

[DISCUSSION DRAFT]

116TH CONGRESS
2^D SESSION

H. R. _____

To clarify which Federal agencies regulate digital assets, to require those agencies to notify the public of any Federal licences, certifications, or registrations required to create or trade in such assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GOSAR introduced the following bill; which was referred to the Committee
on _____

A BILL

To clarify which Federal agencies regulate digital assets, to require those agencies to notify the public of any Federal licences, certifications, or registrations required to create or trade in such assets, 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 “Crypto-Currency Act
5 of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) CRYPTO-COMMODITY.—The term “crypto-
2 commodity” means economic goods or services, in-
3 cluding derivatives, that—

4 (A) have full or substantial fungibility;

5 (B) the markets treat with no regard as to
6 who produced the goods or services; and

7 (C) rest on a blockchain or decentralized
8 cryptographic ledger.

9 (2) CRYPTO-CURRENCY.—The term “crypto-
10 currency” means representations of United States
11 currency or synthetic derivatives resting on a
12 blockchain or decentralized cryptographic ledger, in-
13 cluding—

14 (A) such representations or synthetic de-
15 rivatives that are reserve-backed digital assets
16 that are fully collateralized in a correspondent
17 banking account, such as stablecoins; and

18 (B) synthetic derivatives that are—

19 (i) determined by decentralized oracles
20 or smart contracts; and

21 (ii) collateralized by crypto-commo-
22 dities, other crypto-currencies, or crypto-se-
23 curities.

24 (3) CRYPTO-SECURITY.—

1 (A) IN GENERAL.—The term “crypto-secu-
2 rity” means all debt and equity that rest on a
3 blockchain or decentralized cryptographic ledg-
4 er.

5 (B) EXCEPTION.—The term “crypto-secu-
6 rity” does not include a synthetic derivative
7 that—

8 (i) is operated as, and is registered
9 with the Department of the Treasury as, a
10 money services business (as defined under
11 section 1010.100 of title 31, Code of Fed-
12 eral Regulations); and

13 (ii) is operated in compliance with all
14 applicable requirements of subchapter II of
15 chapter 53 of title 31, United States Code
16 (commonly referred to as the “Bank Se-
17 crecy Act”) and all other Federal anti-
18 money laundering, anti-terrorism, and
19 screening requirements of the Office of
20 Foreign Assets Control and the Financial
21 Crimes Enforcement Network.

22 (4) DECENTRALIZED CRYPTOGRAPHIC LEDG-
23 ER.—The term “decentralized cryptographic ledger”
24 means a ledger that—

1 (A) runs as a stand-alone blockchain that
2 is secured through a minting mechanism such
3 as proof-of-work, proof-of-stake, or otherwise;

4 (B) runs as a cryptographic asset or
5 smart-contract on an existing stand-alone
6 blockchain and is secured through the issuing
7 blockchain minting mechanism;

8 (C) is immutable and can not be overwrit-
9 ten without controlling a majority stake of the
10 associated network;

11 (D) requires a cryptographic link between
12 blocks of transactional data;

13 (E) is permissionless, requiring no third
14 party to transact, only a connection to the
15 internet;

16 (F) is an irreversible bearer commodity,
17 with all transactions being final;

18 (G) is not controllable by any one single
19 entity (defined as having less than half of all
20 nodes controlled by one single entity); and

21 (H) is not directly issued by a nation-state
22 or private entity.

23 (5) DECENTRALIZED ORACLE.—The term “de-
24 centralized oracle” means a service that sends and
25 verifies real world data from external sources outside

1 of a blockchain and submits such information to
2 smart contracts that rest on the blockchain, thus
3 triggering the execution of predefined functions of
4 the smart contract.

5 (6) DIGITAL ASSET.—The term “digital asset”
6 means a crypto-commodity, crypto-currency, or
7 crypto-security.

8 (7) INSURED DEPOSITORY INSTITUTION.—The
9 term “insured depository institution” has the mean-
10 ing given such term under section 3 of the Federal
11 Deposit Insurance Act.

12 (8) PRIMARY FEDERAL DIGITAL ASSET REGU-
13 LATOR.—The term “primary Federal digital asset
14 regulator” means—

15 (A) the Commodity Futures Trading Com-
16 mission, with respect to crypto-commodities;

17 (B) the Secretary of the Treasury, acting
18 through the Financial Crimes Enforcement
19 Network, and the Comptroller of the Currency
20 with respect to crypto-currencies; and

21 (C) the Securities and Exchange Commis-
22 sion, with respect to crypto-securities.

23 (9) RESERVE-BACKED STABLECOIN.—The term
24 “reserve-backed stablecoin” means a digital asset
25 that—

1 (A) is a representation of currency issued
2 by the United States or a foreign government;

3 (B) rests on a blockchain or decentralized
4 cryptographic ledger; and

5 (C) is collateralized on a one-to-one basis
6 by such currency, and such currency is depos-
7 ited in an insured depository institution.

8 (10) SMART CONTRACT.—The term “smart con-
9 tract” means a computer protocol intended—

10 (A) to digitally facilitate, verify, or enforce
11 the negotiation or performance of a contract;
12 and

13 (B) to allow the performance of credible
14 transactions without third parties.

15 (11) SYNTHETIC STABLECOIN.—The term “syn-
16 thetic stablecoin” means a digital asset, other than
17 a reserve-backed stablecoin, that—

18 (A) is stabilized against the value of a cur-
19 rency or other asset; and

20 (B) rests on a blockchain or decentralized
21 cryptographic ledger.

22 **SEC. 3. ESTABLISHING AREAS OF PRIMARY REGULATORY**
23 **OVERSIGHT FOR DIGITAL ASSETS.**

24 (a) CRYPTO-COMMODITIES.—The Commodity Fu-
25 tures Trading Commission shall be the primary Govern-

1 ment agency with the authority to regulate crypto-com-
2 modities.

3 (b) CRYPTO-CURRENCIES.—The Secretary of the
4 Treasury, acting through the Financial Crimes Enforce-
5 ment Network, and the Comptroller of the Currency shall
6 be the primary Government agencies with the authority
7 to regulate crypto-currencies (other than synthetic
8 stablecoins).

9 (c) CRYPTO-SECURITIES.—The Securities and Ex-
10 change Commission shall be the primary Government
11 agency with the authority to regulate crypto-securities and
12 synthetic stablecoins.

13 **SEC. 4. REGISTRATION AND PUBLIC LISTS OF DIGITAL**
14 **ASSET EXCHANGES.**

15 (a) CRYPTO-COMMODITIES.—The Commodity Fu-
16 tures Trading Commission shall require any exchange
17 trading in crypto-commodities to register with the Com-
18 mission, and shall maintain a public list of all such ex-
19 changes.

20 (b) CRYPTO-CURRENCIES.—The Secretary of the
21 Treasury, acting through the Financial Crimes Enforce-
22 ment Network, shall require any exchange trading in
23 crypto-currencies (other than synthetic stablecoins) to reg-
24 ister with the Secretary, and shall maintain a public list
25 of all such exchanges.

1 (c) CRYPTO-SECURITIES.—The Securities and Ex-
2 change Commission shall maintain a public list of all reg-
3 istered national securities exchanges trading in crypto-se-
4 curities or synthetic stablecoins.

5 **SEC. 5. AVAILABILITY OF INFORMATION TO THE PUBLIC**
6 **ON REQUIREMENTS TO CREATE OR TRADE IN**
7 **DIGITAL ASSETS.**

8 Each primary Federal digital asset regulator shall,
9 with respect to digital assets over which it is the primary
10 Federal digital asset regulator, make available to the pub-
11 lic (and keep current) a list of all Federal licenses, certifi-
12 cations, or registrations required to create or trade in dig-
13 ital assets.

14 **SEC. 6. REQUIREMENTS RELATED TO CRYPTO-CUR-**
15 **RENCIES.**

16 (a) TRACING OF TRANSACTIONS.—Notwithstanding
17 section 3(c), the Secretary of the Treasury, acting through
18 the Financial Crimes Enforcement Network, shall issue
19 rules to require each crypto-currency (including synthetic
20 stablecoins) to allow for the tracing of transactions in the
21 crypto-currency and persons engaging in such transactions
22 in a manner similar to that required of financial institu-
23 tions with respect to currency transactions under sub-
24 chapter II of chapter 53 of title 31, United States Code.

1 (b) RESERVE-BACKED STABLECOIN AUDITS.—The
2 Secretary of the Treasury, acting through the Financial
3 Crimes Enforcement Network, shall carry out audits of
4 each reserve-backed stablecoin to ensure that such
5 stablecoin is fully backed by currency issued by the United
6 States or a foreign government.

7 (c) TRANSITION RULE FOR STABLECOINS.—If an
8 event (including a dilution event, technical hack, or con-
9 certified choice) causes a reserve-backed stablecoin to be-
10 come a synthetic stablecoin or for a synthetic stable to
11 become a reserve-backed stablecoin, the primary Federal
12 digital asset regulator of the stablecoin shall notify the
13 issuer of the stablecoin and the public of such transition.