An Overview of H.R. 3633, the CLARITY Act (Senator Lummis Draft)

September 15, 2026

On September 14, 2026, Senator Cynthia Lummis published updated draft text for an amendment in the nature of a substitute for H.R. 3633, the Digital Asset Market Clarity Act (CLARITY Act) on her office's website. The House passed its version of the bill on July 17, 2025. The recent text combines and modifies text from H.R. 3633, with amendments as reported by the Senate Committee on Banking, Housing, and Urban Affairs on June 1, 2026, and S. 3755, as reported by the Senate Committee on Agriculture, Nutrition, and Forestry on February 2, 2026.

The bill would provide a regulatory framework for cryptocurrency (or digital asset) activities and categories of industry participants (such as asset originators and exchanges). Generally, the bill would give the Commodity Futures Trading Commission (CFTC) a central role in regulating digital commodities and related intermediaries while preserving certain aspects of Securities and Exchange Commission (SEC) authority over primary market sales of ancillary assets, subject to a limited exemption from SEC registration. A summary of the major provisions of the bill is below. (For more on crypto policy issues, see CRS Report R48963, *Cryptocurrency: Regulatory and Legislative Policy Issues*.)

SEC Jurisdiction and "Regulation Crypto"

The bill would require the SEC to adopt a series of rules, collectively called "Regulation Crypto," under the securities laws. These rules would provide a qualified exemption from the securities registration requirements for "an offer, sale, or distribution of an investment contract involving an ancillary asset." The bill would define *ancillary asset* as a network token whose value would be "dependent upon the entrepreneurial or managerial efforts of an ancillary asset originator or a related person." *Network token* would be defined as a form of digital asset intrinsically linked to and that derives its value from the use of a distributed ledger system; under the bill, network tokens would not be treated as securities. Originators would be limited to raising no more than $200 million based on the exemption.

Originators that wish to offer, sell, or distribute an ancillary asset under Regulation Crypto would be required to file disclosures with the SEC. Disclosures would be required to include various types of information, including basic corporate information, such as an asset originator's experience in the industry and financial statements, and economic and technical information, such as how the associated distributed ledger functions and its potential uses and markets. Digital asset service providers (DASPs, such as exchanges) would be permitted to fulfill the disclosure requirement in certain circumstances. Issuers would no longer be required to comply with the disclosure requirement when they can certify that they did not engage in more than "a nominal level of entrepreneurial or managerial efforts," which "were not a primary factor in determining the value of the related ancillary asset" in the 180-day period preceding the certification. The SEC would be authorized to issue a 10-day notice of intent to deny a certification, during which time originators could submit arguments supporting certifications. After that period, the SEC would vote on whether to deny certifications. Certifications would be deemed effective if the SEC failed to issue a notice of objection within 90 days. The SEC would be able to exempt originators or DASPS from certification requirements if it "is in the public interest or for the protection of investors."

The bill would also establish certain requirements for the sale by ancillary asset originators of ancillary assets related to distributed ledgers that are under *coordinated control*. The SEC would be required to write rules defining the concept of c*oordinated control*, which implies that a blockchain is not decentralized (i.e., not "open" and not "permissionless").

The bill would preempt certain state requirements as applied to ancillary assets and require tokenized securities (securities recorded and traded on a blockchain or other programmable platform) to be treated as securities for regulatory purposes.

CFTC Jurisdiction

The bill would provide the CFTC "exclusive jurisdiction" over cash or spot market sales of *digital commodities*—defined as fungible digital assets that can be held and transferred without reliance on an intermediary and that are recorded on a distributed ledger. The CFTC's authority would also extend to sales of network tokens and ancillary assets that do not fall under the SEC's jurisdiction (i.e., those that do not include the sale of an investment contract involving an ancillary asset).

Digital commodity exchanges seeking to offer a cash or spot market for at least one digital commodity would be required to register with the CFTC, as would digital commodity brokers and dealers. The bill would require digital commodity exchanges to establish and comply with a set of core principles that establish a general framework for operation and conduct. Core principles would include that digital commodity exchanges allow trading only in digital commodities that are not susceptible to manipulation, that an intermediary ensure the requisite asset disclosures are filed with the SEC, and that exchanges mitigate conflicts of interest, among others.

The bill would require that customer assets be treated as belonging to the customer and would prohibit them from being commingled with an intermediary's funds with exceptions. The bill would also amend a subchapter of the bankruptcy title of the *U.S. Code* that governs stockbroker liquidations to treat digital and ancillary asset holders as customers and would include such assets within the definition of customer property to be treated the same as other customer assets.

When listing a digital commodity for cash or spot market trading, a digital commodity exchange would be required to certify to the CFTC that the new listing meets the requirements of the Commodity Exchange Act (CEA; 7 U.S.C. §§1a et seq.).

The CFTC would be permitted to disapprove of listings that it determines are inconsistent with the CEA or related rules. In such cases, the bill would require the CFTC to publish a detailed analysis supporting the decision. Certifications would become effective 20 days after filing for digital commodity listings that have not previously been filed or that are being modified or in 1 day in cases where a digital commodity has previously been certified (presumably by some other intermediary).

Anti-Money Laundering and Anti-Fraud

The bill would add digital commodity brokers, dealers, and exchanges to the definition of financial institutions under the Bank Secrecy Act (BSA). Thus, these institutions would be required to maintain programs governing anti-money laundering (AML) and countering the financing of terrorism (CFT), records retention, and customer identification and to monitor and report suspicious activity. The Financial Crimes Enforcement Network—a Treasury Department bureau that administers the BSA—and the CFTC would be required to write tailored rules applying the BSA to digital commodity intermediaries.

Treasury and various regulators would be required to establish risk-based examination standards to assess intermediaries' compliance with AML/CFT requirements of the BSA.

The bill would permit the Treasury Secretary to impose a new AML "special measure" on certain transmittals of funds by any domestic financial institution if such transactions involving a foreign jurisdiction or financial institution, or class of transactions involving or in a foreign jurisdiction, are found to be "of primary money laundering concern in connection with illicit finance through the use of digital assets."

The bill would amend the BSA (31 U.S.C. §5330) to clarify that digital asset kiosk operators are a form of money transmitting business that must register with Treasury. The bill would require digital asset kiosk operators to (1) update the location of each digital asset kiosk within 90 days of the bill's effective date and at least once every 90 days thereafter and (2) hold assets transmitted by new customers for at least 72 hours after the transaction initiation and refund transactions canceled by new customers within the 72-hour period.

Decentralized Finance (Defi)

Defi refers to blockchain-based digital asset transactions conducted without a centralized intermediary and over which no individual or group of individuals can interfere once commenced. For more on defi, see CRS Report R48883, *An Overview of Decentralized Finance (Defi)*. Under Title VI of the CLARITY Act, operators performing various defi operations—compiling network transactions, providing computational work, and developing or operating a distributed ledger—would not be subject to the Securities Exchange Act of 1934 or the CEA. Regarding certain other activities, such as participating in a liquidity pool—a key component of defi exchanges—the bill would require the SEC to write rules "clarify[ing] the circumstances under which a person shall not be subject to" the 1934 act. Such individuals also would not be subject to the CEA's digital commodity cash or spot market provisions.

The bill would also adopt a version of the Blockchain Regulatory Certainty Act (BRCA; S. 3611/H.R. 3533) and the Keep Your Coins Act (KYCA; S. 2284/H.R. 148). The BRCA would require that noncontrolling developers or providers—who do not have the right or ability to control a transaction—not be treated as money transmitting businesses, a type of financial institution subject to the BSA. The bill includes a provision that would prevent noncontrolling developers from being subject to similar requirements after the enactment of the bill. The KYCA would require that a federal agency not prevent someone in the United States from using a self-custody wallet or other device from self-custody of digital assets for "any lawful purpose."

Banking Provisions

The bill would explicitly allow banks to engage in certain digital asset activities. Banks would be permitted to use digital assets and distributed ledgers to perform any function they are currently permitted to provide. The bill also identifies various digital-asset-centric activities, such as providing custodial services for digital assets, collateralizing loans using digital assets, and facilitating secondary market transactions for clients as "part of the business of banking, or incidental to the business of banking," and would permit banks to engage in them.

Stablecoin Yield

The GENIUS Act (P.L. 119-27), which established a regulatory regime for payment stablecoins, prohibits payment stablecoin issuers—but not third parties, such as exchanges—from paying interest to holders. Banks argue that this "loophole" should be closed in the CLARITY Act. The Lummis draft would prevent third parties from paying interest to users on stablecoin balances in a way that is "economically or functionally equivalent" to paying interest on deposits, but it would permit such payments for "bona fide" transactions or activity. The bill would permit the Treasury Secretary to implement a rule preventing third party payment of yield if, within 18 months of the bill's enactment, such yield leads to a "substantial detrimental impact" to community bank deposits.

Ethics

The bill would prohibit public officials, including the President and Vice President, Members of Congress, and other executive branch employees and their spouses from issuing or sponsoring a digital asset "in exchange for consideration." Covered individuals could divest their interests or place them in a qualified blind trust before the term begins. The divested holdings would be eligible for a certificate of divestiture, which would permit certain nonrecognition of gain under the tax code. DASPs would be prohibited from listing digital assets associated with a public official who violates the issuance/sponsorship prohibition. Public officials who violate the restrictions would be subject to disgorgement and other penalties.

The bill charges the U.S. Attorney General with enforcing the provision and permits state attorneys general to bring an action against the Attorney General or DASPs for "injunctive relief" in some cases if they allege that a violation of the provision hurt the state or its residents.

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