

118TH CONGRESS
1ST SESSION

H. R. 5966

To amend the Commodity Exchange Act with respect to reporting digital commodity transactions.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 17, 2023

Mr. BEYER introduced the following bill

OCTOBER 25, 2023

Referred to the Committee on Agriculture

A BILL

To amend the Commodity Exchange Act with respect to reporting digital commodity transactions.

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 “Off-Chain Digital
5 Commodity Transaction Reporting Act of 2023”.

6 **SEC. 2. REPORTING OF SWAPS AND DIGITAL COMMODITY**
7 **TRANSACTIONS.**

8 Section 2(a)(13) of the Commodity Exchange Act is
9 amended—

1 (1) by amending the paragraph heading to read
2 as follows: “REPORTING AND PUBLIC AVAILABILITY
3 OF SWAP AND DIGITAL COMMODITY TRANSACTION
4 DATA”;

5 (2) in subparagraph (A), by inserting “or dig-
6 ital commodity” after “swap” both places it appears;

7 (3) in subparagraph (B)—

8 (A) by inserting “or digital commodity”
9 after “swap”; and

10 (B) by inserting “and investor protection”
11 before the period at the end;

12 (4) by amending subparagraph (G) to read as
13 follows:

14 “(G) REPORTING OF SWAPS AND DIGITAL
15 COMMODITY TRANSACTIONS TO REGISTERED
16 REPOSITORIES.—

17 “(i) SWAPS.—Each swap (whether
18 cleared or uncleared) shall be reported to
19 a registered swap data repository.

20 “(ii) DIGITAL COMMODITIES.—Each
21 contract of sale of a digital commodity in
22 interstate commerce (whether on-chain or
23 off-chain) shall be reported to a registered
24 digital asset repository for transactions.”;

25 (5) by adding at the end the following:

1 “(H) REPORTING OF DIGITAL COMMODITY
2 TRANSACTIONS.—

3 “(i) IN GENERAL.—With respect to
4 contracts of sale of digital commodities in
5 interstate commerce that are not executed
6 on or through a trading platform, such
7 transactions shall be reported by the pur-
8 chaser in real-time to a registered digital
9 asset repository for transactions as soon as
10 technologically practicable after execution
11 of the transaction.

12 “(ii) RULE FOR TRADING PLAT-
13 FORMS.—Trading platforms which facili-
14 tate contracts of sale of digital commod-
15 ities in interstate commerce transactions
16 shall be responsible for reporting all such
17 transactions to a registered digital asset
18 repository of transactions as soon as tech-
19 nically practicable after the execution of
20 each such transaction.

21 “(I) ACTUAL DELIVERY OF DIGITAL COM-
22 MODITY TRANSACTIONS.—

23 “(i) IN GENERAL.—In the case of a
24 contract of sale of a digital commodity in
25 interstate commerce, the seller of such dig-

1 ital commodity shall actually deliver the
2 digital commodity into the exclusive control
3 of the purchaser not less than 24 hours
4 after the transaction is executed.

5 “(ii) ACTUAL DELIVERY.—For pur-
6 poses of clause (i), actual delivery shall
7 have occurred only if—

8 “(I) the transfer of the digital
9 commodity from the seller to the pur-
10 chaser’s address is recorded on the
11 public distributed ledger for the dig-
12 ital commodity; or

13 “(II) with respect to off-chain
14 digital commodity transactions on a
15 trading platform, the trading platform
16 reports the off-chain digital com-
17 modity transaction, which must be
18 held in a customer segregated ac-
19 count, to a registered digital asset re-
20 pository of transactions.”.

21 **SEC. 3. SWAP DATA REPOSITORIES AND DIGITAL ASSET RE-**
22 **POSITORIES OF TRANSACTIONS.**

23 (a) COMMODITY EXCHANGE ACT.—Section 21 of the
24 Commodity Exchange Act (7 U.S.C. 24a) is amended to
25 read as follows:

1 **“SEC. 21. SWAP DATA REPOSITORIES AND DIGITAL ASSET**
2 **REPOSITORIES OF TRANSACTIONS.**

3 “(a) REGISTRATION REQUIREMENT.—

4 “(1) REQUIREMENT; AUTHORITY OF DERIVA-
5 TIVES CLEARING ORGANIZATION.—

6 “(A) IN GENERAL.—It shall be unlawful
7 for any person, unless registered with the Com-
8 mission, directly or indirectly to make use of
9 the mails or any means or instrumentality of
10 interstate commerce to perform the functions of
11 a swap data repository or a digital asset reposi-
12 tory of transactions.

13 “(B) REGISTRATION OF DERIVATIVES
14 CLEARING ORGANIZATIONS.—A derivatives
15 clearing organization may register as a swap
16 data repository.

17 “(2) INSPECTION AND EXAMINATION.—Each
18 registered swap data repository and digital asset re-
19 pository of transactions shall be subject to inspection
20 and examination by any representative of the Com-
21 mission.

22 “(3) COMPLIANCE WITH CORE PRINCIPLES.—

23 “(A) IN GENERAL.—To be registered, and
24 maintain registration, as a swap data repository
25 or a digital asset repository of transactions, the

1 swap data repository or digital asset repository
2 of transactions shall comply with—

3 “(i) the requirements and core prin-
4 ciples described in this section; and

5 “(ii) any requirement that the Com-
6 mission may impose by rule or regulation
7 pursuant to section 8a(5).

8 “(B) REASONABLE DISCRETION OF REPOS-
9 ITORY.—Unless otherwise determined by the
10 Commission by rule or regulation, a swap data
11 repository or a digital asset repository of trans-
12 actions described in subparagraph (A) shall
13 have reasonable discretion in establishing the
14 manner in which the swap data repository or
15 the digital asset repository of transactions com-
16 plies with the core principles described in this
17 section.

18 “(b) STANDARD SETTING.—

19 “(1) DATA IDENTIFICATION.—

20 “(A) IN GENERAL.—In accordance with
21 subparagraph (B), the Commission shall pre-
22 scribe standards that specify the data elements
23 for each swap or digital commodity, digital
24 asset, or digital collectible (as determined a col-
25 lectible under section 408(m) of the Internal

1 Revenue Code) that shall be collected and main-
2 tained by each registered swap data repository
3 or digital asset repository of transactions, re-
4 spectively.

5 “(B) REQUIREMENT.—In carrying out
6 subparagraph (A), the Commission shall pre-
7 scribe consistent data element standards appli-
8 cable to registered entities and reporting
9 counterparties.

10 “(2) DATA COLLECTION AND MAINTENANCE.—
11 The Commission shall prescribe data collection and
12 data maintenance standards for swap data reposi-
13 tories and digital asset repositories of transactions.

14 “(3) COMPARABILITY.—The standards pre-
15 scribed by the Commission under this subsection
16 shall be comparable to the data standards imposed
17 by the Commission on derivatives clearing organiza-
18 tions in connection with the clearing of swaps or dig-
19 ital commodities, digital assets, or digital collectibles,
20 as appropriate.

21 “(4) CONSISTENT STANDARDS.—If a digital
22 asset repository of transactions is jointly registered
23 with the Commission and Securities and Exchange
24 Commission and receives digital commodity, digital
25 asset, and digital collectible transaction data, the

1 Commission shall coordinate with the Securities and
2 Exchange Commission and the Commissioner of the
3 Internal Revenue Service to ensure that the data
4 standards and elements are appropriate and con-
5 sistent for use by both Commissions and the Inter-
6 nal Revenue Service.

7 “(c) DUTIES.—A swap data repository or a digital
8 asset repository of transactions shall—

9 “(1) accept data prescribed by the Commission
10 for each swap or digital commodity, digital asset, or
11 digital collectible transaction under subsection (b),
12 respectively;

13 “(2) confirm with both counterparties to the
14 swap or digital commodity, digital asset, or digital
15 collectible transaction the accuracy of the data that
16 was submitted;

17 “(3) maintain the data described in paragraph
18 (1) in such form, in such manner, and for such pe-
19 riod as may be required by the Commission;

20 “(4)(A) provide direct electronic access to the
21 Commission (or any designee of the Commission, in-
22 cluding another registered entity); and

23 “(B) provide the information described in para-
24 graph (1) in such form and at such frequency as the
25 Commission may require to comply with the public

1 reporting requirements contained in section
2 2(a)(13);

3 “(5) at the direction of the Commission, estab-
4 lish automated systems for monitoring, screening,
5 and analyzing swap or digital commodity, digital
6 asset, or digital collectible data, including compli-
7 ance and frequency of end user clearing exemption
8 claims by individual and affiliated entities;

9 “(6) maintain the privacy of any and all swap
10 or digital commodity, digital asset, or digital collect-
11 ible transaction information that the swap data re-
12 pository or digital asset repository of transactions,
13 respectively, receives from a swap dealer,
14 counterparty, or any other registered entity;

15 “(7) on a confidential basis pursuant to section
16 8, upon request, and after notifying the Commission
17 of the request, make available each swap or digital
18 commodity, digital asset, or digital collectible data
19 obtained by the swap data repository or digital asset
20 repository of transactions, respectively, including in-
21 dividual counterparty trade and position data, to—

22 “(A) each appropriate prudential regulator;

23 “(B) the Financial Stability Oversight
24 Council;

1 “(C) the Securities and Exchange Commis-
2 sion;

3 “(D) the Department of Justice; and

4 “(E) any other person that the Commis-
5 sion determines to be appropriate, including—

6 “(i) foreign financial supervisors (in-
7 cluding foreign futures authorities);

8 “(ii) foreign central banks;

9 “(iii) foreign ministries; and

10 “(iv) other foreign authorities; and

11 “(8) establish and maintain emergency proce-
12 dures, backup facilities, and a plan for disaster re-
13 covery that allows timely recovery and resumption of
14 operations and the fulfillment of the responsibilities
15 and obligations of the organization.

16 “(d) CONFIDENTIALITY AGREEMENT.—Before the
17 swap data repository or digital asset repository of trans-
18 actions may share information with any entity described
19 in subsection (c)(7), the swap data repository or digital
20 asset repository of transactions shall receive a written
21 agreement from each entity stating that the entity shall
22 abide by the confidentiality requirements described in sec-
23 tion 12 of this title relating to information on swap or
24 digital commodity, digital asset, or digital collectible (as

1 determined a collectible under section 408(m) of the Inter-
2 nal Revenue Code), respectively, that is provided.

3 “(e) DESIGNATION OF CHIEF COMPLIANCE OFFI-
4 CER.—

5 “(1) IN GENERAL.—Each swap data repository
6 or digital asset repository of transactions shall des-
7 ignate an individual to serve as a chief compliance
8 officer.

9 “(2) DUTIES.—The chief compliance officer
10 shall—

11 “(A) report directly to the board or to the
12 senior officer of the swap data repository or
13 digital asset repository of transactions;

14 “(B) review the compliance of the swap
15 data repository or digital asset repository of
16 transactions with respect to requirements and
17 core principles described in this section;

18 “(C) in consultation with the board of the
19 swap data repository or digital asset repository
20 of transactions, a body performing a function
21 similar to the board of the swap data repository
22 or digital asset repository of transactions, or
23 senior officer of the swap data repository or
24 digital asset repository of transactions resolve
25 any conflicts of interest that may arise;

1 “(D) be responsible for administering each
2 policy and procedure that is required to be es-
3 tablished pursuant to this section;

4 “(E) ensure compliance with this Act (in-
5 cluding regulations) relating to agreements,
6 contracts, or transactions, including each rule
7 prescribed by the Commission under this sec-
8 tion;

9 “(F) establish procedures for the remedi-
10 ation of noncompliance issues identified by the
11 chief compliance officer through any—

12 “(i) compliance office review;

13 “(ii) look-back;

14 “(iii) internal or external audit find-
15 ing;

16 “(iv) self-reported error; or

17 “(v) validated complaint; and

18 “(G) establish and follow appropriate pro-
19 cedures for handling, management response, re-
20 mediation, retesting, and closing of noncompli-
21 ance issues.

22 “(3) ANNUAL REPORTS.—

23 “(A) IN GENERAL.—In accordance with
24 rules prescribed by the Commission, the chief

1 compliance officer shall annually prepare and
2 sign a report that contains a description of—

3 “(i) the compliance of the swap data
4 repository or the digital asset repository of
5 transactions, as appropriate, of the chief
6 compliance office with respect to this Act
7 (including regulations); and

8 “(ii) each policy and procedure of the
9 swap data repository or the digital asset
10 repository of transactions, as appropriate,
11 of the chief compliance officer (including
12 the code of ethics and conflict of interest
13 policies of the swap data repository or the
14 digital asset repository of transactions, as
15 appropriate).

16 “(B) REQUIREMENTS.—A compliance re-
17 port under subparagraph (A) shall—

18 “(i) accompany each appropriate fi-
19 nancial report of the swap data repository
20 or digital asset repository of transactions
21 that is required to be furnished to the
22 Commission pursuant to this section; and

23 “(ii) include a certification that, under
24 penalty of law, the compliance report is ac-
25 curate and complete.

1 “(f) CORE PRINCIPLES APPLICABLE TO SWAP DATA
2 REPOSITORIES AND DIGITAL ASSET REPOSITORIES OF
3 TRANSACTIONS.—

4 “(1) ANTITRUST CONSIDERATIONS.—Unless
5 necessary or appropriate to achieve the purposes of
6 this Act, a swap data repository or digital asset re-
7 pository of transactions shall not—

8 “(A) adopt any rule or take any actions
9 that result in any unreasonable restraint of
10 trade; or

11 “(B) impose any material anticompetitive
12 burden on the trading, clearing, or reporting of
13 transactions.

14 “(2) GOVERNANCE ARRANGEMENTS.—Each
15 swap data repository or digital asset repository of
16 transactions shall establish governance arrangements
17 that are transparent—

18 “(A) to fulfill public interest requirements;
19 and

20 “(B) to support the objectives of the Fed-
21 eral Government, owners, and participants.

22 “(3) CONFLICTS OF INTEREST.—Each swap
23 data repository or digital asset repository of trans-
24 actions shall—

1 “(A) establish and enforce rules to mini-
2 mize conflicts of interest in the decision-making
3 process of the swap data repository or the dig-
4 ital asset repository of transactions; and

5 “(B) establish a process for resolving con-
6 flicts of interest described in subparagraph (A).

7 “(4) ADDITIONAL DUTIES DEVELOPED BY THE
8 COMMISSION.—

9 “(A) IN GENERAL.—The Commission may
10 develop 1 or more additional duties applicable
11 to swap data repositories or digital asset reposi-
12 tories of transactions.

13 “(B) CONSIDERATION OF EVOLVING
14 STANDARDS.—In developing additional duties
15 under subparagraph (A), the Commission may
16 take into consideration any evolving standard of
17 the United States or the international commu-
18 nity.

19 “(C) ADDITIONAL DUTIES FOR COMMIS-
20 SION DESIGNEES.—The Commission shall es-
21 tablish additional duties for any registered swap
22 data repository or digital asset repository of
23 transactions in order to minimize conflicts of
24 interest, protect data, ensure compliance, and
25 guarantee safety and security of the swap data

1 repository or digital asset repository of trans-
2 actions.

3 “(g) REQUIRED REGISTRATION OF SWAP DATA RE-
4 POSITORIES AND DIGITAL ASSET REPOSITORIES OF
5 TRANSACTIONS.—Any person that is required to be reg-
6 istered as a swap data repository or a digital asset reposi-
7 tory of transactions under this section shall register with
8 the Commission regardless of whether that person is also
9 licensed as a bank, trust company, money services busi-
10 ness, or registered with the Securities and Exchange Com-
11 mission as a security-based swap data repository, broker-
12 dealer, qualified custodian, or transfer agent.

13 “(h) DUAL SEC AND CFTC REGISTRATION OF DIG-
14 ITAL ASSET REPOSITORY OF TRANSACTIONS.—Any per-
15 son that seeks to act as a digital asset repository for trans-
16 actions for digital commodities, digital assets, digital col-
17 lectibles (as determined a collectible under section 408(m)
18 of the Internal Revenue Code) shall register with the Com-
19 mission and Securities and Exchange Commission subject
20 to joint regulation by such Commissions, but only with re-
21 spect to the digital commodities and digital assets subject
22 to their respective jurisdictions.

23 “(i) RULES.—The Commission shall adopt rules gov-
24 erning persons that are registered under this section.”

1 **SEC. 4. DEFINITIONS.**

2 (a) IN GENERAL.—Section 1a of the Commodity Ex-
3 change Act (7 U.S.C 1a) is amended by adding at the
4 end the following:

5 “(52) DIGITAL ASSET REPOSITORY OF TRANS-
6 ACTIONS.—The term ‘digital asset repository of
7 transactions’ or ‘DART’ means any person that col-
8 lects and maintains information or records with re-
9 spect to transactions or positions in, or the terms
10 and conditions of digital commodities, digital assets,
11 or digital collectibles (as determined a collectibles
12 under section 408(m) of the Internal Revenue Code)
13 entered into by third parties for the purpose of pro-
14 viding a centralized recordkeeping facility for digital
15 commodities, digital assets, or digital collectibles.

16 “(53) OFF-CHAIN DIGITAL COMMODITY TRANS-
17 ACTION.—The term ‘off-chain digital commodity
18 transaction’ means any contract of sale of a digital
19 commodity in interstate commerce which is not
20 mined or validated and recorded on the appropriate
21 public distributed ledger for such digital commodity
22 within 24 hours of the transaction being entered
23 into.”.

24 (b) DEFINITION OF REGISTERED ENTITY.—Section
25 1a(40)(E) of the Commodity Exchange Act (7 U.S.C.

1 1a(40)(E)) is amended by inserting “or a digital asset re-
2 pository of transactions” after “section 21”.

○