

To the office of U.S. Representative J. French Hill

Re: HR 3633 (119th Congress), Digital Asset Market Clarity Act • Latest action (2026-09-15): Motion by Senator Tillis to reconsider the vote by which cloture on the motion to proceed to the measure was not invoked (Record Vote No. 234) entered in Senate.

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Office of record (Congress.gov): 1533 Longworth House Office Building, Washington, DC • (202) 225-2506

Digital Asset Market Clarity and Consumer Protection Act of 2025

The measure, as described from the official record: To establish a clear federal regulatory framework for digital commodities that allocates jurisdiction between the CFTC and SEC, imposes anti-money laundering obligations, and provides market integrity protections, while allowing innovation.

THE PROPOSAL

This Act establishes a regulatory framework for digital commodities—digital assets whose value derives from a decentralized blockchain network. The Commodity Futures Trading Commission (CFTC) has primary authority over digital commodity transactions, including exchanges, brokers, and dealers. The Securities and Exchange Commission (SEC) retains jurisdiction over digital assets that are securities under existing law, but this Act clarifies that a digital commodity on a mature blockchain is not a security.

To qualify as a digital commodity, the asset must be on a blockchain that is fully decentralized and mature, as defined by clear, objective criteria: (1) no single entity controls more than 20% of the network's mining or validation power, (2) the blockchain has operated without material disruption for at least two years, and (3) the source code is publicly available and audited. The CFTC and SEC jointly issue a list of qualifying blockchains, updated annually, with a public comment period.

Digital commodity exchanges, brokers, and dealers must register with the CFTC, comply with trade monitoring, recordkeeping, and customer asset segregation rules, and adhere to Bank Secrecy Act anti-money laundering requirements. The CFTC may exempt small issuers (annual sales under \$10 million) from certain reporting requirements to reduce burdens on innovation.

This Act is funded by a 0.01% fee on each digital commodity transaction, deposited into a Digital Commodity Oversight Fund capped at \$50 million per year (adjusted for inflation). The fund supports CFTC enforcement and the joint advisory committee. The Act sunsets after five years, requiring Congress to reauthorize based on a report from the Government Accountability Office on market impact and consumer protection. A joint CFTC-SEC Digital Asset Advisory Committee, including industry, consumer, and academic representatives, provides ongoing input on rulemaking and definition updates.

Enforcement includes civil penalties up to \$1 million per violation and a private right of action

for harmed parties. The effective date is 180 days after enactment to allow agencies to issue implementing rules.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	0.01% fee on each digital commodity transaction, deposited into a Digital Commodity Oversight Fund
Funding Amount	Capped at \$50 million per year, adjusted for inflation
Sunset Years	5 years
Oversight Body	Joint CFTC-SEC Digital Asset Advisory Committee with industry, consumer, and academic representatives
Enforcement Mechanism	Civil penalties up to \$1 million per violation; private right of action for harmed parties
Effective Date	180 days after enactment

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 3 (Commerce Clause)
- Article I, Section 8, Clause 18 (Necessary and Proper Clause)
- Fifth Amendment Due Process Clause (requirement for clear definitions to avoid arbitrary enforcement)

Concerns with the measure as written:

- The original bill's definitions of 'mature blockchain' and 'decentralized control' may be too vague, risking arbitrary enforcement and violating Fifth Amendment Due Process.
 - Delegation of rulemaking authority to agencies without an intelligible principle could raise nondelegation concerns under Article I, Section 1.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Honors Democratic priorities: strong consumer protections, anti-money laundering safeguards, and market integrity through clear rules and enforcement. Honors Republican priorities: regulatory clarity, reduced uncertainty for innovators, a sunset provision to prevent permanent overreach, and a fee-based funding mechanism that does not rely on general tax revenue.

Values for America is a nonpartisan, constitution-first SI think tank. This brief is informational. It is a policy proposal, not law, and it does not support or oppose any candidate or party. Full analysis and sources:

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