

118TH CONGRESS
1ST SESSION

S. _____

To require the Financial Crimes Enforcement Network to issue guidance on digital assets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN (for herself, Mr. MARSHALL, Mr. MANCHIN, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require the Financial Crimes Enforcement Network to issue guidance on digital 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 “Digital Asset Anti-
5 Money Laundering Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 (1) ANONYMITY ENHANCED
8 CRYPTOCURRENCY.—The term “anonymity enhanced
9 cryptocurrency” means a digital asset containing
10 any feature that—

1 (A) prevents tracing through distributed
2 ledgers; or

3 (B) conceals or obfuscates the origin, des-
4 tination, and counterparties of digital asset
5 transactions.

6 (2) DIGITAL ASSETS.—The term “digital asset”
7 means an asset that is issued or transferred using
8 a cryptographically secured distributed ledger,
9 blockchain technology, or any other similar tech-
10 nology.

11 (3) DIGITAL ASSETS KIOSK.—The term “digital
12 assets kiosk” means a digital assets automated teller
13 machine that facilitates the buying, selling, and ex-
14 change of digital assets.

15 (4) DIGITAL ASSETS MIXER.—The term “digital
16 assets mixer” means a website, software, or other
17 service with features that conceal or obfuscate the
18 origin, destination, or counterparties of digital asset
19 transactions.

20 (5) FINANCIAL INSTITUTION.—The term “fi-
21 nancial institution” has the meaning given the term
22 in section 5312(a) of title 31, United States Code.

23 (6) MONEY SERVICES BUSINESS.—The term
24 “money services business” has the meaning given

1 the term in section 1010.100 of title 31, Code of
2 Federal Regulations.

3 (7) UNHOSTED WALLET.—The term “unhosted
4 wallet” means software or hardware that facilitates
5 the storage of public and private keys used to
6 digitally sign and securely transact digital assets,
7 such that the stored value is the property of the wal-
8 let owner and the wallet owner has total independent
9 control over the value.

10 (8) VALIDATOR.—The term “validator” means
11 a person or entity that—

12 (A) processes and validates, approves, or
13 verifies transactions, or produces blocks of dig-
14 ital asset transactions to be recorded on a cryp-
15 tographically secured distributed ledger or any
16 similar technology, as specified by the Secretary
17 of the Treasury; and

18 (B) may perform other such services that
19 may secure a digital assets kiosk network.

20 **SEC. 3. DIGITAL ASSET REQUIREMENTS.**

21 (a) DIGITAL ASSETS PARTICIPANTS DESIGNATION.—

22 (1) DEFINITION OF FINANCIAL INSTITUTION.—

23 (A) IN GENERAL.—Section 5312(a)(2) of
24 title 31, United States Code, as amended by
25 section 6110(a)(1) of the Anti-Money Laun-

1 dering Act of 2020 (division F of Public Law
2 116–283), is amended—

3 (i) in subparagraph (Z), by striking
4 “or” at the end;

5 (ii) by redesignating subparagraph
6 (AA) as subparagraph (BB); and

7 (iii) by inserting after subparagraph
8 (Z) the following:

9 “(AA) Unhosted wallet providers, digital
10 asset miners, validators, or other nodes that
11 may act to validate or secure third-party trans-
12 actions, independent network participants (in-
13 cluding maximal extractable value searchers),
14 miner extractable value searchers, other
15 validators or network participants with control
16 over network protocols, or any other person fa-
17 cilitating or providing services related to the ex-
18 change, sale, custody, or lending of digital as-
19 sets that the Secretary shall prescribe by regu-
20 lation.”.

21 (B) EFFECTIVE DATE.—The amendments
22 made by subparagraph (A) shall take effect on
23 the day after the effective date of the final rules
24 issued by the Secretary of the Treasury pursu-
25 ant to section 6110(b) of the Anti-Money Laun-

1 dering Act of 2020 (division F of Public Law
2 116–283).

3 (2) REGULATIONS.—

4 (A) IN GENERAL.—Not later than 180
5 days after the date of enactment of this Act,
6 the Secretary of the Treasury, through the Di-
7 rector of the Financial Crimes Enforcement
8 Network, shall promulgate regulations imposing
9 requirements under subchapter II of chapter 53
10 of title 31, United States Code, on financial in-
11 stitutions described in subparagraph (AA) of
12 section 5312(a)(2) of title 31, United States
13 Code, as added by paragraph (1)(A) of this
14 subsection.

15 (B) EXEMPTION.—The Secretary of the
16 Treasury, through the Director of the Financial
17 Crimes Enforcement Network, should consider
18 for exemption from the regulations issued under
19 subparagraph (A) assets—

20 (i) issued or transferred using a cryp-
21 tographically secured distributed ledger,
22 blockchain technology, or any other similar
23 technology used solely for internal business
24 applications;

1 (ii) not offered for sale, traded, or
2 otherwise converted to fiat currency or an-
3 other digital asset; or

4 (iii) otherwise deemed to pose little il-
5 licit finance risk.

6 (C) PERIODIC REVIEWS.—The Secretary of
7 the Treasury, through the Director of the Fi-
8 nancial Crimes Enforcement Network, shall
9 periodic reviews of the classifications under
10 paragraph (2).

11 (b) REGISTRATION RULES.—The Financial Crimes
12 Enforcement Network has the authority to subject the en-
13 tities described in subsection (a) to the registration rules
14 under section 5330 of title 31, United States Code, and
15 the foreign registration rules under section
16 1022.380(a)(2) of title 31, Code of Federal Regulations.

17 (c) IMPLEMENTATION OF PROPOSED RULE.—Not
18 later than 1 year after the date of enactment of this Act,
19 the Financial Crimes Enforcement Network shall finalize
20 the proposed virtual currency rule (85 Fed. Reg. 83840;
21 relating to requirements for certain transactions involving
22 convertible virtual currency or digital assets).

23 (d) REPORTING REQUIREMENTS.—Not later than 18
24 months after the date of enactment of this Act, the Finan-
25 cial Crimes Enforcement Network shall promulgate regu-

lations that require United States persons with greater than \$10,000 in digital assets in 1 or more accounts outside of the United States to file a report described in section 1010.350 of title 31, Code of Federal Regulations, using the form described in that section, in accordance with section 5314 of title 31, United States Code.

(e) TREASURY REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Treasury shall promulgate regulations that require financial institutions to establish controls to mitigate illicit finance risks associated with—

(1) handling, using, or transacting business with digital asset mixers, anonymity enhanced cryptocurrency, and other anonymity-enhancing technologies, as specified by the Secretary; and

(2) handling, using, or transacting business with digital assets that have been anonymized by the technologies described in paragraph (1).

SEC. 4. EXAMINATION AND REVIEW PROCESS.

(a) TREASURY.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Conference of State Bank Supervisors, shall establish a risk-focused examination and review process for digital assets participants designated as

1 financial institutions and money services businesses to as-
2 sess—

3 (1) the adequacy of antimoney-laundering and
4 countering-the-financing-of-terrorism programs and
5 reporting obligations under subsections (g) and (h)
6 of section 5318 of title 31, United States Code; and
7 (2) compliance with antimoney laundering and
8 countering-the-financing-of-terrorism requirements
9 under subchapter II of chapter 53 of title 31, United
10 States Code.

11 (b) SEC.—Not later than 2 years after the date of
12 enactment of this Act, the Securities and Exchange Com-
13 mission, in consultation with the Secretary of the Treas-
14 ury, shall establish a dedicated risk-focused examination
15 and review process for entities regulated by the Commis-
16 sion to assess—

17 (1) the adequacy of antimoney laundering and
18 countering-the-financing-of-terrorism programs and
19 reporting obligations under subsections (g) and (h)
20 of section 5318 of title 31, United States Code; and
21 (2) compliance with antimoney laundering and
22 countering-the-financing-of-terrorism requirements
23 under subchapter II of chapter 53 of title 31, United
24 States Code.

1 (c) CFTC.—Not later than 2 years after the date of
2 enactment of this Act, the Commodity Futures Trading
3 Commission, in consultation with the Secretary of the
4 Treasury, shall establish a dedicated risk-focused exam-
5 ination and review process for entities regulated by the
6 Commission to assess—

7 (1) the adequacy of antimoney laundering and
8 countering-the-financing-of-terrorism programs and
9 reporting obligations under subsections (g) and (h)
10 of section 5318 of title 31, United States Code; and

11 (2) compliance with antimoney laundering and
12 countering-the-financing-of-terrorism requirements
13 under subchapter II of chapter 53 of title 31, United
14 States Code.

15 **SEC. 5. DIGITAL ASSETS KIOSKS.**

16 (a) IN GENERAL.—Not later than 18 months after
17 the date of enactment of this Act, the Financial Crimes
18 Enforcement Network shall require digital asset kiosks
19 owners and administrators to submit and update the phys-
20 ical addresses of the kiosks owned or operated by the
21 owner or administrator every 90 days, as applicable.

22 (b) RULEMAKING.—Not later than 18 months after
23 the date of enactment of this Act, the Financial Crimes
24 Enforcement Network shall promulgate regulations re-
25 quiring digital asset kiosk owners and administrators to—

1 (1) verify the identity of each customer using a
2 valid form of government-issued identification or
3 other documentary method, as determined by the
4 Secretary of the Treasury; and

5 (2) collect the name and physical address of
6 each counterparty to the transaction.

7 (c) REPORTS.—

8 (1) FINCEN.—Not later than 180 days after
9 the date of enactment of this Act, the Financial
10 Crimes Enforcement Network shall issue a report on
11 digital assets kiosk networks operating as money
12 services businesses that have not registered with the
13 Financial Crimes Enforcement Network in violation
14 of section 1022.380 of title 31, Code of Federal
15 Regulations, that includes—

16 (A) estimates of the number and locations
17 of suspected unlicensed operators, as applicable;
18 and

19 (B) an assessment of any additional re-
20 sources the Financial Crimes Enforcement Net-
21 work determines to be necessary to investigate
22 the unlicensed digital asset kiosk networks.

23 (2) DEA.—Not later than 1 year after the date
24 of enactment of this Act, the Drug Enforcement Ad-
25 ministration shall, in consultation with other agen-

1 cies as appropriate, issue a report identifying rec-
2 ommendations to reduce drug trafficking and money
3 laundering associated with digital assets kiosks.

4 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated to the Sec-
6 retary of the Treasury such sums as are necessary to carry
7 out this Act.