IN SENATE--Introduced by Sen

--read twice and ordered printed, and when printed to be committed to the Committee on

--------- A.
Assembly
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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the Committee on

*GENEBULA* *Attorney General 3 R-3*
(Relates to the regulation of digital assets and the transfer of such assets)

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Gen Bus L. digital assets

AN ACT

to amend the general business law, in relation to the regulation of digital assets and the transfer of such assets; to amend the financial services law, in relation to the authority of the department of financial services to supervise the business of digital asset brokers, digital asset marketplaces, digital asset investment advisers, and digital asset issuers; and to amend the tax law, in relation to report-
ing requirements concerning certain payments by digital assets.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:
Section 1. The general business law is amended by adding a new article 23-C to read as follows:

**ARTICLE 23-C**

**DIGITAL ASSETS**

Section 359-m. Purpose of article.

1. Purpose of article. The purpose of this article is to protect customers and investors in digital assets from fraudulent practices, eliminate conflicts of interest and increase transparency. This article operates on persons engaged in the activities described herein from or within New York state.

§ 359-n. Definitions.

1. All terms used in this article, unless otherwise stated herein, shall have the same meaning as such terms are defined in article twenty-three-A of this chapter.

2. "Cross transaction" shall mean a transaction in which a digital asset broker effects transactions for both the buyer and for the seller on the other side of the transaction.

3. "Decentralized autonomous organization" or "DAO" means an organization operated through rules encoded as computer programs, including smart contracts, and governed by pre-programmed algorithms executed by computers based on code, where such code refers to voting by holders of digital assets issued by or concerning the DAO.

4. "Digital asset" shall mean any type of digital unit, whether labeled as a cryptocurrency, coin, token, virtual currency, or other-
wise, that can be used as a medium of exchange, a form of digitally
stored value, or a unit of account. "Digital asset" shall be broadly
construed to include digital units that have a centralized repository or
administrator, are decentralized and have no centralized repository or
administrator, or may be created or obtained by computing or manufactur-
ing effort. The term "digital asset" shall not be construed to include
any of the following:

(a) digital units that:

(i) are used solely within online gaming platforms;
(ii) have no market or application outside of those gaming platforms;
(iii) cannot be converted into, or redeemed for, fiat currency or
digital assets; and
(iv) to the extent they may be redeemable for real-world goods,
services, discounts, or purchases, are only used for consumption by the
gamer;

(b) digital units that can be redeemed for goods, services, discounts,
or purchases as part of a customer affinity or rewards program with the
issuer or other designated merchants or can be redeemed for digital
units in another customer affinity or rewards program, but cannot be
converted into, or redeemed for, fiat currency or digital assets;

(c) digital units used solely as part of prepaid cards;

(d) digital units used solely in sports wagering and mobile sports
wagering subject to sections thirteen hundred sixty-seven and thirteen
hundred sixty-seven-a of the racing, pari-mutuel wagering and breeding
law and regulations thereunder; or

(e) digital units that provide an equity interest in a business.

5. "Digital asset broker" shall mean any person engaged in the busi-
ness of effecting transactions in digital assets for the account of
6. "Digital asset influencer" shall mean any person who, in connection with the offer or sale of any digital asset, widely promotes, publishes, publicizes or circulates any notice, circular, advertisement, newspaper, article, letter, investment service, electronic posting or communication which, though not purporting to offer a digital asset for sale, encourages investment in such digital asset, where such person receives compensation of any sort or owns or expects to own such digital asset, unless such ownership or expected ownership amounts to less than twenty-five thousand dollars in value. "Digital asset influencer" shall not include a publisher of any bona fide newspaper or news magazine of general distribution.

7. "Digital asset investment adviser" shall mean any person who, for compensation, engages in the business of advising members of the public, either directly or through publications or writings, as to the value of digital assets or as to the advisability of investing in digital assets, including by recommending or curating a portfolio of digital assets accessible by another or by taking discretion over the use of another's digital asset for any investment purpose. Digital asset investment advisers shall owe a fiduciary duty to any person for whom they provide digital asset investment adviser services. "Digital asset investment adviser" shall not mean:

(a) a lawyer, accountant, engineer, or teacher whose performance of digital asset investment adviser services is solely incidental to the practice of this profession;

(b) a digital asset broker whose performance of digital asset investment adviser services is solely incidental to the conduct of his or her
business as a digital asset broker and who receives no special compensation for them;

(c) a publisher of any bona fide newspaper or news magazine of general distribution;

(d) a person who sold, during the preceding twelve-month period, digital asset investment advisory services to fewer than six persons residing in this state; or

(e) a person who is registered under section 203 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b et seq., but only to the extent that such person acts in such capacity.

8. "Digital asset issuer" shall mean a person that creates or issues or offers to issue a digital asset that is or will be available to the public and is directly or indirectly for speculation investment purposes or for use as a currency, medium of exchange, a form of digitally stored value, a unit of account or any combination thereof and not for consumption by the offeree or purchaser. Digital asset issuer does not include a person whose activity consists solely of issuing, offering, buying, or selling digital assets for a bona fide artistic purpose, such as the issuance of individual art or music.

9. "Digital asset marketplace" shall mean any person that provides, or substantively participates in, or any system that provides, a marketplace or facilities for bringing together purchasers and sellers of digital assets or for otherwise performing, with respect to digital assets, the functions commonly performed by a stock exchange as that term is generally understood with regard to stocks.

10. "Off-chain transaction" shall mean a transaction that is confirmed or stored outside of a public blockchain network.
11. "Physical possession or control" as used in this article shall have the same meaning as in 17 C.F.R. § 240.15c3-3(b)(1) and (c) and includes but is not limited to holding private keys necessary to transfer a customer's digital assets or maintaining custody with a third-party custodian in accordance with 17 C.F.R. § 240.15c3-3(c).

12. "Promoting" shall mean widely publishing, publicizing or circulating any notice, circular, advertisement, newspaper, article, letter, investment service, electronic posting or communication which, though not purporting to offer a digital asset for sale, or encourages investment in such digital asset.

13. "Proprietary trading agent" shall mean any person who engages in the business of offering, buying, or selling digital assets for the benefit of the account of a digital asset issuer, digital asset broker, digital asset marketplace, or digital investment adviser.

14. "Unauthorized digital asset transfer" shall mean:
   (a) any transaction involving a digital asset that is effected without the customer's actual authorization, including when the password or private key has been used to effect the transfer, so long as the customer receives no benefit; or
   (b) any transaction involving a digital asset that is effected with the customer's authorization due to fraudulent inducement by a third party, including fraudulent inducement by any digital asset broker, digital asset issuer, digital asset investment adviser, or digital asset marketplace.

When a customer reports that a digital asset transfer is unauthorized, such transfer shall be presumed to be an unauthorized digital asset transfer.
15. A designation under any definition in this section shall not be exclusive to any other definition provided under this chapter, the banking law, or the financial services law.

§ 359-o. Substantive regulatory provisions. 1. It shall be illegal and prohibited for any person or affiliate to act as more than one of the following: a digital asset issuer, a digital asset broker, a digital asset marketplace, or a digital asset investment adviser.

2. It shall be illegal and prohibited for any digital asset issuer, digital asset broker, digital asset marketplace, digital asset investment adviser, or any affiliate thereof to act as, employ, or otherwise use the services of any proprietary trading agent.

3. It shall be illegal and prohibited for any digital asset issuer, digital asset broker, digital asset marketplace, or digital asset investment adviser to operate unless and until it has publicly posted a certification of compliance with all requirements of this article.

4. Subdivisions 1-3 above do not apply to any bank as defined in section 359-e(1) (e) of the general business law, except that any bank engaged primarily as a digital asset broker, digital asset issuer or digital asset investment adviser shall not be exempt. A bank shall not act as a digital asset marketplace and any of the following: digital asset broker, digital asset issuer and digital asset investment adviser. A bank acting as a digital asset broker shall not effect transactions in any digital asset it has issued.

5. Every digital asset issuer, digital asset broker, digital asset marketplace, or digital asset investment adviser shall publicly post and make publicly accessible independently audited annual financial statements no later than one hundred five calendar days after the end of the fiscal year and quarterly financial statements no later than seventeen business days after the quarter's end.

6. Every digital asset broker and digital asset investment adviser shall maintain an anti-money laundering program in accordance with applicable state and federal laws and regulations.
In addition, every digital asset broker and digital asset investment adviser shall use reasonable diligence, in regard to the opening and maintenance of every account, to know and retain the essential facts concerning every custom-
er and concerning the authority of each person acting on behalf of such
customer. For purposes of this subdivision, facts deemed "essential" to
knowing the customer are those required to: (a) effectively service the
customer's account; (b) act in accordance with any special handling
instructions for the account; (c) understand the authority of each
person acting on behalf of the customer; and (d) comply with applicable
state and federal
laws and regulations. For each account, every digital
asset
broker shall make and keep the books and records required by 17 C.F.R.
§ 240.17a-3(a)(17)(i)(A) and every digital asset investment adviser
shall make and maintain documentation and information equivalent to
books and records required by an investment adviser under section three
hundred fifty-nine-ee of this chapter and 13 N.Y.C.R.R. 11.9.
7. Every digital asset broker shall promptly obtain and shall there-
after maintain the physical possession or control of all fully paid
digital assets carried by the digital asset broker for the accounts of
customers and shall restrict access to such accounts to authorized
persons. A digital asset broker shall not borrow, lend, rehypothecate,
or in any way encumber the digital assets from any customer.
8. A digital asset marketplace shall only take physical possession or
control of a customer's digital asset for the purpose of effecting a
specific transaction.
9. Every digital asset issuer shall be prohibited from issuing to an
investor any note or other debt instrument that: (a) offers interest or
similar expected payment; and (b) is payable on demand or otherwise has
the features of a demand deposit as defined in 12 C.F.R. § 204(b) or
that would permit the investor to withdraw cash or digital assets within
seven days. This prohibition shall not apply to a transaction in which a
digital asset issuer issues a note or debt instrument to a lender in a
commercial transaction.

10. It shall be illegal and prohibited for any digital asset issuer,
digital asset broker, digital asset marketplace, or digital asset
investment adviser to refer to any digital asset as a "stablecoin" or to
represent that any product is similar to a "stablecoin", unless a
stablecoin ratio equal to 1.0 or greater is maintained at all times. A
stablecoin ratio shall equal U.S. currency, Level 1 liquid assets as
defined in 12 C.F.R. § 249.20, or both; divided by the stated value of
the stablecoin.

11. It shall be illegal and prohibited for any digital asset broker to
effect transactions for its own account, unless for a purpose specif-
ically allowed by rules or regulations adopted by the attorney general
pursuant to this article.

12. It shall be illegal and prohibited for any digital asset broker to
effect "cross transactions".

13. Every digital asset broker shall disclose to its customers any
fees to be received from any source whatsoever, including any commis-
sion, immediately prior to effecting a transaction in any digital asset
on behalf of the customer.

14. It shall be illegal and prohibited for any digital asset broker to
recommend or to refer any person to any digital asset investment adviser
or digital asset issuer where such digital asset broker receives any
potential or actual economic benefit, directly or indirectly.

15. It shall be unlawful and prohibited for any digital asset broker
or digital asset marketplace to engage in business, including through
trading, with any other digital asset broker or digital asset market-
place that is not in substantial compliance with the provisions in
For the purposes of this subdivision, a digital asset broker or
digital asset marketplace licensed by the department of financial
services and registered with the department of law shall be presumed to
be in substantial compliance. Notwithstanding the above, a digital asset
broker may receive an incoming transfer of digital assets into a custom-
er's hosted or custodial wallet from an unhosted or non-custodial wallet
or non-compliant digital asset broker where the receiving digital asset
broker receives no fee and may transfer digital assets to an unhosted or
non-custodial wallet owned and controlled by the digital asset broker's
customer so long as the digital asset broker has complied with the know-
your-customer provisions in subdivision six of this section as to such
customer.

1 6. Every digital asset marketplace shall publicly disclose in a sche-
dule posted in an easily accessible manner any fees to be received from
any source whatsoever, including any listing fee or commission for
facilitating any digital asset transaction or listing any digital asset.

1 7. Every digital asset issuer, digital asset broker, digital asset
marketplace, and digital asset investment adviser shall create, imple-
ment, and maintain an effective cybersecurity program that satisfies the
requirements of applicable state and federal data privacy and
cybersecurity laws and regulations.

1 8. Every digital asset marketplace shall adopt and publish listing
standards for digital assets that it lists. The listing standards shall
include capital requirements for issuers, public disclosure of the
source code for each digital asset that it lists, and such other matters
as the attorney general may require by rule or regulation. For every
27 digital asset that it lists, the digital asset marketplace shall verify
28 that the digital asset software code is consistent with the issuer's
1 disclosure, and that it contains security properties in compliance with
2 applicable state and federal laws and regulations. A digital asset
3 marketplace shall list only digital assets that conform to the listing
4 standards that such marketplace adopts and publishes to the public and
5 for which a prospectus pursuant to subdivision twenty-two of this
6 section is available, unless subject to subdivision twenty-three of this
7 section.
8 19. Every digital asset broker shall maintain net capital that meets
9 the standards for brokers and dealers under 17 C.F.R. § 240.15c3-1 and
10 any applicable laws, rules, and regulations enforced by the department
11 of financial services.
12 20. Every digital asset investment adviser shall be prohibited from
13 taking or maintaining the physical possession or control of any investor's digital assets. For the purposes of this subdivision, a digital
14 asset investment adviser's ability to direct discretionary trading
15 through a digital asset broker shall not be considered physical
16 possession or control of digital assets.
17 21. A digital asset investment adviser shall not operate if it is
18 insolvent. For the purposes of this subdivision, a digital asset invest-
19 ment adviser is insolvent if it meets the definition of paragraph 32 of
20 section 101 of title 11 of the United States Code, or is unable to meet
21 its obligations as they mature, or has made an admission to such effect
22 in writing or in any court or before any agency of the United States or
23 any state.
24 22. Every digital asset issuer who issues a digital asset shall, with
25 respect to each such digital asset, prior to issuance:
(a) publish and distribute a prospectus stating, at a minimum, all related material information about the issuer and the digital asset, including but not limited to:

(i) a description of its business;

(ii) a description of its financial condition;

(iii) a description of its results of operations;

(iv) a description of risk factors;

(v) a description of conflicts of interest;

(vi) the identities of all directors, executive officers (including their positions), and key employees who make or are expected to make significant contributions to the development of the digital asset; and

(vii) financial statement schedules.

(b) furnish to the department of law, to the extent applicable, information about recent sales of digital assets equivalent to the information in 17 C.F.R. § 229.701 (a), (b), (c), and (d). References to "securities" in 17 C.F.R. § 229.701 shall apply to digital assets for purposes of this subdivision and references to the "registrant" in 17 C.F.R. § 229.701 shall apply to digital asset issuers for purposes of this subdivision.

For any issuance occurring before the effective date of this article, the digital asset issuer shall comply with the requirements of this subdivision within ninety days of such effective date.

23. It shall be illegal and prohibited for any digital asset broker or digital asset marketplace to sell or offer to sell, and for any digital asset investment adviser to advise, on any digital asset unless it (a) makes public disclosures regarding the digital asset issuer's business operations, financial condition, results of operations, risk factors, and management, and (b) directs the customer to the digital asset
issuer's most recent financial statements. Notwithstanding the above,
for any digital asset already listed as of the effective date of this
article, any digital asset broker and digital asset marketplace may sell
or offer to sell, and any digital asset investment adviser may advise
on any digital asset where they cannot obtain the aforesaid information
after a diligent search, and where such digital asset broker, digital
asset marketplace, or digital asset investment adviser publicly
discloses the details and results of its search and any related material
information it obtained.

24. Every digital asset broker and digital asset marketplace that
effects an off-chain transaction shall, within ten seconds of such tran-
saction, publish to the public, and permanently store in a location
available to the public the price and volume of the transaction and any
other information about the transaction required by the attorney general
through rule or regulation. Any such public reporting shall not identify
the parties to the transaction. Every digital asset broker and digital
asset marketplace shall make such other reports regarding customer
transactions as may be required by

rule or regulation of the attorney general in consultation with the
department of financial services.

§ 359-p. Anti-fraud and manipulation. 1. It shall be illegal and
prohibited for any person, in connection with the offer or sale of any
digital asset, to make any promise or representation as to the future
which is beyond reasonable expectation or unwarranted by existing
circumstances.

2. It shall be illegal and prohibited for any person, in connection
with the offer or sale of any digital asset, to make any untrue state-
ment of a material fact, or to omit to state a material fact necessary
in order to make the statement made, in light of the circumstances under
which they were made, not misleading.
3. With respect to any digital asset, it shall be illegal and prohibited for any person to engage in any activity that constitutes a violation of any state or federal securities or commodities law, rule, or regulation.

4. It shall be illegal and prohibited for any person, directly or indirectly, to engage in wash trading, prearranged trading, market manipulation or insider trading.

5. Every digital asset issuer, digital asset broker, digital asset marketplace, and digital asset investment adviser, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.

6. Every digital asset broker and digital asset marketplace shall establish, maintain, and enforce written procedures and supervisory systems that are reasonably designed to prevent market manipulation, wash trading, prearranged trading, insider trading, or any other fraudulent trading. Each digital asset broker shall retain an independent third-party service provider to, or shall itself, institute a market surveillance system to monitor the order entry, trading, or other market-related activities conducted through the digital asset broker or digital asset marketplace. Such market surveillance system shall surveil market-related activities, including those occurring outside of the digital asset broker or digital asset marketplace, to prevent or detect fraudulent trading, such as market manipulation, wash trading, prearranged trading, and insider trading, and otherwise maintain the quality of the market in which the digital asset broker or digital asset marketplace effects transactions.

7. It shall be illegal and prohibited for any person, in connection with the offer or sale of any digital asset, to engage in any act, prac-
8. This subdivision governs unauthorized digital asset transfers.

(a) A digital asset broker or digital asset investment adviser shall provide the following disclosures at the time a customer contracts for an account with the digital asset broker or digital asset investment adviser:

(i) a summary of the customer's liability, under this paragraph or under state or other applicable law or agreement, for unauthorized digital asset transfers; and

(ii) the telephone number and address of the person or office to be notified when the consumer believes that an unauthorized digital asset transfer has been or may be made.

(b) A customer may be held liable, within the limitations described in this paragraph, for an unauthorized digital asset transfer involving the customer's account only if the digital asset broker or digital asset adviser has provided the disclosures required by paragraph (a) of this subdivision. If the unauthorized digital asset transfer involved a private key, the digital asset broker or digital asset investment adviser must have provided a means to identify the customer to whom it was issued.

(c) A customer's liability for an unauthorized digital asset transfer or a series of related unauthorized digital asset transfers shall be determined as follows:

(i) If the customer notifies the digital asset broker or digital asset investment adviser within two business days after learning of the unauthorized digital asset transfer, the consumer's liability shall not exceed the lesser of:
(A) fifty dollars; or
(B) the amount of unauthorized digital asset transfers that occur before notice to the digital asset broker or digital asset investment adviser.

(ii) If the customer fails to notify the digital asset broker or digital asset investment adviser within two business days after learning of the unauthorized digital asset transfer, the customer's liability shall not exceed the lesser of five hundred dollars or the sum of:

(A) fifty dollars or the amount of unauthorized digital asset transfers that occur within the two business days, whichever is less; and
(B) the amount of unauthorized digital asset transfers that occur after the close of the two business days and before notice to the digital asset broker or digital asset investment adviser, provided the digital asset broker or digital asset investment adviser establishes that these transfers would not have occurred had the customer notified the digital asset broker or digital asset investment adviser within that two-day period.

(iii) A customer must report an unauthorized digital asset transfer within sixty days of the transfer to avoid liability for subsequent transfers. If the customer fails to do so, the customer's liability shall not exceed the amount of the unauthorized digital asset transfers that occur after the close of the sixty days and before notice to the digital asset broker or digital asset investment adviser, if the digital asset broker or digital asset investment adviser establishes that the unauthorized digital asset transfer would not have occurred had the customer notified the digital asset broker or digital asset investment adviser within the sixty-day period.
(d) Notice under this subdivision shall be deemed sufficient when such steps have been taken as may be reasonably required in the ordinary course of business to provide the digital asset broker or digital asset investment adviser with the pertinent information, whether or not any particular officer, employee, or agent of the digital asset broker or digital asset investment adviser does in fact receive such information.

(e) To the extent the customer's liability is limited as set forth in paragraph (c) of this subdivision, the digital asset broker or digital asset investment adviser shall be liable to the customer for the balance of the loss.

(f) In any action that involves a customer's liability for an unauthorized digital asset transfer, the burden of proof shall be upon the digital asset broker or digital asset investment adviser to show that the digital asset transfer was authorized or, if the digital asset transfer was unauthorized, then the burden of proof shall be upon the digital asset broker or digital asset investment adviser to establish the conditions of liability set forth in this subdivision.

(g) Nothing in this subdivision shall be deemed to impose liability upon a customer for an unauthorized digital asset transfers in excess of the customer's liability for such a transfer under other applicable laws or under any agreement with the customer's digital asset broker or digital asset investment adviser.

(h) Except as provided in this subdivision, a customer shall incur no liability from an unauthorized electronic fund transfer.

§ 359-q. Registration. 1. Every digital asset broker, digital asset marketplace, digital asset investment adviser, and digital asset issuer shall file a registration statement (the "digital asset statement") with
the department of law prior to engaging in business within or from New
York.

2. It shall be illegal and prohibited for any digital asset influencer
to engage in promoting without disclosing their ownership interest,
compensation, or both, and without first filing a registration statement
("digital asset influencer statement") with the department of law.
Notwithstanding the above, a digital asset issuer who has filed a
digital asset statement may engage in promoting with regard to its own
digital asset without filing a digital asset influencer statement
provided that such issuer: (a) discloses its connection with the
digital asset; and (b) has followed all other applicable state and
federal laws.

3. Every digital asset influencer statement shall consist of disclos-
sure of:

(a) the digital asset influencer's legal name;
(b) the digital asset influencer's associated websites;
(c) the digital asset influencer's social media handles;
(d) the digital asset influencer's wallet addresses;
(e) the digital asset influencer's educational background;
(f) the digital asset influencer's business background;
(g) the digital asset influencer's criminal background;
(h) disclosure of conflicts of interest involving current holdings and
past holdings;
(i) prices paid for any digital assets of the issuer or any third
party; and
(j) any other information required by rule or regulation set by the
attorney general.
4. Every digital asset influencer that owns or expects to own a
digital asset that the digital asset influencer promotes shall comply
with the provisions in 17 C.F.R. § 230.144 with respect to such digital
asset so as to refrain from engaging in a distribution of the digital
asset and acting as an underwriter.

5. The registration period for digital asset statements and digital
asset influencer statements shall be effective for one year from the
date of filing. Renewal filings must be made within 60 days prior to
expiration. Digital asset statements and digital asset influencer
statements must be amended pursuant to rules and regulations set by the
attorney general.

6. Every filer of a digital asset influencer statement shall pay to
the department of law fees of:

(a) three hundred dollars for each initial and renewal digital asset
statement and promoter statement; and

(b) thirty dollars for each amendment.

7. Every filer of a digital asset statement shall pay to the depart-
ment of law fees of:

(a) three hundred dollars for each initial and renewal digital asset
statement; and

(b) thirty dollars for each amendment.

8. The registration filings of persons required to file under this
article shall be for a period of one year, commencing on January first
next succeeding the effective date of this article. Renewal statements
shall be filed within sixty days prior to each following January first.
Initial filings may be made after January first of any year by any
person whose activities require registration under this section, but
such filing must be made within ten days prior to engaging in such
activities.

9. The digital asset statement registration provisions of this section
shall not apply to:

(a) any person registered under GBL 359-e or GBL 359-eee or the rules
and regulations thereunder, where such registration relates directly to
the digital asset activity engaged in, except Federal Regulation D
Covered Securities Dealers and Federal Tier 2 Dealers engaged in non-se-
curities activity; or

(b) any bank

that satisfies the conditions of 15 U.S.C. §
78c(a)(4)(B)(i) through (vi), (viii) through (x), and, if limited to
§ 3(a)(5)(B) and (C).

10. Every digital asset issuer, digital asset broker, digital asset
marketplace, digital asset investment adviser, digital asset agent,
proprietary trading influencer, and DAO shall be subject to service
under section three hundred fifty-two-b of this chapter as if each, or
any, were a broker, dealer, or salesman under such section.

13. Every person who, directly or indirectly, controls any person
liable under any provision of this section or of any rule or regulation
thereunder shall also be liable jointly and severally with and to the
same extent as such controlled person.

14. A violation of this article shall be a fraudulent practice within
the meaning of article twenty-three-A of this chapter.

15. The attorney general shall have jurisdiction to enforce any
violation of this article through any means available to the attorney
general.

16. The investigatory powers provided to the attorney general in
section three hundred fifty-two of this chapter shall apply equally with
respect to this article.

17. The attorney general may from time to time in the public interest
make, amend, and rescind such rules, regulations, and forms as are
necessary to carry out the provisions of this article, including rules,
regulations, and forms governing persons and digital assets defined in
this article and any exemptions from such definitions. For the purposes
of such rules, regulations, and forms, the attorney general may categor-
ze digital assets, persons, and matters within the attorney general's
jurisdiction and may prescribe different requirements for different
categories.

Nothing herein shall be interpreted to limit in any way the department
of financial service's role or authority as supervisor of its chartered or
licensed persons (or those that fail to seek required charters or licenses)
and its authority under the banking law and financial services law, including
implementing regulations or otherwise, or to supervise such entities or
persons and enforce relevant laws.

18. If any clause, sentence, paragraph, subdivision, section, or part
of this article, or any application thereof to any person or circum-
stance shall be adjudged by a court of competent jurisdiction to be
invalid, such judgment shall not affect, impair, or invalidate the
remainder of this article or any application thereof to any other person
or circumstance, but shall be confined in its operation to the clause.
sentence, paragraph, subdivision, section, part, or application directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that
this article shall apply to the greatest permissible extent, and that
this article would have been enacted even if it had omitted any
provisions or potential applications that may hereafter be adjudged
invalid.
§ 359-c. Civil penalty. 1. Upon a showing by the attorney general that
a violation of this article or article twenty-three-A of this chapter
has occurred, the attorney general may seek, and a court shall have
jurisdiction to impose, a civil penalty that shall not exceed the great-
er of:
(a) ten thousand dollars for each violation by a natural person or one
hundred thousand dollars for each violation by any other person; or
(b) the gross amount of any pecuniary gain to such defendant or the
loss sustained by any other person or entity as a result of the
violation.
2. The attorney general shall undertake a review of the penalties in
paragraph (a) of subdivision one of this section at least once every two
years and shall be empowered to adjust such penalties by rule or order
for any increase in the consumer price index for all urban consumers
published by the United States department of labor, or any successor
index.
§ 2. Section 301 of the financial services law is amended by adding
cfour new subsections (d), (e), (f) and (g) to read as follows:
(d) The authority granted to the superintendent of the department
under this section shall be applicable to digital asset brokers and
digital asset marketplaces, as defined under article two of the banking
law, as if anything meeting the definition of "digital asset" consti-
tutes "financial products and services" under this chapter, and shall
not be excepted from such authority by FIS 104(a)(2)(A)(ii) or FIS
104(2-a). Nothing herein shall affect the application of, or exclusion from, this chapter on activity unrelated to digital assets.

(e) A violation of article twenty-three-C of the general business law shall constitute a violation of this chapter and a violation of the banking law.

(f) The superintendent shall supervise the business of digital asset brokers, digital asset marketplaces, digital asset investment advisers, and digital asset issuers subject to article two of the banking law in accordance with section two hundred one of this chapter. In accordance with 23 N.Y.C.R.R. § 200.13, the superintendent shall have the power to examine every digital asset broker, digital asset marketplace, digital asset investment adviser, and digital asset issuer that files a digital asset statement with the department of law. Every digital asset broker, digital asset marketplace, digital asset investment adviser, and digital asset issuer that files a digital asset statement with the department of law shall permit and assist the superintendent of the department to examine the digital asset broker, digital asset marketplace, digital asset investment adviser, or digital asset issuer in accordance with the provisions of 23 N.Y.C.R.R. § 200.13 as if such digital asset broker, digital asset marketplace, digital asset investment adviser, or digital asset issuer were a licensee under such regulations.

(g) The attorney general and the superintendent shall cooperate, coordinate and assist one another, in the carrying out of their respective responsibilities for the protection of consumers and investors in digital assets.

§ 3. Section 1133 of the tax law is amended by adding a new subdivi-
28 sion (g) to read as follows:
(g) Any business operating within New York state shall report to the department, the receipt of any digital asset as payment for any goods or services of over five thousand dollars, from any person within New York including details as to the person who paid using digital assets.

§ 4. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 5. This act shall take effect on the thirtieth day after it shall have become a law.