

Statement for the Record
On Behalf of the
American Bankers Association
before the
House Financial Services Committee
&
House Agriculture Committee
June 10, 2025
Legislative Markup



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The American Bankers Association (ABA) appreciates the opportunity to provide a Statement for the Record for the legislative markups being held by the House Financial Services Committee and House Agriculture Committee on June 10. ABA is the voice of the nation's \$24.5 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2.1 million people, safeguard \$19.5 trillion in deposits and extend \$12.8 trillion in loans.

Summary

Thank you for the opportunity to provide feedback on H.R. 3633, the Digital Asset Market Clarity (CLARITY) Act of 2025. ABA commends the House Financial Services Committee and House Agriculture Committee's efforts to provide regulatory clarity for the digital asset ecosystem, promote U.S. leadership in the digital assets, and promote American competitiveness. Banks across the country stand ready to meaningfully engage in work toward policy solutions that provide greater clarity regarding banks' ability to engage in digital asset product offerings. As essential components of the financial and payments systems, banks are governed by a comprehensive regulatory framework designed to mitigate the risks inherent to financial activities. It is therefore critical that Congress pursue legislation that facilitates banks' engagement in digital asset activities while safeguarding the integrity of the financial services marketplace.

We appreciated the opportunity to review the Committees' Digital Asset Market Structure Discussion Draft, which was publicly released on May 5. Based on conversations with our member banks, we provided written feedback to the Committees on that discussion draft on May 12. In addition, ABA appreciated the opportunity to provide further written feedback on June 7 after the bill was introduced. We welcome several positive provisions in H.R. 3633, and we thank the Committees for clarifying the definition of digital commodities to make clear that bank deposits are not captured in the regulatory framework contemplated in this legislation.

The following overarching principles have guided our thinking about what the legislation should accomplish to provide regulatory clarity for digital assets while mitigating risk:

Clarify bank permissibility—Codify specific digital asset-related activities in which it is permissible for banks to engage, including that it is permissible for banks to undertake principal or agent activities with respect to digital assets to the same extent they can do so with traditional assets.

ABA thanks the Committees that clarifying that digital commodities are financial in nature under Section 4(k) of the Bank Holding Company Act of 1956. A lack of clarity as to the scope of digital asset-related activities permissible for banks to engage in has long hindered banks' ability to innovate and interact with digital assets. ABA joined six other financial trade groups in two letters to the President's Working Group on Digital Asset Markets, which describes the actions federal banking agencies should take to ensure banks' engagement in digital asset activities is encouraged and not stifled. Codifying in statute the types of digital asset-related activities that are permissible for banks would provide banks with the clarity needed to better support the digital assets industry. We believe including this language in the legislative text, as opposed to directing federal agencies to promulgate rules on this subject, provides a more durable solution. Also, legislation should clearly state that it is permissible for banks to undertake principal or agent activities with respect to digital assets to the same extent they can do so with traditional assets. Please see p. 5 of the attached Joint Trades Letter to the President's Working Group on Digital Asset Markets for a discussion on banks taking principal positions in digital assets.

Promote safety and soundness, apply appropriate consumer protection standards, and ensure compliance with the Bank Secrecy Act and sanctions—Ensure that all qualified digital commodity custodian (QDCCs) are held to the same compliance and reporting standards as banks to ensure market stability and limit consumer risk.

ABA appreciates the provisions specifying that any bank or trust company in the United States, that is subject to supervision and examination by the appropriate Federal banking agency, meets the requirement to be a Qualified Digital Commodity Custodian (QDCC). In addition, entities subject to supervision only by a State bank supervisor or a State credit union supervisor must be held to the same safety and soundness, regulatory (including adequate capital), compliance, and supervisory requirements as are banking entities that are subject to supervision and examination by the appropriate Federal banking agency. Entities should be required to maintain policies and procedures for BSA and sanctions compliance. Also, entities that are supervised by foreign governmental authorities should not be permitted to be a QDCC without an established process to verify adequate supervision and examination. Finally, the CFTC should not be permitted to approve a CFTC registrant to become a QDCC. While the CFTC has expertise regulating the markets and market participants over which it currently has jurisdiction, it does not have any experience in supervising custodians. Banks and trust companies that are supervised and examined by the appropriate Federal banking agency are best suited to be QDCCs.

Permit banks to act as dealers in digital commodities and the federal banking agencies to recognize, in the bank capital framework, the risk-reducing benefits of arrangements in which banks net exposures to a counterparty across digital assets and related securities and derivatives transactions.

Banks are uniquely situated to be dealers in digital commodities because of the safety and soundness and capital requirements that they are subject to. It is analogous to their role in the U.S. Treasury market and the swaps market. As such, legislation should allow them to be dealers in digital commodities without having to register with the CFTC. All that should be required is a notification to their appropriate Federal banking agency that they intend to act as dealers in digital commodities. ABA appreciates the language added to the legislation that facilitates dealing activity by banks and directs the Federal banking agencies to recognize legal netting arrangements in which banks net exposures to a counterparty across digital assets, related securities, and derivatives transactions in the bank capital framework.

Facilitate risk-sensitive margining, specifically cross-margining between SEC-regulated products (i.e., securities) and CFTC-regulated products (i.e., digital commodities, futures on digital commodities, and options on such futures).

ABA thanks the Committees for their efforts to permit risk-sensitive portfolio margining authority in the legislation. Risk sensitive margining of a portfolio of financial instruments is designed to ensure that the margin requirements are calibrated to the risks that a unique portfolio contains. It is much more efficient than a “one size fits all” approach to margining such as a fixed percentage of the value of a portfolio. We appreciate the Committee’s inclusion of provisions to facilitate risk-sensitive margining, specifically cross-margining between SEC-regulated products (i.e., securities) and CFTC-regulated products (i.e., digital commodities, futures on digital commodities, and options on such futures). This allows for the risk-sensitive cross-margining of portfolios (including those of securities and futures customers), in either a securities or futures account consisting of positions in SEC regulated investment contracts and options on such investment contracts (i.e. securities and options on such securities). It also incentivizes positions in CFTC regulated digital commodities and futures and options on futures contracts where the underlying digital asset is either the same or very similar. In addition, the language facilitates the portfolio margining of portfolios (including those of customers) consisting of positions in CFTC regulated digital commodities and futures and options on futures contracts. Finally, legislation should allow for the portfolio margining of digital commodities, futures on digital commodities, and options on such futures.

We anticipate the CLARITY Act will complement the legislation currently being advanced in the House and Senate to create a regulatory framework for stablecoin: H.R. 2392, the STABLE Act, and S. 1582, the GENIUS Act. ABA priorities in the stablecoin regulatory space include preserving a path for banks to issue payment stablecoin; preventing disintermediation of bank deposits; prohibiting payment of interest, yield, or consideration by stablecoin issuers and their subsidiaries or affiliates; preventing changes in eligibility for master accounts at the Federal Reserve; ensuring robust, consistently-applied regulation, supervision, and enforcement; codifying repeal of the Securities and Exchange Commission Staff Accounting Bulletin 121; an acknowledgement of the authority of banks to issue digital assets that represent deposits (i.e. tokenized deposits); promoting use of distributed ledgers for recordkeeping; and preserving the ability of banks to provide custodial services for payment stablecoin and its reserves.

Conclusion

Thank you once again for allowing us to provide these comments and we look forward to continuing to work with the House Financial Services Committee and House Agriculture Committee toward achieving regulatory clarity in the digital asset ecosystem.