

**DESCRIPTION OF H.J. RES. 25, A JOINT RESOLUTION
PROVIDING FOR CONGRESSIONAL DISAPPROVAL
UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE,
OF THE RULE SUBMITTED BY THE DEPARTMENT OF THE
TREASURY RELATING TO “GROSS PROCEEDS
REPORTING BY BROKERS THAT REGULARLY PROVIDE
SERVICES EFFECTUATING DIGITAL ASSET SALES”**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on February 26, 2025

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



February 24, 2025
JCX-11-25

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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup for February 26, 2025, of H.J. Res. 25, a joint resolution disapproving of the rule promulgated by the Department of the Treasury relating to “Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales.”¹ This document,² prepared by the staff of the Joint Committee on Taxation, provides a description of this joint resolution.

¹ T.D. 10021, 89 Fed. Reg. 106928, December 30, 2024.

² This document may be cited as follows: Joint Committee on Taxation, *Description of H.J. Res. 25, A Joint Resolution Providing for Congressional Disapproval Under Chapter 8 of Title 5, United States Code, of the Rule Submitted by the Department of the Treasury relating to “Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales,”* (JCX-11-25), February 24, 2025. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

A. Rule Relating to Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales

Present Law

1. Gross proceeds reporting by persons regularly providing services related to digital asset sales

In 2021, Congress clarified that broker information reporting includes reporting with respect to transactions involving digital assets by amending the provisions of the Internal Revenue Code of 1986 (“the Code”)³ that generally require brokers to report sales, and in the case of certain broker-to-broker transactions, basis.⁴ A broker is defined to include “any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person.”⁵ Except as provided by the Secretary of the Treasury (the “Secretary”), digital assets are defined as “any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.”⁶

Regulatory guidance to implement the reporting requirement was proposed in 2023,⁷ and finalized in a Treasury Decision published in July 2024 titled “Gross Proceeds and Basis Reporting by Brokers and Determination of Amount Realized and Basis for Digital Asset Transactions” (hereinafter, “July 2024 Regulations”).⁸ The July 2024 Regulations address the general rules for gross proceeds and basis reporting for persons within scope of the regulations. The guidance also provides the rules for determining the amount realized from the sale, exchange, or disposition of digital assets by persons subject to the broker reporting rules, as well as the determination of basis in assets in such transactions.

In defining the class of persons within scope of the reporting rules, the regulations introduce the terms “U.S. digital asset broker,” “customer,” and “digital asset middleman.” A U.S. digital asset broker is defined as “a person that effects sales of digital assets on behalf of others and that is...a U.S. payor or U.S. middleman”⁹ and is required to report with respect to each sale by a customer if, in the ordinary course of business in which “the broker stands ready

³ All section references in the document are to the Code, unless otherwise stated.

⁴ Pub. L. No. 117-58, sec. 80603 (Information reporting for brokers and digital assets); secs. 6045(c)(1)(D) and 6045A(d).

⁵ Sec. 6045(c)(1)(D).

⁶ Sec. 6045(g)(3)(D).

⁷ 88 Fed. Reg. 59576 (August 29, 2023).

⁸ T.D. 10000, 89 F.R. 56480 (July 9, 2024).

⁹ Treas. Reg. sec. 1.6045-1(g)(4)(i)(A) (defines U.S. digital asset broker). The term “U.S. middleman” is defined in regulations under rules on interest reporting and intermediaries. Treas. Reg. secs. 1.6049-5(c)(5)(i) (defining U.S. middleman).

to effect sales to be made by others, the broker effects the sale or closes the short position opened by the sale.”¹⁰ A customer, with respect to a sale effected by a broker, is defined as the person (other than such broker) that makes the sale if the broker acts as (1) an agent for such person in the sale; (2) a principal in the sale; (3) the participant in the sale responsible for paying to such person or crediting to such person’s account the gross proceeds of the sale; or (4) a digital asset middleman that effects the sale of a digital asset for such person.¹¹ A digital asset middleman is defined as any person who provides certain facilitative services with respect to a sale of digital assets.¹²

In the preamble to the July 2024 Regulations (the “Preamble”), Treasury distinguished between custodial and non-custodial industry participants. Custodial industry participants, such as custodial digital asset trading platforms and certain digital asset hosted wallet providers, generally act as principals or agents to effect digital asset transactions on behalf of their customers. In contrast, non-custodial industry participants are described as participants that do not take possession of a customer’s digital assets, such as operators of non-custodial digital asset trading platforms (sometimes referred to as decentralized finance or, colloquially, “DeFi”). As explained in the Preamble, the decentralized finance industry offers services that allow for transactions that use automatically executing software (sometimes referred to as “smart contracts”) that do not require taking custody of a digital asset customer’s private access code (or “private key”) needed to access such customer’s digital account.

As discussed above, the regulations defined a digital asset middleman as any person who provides certain facilitative services with respect to a sale of digital assets. The Secretary finalized the definition of digital asset middleman as applied to custodial industry participants by specifying certain facilitative services, such as acceptance or processing of digital assets as payment for property of a type which when sold would constitute a sale by a broker that is in the business of effecting sales of such property. However, Treasury reserved on and did not finalize the definition of digital asset middleman as applied to non-custodial industry participants, noting that such rules would be provided in a separate set of final regulations. The July 2024 Regulations are otherwise in effect and generally require gross proceeds reporting for sales of digital assets occurring on and after January 1, 2025, and basis reporting for certain sales occurring on and after January 1, 2026.¹³

The regulations finalized in December 2024, titled “Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales” (hereinafter, the “December 2024 Regulations”) address only a revised definition of digital asset middleman to encompass certain persons who participate in effectuating decentralized financial transactions (non-custodial industry participants).¹⁴ In the definition of digital asset middleman, the December 2024

¹⁰ Treas. Reg. sec. 1.6045-1(c)(2).

¹¹ Treas. Reg. sec. 1.6045-1(a)(2)(i).

¹² Former Treas. Reg. sec. 1.6045-1(a)(21).

¹³ Treas. Reg. sec. 1.6045-1(q).

¹⁴ T.D. 10021, 89 Fed. Reg. 106928, December 30, 2024.

regulations replace “facilitative services” with “effectuating services” and provide that an “effectuating service” includes both the previously-defined “facilitative services” (as included in the July 2024 Regulations) as well as trading front-end services where the nature of the service arrangement is such that the person providing that service ordinarily would know or be in a position to know that the nature of the transaction potentially gives rise to gross proceeds from the sale of digital assets.¹⁵ Trading front-end services generally facilitate trading for customers who may otherwise need to write software code in order to communicate, and thus transact, with other decentralized finance participants.

The December 2024 Regulations generally apply to sales of digital assets occurring on or after January 1, 2027.¹⁶

2. The Congressional Review Act

Under the Congressional Review Act (the “CRA”),¹⁷ Congress may overturn certain Federal agency actions by passing a joint resolution of disapproval that is introduced within 60 days of the date on which the rule is submitted to Congress for review.¹⁸ Under a CRA joint resolution of disapproval, if a disapproved rule has not yet gone into effect, the rule will not take effect;¹⁹ if a disapproved rule has already gone into effect, the rule shall be treated as though it had never taken effect.²⁰ Rules that do not take effect or do not continue due to a CRA joint resolution of disapproval may not be reissued in substantially the same form, and new rules that are substantially the same as disapproved rules may not be issued absent a change in law.²¹

Description of Proposal

The proposal is a joint resolution disapproving of the rules published on December 30, 2024, by the Department of the Treasury relating to “Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales.” Under the CRA, the December

¹⁵ Treas. Reg. sec. 1.6045-1(a)(21).

¹⁶ Treas. Reg. sec. 1.6045-1(q) (the revised rule of Treas. Reg. sec. 1.6045-1(a)(21) is applicable to sales of digital assets occurring on or after Jan. 1, 2027).

¹⁷ 5 U.S.C. secs. 801-808.

¹⁸ 5 U.S.C. secs. 801(a), 801(d), and 802. The date of submission is the date on which a report on the rule is submitted to Congress, generally not later than the date on which the rule is published in the Federal Register. If the session of Congress in which the report was submitted adjourns until the first day of the following session of the same or next Congress, the rule is treated as if published, in the case of the House, on the 15th legislative day of the new session of Congress.

¹⁹ 5 U.S.C. sec. 801(b)(1).

²⁰ 5 U.S.C. sec. 801(f).

²¹ 5 U.S.C. sec. 801(b)(2).

2024 Regulations immediately cease to have effect and are treated as though they had never taken effect. The July 2024 Regulations are not affected by the resolution.

Effective Date

The joint resolution is effective on date of enactment.

B. Estimated Revenue Effects of the Proposal

The staff of the Joint Committee on Taxation estimates the bill to have the following effect on Federal fiscal year budget receipts for the period 2025 through 2034:

	<i>Fiscal Years</i>												
	[Billions of Dollars]												
	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>	<u>2031</u>	<u>2032</u>	<u>2033</u>	<u>2034</u>	<u>2025-</u> <u>2029</u>	<u>2025-</u> <u>2034</u>	
Repeal of Treasury December 2024 regulations	-0.1	-0.2	-0.3	-0.3	-0.4	-0.5	-0.5	-0.5	-0.5	-0.5	-1.3	-3.9	