

AMENDMENT TO THE RULES COMMITTEE PRINT

119-6

OFFERED BY MS. BROWN OF OHIO

In title I, add at the end the following:

1 SEC. 113. CIVIL MONETARY PENALTIES, CLAWBACKS, SUS-
2 PENSIONS, AND REVOCATIONS FOR VIOLA-
3 TIONS.

4 (a) AUTHORITY TO IMPOSE CIVIL PENALTIES.—The
5 Securities and Exchange Commission, with respect to a
6 provision of this Act or an amendment made by this Act
7 under the jurisdiction of the Securities and Exchange
8 Commission, and the Commodity Futures Trading Com-
9 mission, with respect to a provision of this Act or an
10 amendment made by this Act under the jurisdiction of the
11 Commodity Futures Trading Commission, may impose,
12 independently or jointly, a civil monetary penalty on any
13 person or entity that—

14 (1) willfully or negligently violates such provi-
15 sion or any rule issued thereunder;

16 (2) makes a material misstatement or omission
17 in any application, filing, record, or report required
18 in such provision; or

1 (3) engages in conduct that operates or would
2 operate as a fraud or deceit upon any customer, cli-
3 ent, investor, or counterparty in connection with any
4 digital asset activity regulated by such provision.

5 (b) AMOUNT OF PENALTY.—The amount of any civil
6 penalty imposed under subsection (a) shall not exceed the
7 greater of—

8 (1) \$250,000 for individuals or \$1,000,000 for
9 entities, for each such violation; or

10 (2) three times the amount of profit gained or
11 loss avoided as a result of the violation, material
12 misstatement, omission, or conduct.

13 (c) PROCEDURE.—Any civil penalty imposed under
14 this section shall be assessed in accordance with applicable
15 procedures under—

16 (1) in the case of the Securities and Exchange
17 Commission, section 21B of the Securities Exchange
18 Act of 1934 (15 U.S.C. 78u–2); or

19 (2) in the case of the Commodity Futures
20 Trading Commission, section 6c of the Commodity
21 Exchange Act (7 U.S.C. 13a–1).

22 (d) OTHER REMEDIES NOT LIMITED.—The imposi-
23 tion of a civil penalty under this section shall be in addi-
24 tion to, and not in lieu of, any other remedy available to
25 the Securities and Exchange Commission, the Commodity

1 Futures Trading Commission, or any other Federal agen-
2 cy, including—

3 (1) equitable relief;

4 (2) restitution;

5 (3) criminal liability; or

6 (4) the suspension, revocation, or denial of a
7 registration.

8 (e) CLAWBACK AUTHORITY.—

9 (1) IN GENERAL.—In any enforcement action
10 brought with respect to a violation of this Act or an
11 amendment made by this Act, the Securities and Ex-
12 change Commission and the Commodity Futures
13 Trading Commission, as applicable, may seek, and a
14 court or administrative law judge may order—

15 (A) disgorgement of any unjust enrich-
16 ment, including any profits, compensation, bo-
17 nuses, or other financial benefits derived from
18 the violation;

19 (B) rescission of ill-gotten gains received
20 under materially false or misleading pretenses;
21 and

22 (C) return of funds to harmed customers
23 or investors, including through the establish-
24 ment of a fund of the type described in section

1 308 of the Sarbanes-Oxley Act of 2002 or a
2 similar mechanism under applicable law.

3 (2) RULE OF CONSTRUCTION.—The authority
4 under this subsection shall apply regardless of
5 whether the violator remains in possession of the
6 funds, and may include recovery from transferees or
7 affiliates in cases involving knowing participation,
8 concealment, or fraudulent transfer.

9 (f) SUSPENSION OR REVOCATION OF REGISTRA-
10 TION.—

11 (1) IN GENERAL.—The Securities and Ex-
12 change Commission or the Commodity Futures
13 Trading Commission, as applicable, may suspend or
14 revoke the registration of any person or entity reg-
15 istered pursuant to a provision of this Act or an
16 amendment made by this Act if the Commission
17 finds, after notice and opportunity for hearing,
18 that—

19 (A) such person or entity—

20 (i) has willfully made or caused to be
21 made, in any application or report required
22 under this Act, an amendment made by
23 this Actor, or any rule issued thereunder,
24 any statement which was at the time and
25 in light of the circumstances under which

1 the statement was made false or mis-
2 leading with respect to any material fact;

3 (ii) has violated or failed to supervise
4 others who violated any provision of this
5 Act, an amendment made by this Actor, or
6 any rule issued thereunder;

7 (iii) has engaged in, or is subject to a
8 final order finding, any act or omission
9 constituting fraud, deceit, or manipulation
10 in connection with digital asset activities;

11 (iv) has been found in two or more
12 final adjudicated proceedings within a five-
13 year period to have violated provisions of
14 this Act, an amendment made by this
15 Actor, or another Federal law or State law
16 governing financial services, commodities,
17 or securities markets; or

18 (v) has demonstrated a pattern or
19 practice of conduct that the Commission
20 determines to be contrary to the public in-
21 terest or to the protection of customers or
22 investors; and

23 (B) the suspension of revocation is in the
24 public interest.

1 (2) PUBLIC INTEREST.—In determining wheth-
2 er suspension or revocation is in the public interest,
3 the Commission shall consider the gravity, recur-
4 rence, and harm resulting from the misconduct.

