To amend the Bank Holding Company Act of 1956 to restore the separation between banking and commerce by prohibiting bank holding company ownership of non-financial assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2019

Mr. García of Illinois (for himself, Ms. Tlaib, and Ms. Jackson Lee) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Bank Holding Company Act of 1956 to restore the separation between banking and commerce by prohibiting bank holding company ownership of non-financial assets, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Consumers from Market Manipulation Act”.

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SEC. 2. LIMITATION ON CERTAIN LARGE NON-FINANCIAL COMPANIES WITH RESPECT TO ACTIVITIES THAT ARE FINANCIAL IN NATURE.

(a) IN GENERAL.—A large non-financial company that is not registered as a bank holding company may not (either directly or indirectly, or through a subsidiary) engage in activities that are financial in nature if engaging in such activities would result in such activities producing the lower of—

(1) 5 percent of the revenue of the large non-financial company; or

(2) $1,000,000,000 in revenue.

(b) DEFINITIONS.—In this section:

(1) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The term “activities that are financial in nature” has the meaning given that term under section 4(k)(4) of the Bank Holding Company Act of 1956.

(2) BANK HOLDING COMPANY.—The term “bank holding company” has the meaning given that term under section 2 of the Bank Holding Company Act of 1956.

(3) LARGE NON-FINANCIAL COMPANY.—The term “large non-financial company” means a company that—
(A) has annual revenues of more than $5,000,000,000; and

(B) is not predominantly engaged in financial activities (as such term is defined under section 102 of the Financial Stability Act of 2010).

(4) SUBSIDIARY.—The term “subsidiary” has the meaning given that term under section 2 of the Bank Holding Company Act of 1956.

SEC. 3. LIMITATIONS ON COMMODITY OWNERSHIP AND REPEAL OF THE MERCHANT BANKING AUTHORITY.

(a) IN GENERAL.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) in subsection (k)—

(A) in paragraph (1), by striking “(by regulation or order)” and inserting “, by regulation”; and

(B) in paragraph (2)—

(i) in the heading, by inserting “AND THE FEDERAL DEPOSIT INSURANCE CORPORATION” after “TREASURY”; and

(ii) by adding at the end the following:
“(C) JOINT DETERMINATION WITH THE
FEDERAL DEPOSIT INSURANCE CORPORA-
TION.—For purposes of paragraph (1), the
Board may only make a determination that an
activity is complementary to a financial activity
and does not pose a substantial risk to the safe-
ty or soundness of depository institutions or the
financial system generally, if such determina-
tion is made jointly, by rule, with the Federal
Deposit Insurance Corporation.”;

(C) in paragraph (4)—

(i) by striking subparagraph (H); and

(ii) by redesignating subparagraph (I)
as subparagraph (H); and

(D) by striking paragraph (7);

(2) in subsection (l)—

(A) in paragraph (1), by striking “sub-
section (k), (n), or (o)” each place such term
appears and inserting “subsection (k) or (n)”;

and

(B) in paragraph (2)(B), by striking “sub-
paragraph (H) or (I)” and inserting “subpara-
graph (H)”;

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(3) in subsection (m)(1)(A), by striking “subsection (k), (n), or (o)” and inserting “subsection (k) or (n)”;

(4) in subsection (n)(5), by striking “subparagraph (H) or (I)” each place such term appears and inserting “subparagraph (H)”;

(5) by striking subsection (o).

(b) Conforming Amendment.—Section 3(a)(4)(B)(vi) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)(B)(vi)) is amended by striking “other than” and all that follows through the end and inserting “other than a registered broker or dealer.”.

(c) Rulemaking.—The Board of Governors of the Federal Reserve System shall—

(1) issue rules to carry out the amendments made by this section; and

(2) provide for an appropriate transition period before persons are required to comply with the amendments made by this section, including allowing for the divestment of shares, assets, and ownership interests affected by such amendments.

SEC. 4. DIGITAL CURRENCY STUDIES.

(a) FSOC Study.—The Financial Stability Oversight Council shall carry out a study, and issue a report to Congress that—
(1) examines the financial stability implications of digital currency; and
(2) determines whether digital currencies should be designated as designated financial market utilities under title VIII of the Payment, Clearing, and Settlement Supervision Act of 2010.

(b) FEDERAL RESERVE STUDY.—The Board of Governors of the Federal Reserve System shall carry out a study and issue a report to Congress that—
(1) examines the monetary policy and monetary sovereign implications of digital currency; and
(2) proposes a framework for supervising any digital currency that is designated as a designated financial market utility under title VIII of the Payment, Clearing, and Settlement Supervision Act of 2010.

c) DIGITAL CURRENCY DEFINED.—In this section, the term “digital currency” means a digital representation of value that—
(1) can be digitally traded;
(2) functions as—
(A) a medium of exchange;
(B) a unit of account; or
(C) a store of value;
(3) does not have legal tender status (i.e., when tendered to a creditor, is a valid and legal offer of payment) in any jurisdiction;

(4) is not issued nor guaranteed by any jurisdiction;

(5) fulfils the functions described under paragraph (2) only by agreement within the community of users of the virtual currency;

(6) is not sovereign currency (also known as “real currency”, “real money”, or “national currency”), which is the coin and paper money of a country that is designated as its legal tender, circulates, and is customarily used and accepted as a medium of exchange in the issuing country; and

(7) is not e-money, which is a digital representation of sovereign currency used to electronically transfer value denominated in sovereign currency and is a digital transfer mechanism for sovereign currency (meaning that it electronically transfers value that has legal tender status).