

AMENDMENT TO S. 1582
OFFERED BY MS. FRIEDMAN OF CALIFORNIA

Add at the end the following:

1 **SEC. ____ . CRYPTO ATM FRAUD PREVENTION.**

2 (a) REGISTRATION WITH THE SECRETARY OF THE
3 TREASURY.—Section 5330 of title 31, United States
4 Code, is amended—

5 (1) in subsection (d)—

6 (A) in paragraph (1)(A), by inserting “,
7 any person who owns, operates, or manages a
8 virtual currency kiosk in the United States or
9 its territories,” after “similar instruments”; and

10 (B) by adding at the end the following:

11 “(3) VIRTUAL CURRENCY; VIRTUAL CURRENCY
12 ADDRESS; VIRTUAL CURRENCY KIOSK; VIRTUAL CUR-
13 RENCY KIOSK OPERATOR.—The terms ‘virtual cur-
14 rency’, ‘virtual currency address’, ‘virtual currency
15 kiosk’, and ‘virtual currency kiosk operator’ have the
16 meanings given those terms, respectively, in section
17 5337.”; and

18 (2) by adding at the end the following:

19 “(f) REGISTRATION OF VIRTUAL CURRENCY KIOSK
20 LOCATIONS.—

1 “(1) IN GENERAL.—Not later than 90 days
2 after the effective date of this subsection, and not
3 less than once every 90 days thereafter, the Sec-
4 retary of the Treasury shall require virtual currency
5 kiosk operators to submit an updated list containing
6 the physical address of each virtual currency kiosk
7 owned or operated by the virtual currency kiosk op-
8 erator.

9 “(2) FORM AND MANNER OF REGISTRATION.—
10 Each submission by a virtual currency kiosk oper-
11 ator pursuant to paragraph (1) shall include—

12 “(A) the legal name of the virtual currency
13 kiosk operator;

14 “(B) any fictitious or trade name of the
15 virtual currency kiosk operator;

16 “(C) the physical address of each virtual
17 currency kiosk owned, operated, or managed by
18 the virtual currency kiosk operator that is lo-
19 cated in the United States or the territories of
20 the United States;

21 “(D) the start date of operation of each
22 virtual currency kiosk;

23 “(E) the end date of operation of each vir-
24 tual currency kiosk, if applicable; and

1 “(F) each virtual currency address used by
2 the virtual currency kiosk operator.

3 “(3) FALSE AND INCOMPLETE INFORMATION.—
4 The filing of false or materially incomplete informa-
5 tion in a submission required under paragraph (1)
6 shall be deemed a failure to comply with the require-
7 ments of this subsection.”.

8 (b) PREVENTING FRAUDULENT TRANSACTIONS AT
9 VIRTUAL CURRENCY KIOSKS.—

10 (1) IN GENERAL.—Subchapter II of chapter 53
11 of title 31, United States Code, is amended by add-
12 ing at the end the following:

13 **“SEC. 5337. VIRTUAL CURRENCY KIOSK FRAUD PREVEN-**
14 **TION.**

15 “(a) DEFINITIONS.—In this section:

16 “(1) BLOCKCHAIN ANALYTICS.—The term
17 ‘blockchain analytics’ means the analysis of data
18 from blockchains or public distributed ledgers, and
19 associated transaction information, to provide risk-
20 specific information about virtual currency trans-
21 actions and virtual currency addresses.

22 “(2) CUSTOMER.—The term ‘customer’ means
23 any person that purchases or sells virtual currency
24 through a virtual currency kiosk.

1 “(3) EXISTING CUSTOMER.—The term ‘existing
2 customer’ means a customer other than a new cus-
3 tomer.

4 “(4) FINCEN.—The term ‘FinCEN’ means the
5 Financial Crimes Enforcement Network of the De-
6 partment of the Treasury.

7 “(5) NEW CUSTOMER.—The term ‘new cus-
8 tomer’, with respect to a virtual currency kiosk oper-
9 ator, means a customer during the 14-day period be-
10 ginning on the date of the first virtual currency
11 kiosk transaction of the customer with the virtual
12 currency kiosk operator.

13 “(6) TRANSACTION HASH.—The term ‘trans-
14 action hash’ means a unique identifier made up of
15 a string of characters that act as a record of and
16 provide proof that a transaction was verified and
17 added to the blockchain.

18 “(7) VIRTUAL CURRENCY.—The term ‘virtual
19 currency’ means any digital representation of value
20 that is recorded on a cryptographically secured dis-
21 tributed ledger or any similar technology or another
22 implementation, which was designed and built as
23 part of a system to leverage or replace blockchain,
24 distributed ledger technology, or their derivatives.

1 “(8) VIRTUAL CURRENCY ADDRESS.—The term
2 ‘virtual currency address’ means an alphanumeric
3 identifier associated with a virtual currency wallet
4 identifying the location to which virtual currency
5 purchased through a virtual currency kiosk can be
6 sent or from which virtual currency sold through a
7 virtual currency kiosk can be accessed.

8 “(9) VIRTUAL CURRENCY KIOSK.—The term
9 ‘virtual currency kiosk’ means a stand-alone machine
10 that is capable of accepting or dispensing legal ten-
11 der in exchange for virtual currency.

12 “(10) VIRTUAL CURRENCY KIOSK OPERATOR.—
13 The term ‘virtual currency kiosk operator’ means a
14 person who owns, operates, or manages a virtual
15 currency kiosk located in the United States or its
16 territories.

17 “(11) VIRTUAL CURRENCY KIOSK TRANS-
18 ACTION.—The term ‘virtual currency kiosk trans-
19 action’ means the purchase or sale of virtual cur-
20 rency via a virtual currency kiosk.

21 “(12) VIRTUAL CURRENCY WALLET.—The term
22 ‘virtual currency wallet’ means a software applica-
23 tion or other mechanism providing a means for hold-
24 ing, storing, and transferring virtual currency.

1 “(b) DISCLOSURES.—Before entering into a virtual
2 currency transaction with a customer, a virtual currency
3 kiosk operator shall disclose in a clear, conspicuous, and
4 easily readable manner—

5 “(1) all relevant terms and conditions of the
6 virtual currency kiosk transaction, including—

7 “(A) the amount of the virtual currency
8 kiosk transaction;

9 “(B) the type and nature of the virtual
10 currency kiosk transaction;

11 “(C) a warning that the virtual currency
12 kiosk transaction is final, is not refundable, and
13 may not be reversed; and

14 “(D) the type and amount of any fees or
15 other expenses paid by the customer;

16 “(2) a warning relating to consumer fraud in-
17 cluding—

18 “(A) a warning that consumer fraud often
19 starts with contact from a stranger, and that
20 the customer should never send money to some-
21 one they do not know;

22 “(B) a warning about the most common
23 types of fraudulent schemes involving virtual
24 currency kiosks, such as—

1 “(i) impersonation of a government
2 official or a bank representative;

3 “(ii) threats of jail time or financial
4 penalties;

5 “(iii) offers of a job or reward in ex-
6 change for payment, or offers of deals that
7 seem too good to be true;

8 “(iv) claims of a frozen bank account
9 or credit card; or

10 “(v) requests for donations to charity
11 or disaster relief; and

12 “(C) a statement that the customer should
13 contact the virtual currency kiosk operator’s
14 customer service helpline or State or local law
15 enforcement if they suspect fraudulent activity.

16 “(c) ACKNOWLEDGMENT OF DISCLOSURES.—Each
17 time a customer uses a virtual currency kiosk, the virtual
18 currency kiosk operator shall ensure acknowledgment of
19 all disclosures required under subsection (b) via confirma-
20 tion of consent of the customer at the virtual currency
21 kiosk.

22 “(d) RECEIPTS.—Upon completion of each virtual
23 currency kiosk transaction, the virtual currency kiosk op-
24 erator shall provide the customer with a receipt, which
25 shall include the following information:

1 “(1) The name and contact information of the
2 virtual currency kiosk operator, including a tele-
3 phone number for a customer service helpline.

4 “(2) The name of the customer.

5 “(3) The type, value, date, and precise time of
6 the virtual currency kiosk transaction, transaction
7 hash, and each applicable virtual currency address.

8 “(4) The amount of the virtual currency kiosk
9 transaction expressed in United States dollars.

10 “(5) All fees charged.

11 “(6) A statement that the customer may be en-
12 titled by law to a refund if the customer reports
13 fraudulent activity in conjunction with the virtual
14 currency kiosk transaction not later than 30 days
15 after the date of the virtual currency kiosk trans-
16 action.

17 “(7) The refund policy of the virtual currency
18 kiosk operator or a Uniform Resource Locator where
19 the refund policy of the virtual currency kiosk oper-
20 ator can be found.

21 “(8) A statement that the customer should con-
22 tact law enforcement if they suspect fraudulent ac-
23 tivity, such as scams, including contact information
24 for a relevant law enforcement or government agen-
25 cy.

1 “(9) Any additional information the virtual cur-
2 rency kiosk operator determines appropriate.

3 “(e) PHYSICAL RECEIPTS REQUIRED.—Not later
4 than 1 year after the effective date of this section, each
5 receipt required under subsection (d) shall be issued to
6 the customer as a physical receipt at the virtual currency
7 kiosk at the time of the virtual currency kiosk transaction,
8 but such receipt may also be provided in additional forms
9 or communications.

10 “(f) ANTI-FRAUD POLICY.—

11 “(1) IN GENERAL.—Each virtual currency kiosk
12 operator shall take reasonable steps to detect and
13 prevent fraud, including establishing and maintain-
14 ing a written anti-fraud policy that includes—

15 “(A) the identification and assessment of
16 fraud-related risk areas;

17 “(B) procedures and controls to protect
18 against risks identified under subparagraph
19 (A);

20 “(C) allocation of responsibility for moni-
21 toring the risks identified under subparagraph
22 (A); and

23 “(D) procedures for the periodic evaluation
24 and revision of the anti-fraud procedures, con-

1 tols, and monitoring mechanisms under sub-
2 paragraphs (B) and (C).

3 “(2) SUBMISSION OF ANTI-FRAUD POLICY TO
4 FINCEN.—Each virtual currency kiosk operator shall
5 submit to FinCEN the anti-fraud policy required
6 under paragraph (1) not later than days after the
7 later of—

8 “(A) the effective date of this section; or

9 “(B) the date on which the virtual cur-
10 rency kiosk operator begins operating.

11 “(g) APPOINTMENT OF COMPLIANCE OFFICER.—
12 Each virtual currency kiosk operator shall designate and
13 employ a compliance officer who—

14 “(1) is qualified to coordinate and monitor com-
15 pliance with this section and all other applicable
16 Federal and State laws, rules, and regulations;

17 “(2) is employed full-time by the virtual cur-
18 rency kiosk operator;

19 “(3) is not the chief executive officer of the vir-
20 tual currency kiosk operator; and

21 “(4) does not own or control more than 20 per-
22 cent of any interest in the virtual currency kiosk op-
23 erator.

24 “(h) USE OF BLOCKCHAIN ANALYTICS.—

1 “(1) IN GENERAL.—Each virtual currency kiosk
2 operator shall use blockchain analytics to prevent
3 sending virtual currency to a virtual currency wallet
4 known to be affiliated with fraudulent activity at the
5 time of a virtual currency kiosk transaction and to
6 detect transaction patterns indicative of fraud or
7 other illicit activities.

8 “(2) COMPLIANCE.—The Director of FinCEN
9 may request evidence from any virtual currency
10 kiosk operator to confirm compliance with this sub-
11 section.

12 “(i) VERBAL CONFIRMATION REQUIRED BEFORE
13 NEW CUSTOMER TRANSACTIONS.—

14 “(1) IN GENERAL.—Before entering into a vir-
15 tual currency kiosk transaction valued at 500 dollars
16 or more with a new customer, a virtual currency
17 kiosk operator shall obtain verbal confirmation from
18 the new customer that—

19 “(A) the new customer wishes to proceed
20 with the virtual currency kiosk transaction;

21 “(B) the new customer understands the
22 nature of the virtual currency kiosk transaction;
23 and

24 “(C) the new customer is not being fraudu-
25 lently induced to engage in the transaction.

1 “(2) REASONABLE EFFORT.—A virtual cur-
2 rency kiosk operator shall make a reasonable effort
3 to determine whether the customer is being fraudu-
4 lently induced to engage in the virtual currency
5 kiosk transaction.

6 “(3) METHOD OF CONFIRMATION.—Each verbal
7 confirmation required under paragraph (1) shall be
8 given by way of a live telephone or video call to a
9 person employed by, or on behalf of, the virtual cur-
10 rency kiosk operator.

11 “(j) REFUNDS.—

12 “(1) IN GENERAL.—

13 “(A) NEW CUSTOMERS.—Not later than
14 30 days after receiving an application under
15 paragraph (2), a virtual currency kiosk operator
16 shall issue a refund to a customer for the full
17 amount of each virtual currency kiosk trans-
18 action, including the dollar value of virtual cur-
19 rency exchanged and all transaction fees, made
20 during the period in which the customer was a
21 new customer and for which the customer was
22 fraudulently induced to engage in the virtual
23 currency kiosk transaction.

24 “(B) EXISTING CUSTOMERS.—Not later
25 than 30 days after receiving an application

1 under paragraph (2), a virtual currency kiosk
2 operator shall issue a refund to a customer for
3 the full amount of all transaction fees associ-
4 ated with each virtual currency kiosk trans-
5 action made during the period in which the cus-
6 tomer was an existing customer and for which
7 the customer was fraudulently induced to en-
8 gage in the virtual currency kiosk transaction.

9 “(2) APPLICATION.—A customer seeking a re-
10 fund under paragraph (1) shall, not later than 30
11 days after the date of the virtual currency kiosk
12 transaction, submit an application to the virtual cur-
13 rency kiosk operator that includes the following:

14 “(A) The name, address, and phone num-
15 ber of the customer.

16 “(B) The transaction hash of the virtual
17 currency kiosk transaction or information suffi-
18 cient to determine the type, value, date, and
19 time of the virtual currency kiosk transaction.

20 “(C) A copy of a report to a State or local
21 law enforcement or government agency, made
22 not later than 30 days after the virtual cur-
23 rency kiosk transaction, that includes a sworn
24 affidavit attesting that the customer was fraud-

1 ulently induced to engage in the virtual cur-
2 rency kiosk transaction.

3 “(3) ENHANCED DAMAGES.—Any person who
4 willfully denies a refund to a customer in violation
5 of paragraph (1) shall be liable to the customer for
6 3 times the amount of the refund owed under that
7 paragraph or \$10,000, whichever is greater. A pen-
8 alty under this paragraph shall be in addition to any
9 penalty under subsection (n).

10 “(k) TRANSACTION LIMITS WITH RESPECT TO NEW
11 CUSTOMERS.—

12 “(1) IN A 24-HOUR PERIOD.—A virtual currency
13 kiosk operator shall not accept more than \$2,000, or
14 the equivalent amount in virtual currency, from any
15 new customer during any 24-hour period.

16 “(2) TOTAL.—A virtual currency kiosk operator
17 shall not accept a total of more than \$10,000, or the
18 equivalent amount in virtual currency, from any new
19 customer.

20 “(l) CUSTOMER SERVICE HELPLINE.—Each virtual
21 currency kiosk operator shall provide live customer service
22 during all hours that the virtual currency kiosk operator
23 accepts virtual currency kiosk transactions, the phone
24 number for which is regularly monitored and displayed in

1 a clear, conspicuous, and easily readable manner upon
2 each virtual currency kiosk.

3 “(m) COMMUNICATIONS WITH LAW ENFORCE-
4 MENT.—

5 “(1) IN GENERAL.—Each virtual currency kiosk
6 operator shall provide a dedicated and frequently
7 monitored phone number and email address for rel-
8 evant law enforcement and government agencies to
9 facilitate communication with the virtual currency
10 kiosk operator in the event of reported or suspected
11 fraudulent activity.

12 “(2) SUBMISSION.—Not later than 90 days
13 after the effective date of this section, each virtual
14 currency kiosk operator shall submit the phone num-
15 ber and email address described in paragraph (1) to
16 FinCEN and all other relevant law enforcement and
17 government agencies.

18 “(n) CIVIL PENALTIES.—

19 “(1) IN GENERAL.—Any person who fails to
20 comply with any requirement of this section, or any
21 regulation prescribed under this section, shall be lia-
22 ble to the United States for a civil monetary penalty
23 of \$10,000 for each such violation.

24 “(2) CONTINUING VIOLATION.—Each day that
25 a violation described in paragraph (1) continues

1 shall constitute a separate violation for purposes of
2 such paragraph.

3 “(3) ASSESSMENTS.—Any penalty imposed
4 under this section shall be assessed and collected by
5 the Secretary of the Treasury as provided in section
6 5321 and any such assessment shall be subject to
7 the provisions of that section.

8 “(o) RELATIONSHIP TO STATE LAWS.—The provi-
9 sions of this section shall preempt any State law, rule, or
10 regulation only to the extent that such State law, rule,
11 or regulation conflicts with a provision of this section.
12 Nothing in this section shall be construed to prohibit a
13 State from enacting a law, rule, or regulation that pro-
14 vides greater protection to customers than the protection
15 provided by the provisions of this section.”.

16 (2) CLERICAL AMENDMENT.—The table of sec-
17 tions for chapter of title 31, United States Code, is
18 amended by inserting after the item relating to sec-
19 tion 5336 the following:

“5337. Virtual currency kiosk fraud prevention.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect 90 days after the date of en-
22 actment of this Act.

