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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to clarify the application of certain rules with respect to the trading of digital assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. KUSTOFF introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to clarify the application of certain rules with respect to the trading of digital assets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Providing Analogous Rules for Digital Assets Act” or the
6 “PAR Act”.

7 (b) **REFERENCES.**—Except as otherwise expressly
8 provided, whenever in this Act an amendment or repeal

1 is expressed in terms of an amendment to, or repeal of,
2 a section or other provision, the reference shall be consid-
3 ered to be made to a section or other provision of the In-
4 ternal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

- Sec. 1. Short title; etc.
- Sec. 2. Transfers of traded digital assets pursuant to a lending agreement.
- Sec. 3. Dealers and traders of widely traded digital assets.
- Sec. 4. Digital asset trading safe harbor.
- Sec. 5. Definitions.
- Sec. 6. Rules of construction.

7 **SEC. 2. TRANSFERS OF TRADED DIGITAL ASSETS PURSU-**
8 **ANT TO A LENDING AGREEMENT.**

9 (a) IN GENERAL.—Subsections (a) and (b) of section
10 1058 are each amended by striking “securities” each place
11 it appears and inserting “specified assets”.

12 (b) SPECIFIED ASSETS.—Section 1058 is amended
13 by adding at the end the following new subsection:

14 “(d) SPECIFIED ASSETS.—For purposes of this sec-
15 tion, the term ‘specified assets’ means—

16 “(1) securities (as defined in section 1236(c)),

17 and

18 “(2) traded digital assets.”.

19 (c) TREATMENT OF CERTAIN LEGAL ENTITLEMENTS
20 AND OBLIGATIONS WHICH ACCRUE DURING PERIOD OF
21 AGREEMENT.—Section 1058(b)(2) is amended to read as
22 follows:

1 “(2) require that—

2 “(A) payments shall be made to the trans-
3 feror of amounts equivalent to, except as other-
4 wise provided by the Secretary, all interest,
5 dividends, property, legal entitlements, and
6 other distributions which the owner of the spec-
7 ified assets is entitled to receive during the pe-
8 riod beginning with the transfer of the specified
9 assets by the transferor and ending with the
10 transfer of identical specified assets back to the
11 transferor, and

12 “(B) in the case of any transfer of traded
13 digital assets, the transferor shall assume all
14 obligations imposed on the owner of such trad-
15 ed digital assets during the period described in
16 subparagraph (A),”.

17 (d) CONFORMING AMENDMENTS.—

18 (1) Section 1058(a) is amended by striking “(as
19 defined in section 1236(c))”.

20 (2) The heading of section 1058, and the item
21 relating to section 1058 in the table of sections for
22 part IV of subchapter O of chapter 1, are each
23 amended by striking “securities” and inserting
24 “specified assets”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transfers made after the date
3 of the enactment of this Act.

4 **SEC. 3. DEALERS AND TRADERS OF WIDELY TRADED DIG-**
5 **ITAL ASSETS.**

6 (a) IN GENERAL.—Section 475 is amended by redes-
7 ignating subsection (g) as subsection (h) and by inserting
8 after subsection (f) the following new subsection:

9 “(g) ELECTION OF MARK TO MARKET FOR DEALERS
10 IN COVERED DIGITAL ASSETS.—

11 “(1) IN GENERAL.—In the case of a dealer in
12 covered digital assets who elects the application of
13 this subsection, this section shall apply to covered
14 digital assets held by such dealer in the same man-
15 ner as this section applies to securities held by a
16 dealer in securities.

17 “(2) COVERED DIGITAL ASSET.—For purposes
18 of this section, the term ‘covered digital asset’
19 means—

20 “(A) any widely traded digital asset,

21 “(B) any notional principal contract with
22 respect to any widely traded digital asset,

23 “(C) any evidence of an interest in, or a
24 derivative instrument in, any widely traded dig-
25 ital asset described in subparagraph (A) or (B),

1 including any option, forward contract, futures
2 contract, short position, and any similar instru-
3 ment in such widely traded digital asset, and

4 “(D) any position which—

5 “(i) is not a covered digital asset de-
6 scribed in subparagraph (A), (B), or (C),

7 “(ii) is a hedge with respect to such
8 a covered digital asset, and

9 “(iii) is clearly identified in the tax-
10 payer’s records as being described in this
11 subparagraph before the close of the day
12 on which it was acquired or entered into
13 (or such other time as the Secretary may
14 by regulations prescribe).

15 “(3) ELECTION.—An election under this sub-
16 section may be made without the consent of the Sec-
17 retary. Such an election, once made, shall apply to
18 the taxable year for which made and all subsequent
19 taxable years unless revoked with the consent of the
20 Secretary.”.

21 (b) APPLICATION OF MARK TO MARKET RULES TO
22 COVERED DIGITAL ASSETS.—Section 475(f) is amend-
23 ed—

1 (1) in the heading, by striking “OR COMMOD-
2 ITIES” and inserting “, COMMODITIES, OR COVERED
3 DIGITAL ASSETS”,

4 (2) by redesignating paragraph (3) as para-
5 graph (4) and by inserting after paragraph (2) the
6 following new paragraph:

7 “(3) TRADERS IN COVERED DIGITAL ASSETS.—
8 In the case of a person who is engaged in a trade
9 or business as a trader in covered digital assets and
10 who elects to have this paragraph apply to such
11 trade or business, paragraph (1) shall apply to cov-
12 ered digital assets held by such trader in connection
13 with such trade or business in the same manner as
14 paragraph (1) applies to securities held by a trader
15 in securities.”, and

16 (3) in paragraph (4), as so redesignated, by
17 striking “paragraphs (1) and (2)” and inserting
18 “paragraphs (1), (2), and (3)”.

19 (c) TREATMENT OF COVERED DIGITAL ASSETS
20 WHICH ARE SECURITIES OR COMMODITIES.—Section
21 475(d) is amended by adding at the end the following new
22 paragraph:

23 “(4) TREATMENT OF COVERED DIGITAL ASSETS
24 WHICH ARE SECURITIES OR COMMODITIES.—In the
25 case of any covered digital asset which is a security

1 or commodity (determined without regard to this
2 paragraph), such covered digital asset shall not be
3 treated as a security or commodity for purposes of
4 subsections (b) through (g).”.

5 (d) TREATMENT OF ADJUSTMENTS ATTRIBUTABLE
6 TO ELECTION OF MARK TO MARKET.—Section 475(d), as
7 amended by subsection (c), is amended by adding at the
8 end the following new paragraph:

9 “(5) ADJUSTMENTS ATTRIBUTABLE TO MARK
10 TO MARKET TREATMENT OF SECURITIES, COMMOD-
11 ITIES, OR COVERED DIGITAL ASSETS.—In the case of
12 an adjustment described in section 481(a) by reason
13 of the application of subsection (a), (e), (f), or (g)
14 of this section, the character of any income or loss
15 with respect to any property as a result of such ad-
16 justment shall be the same as the character of the
17 gain or loss which would have resulted from the sale
18 of such property as of the close of the taxable year
19 preceding the year of the change (within the mean-
20 ing of section 481) under the method of accounting
21 used for such preceding taxable year.”.

22 (e) CONFORMING AMENDMENTS.—

23 (1) Section 475(e)(2) is amended by striking
24 “this subsection and subsection (f)” and inserting
25 “this section”.

1 (2) The heading of section 475 is amended by
2 striking “**DEALERS IN SECURITIES**” and inserting
3 “**CERTAIN DEALERS AND TRADERS**”.

4 (3) The table of sections for subpart D of part
5 II of subchapter E of chapter 1 is amended by strik-
6 ing the item relating to section 475 and inserting
7 the following:

“Sec. 475. Mark to market accounting method for certain dealers and trad-
ers.”.

8 (f) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to taxable years beginning after
10 the date of the enactment of this Act.

11 (g) **4-YEAR SPREAD OF ADJUSTMENTS.**—In the case
12 of a taxpayer that elects under subsection (f)(3) or (g)
13 of section 475 of the Internal Revenue Code of 1986 (as
14 added by this section) to change such taxpayer’s method
15 of accounting for the taxpayer’s first taxable year begin-
16 ning after the date of the enactment of this Act—

17 (1) any identification required with respect to
18 such subsection with respect to covered digital assets
19 held on the first day of such taxable year shall be
20 treated as timely made if made on or before the
21 30th day of such taxable year, and

22 (2) the net amount of the adjustments required
23 to be taken into account by the taxpayer under sec-
24 tion 481 of such Code by reason of such subsection

1 shall be taken into account ratably over the 4-tax-
2 able year period beginning with such taxable year.

3 **SEC. 4. DIGITAL ASSET TRADING SAFE HARBOR.**

4 (a) IN GENERAL.—Section 864(b)(2) is amended—

5 (1) in the heading, by striking “OR COMMOD-
6 ITIES” and inserting “COMMODITIES, OR TRADED
7 DIGITAL ASSETS”,

8 (2) by redesignating subparagraph (C) as sub-
9 paragraph (D) and by inserting the following new
10 subparagraph after subparagraph (B):

11 “(C) TRADED DIGITAL ASSETS.—

12 “(i) IN GENERAL.—Trading in traded
13 digital assets through a resident broker,
14 commission agent, custodian, or other
15 independent agent.

16 “(ii) TRADING FOR TAXPAYER’S OWN
17 ACCOUNT.—Trading in traded digital as-
18 sets for the taxpayer’s own account, wheth-
19 er by the taxpayer or his employees or
20 through a resident broker, commission
21 agent, custodian, or other agent, and
22 whether or not any such employee or agent
23 has discretionary authority to make deci-
24 sions in effecting the transactions. This

1 clause shall not apply in the case of a deal-
2 er in digital assets.”, and

3 (3) in subparagraph (D), as so redesignated, by
4 striking “and (B)(i)” and inserting “, (B)(i), and
5 (C)(i)”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2025.

9 **SEC. 5. DEFINITIONS.**

10 Section 7701 is amended—

11 (1) by redesignating subsection (p) as sub-
12 section (q), and

13 (2) by inserting after subsection (o) the fol-
14 lowing new subsection:

15 “(p) DEFINITIONS RELATED TO DIGITAL ASSETS.—

16 For purposes of this title—

17 “(1) DIGITAL ASSET.—The term ‘digital asset’
18 means, except as otherwise provided by the Sec-
19 retary, any digital representation of value which is
20 recorded on a cryptographically secured distributed
21 ledger or any similar technology as specified by the
22 Secretary.

23 “(2) TRADED DIGITAL ASSET.—The term ‘trad-
24 ed digital asset’ means, except as otherwise provided

1 by the Secretary to prevent abuse, any digital asset
2 if—

3 “(A) such asset is fungible,

4 “(B) quotations of such asset are readily
5 available on an exchange (or, in the case of an
6 exchange that does not provide quotations, such
7 quotations are readily ascertainable), and

8 “(C) such asset is either—

9 “(i) not a tokenized digital asset, or

10 “(ii) a wrapped digital asset with re-
11 spect to which the reference digital asset is
12 a traded digital asset.

13 “(3) WIDELY TRADED DIGITAL ASSET.—

14 “(A) IN GENERAL.—The term ‘widely
15 traded digital asset’ means, with respect to any
16 taxpayer for any taxable year and except as
17 otherwise provided by the Secretary to prevent
18 abuse, any traded digital asset if—

19 “(i) quotations for such asset were
20 readily available on an exchange for the
21 entire calendar year which ends in or with
22 the taxable year preceding such taxable
23 year,

24 “(ii) the market capitalization of such
25 asset exceeded \$500,000,000 at substan-

1 tially all times during such calendar year,
2 and

3 “(iii) not more than 10 percent of the
4 units of such asset were owned, directly or
5 indirectly, by the taxpayer or any person
6 described with respect to the taxpayer
7 under section 267(b) (applied without re-
8 gard to section 267(c)(3)) or section
9 707(b)(1) at any time during such taxable
10 year or such preceding taxable year.

11 “(B) SPECIAL RULE FOR WRAPPED DIG-
12 ITAL ASSETS.—In the case of any wrapped dig-
13 ital asset, except as otherwise provided by the
14 Secretary to prevent abuse, such asset shall be
15 treated as a widely traded digital asset if, and
16 only if, the reference digital asset with respect
17 to such wrapped digital asset is a widely traded
18 digital asset.

19 “(C) AUTHORITY TO ENSURE RELIABLE
20 PRICE DISCOVERY.—For purposes of subpara-
21 graphs (A) and (B), the term ‘prevent abuse’
22 includes the exclusion of assets that lack reli-
23 able price discovery or that the Secretary deter-
24 mines are at risk of price manipulation.

1 “(D) AUTHORITY TO ADJUST REQUIRE-
2 MENTS.—The Secretary may, by regulation,
3 provide requirements that apply in lieu of one
4 or more of the requirements of clauses (i)
5 through (iii) of subparagraph (A) if the Sec-
6 retary determines that due to changes in mar-
7 ket conditions (including by reason of the en-
8 actment of Federal digital asset market struc-
9 ture legislation) that such alternative require-
10 ments would more effectively or efficiently iden-
11 tify traded digital assets for which there is con-
12 sistent and reliable price discovery.

13 “(E) INFLATION ADJUSTMENT.—In the
14 case of any calendar year after 2027, the
15 \$500,000,000 amount in subparagraph (A)(ii)
16 shall be increased by an amount equal to—

17 “(i) such dollar amount, multiplied by

18 “(ii) the cost-of-living adjustment de-
19 termined under section 1(f)(3) for such
20 calendar year, determined by substituting
21 ‘calendar year 2026’ for ‘calendar year
22 2016’ in subparagraph (A)(ii) thereof.

23 Any increase determined under the preceding
24 sentence which is not a multiple of \$100,000

1 shall be rounded to the nearest multiple of
2 \$100,000.

3 “(4) TOKENIZED DIGITAL ASSET.—The term
4 ‘tokenized digital asset’ means any digital asset
5 (other than any qualified U.S. dollar stablecoin) if
6 more than an insignificant portion of the value of
7 such digital asset is related to anything other than
8 the operation of the cryptographically secured dis-
9 tributed ledger on which such digital asset is re-
10 corded.

11 “(5) WRAPPED DIGITAL ASSET.—The term
12 ‘wrapped digital asset’ means, except as otherwise
13 provided by the Secretary to prevent abuse, any dig-
14 ital asset if such asset—

15 “(A) is redeemable on demand, on a one-
16 for-one basis, for another digital asset, and

17 “(B) is recorded on a cryptographically se-
18 cured distributed ledger other than the cryp-
19 tographically secured distributed ledger on
20 which the digital asset referred to in subpara-
21 graph (A) is recorded.

22 “(6) REFERENCE DIGITAL ASSET.—

23 “(A) IN GENERAL.—The term ‘reference
24 digital asset’ means, with respect to any

1 wrapped digital asset, the digital asset referred
2 to in paragraph (5)(A).

3 “(B) SPECIAL RULE FOR REWRAPPINGS.—
4 If, but for this clause, the reference digital
5 asset with respect to any wrapped digital asset
6 would be a wrapped digital asset (hereafter re-
7 ferred to in this paragraph as the lower-tier
8 wrapped digital asset)—

9 “(i) subparagraph (A) shall be applied
10 with respect to such lower-tier wrapped
11 digital asset, and

12 “(ii) the reference digital asset with
13 respect to such lower-tier wrapped digital
14 asset shall be treated as the reference dig-
15 ital asset of such wrapped digital asset.

16 “(C) MULTIPLE WRAPPINGS.— If, after
17 the application of subparagraph (B), the ref-
18 erence digital asset with respect to the lower-
19 tier wrapped digital asset is a wrapped digital
20 asset, such subparagraph shall be reapplied by
21 treating such lower-tier wrapped digital asset as
22 the wrapped digital asset.

23 “(7) STABLECOIN.—

24 “(A) QUALIFIED U.S. DOLLAR
25 STABLECOIN.—The term ‘qualified U.S. dollar

1 stablecoin’ means any U.S. dollar stablecoin
2 which is issued by—

3 “(i) a permitted payment stablecoin
4 issuer (as defined in section 2(23) of the
5 GENIUS Act, as in effect on the date of
6 the enactment of this paragraph), or

7 “(ii) a foreign payment stablecoin
8 issuer (as defined in section 2(12) of the
9 GENIUS Act, as so in effect) which is per-
10 mitted under such Act (as so in effect) to
11 offer, sell, or otherwise make available
12 such U.S. dollar stablecoin in the United
13 States.

14 “(B) U.S. DOLLAR STABLECOIN.—The
15 term ‘U.S. dollar stablecoin’ means a payment
16 stablecoin as defined in section 2(22) of the
17 GENIUS Act (as in effect on the date of the
18 enactment of this paragraph) applied by sub-
19 stituting ‘dollars’ for ‘monetary value’ each
20 place it appears in such section.

21 “(C) PUBLICATION OF LIST.—The Sec-
22 retary shall, to the extent feasible, regularly
23 publish a list of qualified U.S. dollar
24 stablecoins.

1 “(D) LIMITED AUTHORITY TO TREAT
2 STABLECOINS AS MONEY.—The Secretary may
3 issue such regulations or other guidance as may
4 be necessary or appropriate to (except as other-
5 wise expressly provided in this title)—

6 “(i) treat qualified U.S. dollar
7 stablecoins as dollars, and

8 “(ii) treat other stablecoins as cur-
9 rency if such treatment would increase
10 Federal revenues.”.

11 **SEC. 6. RULES OF CONSTRUCTION.**

12 (a) NO INFERENCE WITH RESPECT TO APPLICATION
13 OF OTHER PROVISIONS OF LAW.—Except as otherwise ex-
14 pressly provided by this Act (or an amendment made by
15 this Act) with respect to the application of one or more
16 provisions of the Internal Revenue Code of 1986, nothing
17 in this Act (or any amendment made by this Act) shall
18 be construed to create an inference that a digital asset
19 does or does not constitute a security, a commodity, debt,
20 equity, stock, a partnership interest, or an interest in a
21 trust, for purposes of any provision of law.

22 (b) NO INFERENCE WITH RESPECT TO PRIOR PERI-
23 ODS.—No provision of this Act (or any amendment made
24 by this Act) shall be construed to create any inference with
25 respect to the proper application of any provision of the

- 1 Internal Revenue Code of 1986 with respect to any period
- 2 before the period to which such provision or amendment
- 3 applies.