

117TH CONGRESS
1ST SESSION

H. R. 1602

To direct the Commodity Futures Trading Commission and the Securities and Exchange Commission to jointly establish a digital asset working group, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2021

Mr. MCHENRY (for himself, Mr. LYNCH, Mr. THOMPSON of Pennsylvania, Mr. BUDD, and Mr. DAVIDSON) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Commodity Futures Trading Commission and the Securities and Exchange Commission to jointly establish a digital asset working group, 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 “Eliminate Barriers to
5 Innovation Act of 2021”.

1 **SEC. 2. WORKING GROUP TO SUPPORT INNOVATION WITH**
2 **RESPECT TO DIGITAL ASSETS.**

3 (a) ESTABLISHMENT.—Not later than 90 days after
4 the date of the enactment of this section, the Securities
5 and Exchange Commission and the Commodity Futures
6 Trading Commission shall jointly establish a working
7 group (to be known as the “SEC and CFTC Working
8 Group on Digital Assets”) to carry out the report required
9 under subsection (c)(1).

10 (b) MEMBERSHIP.—

11 (1) IN GENERAL.—The Working Group shall be
12 composed of members appointed in accordance with
13 paragraph (2).

14 (2) APPOINTMENT OF MEMBERS.—

15 (A) REPRESENTATIVES OF COMMIS-
16 SIONS.—The Securities and Exchange Commis-
17 sion and the Commodity Futures Trading Com-
18 mission shall each appoint an equal number of
19 employees of each such Commission to serve as
20 members of the Working Group.

21 (B) REPRESENTATIVES OF NONGOVERN-
22 MENTAL STAKEHOLDERS.—

23 (i) APPOINTMENT.—The Securities
24 and Exchange Commission and the Com-
25modity Futures Trading Commission shall
26 each appoint an equal number of non-

1 governmental representatives to serve as
2 members of the Working Group, except
3 that such number of members may not be
4 greater than or equal to the number of
5 members appointed under subparagraph
6 (A).

7 (ii) REQUIRED MEMBERS.—The mem-
8 bers of the Working Group appointed
9 under clause (i) shall include at least one
10 representative from each of the following:

11 (I) Financial technology compa-
12 nies that provide products or services
13 involving digital assets.

14 (II) Financial firms under the ju-
15 risdiction of the Securities and Ex-
16 change Commission or the Commodity
17 Futures Trading Commission.

18 (III) Institutions or organizations
19 engaged in academic research or advo-
20 cacy relating to digital asset use.

21 (IV) Small businesses engaged in
22 financial technology.

23 (V) Investor protection organiza-
24 tions.

1 (VI) Institutions and organiza-
2 tions that support investment in his-
3 torically-underserved businesses.

4 (C) NO COMPENSATION FOR MEMBERS OF
5 THE WORKING GROUP.—

6 (i) FEDERAL EMPLOYEE MEMBERS.—
7 All members of the Working Group ap-
8 pointed under subparagraph (A) shall
9 serve without compensation in addition to
10 that received for their services as officers
11 or employees of the United States.

12 (ii) NON-FEDERAL MEMBERS.—All
13 members of the Working Group appointed
14 under subparagraph (B) shall serve with-
15 out compensation.

16 (c) REPORT.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of the enactment of this section, the Work-
19 ing Group shall submit to the Securities and Ex-
20 change Commission, the Commodity Futures Trad-
21 ing Commission, and the relevant committees a re-
22 port that contains—

23 (A) an analysis of—

24 (i) the legal and regulatory framework
25 and related developments in the United

1 States relating to digital assets, includ-
2 ing—

3 (I) the impact that lack of clarity
4 in such framework has on primary
5 and secondary markets in digital as-
6 sets; and

7 (II) how the domestic legal and
8 regulatory regimes relating to digital
9 assets impact the competitive position
10 of the United States; and

11 (ii) developments in other countries
12 related to digital assets and identification
13 of how these developments impact the com-
14 petitive position of the United States; and

15 (B) recommendations—

16 (i) for the creation, maintenance, and
17 improvement of primary and secondary
18 markets in digital assets, including for im-
19 proving the fairness, orderliness, integrity,
20 efficiency, transparency, availability, and
21 efficacy of such markets;

22 (ii) for standards concerning custody,
23 private key management, cybersecurity,
24 and business continuity relating to digital
25 asset intermediaries; and

1 (iii) for best practices to—

2 (I) reduce fraud and manipula-
3 tion of digital assets in cash, lever-
4 aged, and derivatives markets;

5 (II) improve investor protections
6 for participants in such markets; and

7 (III) assist in compliance with
8 anti-money laundering and countering
9 the financing of terrorism obligations
10 under the Bank Secrecy Act.

11 (2) REPORT LIMITED TO SEC AND CFTC AU-
12 THORITIES.—The analysis and recommendations
13 provided under subparagraphs (A) and (B) of para-
14 graph (1) may only relate to the laws, regulations,
15 and related matters that are under the primary ju-
16 risdiction of the Securities and Exchange Commis-
17 sion or the Commodity Futures Trading Commis-
18 sion.

19 (d) NONAPPLICABILITY OF FACA.—The Federal Ad-
20 visory Committee Act (5 U.S.C. App.) shall not apply to
21 the Working Group.

22 (e) TERMINATION.—

23 (1) IN GENERAL.—The Working Group shall
24 terminate on the date that is 1 year after the date
25 of the enactment of this section, except that the

1 Chairman of the Securities and Exchange Commis-
2 sion and the Chairman of the Commodity Futures
3 Trading Commission may, jointly, extend the Work-
4 ing Group for a longer period, not to exceed one
5 year.

6 (2) SECOND REPORT IN THE CASE OF EXTEN-
7 SION.—In the case of an extension of the Working
8 Group under paragraph (1), the Working Group
9 shall, not later than the last day of such extension,
10 submit to the Securities and Exchange Commission,
11 the Commodity Futures Trading Commission, and
12 the relevant committees a report that contains an
13 update to the analysis and recommendations re-
14 quired under subparagraphs (A) and (B) of sub-
15 section (c)(1).

16 (f) DEFINITIONS.—In this section:

17 (1) BANK SECRECY ACT.—The term “Bank Se-
18 crecy Act” means—

19 (A) section 21 of the Federal Deposit In-
20 surance Act (12 U.S.C. 1829b);

21 (B) chapter 2 of title I of Public Law 91–
22 508 (12 U.S.C. 1951 et seq.); and

23 (C) subchapter II of chapter 53 of title 31,
24 United States Code.

1 (2) HISTORICALLY-UNDERSERVED BUSI-
2 NESSES.—The term “historically-underserved busi-
3 nesses” means women-owned businesses, minority-
4 owned businesses, and rural businesses.

5 (3) RELEVANT COMMITTEES.—The term “rel-
6 evant committees” means—

7 (A) the Committee on Financial Services
8 of the House of Representatives;

9 (B) the Committee on Banking, Housing,
10 and Urban Affairs of the Senate;

11 (C) the Committee on Agriculture of the
12 House of Representatives; and

13 (D) the Committee on Agriculture, Nutri-
14 tion, and Forestry of the Senate.

15 (4) WORKING GROUP.—The term “Working
16 Group” means the working group established under
17 subsection (a).

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