

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Commodity Exchange Act to provide the Commodity Futures Trading Commission jurisdiction to oversee the spot digital commodity market, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

Ms. STABENOW (for herself, Mr. BOOZMAN, Mr. BOOKER, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

---

**A BILL**

To amend the Commodity Exchange Act to provide the Commodity Futures Trading Commission jurisdiction to oversee the spot digital commodity market, 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 Commodities  
5 Consumer Protection Act of 2022”.

6 **SEC. 2. DEFINITIONS.**

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

1           (1) by redesignating paragraphs (3) through  
2           (15) and paragraphs (16) through (51) as para-  
3           graphs (5) through (17) and paragraphs (25)  
4           through (60), respectively;

5           (2) by inserting after paragraph (2) the fol-  
6           lowing:

7           “(3) ASSOCIATED PERSON OF A DIGITAL COM-  
8           MODITY BROKER.—

9                   “(A) IN GENERAL.—The term ‘associated  
10                   person of a digital commodity broker’ means a  
11                   person who is associated with a digital com-  
12                   modity broker as a partner, officer, employee,  
13                   or agent (or any person occupying a similar sta-  
14                   tus or performing similar functions) in any ca-  
15                   pacity that involves—

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

18                           “(ii) the supervision of any person en-  
19                           gaged in the solicitation or acceptance of a  
20                           digital commodity trade.

21                   “(B) EXCLUSION.—The term ‘associated  
22                   person of a digital commodity broker’ does not  
23                   include any person associated with a digital  
24                   commodity broker the functions of which are  
25                   solely clerical or ministerial.

1           “(4) ASSOCIATED PERSON OF A DIGITAL COM-  
2           MODITY DEALER.—

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

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

12                   “(ii) the supervision of any person en-  
13           gaged in the solicitation or acceptance of a  
14           digital commodity trade.

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

20           (3) in paragraph (11) (as so redesignated), by  
21           striking “and frozen concentrated orange juice” and  
22           inserting “frozen concentrated orange juice, and dig-  
23           ital commodities,”;

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

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

3 (B) by inserting after clause (ii) the fol-  
4 lowing:

5 “(iii) digital commodity;”;

6 (5) in paragraph (13)(A)(i) (as so redesign-  
7 nated)—

8 (A) by redesignating subclauses (III) and  
9 (IV) as subclauses (IV) and (V), respectively;  
10 and

11 (B) by inserting after subclause (II) the  
12 following:

13 “(III) digital commodity;”;

14 (6) in paragraph (14)(A)(i) (as so redesign-  
15 nated)—

16 (A) in subclause (II), by adding a semi-  
17 colon at the end;

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

21 (C) by inserting after subclause (II) the  
22 following:

23 “(III) a digital commodity;”;

24 (7) by inserting after paragraph (17) (as so re-  
25 designated) the following:

1 “(18) DIGITAL COMMODITY.—

2 “(A) IN GENERAL.—The term ‘digital com-  
3 modity’ means a fungible digital form of per-  
4 sonal property that can be possessed and trans-  
5 ferred person-to-person without necessary reli-  
6 ance on an intermediary.

7 “(B) INCLUSIONS.—The term ‘digital com-  
8 modity’ includes property commonly known as  
9 cryptocurrency or virtual currency, such as  
10 Bitcoin and Ether.

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

13 “(i) an interest in a physical com-  
14 modity;

15 “(ii) a security;

16 “(iii) a digital form of currency  
17 backed by the full faith and credit of the  
18 United States;

19 “(iv) except as provided in subpara-  
20 graph (D), an instrument regulated by the  
21 Commission pursuant to any provision of  
22 this Act other than section 2(e)(2)(F); or

23 “(v) any other instrument that the  
24 Commission determines not to be a digital  
25 commodity.

1           “(D) EXCEPTION.—The exclusion de-  
2           scribed in subparagraph (C)(iv) shall not apply  
3           to a commodity transaction that is subject only  
4           to Commission antimanipulation, antifraud, or  
5           false reporting authority.

6           “(19) DIGITAL COMMODITY BROKER.—

7           “(A) IN GENERAL.—The term ‘digital com-  
8           modity broker’ means a person that is engaged,  
9           as an identifiable business, in—

10           “(i) soliciting or accepting orders on  
11           behalf of another person for a digital com-  
12           modity trade;

13           “(ii) accepting digital commodities  
14           from another person for the purpose of en-  
15           tering into digital commodity trades;

16           “(iii) arranging digital commodity  
17           trades on behalf of another person; or

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

20           “(B) EXCLUSION.—The term ‘digital com-  
21           modity broker’ does not include a person solely  
22           because that person validates digital commodity  
23           transactions.

24           “(20) DIGITAL COMMODITY CUSTODIAN.—

1           “(A) IN GENERAL.—The term ‘digital com-  
2           modity custodian’ means a person that, as an  
3           identifiable business, maintains possession, cus-  
4           tody, or control over digital commodities on be-  
5           half of another person.

6           “(B) EXCLUSIONS.—The term ‘digital  
7           commodity custodian’ does not include—

8                   “(i) an insured depository institution  
9                   (as defined in section 3 of the Federal De-  
10                  posit Insurance Act (12 U.S.C. 1813)); or

11                   “(ii) an insured credit union (as de-  
12                  fined in section 101 of the Federal Credit  
13                  Union Act (12 U.S.C. 1752)).

14           “(21) DIGITAL COMMODITY DEALER.—

15                   “(A) IN GENERAL.—The term ‘digital com-  
16                  modity dealer’ means a person that—

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

20                           “(ii) makes a market in a digital com-  
21                           modity;

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

24                           “(iv) has as an identifiable business of  
25                           buying or selling digital commodities for

1 conversion into other digital commodities,  
2 currency, or other consideration;

3 “(v) has as an identifiable business of  
4 accepting digital commodities from another  
5 person (referred to in this clause as a ‘de-  
6 positor’) with an obligation to return the  
7 digital commodities, consideration linked to  
8 the digital commodities, or both to the de-  
9 positor; or

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

12 “(B) EXCLUSION.—The term ‘digital com-  
13 modity dealer’ does not include a person solely  
14 because that person validates digital commodity  
15 transactions.

16 “(22) DIGITAL COMMODITY PLATFORM.—

17 “(A) IN GENERAL.—The term ‘digital com-  
18 modity platform’ means a person that is 1 or  
19 more of the following:

20 “(i) A digital commodity broker.

21 “(ii) A digital commodity custodian.

22 “(iii) A digital commodity dealer.

23 “(iv) A digital commodity trading fa-  
24 cility.



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

6           “(23) DIGITAL COMMODITY TRADE.—

7           “(A) IN GENERAL.—The term ‘digital com-  
8 modity trade’ means a purchase or sale of a  
9 digital commodity in exchange for—

10                   “(i) another digital commodity; or

11                   “(ii) any other consideration.

12           “(B) INCLUSIONS.—The term ‘digital com-  
13 modity trade’ includes—

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

16                   “(ii) a loan of a digital commodity, an  
17 offer to enter into a loan of a digital com-  
18 modity, or a similar activity, as determined  
19 by the Commission.

20           “(C) EXCLUSION.—Except as provided in  
21 subparagraph (D), the term ‘digital commodity  
22 trade’ excludes a transaction regulated by the  
23 Commission pursuant to any provision of this  
24 Act except section 2(c)(2)(F).

1           “(D) EXCEPTION.—The exclusion de-  
2           scribed in subparagraph (C) shall not apply to  
3           a commodity transaction that is subject only to  
4           Commission antimanipulation, antifraud, or  
5           false reporting authority.

6           “(24) DIGITAL COMMODITY TRADING FACIL-  
7           ITY.—

8           “(A) IN GENERAL.—The term ‘digital com-  
9           modity trading facility’ means a trading facility  
10          that facilitates the execution or trading of dig-  
11          ital commodity trades between persons.

12          “(B) EXCLUSION.—The term ‘digital com-  
13          modity trading facility’ does not include a per-  
14          son solely because that person validates digital  
15          commodity transactions.”;

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

17                 (A) in the paragraph heading, by striking  
18                 “; MEMBER OF A DERIVATIVES TRANSACTION  
19                 EXECUTION FACILITY”;

20                 (B) in the matter preceding subparagraph  
21                 (A), by striking “entity or derivatives trans-  
22                 action execution facility,” and inserting “enti-  
23                 ty,”;

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

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

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

8 (A) by redesignating subparagraphs (E)  
9 and (F) as subparagraphs (F) and (G), respec-  
10 tively; and

11 (B) by inserting after subparagraph (D)  
12 the following:

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

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 1a of the Commodity Exchange Act  
17 (7 U.S.C. 1a) is amended—

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

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

1           (2) Section 4(c)(1)(A)(i)(I) of the Commodity  
2           Exchange Act (7 U.S.C. 6(c)(1)(A)(i)(I)) is amended  
3           by striking “paragraphs (2), (3), (4), (5), and (7),  
4           paragraph (18)(A)(vii)(III), paragraphs (23), (24),  
5           (31), (32), (38), (39), (41), (42), (46), (47), (48),  
6           and (49) of section 1a” and inserting “paragraphs  
7           (2), (5), (6), (7), (9), (27)(A)(vii)(III), (32), (33),  
8           (40), (41), (47), (48), (50), (51), (55), (56), (57),  
9           and (58) of section 1a”.

10           (3) Section 4q(a)(1) of the Commodity Ex-  
11           change Act (7 U.S.C. 6q(a)(1)) is amended by strik-  
12           ing “1a(9)” and inserting “1a(11)”.

13           (4) Section 4s of the Commodity Exchange Act  
14           (7 U.S.C. 6s) is amended—

15                   (A) in subsection (f)(1)(D), by striking  
16                   “1a(47)(A)(v)” and inserting “1a(56)(A)(v)”;  
17                   and

18                   (B) in subsection (h)(5)(A)(i), in the mat-  
19                   ter preceding subclause (I), by striking  
20                   “1a(18)” and inserting “1a(27)(A)”.

21           (5) Section 4t(b)(1)(C) of the Commodity Ex-  
22           change Act (7 U.S.C. 6t(b)(1)(C)) is amended by  
23           striking “1a(47)(A)(v),” and inserting  
24           “1a(56)(A)(v),”.

1           (6) Section 5 of the Commodity Exchange Act  
2           (7 U.S.C. 7) is amended—

3                   (A) in subsection (d)(23), by striking  
4                   “1a(47)(A)(v)” and inserting “1a(56)(A)(v)”;  
5                   and

6                   (B) in subsection (e)(1), by striking  
7                   “1a(9)” and inserting “1a(11)”.

8           (7) Section 5b(k)(3)(A) of the Commodity Ex-  
9           change Act (7 U.S.C. 7a–1(k)(3)(A)) is amended by  
10           striking “1a(47)(A)(v)” and inserting  
11           “1a(56)(A)(v)”.

12           (8) Section 5c(e)(4)(B) of the Commodity Ex-  
13           change Act (7 U.S.C. 7a–2(c)(4)(B)) is amended by  
14           striking “1a(10)” and inserting “1a(11)”.

15           (9) Section 5h(f)(10)(A)(iii) of the Commodity  
16           Exchange Act (7 U.S.C. 7b–3(f)(10)(A)(iii)) is  
17           amended by striking “1a(47)(A)(v)” and inserting  
18           “1a(56)(A)(v)”.

19           (10) Section 21(f)(4)(C) of the Commodity Ex-  
20           change Act (7 U.S.C. 24a(f)(4)(C)) is amended by  
21           striking “1a(48)” and inserting “1a(57)”.

22           (11) Section 403 of the Legal Certainty for  
23           Bank Products Act of 2000 (7 U.S.C. 27a) is  
24           amended—

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

4 (B) in subsection (b)(1), by striking  
5 “1a(47)” and inserting “1a”.

6 (12) Section 5(e) of the Securities Act of 1933  
7 (15 U.S.C. 77e(e)) is amended by striking “section  
8 1a(18) of the Commodity Exchange Act (7 U.S.C.  
9 1a(18))” and inserting “section 1a of the Com-  
10 modity Exchange Act (7 U.S.C. 1a)”.

11 (13) Section 3C(g)(3)(A)(v) of the Securities  
12 Exchange Act of 1934 (15 U.S.C. 78c-  
13 3(g)(3)(A)(v)) is amended by striking “section  
14 1a(10) of the Commodity Exchange Act;” and in-  
15 serting “section 1a of the Commodity Exchange Act  
16 (7 U.S.C. 1a);”.

17 (14) Section 6(g)(5)(B)(i) of the Securities Ex-  
18 change Act of 1934 (15 U.S.C. 78f(g)(5)(B)(i)) is  
19 amended—

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

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

3 (15) Section 712(a)(8) of the Dodd-Frank Wall  
4 Street Reform and Consumer Protection Act (15  
5 U.S.C. 8302(a)(8)) is amended by striking “section  
6 1a(47)(D) of the Commodity Exchange Act (7  
7 U.S.C. 1a(47)(D))” and inserting “section  
8 1a(56)(D) of the Commodity Exchange Act (7  
9 U.S.C. 1a(56)(D))”.

10 (16) Section 752(a) of the Dodd-Frank Wall  
11 Street Reform and Consumer Protection Act (15  
12 U.S.C. 8325(a)) is amended by striking “section  
13 1a(39) of the Commodity Exchange Act,” and in-  
14 serting “section 1a of the Commodity Exchange Act  
15 (7 U.S.C. 1a),”.

16 **SEC. 3. COMMISSION JURISDICTION OVER DIGITAL COM-**  
17 **MODITY TRADES.**

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

20 (1) in subsection (a)(1)(A), in the first sen-  
21 tence, by striking “section 19 of this Act” and in-  
22 serting “subsection (c)(2)(F) or section 19”; and

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

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

3                   “(i) IN GENERAL.—Except as pro-  
4 vided in clause (ii), this Act applies to, and  
5 the Commission shall have exclusive juris-  
6 diction over, any account, agreement, con-  
7 tract, or transaction involving a digital  
8 commodity trade.

9                   “(ii) EXCEPTION.—Nothing in this  
10 Act applies to, and the Commission shall  
11 not have jurisdiction over, any digital com-  
12 modity transaction by a merchant or con-  
13 sumer that uses a digital commodity solely  
14 for the purchase or sale of a good or serv-  
15 ice.

16                   “(iii) PROHIBITION ON CERTAIN  
17 TRADING PRACTICES.—Sections 4b, 4c,  
18 and 6(c) shall apply to any digital com-  
19 modity trade as if the digital commodity  
20 trade were a contract of sale of a com-  
21 modity for future delivery.”.

22 **SEC. 4. DIGITAL COMMODITY PLATFORMS.**

23                   The Commodity Exchange Act is amended by insert-  
24 ing after section 5h (7 U.S.C. 7b–3) the following:



1 **“SEC. 5i. DIGITAL COMMODITY PLATFORMS.**

2 “(a) REGISTRATION.—

3 “(1) REQUIREMENT.—It shall be unlawful for  
4 any person to act as any category of digital com-  
5 modity platform unless the person is registered  
6 under this section as that category of digital com-  
7 modity platform.

8 “(2) APPLICATIONS.—A person desiring to reg-  
9 ister as any category of digital commodity platform  
10 shall submit to the Commission an application in  
11 such form and containing such information as the  
12 Commission may require for the purpose of deter-  
13 mining whether the applicant is in compliance with  
14 subsection (b) and the other requirements of this  
15 Act.

16 “(3) MULTIPLE REGISTRATIONS.—As appro-  
17 priate to further the purposes of this Act and avoid  
18 duplicative or unnecessary requirements, and taking  
19 into consideration potential conflicts of interest or  
20 other risks, the Commission may prescribe rules or  
21 regulations permitting, or may otherwise authorize—

22 “(A) registration by a person in more than  
23 1 category of digital commodity platform;

24 “(B) a registered entity, a swap dealer, or  
25 a futures commission merchant registered  
26 under this Act to register under this section in

1 1 or more categories of digital commodity plat-  
2 form; and

3 “(C) exemptions or additional require-  
4 ments applicable to persons with multiple reg-  
5 istrations under this Act.

6 “(b) CORE PRINCIPLES FOR DIGITAL COMMODITY  
7 PLATFORMS.—

8 “(1) COMPLIANCE WITH CORE PRINCIPLES.—

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

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

15 “(ii) any requirement that the Com-  
16 mission may impose by rule or regulation.

17 “(B) REASONABLE DISCRETION OF DIG-  
18 ITAL COMMODITY PLATFORM.—Unless other-  
19 wise determined by the Commission by rule or  
20 regulation, a digital commodity platform de-  
21 scribed in subparagraph (A) shall have reason-  
22 able discretion in establishing the manner in  
23 which the digital commodity platform complies  
24 with the core principles described in this sub-  
25 section.

1           “(2) CORE PRINCIPLES APPLICABLE TO DIG-  
2           ITAL COMMODITY TRADING FACILITIES.—

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

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

8           “(I) the terms and conditions of  
9           the transactions in digital commod-  
10          ities traded or processed on or  
11          through the digital commodity trading  
12          facility; and

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

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

20          “(I) to provide market partici-  
21          pants with impartial access to the  
22          market; and

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

1                   “(iii) establish rules governing the op-  
2                   eration of the digital commodity trading  
3                   facility.

4                   “(B) DIGITAL COMMODITY TRANSACTIONS  
5                   NOT READILY SUSCEPTIBLE TO MANIPULA-  
6                   TION.—A digital commodity trading facility  
7                   shall permit trading only in transactions in dig-  
8                   ital commodities that are not readily susceptible  
9                   to manipulation.

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

12                   “(i) MARKETS AND MECHANISMS.—

13                    “(I) IN GENERAL.—A digital  
14                    commodity trading facility shall pro-  
15                    vide a competitive, open, and efficient  
16                    market and mechanism for executing  
17                    transactions that protects the price  
18                    discovery process of trading on the  
19                    digital commodity trading facility.

20                    “(II) CENTRALIZED MARKET.—A  
21                    digital commodity trading facility  
22                    shall provide a centralized market for  
23                    executing transactions.

24                    “(ii) PROTECTION OF MARKETS AND  
25                    MARKET PARTICIPANTS.—A digital com-

1                   modity trading facility shall establish and  
2                   enforce rules—

3                   “**(I)** to protect markets and mar-  
4                   ket participants from abusive prac-  
5                   tices committed by any party, includ-  
6                   ing abusive practices committed by a  
7                   party acting as an agent for a partici-  
8                   pant; and

9                   “**(II)** to promote fair and equi-  
10                  table trading on the digital commodity  
11                  trading facility.

12                  “**(iii)**   **PROCEDURES   AND   MONI-**  
13                  **TORING.**—A digital commodity trading fa-  
14                  cility shall—

15                  “**(I)** establish and enforce rules  
16                  or terms and conditions defining, or  
17                  specifications detailing—

18                  “**(aa)** trading procedures to  
19                  be used in entering and executing  
20                  orders traded on or through the  
21                  facilities of the digital commodity  
22                  trading facility; and

23                  “**(bb)** procedures for trade  
24                  processing of digital commodities  
25                  on or through the facilities of the

1 digital commodity trading facil-  
2 ity; and

3 “(II) monitor trading in digital  
4 commodities to prevent manipulation,  
5 price distortion, and disruptions of the  
6 delivery or settlement process through  
7 surveillance, compliance, and discipli-  
8 nary practices and procedures, includ-  
9 ing investigations, sanctions, and  
10 methods for conducting real-time  
11 monitoring of trading and comprehen-  
12 sive and accurate trade reconstruc-  
13 tions.

14 “(D) ABILITY TO OBTAIN INFORMATION.—

15 A digital commodity trading facility shall—

16 “(i) establish and enforce rules that  
17 will allow the digital commodity trading fa-  
18 cility to obtain any necessary information  
19 to perform any of the functions described  
20 in this section;

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

23 “(iii) have the capacity to carry out  
24 such international information-sharing

1                   agreements as the Commission may re-  
2                   quire.

3                   “(E) FINANCIAL INTEGRITY OF TRANS-  
4                   ACTIONS.—A digital commodity trading facility  
5                   shall establish and enforce rules and procedures  
6                   for ensuring the financial integrity of digital  
7                   commodity trades entered on or through the fa-  
8                   cilities of the digital commodity trading facility.

9                   “(F) EMERGENCY AUTHORITY.—A digital  
10                  commodity trading facility shall adopt rules to  
11                  provide for the exercise of emergency authority,  
12                  in consultation or cooperation with the Commis-  
13                  sion, as is necessary and appropriate, including  
14                  the authority to liquidate or transfer open posi-  
15                  tions in any digital commodity or to suspend or  
16                  curtail trading in a digital commodity.

17                  “(G) TIMELY PUBLICATION OF TRADING  
18                  INFORMATION.—

19                  “(i) IN GENERAL.—A digital com-  
20                  modity trading facility shall make public  
21                  timely information on price, trading vol-  
22                  ume, and other trading data on digital  
23                  commodities to the extent prescribed by  
24                  the Commission.

1                   “(ii) CAPACITY OF DIGITAL COM-  
2                   MODITY TRADING FACILITY.—A digital  
3                   commodity trading facility shall be re-  
4                   quired to have the capacity to electronically  
5                   capture and transmit trade information  
6                   with respect to transactions executed on  
7                   the digital commodity trading facility.

8                   “(H) AVAILABILITY OF GENERAL INFOR-  
9                   MATION.—A digital commodity trading facility  
10                  shall make available to market authorities, mar-  
11                  ket participants, and the public accurate infor-  
12                  mation concerning—

13                   “(i) the terms and conditions of the  
14                   contracts for transactions in digital com-  
15                   modities;

16                   “(ii) the rules and mechanisms for  
17                   executing digital commodity trades on or  
18                   through the facilities of the digital com-  
19                   modity trading facility; and

20                   “(iii) the rules and specifications de-  
21                   scribing the operation of the electronic  
22                   matching platform or trade execution facil-  
23                   ity of the digital commodity trading facil-  
24                   ity.



1                   “(I) DISCIPLINARY PROCEDURES.—A dig-  
2                   ital commodity trading facility shall establish  
3                   and enforce—

4                   “(i) disciplinary procedures that au-  
5                   thorize the digital commodity trading facil-  
6                   ity to discipline, suspend, or expel market  
7                   participants that violate the rules of the  
8                   digital commodity trading facility; or

9                   “(ii) similar methods for performing  
10                  the functions described in clause (i), in-  
11                  cluding delegation to third parties.

12                  “(J) DISPUTE RESOLUTION.—A digital  
13                  commodity trading facility shall establish and  
14                  enforce rules regarding, and provide facilities  
15                  for alternative dispute resolution, as appro-  
16                  priate, for, market participants and market  
17                  intermediaries.

18                  “(3) CORE PRINCIPLES APPLICABLE TO DIG-  
19                  ITAL COMMODITY DEALERS AND DIGITAL COM-  
20                  MODITY BROKERS.—

21                  “(A) EXECUTION.—A digital commodity  
22                  dealer or digital commodity broker—

23                  “(i) shall establish prices fairly and  
24                  objectively;

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

3                   “(iii) shall not disrupt market func-  
4                   tioning or hinder the price discovery proc-  
5                   ess.

6                   “(B) DAILY TRADING RECORDS.—

7                   “(i) IN GENERAL.—A digital com-  
8                   modity dealer or digital commodity broker  
9                   shall keep full, complete, and systematic  
10                  records (including all pertinent data and  
11                  memoranda) of all transactions relating to  
12                  its business of dealing or brokerage in dig-  
13                  ital commodity transactions.

14                  “(ii) INCLUDED COMMUNICATIONS.—  
15                  A digital commodity dealer or digital com-  
16                  modity broker shall keep all oral and writ-  
17                  ten communications provided or received  
18                  concerning quotes, solicitations, bids, of-  
19                  fers, instructions, trading, and prices that  
20                  lead to the execution of a transaction in a  
21                  digital commodity.

22                  “(C) BUSINESS CONDUCT STANDARDS.—A  
23                  digital commodity dealer or digital commodity  
24                  broker shall conform with such business con-  
25                  duct standards as may be prescribed by the

1 Commission by rule or regulation that relate  
2 to—

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

8 “(ii) diligent supervision of the busi-  
9 ness of the digital commodity dealer or  
10 digital commodity broker; and

11 “(iii) such other matters as the Com-  
12 mission determines to be appropriate.

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

16 “(i) RISK MANAGEMENT PROCEDURE-  
17 DURES.—The digital commodity dealer or  
18 digital commodity broker shall establish ro-  
19 bust and professional risk management  
20 systems adequate for managing the day-to-  
21 day business of the digital commodity deal-  
22 er or digital commodity broker.

23 “(ii) DISCLOSURE OF GENERAL IN-  
24 FORMATION.—The digital commodity deal-  
25 er or digital commodity broker shall dis-

1 close to the Commission, as applicable, in-  
2 formation concerning—

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

5 “(II) trading operations, mecha-  
6 nisms, and practices;

7 “(III) financial integrity protec-  
8 tions relating to transactions in digital  
9 commodity trades; and

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

12 “(E) ABILITY TO OBTAIN INFORMATION.—

13 A digital commodity dealer or digital com-  
14 modity broker shall—

15 “(i) establish and enforce internal sys-  
16 tems and procedures to obtain any nec-  
17 essary information to perform any of the  
18 functions described in this section; and

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

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

23 “(A) RECORDKEEPING AND REPORTING.—

24 A digital commodity platform shall—

1           “(i)(I) maintain records of all activi-  
2 ties relating to the business of the digital  
3 commodity platform, including a complete  
4 audit trail, in a form and manner accept-  
5 able to the Commission for a period of 5  
6 years; and

7           “(II) keep the records described in  
8 subclause (I) open to inspection by the  
9 Commission;

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

17           “(iii) make such reports as are re-  
18 quired by the Commission relating to the  
19 transactions and positions of the customers  
20 of the digital commodity platform.

21           “(B) ANTITRUST CONSIDERATIONS.—Un-  
22 less necessary or appropriate to achieve the  
23 purposes of this Act, a digital commodity plat-  
24 form shall not—

1                   “(i) adopt any rules or take any ac-  
2                   tions that result in any unreasonable re-  
3                   straint of trade; or

4                   “(ii) impose any material anticompeti-  
5                   tive burden on trading or custody.

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

9                   “(i) establish structural and institu-  
10                  tional safeguards—

11                  “(I) to minimize conflicts of in-  
12                  terest that might potentially bias the  
13                  judgment or supervision of a digital  
14                  commodity platform and contravene  
15                  the core principles of fair and equi-  
16                  table trading and the business con-  
17                  duct standards described in this Act,  
18                  including conflicts arising out of  
19                  transactions or arrangements with af-  
20                  filiates (including affiliates acting as  
21                  issuers, market-makers, or  
22                  custodians); and

23                  “(II) which may include, as the  
24                  Commission determines to be appro-  
25                  priate, information partitions and the

1 legal separation of different categories  
2 of digital commodity platforms;

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

5 “(iii) require disclosure by a digital  
6 commodity platform of any material incen-  
7 tives or conflicts of interest that the digital  
8 commodity platform is unable to resolve;  
9 and

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

12 “(D) FINANCIAL RESOURCES.—

13 “(i) IN GENERAL.—A digital com-  
14 modity platform shall have adequate finan-  
15 cial, operational, and managerial resources  
16 to discharge each responsibility of the dig-  
17 ital commodity platform.

18 “(ii) FINANCIAL RESOURCES FOR  
19 MARGIN TRADING.—The Commission shall  
20 require such additional financial resources  
21 as are necessary to enable a digital com-  
22 modity platform to fulfill obligations of the  
23 digital commodity platform arising from  
24 margined, leveraged, or financed trans-  
25 actions.

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

3                   “(i) establish and maintain a program  
4 of risk analysis and oversight to identify  
5 and minimize sources of operational risk  
6 (including cybersecurity risk), through the  
7 development of appropriate controls and  
8 procedures, and automated systems, that—

9                   “(I) are reliable and secure; and

10                   “(II) have adequate scalable ca-  
11 pacity;

12                   “(ii) establish and maintain emer-  
13 gency procedures, backup facilities, and a  
14 plan for disaster recovery that allow for—

15                   “(I) the timely recovery and re-  
16 sumption of operations; and

17                   “(II) the fulfillment of the re-  
18 sponsibilities and obligations of the  
19 digital commodity platform; and

20                   “(iii) periodically conduct tests to  
21 verify that the backup resources of the dig-  
22 ital commodity platform are sufficient to  
23 ensure continued—

24                   “(I) order processing and trade  
25 matching;



1 “(II) price reporting;

2 “(III) market surveillance; and

3 “(IV) maintenance of a com-  
4 prehensive and accurate audit trail.

5 “(F) DESIGNATION OF CHIEF COMPLIANCE  
6 OFFICER.—

7 “(i) IN GENERAL.—A digital com-  
8 modity platform shall designate an indi-  
9 vidual to serve as a chief compliance officer  
10 (referred to in this paragraph as a ‘chief  
11 compliance officer’).

12 “(ii) DUTIES.—A chief compliance of-  
13 ficer shall—

14 “(I) report directly to the board  
15 or to the senior officer of the digital  
16 commodity platform;

17 “(II) review compliance with the  
18 core principles described in this sub-  
19 section;

20 “(III) in consultation with the  
21 board of the digital commodity plat-  
22 form, a body performing a function  
23 similar to that of a board, or the sen-  
24 ior officer of the digital commodity

1 platform, resolve any conflicts of in-  
2 terest that may arise;

3 “(IV) be responsible for estab-  
4 lishing and administering the policies  
5 and procedures required to be estab-  
6 lished pursuant to this section;

7 “(V) ensure compliance with this  
8 Act and the rules and regulations  
9 issued under this Act, including rules  
10 prescribed by the Commission pursu-  
11 ant to this section; and

12 “(VI) establish procedures for  
13 the remediation of noncompliance  
14 issues found during compliance office  
15 reviews, look backs, internal or exter-  
16 nal audit findings, self-reported er-  
17 rors, or through validated complaints.

18 “(iii) REQUIREMENTS FOR PROCE-  
19 DURES.—In establishing procedures under  
20 clause (ii)(VI), a chief compliance officer  
21 shall design the procedures to establish the  
22 handling, management response, remedi-  
23 ation, retesting, and closing of noncompli-  
24 ance issues.

25 “(iv) ANNUAL REPORTS.—



1 of law, the report is accurate and  
2 complete.

3 “(G) GOVERNANCE; FITNESS STAND-  
4 ARDS.—

5 “(i) GOVERNANCE ARRANGEMENTS.—  
6 A digital commodity platform shall estab-  
7 lish governance arrangements that are  
8 transparent to fulfill public interest re-  
9 quirements.

10 “(ii) FITNESS STANDARDS.—A digital  
11 commodity platform shall establish and en-  
12 force appropriate fitness standards for—

13 “(I) directors; and

14 “(II) any entity offering affiliated  
15 services for the digital commodity  
16 platform.

17 “(H) TREATMENT OF CUSTOMER AS-  
18 SETS.—

19 “(i) IN GENERAL.—A digital com-  
20 modity platform shall hold customer prop-  
21 erty (including digital commodities) in a  
22 manner that minimizes the risk of loss of,  
23 or unreasonable delay in access to, the cus-  
24 tomer property.

25 “(ii) SEGREGATION OF FUNDS.—

1                   “(I) IN GENERAL.—A digital  
2 commodity platform shall treat and  
3 deal with all customer property that is  
4 received by the digital commodity  
5 platform as belonging to the cus-  
6 tomer.

7                   “(II) COMMINGLING PROHIB-  
8 ITED.—Customer property described  
9 in subclause (I)—

10                   “(aa) shall be separately ac-  
11 counted for; and

12                   “(bb) shall not be commin-  
13 gled with the assets of the digital  
14 commodity platform.

15                   “(iii) EXCEPTIONS.—

16                   “(I) USE OF FUNDS.—Notwith-  
17 standing clause (ii), customer prop-  
18 erty described in that clause may, for  
19 convenience, be commingled in the  
20 same account or accounts with—

21                   “(aa) an insured depository  
22 institution (as defined in section  
23 3 of the Federal Deposit Insur-  
24 ance Act (12 U.S.C. 1813));

1                   “(bb) an insured credit  
2                   union (as defined in section 101  
3                   of the Federal Credit Union Act  
4                   (12 U.S.C. 1752)); or

5                   “(cc) a digital commodity  
6                   platform.

7                   “(II) WITHDRAWAL.—Notwith-  
8                   standing clause (ii), such share of the  
9                   customer property described in that  
10                  clause as, in the normal course of  
11                  business, is necessary to margin,  
12                  guarantee, secure, transfer, adjust, or  
13                  settle a digital commodity transaction  
14                  with a digital commodity platform, or  
15                  with any customer of a digital com-  
16                  modity platform, may be withdrawn  
17                  and applied to such purposes lawfully  
18                  accruing in connection with the digital  
19                  commodity transaction, including the  
20                  payment of commissions, taxes, and  
21                  brokerage, interest, storage, and other  
22                  charges.

23                  “(III) COMMISSION ACTION.—  
24                  Notwithstanding clause (ii)—

1           “(aa) the Commission may  
2           adopt rules or regulations permit-  
3           ting the lending of digital com-  
4           modities by a digital commodity  
5           platform holding those digital  
6           commodities for customers, sub-  
7           ject to such conditions as the  
8           Commission may prescribe to  
9           protect customers and achieve  
10          the purposes of this Act; and

11          “(bb) in accordance with  
12          such terms and conditions as the  
13          Commission may prescribe by  
14          rule, regulation, or order, any  
15          customer property described in  
16          that clause may be commingled  
17          and deposited in customer ac-  
18          counts with any other money, se-  
19          curities, or property received by  
20          the digital commodity platform  
21          and required by the Commission  
22          to be separately accounted for,  
23          treated, and dealt with as belong-  
24          ing to customers.

25          “(iv) PERMITTED INVESTMENTS.—

1                   “(I) IN GENERAL.—Customer  
2                   property described in clause (ii) in the  
3                   form of money may be invested in—

4                   “(aa) obligations of the  
5                   United States;

6                   “(bb) obligations the prin-  
7                   cipal and interest of which are  
8                   fully guaranteed by the United  
9                   States; and

10                   “(cc) any other investment  
11                   that the Commission may by rule  
12                   or regulation prescribe.

13                   “(II) RULES AND CONDITIONS.—  
14                   Investments under subclause (I) shall  
15                   be made in accordance with such rules  
16                   and regulations, and subject to such  
17                   conditions, as the Commission may  
18                   prescribe.

19                   “(v) PROHIBITION.—It shall be un-  
20                   lawful for any person, including a digital  
21                   commodity platform or a depository insti-  
22                   tution, that has received any customer  
23                   property for deposit in a separate account  
24                   or accounts in accordance with clause (ii)  
25                   to hold, dispose of, or use that customer



1 property as belonging to the depositing  
2 digital commodity platform or any person  
3 other than the customers of the digital  
4 commodity platform.

5 “(c) RULES GOVERNING MARGINED OR LEVERAGED  
6 TRADING.—The Commission may make, promulgate, and  
7 enforce such rules governing margined, leveraged, or fi-  
8 nanced digital commodity trades on digital commodity  
9 platforms as are reasonably necessary to protect the public  
10 interest and promote the orderly settlement of trans-  
11 actions.

12 “(d) CONTRACT LISTINGS, RULES, AND RULE  
13 AMENDMENTS FOR DIGITAL COMMODITY TRADING FA-  
14 CILITIES.—

15 “(1) IN GENERAL.—Subject to the require-  
16 ments under this subsection, a digital commodity  
17 trading facility may—

18 “(A) list for trading a contract for a dig-  
19 ital commodity; and

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

22 “(2) CERTIFICATION FROM DIGITAL COM-  
23 MODITY TRADING FACILITY.—A digital commodity  
24 trading facility that elects to carry out an activity  
25 described in subparagraph (A) or (B) of paragraph

1 (1) shall, prior to carrying out that activity, provide  
2 to the Commission a written certification that the  
3 contract, new rule, or rule amendment, as applica-  
4 ble, complies with this Act (including regulations  
5 under this Act).

6 “(3) EFFECTIVE DATE OF LISTING, RULE, AND  
7 RULE AMENDMENT.—Subject to paragraph (4), a  
8 listing, rule, or rule amendment described in para-  
9 graph (1) shall become effective on the date that  
10 is—

11 “(A) in the case of a listing of a contract  
12 that has not previously been listed on any dig-  
13 ital commodity trading facility, 30 business  
14 days after the date on which the Commission  
15 receives the certification (or such shorter period  
16 as determined by the Commission by rule or  
17 regulation); or

18 “(B) in any other case, 10 business days  
19 after the date on which the Commission receives  
20 the certification (or such shorter period as de-  
21 termined by the Commission by rule or regula-  
22 tion).

23 “(4) STAY OF CERTIFICATION.—

24 “(A) IN GENERAL.—The Commission may  
25 stay a certification for a listing, rule, or rule

1 amendment described in paragraph (1) by noti-  
2 fying the digital commodity trading facility that  
3 the Commission is staying the certification be-  
4 cause there exists—

5 “(i) a novel or complex issue that re-  
6 quires additional time to analyze;

7 “(ii) an inadequate explanation by the  
8 submitting digital commodity trading facil-  
9 ity; or

10 “(iii) a potential inconsistency with  
11 this Act (including regulations under this  
12 Act).

13 “(B) DURATION OF STAY.—A stay of cer-  
14 tification by the Commission under subpara-  
15 graph (A) shall be for a period of not more  
16 than 90 days, beginning on the date of the noti-  
17 fication by the Commission under that subpara-  
18 graph.

19 “(C) EFFECTIVE DATE AFTER STAY.—A  
20 listing, rule, or rule amendment subject to a  
21 stay under subparagraph (A) shall become ef-  
22 fective on the expiration of the period described  
23 in subparagraph (B), unless the Commission—

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

1                   “(ii) notifies the digital commodity  
2 trading facility during such period that the  
3 Commission objects to the proposed certifi-  
4 cation and disapproves a listing, rule, or  
5 rule amendment pursuant to paragraph  
6 (5).

7                   “(D) PUBLIC COMMENT.—The Commission  
8 may provide a public comment period of not  
9 less than 30 days, within the period in which a  
10 stay is in effect under subparagraph (B), when-  
11 ever the Commission reviews a listing, rule, or  
12 rule amendment pursuant to a notification by  
13 the Commission under subparagraph (A).

14                   “(5) DISAPPROVAL.—

15                   “(A) IN GENERAL.—The Commission may  
16 disapprove a listing, rule, or rule amendment  
17 described in paragraph (1) if the Commission  
18 determines that the listing, rule, or rule amend-  
19 ment is inconsistent with this Act (including the  
20 considerations in subparagraph (B) and regula-  
21 tions under this Act).

22                   “(B) CONSIDERATIONS.—In making a de-  
23 termination described in subparagraph (A) with  
24 respect to a listing for a digital commodity, the

1 Commission may consider, among other  
2 things—

3 “(i) whether the operating structure  
4 and system of the digital commodity is se-  
5 cure from cybersecurity threats, including  
6 the possibility of material alterations by  
7 persons acting collectively;

8 “(ii) whether the functionality of the  
9 digital commodity will protect holders from  
10 operational failures;

11 “(iii) with respect to a digital com-  
12 modity that purports to have a fixed  
13 value—

14 “(I) an identification and de-  
15 scription of the issuer of the digital  
16 commodity;

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

19 “(III) the terms by which the  
20 issuer will redeem the digital com-  
21 modity; and

22 “(iv) whether the digital commodity  
23 and the market for the digital commodity  
24 are not readily susceptible to manipulation.

25 “(6) PRIOR APPROVAL.—

1           “(A) IN GENERAL.—A digital commodity  
2 trading facility may request that the Commis-  
3 sion grant prior approval to the listing of any  
4 new contract for a digital commodity.

5           “(B) DEADLINE.—If prior approval is re-  
6 quested under subparagraph (A), the Commis-  
7 sion shall take final action on the request not  
8 later than 90 days after submission of the re-  
9 quest, unless the person submitting the request  
10 agrees to an extension of the time limitation es-  
11 tablished under this subparagraph.

12           “(C) DISAPPROVAL.—Paragraphs (4) and  
13 (5) shall apply to Commission action on a re-  
14 quest under this paragraph.

15           “(7) DELISTING; REVOCATION.—After the list-  
16 ing of a contract for a digital commodity has taken  
17 effect, the Commission may require the delisting of  
18 the contract or disapprove the listing in accordance  
19 with paragraph (5).

20           “(8) DISCLOSURES.—

21           “(A) IN GENERAL.—The Commission shall  
22 require a digital commodity trading facility to  
23 disclose to the public, on a timely basis, with re-  
24 spect to a listing described in paragraph  
25 (1)(A)—

1 “(i) the operating structure and sys-  
2 tem of the digital commodity; and

3 “(ii) the trading volume and volatility  
4 of the digital commodity.

5 “(B) FORMAT.—The Commission shall  
6 prescribe rules and regulations for the stand-  
7 ardization and simplification of disclosures  
8 under subparagraph (A) and subsection  
9 (f)(1)(A), including requiring that disclosures—

10 “(i) are conspicuous;

11 “(ii) use plain language comprehen-  
12 sible to customers; and

13 “(iii) succinctly explain the informa-  
14 tion that is required to be communicated  
15 to the customer.

16 “(e) PRODUCT LISTING FOR DIGITAL COMMODITY  
17 BROKERS AND DIGITAL COMMODITY DEALERS.—

18 “(1) IN GENERAL.—A digital commodity broker  
19 and a digital commodity dealer may only trade, or  
20 arrange a trade, in a contract for a digital com-  
21 modity that is not readily susceptible to manipula-  
22 tion.

23 “(2) DISCLOSURE, LISTING, AND CERTIFI-  
24 CATION REQUIREMENTS.—A digital commodity  
25 broker and a digital commodity dealer may only

1 trade, or arrange for trading, in digital commodities  
2 that have met the requirements of subsection (d)  
3 (including the listing and disclosure requirements).

4 “(f) CUSTOMER PROTECTION.—The Commission  
5 shall adopt customer protection requirements that—

6 “(1) require disclosure by a digital commodity  
7 platform to a customer (other than another digital  
8 commodity platform registered under this section)  
9 of—

10 “(A) information about the material risks  
11 and characteristics of any applicable digital  
12 commodity contracts; and

13 “(B) any material incentives or conflicts of  
14 interest that the digital commodity platform  
15 may have in connection with any applicable dig-  
16 ital commodity contracts;

17 “(2) establish a duty for a digital commodity  
18 platform to communicate in a fair and balanced  
19 manner based on principles of fair dealing and good  
20 faith;

21 “(3) establish standards governing digital com-  
22 modity platform marketing and advertising, includ-  
23 ing testimonials and endorsements; and

24 “(4) establish such other standards and re-  
25 quirements as the Commission may determine are—



1 “(A) in the public interest;

2 “(B) appropriate for the protection of cus-  
3 tomers; or

4 “(C) otherwise in furtherance of the pur-  
5 poses of this Act.

6 “(g) EXAMINATION AND PUBLICATION OF ENERGY  
7 CONSUMPTION IN DIGITAL COMMODITY MARKETS.—

8 “(1) IN GENERAL.—The Commission shall ex-  
9 amine, in collaboration with other Federal regulatory  
10 agencies as the Commission determines appropriate,  
11 the energy consumption and sources of energy used  
12 in connection with the creation and transfer of the  
13 most widely traded digital commodities.

14 “(2) REPORT.—Not later than 180 days after  
15 the date of enactment of the Digital Commodities  
16 Consumer Protection Act of 2022, the Commission  
17 shall submit to the Committee on Agriculture, Nutri-  
18 tion, and Forestry of the Senate and the Committee  
19 on Agriculture of the House of Representatives a re-  
20 port describing—

21 “(A) an estimate of the energy consump-  
22 tion and sources of energy used in connection  
23 with the creation and transfer of the most wide-  
24 ly traded digital commodities; and

1           “(B) the methodology used by the Com-  
2           mission to generate the estimate described in  
3           subparagraph (A).

4           “(3) PUBLICATION.—Using the methodology  
5           described in paragraph (2)(B), the Commission shall  
6           publish on the website of the Commission, and peri-  
7           odically update on a timely basis, an estimate of the  
8           energy consumption and sources of energy used in  
9           connection with the creation and transfer of the  
10          most widely traded digital commodities.

11          “(h) PROHIBITION ON FRAUD, DECEPTION, AND MA-  
12          NIPULATION.—It shall be unlawful for any digital com-  
13          modity platform to engage in any act, practice, or course  
14          of business in connection with its business as a digital  
15          commodity platform that is fraudulent, deceptive, or ma-  
16          nipulative.

17          “(i) SELF-REGULATION.—

18                 “(1) IN GENERAL.—A digital commodity  
19                 broker, digital commodity dealer, or digital com-  
20                 modity custodian shall be a member of a registered  
21                 futures association, regardless of whether such per-  
22                 son is separately registered as a digital commodity  
23                 trading facility.

24                 “(2) DELEGATION OF REGISTRATION FUNC-  
25                 TIONS.—The Commission may authorize any reg-

1       istered futures association to perform any portion of  
2       the registration functions with respect to digital  
3       commodity platforms, associated persons of digital  
4       commodity brokers, and associated persons of digital  
5       commodity dealers—

6               “(A) in accordance with rules, notwith-  
7               standing any other provision of law, adopted by  
8               that registered futures association and sub-  
9               mitted to the Commission for approval; and

10              “(B) subject to the provisions of this sec-  
11              tion applicable to registrations granted by the  
12              Commission.

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

19       “(k) FEES FOR REGISTRATION.—

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

24              “(A) registering digital commodity plat-  
25              forms;

1           “(B) conducting oversight of digital com-  
2           modity trades; and

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

5           “(2) DETERMINATION OF FEE RATES.—In de-  
6           termining fee rates under paragraph (1), the Com-  
7           mission shall consider—

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

10           “(B) the category of the digital commodity  
11           platform.

12           “(3) PROHIBITIONS.—

13           “(A) COMMISSION.—The Commission shall  
14           not require a digital commodity platform to col-  
15           lect directly from customers a per-transaction  
16           fee for each digital commodity trade.

17           “(B) DIGITAL COMMODITY PLATFORMS.—  
18           A digital commodity platform shall not impose  
19           directly on customers a per-transaction fee for  
20           each digital commodity trade to pay the fees  
21           under paragraph (1).

22           “(4) PUBLICATION.—Not later than 60 days  
23           after the date of enactment of an Act making a reg-  
24           ular appropriation to the Commission for a fiscal

1 year, the Commission shall publish in the Federal  
2 Register a notice of—

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

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

7 “(5) RECORDS AND DISCLOSURE.—In carrying  
8 out this subsection, the Commission shall not be re-  
9 quired to comply with section 553 of title 5, United  
10 States Code.

11 “(6) NO JUDICIAL REVIEW.—A fee rate pre-  
12 scribed under this subsection shall not be subject to  
13 judicial review.

14 “(7) DEPOSIT OF FEES.—Fees collected pursu-  
15 ant to this subsection for any fiscal year shall be de-  
16 posited and credited as offsetting collections to the  
17 account providing appropriations to the Commission.

18 “(8) ANNUAL ADJUSTMENT.—For each fiscal  
19 year, the Commission shall, by order, determine fee  
20 rates pursuant to this subsection that are reasonably  
21 likely to produce aggregate fee collections that are  
22 equal to the annual appropriation to the Commission  
23 by Congress for activities relating to the registration  
24 of digital commodity platforms and the oversight of  
25 digital commodity trades.

1           “(9) LAPSE OF APPROPRIATION.—If, on the  
2 first day of a fiscal year, a regular appropriation to  
3 the Commission has not been enacted, the Commis-  
4 sion shall continue to collect (as offsetting collec-  
5 tions) fees pursuant to this subsection at each of the  
6 rates in effect during the preceding fiscal year.

7           “(10) BUDGET REQUESTS.—The Commission  
8 shall itemize in each budget submitted to the Presi-  
9 dent or the Office of Management and Budget the  
10 estimated annual costs of—

11                   “(A) registering digital commodity plat-  
12 forms;

13                   “(B) conducting oversight of digital com-  
14 modity trades; and

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

17           “(11) LIMITATIONS.—

18                   “(A) IN GENERAL.—Fees may only be as-  
19 sessed and imposed pursuant to this subsection  
20 on digital commodity platforms regulated by the  
21 Commission pursuant to this section.

22                   “(B) USE OF FEES.—Fees authorized  
23 under this subsection are prohibited from fund-  
24 ing any Commission activity not directly related  
25 to the registration of digital commodity plat-

1 forms, the oversight of digital commodity  
2 trades, and the education and outreach carried  
3 out under subsection (l).

4 “(l) CUSTOMER EDUCATION AND OUTREACH.—The  
5 Commission shall provide education and outreach to cus-  
6 tomers participating in digital commodity markets.

7 “(m) INSPECTION.—The Commission may inspect  
8 and monitor digital commodity platforms, on an ongoing  
9 basis, for the purpose of ensuring compliance with this  
10 Act.

11 “(n) PREEMPTION OF STATE LAWS.—

12 “(1) IN GENERAL.—The registration of a dig-  
13 ital commodity platform, an associated person of a  
14 digital commodity broker, or an associated person of  
15 a digital commodity dealer under this section—

16 “(A) shall preempt any applicable registra-  
17 tion requirements under State laws relating to  
18 money transmission, virtual currency, and com-  
19 modity brokers; and

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

22 “(2) COMPLIANCE.—Beginning on the effective  
23 date of a registration of a digital commodity plat-  
24 form under this section, the digital commodity plat-  
25 form shall not be required to comply with applicable

1 State law requirements relating to money trans-  
2 mission, virtual currency, and commodity brokerage.

3 “(o) REGULATIONS.—The Commission shall pre-  
4 scribe such rules and regulations as are appropriate for  
5 the implementation of this section.”.

6 **SEC. 5. ADDITIONAL AMENDMENTS.**

7 (a) RETAIL COMMODITY TRANSACTIONS.—Section  
8 2(c)(2)(D)(ii) of the Commodity Exchange Act (7 U.S.C.  
9 2(c)(2)(D)(ii)) is amended—

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

12 (2) by redesignating subclauses (IV) and (V) as  
13 subclauses (V) and (VI), respectively; and

14 (3) by inserting after subclause (III) the fol-  
15 lowing:

16 “(IV) a digital commodity  
17 trade;”.

18 (b) APPLICABILITY.—Section 2(i) of the Commodity  
19 Exchange Act (7 U.S.C. 2(i)) is amended—

20 (1) by redesignating paragraphs (1) and (2) as  
21 subparagraphs (A) and (B), respectively, and indent-  
22 ing appropriately;

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



1 “(1) SWAPS.—The provisions”; and

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

3 “(2) DIGITAL COMMODITIES.—The provisions  
4 of this Act (including any rule prescribed or regula-  
5 tion promulgated under this Act) relating to digital  
6 commodities shall not apply to activities outside the  
7 United States unless those activities—

8 “(A) have a reasonably foreseeable signifi-  
9 cant effect within the United States;

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

13 “(i) the offering to enter into, enter-  
14 ing into, execution, or confirming the exe-  
15 cution of digital commodities with any  
16 United States person; or

17 “(ii) the conducting of any office or  
18 business anywhere in the United States  
19 (including any territory or possession of  
20 the United States); or

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

25 (c) REGISTRATION OF ASSOCIATED PERSONS.—

1           (1) IN GENERAL.—Section 4k of the Com-  
2           modity Exchange Act (7 U.S.C. 6k) is amended—

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

5                   (B) by inserting after paragraph (3) the  
6                   following:

7                   “(4) It shall be unlawful for any person to act  
8                   as an associated person of a digital commodity  
9                   broker or an associated person of a digital com-  
10                  modity dealer unless such person is registered with  
11                  the Commission under this Act and such registration  
12                  shall not have expired, been suspended (and the pe-  
13                  riod of suspension has not expired), or been revoked.  
14                  It shall be unlawful for a digital commodity broker  
15                  or a digital commodity dealer to permit such a per-  
16                  son to become or remain associated with the digital  
17                  commodity broker or digital commodity dealer if  
18                  such digital commodity broker or digital commodity  
19                  dealer knew or should have known that such person  
20                  was not so registered or that such registration had  
21                  expired, been suspended (and the period of suspen-  
22                  sion has not expired), or been revoked.”; and

23                   (C) in paragraph (5) (as so redesignated),  
24                   by striking “or of a commodity trading advisor”  
25                   and inserting “of a commodity trading advisor,

1 of a digital commodity broker, or of a digital  
2 commodity dealer”.

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

7 (d) COMMODITY TRADING ADVISERS; COMMODITY  
8 POOL OPERATORS.—

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

11 (A) in paragraph (2), by striking “deriva-  
12 tives transaction execution facilities” and in-  
13 serting “digital commodity trades on or subject  
14 to the rules of digital commodity trading facili-  
15 ties”; and

16 (B) in paragraph (3), by striking “deriva-  
17 tives transaction execution facilities” and in-  
18 serting “digital commodity trading facilities”.

19 (2) USE OF MAIL OR OTHER INTERSTATE COM-  
20 MERCE.—Section 4m(3)(C) of the Commodity Ex-  
21 change Act (7 U.S.C. 6m(3)(C)) is amended by in-  
22 serting “digital commodity trades,” before “and any  
23 monies”.

24 (3) REGISTRATION.—Section 4n(3)(B) of the  
25 Commodity Exchange Act (7 U.S.C. 6n(3)(B)) is

1 amended by inserting “or digital commodity” after  
2 “futures market”.

3 (e) ACCEPTABLE BUSINESS PRACTICES UNDER  
4 CORE PRINCIPLES.—Section 5c(a)(1) of the Commodity  
5 Exchange Act (7 U.S.C. 7a–2(a)(1)) is amended by strik-  
6 ing “and 5b(c)(2),” and inserting “, 5b(c)(2), and 5i(b)”.

7 (f) PUBLIC DISCLOSURE.—Section 8(a)(1) of the  
8 Commodity Exchange Act (7 U.S.C. 12(a)(1)) is amended,  
9 in the first sentence of the matter preceding subparagraph  
10 (A), by inserting “, digital commodity platforms,” after  
11 “boards of trade”.

12 (g) ANTI-MONEY LAUNDERING.—

13 (1) AMENDMENT.—Section 5312(a)(2) of title  
14 31, United States Code, is amended—

15 (A) by redesignating subparagraphs (Y)  
16 and (Z) as subparagraphs (Z) and (AA), re-  
17 spectively; and

18 (B) by inserting after subparagraph (X)  
19 the following:

20 “(Y) a digital commodity platform (as de-  
21 fined in section 1a of the Commodity Exchange  
22 Act (7 U.S.C. 1a));”.

23 (2) REGULATIONS.—

24 (A) PROPOSED REGULATIONS.—Not later  
25 than 180 days after the date of enactment of

1           this Act, the Secretary of the Treasury, after  
2           consultation with the Commodity Futures Trad-  
3           ing Commission, shall publish proposed regula-  
4           tions in the Federal Register requiring a digital  
5           commodity platform (as defined in section 1a of  
6           the Commodity Exchange Act (7 U.S.C. 1a))  
7           registered with the Commodity Futures Trading  
8           Commission to submit a report of any sus-  
9           picious transaction under section 5318(g) of  
10          title 31, United States Code.

11                   (B) FINAL REGULATIONS.—Not later than  
12          180 days after the date of publication of the  
13          proposed regulations under subparagraph (A),  
14          the Secretary of the Treasury shall publish  
15          those regulations in final form.

16          (h) REGISTRATION OF COMMODITY DEALERS AND  
17          ASSOCIATED PERSONS.—Section 8a of the Commodity  
18          Exchange Act (7 U.S.C. 12a) is amended—

19                   (1) in paragraph (1), by inserting “digital com-  
20          modity brokers, associated persons of digital com-  
21          modity brokers, digital commodity dealers, associ-  
22          ated persons of digital commodity dealers,” after “to  
23          register”;

24                   (2) in paragraph (2)—

25                           (A) in subparagraph (C)—

1 (i) in clause (i), by inserting “digital  
2 commodity broker, digital commodity deal-  
3 er,” before “futures commission mer-  
4 chant”; and

5 (ii) in clause (ii), by striking “con-  
6 tracts of” and inserting “a digital com-  
7 modity trade or a contract of”;

8 (B) in subparagraph (D)—

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

12 (ii) in clause (ii), by inserting “digital  
13 commodity broker, digital commodity deal-  
14 er,” before “futures commission mer-  
15 chant”; and

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

18 (3) in paragraph (3)—

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

21 (B) in subparagraph (E)—

22 (i) in clause (i), by striking “contract  
23 of sale of a commodity for future delivery  
24 or” and inserting “contract of sale of a

1 commodity for future delivery, digital com-  
2 modity trade, or”; and

3 (ii) in clause (ii), by inserting “digital  
4 commodity broker, digital commodity deal-  
5 er,” before “futures commission mer-  
6 chant”; and

7 (C) in subparagraph (J)—

8 (i) by inserting “a digital commodity  
9 trading facility,” before “a registered enti-  
10 ty”; and

11 (ii) by striking “registered entity, as-  
12 sociation” and inserting “digital com-  
13 modity trading facility, registered entity,  
14 registered futures association”;

15 (4) in paragraph (4)—

16 (A) by striking “futures commission mer-  
17 chant” and inserting “digital commodity  
18 broker, digital commodity dealer, futures com-  
19 mission merchant,”;

20 (B) by inserting “digital commodity sub-  
21 ject to the rules of a digital commodity trading  
22 facility or” before “commodity”; and

23 (C) by inserting “digital commodity trad-  
24 ing facility or” before “registered entity” each  
25 place it appears;

1           (5) in paragraph (6), by inserting “digital com-  
2           modity trading facility, digital commodity custo-  
3           dian,” before “registered entity” each place it ap-  
4           pears; and

5           (6) in paragraph (9)—

6           (A) by inserting “digital commodity trad-  
7           ing facility or” before “registered entity” each  
8           place it appears;

9           (B) by inserting “digital commodity or”  
10          before “futures contract” each place it appears;  
11          and

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

14          (i) AMENDMENTS TO TITLE 11.—Title 11, United  
15          States Code, is amended—

16          (1) in section 101(6), by inserting “digital com-  
17          modity platform, as defined in section 1a of the  
18          Commodity Exchange Act (7 U.S.C. 1a),” after “le-  
19          verage transaction merchant,”; and

20          (2) in section 761—

21               (A) in paragraph (4)(F)—

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

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



1 (iii) by adding at the end the fol-  
2 lowing:

3 “(iii) with respect to a digital commodity  
4 platform, a contract for a digital commodity  
5 trade—

6 “(I) held at a digital commodity plat-  
7 form; or

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

10 (B) in paragraph (9)—

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

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

16 (iii) by adding at the end the fol-  
17 lowing:

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

20 “(i) entity for or with whom the dig-  
21 ital commodity platform deals and that  
22 holds a claim against the digital com-  
23 modity platform on account of a com-  
24 modity contract made, received, acquired,  
25 or held by or through the digital com-

1 modify platform in the ordinary course of  
2 the business of the digital commodity plat-  
3 form as a digital commodity platform from  
4 or for a commodity contract account of the  
5 entity; or

6 “(ii) entity that holds a claim against  
7 the digital commodity platform arising out  
8 of—

9 “(I) the making, liquidation, or  
10 change in the value of a commodity  
11 contract of a kind specified in clause  
12 (i) of this subparagraph;

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

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

19 “(bb) holding in custody, or  
20 accepting a deposit, of property  
21 related to the making or mar-  
22gining of the commodity contract;  
23 or

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

1 (C) by redesignating paragraphs (11)  
2 through (17) as paragraphs (12) through (18),  
3 respectively; and

4 (D) by inserting after paragraph (10) the  
5 following:

6 “(11) the terms ‘digital commodity’, ‘digital  
7 commodity platform’, and ‘digital commodity trade’  
8 have the meanings given those terms in section 1a  
9 of the Commodity Exchange Act (7 U.S.C. 1a);”.

10 **SEC. 6. APPLICABILITY.**

11 The amendments made by this Act shall not apply  
12 to any person regulated under the Commodity Exchange  
13 Act (7 U.S.C. 1 et seq.), as amended by this Act, until  
14 the date of effectiveness of the final rule of the Commodity  
15 Futures Trading Commission requiring registration of  
16 digital commodity platforms under section 5i of that Act.

17 **SEC. 7. REPORT ON HISTORICALLY UNDERSERVED CUS-**  
18 **TOMERS PARTICIPATING IN DIGITAL COM-**  
19 **MODITY MARKETS.**

20 Not later than 180 days after the date of enactment  
21 of this Act, the Commodity Futures Trading Commission  
22 (referred to in this section as the “Commission”) shall—

23 (1) examine the racial, ethnic, and gender de-  
24 mographics of customers participating in digital  
25 commodity markets; and

1           (2) submit to the Committee on Agriculture,  
2           Nutrition, and Forestry of the Senate and the Com-  
3           mittee on Agriculture of the House of Representa-  
4           tives a report—

5                   (A) describing how those demographics will  
6           inform the rules and regulations of the Com-  
7           mission relating to customer protection;

8                   (B) proposing ways in which the Commis-  
9           sion can provide outreach to historically under-  
10          served customers participating in digital com-  
11          modity markets; and

12                   (C) containing recommendations relating  
13          to any other activities the Commission deter-  
14          mines to be necessary to provide appropriate  
15          protection, outreach, or other similar activities  
16          relating to historically underserved customers  
17          participating in digital commodity markets.