



# CFA MEMBER ALERT:

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## SENATE CRYPTO BILL – NOT JUST BAD FOR CRYPTO INVESTORS

*Urge Senators to oppose the “CLARITY Act” that puts Your Bank and Your 401(k) at Risk  
Senate Banking Committee will be voting on the bill this Thursday*

Most Americans don't trust crypto and don't plan to engage with it at all. That's probably why so few are paying attention to Congress's bipartisan effort to deregulate crypto markets. Most of us have heard more about crypto than we ever wanted to.

Unfortunately, in Congress's haste to satisfy the crypto industry, Senators are rushing legislation that could deregulate all investment markets – not just crypto. The same markets where American workers expect their retirement savings to be safe. This bill will undercut investor and consumer protections, dating back to the Great Depression. Even more surprising, a handful of Senators that have previously championed consumer and investor protections are planning to support this dangerous and deregulatory legislation.

### **Call your Senators now and tell them to oppose the CLARITY Act.**

- The CLARITY Act puts retirement savers at risk by deregulating investment markets and granting crypto products exemptions from critical investor and consumer protections.
- The CLARITY Act prevents state regulators from protecting their constituents by overriding state laws with weaker federal standards.
- The CLARITY Act grants crypto companies the ability to offer products that look like bank accounts but don't come with the same consumer protections or deposit insurance.
- The CLARITY Act lets crypto companies lure consumers in with too-good-to-be-true interest rates, putting their savings, as well as small business and farm lending, at risk.
- The CLARITY Act allows Wall Street banks to go back to the risky practices that caused the 2008 financial crisis just by claiming they're using crypto technology.
- The CLARITY Act makes it harder for state and federal law enforcement to track down and prosecute crypto fraud for everything from ransomware attacks to romance scams.

# The CLARITY Act

The CLARITY Act is the crypto bill currently under consideration by the Senate Banking Committee. This bill takes oversight of the crypto industry away from the Securities and Exchange Commission, drastically reduces investor protections, and puts crypto under the authority of a much smaller agency, the Commodity Futures Trading Commission (CFTC). Prior to this, the CFTC's primary role was overseeing financial contracts related to agricultural products like corn, wheat and pork bellies. The bill, which wasn't made public until just before midnight on Tuesday, is 300 pages long and extremely complex. Below is a list of the top consumer and investor harms that would result from passage of the CLARITY Act.

## Undermining 90 Years of Investor Protections Under the Securities Laws

The CLARITY Act changes the definition of security so that fewer financial products are subject to the securities laws. The law deregulates the many types of crypto products that turned out to be fraudulent and caused the 2022 crypto market crash, where investors lost over \$10 billion. The bill also takes instruments that mimic parts of traditional securities – like stocks and bonds – and subjects them to a lower regulatory standard if they are turned into crypto assets in a process called "tokenization." While that may sound complicated, what's important is that some securities subject to tough standards today will have fewer protections just because their transfers and trades happen on a new kind of electronic database.

What does this mean for investors and retirement savers? The law would allow many of the securities that investors already have in their retirement accounts to be replaced with investments that seem the same but provide fewer investor protections. This includes weaker disclosure requirements and fewer opportunities for recourse if a financial company misappropriates customer money or fails to protect customer assets from hackers or fraudsters.

## Limiting State Securities Agency Enforcement Authorities

States have always played a critical role in overseeing securities markets and policing fraud and abuse – even before federal securities laws existed. The CLARITY Act puts many crypto assets, including the 'tokenized' securities mentioned above, out of reach of state regulators. Even worse, the bill is taking state enforcement authorities away at a time when the SEC staff was gutted by almost 20% during the DOGE job cuts. Without strong oversight and the cooperation of federal and state enforcement agencies, securities fraud will be sure to proliferate.

## Stablecoins: Putting Consumer Protections at Risk

Stablecoins are a type of crypto that are meant to hold a specific value – most stablecoins are worth \$1 for every coin you hold. Stablecoin accounts look just like bank savings accounts even though they're extremely different. For one thing, stablecoins don't come with the basic protections that your bank account does. That means no FDIC insurance or government backing if a stablecoin company fails, fewer regulations that would ensure a stablecoin company doesn't fail in the first place, and fewer rights to recover losses if you're

defrauded. Consumers also take on the risk that if the markets decide a stablecoin isn't actually worth the \$1 that was promised, their deposits may become entirely worthless. This is more than a hypothetical concern – several of the largest stablecoins have dipped below their value over the last several years. During the regional banking crisis in 2023, the biggest US-based stablecoin company received a \$3 billion bailout when its value dropped to just 85 cents on the dollar. On top of all this, the stablecoin bill passed last year may have removed CFPB oversight of stablecoins and their issuers entirely, leaving consumers to fend for themselves. The CLARITY Act will supercharge these risks by further deregulating the stablecoin industry.

## **Limiting Access to Credit for Small Businesses and Farmers**

Last year's stablecoin bill also created a dangerous loophole that allows crypto companies to offer suspiciously high interest rates on stablecoin accounts. Rather than close that loophole, the CLARITY Act codifies it into law. This creates two important problems. First, it encourages crypto companies to take dangerous risks with customer accounts in order to generate these unsustainable interest rates – often above 10%. Anyone with a bank account or money market fund knows that promise is too good to be true. As crypto companies compete to offer higher rates to attract more customers, they will have to invest in riskier activities to generate those returns. If there's a downturn in the crypto markets and they can't keep paying those rates, consumers may trade their stablecoins for safe cash all at once – causing stablecoin values to collapse and the stablecoin companies to fail. Without FDIC insurance and tough regulations, consumers would be unable to recover much of their money in stablecoin accounts.

This loophole for stablecoins would also reduce access to credit for small businesses and farmers. Because banks are required to use deposits safely and responsibly, they can't offer the same unsustainable interest rates that crypto would be able to. As consumers shift their money from banks and credit unions to crypto accounts to get those higher interest rates, traditional financial institutions would lose the source of funding that allows them to make loans. Community banks are responsible for about 60% of the small business loans in the country and 70% of agricultural lending, meaning the loss of customer deposits would have dire consequences for farmers and entrepreneurs along with the millions of Americans living in small towns only served by community banks. Due to the structure of stablecoins, none of the money in crypto accounts can be lent out. Every dollar lured into stablecoins by promises of huge interest payments removes multiples of that from the pool of available lending.

## **The CLARITY Act Puts the Entire Banking System at Risk**

Stablecoins create risks for everyone with a bank account, whether they've ever used this kind of crypto or not. The CLARITY Act extends those risks to the whole banking system by deregulating traditional banks that get involved in the crypto craze.

Right now, Wall Street banks are subject to tight regulations on their riskiest activities like securities lending or the kind of derivatives activity that amplified the 2008 financial crisis. Under the CLARITY Act many of those same risky activities can be more lightly regulated if a bank simply chooses to use this new crypto technology. Because the legislation's

definition of crypto is so broad, it's trivially easy for banks to claim their activities have been moved onto crypto technology and therefore take bigger risks with fewer safeguards. Gutting safety and soundness standards will leave the financial system more fragile and subject to another crisis and even another taxpayer bailout.

The bill contains many other dangerous provisions – making it harder to chase down fraud in crypto markets for ransomware attacks and romance scams. Making it easier for countries to evade sanctions and cartels to launder money for fentanyl trafficking. Even deregulating the prediction markets that are rife with insider trading and that allow unconscionable bets on things like political assassinations. It's critical to reach out to your federal elected officials as soon as possible – especially if they serve on the Senate Banking Committee.

*Remember – even Members of Congress that have been champions of consumer and investor protections over the years have signaled support for this incredibly dangerous legislation. For questions and additional materials please email **Corey Frayer, Director of Investor Protection – [cfrayer@consumerfed.org](mailto:cfrayer@consumerfed.org)***

### Members of the US Senate Committee on Banking, Housing and Urban Affairs:

- Tim Scott – South Carolina
- Mike Crapo – Idaho
- Mike Rounds – South Dakota
- Thom Tillis – North Carolina
- John Kennedy – Louisiana
- Bill Hagerty – Tennessee
- Cynthia Lummis – Wyoming
- Katie Britt – Alabama
- Pete Ricketts – Nebraska
- Jim Banks – Indiana
- Kevin Cramer – North Dakota
- Bernie Moreno – Ohio
- Dave McCormick – Pennsylvania
- Elizabeth Warren – Massachusetts
- Jack Reed – Rhode Island
- Mark Warner – Virginia
- Chris Van Hollen – Maryland
- Catherine Cortez Masto – Nevada
- Tina Smith – Minnesota
- Raphael Warnock – Georgia
- Andy Kim – New Jersey
- Ruben Gallego – Arizona
- Lisa Blunt Rochester – Delaware
- Angela Alsobrooks - Maryland