UNITED STATES SENATE COMMITTEE ON BANKING, HOUSING & URBAN AFFAIRS

U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

MYTH VS. FACT

The CLARITY Act

TOPLINE: Digital asset markets currently operate with fragmented oversight, outdated rules, and legal uncertainty. The CLARITY Act establishes clear, enforceable guardrails that strengthen national security, protect customers and investors, and support responsible innovation in the United States.

MYTH 1 **The bill deviates from securities law and would provide fewer investor protections and compliance obligations for digital asset securities.**

FACT This claim is false. The bill relies on longstanding securities law principles to clearly define which digital assets are securities and which digital assets are commodities. Those subject to the bill's regulatory requirements must submit disclosures to the Securities and Exchange Commission (SEC), comply with resale restrictions, and be subject to anti-evasion protections. Under this framework, securities remain securities, fraud remains illegal, and the SEC retains full enforcement authority over digital asset securities.

MYTH 2 **The bill puts banks, taxpayers, and the financial system at risk.**

FACT At its core, this is an investor protection bill. It brings digital assets into a clear regulatory framework, where bad actors are held responsible for fraud, manipulation, and abuse. This bill is designed to prevent a future FTX collapse – providing a regulatory framework where investors are informed about material risks, insiders are prevented from manipulating markets, and bad actors are penalized. Clear regulation protects investors — uncertainty does not. The real risk is in failing to provide a clear regulatory framework. Without a clear regulatory framework in place, digital asset market participants would continue operating overseas with minimal federal regulatory oversight in the United States.

MYTH 3 **The bill creates loopholes for evasion of U.S. rules.**

FACT The bill closes regulatory gaps. It clearly allocates jurisdiction between the SEC and Commodity Futures Trading Commission (CFTC), establishes a joint SEC-CFTC Advisory Committee designed to harmonize digital asset regulatory requirements, and includes protections that specifically target evasion.

MYTH 4 **The bill fails to address illicit finance and national security risks.**

FACT The bill includes the strongest illicit finance framework Congress has ever considered for digital assets. It ensures key digital asset intermediaries are subject to anti-money laundering and countering terrorist financing requirements, strengthens sanctions compliance, and authorizes Treasury to address high-risk foreign activity. The bill also establishes a Digital Asset Cyber Innovation Center to counter threats from state actors, including North Korea and Iran. The Center will coordinate the federal response to cyberattacks and the recovery of stolen funds while strengthening public-private information sharing.

MYTH 5 **The bill enables illicit finance to occur through decentralized finance (DeFi) trading protocols.**

FACT The bill does the opposite. It targets illicit activity while protecting lawful software development and innovation. The legislation clarifies sanctions obligations, requires digital asset intermediaries that interact with DeFi protocols to implement risk management standards, and includes a tailored rulemaking for trading protocols that are not truly decentralized. Code is protected — misconduct is not.

MYTH 6 **The bill criminalizes software developers or bans self-custody.**

FACT The bill explicitly protects software developers and preserves the right to self-custody digital assets. Developers who publish or maintain code without controlling customer funds are not treated as financial intermediaries. At the same time, regulators retain the ability to address real threats in a way that is targeted and appropriately tailored.

MYTH 7 **The bill was written by industry.**

FACT The bill has been shaped by years of bipartisan work, extensive engagement with regulators and law enforcement, and a focus on public-interest outcomes. It strengthens national security, protects investors, and ensures that innovation occurs under clear, enforceable rules.

MYTH 8 **The bill does not provide law enforcement with tools to combat fraud.**

FACT The bill gives law enforcement more tools than ever before to combat illicit finance in the digital asset space. It provides law enforcement with additional training and resources to support digital asset investigations and disrupt illicit finance activity. The bill provides law enforcement with enhanced training and resources to support digital asset investigations and disrupt illicit finance. It also requires permitted payment stablecoin issuers, when directed by a lawful order, to reissue stablecoins as appropriate when existing stablecoins are seized, frozen, or burned.

MYTH 9 **This bill doesn't address CFTC resource or staffing needs.**

FACT False. The CLARITY Act would authorize appropriated money to the CFTC and establish a spot-crypto fee structure that would provide ample resources for the CFTC to appropriately hire additional staff if needed.

MYTH 10 **The bill contains loopholes and allows for self-dealing.**

FACT The CLARITY Act prohibits self-dealing and provides the necessary tools for onshoring liquidity and bolstering American competitiveness, while including specific measures that prohibit an exchange from trading on its own account as an independent, for-profit line of business. Allowing trading for necessary liquidity and risk management measures – subject to CFTC rulemaking, notice and reporting requirements – will promote competition and prevent liquidity from concentrating to a select number of exchanges, thus expanding customer choice among U.S. regulated venues.

MYTH 11 **The bill would allow for another FTX.**

FACT The CLARITY Act closes every one of the regulatory gaps that enabled the FTX fraud. Had it been in effect, FTX.com would have been required to register with the CFTC as a digital commodity exchange, allowing the CFTC to quickly identify and stop the fraud before it caused widespread harm. FTX did not fail because it had an affiliated trading firm, it failed because it committed fraud in an unregulated environment. FTX had multiple failure mechanisms, and the bill has specific provisions to address each one:

- FTX commingled customer funds with their own assets; the CLARITY Act requires customer assets to be treated as belonging to the customer and are prohibited from use by the exchange or affiliates;
- FTX had no independent custody and held all assets itself; the CLARITY Act requires all customer digital assets to be held in a regulated third-party custodian;
- FTX used customer funds for investments, real estate, and personal expenses; the CLARITY Act would make it explicitly unlawful for any exchange, custodian, or affiliate to dispose of or use customer assets as its own;
- Alameda had a backdoor exemption from FTX’s risk engine and preferential trading
- access; the CLARITY Act prohibits exchanges and affiliates from trading on their own platform for proprietary account, and the bill implements a mandatory conflict of interest framework;
- FTX never underwent regulatory examination; the CLARITY Act requires exchanges to be subject to CFTC books-and-records examination, which allows the agency to quickly detect fund shortfalls.
- FTX customers had no way to verify FTX held their assets; the CLARITY Act requires exchanges to disclose custody arrangements, asset location, and risk information, meaning customers are informed of actual holdings;
- FTX — located in the Bahamas — wasn’t subject to U.S. regulatory oversight; the CLARITY Act requires any exchange offering digital commodity spot markets to U.S. customers to register with the CFTC;
- FTX had inadequate financial resources and an $8 billion hole hidden from the public; the CLARITY Act would require exchanges to maintain financial resources exceeding operating costs plus wind-down costs.

MYTH 12 **The bill doesn't regulate meme coins.**

FACT The CLARITY Act establishes clear rules for which digital assets are securities and which are commodities, and it creates a regulatory regime for all digital commodities, including meme coins. Under the bill, registered exchanges listing digital commodities – including meme coins – would be subject to listing standards, trade processing and monitoring requirements, recordkeeping and reporting obligations, conflicts of interest standards, financial resource standards, system safeguard obligations, and other requirements that currently do not apply to any spot crypto exchange.

MYTH 13 **The bill creates DeFi loopholes, compromises derivatives markets and infringes on tribal gaming.**

FACT The CLARITY Act appropriately recognizes that for America to lead in the technological race, laws should protect customer assets while ensuring technology isn't stifled by ill-fitting regulatory requirements. The bill requires spot digital commodity intermediary registration but appropriately protects software developers from unnecessary and overly burdensome regulatory requirements. The bill unambiguously establishes a framework for the regulation of spot digital commodity markets while preserving the robust derivatives regime that already exists in the U.S, and the bill has no impact on derivatives, prediction markets, gaming, or any asset class beyond spot digital commodity trading.

MYTH 14 **The bill has unprecedented broad exemptive loopholes.**

FACT The CLARITY Act replicates the exemptive authority contained in the Commodity Exchange Act to ensure the CFTC has unambiguous authority to ensure that entities who should not be captured as intermediaries aren't crippled with impossible compliance obligations.

MYTH 15 **The bill carves out large traders and will allow them to blow up.**

FACT This is false. The CLARITY Act's 'digital commodity dealer' definition is modeled after the existing retail foreign exchange dealer definition that exists under current law, and it appropriately recognizes that regulation just for the sake of regulation hurts retail by concentrating liquidity to only the largest firms. Furthermore, the bill gives CFTC insight into large spot digital commodity transactions with an appropriately tailored large trader reporting requirement, structured like existing law. The legislation also expresses Congress' intent that ECP to ECP leveraged digital commodity trades should be regulated as derivatives, and the bill provides a robust regime for allowing regulating leveraged retail trading. The bill does not have carveouts or loopholes; it protects consumers by closing a gap by regulating intermediaries trading in digital commodity spot markets.

MYTH 16 **The bill lacks consumer protections.**

FACT The CLARITY Act is a consumer protection bill. Many rulemaking requirements are tied to protecting investors, safeguarding customers and is serving the public interest. The bill provides regulatory oversight and authority over a retail-oriented market where there is currently none; establishes a robust customer asset custody regime; clarifies digital commodities held for customers are treated as customer property in the event of an insolvency; implements a comprehensive regulatory framework for digital commodity exchanges, digital commodity brokers, and digital commodity dealers; creates customer disclosures and listing standards for digital commodities; and strengthens operational safeguards for digital commodity exchanges. Without this bill, Americans will continue trading digital assets without federal oversight, leaving American consumers vulnerable to fraud and abuse while U.S. regulators lack the tools to effectively oversee the market and hold bad actors accountable.

MYTH 17 **This is a GOP-only bill.**

FACT This is false. The CLARITY Act reflects a year of bipartisan Senate negotiations and contributions, resulting in a stronger bill. Input from Senate Democrats strengthened the bill, including incorporating permanent and broader CFTC fee authority funding oversight, education, and outreach; conflicts obligations embedded in registration conditions; closing an FTX loophole by prohibiting self-issued tokens from counting as financial resources for exchanges; requiring exchanges to provide direct, plain-language customer disclosures; requiring an independent audit requirement for exchange financial statements; adding state securities regulators to mandatory information sharing; and requiring mandatory CFTC/SEC joint rulemaking, among other things.

BOTTOM LINE: This bill replaces uncertainty with clarity, strengthens enforcement against bad actors, and delivers modern protections for customers, investors, and the financial system.