

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON of Pennsylvania introduced the following bill; which was
referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Digital Commodity Ex-
5 change Act of 2021”.

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

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

1 (1) in paragraph (40)—

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

4 (B) by redesignating subparagraph (F) as
5 subparagraph (G) and inserting after subpara-
6 graph (E) the following:

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

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

10 “(52) DIGITAL COMMODITY.—The term ‘digital
11 commodity’ means any form of fungible intangible
12 personal property that can be exclusively possessed
13 and transferred person to person without necessary
14 reliance on an intermediary, and which does not rep-
15 resent a financial interest in a company, partner-
16 ship, or investment vehicle.

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

22 “(54) DIGITAL COMMODITY EXCHANGE.—The
23 term ‘digital commodity exchange’ means a trading
24 facility that lists for trading at least one digital com-
25 modity.

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

7 “(A) a participant in a securities offering
8 that is—

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

11 “(ii) conducted in compliance with the
12 Securities Act of 1933 or a comparable
13 foreign authority;

14 “(B) a founder, promoter, developer, sup-
15 port organization or other person directly asso-
16 ciated with the development of the digital com-
17 modity; or

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

22 (b) COMMISSION JURISDICTION OVER RETAIL DIG-
23 ITAL COMMODITY TRANSACTIONS.—Section 2(c)(2) of
24 such Act (7 U.S.C. 2(c)(2)) is amended—

25 (1) in subparagraph (D)(ii)—

1 (A) in subclause (III), in the matter that
2 precedes item (aa), by inserting “of a com-
3 modity, other than a digital commodity,” before
4 “that”; and

5 (B) by redesignating subclauses (IV) and
6 (V) as subclauses (V) and (VI) and inserting
7 after subclause (III) the following:

8 “(IV) a contract of sale of a dig-
9 ital commodity that—

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

18 “(bb) is executed on or sub-
19 ject to the rules of a registered
20 digital commodity exchange;”;
21 and

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

23 “(F) COMMISSION JURISDICTION OVER DIGITAL
24 COMMODITY TRANSACTIONS.—

1 “(i) Notwithstanding any other provision of
2 law, the Commission shall have exclusive jurisdiction
3 over any agreement, contract, or transaction involv-
4 ing a contract of sale of any digital commodity in
5 interstate commerce which is offered, solicited, trad-
6 ed, executed, or otherwise dealt in on or subject to
7 the rules of a registered entity, including the con-
8 duct of any such office or business.

9 “(ii) Notwithstanding any other provision of
10 law, the Commission shall have exclusive jurisdiction
11 over any agreement, contract, or transaction involv-
12 ing a unit of a digital commodity, or any promise or
13 right to a future unit of a digital commodity, ob-
14 tained through a digital commodity presale and sub-
15 ject to the restrictions in section 4c(h).

16 “(iii) Nothing in this subparagraph shall be
17 construed to limit the power of any State or other
18 Federal regulatory agency, or to provide the Com-
19 mission with jurisdiction, with respect to—

20 “(I) custodial or depository activities for a
21 digital asset, or custodial or depository activi-
22 ties for any promise or right to a future digital
23 asset, of an entity regulated by a State or an-
24 other Federal regulatory agency; or

1 “(II) a securities offering or transaction
2 associated with—

3 “(aa) a digital commodity presale; or

4 “(bb) a sale described in section
5 4c(h)(3)(A).”.

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

9 “(h) PROHIBITED DIGITAL COMMODITY TRANS-
10 ACTIONS.—

11 “(1) IN GENERAL.—It shall be a violation of
12 this Act for any person who owns or controls a unit
13 of a digital commodity, or any promise or right to
14 a future unit of a digital commodity, obtained
15 through a digital commodity presale and subject to
16 the restrictions in this subsection, to offer to enter
17 into, to enter into, or to execute a contract for the
18 purchase or sale of the unit, promise, or right, ex-
19 cept as provided in paragraph (3).

20 “(2) UNLAWFUL FACILITATION OF PROHIBITED
21 TRANSACTION.—It shall be a violation of this Act for
22 any person willfully to execute, confirm the execution
23 of, or conduct any office or business for the purpose
24 of soliciting, accepting any order for, or otherwise
25 dealing in, any transaction in, or in connection with,

1 a contract for the purchase or sale of a unit of a
2 digital commodity, or any promise or right to a fu-
3 ture unit of a digital commodity, which such person
4 has reason to believe is obtained through a digital
5 commodity presale and subject to the restrictions in
6 this subsection, except as provided in paragraph (3).

7 “(3) EXCEPTIONS.—

8 “(A) OFF-EXCHANGE TRANSACTIONS.—

9 “(i) SALE OF A PROMISE OR RIGHT.—

10 A promise or right to a future unit of a
11 digital commodity obtained through a dig-
12 ital commodity presale may be sold pursu-
13 ant to a securities transaction conducted in
14 compliance with the Securities Act of
15 1933.

16 “(ii) SALE OF A DIGITAL COM-
17 MODITY.—A unit of a digital commodity
18 obtained through a digital commodity
19 presale may be sold—

20 “(I) pursuant to a securities
21 transaction conducted in compliance
22 with the Securities Act of 1933; or

23 “(II) to an accredited investor
24 (as defined in section 2(a)(15) of such
25 Act).

1 “(iii) TREATMENT.—For purposes of
2 this subsection, a unit of a digital com-
3 modity or any promise or right to a future
4 unit of a digital commodity obtained
5 through a transaction utilizing this excep-
6 tion shall continue to be considered to be
7 obtained through a digital commodity
8 presale.

9 “(B) ON-EXCHANGE TRANSACTIONS.—

10 “(i) IN GENERAL.—A unit of a digital
11 commodity that is obtained through a dig-
12 ital commodity presale or a transaction de-
13 scribed in subparagraph (A) may be of-
14 fered for sale or exchange on a registered
15 digital commodity exchange, subject to any
16 limitations imposed by the exchange.

17 “(ii) TREATMENT.—For purposes of
18 this subsection, a unit of a digital com-
19 modity obtained through a transaction uti-
20 lizing this exception shall not be considered
21 to be obtained though a digital commodity
22 presale.

23 “(C) UTILIZATION OF PRESOLD DIGITAL
24 COMMODITIES.—

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

4 “(I) utilized for the purposes of
5 receiving the non-financial rights or
6 services associated with the digital
7 commodity; or

8 “(II) exchanged or sold in such
9 limited quantities as the Commission
10 determines support the public use and
11 functioning of services and rights as-
12 sociated with the digital commodity.

13 “(ii) TREATMENT.—For purposes of
14 this subsection, a unit of a digital com-
15 modity obtained through a transaction uti-
16 lizing this exception shall not be considered
17 to be obtained though a digital commodity
18 presale.

19 “(D) PRIOR DIGITAL COMMODITIES.—A
20 unit of a digital commodity shall not be subject
21 to this subsection if, before the date of the en-
22 actment of this subsection, the digital com-
23 modity was publicly available for trading on a
24 trading facility licensed as a money transmitter
25 in a State or territory of the United States.

1 “(4) TRANSITION RULES.—

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

6 “(i) the trading facility—

7 “(I) has been continuously li-
8 censed as a money transmitter in at
9 least 20 States or territories of the
10 United States since August 1, 2019;

11 “(II) is a designated contract
12 market; or

13 “(III) is a swap execution facil-
14 ity;

15 “(ii) the trading facility submits a
16 listing notice to the Commission con-
17 taining—

18 “(I) documentation demonstrat-
19 ing its licensing referred to in clause
20 (i)(I); and

21 “(II) the determination made by
22 the trading facility under section
23 5i(e)(3) that the digital commodity
24 that is the subject of the transaction

1 is not readily susceptible to manipula-
2 tion; and

3 “(iii) the Commission has not issued a
4 notice of disapproval of the listing notice.

5 “(B) DISAPPROVAL PROCESS.—In making
6 a disapproval under subparagraph (A), the
7 Commission shall—

8 “(i) issue any disapproval within 20
9 business days after receipt of a completed
10 listing notice; and

11 “(ii) identify the specific deficiencies
12 with the listing notice that necessitated the
13 disapproval.

14 “(C) EXTENSIONS.—The Commission may
15 extend the time for disapproval under subpara-
16 graph (B)—

17 “(i) once, for 20 business days,
18 through written notice to the digital com-
19 modity exchange given by a division direc-
20 tor; and

21 “(ii) once, for an additional 90 busi-
22 ness days, through notice given by the
23 Commission which includes a description of
24 any deficiencies with the listing notice, in-
25 cluding any—

1 “(I) novel or complex issues
2 which require additional time to ana-
3 lyze;

4 “(II) missing information or in-
5 adequate explanations; or

6 “(III) potential inconsistencies
7 with this Act.

8 “(D) EXPIRATION.—The authority pro-
9 vided by this subparagraph shall expire 1 year
10 after the date of the final promulgation of the
11 digital commodity exchange registration re-
12 quirements, or on the first registration of a dig-
13 ital commodity exchange, whichever occurs ear-
14 lier.”.

15 (d) COMMON PROVISIONS APPLICABLE TO REG-
16 ISTERED ENTITIES.—Section 5c of such Act (7 U.S.C.
17 7a–2) is amended—

18 (1) in subsection (a), by striking “5(d) and
19 5b(c)(2)” and inserting “5(d), 5b(c)(2), and 5i(c)”;

20 (2) in subsection (b)—

21 (A) in each of paragraphs (1) and (2), by
22 inserting “digital commodity exchange,” before
23 “derivatives”; and

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

4 (3) in subsection (c)—

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

7 (B) in paragraph (4)(B), by striking
8 “1a(10)” and inserting “1a(9)”; and

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

11 “(D) SPECIAL RULES FOR THE LISTING OF
12 CERTAIN DIGITAL COMMODITIES.—

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

21 “(ii) TRANSITIONAL EXTENSION.—
22 For 1 year after the registration of the
23 first digital commodity exchange, the Com-
24 mission shall have an additional 20 busi-

1 ness days review any certification under
2 clause (i).

3 “(iii) DIGITAL COMMODITY
4 PRESALES.—In conjunction with listing a
5 digital commodity in which any unit of the
6 digital commodity was obtained through a
7 digital commodity presale, the Commission
8 shall require the registered entity to pro-
9 hibit the sale of any unit of the digital
10 commodity that was obtained in violation
11 of section 4c(h).”.

12 (e) REGISTRATION OF DIGITAL COMMODITY EX-
13 CHANGES; QUALIFIED DIGITAL COMMODITY
14 CUSTODIANS.—The Commodity Exchange Act (7 U.S.C.
15 1 et seq.) is amended by inserting after section 5h the
16 following:

17 **“SEC. 5i. REGISTRATION OF DIGITAL COMMODITY EX-**
18 **CHANGES.**

19 “(a) IN GENERAL.—

20 “(1) VOLUNTARY REGISTRATION.—

21 “(A) IN GENERAL.—Any trading facility
22 that offers or seeks to offer a market in digital
23 commodities may register with the Commission
24 as a digital commodity exchange.

1 “(B) APPLICATION.—A person desiring to
2 register as a digital commodity exchange shall
3 submit to the Commission an application in
4 such form and containing such information as
5 the Commission may require for the purpose of
6 making the determinations required for ap-
7 proval under subsections (c) and (e).

8 “(2) DEEMED REGISTRATION.—A registered
9 designated contract market or registered swap exe-
10 cution facility which fulfills the requirements of this
11 section shall be considered a registered digital com-
12 modity exchange.

13 “(b) TRADING.—

14 “(1) IN GENERAL.—A digital commodity ex-
15 change that is registered under subsection (a) may
16 make available for trading any digital commodity
17 that is not readily subject to manipulation, subject
18 to this subsection.

19 “(2) RULES GOVERNING MARGINED OR LEVER-
20 AGED TRADING.—The Commission may make, pro-
21 mulgate, and enforce such rules governing margined,
22 leveraged, or financed transactions as are reasonably
23 necessary to protect market participants and pro-
24 mote the orderly settlement of transactions with re-
25 spect to—

- 1 “(A) disclosure;
- 2 “(B) recordkeeping;
- 3 “(C) capital, margin, and other financial
- 4 resources;
- 5 “(D) reporting;
- 6 “(E) business conduct;
- 7 “(F) documentation; and
- 8 “(G) such other matters as the Commis-
- 9 sion demonstrates to be necessary.

10 “(3) PROHIBITION ON CERTAIN TRADING PRAC-

11 TICES.—Sections 4b, 4c, and 6(c) shall apply to any

12 agreement, contract, or transaction in a digital com-

13 modity as if the agreement, contract, or transaction

14 were a contract of sale of a commodity for future de-

15 livery.

16 “(4) PROHIBITION ON TRADING DERIVATIVES

17 PRODUCTS.—Registration as a digital commodity ex-

18 change shall not permit a trading facility to offer

19 any contract of sale of a commodity for future deliv-

20 ery, option, or swap for trading without also being

21 registered as a designated contract market or swap

22 execution facility.

23 “(c) CORE PRINCIPLES FOR DIGITAL COMMODITY

24 EXCHANGES.—

25 “(1) COMPLIANCE WITH CORE PRINCIPLES.—

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

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

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

10 “(B) REASONABLE DISCRETION OF A DIG-
11 ITAL COMMODITY EXCHANGE.—Unless other-
12 wise determined by the Commission by rule or
13 regulation, a digital commodity exchange de-
14 scribed in subparagraph (A) shall have reason-
15 able discretion in establishing the manner in
16 which the digital commodity exchange complies
17 with the core principles described in this sub-
18 section.

19 “(2) COMPLIANCE WITH RULES.—A digital
20 commodity exchange shall—

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

1 “(i) the terms and conditions of the
2 trades traded or processed on or through
3 the digital commodity exchange; and

4 “(ii) any limitation on access to the
5 digital commodity exchange;

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

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

13 “(ii) to capture information that may
14 be used in establishing whether rule viola-
15 tions have occurred; and

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

21 “(3) DIGITAL COMMODITIES NOT READILY SUS-
22 CEPTIBLE TO MANIPULATION.—

23 “(A) IN GENERAL.—The digital commodity
24 exchange shall permit trading only in digital

1 commodities that are not readily susceptible to
2 manipulation.

3 “(B) DETERMINATIONS.—Prior to offering
4 trading in any digital commodity, the digital
5 commodity exchange shall make a determina-
6 tion under this paragraph as to whether the
7 digital commodity is readily susceptible to ma-
8 nipulation.

9 “(C) CONSIDERATIONS.—In making a de-
10 termination under this paragraph, the exchange
11 shall consider the digital commodity’s—

12 “(i) purpose and use;

13 “(ii) governance structure;

14 “(iii) participation;

15 “(iv) distribution;

16 “(v) intended, current, and proposed
17 functionality;

18 “(vi) other relevant factors deter-
19 mined by the exchange; and

20 “(vii) any other factor required by the
21 Commission.

22 “(D) RULES FOR FIXED-VALUE DIGITAL
23 COMMODITIES.—A fixed-value digital com-
24 modity shall be determined to be not readily
25 susceptible to manipulation under this section if

1 the issuer of the fixed-value digital commodity
2 is registered as a fixed-value digital commodity
3 operator or regulated under any other similar
4 regulatory regime.

5 “(E) RULES FOR DIGITAL COMMODITY
6 PRESALES.—The digital commodity exchange
7 shall have in place such rules as may be nec-
8 essary to reasonably ensure the orderly sale of
9 any unit of a digital commodity obtained
10 through a digital commodity presale.

11 “(4) TREATMENT OF CUSTOMER ASSETS.—

12 “(A) REQUIRED STANDARDS AND PROCE-
13 DURES.—Each digital commodity exchange
14 shall establish standards and procedures that
15 are designed to protect and ensure the safety of
16 customer money, assets, and property.

17 “(B) HOLDING OF CUSTOMER ASSETS.—

18 “(i) IN GENERAL.—Each digital com-
19 modity exchange shall hold customer
20 money, assets, and property in a manner
21 to minimize the customer’s risk of loss or
22 unreasonable delay in the access to the
23 money, assets, and property of the cus-
24 tomer.

25 “(ii) SEGREGATION OF FUNDS.—

1 “(I) IN GENERAL.—A digital
2 commodity exchange shall treat and
3 deal with all money, assets, and prop-
4 erty of any customer received as be-
5 longing to the customer.

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

17 “(iii) EXCEPTIONS.—

18 “(I) USE OF FUNDS.—

19 “(aa) IN GENERAL.—Not-
20 withstanding clause (ii), money,
21 assets, and property of customers
22 of a described in clause (ii) may,
23 for convenience, be commingled
24 and deposited in the same ac-
25 count or accounts with any bank,

1 trust company, or qualified dig-
2 ital commodity custodian.

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

20 “(II) COMMISSION ACTION.—
21 Notwithstanding clause (ii), in accord-
22 ance with such terms and conditions
23 as the Commission may prescribe by
24 rule, regulation, or order, any money,
25 assets, or property of the customers of

1 a digital commodity exchange de-
2 scribed in clause (ii) may be commin-
3 gled and deposited in customer ac-
4 counts with any other money, assets,
5 or property received by the digital
6 commodity exchange and required by
7 the Commission to be separately ac-
8 counted for and treated and dealt
9 with as belonging to the customer of
10 the digital commodity exchange.

11 “(C) PERMITTED INVESTMENTS.—Money
12 described in clause (ii) may be invested in obli-
13 gations of the United States, in general obliga-
14 tions of any State or of any political subdivision
15 of a State, and in obligations fully guaranteed
16 as to principal and interest by the United
17 States, or in any other investment that the
18 Commission may by rule or regulation pre-
19 scribe, and such investments shall be made in
20 accordance with such rules and regulations and
21 subject to such conditions as the Commission
22 may prescribe.

23 “(D) CUSTOMER PROPERTY.—Assets held
24 on behalf of a customer by a digital commodity
25 exchange shall be considered to be customer

1 property as such term is defined in section 761
2 of title 11, United States Code, with regard to
3 all money, assets, and property of any customer
4 received by a digital commodity exchange for
5 trading or custody, or to margin, guarantee, or
6 secure digital commodity transactions (includ-
7 ing money, assets, or property accruing to the
8 customer as the result of such transactions).

9 “(E) MISUSE OF CUSTOMER PROPERTY.—

10 It shall be unlawful—

11 “(i) for any digital commodity ex-
12 change that has received any customer
13 money, assets, or property for custody to
14 dispose of, or use any such money, assets,
15 or property as belonging to the digital
16 commodity exchange; or

17 “(ii) for any other person, including
18 any depository, other digital commodity ex-
19 change, or digital commodity custodian
20 that has received any customer money, as-
21 sets, or property for deposit, to hold, dis-
22 pose of, or use any such money, assets, or
23 property as belonging to the depositing
24 digital commodity exchange or any person

1 other than the customers of the digital
2 commodity exchange.

3 “(F) CUSTOMER RIGHT TO OPT OUT.—

4 “(i) IN GENERAL.—A customer shall
5 have the right to waive the restrictions in
6 subparagraph (B), by affirmatively elect-
7 ing, in writing to the digital commodity ex-
8 change, to waive the restrictions.

9 “(ii) LIMITATIONS.—The Commission
10 may, by rule, establish notice and disclo-
11 sure requirements, segregation require-
12 ments, investment limitations, and other
13 rules related to the waiving of any restric-
14 tions under this paragraph that are rea-
15 sonably necessary to protect customers, in-
16 cluding eligible contract participants, non-
17 eligible contract participants, or any other
18 class of customers.

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

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

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

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

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

11 “(C) The digital commodity exchange
12 shall—

13 “(i) establish and enforce rules or
14 terms and conditions defining, or specifica-
15 tions detailing—

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

20 “(II) procedures for trade proc-
21 essing of digital commodities on or
22 through the facilities of the digital
23 commodity exchange; and

24 “(ii) monitor trading in digital com-
25 modities to prevent manipulation, price

1 distortion, and disruptions of the delivery
2 or cash settlement process through surveil-
3 lance, compliance, and disciplinary prac-
4 tices and procedures, including methods
5 for conducting real-time monitoring of
6 trading and comprehensive and accurate
7 trade reconstructions.

8 “(6) ABILITY TO OBTAIN INFORMATION.—The
9 digital commodity exchange shall—

10 “(A) establish and enforce rules that will
11 allow the facility to obtain any necessary infor-
12 mation to perform any of the functions de-
13 scribed in this section;

14 “(B) provide the information to the Com-
15 mission on request; and

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

19 “(7) EMERGENCY AUTHORITY.—The digital
20 commodity exchange shall adopt rules to provide for
21 the exercise of emergency authority, in consultation
22 or cooperation with the Commission or a registered
23 entity, as is necessary and appropriate, including the
24 authority to facilitate the liquidation or transfer of

1 open positions in any digital commodity or to sus-
2 pend or curtail trading in a digital commodity.

3 “(8) REPORTING REQUIREMENTS.—

4 “(A) DUTY OF DIGITAL COMMODITY EX-
5 CHANGE.—Each digital commodity exchange
6 shall provide to the Commission all information
7 that is determined by the Commission to be
8 necessary to perform each responsibility of the
9 Commission under this Act.

10 “(B) TIMELY PUBLICATION OF TRADING
11 INFORMATION.—

12 “(i) IN GENERAL.—The digital com-
13 modity exchange shall make public timely
14 information on price, trading volume, and
15 other trading data on digital commodities
16 to the extent prescribed by the Commis-
17 sion.

18 “(ii) CAPACITY OF DIGITAL COM-
19 MODITY EXCHANGE.—The digital com-
20 modity exchange shall be required to have
21 the capacity to electronically capture and
22 transmit trade information with respect to
23 transactions executed on the exchange.

24 “(9) RECORDKEEPING AND REPORTING.—

1 “(A) IN GENERAL.—A digital commodity
2 exchange shall—

3 “(i) maintain records of all activities
4 relating to the business of the facility, in-
5 cluding a complete audit trail, in a form
6 and manner acceptable to the Commission
7 for a period of 5 years;

8 “(ii) report to the Commission, in a
9 form and manner acceptable to the Com-
10 mission, such information as the Commis-
11 sion determines to be necessary or appro-
12 priate for the Commission to perform the
13 duties of the Commission under this Act;
14 and

15 “(iii) keep any such records of digital
16 commodities which relate to a security
17 open to inspection and examination by the
18 Securities and Exchange Commission.

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

23 “(i) the Board;

24 “(ii) the Securities and Exchange
25 Commission;

1 “(iii) each appropriate Federal bank-
2 ing agency;

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

6 “(v) the Financial Stability Oversight
7 Council;

8 “(vi) the Department of Justice; and

9 “(vii) any other person that the Com-
10 mission determines to be appropriate, in-
11 cluding—

12 “(I) foreign financial supervisors
13 (including foreign futures authorities);

14 “(II) foreign central banks; and

15 “(III) foreign ministries.

16 “(C) CONFIDENTIALITY AGREEMENT.—Be-
17 fore the Commission may share information
18 with any entity described in subparagraph (B),
19 the Commission shall receive a written agree-
20 ment from each entity stating that the entity
21 shall abide by the confidentiality requirements
22 described in section 8 relating to the informa-
23 tion on digital commodity transactions that is
24 provided.

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

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

10 “(A) adopt any rules or take any actions
11 that result in any unreasonable restraint of
12 trade; or

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

15 “(11) CONFLICTS OF INTEREST.—The digital
16 commodity exchange shall—

17 “(A) establish and enforce rules to mini-
18 mize conflicts of interest in its decision-making
19 process; and

20 “(B) establish a process for resolving the
21 conflicts of interest.

22 “(12) FINANCIAL RESOURCES.—

23 “(A) IN GENERAL.—Each digital com-
24 modity exchange shall have adequate financial,
25 operational, and managerial resources, as deter-

1 mined by the Commission, to discharge each re-
2 sponsibility of the digital commodity exchange.

3 “(B) MINIMUM AMOUNT OF FINANCIAL RE-
4 SOURCES.—Each digital commodity exchange
5 shall possess financial resources that, at a min-
6 imum, exceed the total amount that would en-
7 able the digital commodity exchange to conduct
8 an orderly wind down of its activities.

9 “(C) ADDITIONAL FINANCIAL RESOURCES
10 FOR LEVERAGE TRADING.—The Commission
11 may require such additional financial resources
12 as are necessary to enable a digital commodity
13 exchange which offers margined, leveraged, or
14 financed transactions to fulfill its customer obli-
15 gations.

16 “(13) GOVERNANCE FITNESS STANDARDS.—

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

21 “(B) FITNESS STANDARDS.—Each digital
22 commodity exchange shall establish and enforce
23 appropriate fitness standards for—

24 “(i) directors;

1 “(ii) any individual or entity with di-
2 rect access to the settlement activities of
3 the digital commodity exchange;

4 “(iii) any individual or entity with di-
5 rect access to any affiliated digital com-
6 modity custodian;

7 “(iv) any entity offering affiliated
8 services for the digital commodity ex-
9 change; and

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

12 “(14) SYSTEM SAFEGUARDS.—The digital com-
13 modity exchange shall—

14 “(A) establish and maintain a program of
15 risk analysis and oversight to identify and mini-
16 mize sources of operational and security risks,
17 through the development of appropriate controls
18 and procedures, and automated systems, that—

19 “(i) are reliable and secure; and

20 “(ii) have adequate scalable capacity;

21 “(B) establish and maintain emergency
22 procedures, backup facilities, and a plan for dis-
23 aster recovery that allow for—

24 “(i) the timely recovery and resump-
25 tion of operations; and

1 “(ii) the fulfillment of the responsibil-
2 ities and obligations of the digital com-
3 modity exchange; and

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

8 “(i) order processing and trade
9 matching;

10 “(ii) price reporting;

11 “(iii) market surveillance; and

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

14 “(d) APPOINTMENT OF TRUSTEE.—

15 “(1) IN GENERAL.—If a proceeding under sec-
16 tion 5e results in the suspension or revocation of the
17 registration of a digital commodity exchange, or if a
18 digital commodity exchange withdraws from registra-
19 tion, the Commission, on notice to the digital com-
20 modity exchange, may apply to the appropriate
21 United States district court where the digital com-
22 modity exchange is located for the appointment of a
23 trustee.

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

4 “(A) the court may take exclusive jurisdic-
5 tion over the digital commodity exchange and
6 the records and assets of the digital commodity
7 exchange, wherever located; and

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

17 “(e) QUALIFIED DIGITAL COMMODITY CUSTO-
18 DIAN.—A digital commodity exchange shall hold in a
19 qualified digital commodity custodian each unit of a digital
20 commodity that is—

21 “(1) the property of a customer of the digital
22 commodity exchange;

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

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

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

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

15 “(2) the exemption will not have a material ad-
16 verse effect on the ability of the Commission or the
17 digital commodity exchange to discharge regulatory
18 or self-regulatory duties under this Act.

19 “(g) CUSTOMER DEFINED.—In this section, the term
20 ‘customer’ means any person that maintains an account
21 for the trading of digital commodities directly with a dig-
22 ital commodity exchange (other than a person that is
23 owned or controlled, directly or indirectly, by the digital
24 commodity exchange) for its own behalf or on behalf of
25 other any person.

1 “(h) **FEDERAL PREEMPTION.**—Notwithstanding any
2 other provision of law, the Commission shall have exclusive
3 jurisdiction over any digital commodity exchange reg-
4 istered under this section.

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

6 “(a) **IN GENERAL.**—The Commission shall designate
7 a digital commodity custodian as a qualified digital com-
8 modity custodian, if—

9 “(1) the Commission finds the digital com-
10 modity custodian is subject to adequate supervision
11 and appropriate regulation by the Commission, the
12 Securities and Exchange Commission, an appro-
13 priate Federal banking agency, a State bank super-
14 visor (within the meaning of section 3 of the Federal
15 Deposit Insurance Act), or an appropriate foreign
16 governmental authority in the home country of the
17 digital commodity custodian; and

18 “(2) the digital commodity custodian agrees to
19 such regular and periodic sharing of information as
20 the Commission determines by rule shall be reason-
21 ably necessary to effectuate any of the provisions, or
22 to accomplish any of the purposes, of this Act.

23 “(b) **RULEMAKING AUTHORITY.**—For purposes of
24 subsection (a), the Commission, by rule or order, shall de-
25 fine ‘adequate supervision’ and ‘appropriate regulation’ as

1 any regulatory regime which meets such minimum stand-
2 ards for supervision and regulation as the Commission de-
3 termines are reasonably necessary to protect the property
4 of customers of a registered digital commodity exchange,
5 including minimum standards relating to—

6 “(1) accessibility of customer assets;

7 “(2) financial resources;

8 “(3) risk management requirements;

9 “(4) governance arrangements;

10 “(5) fitness standards;

11 “(6) recordkeeping;

12 “(7) information-sharing; and

13 “(8) conflicts of interest.

14 “(c) **AUTHORITY TO TEMPORARILY SUSPEND STAND-**
15 **ARDS.**—The Commission may, by rule or order, tempo-
16 rarily suspend, in whole or in part, any requirement im-
17 posed under, or any standard referred to in, this section
18 if the Commission determines that the suspension would
19 be consistent with the public interest and the purposes of
20 this Act.”.

21 (f) **REGISTRATION AND REGULATION OF FIXED-**
22 **VALUE DIGITAL COMMODITY OPERATORS.**—

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

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

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

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

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

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

18 “(i) engaged in a business that solici-
19 its, accepts, or receives funds from others
20 for the purpose of issuing units of a fixed-
21 value digital commodity; or

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

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

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

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

14 “(a) REGISTRATION.—

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

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

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

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

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

9 “(i) the funds and property available
10 for the redemption of units of the fixed-
11 value digital commodity being transferred
12 to another fixed-value digital commodity
13 operator; or

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

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

21 “(b) PROHIBITIONS; ENFORCEMENT.—

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

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

7 “(2) REVOCATION.—

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

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

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

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

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

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

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

1 “(1) DISCLOSURE OF GENERAL INFORMA-
2 TION.—Such an operator shall—

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

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

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

11 “(iii) the process of the operator for
12 the issuance and redemption of units of
13 the fixed-value digital commodity issued by
14 the operator;

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

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

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

1 “(2) PUBLICLY AVAILABLE INFORMATION.—

2 Such an operator shall make available to the public,
3 information concerning—

4 “(A) the fixed-value digital commodity op-
5 erations, mechanisms, and practices of the op-
6 erator;

7 “(B) the process of the operator for the
8 issuance and redemption of the fixed-value dig-
9 ital commodity issued by the operator;

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

13 “(D) the total value of the outstanding
14 units of the fixed-value digital commodity;

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

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

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

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

25 Such an operator shall maintain daily redemption

1 fund records reflecting the total amount of funds or
2 property held by the operator for redemption and
3 the total value of outstanding redeemable units of
4 the fixed-value digital commodity issued by the oper-
5 ator.

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

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

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

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

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

22 “(7) REPORTING AND RECORDKEEPING.—Such
23 an operator shall—

24 “(A) make such reports as are required by
25 the Commission by rule or regulation regarding

1 the issuance and redemption transactions, and
2 positions and financial condition of the reg-
3 istered fixed-value digital commodity operator;

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

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

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

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

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

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

1 “(D) such other standards and require-
2 ments as the Commission may determine are
3 appropriate in the public interest, for the pro-
4 tection of participants in the fixed-value digital
5 commodity, or otherwise in furtherance of the
6 purposes of this section.

7 “(9) REQUIREMENTS FOR ISSUANCE AND RE-
8 DEMPTION TRANSACTION RECORDS.—

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

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

21 “(C) AUDIT TRAIL.—Such an operator
22 shall maintain a complete audit trail for con-
23 ducting comprehensive and accurate issuance
24 and redemption transaction reconstructions.

1 “(D) INFORMATION REQUIREMENTS.—

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

5 “(d) FUNDS HELD FOR REDEMPTION.—

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

14 “(2) SEGREGATION REQUIREMENTS.—

15 “(A) FUNDS HELD FOR REDEMPTION.—A
16 registered fixed-value digital commodity oper-
17 ator shall—

18 “(i) segregate the funds or other
19 property held for redemption; and

20 “(ii) in accordance with such rules
21 and regulations as the Commission may
22 promulgate, maintain the funds or other
23 property in a segregated account separate
24 from the assets and other interests of the
25 operator.

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

7 “(C) CUSTODIANS.—The segregated ac-
8 count referred to in subparagraph (A) shall
9 be—

10 “(i) carried by a qualified digital com-
11 modity custodian; and

12 “(ii) designated as a segregated ac-
13 count for redemptions.

14 “(e) FINANCIAL RESOURCES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(g) RULEMAKING.—

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

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

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

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

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