

UNITED STATES SENATE COMMITTEE ON
BANKING
HOUSING &
URBAN AFFAIRS

The CLARITY Act Cracks Down on Fraud & Money Laundering

TOPLINE

The Banking Committee's Market Structure Bill takes a hardline approach to fraud and money laundering while protecting American investors in the marketplace. The bill strengthens law enforcement capabilities with clear, workable tools to prevent fraud and money laundering within the cryptocurrency financial sectors.

KEY FRAUD AND AML PROVISIONS INCLUDE:

- **Mandatory assessments from the US. Treasury**, under applicable law, to report on credible and supportable evidence of significant illicit finance threats or vulnerabilities associated with any United States-dependent offshore stablecoin employed in a material volume of transactions.
- **Temporary holds for suspicious activity**, granting digital asset service providers and permitted payment stablecoin issuers a safe harbor from private causes of action if they temporarily pause suspicious transactions at the request of law enforcement. This includes delaying the execution of a transaction, conversion, or withdrawal involving digital assets.
- **Applies BSA regulations to digital asset brokers, dealers, and exchanges**, which must maintain anti-money laundering (AML) and counter terrorist financing (CFT) programs, monitor and report suspicious activity, implement a customer identification program, and comply with sanctions laws.
- **Creates risk-based exam standards**, requiring financial institutions interacting with crypto to be examined for BSA compliance under risk-based standards.
- **Registration of digital asset kiosks**, requiring operators to disclose transactional information, provide for customer warning notifications, receipts, and an anti-fraud policy, monitor risks, employ a compliance officer, detect fraudulent activity, and respect holding periods and withdrawal limits.
- **Designates certain digital assets as monetary instruments** so that financial institutions that transact with self-hosted wallets will have guidance as to BSA AML/CFT and sanctions obligations.

- **Risk management standards for digital asset intermediaries**, requiring digital asset intermediaries to assess risks related to DeFi trading protocols, fraud, and market manipulation; implement policies and procedures to mitigate those risks; and make risk-based decisions about whether to execute, reject, or suspend DeFi-related transactions.
- **Requires educational materials**, digital asset intermediaries must make public materials available explaining the functions of distributed ledger systems, common risks, differences between digital asset markets and traditional financial markets, and how to recognize and report fraud.
- **Increases funding for FinCen**, authorizing \$30M per year through 2031 and allowing for annual incentive premiums up to 20% base pay for retention of top talent.
- **A new “Special Measure 6” authority**, allowing the Treasury Department to act swiftly against foreign jurisdictions, institutions, or transaction types that pose a primary money laundering concern involving digital assets.
- **Establishes a pilot program** that allows private sector entities to partner with federal law enforcement to share information about illicit finance violations and emerging risks related to illicit finance.
- **Focused studies and reporting requirements** on digital asset mixers and tumblers, illicit finance risks, cybersecurity vulnerabilities, and national security threats.
- **NIST cybersecurity standards for defi protocols**, which will help mitigate cyber vulnerabilities and strengthen infrastructure-security practices.

BOTTOMLINE

The bill closes significant gaps in fraud and money laundering while preserving marketplace integrity.