

AMENDMENT TO RULES COMMITTEE PRINT 118-

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OFFERED BY MR. BEYER OF VIRGINIA

At the end of title V, add the following:

1 **SEC. ____ . REPORTING OF SWAPS AND DIGITAL COMMODITY**
2 **TRANSACTIONS.**

3 Section 2(a)(13) of the Commodity Exchange Act (7
4 U.S.C. 2(a)(13)) is amended—

5 (1) by amending the paragraph heading to read
6 as follows: “REPORTING AND PUBLIC AVAILABILITY
7 OF SWAP AND DIGITAL COMMODITY TRANSACTION
8 DATA”;

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

11 (3) in subparagraph (B)—

12 (A) by inserting “or digital commodity”
13 after “swap”; and

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

16 (4) by amending subparagraph (G) to read as
17 follows:

1 “(G) REPORTING OF SWAPS AND DIGITAL
2 COMMODITY TRANSACTIONS TO REGISTERED
3 REPOSITORIES.—

4 “(i) SWAPS.—Each swap (whether
5 cleared or uncleared) shall be reported to
6 a registered swap data repository.

7 “(ii) DIGITAL COMMODITIES.—Each
8 contract of sale of a digital commodity in
9 interstate commerce (whether on-chain or
10 off-chain) shall be reported to a registered
11 digital asset repository for transactions.”.

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

13 “(H) REPORTING OF DIGITAL COMMODITY
14 TRANSACTIONS.—

15 “(i) IN GENERAL.—With respect to
16 contracts of sale of digital commodities in
17 interstate commerce that are not executed
18 on or through a trading platform, such
19 transactions shall be reported by the pur-
20 chaser in real-time to a registered digital
21 asset repository for transactions as soon as
22 technologically practicable after execution
23 of the transaction.

24 “(ii) RULE FOR TRADING PLAT-
25 FORMS.—Trading platforms which facili-

1 tate contracts of sale of digital commod-
2 ities in interstate commerce transactions
3 shall be responsible for reporting all such
4 transactions to a registered digital asset
5 repository of transactions as soon as tech-
6 nically practicable after the execution of
7 each such transaction.

8 “(I) ACTUAL DELIVERY OF DIGITAL COM-
9 MODITY TRANSACTIONS.—

10 “(i) IN GENERAL.—In the case of a
11 contract of sale of a digital commodity in
12 interstate commerce, the seller of such dig-
13 ital commodity shall actually deliver the
14 digital commodity into the exclusive control
15 of the purchaser not less than 24 hours
16 after the transaction is executed.

17 “(ii) ACTUAL DELIVERY.—For pur-
18 poses of clause (i), actual delivery shall
19 have occurred only if—

20 “(I) the transfer of the digital
21 commodity from the seller to the pur-
22 chaser’s address is recorded on the
23 public distributed ledger for the dig-
24 ital commodity; or

1 “(II) with respect to off-chain
2 digital commodity transactions on a
3 trading platform, the trading platform
4 reports the off-chain digital com-
5 modity transaction, which must be
6 held in a customer segregated ac-
7 count, to a registered digital asset re-
8 pository of transactions.”.

9 **SEC. ____ . SWAP DATA REPOSITORIES AND DIGITAL ASSET**
10 **REPOSITORIES OF TRANSACTIONS.**

11 Section 21 of the Commodity Exchange Act (7 U.S.C.
12 24a) is amended to read as follows:

13 **“SEC. 21. SWAP DATA REPOSITORIES AND DIGITAL ASSET**
14 **REPOSITORIES OF TRANSACTIONS.**

15 “(a) REGISTRATION REQUIREMENT.—

16 “(1) REQUIREMENT; AUTHORITY OF DERIVA-
17 TIVES CLEARING ORGANIZATION.—

18 “(A) IN GENERAL.—It shall be unlawful
19 for any person, unless registered with the Com-
20 mission, directly or indirectly to make use of
21 the mails or any means or instrumentality of
22 interstate commerce to perform the functions of
23 a swap data repository or a digital asset reposi-
24 tory of transactions.

1 “(B) REGISTRATION OF DERIVATIVES
2 CLEARING ORGANIZATIONS.—A derivatives
3 clearing organization may register as a swap
4 data repository.

5 “(2) INSPECTION AND EXAMINATION.—Each
6 registered swap data repository and digital asset re-
7 pository of transactions shall be subject to inspection
8 and examination by any representative of the Com-
9 mission.

10 “(3) COMPLIANCE WITH CORE PRINCIPLES.—

11 “(A) IN GENERAL.—To be registered, and
12 maintain registration, as a swap data repository
13 or a digital asset repository of transactions, the
14 swap data repository or digital asset repository
15 of transactions shall comply with—

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

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

21 “(B) REASONABLE DISCRETION OF REPOS-
22 ITORY.—Unless otherwise determined by the
23 Commission by rule or regulation, a swap data
24 repository or a digital asset repository of trans-
25 actions described in subparagraph (A) shall

1 have reasonable discretion in establishing the
2 manner in which the swap data repository or
3 the digital asset repository of transactions com-
4 plies with the core principles described in this
5 section.

6 “(b) STANDARD SETTING.—

7 “(1) DATA IDENTIFICATION.—

8 “(A) IN GENERAL.—In accordance with
9 subparagraph (B), the Commission shall pre-
10 scribe standards that specify the data elements
11 for each swap or digital commodity, digital
12 asset, or digital collectible (as determined a col-
13 lectible under section 408(m) of the Internal
14 Revenue Code) that shall be collected and main-
15 tained by each registered swap data repository
16 or digital asset repository of transactions, re-
17 spectively.

18 “(B) REQUIREMENT.—In carrying out
19 subparagraph (A), the Commission shall pre-
20 scribe consistent data element standards appli-
21 cable to registered entities and reporting
22 counterparties.

23 “(2) DATA COLLECTION AND MAINTENANCE.—

24 The Commission shall prescribe data collection and

1 data maintenance standards for swap data reposi-
2 tories and digital asset repositories of transactions.

3 “(3) COMPARABILITY.—The standards pre-
4 scribed by the Commission under this subsection
5 shall be comparable to the data standards imposed
6 by the Commission on derivatives clearing organiza-
7 tions in connection with the clearing of swaps or dig-
8 ital commodities, digital assets, or digital collectibles,
9 as appropriate.

10 “(4) CONSISTENT STANDARDS.—If a digital
11 asset repository of transactions is jointly registered
12 with the Commission and Securities and Exchange
13 Commission and receives digital commodity, digital
14 asset, and digital collectible transaction data, the
15 Commission shall coordinate with the Securities and
16 Exchange Commission and the Commissioner of the
17 Internal Revenue Service to ensure that the data
18 standards and elements are appropriate and con-
19 sistent for use by both Commissions and the Inter-
20 nal Revenue Service.

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

23 “(1) accept data prescribed by the Commission
24 for each swap or digital commodity, digital asset, or

1 digital collectible transaction under subsection (b),
2 respectively;

3 “(2) confirm with both counterparties to the
4 swap or digital commodity, digital asset, or digital
5 collectible transaction the accuracy of the data that
6 was submitted;

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

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

13 “(B) provide the information described in para-
14 graph (1) in such form and at such frequency as the
15 Commission may require to comply with the public
16 reporting requirements contained in section
17 2(a)(13);

18 “(5) at the direction of the Commission, estab-
19 lish automated systems for monitoring, screening,
20 and analyzing swap or digital commodity, digital
21 asset, or digital collectible data, including compli-
22 ance and frequency of end user clearing exemption
23 claims by individual and affiliated entities;

24 “(6) maintain the privacy of any and all swap
25 or digital commodity, digital asset, or digital collect-

1 ible transaction information that the swap data re-
2 pository or digital asset repository of transactions,
3 respectively, receives from a swap dealer,
4 counterparty, or any other registered entity;

5 “(7) on a confidential basis pursuant to section
6 8, upon request, and after notifying the Commission
7 of the request, make available each swap or digital
8 commodity, digital asset, or digital collectible data
9 obtained by the swap data repository or digital asset
10 repository of transactions, respectively, including in-
11 dividual counterparty trade and position data, to—

12 “(A) each appropriate prudential regulator;

13 “(B) the Financial Stability Oversight
14 Council;

15 “(C) the Securities and Exchange Commis-
16 sion;

17 “(D) the Department of Justice; and

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

20 “(i) foreign financial supervisors (in-
21 cluding foreign futures authorities);

22 “(ii) foreign central banks;

23 “(iii) foreign ministries; and

24 “(iv) other foreign authorities; and

1 “(8) establish and maintain emergency proce-
2 dures, backup facilities, and a plan for disaster re-
3 covery that allows timely recovery and resumption of
4 operations and the fulfillment of the responsibilities
5 and obligations of the organization.

6 “(d) CONFIDENTIALITY AGREEMENT.—Before the
7 swap data repository or digital asset repository of trans-
8 actions may share information with any entity described
9 in subsection (c)(7), the swap data repository or digital
10 asset repository of transactions shall receive a written
11 agreement from each entity stating that the entity shall
12 abide by the confidentiality requirements described in sec-
13 tion 12 of this title relating to information on swap or
14 digital commodity, digital asset, or digital collectible (as
15 determined a collectible under section 408(m) of the Inter-
16 nal Revenue Code), respectively, that is provided.

17 “(e) DESIGNATION OF CHIEF COMPLIANCE OFFI-
18 CER.—

19 “(1) IN GENERAL.—Each swap data repository
20 or digital asset repository of transactions shall des-
21 ignate an individual to serve as a chief compliance
22 officer.

23 “(2) DUTIES.—The chief compliance officer
24 shall—

1 “(A) report directly to the board or to the
2 senior officer of the swap data repository or
3 digital asset repository of transactions;

4 “(B) review the compliance of the swap
5 data repository or digital asset repository of
6 transactions with respect to requirements and
7 core principles described in this section;

8 “(C) in consultation with the board of the
9 swap data repository or digital asset repository
10 of transactions, a body performing a function
11 similar to the board of the swap data repository
12 or digital asset repository of transactions, or
13 senior officer of the swap data repository or
14 digital asset repository of transactions resolve
15 any conflicts of interest that may arise;

16 “(D) be responsible for administering each
17 policy and procedure that is required to be es-
18 tablished pursuant to this section;

19 “(E) ensure compliance with this Act (in-
20 cluding regulations) relating to agreements,
21 contracts, or transactions, including each rule
22 prescribed by the Commission under this sec-
23 tion;

1 “(F) establish procedures for the remedi-
2 ation of noncompliance issues identified by the
3 chief compliance officer through any—

4 “(i) compliance office review;

5 “(ii) look-back;

6 “(iii) internal or external audit find-
7 ing;

8 “(iv) self-reported error; or

9 “(v) validated complaint; and

10 “(G) establish and follow appropriate pro-
11 cedures for handling, management response, re-
12 mediation, retesting, and closing of noncompli-
13 ance issues.

14 “(3) ANNUAL REPORTS.—

15 “(A) IN GENERAL.—In accordance with
16 rules prescribed by the Commission, the chief
17 compliance officer shall annually prepare and
18 sign a report that contains a description of—

19 “(i) the compliance of the swap data
20 repository or the digital asset repository of
21 transactions, as appropriate, of the chief
22 compliance office with respect to this Act
23 (including regulations); and

24 “(ii) each policy and procedure of the
25 swap data repository or the digital asset

1 repository of transactions, as appropriate,
2 of the chief compliance officer (including
3 the code of ethics and conflict of interest
4 policies of the swap data repository or the
5 digital asset repository of transactions, as
6 appropriate).

7 “(B) REQUIREMENTS.—A compliance re-
8 port under subparagraph (A) shall—

9 “(i) accompany each appropriate fi-
10 nancial report of the swap data repository
11 or digital asset repository of transactions
12 that is required to be furnished to the
13 Commission pursuant to this section; and

14 “(ii) include a certification that, under
15 penalty of law, the compliance report is ac-
16 curate and complete.

17 “(f) CORE PRINCIPLES APPLICABLE TO SWAP DATA
18 REPOSITORIES AND DIGITAL ASSET REPOSITORIES OF
19 TRANSACTIONS.—

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

1 “(A) adopt any rule or take any actions
2 that result in any unreasonable restraint of
3 trade; or

4 “(B) impose any material anticompetitive
5 burden on the trading, clearing, or reporting of
6 transactions.

7 “(2) GOVERNANCE ARRANGEMENTS.—Each
8 swap data repository or digital asset repository of
9 transactions shall establish governance arrangements
10 that are transparent—

11 “(A) to fulfill public interest requirements;
12 and

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

15 “(3) CONFLICTS OF INTEREST.—Each swap
16 data repository or digital asset repository of trans-
17 actions shall—

18 “(A) establish and enforce rules to mini-
19 mize conflicts of interest in the decision making
20 process of the swap data repository or the dig-
21 ital asset repository of transactions; and

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

24 “(4) ADDITIONAL DUTIES DEVELOPED BY THE
25 COMMISSION.—

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

5 “(B) CONSIDERATION OF EVOLVING
6 STANDARDS.—In developing additional duties
7 under subparagraph (A), the Commission may
8 take into consideration any evolving standard of
9 the United States or the international commu-
10 nity.

11 “(C) ADDITIONAL DUTIES FOR COMMIS-
12 SION DESIGNEES.—The Commission shall es-
13 tablish additional duties for any registered swap
14 data repository or digital asset repository of
15 transactions in order to minimize conflicts of
16 interest, protect data, ensure compliance, and
17 guarantee safety and security of the swap data
18 repository or digital asset repository of trans-
19 actions.

20 “(g) REQUIRED REGISTRATION OF SWAP DATA RE-
21 POSITORIES AND DIGITAL ASSET REPOSITORIES OF
22 TRANSACTIONS.—Any person that is required to be reg-
23 istered as a swap data repository or a digital asset reposi-
24 tory of transactions under this section shall register with
25 the Commission regardless of whether that person is also

1 licensed as a bank, trust company, money services busi-
2 ness, or registered with the Securities and Exchange Com-
3 mission as a security-based swap data repository, broker-
4 dealer, qualified custodian, or transfer agent.

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

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

17 **SEC. ____ . ADDITIONAL DEFINITIONS.**

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

21 “(62) DIGITAL ASSET REPOSITORY OF TRANS-
22 ACTIONS.—The term ‘digital asset repository of
23 transactions’ or ‘DART’ means any person that col-
24 lects and maintains information or records with re-
25 spect to transactions or positions in, or the terms

1 and conditions of digital commodities, digital assets,
2 or digital collectibles (as determined a collectibles
3 under section 408(m) of the Internal Revenue Code)
4 entered into by third parties for the purpose of pro-
5 viding a centralized recordkeeping facility for digital
6 commodities, digital assets, or digital collectibles.

7 “(63) OFF-CHAIN DIGITAL COMMODITY TRANS-
8 ACTION.—The term ‘off-chain digital commodity
9 transaction’ means any contract of sale of a digital
10 commodity in interstate commerce which is not
11 mined or validated and recorded on the appropriate
12 public distributed ledger for such digital commodity
13 within 24 hours of the transaction being entered
14 into.”.

15 (b) DEFINITION OF REGISTERED ENTITY.—Section
16 1a(40)(E) of such Act (7 U.S.C. 1a(40)(E)) is amended
17 by inserting “or a digital asset repository of transactions”
18 after “section 21”.

