registered entity, registered futures association”;~~

2 (4) in paragraph (4)—

3 (A) by striking “futures commission merchant” and inserting “digital commodity  
4 broker, digital commodity dealer, futures commission merchant,”;

5 (B) by inserting “digital commodity subject to the rules of a digital commodity  
6 trading facility or” before “commodity”; and

7 (C) by inserting “digital commodity trading facility or” before “registered entity”  
8 each place it appears;

9 (5) in paragraph (6), by inserting “digital commodity trading facility, digital commodity  
10 custodian,” before “registered entity” each place it appears; and

11 (6) in paragraph (9)—

12 (A) by inserting “digital commodity trading facility or” before “registered entity”  
13 each place it appears; **and**

14 (B) by inserting “digital commodity or” before “futures contract” each place it  
15 appears; ~~and~~

16 ~~(C) by inserting “digital commodity or” before “commodity” each place it appears.~~

17 (i) Amendments to Title 11.—Title 11, United States Code, is amended—

18 (1) in section 101(6), by inserting “digital commodity platform, as defined in section 1a  
19 of the Commodity Exchange Act (7 U.S.C. 1a),” after “leverage transaction merchant,”; and

20 (2) in section 761—

21 (A) in paragraph (4)(F)—

22 (i) in clause (i), by striking “and” at the end;

23 (ii) in clause (ii), by inserting “and” after the semicolon; and

24 (iii) by adding at the end the following:

25 “(iii) with respect to a digital commodity platform, a contract for a digital  
26 commodity trade—

27 “(I) held at a digital commodity platform; or

28 “(II) executed by or through a digital commodity platform;”;

29 ,

30 **provided that, for the purposes of sections 362(b)(6), 546(e), and 555, a contract**  
31 **for a digital commodity trade shall only be deemed a commodity contract if the**  
32 **party exercising its rights under, or with respect to, such contract is a digital**  
33 **commodity trading facility, digital commodity dealer, or digital commodity**  
34 **broker;”;**

35 (B) in paragraph (9)—

36 (i) in subparagraph (D), by striking “or” at the end;

1 (ii) in subparagraph (E)(ii)(II), by adding “or” after the semicolon at the end;  
2 and

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

4 “(F) with respect to a digital commodity platform—

5 “(i) entity for or with whom the digital commodity platform deals and that  
6 holds a claim against the digital commodity platform on account of a commodity  
7 contract made, received, acquired, or held by or through the digital commodity  
8 platform in the ordinary course of the business of the digital commodity platform  
9 as a digital commodity platform from or for a commodity contract account of the  
10 entity; or

11 “(ii) entity that holds a claim against the digital commodity platform arising out  
12 of—

13 “(I) the making, liquidation, or change in the value of a commodity  
14 contract of a kind specified in clause (i) of this subparagraph;

15 “(II) a deposit or payment of cash, a security, digital commodity, or other  
16 property with the digital commodity platform for the purpose of—

17 “(aa) making or margining the commodity contract; or

18 “(bb) holding in custody, or accepting a deposit, of property related  
19 to the making or margining of the commodity contract; or

20 “(III) the making or taking of delivery on the commodity contract.”;

21 (C) by redesignating paragraphs (11) through (17) as paragraphs (12) through (18),  
22 respectively; and

23 (D) by inserting after paragraph (10) the following:

24 “(11) the terms ‘digital commodity’, ‘**digital commodity broker**,’ ‘**digital commodity**  
25 **dealer**,’ ‘digital commodity platform’, ~~and~~ ‘digital commodity trade’, and ‘**digital**  
26 **commodity trading facility**’ have the meanings given those terms in section 1a of the  
27 Commodity Exchange Act (7 U.S.C. 1a);”.

## 28 SEC. 6. APPLICABILITY.

29 The amendments made by this Act shall not apply to any person ~~regulated~~ **registered** under  
30 the Commodity Exchange Act (7 U.S.C. 1 et seq.), as amended by this Act, until the date of  
31 effectiveness of the final rule of the Commodity Futures Trading Commission requiring  
32 registration of digital commodity platforms under section 5i of that Act.

## 33 ~~SEC. 7. REPORT ON HISTORICALLY UNDERSERVED~~ 34 ~~CUSTOMERS PARTICIPATING IN DIGITAL COMMODITY~~ 35 ~~MARKETS. REPORTS.~~

36 ~~Not later than 180 days after the date of enactment of this Act,~~ **(a) Definitions.—In this**  
37 **section:**

1           **(1) COMMISSION.**—The term “Commission” means the Commodity Futures Trading  
2 Commission(referred to in this section as the “Commission”).

3           **(2) DIGITAL COMMODITY; DIGITAL COMMODITY PLATFORM.**—The terms “digital  
4 commodity” and “digital commodity platform” have the meanings given those terms  
5 in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

6           **(b) Report on Historically Underserved Customers Participating in Digital Commodity  
7 Markets.**—Not later than 180 days after the date of enactment of this Act, the Commission  
8 shall—

9           (1) examine the racial, ethnic, and gender demographics of customers participating in  
10 digital commodity markets; and

11           (2) submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the  
12 Committee on Agriculture of the House of Representatives a report—

13                   (A) describing how those demographics will inform the rules and regulations of the  
14 Commission relating to customer protection;

15                   (B) proposing ways in which the Commission can provide outreach to historically  
16 underserved customers participating in digital commodity markets; and

17                   (C) containing **policy** recommendations relating to any other activities the  
18 Commission determines to be necessary to provide appropriate protection, outreach, or  
19 other similar activities relating to historically underserved customers participating in  
20 digital commodity markets.

21           **(c) Report on Decentralized Trading Protocols in Digital Commodity Markets.**—Not  
22 later than 180 days after the date of enactment of this Act, the Commission shall—

23           (1) examine the nature, size, role, and use of decentralized trading protocols in the  
24 digital commodity market; and

25           (2) submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate  
26 and the Committee on Agriculture of the House of Representatives a report  
27 describing—

28                   (A) the current development and use of decentralized trading protocols in  
29 digital commodity markets, including the use and reliance on affiliated  
30 companies, products, and technologies to facilitate transactions on decentralized  
31 trading protocols;

32                   (B)(i) the risks, benefits, and challenges of decentralized trading protocols; and

33                   (ii) the custody and transmission of digital commodities through decentralized  
34 trading protocols;

35                   (C) the efficiencies and costs of persons in digital commodity markets, including  
36 digital commodity platforms, using decentralized trading protocols compared to  
37 using similar centrally managed platforms; and

38                   (D) the ability and potential need for digital commodity platforms using  
39 decentralized trading protocols—

40                   (i) to address and implement the requirements under the amendments

1  
2  
3

**made by this Act to the Commodity Exchange Act (7 U.S.C. 1 et seq.); and  
(ii) to ensure appropriate customer protections.**