

DIGITAL ASSET MARKET STRUCTURE DISCUSSION DRAFT



May 9, 2025

Review of Title III - Registration for Intermediaries at the SEC

(review of Titles IV and V to come in subsequent days)

I BACKGROUND

- The [Digital Asset Market Structure Discussion Draft](#) was published on May 5, 2025, by:
 - House Committee on Financial Services Chairman [French Hill \(AR-02\)](#)
 - House Committee on Agriculture Chairman [G.T. Thompson \(PA-15\)](#)
 - House Committee on Financial Services Subcommittee on Digital Assets, Financial Technology, and Artificial Intelligence Chair [Bryan Steil \(WI-01\)](#)
 - House Committee on Agriculture Subcommittee on Commodity Markets, Digital Assets Rural Development Chair [Dusty Johnson \(SD-AL\)](#)
- The draft is *a bill to establish a regulatory framework for the trading of digital assets in the United States*
- The draft bill is structured in five titles
- The draft follows, in some respects, the FIT21 bill released in 2024
- This deck provides the highlights of Title III of the draft, the summary of Title I can be found [here](#) and Title II can be found [here](#)
- Our summaries of Titles IV and V will follow in subsequent days

TITLE III - REGISTRATION FOR INTERMEDIARIES AT THE SEC



SEC Jurisdiction

- **Treatment of digital commodities** - The definition of “security” under the Securities Act of 1933 (‘33 Act), the Securities Exchange Act of 1934 (‘34 Act), and the Investment Company Act of 1940 (‘40 Act) is amended to exclude “**digital commodities**” and “**permitted payment stablecoins.**”
- **The SEC will have Anti-fraud authority** over fraud, manipulation, and insider trading for transactions with or involving permitted payment stablecoins and digital commodities that occur on or with an SEC registered entity. However, existing rules imposing or specifying reporting or recordkeeping requirements, procedures, or standards as measures against fraud, manipulation, or insider trading are not extended to these transactions.
- **Judicial precedents** decided under Section 17(a) of the ‘33 Act (the anti-fraud provisions) will apply to permitted payment stablecoins and digital commodities when those assets are brokered, traded, or custodied by a broker or dealer or through an ATS or national securities exchange.
- **Federal Preemption** - Adds digital commodities that are brokered, traded, or custodied by a registered broker or dealer to “covered securities,” which are exempt from state blue sky laws.

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Transactions in Permitted Payment Stablecoins may be brokered, traded, or custodied by a broker, dealer, or through an ATS or national securities exchange.

- The SEC's jurisdiction over permitted payment stablecoins will be limited to transactions that occur through a broker, dealer, ATS, or national securities exchange.

Eligibility of alternative trading systems (ATS)

- Section 304(d) permits an ATS that notice files with the SEC to trade digital commodities that comply with section 5i(c)(3) of the Commodity Exchange Act.
- The SEC will not be permitted to block a trading platform from operating under an exemption solely because it trades digital commodities or permitted payment stablecoins.
- The SEC will revise its rules within 270 days of enactment to accommodate the trading of digital commodities and permitted payment stablecoins by national exchanges and ATSs, and to allow for their real-time settlement.
- An ATS primarily facilitating the trading of digital commodities, permitted payment stablecoins, or both is not to be considered a facility of a national securities exchange.

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Operation of Alternative Trading Systems

- Under Section 304(d)(2), the SEC will have jurisdiction over digital commodity activities by SEC registered brokers and dealers and national securities exchanges where such registrants are notice-registered with the CFTC (such brokers or dealers are also permitted to maintain registration with the CFTC as a digital commodity broker or dealer).
- Section 304(b) directs the SEC to revise existing regulations to permit *national securities exchanges, brokers, or dealers* that are notice-registered with the CFTC to operate ATSS for digital commodities and permitted payment stablecoins.
- The SEC may establish additional rules for ATS systems for digital commodities and permitted payment stablecoins.
- The SEC is to require SROs (such as FINRA) to promulgate rules to facilitate compliance with these laws for members that are digital commodity brokers or dealers, which operate an ATS permitting the trading in digital commodities, permitted payment stablecoins, or both.

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SEC's Exemptive Authority

- Amends the '33 Act and the '34 Act to provide the SEC with authority to create exemptions through “orders” in addition to “rules” and “regulations.”

Exemption for DeFi Activities

- Exempts certain decentralized financial (DeFi) activities related to the operation and maintenance of blockchain networks from SEC regulation, with the exception of the SEC's anti-fraud and anti-manipulation enforcement authorities.
- “DeFi activities” include:
 - compiling network transactions or relaying, searching, sequencing, validating or otherwise providing similar services with respect to the sale of a digital asset;
 - providing computational work, operating a node, or providing other similar services;
 - providing user-interfaces that enable a user to read or access data on a blockchain;
 - developing, publishing, or updating software; or
 - developing and distributing hardware or software wallets.

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Banking Considerations

- **Treatment of custody activities by banking institutions**

Prevents federal regulators - including federal banking regulators, the NCUA, and the SEC, from imposing requirements on financial institutions to include customers' assets as liabilities on their balance sheets or from holding additional regulatory capital against these assets, except as necessary to mitigate against operational risks as determined by the appropriate federal or state regulator.

- **Bank Holding Company Act amendment**

Narrowly amends the Bank Holding Company Act of 1956 to allow non-bank subsidiaries of holding companies (e.g., digital commodity brokers or dealers) to engage in digital commodity activities by adding such activities to the list of those that are “financial” in nature.

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Modernization of recordkeeping requirements

- Clarifies that brokers, dealers, and exchanges under the '34 Act can refer to blockchains for purposes of books and records requirements.
- The SEC is also required to issue and revise its rules in accordance with this section within 180 days of enactment.

Studies on foreign adversary participation

- Requires the Secretary of the Treasury, in consultation with the CFTC and the SEC, to conduct a study and submit a report within a year on the involvement of governments of foreign adversaries in digital commodity markets and digital commodity registrants.

Effective date; Administration

- The provisions under Title III will take effect 360 days after enactment of the Bill.
- Rulemakings will take effect either 360 days after enactment or 60 days after publication of the final rule in the Federal Register (whichever is later).

**PLEASE FEEL FREE TO REACH OUT WITH ANY
QUESTIONS, COMPLIMENTS, OR CONCERNS.**



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