

118TH CONGRESS
1ST SESSION

S. 1870

To amend the Commodity Exchange Act to prohibit interference in United States digital commodity markets by entities organized or established in a foreign adversary, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2023

Mr. TUBERVILLE (for himself and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Commodity Exchange Act to prohibit interference in United States digital commodity markets by entities organized or established in a foreign adversary, 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 “Prohibiting Foreign
5 Adversary Interference in Cryptocurrency Markets Act”.

1 **SEC. 2. PROHIBITION ON REGISTRATION OF FOREIGN AD-**
 2 **VERSARY-AFFILIATED DIGITAL COMMODITY**
 3 **PLATFORMS.**

4 Section 4(b) of the Commodity Exchange Act (7
 5 U.S.C. 6(b)) is amended by adding at the end the fol-
 6 lowing:

7 “(3) PROHIBITION ON REGISTRATION OF FOR-
 8 EIGN ADVERSARY-AFFILIATED DIGITAL COMMODITY
 9 PLATFORMS.—

10 “(A) DEFINITIONS.—In this paragraph:

11 “(i) COVERED ENTITY.—The term
 12 ‘covered entity’ means—

13 “(I) an entity that is established
 14 or organized under the laws of, or the
 15 principal place of business of which is
 16 located in, a foreign adversary; or

17 “(II) any subsidiary owned (in
 18 whole or in part) or operated by an
 19 entity described in subclause (I).

20 “(ii) DIGITAL COMMODITY.—

21 “(I) IN GENERAL.—The term
 22 ‘digital commodity’ means a fungible
 23 digital form of personal property that
 24 can be possessed and transferred per-
 25 son-to-person without necessary reli-
 26 ance on an intermediary.

1 “(II) INCLUSIONS.—The term
 2 ‘digital commodity’ includes property
 3 commonly known as cryptocurrency or
 4 virtual currency.

5 “(III) EXCLUSIONS.—The term
 6 ‘digital commodity’ does not include—

7 “(aa) an interest in a phys-
 8 ical commodity;

9 “(bb) a security;

10 “(cc) a digital form of cur-
 11 rency backed by the full faith
 12 and credit of the United States;
 13 or

14 “(dd) any other instrument
 15 that the Commission determines
 16 not to be a digital commodity.

17 “(iii) DIGITAL COMMODITY
 18 BROKER.—

19 “(I) IN GENERAL.—The term
 20 ‘digital commodity broker’ means a
 21 person that is engaged, as an identifi-
 22 able business, in—

23 “(aa) soliciting or accepting
 24 orders on behalf of another per-

1 son for a digital commodity
2 trade;

3 “(bb) accepting digital com-
4 modities from another person for
5 the purpose of entering into dig-
6 ital commodity trades;

7 “(cc) arranging digital com-
8 modity trades on behalf of an-
9 other person; or

10 “(dd) a similar activity, as
11 determined by the Commission.

12 “(II) EXCLUSION.—The term
13 ‘digital commodity broker’ does not
14 include a person solely because that
15 person validates digital commodity
16 transactions.

17 “(iv) DIGITAL COMMODITY CUSTO-
18 DIAN.—The term ‘digital commodity custo-
19 dian’ means a person that, as an identifi-
20 able business, maintains possession, cus-
21 tody, or control over digital commodities
22 on behalf of another person.

23 “(v) DIGITAL COMMODITY DEALER.—

1 “(I) IN GENERAL.—The term
2 ‘digital commodity dealer’ means a
3 person that—

4 “(aa) has an identifiable
5 business of dealing in a digital
6 commodity as principal for its
7 own account;

8 “(bb) makes a market in a
9 digital commodity;

10 “(cc) holds itself out as a
11 dealer in a digital commodity;

12 “(dd) has as an identifiable
13 business of buying or selling dig-
14 ital commodities for conversion
15 into other digital commodities,
16 currency, or other consideration;

17 “(ee) has as an identifiable
18 business of accepting digital com-
19 modities from another person (re-
20 ferred to in this item as a ‘de-
21 positor’) with an obligation to re-
22 turn the digital commodities, con-
23 sideration linked to the digital
24 commodities, or both to the de-
25 positor; or

1 “(ff) engages in a similar
2 activity, as determined by the
3 Commission.

4 “(II) EXCLUSION.—The term
5 ‘digital commodity dealer’ does not in-
6 clude a person solely because that per-
7 son validates digital commodity trans-
8 actions.

9 “(vi) DIGITAL COMMODITY PLAT-
10 FORM.—The term ‘digital commodity plat-
11 form’ means a person that is 1 or more of
12 the following:

13 “(I) A digital commodity broker.

14 “(II) A digital commodity custo-
15 dian.

16 “(III) A digital commodity deal-
17 er.

18 “(IV) A digital commodity trad-
19 ing facility.

20 “(vii) DIGITAL COMMODITY TRADE.—

21 “(I) IN GENERAL.—The term
22 ‘digital commodity trade’ means a
23 purchase or sale of a digital com-
24 modity in exchange for—

1 “(aa) another digital com-
2 modity; or

3 “(bb) any other consider-
4 ation.

5 “(II) INCLUSIONS.—The term
6 ‘digital commodity trade’ includes—

7 “(aa) an offer to enter into
8 a purchase or sale described in
9 subclause (I); and

10 “(bb) a loan of a digital
11 commodity, an offer to enter into
12 a loan of a digital commodity, or
13 a similar activity, as determined
14 by the Commission.

15 “(viii) DIGITAL COMMODITY TRADING
16 FACILITY.—

17 “(I) IN GENERAL.—The term
18 ‘digital commodity trading facility’
19 means a trading facility that facili-
20 tates the execution or trading of dig-
21 ital commodity trades between per-
22 sons.

23 “(II) EXCLUSION.—The term
24 ‘digital commodity trading facility’
25 does not include a person solely be-

1 cause that person validates digital
2 commodity transactions.

3 “(ix) FOREIGN ADVERSARY.—The
4 term ‘foreign adversary’ means—

5 “(I) the People’s Republic of
6 China, including the Hong Kong Spe-
7 cial Administrative Region and Macao
8 Special Administrative Region;

9 “(II) the Republic of Cuba;

10 “(III) the Islamic Republic of
11 Iran;

12 “(IV) the Democratic People’s
13 Republic of Korea;

14 “(V) the Russian Federation;
15 and

16 “(VI) the Bolivarian Republic of
17 Venezuela under the regime of Nicolás
18 Maduro Moros.

19 “(B) PROHIBITION ON REGISTRATION.—
20 The Commission shall not register under this
21 Act a digital commodity platform that is owned
22 (in whole or in part) by a covered entity.

23 “(C) REVOCATION OF REGISTRATION.—
24 The Commission shall revoke the registration
25 under this Act of a digital commodity platform

1 if a covered entity acquires all or any part of
2 the ownership of the digital commodity plat-
3 form.”.

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