FACT SHEET: Digital Asset Market Clarity Act
Analysis from the Minority Staff of the Senate Banking Committee

The Senate Banking Committee minority staff of experts have reviewed the current draft of the Digital Asset Market Clarity Act filed on January 12, 2026. America needs a strong crypto framework that at a minimum:

1. Closes proposed loopholes to securities laws that could upend our capital markets and risk Americans' pensions.
2. Closes proposed loopholes that jeopardize our national security and enable the illicit use of crypto by cartels, terrorists, and criminals.
3. Protects our financial system and our economy, and protects American taxpayers from bailout risk.
4. Eliminates the unprecedented conflicts of interest posed by President Trump's and the Trump family's crypto ventures.
5. Ensures Americans have the same consumer and investor protections when using crypto assets as with any other financial product or service.

As drafted, the Digital Asset Market Clarity Act fails to meet these five minimum standards and is not ready to be marked up by the Senate Banking Committee.

Minimum standard #1: The current draft of the bill fails to close proposed loopholes to securities laws that could upend our capital markets and risk Americans' pensions in the following ways:

- Creates a new two-tiered system in which assets offered on the blockchain can escape the SEC's authority – replacing the basic rules that have governed our capital markets for a century. As currently written, the bill could undermine basic protections for investors, pensions, and retirement accounts and inject new volatility into the stock market, by incentivizing companies and third parties to fundraise using tokens that mirror stocks.

- Paves a superhighway to allow assets that are nearly identical to securities to evade the SEC's authority by creating a framework allowing companies to self-certify that they are issuing "ancillary assets" or "network tokens" rather than securities, and by stripping away enforcement tools like disclosure and supervision that currently allow the SEC to protect and help investors who get scammed.

- These concerns have been flagged by experts, lawyers, and labor leaders such as Healthy Markets, AFL-CIO, AFT.

Minimum Standard #2: The current draft of the bill fails to close loopholes that jeopardize our national security and enable illicit use of crypto by cartels, terrorists, and criminals in the following ways:

- Fails to close the Tornado Cash loophole, allowing some of the worst crypto "mixers" used to facilitate illicit financing to escape U.S. sanctions – even when the United States can show that they are laundering billions for terrorists, rogue states, cartels, or criminals. A court ruled that only Congress could address a statutory gap preventing Treasury from applying sanctions directly to mixers and other decentralized services that rely on smart contracts.

- Fails to adopt the existing Financial Action Task Force global standard, developed under the first Trump Administration and incorporated by many of our allies, to clarify which conventional crypto platforms need to take basic steps to prevent money laundering and other illicit activity like any other financial institution. The current Administration also asked Congress to provide "greater certainty" on this issue. As currently drafted, the bill would instead move backwards by signaling that only a narrow set of actors in the digital asset ecosystem need to take steps like monitoring for suspicious activity.

- Exempts businesses tied to decentralized finance platforms from illicit finance requirements – even where these businesses can be shown to make millions from the platform's transactions – making it easier to facilitate money laundering for terrorists, rogue states, cartels, and criminals. This approach ignores the Treasury Department's warning in 2023 that "illicit actors, including ransomware actors, thieves, scammers, and drug traffickers, [are] using DeFi services to transfer and launder their illicit proceeds" and that some of those services "have affirmatively touted a lack of AML/CFT controls as one of the primary goals of decentralization."

- Makes it easier for anyone outside the United States to escape the reach of U.S. sanctions enforcement simply by paying sanctioned actors in stablecoins instead of dollars, avoiding U.S. touchpoints that typically allow Treasury and DOJ to bring enforcement actions. As currently drafted, the bill lets foreign persons avoid penalties while Americans are always subject to enforcement no matter which currency they use.

Minimum Standard #3: The current draft of the bill fails to protect our financial system, our economy, and American taxpayers from bailouts and crashes, in the following ways:

- Adds a major loophole to banking law that would allow banks to evade prohibitions on very risky types of non-crypto investments, like penny stocks and junk bonds, that have been in place for more than a century to prevent bank runs and financial crises. If banks record the presently unlawful asset on a distributed ledger, the asset becomes a permissible "digital asset," even if the economics and risk of the asset are unchanged. For more than 100 years, banking laws have limited the type of investments banks can make with customer deposits to reduce the likelihood of failures and other harms. As currently drafted, this bill would drive a hole through those safeguards.

- Allows banks to engage in a broad range of highly risky crypto activities using Americans' insured deposits, including the type of hedge fund trading activities banned by the "Volcker Rule" after the 2008 financial crisis. Banks are supposed to use customer deposits to lend responsibility to businesses and households to support economic growth, not speculate on the price of Bitcoin or Dogecoin.

Minimum Standard #4: The current draft of the bill fails to eliminate President Trump's and the Trump family's crypto corruption—despite President Trump and his family's amassing over $1.2 billion in financial gains from crypto-related businesses and transactions—in the following ways:

- Does not prohibit the President or his family from controlling, promoting in exchange for anything of value, or affiliating with any issuer of a covered cryptocurrency or any entity that provides custodial or safekeeping services for covered cryptocurrencies.

- This means the President and his family could continue to profit from their crypto ventures like:
    - Trump and Melania memecoins;
    - World Liberty Financial, which just applied for a federal bank charter last week;
    - American Bitcoin Corporation, which is now public and trading on NASDAQ; and
    - Trump Media & Technology Group, which has issued tokens to shareholders, partnered with Crypto.com, and is working on a publicly traded crypto treasury reserve.

Minimum standard #5: The current draft of the bill fails to include consumer and investor protections that exist for other financial products or services in the following ways:

- Fails to preserve commonsense legal protections against investment fraud, corporate fraud, market manipulation, and insider trading. For example, although the draft purports to maintain the SEC's antifraud authority for crypto tokens, it would hamstring the SEC's ability to meaningfully enforce antifraud laws, including by prohibiting the SEC from collecting the types of disclosures that would allow it to police for fraud.

- Blocks state authorities from enforcing many of their own laws, including securities, consumer protection, digital asset, crypto ATM, and other laws that fight fraud and illegal conduct to protect investors and consumers. This would trample on states' rights, eliminating many rights and remedies consumers have under state law and leaving consumers worse off than they would be with no federal market structure legislation.

- Fails to establish an enforceable private right of action. This means that consumers and investors who are harmed will often be unable to seek remedies in court for fraud and other violations of the law. As currently drafted, the bill also fails to address crypto's abuse of forced arbitration to strip consumers and investors of their rights under the law.