



An Overview of H.R. 4763, Financial Innovation and Technology for the 21st Century Act

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On [Friday May 10](#), the House Committee on Rules publicly noticed its intent to consider H.R. 4763, the Financial Innovation and Technology for the 21st Century Act (FIT21), which could lead to a floor vote later this month. The bill, as amended, would introduce significant changes to the way digital assets are regulated. Currently, various existing laws and regulations may apply to digital assets—including those administered by the [Securities and Exchange Commission \(SEC\)](#) and the [Commodity Futures Trading Commission \(CFTC\)](#)—depending on the specific circumstances. Some policymakers believe [existing laws and regulations sufficiently accommodate digital assets](#), while others believe [additional authorities are required or that the regulatory framework otherwise needs to be reformed](#).

Decentralization and Digital Commodities Framework

H.R. 4763 would create specific classification criteria to determine whether a particular digital asset should be regulated by the SEC, by the CFTC, or both, and would establish new regulatory requirements based on how a digital asset is classified.

H.R. 4763 would classify a digital asset as a digital commodity, regulated by the CFTC, if the blockchain (digital ledger) on which it runs is certified as decentralized. The bill would define a decentralized system as, among other things, one in which no one person or entity has “unilateral authority” to control the operation of or access to the blockchain. The proposal would provide parallel permissions for individuals and firms to certify with the SEC or the CFTC that the digital assets they plan to list meet the decentralization criteria. The proposal would provide the SEC and CFTC authority to reject such certifications with cause within a specific time frame.

By explicitly classifying decentralized digital assets as digital commodities, the bill would grant CFTC new authorities, providing it exclusive jurisdiction over “cash” or “spot” market digital commodity transactions, and requiring that entities (including exchanges, brokers, dealers, etc.) offering trade in digital commodities register with it. The bill would impose certain requirements on intermediaries,

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including ensuring trading is not susceptible to manipulation, requiring disclosures, and addressing market integrity and recordkeeping requirements. Seeming to address concerns that platforms' current consolidation of various functions represents a [conflict of interest](#), the bill would prohibit a digital commodity exchange and its affiliates from trading for their own accounts on the exchange. However, the bill would allow the CFTC to adopt rules to permit such trading for certain specified purposes. The bill would prohibit platforms from comingling their own funds with those of customers but would permit a customer to waive this for certain reasons.

Digital assets that run on blockchains that are not decentralized would, depending on certain characteristics, be classified as restricted digital assets or securities, regulated by the SEC.

SEC Regulation of Offers, Sales, and Intermediaries

H.R. 4763 would provide an exemption from the [Securities Act of 1933](#)'s registration requirement for offers of digital assets that meet certain conditions. Among other conditions, issuers relying on the exemption must limit their sales to \$75 million or less within a 12-month period and abide by certain limits on participation by [non-accredited investors](#). Issuers that rely on this exemption must make certain initial disclosures and periodic reports.

For [secondary markets](#), H.R. 4763 would establish new registration and compliance requirements for digital asset trading systems and digital asset broker-dealers. While these intermediaries could also register as national securities exchanges, broker-dealers, and alternative trading systems under existing securities regulations, the bill would require the SEC to complete new rules for entities with multiple registrations to reduce potential duplication and conflicts. It also would mandate new SEC rulemaking for digital asset trading systems to include order display, fair access, system integrity, examination, recordkeeping, reporting, and other requirements. Digital asset broker-dealers would face requirements including custody, segregation of funds, capital, and reporting and recordkeeping. Selected aspects of these requirements appear to reference existing regulations governing certain [trading platforms](#) and [broker-dealers](#).

In addition, H.R. 4763 would require selected intermediaries to develop conflict-of-interest procedures, exempt qualifying digital assets from certain state securities registration requirements, and provide new treatment for banks that offer digital asset custody services. The bill would reverse an [SEC accounting bulletin](#) that provides interpretive guidance regarding the [accounting treatment of digital assets](#) an entity holds for its platform users. It also would require the SEC to issue a rule requiring beneficial owners of 5% or more of the outstanding units of a digital asset to file a report with the SEC. The bill, [as amended](#), includes the [Securities Clarity Act](#), which aims to clarify that certain fungible digital assets do not automatically qualify as "securities" simply because they were initially sold or transferred pursuant to an investment contract.

Provisional Registration and Other Provisions

The bill would establish a provisional registration process, which would require entities to file notices of intent to register with the CFTC or SEC and to be members of a futures association or a national securities association, respectively. This "notice of intent" regime would require entities to provide certain disclosures and information regarding assets intended to be listed for trade, and the segregation of customer funds, among other requirements. Firms that proceed with the provisional registration process would be granted a limited safe harbor from SEC rules and regulations that would otherwise mandate registration as a national securities exchange. However, the CFTC and/or SEC would be authorized to force intermediaries to delist assets that do not comport with the bill's provisions or broader securities

and/or commodities laws. The bill would require the SEC and CFTC to jointly issue rules regarding the process for delisting.

The bill would allow firms offering trading in both restricted digital assets and digital commodities to register with both the CFTC and SEC. The bill would exempt payment stablecoins from both frameworks but preserve the CFTC's and SEC's antifraud powers over their trade. Firms that solely perform "ancillary activities," such as participating in the operation of blockchains, would be exempt from the bill's provisions.

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