[~117H5045]

[DISCUSSION DRAFT]

118TH CONGRESS
1ST SESSION

H. R. _____

To provide a safe harbor from licensing and registration for certain non-controlling blockchain developers and providers of blockchain services.

_____

IN THE HOUSE OF REPRESENTATIVES

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

_____

A BILL

To provide a safe harbor from licensing and registration for certain non-controlling blockchain developers and providers of blockchain services.

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.**

4   This Act may be cited as the ''Blockchain Regulatory

5   Certainty Act''.

1 **SEC. 2. SAFE HARBOR FOR NON-CONTROLLING**
2 **BLOCKCHAIN DEVELOPERS AND PROVIDERS**
3 **OF BLOCKCHAIN SERVICES.**

4 (a) PROTECTION FOR NON-CONTROLLING
5 BLOCKCHAIN SERVICES AND SOFTWARE DEVELOPERS.—
6 No blockchain developer or provider of a blockchain serv-
7 ice shall be treated as a money transmitter (as defined
8 under State licensing laws), a financial institution (as de-
9 fined under section 5312 of title 31, United States Code),
10 or any other State or Federal legal designation requiring
11 licensing or registration as a condition to acting as a
12 blockchain developer or provider of a blockchain service,
13 unless the developer or provider has, in the regular course
14 of business, control over digital assets to which a user is
15 entitled under the blockchain service or the software cre-
16 ated, maintained, or disseminated by the blockchain devel-
17 oper.

18 (b) EFFECT ON OTHER LAWS.—

19   (1) INTELLECTUAL PROPERTY LAW.—Nothing
20   in this section shall be construed to limit or expand
21   any law pertaining to intellectual property.

22   (2) STATE LAW.—Nothing in this section shall
23   be construed to prevent any State from enforcing
24   any State law that is consistent with this section. No
25   cause of action may be brought and no liability may

1 be imposed under any State or local law that is in-

2 consistent with this section.

3 (c) DEFINITIONS.—As used in this section:

4 (1) BLOCKCHAIN DEVELOPER.—The term

5 "blockchain developer" means any person or busi-

6 ness that creates, maintains, or disseminates soft-

7 ware facilitating the creation or maintenance of a

8 blockchain network or a blockchain service.

9 (2) BLOCKCHAIN NETWORK.—The term

10 "blockchain network" means any system of

11 networked computers that cooperates to reach con-

12 sensus over the state of a computer program and al-

13 lows users to participate in the consensus-making

14 process without the need to license proprietary soft-

15 ware or obtain permission from any other user. The

16 term includes, specifically, a public network of com-

17 puters that cooperates to reach consensus over the

18 state of a distributed ledger describing transactions

19 in a digital asset.

20 (3) BLOCKCHAIN SERVICE.—The term

21 "blockchain service" means any information, trans-

22 action, or computing service or system that provides

23 or enables access to a blockchain network by mul-

24 tiple users, including specifically a service or system

25 that enables users to send, receive, exchange, or

1   store digital assets described by blockchain net-
2   works.

3   (4) CONTROL.—The term "control" means the
4   legal right, authority, or ability to obtain upon de-
5   mand data sufficient to initiate transactions spend-
6   ing an amount of digital assets.

7   (5) DIGITAL ASSET.—The term "digital asset"
8   means any form of intangible personal property that
9   can be exclusively possessed and transferred person
10   to person without necessary reliance on an inter-
11   mediary.