117TH CONGRESS 1ST SESSION

H. R. _____

To direct the Commodity Futures Trading Commission and the Securities and Exchange Commission to jointly establish a digital asset working group, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. McHENRY introduced the following bill; which was referred to the Committee on _________________________

A BILL

To direct the Commodity Futures Trading Commission and the Securities and Exchange Commission to jointly establish a digital asset working group, 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,

SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Eliminate Barriers to
5 Innovation Act of 2021”.

SEC. 2. WORKING GROUP TO SUPPORT INNOVATION WITH RESPECT TO DIGITAL ASSETS.

(a) Establishment.—Not later than 90 days after the date of the enactment of this section, the Securities and Exchange Commission and the Commodity Futures Trading Commission shall jointly establish a working group (to be known as the “SEC and CFTC Working Group on Digital Assets”) to carry out the report required under subsection (c)(1).

(b) Membership.—

(1) In general.—The Working Group shall be composed of members appointed in accordance with paragraph (2).

(2) Appointment of members.—

(A) Representatives of Commissions.—The Securities and Exchange Commission and the Commodity Futures Trading Commission shall each appoint an equal number of employees of each such Commission to serve as members of the Working Group.

(B) Representatives of nongovernmental stakeholders.—

(i) Appointment.—The Securities and Exchange Commission and the Commodity Futures Trading Commission shall each appoint an equal number of non-
governmental representatives to serve as members of the Working Group, except that such number of members may not be greater than or equal to the number of members appointed under subparagraph (A).

(ii) REQUIRED MEMBERS.—The members of the Working Group appointed under clause (i) shall include at least one representative from each of the following:

(I) Financial technology companies that provide products or services involving digital assets.

(II) Financial firms under the jurisdiction of the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(III) Institutions or organizations engaged in academic research or advocacy relating to digital asset use.

(IV) Small businesses engaged in financial technology.

(V) Investor protection organizations.
(VI) Institutions and organizations that support investment in historically-underserved businesses.

(C) No compensation for members of the Working Group.—

(i) Federal employee members.—

All members of the Working Group appointed under subparagraph (A) shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(ii) Non-federal members.—All members of the Working Group appointed under subparagraph (B) shall serve without compensation.

(e) Report.—

(1) In general.—Not later than 1 year after the date of the enactment of this section, the Working Group shall submit to the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the relevant committees a report that contains—

(A) an analysis of—

(i) the legal and regulatory framework and related developments in the United
States relating to digital assets, including—

(I) the impact that lack of clarity in such framework has on primary and secondary markets in digital assets; and

(II) how the domestic legal and regulatory regimes relating to digital assets impact the competitive position of the United States; and

(ii) developments in other countries related to digital assets and identification of how these developments impact the competitive position of the United States; and

(B) recommendations—

(i) for the creation, maintenance, and improvement of primary and secondary markets in digital assets, including for improving the fairness, orderliness, integrity, efficiency, transparency, availability, and efficacy of such markets;

(ii) for standards concerning custody, private key management, cybersecurity, and business continuity relating to digital asset intermediaries; and
(iii) for best practices to—

(I) reduce fraud and manipulation of digital assets in cash, leveraged, and derivatives markets;

(II) improve investor protections for participants in such markets; and

(III) assist in compliance with anti-money laundering and countering the financing of terrorism obligations under the Bank Secrecy Act.

(2) Report limited to SEC and CFTC authorities.—The analysis and recommendations provided under subparagraphs (A) and (B) of paragraph (1) may only relate to the laws, regulations, and related matters that are under the primary jurisdiction of the Securities and Exchange Commission or the Commodity Futures Trading Commission.


(e) Termination.—

(1) In general.—The Working Group shall terminate on the date that is 1 year after the date of the enactment of this section, except that the
Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission may, jointly, extend the Working Group for a longer period, not to exceed one year.

(2) Second report in the case of extension.—In the case of an extension of the Working Group under paragraph (1), the Working Group shall, not later than the last day of such extension, submit to the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the relevant committees a report that contains an update to the analysis and recommendations required under subparagraphs (A) and (B) of subsection (c)(1).

(f) Definitions.—In this section:

(1) Bank Secrecy Act.—The term “Bank Secrecy Act” means—

(A) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

(B) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.); and

(C) subchapter II of chapter 53 of title 31, United States Code.
Historically-underserved Businesses.—The term “historically-underserved businesses” means women-owned businesses, minority-owned businesses, and rural businesses.

Relevant Committees.—The term “relevant committees” means—

(A) the Committee on Financial Services of the House of Representatives;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(C) the Committee on Agriculture of the House of Representatives; and

(D) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Working Group.—The term “Working Group” means the working group established under subsection (a).