To clarify the applicability of sanctions and antimoney laundering compliance obligations to United States persons in the decentralized finance technology sector and virtual currency kiosk operators, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. REED (for himself, Mr. ROUND, Mr. WARNER, and Mr. ROMNEY) introduced the following bill; which was read twice and referred to the Committee on ________

A BILL

To clarify the applicability of sanctions and antimoney laundering compliance obligations to United States persons in the decentralized finance technology sector and virtual currency kiosk operators, 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. 
4 This Act may be cited as the “Crypto-Asset National 
5 Security Enhancement and Enforcement Act of 2023”.
SEC. 2. DECENTRALIZED FINANCE NATIONAL SECURITY ENHANCEMENT.

(a) Definitions.—In this section:

(1) Control.—The term “control”, with respect to a digital asset protocol, includes the power, directly or indirectly, to direct a change in the computer code or other terms governing the operation of the protocol, as determined by the Secretary of the Treasury. Such power may be exercised through ownership of governance tokens, administrator privileges, ability to alter or upgrade computer code, or otherwise.

(2) Digital asset.—The term “digital asset” means any digital representation of value that is recorded on a cryptographically secured distributed ledger or any similar technology or another implementation, which was designed and built as part of a system to leverage or replace blockchain, distributed ledger technology, or their derivatives.

(3) Digital asset protocol.—The term “digital asset protocol” means any communication protocol, smart contract, or other software—

(A) deployed through the use of distributed ledger or similar technology; and
(B) that provides a mechanism for users to interact and agree to the terms of a trade for digital assets.

(4) DIGITAL ASSET PROTOCOL BACKER.—

(A) IN GENERAL.—The term “digital asset protocol backer” means any person that—

(i) holds governance tokens of a digital asset protocol valued at more than $25,000,000 (subject to adjustment under subparagraph (B)); or

(ii) makes—

(I) an investment in the development of a digital asset protocol of $25,000,000 (subject to adjustment under subparagraph (B)) or more; or

(II) any combination of investments in the development of a digital asset protocol if—

(aa) any such investment is not less than $2,500,000 (subject to adjustment under subparagraph (B)); and

(bb) such investments, in the aggregate, equal or exceed $25,000,000 (subject to adjust-
ment under subparagraph (B)) in any 12-month period.

(B) ADJUSTMENT OF THRESHOLDS.—The Secretary of the Treasury may adjust any dollar amount specified in clause (i) or (ii) of subparagraph (A) if, before the increase takes effect, the Secretary notifies the following committees of the increase:

(i) The Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate.

(ii) The Committee on Financial Services and the Committee on Foreign Affairs of the House of Representatives.

(C) VALUATION OF GOVERNANCE TOKENS.—

(i) IN GENERAL.—For purposes of subparagraph (A), the procedures and criteria to be used in determining the valuation of governance tokens may, as determined by the Securities and Exchange Commission in regulations—

(I) require a minimum trading period;
II) rely on sales in a private market; or

III) rely on secondary market trades through a financial institution (as defined in section 1010.100(t) of title 31, Code of Federal Regulations (or a successor regulation)).

(ii) Consultation Required.—The Securities and Exchange Commission shall consult with the Secretary of the Treasury before prescribing regulations under clause (i).

(iii) Certification Required.—Each digital asset protocol backer described in paragraph (4) or in section 5312(a)(2)(AA) of title 31, United States Code, as amended by subsection (c) of this section, shall submit to the Securities and Exchange Commission and the Secretary of the Treasury an annual certification with respect to the value of the governance tokens of the digital asset protocol held by the digital asset protocol backer, beginning on the earlier of—
(I) the date on which the value of those governance tokens equals or exceeds the dollar amount specified in subparagraph (A)(i), as may be adjusted by the Secretary of the Treasury; or

(II) the date on which the Securities and Exchange Commission or the Secretary of the Treasury request information about the valuation of the governance tokens.

(5) **Digital Asset Transaction Facilitator.**—The term “digital asset transaction facilitator” means any person that—

(A) controls a digital asset protocol, as determined by the Secretary of the Treasury; or

(B) makes available an application designed to facilitate transactions using a digital asset protocol.

(6) **United States Person.**—The term “United States person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.
(b) APPLICABILITY OF SANCTIONS COMPLIANCE OBLIGATIONS TO UNITED STATES PERSONS IN THE DECENTRALIZED FINANCE SECTOR.—

(1) IN GENERAL.—In the case of a violation described in paragraph (2) that is conducted through the use of a digital asset protocol, each person described in paragraph (3) shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(2) VIOLATIONS DESCRIBED.—A violation described in this paragraph is a violation of a license, order, regulation, or prohibition issued to implement sanctions administered by the Office of Foreign Assets Control.

(3) PERSONS DESCRIBED.—A person described in this paragraph is a United States person that is a digital asset transaction facilitator or a digital asset protocol backer of a digital asset protocol used in a violation described in paragraph (2).

(4) EXEMPTION FOR CONTROLLED DECENTRALIZED FINANCE PROTOCOLS.—A digital asset protocol backer shall not be subject to paragraph (1) for a
violation described in paragraph (2) if the Secretary
has determined that the digital asset protocol is con-
trolled by a digital asset transaction facilitator or by
another person, who may be appointed by contract
or another means.

(5) **Applicability.**—Paragraph (1) shall apply
with respect to violations described in paragraph (2)
that occur on or after the date that is 90 days after
the date of the enactment of this Act.

(c) **Bank Secrecy Act Application to the De-
centralized Finance Sector.—**

(1) **In General.**—Section 5312(a)(2) of title
31, United States Code, as amended by section
6110(a)(1) of the Anti-Money Laundering Act of
2020 (division F of Public Law 116–283), is amend-
ed—

(A) in subparagraph (Z), by striking “or”
at the end;

(B) by redesignating subparagraph (AA)
as subparagraph (BB); and

(C) by inserting after subparagraph (Z)
the following:

“(AA) a digital asset
transaction facilitator or a
digital asset protocol backer
of a digital asset protocol;

or”.

(2) EFFECTIVE DATE.—Subparagraph (AA) of section 5312(a)(2) of title 31, United States Code, as added by subsection (a), shall take effect on the day after the effective date of the final rules issued by the Secretary of the Treasury pursuant to section 6110(b) of the Anti-Money Laundering Act of 2020 (division F of Public Law 116–283).

(3) EXEMPTION FOR CONTROLLED DECENTRALIZED FINANCE PROTOCOLS.—The Secretary of the Treasury may exercise the exemptive authority under section 5318(a)(7) of title 31, United States Code, with respect to a digital asset protocol backer of a digital asset protocol, if—

(A) the Secretary of the Treasury finds that such digital asset protocol is controlled by a digital asset transaction facilitator or by another person, who may be appointed through contract or other means; and

(B) the digital asset transaction facilitator or other person described in subparagraph (A) is subject to the requirements under this section and regulations prescribed under this section.
for transactions conducted through the use of such digital asset protocol.

SEC. 3. PROHIBITIONS OR CONDITIONS ON CERTAIN TRANSMITTALS OF FUNDS.

Section 5318A of title 31, United States Code, is amended—

(1) in subsection (a)(2)(C), by striking “subsection (b)(5)” and inserting “paragraphs (5) and (6) of subsection (b)”; and

(2) in subsection (b)—

(A) in paragraph (5), by striking “for or on behalf of a foreign banking institution”; and

(B) by adding at the end the following:

“(6) Prohibitions or Conditions on Certain Transmittals of Funds.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more types of accounts within, or involving, a jurisdiction outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve Sys-
tem, may prohibit, or impose conditions upon, cer-
tain transmittals of funds (to be defined by the Sec-
retary), to or from any domestic financial institution
or domestic financial agency if such transmittal of
funds involves any such jurisdiction, institution,
class of transaction, or type of account.”.

SEC. 4. VIRTUAL CURRENCY KIOSK NATIONAL SECURITY

ENHANCEMENT.

(a) DEFINITIONS.—In this section:

(1) VIRTUAL CURRENCY.—The term “virtual
currency” means any digital representation of value
that is recorded on a cryptographically secured dis-
tributed ledger or any similar technology or another
implementation, which was designed and built as
part of a system to leverage or replace blockchain,
distributed ledger technology, or their derivatives.

(2) VIRTUAL CURRENCY TRANSFER.—The term
“virtual currency transfer” means a withdrawal, ex-
change, or other payment or transfer that involves
a transaction in virtual currency.

(3) VIRTUAL CURRENCY KIOSK.—The term
“virtual currency kiosk” means a stand-alone ma-
chine that facilitates a virtual currency transfer.

(4) VIRTUAL CURRENCY KIOSK OPERATOR.—
The term “virtual currency kiosk operator” means
any person who operates a virtual currency kiosk at which consumers initiate virtual currency transfers.

(b) Antimoney Laundering.—

(1) In General.—Except as provided in paragraph (2), before effecting any virtual currency transfer, a virtual currency kiosk operator shall verify and record, at a minimum, the name and physical address of the—

(A) consumer, which shall include review of an official document evidencing nationality or residence that includes a photograph of the consumer; and

(B) counterparty to such transfer.

(2) Exception.—Paragraph (1) shall not apply to a counterparty described in paragraph (1)(B) that conducts a virtual currency transfer using a wallet held at a financial institution, as defined in section 5312 of title 31, United States Code, that is subject to the requirements of subchapter II of title 31, United States Code.

(c) Rulemaking.—Not later than 360 days after the date of enactment of this Act, the Financial Crimes Enforcement Network shall promulgate regulations requiring each virtual currency kiosk operator to—
(1) furnish to the Financial Crimes Enforcement Network a list of the locations, including physical addresses, of all virtual currency kiosks that are owned or operated by such operator; and

(2) update the list described in paragraph (1) every 90 days.