

117TH CONGRESS
1ST SESSION

H. R. XXXX

To amend the Infrastructure Investment and Jobs Act of 2021 to provide guidelines for transactions in certain digital tokens, the decentralized finance ecosystem and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 2021

Mr. _____ (for himself, Mr. _____, and Mr. _____) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Infrastructure Investment and Jobs Act of 2021 to provide guidelines for transactions in certain digital tokens, the decentralized finance ecosystem and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- (a) **SHORT TITLE.** - This Act may be cited as the “Decentralizing Entities of Finance Involving Blockchain Repositories, Investments, and Legal Leadership Abating Taxes Or Regulations Act of 2021” or the “DeFibrilator Act”.
- (b) **TABLE OF CONTENTS.** – The table of contents for this Act is as follows:
 - SEC 1. Short title; table of contents
 - SEC 2. Definitions
 - SEC 3. Information reporting for brokers and digital assets
 - SEC 4. Decentralized Autonomous Organization formation and structure
 - SEC 5. Safe Harbor framework for determining securities or commodities digital assets

SEC. 2. DEFINITIONS.

(a) As used in this chapter:

(i) “BLOCKCHAIN” means a digital ledger or database which is chronological, consensus-based, decentralized and mathematically verified in nature;

(ii) “BROKER” means a firm or individual that acts as an intermediary between the cryptocurrency markets and persons to facilitate buying and selling of cryptocurrency and digital assets in exchange for a good or service;

(iii) “CONSUMPTIVE” means a circumstance when a token is exchangeable for, or provided for the receipt of, services, software, content or real or tangible personal property, including rights of access to services, content or real or tangible personal property;

(iv) “CRYPTOCURRENCY” means a collection of binary data which is designed to work as a medium of exchange wherein individual coin ownership records are stored in a ledger, typically using decentralized control as opposed to a central bank digital currency (CBDC);

(v) “CENTRAL BANK DIGITAL CURRENCY” means a digital currency, still in a conceptual or trail stage of development, issued, or proposed to be issued by a central bank or other centralized financial entity – also known as digital fiat currency;

(vi) “DECENTRALIZED EXCHANGE” means a type of cryptocurrency or digital asset exchange which allows for direct peer-to-peer cryptocurrency transactions to take place online securely without the need for an intermediary, nor a centralized body or entity for management, maintenance, or decision-making;

(vii) “DEVELOPER” means the person primarily responsible for creating an open blockchain token or otherwise designing the token, including by executing the technological processes necessary to create the token;

(viii) “FACILITATOR” means a person who, as a business, makes open blockchain tokens available for resale to the public after a token has been purchased by an initial buyer;

(ix) “FINANCIAL INVESTMENT” means a contract, transaction, or arrangement where a person invests money in a common enterprise and is led to expect profits solely from the efforts of a promoter or a third party;

(x) “FIAT MONEY” means a currency, a medium of exchange, established as money, by government or otherwise centralized state regulation;

(xi) “LEDGER” means a computerized database using strong cryptography to secure transaction records, to control the creation of additional coins, and to verify the transfer of coin ownership;

(xii) “MINER” means a person or computer who uses the process of gathering cryptocurrency as a reward by way of solving complex cryptographic equations through the use of digital technology in a process which involves validating data blocks and adding transaction records to a public ledger or blockchain, or any transactional process that involves the use of computers and cryptographic processes to solve complex functions and record data to a blockchain;

(xiii) “NODE” means a computer that connects to a cryptocurrency network to support the network through the validation and relaying of transactions;

(xiv) “OPEN BLOCKCHAIN” means a blockchain that is publicly accessible and its ledger of transactions is transparent;

(xv) “SMART CONTRACT” means an automated transaction, or any substantially similar analogue, which is comprised of code, script or programming language that executes the terms of an agreement and which may include taking custody of and transferring an asset, administering membership interest votes with respect to a decentralized autonomous organization or issuing executable instructions for these actions, based on the occurrence or nonoccurrence of specified condition

(xvi) “VALIDATOR” means a person or computer who is responsible for verifying transactions on a blockchain which are then added to a distributed ledger, particularly systems like proof of work (PoW), proof of stake (PoS), or proof of history (PoH);

SEC. 2. INFORMATION REPORTING FOR BROKERS AND DIGITAL ASSETS.

(a) IN GENERAL.—The Infrastructure Investment and Jobs Act of 2021 ([H.R. 3684.](#)) is amended by striking after section 80603 the following:

“SEC. 80603 Information reporting for brokers and digital assets.

(2) Furnishing information

(ii)(d) Return requirement for certain transfers of digital assets not otherwise subject to reporting

“Any broker, with respect to any transfer (which is not part of a sale or exchange executed by such a broker) during a calendar year of a covered security which is a digital asset from an account maintained by such broker to an account which is not maintained by, or an address not associated with, a person that such broker knows or has reason to know is a broker, shall make a return for such calendar year, in such form as determined by the Secretary, showing the information otherwise required to be furnished with respect to transfers subject to subsection (a).”

(b) IN GENERAL.—The Infrastructure Investment and Jobs Act of 2021 ([H.R. 3684](#)) is amended by inserting after section 80603 the following:

“(c) – This title does not apply to any decentralized broker, decentralized exchange, developer, facilitator, cryptocurrency ledger, cryptocurrency miner, software node, cryptocurrency validator, or any other digital asset not classified as a security under the Securities Act of 1933 (15 U.S.C. 77d)

“(1) The return requirement for certain transfers of digital assets, including Know Your Customer (KYC) regulations and requirements are precluded from the above mentioned decentralized individuals, bodies, and entities, and shall not require the supplying of —

“(A) Name

“(B) Physical Address

“(C) Date of Birth

“(D) Social Security Number

“(E) Government-issued identification including driver’s licenses, state ID cards, and passports

“(F) Transaction information regarding any cryptocurrency transaction, regardless of amount

(2) Decentralized brokers, decentralized exchanges, developers, facilitators, cryptocurrency ledgers, cryptocurrency miners, software nodes, cryptocurrency validators, soft wallets, hard wallets, or individuals may not have their cryptocurrency transactions taxed unless:

“(a) The cryptocurrency transaction is an exchange from a digital asset to fiat currency, including the United States Dollar (USD).

SEC. 2. DECENTRALIZED AUTONOMOUS ORGANIZATION FORMATION AND STRUCTURE.

Definitions.

(a) As used in this chapter:

(i) “BLOCKCHAIN” means a digital ledger or database which is chronological, consensus-based, decentralized and mathematically verified in nature;

(ii) "Decentralized autonomous organization" means a limited liability company organized under this chapter;

(iii) "Digital asset" means as defined above

(iv) "Limited liability autonomous organization" or "LAO" means a decentralized autonomous organization;

(v) "Majority of the members," means the approval of more than fifty percent (50%) of participating membership interests in a vote for which a quorum of members is participating. A person dissociated as a member shall not be included for the purposes of calculating the majority of the members;

(vi) "Membership interest" means a member's ownership share in a member managed decentralized autonomous organization, which may be defined in the entity's articles of organization, smart contract or operating agreement. A membership interest may also be characterized as either a digital security or a digital consumer, if designated as such in the organization's articles of organization or operating agreement;

(vii) "Open blockchain" means a blockchain as defined in that is publicly accessible and its ledger of transactions is transparent;

(viii) "Quorum" means a minimum requirement on the sum of membership interests participating in a vote for that vote to be valid;

(ix) "Smart contract" means an automated transaction, or any substantially similar analogue, which is comprised of code, script or programming language that executes the terms of an agreement and which may include taking custody of and transferring an asset, administering membership interest votes with respect to a decentralized autonomous organization or issuing executable instructions for these actions, based on the occurrence or nonoccurrence of specified conditions.

Application of Uniform Liability Company Act.

(a) The Uniform Liability Company Act shall apply to decentralized autonomous organizations to the extent not inconsistent with the provisions of this chapter and the powers provided to the Uniform Liability Company Act shall apply to this chapter.

(b) This chapter does not repeal or modify any statute or rule of law that applies to a limited liability company that is organized under the Uniform Liability Company Act that does not elect to become a decentralized autonomous organization.

Definition and election of decentralized autonomous organization status.

(a) A decentralized autonomous organization is a limited liability company whose articles of organization contain a statement that the company is a decentralized autonomous organization as described in subsection (c) of this section.

(c) A limited liability company formed under the Uniform Liability Company Act may convert to a decentralized autonomous organization by amending its articles of organization to include the statement required by Uniform Liability Company Act.

(c) A statement in substantially the following form shall appear conspicuously in the articles of organization or operating agreement, if applicable, in a decentralized autonomous organization:

NOTICE OF RESTRICTIONS ON DUTIES AND TRANSFERS

The rights of members in a decentralized autonomous organization may differ materially from the rights of members in other limited liability companies. The Decentralized Autonomous Organization Supplement, underlying smart contracts, articles of organization and operating agreement, if applicable, of a decentralized autonomous organization may define, reduce or eliminate fiduciary duties and may restrict transfer of ownership interests, withdrawal or resignation from the decentralized autonomous organization, return of capital contributions and dissolution of the decentralized autonomous organization.

(d) The registered name for a decentralized autonomous organization shall include wording or abbreviation to denote its status as a decentralized autonomous organization, specifically "DAO", "LAO", or "DAO LLC."

(e) A statement in the articles of organization may define the decentralized autonomous organization as either a member managed decentralized autonomous organization or an algorithmically managed decentralized autonomous organization. If the type of decentralized autonomous organization is not otherwise provided for, the limited liability company will be presumed to be a member managed decentralized autonomous organization.

Formation.

(a) Any person may form a decentralized autonomous organization which shall have one (1) or more members by signing and delivering one (1) original and one (1) exact or conformed copy of the articles of organization to the secretary of state for filing. The person forming the decentralized autonomous organization need not be a member of the organization.

(b) Each decentralized autonomous organization shall have and continuously maintain in their respective state a registered agent as provided by the Uniform Liability Company Act.

(c) A decentralized autonomous organization may form and operate for any lawful purpose, regardless of whether for profit.

(d) An algorithmically managed decentralized autonomous organization may only form under this chapter if the underlying smart contracts are able to be updated, modified or otherwise upgraded.

Articles of organization.

(a) The articles of organization of a decentralized autonomous organization shall include a statement that the organization is a decentralized autonomous organization

(b) In addition to the requirements of subsection (a) of this section the articles of organization shall include a publicly available identifier of any smart contract directly used to manage, facilitate or operate the decentralized autonomous organization.

(c) Except as otherwise provided in this chapter, the articles of organization and the smart contracts for a decentralized autonomous organization shall govern all of the following:

(i) Relations among the members and between the members and the decentralized autonomous organization;

(ii) Rights and duties under this chapter of a person in their capacity as a member;

(iii) Activities of the decentralized autonomous organization and the conduct of those activities;

(iv) Means and conditions for amending the operating agreement;

(v) Rights and voting rights of members;

(vi) Transferability of membership interests;

(vii) Withdrawal of membership;

(viii) Distributions to members prior to dissolution;

(ix) Amendment of the articles of organization;

(x) Procedures for amending, updating, editing or changing applicable smart contracts;

(xi) All other aspects of the decentralized autonomous organization.

Amendment or restatement of articles of organization.

(a) Articles of organization shall be amended when:

- (i) There is a change in the name of the decentralized autonomous organization;
- (ii) There is a false or erroneous statement in the articles of organization; or
- (iii) The decentralized autonomous organization's smart contracts have been updated or changed.

Operating agreement.

To the extent the articles of organization or smart contract do not otherwise provide for a matter described in the Uniform Liability Company Act, the operation of a decentralized autonomous organization may be supplemented by an operating agreement.

Management.

Management of a decentralized autonomous organization shall be vested in its members, if member managed, or the smart contract, if algorithmically managed, unless otherwise provided in the articles of organization or operating agreement.

Standards of conduct for members.

Unless otherwise provided for in the articles of organization or operating agreement, no member of a decentralized autonomous organization shall have any fiduciary duty to the organization or any member except that the members shall be subject to the implied contractual covenant of good faith and fair dealing.

Membership interests for member managed decentralized autonomous organizations; voting.

(a) For purposes of the Uniform Liability Company Act and unless otherwise provided for in the articles of organization, smart contract or operating agreement:

(i) Membership interests in a member managed decentralized autonomous organization shall be calculated by dividing a member's contribution of digital assets to the organization divided by the total amount of digital assets contributed to the organization at the time of a vote;

(ii) If members do not contribute digital assets to an organization as a prerequisite to becoming a member, each member shall possess one (1) membership interest and be entitled to one (1) vote;

(iii) A quorum shall require not less than a majority of membership interests entitled to vote.

Right of members, managers and dissociated members to information.

Members shall have no right to separately inspect or copy records of a decentralized autonomous organization and the organization shall have no obligation to furnish any information concerning the organization's activities, financial condition or other circumstances to the extent the information is available on an open blockchain.

Withdrawal of members.

(a) A member may only withdraw from a decentralized autonomous organization in accordance with the terms set forth in the articles of organization, the smart contracts or, if applicable, the operating agreement.

(b) A member of a decentralized autonomous organization may not have the organization dissolved for a failure to return the members' contribution to capital.

(c) Unless the organization's articles of organization, smart contracts or operating agreement provide otherwise, a withdrawn member forfeits all membership interests in the decentralized autonomous organization, including any governance or economic rights.

Dissolution.

(a) A decentralized autonomous organization organized under this chapter shall be dissolved upon the occurrence of any of the following events:

(i) The period fixed for the duration of the organization expires;

(ii) By vote of the majority of members of a member managed decentralized autonomous organization;

(iii) At the time or upon the occurrence of events specified in the underlying smart contracts or as specified in the articles of organization or operating agreement;

(iv) The decentralized autonomous organization has failed to approve any proposals or take any actions for a period of one (1) year;

(v) By order of the secretary of state if the decentralized autonomous organization is deemed to no longer perform a lawful purpose.

(b) As soon as possible following the occurrence of any of the events specified in subsection (a) of this section causing the dissolution of a decentralized autonomous organization, the organization shall execute a statement of intent to dissolve in the form prescribed by the secretary of state.

Miscellaneous.

The articles of organization and the operating agreement of a decentralized autonomous organization are effective as statements of authority. Where the underlying articles of organization and operating agreement are in conflict, the articles of organization shall preempt any conflicting provisions. Where the underlying articles of organization and smart contract are in conflict, the smart contract shall preempt any conflicting provisions of the articles of organization.

SEC 5. SAFE HARBOR FRAMEWORK FOR DETERMINING SECURITIES OR COMMODITIES OF DIGITAL ASSETS

(a) IN GENERAL.—The Clarity for Digital Tokens Act of 2021 (H.R. 5496) shall be used as the framework

SEC. 2. TOKEN SAFE HARBOR.

(a) IN GENERAL.—The Securities Act of 1933 ([15 U.S.C. 77d](#)) is amended by inserting after section 4A the following:

“SEC. 4B. TOKEN SAFE HARBOR.

“(a) IN GENERAL.—Except as provided under subsection (d), this title does not apply to any offer, sale, or other transaction involving a token if the following conditions are satisfied by the initial development team of such token:

“(1) The initial development team intends for the network on which the token functions to reach network maturity not later than the later of—

“(A) the date that is three years after the first sale of such token; or

“(B) the date that is three years after the effective date of this section.

“(2) The token is offered and sold for the purpose of facilitating access to, participation on, or the development of the network.

“(3) The initial development team complies with—

“(A) the disclosure requirements under subsection (b);

“(B) the notice of reliance on the safe harbor filing requirements under subsection (c); and

“(C) the exit report filing requirements under subsection (f).

“(b) DISCLOSURE REQUIREMENTS.—The initial development team shall disclose the following information on a freely accessible public website:

“(1) INITIAL DISCLOSURES.—Prior to filing a notice of reliance under subsection (c), and with such information updated as soon as practicable after any material change:

“(A) SOURCE CODE.—A text listing of commands to be compiled or assembled into an executable computer program used by network participants to access the network, and confirm transactions.

“(B) TRANSACTION HISTORY.—A narrative description of the steps necessary to independently access, search, and verify the transaction history of the network.

“(C) TOKEN ECONOMICS.—A narrative description of the purpose of the network, the protocol, and its operation, including—

“(i) information explaining the launch and supply process, including the number of tokens to be issued in an initial allocation, the total number of tokens to be created, the release schedule for the tokens, and the total number of tokens outstanding;

“(ii) information detailing any applicable consensus mechanism or process for validating transactions, method of generating or mining tokens, and any process for burning or destroying tokens on the network;

“(iii) an explanation of governance mechanisms for implementing changes to the network or protocol; and

“(iv) sufficient information for a third party to create a tool for verifying the transaction history of the token.

“(D) PLAN OF DEVELOPMENT.—The current state and timeline for the development of the network to show how and when the initial development team intends to achieve network maturity.

“(E) PRIOR TOKEN SALES.—For token sales completed prior to filing a notice of reliance under subsection (c), the date of sale, number of tokens sold, number of token purchasers, any limitations or restrictions on the transferability of tokens sold, price per token, and the type and amount of consideration received.

“(F) INITIAL DEVELOPMENT TEAM AND CERTAIN TOKEN HOLDERS.—

“(i) The names and relevant experience, qualifications, attributes, and skills of each person who is a member of the initial development team.

“(ii) The number of tokens or rights to tokens owned by each member of the initial development team and a description of any limitations or restrictions on the transferability of tokens held by such persons.

“(iii) If any member of the initial development team or related person has a right to obtain tokens in the future, in a manner that is distinct from how any third party could obtain tokens, the identity of such person and a description of how such tokens may be obtained.

“(G) TRADING PLATFORMS.—The name of any secondary trading platforms on which the token trades, to the extent known.

“(H) RELATED PERSON TRANSACTIONS.—A description of any material transaction, or any proposed material transaction, in which the initial development team is a participant and in which one or more related persons participate and had or will have a direct or indirect material interest. The description shall identify the nature of the transaction, the related persons, the basis on which the persons are related persons, and the approximate value of the amount involved in the transaction.

“(I) WARNING TO TOKEN PURCHASERS.—A statement that the purchase of tokens involves a high degree of risk and the potential loss of money.

“(2) SEMIANNUAL DISCLOSURES.—

“(A) IN GENERAL.—Every six months, an updated plan of development described under paragraph (1)(D).

“(B) TIMING OF DISCLOSURES.—Each disclosure required under subparagraph (A) shall be made—

“(i) within 30 calendar days after the end of the applicable semiannual period; and

“(ii) until the earlier of—

“(I) the safe harbor end date; or

“(II) the date on which the initial development team determines that network maturity has been reached.

“(3) POST-FILING TOKEN SALE DISCLOSURES.—For token sales completed after filing a notice of reliance under subsection (c), the date of sale, number of tokens sold, number of token purchasers, any limitations or restrictions on the transferability of tokens sold, price per token, and the type and amount of consideration received.

“(4) ONGOING DISCLOSURES WITH RESPECT TO SALES OF TOKENS BY INITIAL DEVELOPMENT TEAM.—Each time a member of the initial development team sells at least five percent of the member’s tokens that were disclosed pursuant to paragraph (1)(F)(ii) over any period of time before the safe harbor end date, a disclosure of the date of the sale, the number of tokens sold, and the identity of the seller.

“(c) NOTICE OF RELIANCE ON SAFE HARBOR FILING REQUIREMENTS.—

“(1) IN GENERAL.—The initial development team shall file with the Commission a notice of reliance on the safe harbor provided under this section prior to the date of the first token sold in reliance on the safe harbor, except as expressly provided under subsection (h) with respect to tokens sold before the date on which this section takes effect.

“(2) CONTENTS.—The notice described under paragraph (1) shall contain the following information:

“(A) The name of each person on the initial development team.

“(B) An attestation by a person duly authorized by the initial development team that the initial development team have complied with the requirements of this section.

“(C) The website where disclosure required under subsection (b) may be accessed.

“(D) An email address at which the initial development team can be contacted.

“(d) LIMITATION.—This section shall have no effect on the application of section 12(a)(2) or 17.

“(e) DURATION OF EXEMPTION.—With respect to tokens, the relief provided by this section shall expire on the later of—

“(1) the date that is three years after the date of the first sale of the tokens; or

“(2) the date that is three years after the effective date of this section.

“(f) EXIT REPORT FILING REQUIREMENTS.—On or before the safe harbor end date, the initial development team shall file an exit report with the Commission containing the following:

“(1) DECENTRALIZED NETWORKS.—If the initial development team determines that network maturity has been reached for a decentralized network, a legal analysis that includes—

“(A) a description of the extent to which decentralization has been reached across a number of dimensions, including voting power, development efforts, and network participation and, if applicable—

“(i) examples of material engagement on network development and governance matters by parties unaffiliated with the initial development team; and

“(ii) explanations of quantitative measurements of decentralization; and

“(B) an explanation of how the initial development team’s pre-network maturity activities are distinguishable from the team’s ongoing involvement with the network, including—

“(i) a discussion of the extent to which the initial development team’s continuing activities are more limited in nature and cannot reasonably be expected uniquely to drive an increase in the value of the tokens;

“(ii) a confirmation that the initial development team has no material information about the network that is not publicly available; and

“(iii) a description of the steps taken to communicate to the network the nature and scope of the initial development team’s continuing activities.

“(2) FUNCTIONAL NETWORKS.—If the initial development team determines that network maturity has been reached for a functional network, a legal analysis that includes—

“(A) a description of the holders’ use of tokens—

“(i) for the transmission and storage of value on the network;

“(ii) for the participation in an application running on the network; or

“(iii) otherwise in a manner consistent with the utility of the network; and

“(B) an explanation of how the initial development team’s pre-network maturity marketing efforts and the team’s ongoing efforts will continue to be focused on the token’s consumptive use, and not on token price appreciation.

“(3) NO NETWORK MATURITY.—If the initial development team determines that network maturity has not been reached—

“(A) a description of the status of the project network and the next steps the initial development team intends to take;

“(B) contact information for the initial development team that can be used by holders to communicate with the initial development team; and

“(C) a statement acknowledging that the initial development team will register the tokens as a class of securities under section 12(g) of the Securities Exchange Act of 1934 within 120 days of the filing of the report under this subsection.

“(g) TRANSITION PERIOD FOR TRADING PLATFORMS.—No trading platform shall be subject to the requirements of section 6 of the Securities Exchange Act of 1934 due to activity related to the trading of tokens subject to a determination described under subsection (f)(3), if the trading platform prohibits such trading within six months of such determination.

“(h) TOKENS PREVIOUSLY SOLD.—If, before the date on which this section takes effect, an initial development team sold tokens (including such tokens sold pursuant to a valid exemption from registration or in violation of section 5 (as determined in a Commission order

pursuant to section 8A that does not identify any other violations of the Federal securities laws)), the initial development team may make use of the safe harbor provided under this section, if the initial development team files the notice of reliance described under subsection (c) as soon as practicable.

“(i) DEFINITION OF QUALIFIED PURCHASER.—For purposes of section 18(b)(3), a ‘qualified purchaser’ includes any person to whom tokens are offered or sold in reliance on this section.

“(j) DISQUALIFICATIONS.—This section shall not apply to tokens if the initial development team, or any individual member of the initial development team, would be subject to disqualification under Rule 506(d) (17 C.F.R. 230.506(d)).

“(k) DEFINITIONS.—In this subsection:

“(1) INITIAL DEVELOPMENT TEAM.—The term ‘initial development team’ means each person, group of persons, or entity that provides the essential managerial efforts for the development of a network prior to reaching network maturity.

“(2) NETWORK.—The term ‘network’ means a system of devices connected to each other to create and validate a ledger of transactions occurring within the system, including a system of devices accessing and operating a protocol that utilizes an existing network for transaction creation and validation.

“(3) NETWORK MATURITY.—The term ‘network maturity’ means the status of a decentralized or functional network that is achieved when the network meets either of the following:

“(A) CONTROL.—The network is not economically or operationally controlled and is not reasonably likely to be economically or operationally controlled or unilaterally changed by any single person, entity, or group of persons or entities under common control. A network with respect to which the initial development team owns more than 20 percent of tokens or owns more than 20 percent of the means of determining network consensus does not meet the requirements of this subparagraph.

“(B) FUNCTIONAL.—The network is functional, as demonstrated by the use of the tokens by token holders for the transmission and storage of value on the network, the participation in an application running on the network, or otherwise in a manner consistent with the utility of the network.

“(4) RELATED PERSON.—The term ‘related person’ means—

“(A) the initial development team;

“(B) directors or advisors to the initial development team; and

“(C) immediate family members of the individuals described under subparagraph (A) or (B).

“(5) SAFE HARBOR END DATE.—The term ‘safe harbor end date’ means the date that is the end of the 3-year period described under subsection (e).

“(6) TOKEN.—The term ‘token’ means a digital representation of value or rights that—

“(A) has a transaction history that—

“(i) is recorded on a distributed ledger, blockchain, or other publicly accessible and auditable digital data structure;

“(ii) has transactions confirmed through an independently verifiable process; and

“(iii) cannot be easily modified, and where any modification is subject to the network consensus rules;

“(B) is capable of being transferred between persons without an intermediary party; and

“(C) does not represent a financial interest in a centralized company, partnership, or fund, including an ownership or debt interest, revenue share, or entitlement to any interest or dividend payment.”.

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) DEFINITION OF EXCHANGE.—Section 3(a)(1) of the Securities Exchange Act of 1934 ([15 U.S.C. 78c\(a\)\(1\)](#)) is amended by adding at the end the following: “The term ‘exchange’ does not include a person, organization, association, or group of persons to the extent such person, organization, association, or group of persons constitutes, maintains, or provides a marketplace or facilitates bringing together purchasers and sellers of tokens subject to a safe harbor under section 4B of the Securities Act of 1933, or otherwise performs with respect to such tokens the functions commonly performed by a stock exchange as that term is generally understood.”.

(2) DEFINITION OF BROKER.—Section 3(a)(4) of the Securities Exchange Act of 1934 ([15 U.S.C. 78c\(a\)\(4\)](#)) is amended by adding at the end the following:

“(G) EXCEPTION WITH RESPECT TO CERTAIN TOKENS.—The term ‘broker’ does not include a person to the extent the person engages in the business of effecting transactions in tokens subject to a safe harbor under section 4B of the Securities Act of 1933 for the account of others.”.

(3) DEFINITION OF DEALER.—Section 3(a)(5) of the Securities Exchange Act of 1934 ([15 U.S.C. 78c\(a\)\(5\)](#)) is amended by adding at the end the following:

“(D) EXCEPTION WITH RESPECT TO CERTAIN TOKENS.—The term ‘dealer’ does not include a person to the extent the person engages in the business of buying and selling tokens subject to a safe harbor under section 4B of the Securities Act of 1933 for such person’s own account through a broker or otherwise.”.

(4) DEFINITION OF CLEARING AGENCY.—Section 3(a)(23)(B) of the Securities Exchange Act of 1934 ([15 U.S.C. 78c\(a\)\(23\)\(B\)](#)) is amended—

(A) by striking “, or (vi)” and inserting “; (vi)”; and

(B) by striking the period at the end and inserting “; or (vii) a person, organization, association, or group of persons with respect to activities specified in subparagraph (A) involving tokens subject to a safe harbor under section 4B of the Securities Act of 1933.”.

(5) DEFINITION OF TRANSFER AGENT.—Section 3(a)(25) of the Securities Exchange Act of 1934 ([15 U.S.C. 78c\(a\)\(25\)](#)) is amended—

(A) by striking “or any registered clearing agency” and inserting “, any registered clearing agency”; and

(B) by striking the period at the end and inserting “, or any person, organization, association, or group of persons who performs such functions solely with respect to tokens subject to a safe harbor under section 4B of the Securities Act of 1933.”.

(6) REGISTRATION EXEMPTION.—Section 12(g)(2) of the Securities Exchange Act of 1934 ([15 U.S.C. 78l\(g\)\(2\)](#)) is amended by adding at the end the following:

“(I) any token offered and sold in reliance on a safe harbor under section 4B of the Securities Act of 1933.”.

(c) AMENDMENT TO THE INVESTMENT ADVISERS ACT OF 1940.—Section 202(a)(11) of the Investment Advisers Act of 1940 ([15 U.S.C. 80b–2\(a\)\(11\)](#)) is amended by adding at the end the following: “The term ‘investment adviser’ does not include a person to the extent the person advises others with respect to, or issues or promulgates analyses or reports concerning, tokens subject to a safe harbor under section 4B of the Securities Act of 1933.”.

(d) RULEMAKING.—Not later than the end of the 1-year period beginning on the date of enactment of this Act, the Securities and Exchange Commission shall issue rules to carry out the amendments made by this Act.

(e) EFFECTIVE DATE.—The provisions of law added by the amendments made by this Act shall take effect after the end of the 1-year period beginning on the date of enactment of this Act.

