

116TH CONGRESS  
1ST SESSION

# H. R. 5180

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.

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## 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

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## 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.

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 “Protecting Consumers  
5 from Market Manipulation Act”.

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

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

10 (1) 5 percent of the revenue of the large non-  
11 financial company; or

12 (2) \$1,000,000,000 in revenue.

13 (b) DEFINITIONS.—In this section:

14 (1) ACTIVITIES THAT ARE FINANCIAL IN NA-  
15 TURE.—The term “activities that are financial in  
16 nature” has the meaning given that term under sec-  
17 tion 4(k)(4) of the Bank Holding Company Act of  
18 1956.

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

23 (3) LARGE NON-FINANCIAL COMPANY.—The  
24 term “large non-financial company” means a com-  
25 pany that—

1 (A) has annual revenues of more than  
2 \$5,000,000,000; and

3 (B) is not predominantly engaged in finan-  
4 cial activities (as such term is defined under  
5 section 102 of the Financial Stability Act of  
6 2010).

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

10 **SEC. 3. LIMITATIONS ON COMMODITY OWNERSHIP AND RE-**

11 **PEAL OF THE MERCHANT BANKING AUTHOR-**  
12 **ITY.**

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

15 (1) in subsection (k)—

16 (A) in paragraph (1), by striking “(by reg-  
17 ulation or order)” and inserting “, by regula-  
18 tion”;

19 (B) in paragraph (2)—

20 (i) in the heading, by inserting “AND  
21 THE FEDERAL DEPOSIT INSURANCE COR-  
22 PORATION” after “TREASURY”; and

23 (ii) by adding at the end the fol-  
24 lowing:

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

11           (C) in paragraph (4)—

12                 (i) by striking subparagraph (H); and

13                 (ii) by redesignating subparagraph (I)

14                 as subparagraph (H); and

15           (D) by striking paragraph (7);

16           (2) in subsection (l)—

17                 (A) in paragraph (1), by striking “sub-

18                 section (k), (n), or (o)” each place such term

19                 appears and inserting “subsection (k) or (n)”;

20                 and

21                 (B) in paragraph (2)(B), by striking “sub-

22                 paragraph (H) or (I)” and inserting “subpara-

23                 graph (H)”;

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

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

7           (5) by striking subsection (o).

8           (b)           CONFORMING           AMENDMENT.—Section  
9           3(a)(4)(B)(vi) of the Securities Exchange Act of 1934 (15  
10           U.S.C. 78c(a)(4)(B)(vi)) is amended by striking “other  
11           than” and all that follows through the end and inserting  
12           “other than a registered broker or dealer.”.

13           (c) RULEMAKING.—The Board of Governors of the  
14           Federal Reserve System shall—

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

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

22           **SEC. 4. DIGITAL CURRENCY STUDIES.**

23           (a) FSOC STUDY.—The Financial Stability Over-  
24           sight Council shall carry out a study, and issue a report  
25           to Congress that—

1           (1) examines the financial stability implications  
2 of digital currency; and

3           (2) determines whether digital currencies should  
4 be designated as designated financial market utilities  
5 under title VIII of the Payment, Clearing, and Set-  
6 tlement Supervision Act of 2010.

7           (b) FEDERAL RESERVE STUDY.—The Board of Gov-  
8 ernors of the Federal Reserve System shall carry out a  
9 study and issue a report to Congress that—

10           (1) examines the monetary policy and monetary  
11 sovereignty implications of digital currency; and

12           (2) proposes a framework for supervising any  
13 digital currency that is designated as a designated  
14 financial market utility under title VIII of the Pay-  
15 ment, Clearing, and Settlement Supervision Act of  
16 2010.

17           (c) DIGITAL CURRENCY DEFINED.—In this section,  
18 the term “digital currency” means a digital representation  
19 of value that—

20           (1) can be digitally traded;

21           (2) functions as—

22                   (A) a medium of exchange;

23                   (B) a unit of account; or

24                   (C) a store of value;

1           (3) does not have legal tender status (i.e., when  
2           tendered to a creditor, is a valid and legal offer of  
3           payment) in any jurisdiction;

4           (4) is not issued nor guaranteed by any juris-  
5           diction;

6           (5) fulfils the functions described under para-  
7           graph (2) only by agreement within the community  
8           of users of the virtual currency;

9           (6) is not sovereign currency (also known as  
10          “real currency”, “real money”, or “national cur-  
11          rency”), which is the coin and paper money of a  
12          country that is designated as its legal tender, cir-  
13          culates, and is customarily used and accepted as a  
14          medium of exchange in the issuing country; and

15          (7) is not e-money, which is a digital represen-  
16          tation of sovereign currency used to electronically  
17          transfer value denominated in sovereign currency  
18          and is a digital transfer mechanism for sovereign  
19          currency (meaning that it electronically transfers  
20          value that has legal tender status).

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