To require the Financial Crimes Enforcement Network to issue guidance on digital assets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN (for herself, Mr. MARSHALL, Mr. MANCHIN, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on ________________

A BILL

To require the Financial Crimes Enforcement Network to issue guidance on digital assets, 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.

This Act may be cited as the “Digital Asset Anti-Money Laundering Act of 2023”.

SEC. 2. DEFINITIONS.

(1) Anonymity Enhanced Cryptocurrency.—The term “anonymity enhanced cryptocurrency” means a digital asset containing any feature that—
(A) prevents tracing through distributed
ledgers; or

(B) conceals or obfuscates the origin, des-
tination, and counterparties of digital asset
transactions.

(2) DIGITAL ASSETS.—The term “digital asset”
means an asset that is issued or transferred using
a cryptographically secured distributed ledger,
blockchain technology, or any other similar tech-
nology.

(3) DIGITAL ASSETS KIOSK.—The term “digital
assets kiosk” means a digital assets automated teller
machine that facilitates the buying, selling, and ex-
change of digital assets.

(4) DIGITAL ASSETS MIXER.—The term “digital
assets mixer” means a website, software, or other
service with features that conceal or obfuscate the
origin, destination, or counterparties of digital asset
transactions.

(5) FINANCIAL INSTITUTION.—The term “fi-
nancial institution” has the meaning given the term
in section 5312(a) of title 31, United States Code.

(6) MONEY SERVICES BUSINESS.—The term
“money services business” has the meaning given
the term in section 1010.100 of title 31, Code of Federal Regulations.

(7) UNHOSTED WALLET.—The term “unhosted wallet” means software or hardware that facilitates the storage of public and private keys used to digitally sign and securely transact digital assets, such that the stored value is the property of the wallet owner and the wallet owner has total independent control over the value.

(8) VALIDATOR.—The term “validator” means a person or entity that—

(A) processes and validates, approves, or verifies transactions, or produces blocks of digital asset transactions to be recorded on a cryptographically secured distributed ledger or any similar technology, as specified by the Secretary of the Treasury; and

(B) may perform other such services that may secure a digital assets kiosk network.

SEC. 3. DIGITAL ASSET REQUIREMENTS.

(a) DIGITAL ASSETS PARTICIPANTS DESIGNATION.—

(1) DEFINITION OF FINANCIAL INSTITUTION.—

(A) IN GENERAL.—Section 5312(a)(2) of title 31, United States Code, as amended by section 6110(a)(1) of the Anti-Money Laun-
dering Act of 2020 (division F of Public Law 116–283), is amended—

(i) in subparagraph (Z), by striking “or” at the end;

(ii) by redesignating subparagraph (AA) as subparagraph (BB); and

(iii) by inserting after subparagraph (Z) the following:

“(AA) Unhosted wallet providers, digital asset miners, validators, or other nodes that may act to validate or secure third-party transactions, independent network participants (including maximal extractable value searchers), miner extractable value searchers, other validators or network participants with control over network protocols, or any other person facilitating or providing services related to the exchange, sale, custody, or lending of digital assets that the Secretary shall prescribe by regulation.”.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect on the day after the effective date of the final rules issued by the Secretary of the Treasury pursuant to section 6110(b) of the Anti-Money Laun-

(2) Regulations.—

(A) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury, through the Director of the Financial Crimes Enforcement Network, shall promulgate regulations imposing requirements under subchapter II of chapter 53 of title 31, United States Code, on financial institutions described in subparagraph (AA) of section 5312(a)(2) of title 31, United States Code, as added by paragraph (1)(A) of this subsection.

(B) Exemption.—The Secretary of the Treasury, through the Director of the Financial Crimes Enforcement Network, should consider for exemption from the regulations issued under subparagraph (A) assets—

(i) issued or transferred using a cryptographically secured distributed ledger, blockchain technology, or any other similar technology used solely for internal business applications;
(ii) not offered for sale, traded, or otherwise converted to fiat currency or another digital asset; or

(iii) otherwise deemed to pose little illicit finance risk.

(C) Periodic Reviews.—The Secretary of the Treasury, through the Director of the Financial Crimes Enforcement Network, shall periodic reviews of the classifications under paragraph (2).

(b) Registration Rules.—The Financial Crimes Enforcement Network has the authority to subject the entities described in subsection (a) to the registration rules under section 5330 of title 31, United States Code, and the foreign registration rules under section 1022.380(a)(2) of title 31, Code of Federal Regulations.

(c) Implementation of Proposed Rule.—Not later than 1 year after the date of enactment of this Act, the Financial Crimes Enforcement Network shall finalize the proposed virtual currency rule (85 Fed. Reg. 83840; relating to requirements for certain transactions involving convertible virtual currency or digital assets).

(d) Reporting Requirements.—Not later than 18 months after the date of enactment of this Act, the Financial Crimes Enforcement Network shall promulgate regu-
lations that require United States persons with greater than $10,000 in digital assets in 1 or more accounts outside of the United States to file a report described in section 1010.350 of title 31, Code of Federal Regulations, using the form described in that section, in accordance with section 5314 of title 31, United States Code.

(e) Treasury Regulations.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Treasury shall promulgate regulations that require financial institutions to establish controls to mitigate illicit finance risks associated with—

(1) handling, using, or transacting business with digital asset mixers, anonymity enhanced cryptocurrency, and other anonymity-enhancing technologies, as specified by the Secretary; and

(2) handling, using, or transacting business with digital assets that have been anonymized by the technologies described in paragraph (1).

SEC. 4. EXAMINATION AND REVIEW PROCESS.

(a) Treasury.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Conference of State Bank Supervisors, shall establish a risk-focused examination and review process for digital assets participants designated as
financial institutions and money services businesses to assess—

(1) the adequacy of antimoney-laundering and countering-the-financing-of-terrorism programs and reporting obligations under subsections (g) and (h) of section 5318 of title 31, United States Code; and

(2) compliance with antimoney laundering and countering-the-financing-of-terrorism requirements under subchapter II of chapter 53 of title 31, United States Code.

(b) SEC.—Not later than 2 years after the date of enactment of this Act, the Securities and Exchange Commission, in consultation with the Secretary of the Treasury, shall establish a dedicated risk-focused examination and review process for entities regulated by the Commission to assess—

(1) the adequacy of antimoney laundering and countering-the-financing-of-terrorism programs and reporting obligations under subsections (g) and (h) of section 5318 of title 31, United States Code; and

(2) compliance with antimoney laundering and countering-the-financing-of-terrorism requirements under subchapter II of chapter 53 of title 31, United States Code.
(c) CFTC.—Not later than 2 years after the date of enactment of this Act, the Commodity Futures Trading Commission, in consultation with the Secretary of the Treasury, shall establish a dedicated risk-focused examination and review process for entities regulated by the Commission to assess—

(1) the adequacy of antimoney laundering and countering-the-financing-of-terrorism programs and reporting obligations under subsections (g) and (h) of section 5318 of title 31, United States Code; and

(2) compliance with antimoney laundering and countering-the-financing-of-terrorism requirements under subchapter II of chapter 53 of title 31, United States Code.

SEC. 5. DIGITAL ASSETS KIOSKS.

(a) In General.—Not later than 18 months after the date of enactment of this Act, the Financial Crimes Enforcement Network shall require digital asset kiosks owners and administrators to submit and update the physical addresses of the kiosks owned or operated by the owner or administrator every 90 days, as applicable.

(b) Rulemaking.—Not later than 18 months after the date of enactment of this Act, the Financial Crimes Enforcement Network shall promulgate regulations requiring digital asset kiosk owners and administrators to—
(1) verify the identity of each customer using a valid form of government-issued identification or other documentary method, as determined by the Secretary of the Treasury; and

(2) collect the name and physical address of each counterparty to the transaction.

(c) REPORTS.—

(1) FINCEN.—Not later than 180 days after the date of enactment of this Act, the Financial Crimes Enforcement Network shall issue a report on digital assets kiosk networks operating as money services businesses that have not registered with the Financial Crimes Enforcement Network in violation of section 1022.380 of title 31, Code of Federal Regulations, that includes—

(A) estimates of the number and locations of suspected unlicensed operators, as applicable; and

(B) an assessment of any additional resources the Financial Crimes Enforcement Network determines to be necessary to investigate the unlicensed digital asset kiosk networks.

(2) DEA.—Not later than 1 year after the date of enactment of this Act, the Drug Enforcement Administration shall, in consultation with other agen-
cies as appropriate, issue a report identifying recom-
mendations to reduce drug trafficking and money
laundering associated with digital assets kiosks.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Sec-
retary of the Treasury such sums as are necessary to carry
out this Act.