

S. -----
 Senate

IN SENATE--Introduced by Sen

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

----- A.
Assembly

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)

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:

1 Section 1. The general business law is amended by adding a new article
2 23-C to read as follows:

3 ARTICLE 23-C

4 DIGITAL ASSETS

5 Section 359-m. Purpose of article.

6 359-n. Definitions.

7 359-o. Substantive regulatory provisions.

8 359-p. Anti-fraud and manipulation.

9 359-q. Registration.

10 359-r. Civil penalty.

11 § 359-m. Purpose of article. The purpose of this article is to protect
12 customers and investors in digital assets from fraudulent practices,
13 eliminate conflicts of interest and increase transparency. This article
14 operates on persons engaged in the activities described herein from or
15 within New York state.

16 § 359-n. Definitions. 1. All terms used in this article, unless
17 otherwise stated herein, shall have the same meaning as such terms are
18 defined in article twenty-three-A of this chapter.

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

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

27 4. "Digital asset" shall mean any type of digital unit, whether
28 labeled as a cryptocurrency, coin, token, virtual currency, or other-

1 wise, that can be used as a medium of exchange, a form of digitally
2 stored value, or a unit of account. "Digital asset" shall be broadly
3 construed to include digital units that have a centralized repository or
4 administrator, are decentralized and have no centralized repository or
5 administrator, or may be created or obtained by computing or manufactur-
6 ing effort. The term "digital asset" shall not be construed to include
7 any of the following:

8 (a) digital units that:

9 (i) are used solely within online gaming platforms;

10 (ii) have no market or application outside of those gaming platforms;

11 (iii) cannot be converted into, or redeemed for, fiat currency or
12 digital assets; and

13 (iv) to the extent they may be redeemable for real-world goods,
14 services, discounts, or purchases, are only used for consumption by the
15 gamer;

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

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

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

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

27 5. "Digital asset broker" shall mean any person engaged in the busi-
28 ness of effecting transactions in digital assets for the account of

1 others, whether the digital asset broker receives a benefit directly or
2 indirectly.

3 6. "Digital asset influencer" shall mean any person who, in connection
4 with the offer or sale of any digital asset, widely promotes, publishes,
5 publicizes or circulates any notice, circular, advertisement, newspaper,
6 article, letter, investment service, electronic posting or communication
7 which, though not purporting to offer a digital asset for sale,
8 encourages investment in such digital asset, where such person receives
9 compensation of any sort or owns or expects to own such digital asset,
10 unless such ownership or expected ownership amounts to less than twen-
11 ty-five thousand dollars in value. "Digital asset influencer" shall not
12 include a publisher of any bona fide newspaper or news magazine of
13 general distribution.

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

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

27 (b) a digital asset broker whose performance of digital asset invest-
28 ment adviser services is solely incidental to the conduct of his or her

1 business as a digital asset broker and who receives no special compen-
2 sation for them;

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

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

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

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

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

26 10. "Off-chain transaction" shall mean a transaction that is confirmed
27 or stored outside of a public blockchain network.

1 11. "Physical possession or control" as used in this article shall
2 have the same meaning as in 17 C.F.R. § 240.15c3-3(b)(1) and (c) and
3 includes but is not limited to holding private keys necessary to trans-
4 fer a customer's digital assets or maintaining custody with a third-par-
5 ty custodian in accordance with 17 C.F.R. § 240.15c3-3(c).

6 12. "Promoting" shall mean widely publishing, publicizing or circulat-
7 ing any notice, circular, advertisement, newspaper, article, letter,
8 investment service, electronic posting or communication which, though
9 not purporting to offer a digital asset for sale, or encourages invest-
10 ment in such digital asset.

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

15 14. "Unauthorized digital asset transfer" shall mean:

16 (a) any transaction involving a digital asset that is effected without
17 the customer's actual authorization, including when the password or
18 private key has been used to effect the transfer, so long as the custom-
19 er receives no benefit; or

20 (b) any transaction involving a digital asset that is effected with
21 the customer's authorization due to fraudulent inducement by a third
22 party, including fraudulent inducement by any digital asset broker,
23 digital asset issuer, digital asset investment adviser, or digital asset
24 marketplace.

25 When a customer reports that a digital asset transfer is unauthorized,
26 such transfer shall be presumed to be an unauthorized digital asset
27 transfer.

1 15. A designation under any definition in this section shall not be
2 exclusive to any other definition provided under this chapter, the bank-
3 ing law, or the financial services law.

4 § 359-o. Substantive regulatory provisions. 1. It shall be illegal and
5 prohibited for any person or affiliate to act as more than one of the
6 following: a digital asset issuer, a digital asset broker, a digital
7 asset marketplace, or a digital asset investment adviser.

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

12 3. It shall be illegal and prohibited for any digital asset issuer,
13 digital asset broker, digital asset marketplace, or digital asset
14 investment adviser to operate unless and until it has publicly posted a
15 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.

16 5 . Every digital asset issuer, digital asset broker, digital asset
17 marketplace, or digital asset investment adviser shall publicly post and
18 make publicly accessible independently audited annual financial statements
19 no later than one hundred five calendar days after the end of the
20 fiscal year and quarterly financial statements no later than seventeen
21 business days after the quarter's end.

22 6 . Every digital asset broker and digital asset investment adviser
23 shall maintain an anti-money laundering program in accordance with
applicable state and federal laws and regulations.

In addition, every

26 digital asset broker and digital asset investment adviser shall use
27 reasonable diligence, in regard to the opening and maintenance of every
28 account, to know and retain the essential facts concerning every custom-



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1 er and concerning the authority of each person acting on behalf of such
2 customer. For purposes of this subdivision, facts deemed "essential" to
3 knowing the customer are those required to: (a) effectively service the
4 customer's account; (b) act in accordance with any special handling
5 instructions for the account; (c) understand the authority of each
6 person acting on behalf of the customer; and (d) comply with applicable
state and federal

7 laws and regulations . For each account, every digital
asset

8 broker shall make and keep the books and records required by 17 C.F.R.
9 § 240.17a-3(a)(17)(i)(A) and every digital asset investment adviser
10 shall make and maintain documentation and information equivalent to
11 books and records required by an investment adviser under section three
12 hundred fifty-nine-eee of this chapter and 13 N.Y.C.R.R. 11.9.

13 7 . Every digital asset broker shall promptly obtain and shall there-
14 after maintain the physical possession or control of all fully paid
15 digital assets carried by the digital asset broker for the accounts of
16 customers and shall restrict access to such accounts to authorized
17 persons. A digital asset broker shall not borrow, lend, rehypothecate,
18 or in any way encumber the digital assets from any customer.

19 8 . A digital asset marketplace shall only take physical possession or
20 control of a customer's digital asset for the purpose of effecting a
21 specific transaction.

22 9 . Every digital asset issuer shall be prohibited from issuing to an
23 investor any note or other debt instrument that: (a) offers interest or
24 similar expected payment; and (b) is payable on demand or otherwise has
25 the features of a demand deposit as defined in 12 C.F.R. § 204(b) or
26 that would permit the investor to withdraw cash or digital assets within
27 seven days. This prohibition shall not apply to a transaction in which a

1 digital asset issuer issues a note or debt instrument to a lender in a
2 commercial transaction.

3 10 . It shall be illegal and prohibited for any digital asset issuer,
4 digital asset broker, digital asset marketplace, or digital asset
5 investment adviser to refer to any digital asset as a "stablecoin" or to
6 represent that any product is similar to a "stablecoin", unless a
7 stablecoin ratio equal to 1.0 or greater is maintained at all times. A
8 stablecoin ratio shall equal U.S. currency, Level 1 liquid assets as
9 defined in 12 C.F.R. § 249.20, or both; divided by the stated value of
10 the stablecoin.

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

15 12 . It shall be illegal and prohibited for any digital asset broker to
16 effect "cross transactions".

17 13 . Every digital asset broker shall disclose to its customers any
18 fees to be received from any source whatsoever, including any commis-
19 sion, immediately prior to effecting a transaction in any digital asset
20 on behalf of the customer.

21 1 4. It shall be illegal and prohibited for any digital asset broker to
22 recommend or to refer any person to any digital asset investment adviser
23 or digital asset issuer where such digital asset broker receives any
24 potential or actual economic benefit, directly or indirectly.

25 1 5. It shall be unlawful and prohibited for any digital asset broker
26 or digital asset marketplace to engage in business, including through
27 trading, with any other digital asset broker or digital asset market-
28 place that is not in substantial compliance with the provisions in

1 subdivision six of this section or with any unhosted or non-
2 custodial
3 wallet. For the purposes of this subdivision, a digital asset broker or
4 digital asset marketplace licensed by the department of financial
5 services and registered with the department of law shall be presumed to
6 be in substantial compliance. Notwithstanding the above, a digital asset
7 broker may receive an incoming transfer of digital assets into a custom-
8 er's hosted or custodial wallet from an unhosted or non-custodial wallet
9 or non-compliant digital asset broker where the receiving digital asset
10 broker receives no fee and may transfer digital assets to an unhosted or
11 non-custodial wallet owned and controlled by the digital asset broker's
12 customer so long as the digital asset broker has complied with the know-
13 your-customer provisions in subdivision six of this section as to
14 such
15 customer.

16 1 6. Every digital asset marketplace shall publicly disclose in a sche-
17 dule posted in an easily accessible manner any fees to be received from
18 any source whatsoever, including any listing fee or commission for
19 facilitating any digital asset transaction or listing any digital asset.
20 1 7. Every digital asset issuer, digital asset broker, digital asset
21 marketplace, and digital asset investment adviser shall create, imple-
22 ment, and maintain an effective cybersecurity program that satisfies the
23 requirements of applicable state and federal data privacy and
24 cybersecurity laws and regulations

25 18 . Every digital asset marketplace shall adopt and publish listing
26 standards for digital assets that it lists. The listing standards shall
27 include capital requirements for issuers, public disclosure of the
28 source code for each digital asset that it lists, and such other matters
29 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
3 federal laws and regulations. A digital asset
4 marketplace shall list only digital assets that conform to the listing
5 standards that such marketplace adopts and publishes to the public and
6 for which a prospectus pursuant to subdivision twenty- two of this
7 section is available, unless subject to subdivision twenty- three of
8 this
9 section.

10 19 . Every digital asset broker shall maintain net capital that meets
11 the standards for brokers and dealers under 17 C.F.R. § 240.15c3-1 and
12 any applicable laws, rules, and regulations enforced by the department
13 of financial services.

14 20 . Every digital asset investment adviser shall be prohibited from
15 taking or maintaining the physical possession or control of any inves-
16 tor's digital assets. For the purposes of this subdivision, a digital
17 asset investment adviser's ability to direct discretionary trading
18 through a digital asset broker shall not be considered physical
19 possession or control of digital assets.

20 21 . A digital asset investment adviser shall not operate if it is
21 insolvent. For the purposes of this subdivision, a digital asset invest-
22 ment adviser is insolvent if it meets the definition of paragraph 32 of
23 section 101 of title 11 of the United States Code, or is unable to meet
24 its obligations as they mature, or has made an admission to such effect
25 in writing or in any court or before any agency of the United States or
26 any state.

27 22 . Every digital asset issuer who issues a digital asset shall, with
28 respect to each such digital asset, prior to issuance:

1 (a) publish and distribute a prospectus stating, at a minimum, all
2 related material information about the issuer and the digital asset,
3 including but not limited to:

4 (i) a description of its business;
5 (ii) a description of its financial condition;
6 (iii) a description of its results of operations;
7 (iv) a description of risk factors;
8 (v) a description of conflicts of interest;
9 (vi) the identities of all directors, executive officers (including
10 their positions), and key employees who make or are expected to make
11 significant contributions to the development of the digital asset; and
12 (vii) financial statement schedules.

13 (b) furnish to the department of law, to the extent applicable, infor-
14 mation about recent sales of digital assets equivalent to the informa-
15 tion in 17 C.F.R. § 229.701 (a), (b), (c), and (d). References to "secu-
16 rities" in 17 C.F.R. § 229.701 shall apply to digital assets for
17 purposes of this subdivision and references to the "registrant" in 17
18 C.F.R. § 229.701 shall apply to digital asset issuers for purposes of
19 this subdivision.

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

23 23 . It shall be illegal and prohibited for any digital asset broker or
24 digital asset marketplace to sell or offer to sell, and for any digital
25 asset investment adviser to advise, on any digital asset unless it (a)
26 makes public disclosures regarding the digital asset issuer's business
27 operations, financial condition, results of operations, risk factors,
28 and management, and (b) directs the customer to the digital asset

1 issuer's most recent financial statements. Notwithstanding the above,
2 for any digital asset already listed as of the effective date of this
3 article, any digital asset broker and digital asset marketplace may sell
4 or offer to sell, and any digital asset investment adviser may advise
5 on, any digital asset where they cannot obtain the aforesaid information
6 after a diligent search, and where such digital asset broker, digital
7 asset marketplace, or digital asset investment adviser publicly
8 discloses the details and results of its search and any related material
9 information it obtained.

10 24 . Every digital asset broker and digital asset marketplace that
11 effects an off-chain transaction shall, within ten seconds of such tran-
12 saction, publish to the public, and permanently store in a location
13 available to the public the price and volume of the transaction and any
14 other information about the transaction required by the attorney general
15 through rule or regulation. Any such public reporting shall not identify
16 the parties to the transaction. Every digital asset broker and digital
17 asset marketplace shall make such other reports regarding customer
18 transactions as may be required by
19 rule or regulation of the attorney general in consultation with the
20 department of financial services.

21 § 359-p. Anti-fraud and manipulation. 1. It shall be illegal and
22 prohibited for any person, in connection with the offer or sale of any
23 digital asset, to make any promise or representation as to the future
24 which is beyond reasonable expectation or unwarranted by existing
25 circumstances.

26 2. It shall be illegal and prohibited for any person, in connection
27 with the offer or sale of any digital asset, to make any untrue state-
28 ment of a material fact, or to omit to state a material fact necessary
29 in order to make the statement made, in light of the circumstances under

28 which they were made, not misleading.



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1 3. With respect to any digital asset, it shall be illegal and prohib-
2 ited for any person to engage in any activity that constitutes a
3 violation of any state or federal securities or commodities law, rule,
4 or regulation.

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

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

12 6. Every digital asset broker and digital asset marketplace shall
13 establish, maintain, and enforce written procedures and supervisory
14 systems that are reasonably designed to prevent market manipulation,
15 wash trading, prearranged trading, insider trading, or any other fraudu-
16 lent trading. Each digital asset broker shall retain an independent
17 third-party service provider to, or shall itself, institute a market
18 surveillance system to monitor the order entry, trading, or other mark-
19 et-related activities conducted through the digital asset broker or
20 digital asset marketplace. Such market surveillance system shall surveil
21 market-related activities, including those occurring outside of the
22 digital asset broker or digital asset marketplace, to prevent or detect
23 fraudulent trading, such as market manipulation, wash trading, prear-
24 ranged trading, and insider trading, and otherwise maintain the quality
25 of the market in which the digital asset broker or digital asset market-
26 place effects transactions.

27 7. It shall be illegal and prohibited for any person, in connection
28 with the offer or sale of any digital asset, to engage in any act, prac-

1 tice, or course of business which operates or would operate as a fraud
2 or deceit upon any person.

3 8. This subdivision governs unauthorized digital asset transfers.

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

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

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

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

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

25 (i) If the customer notifies the digital asset broker or digital asset
26 investment adviser within two business days after learning of the unau-
27 thorized digital asset transfer, the consumer's liability shall not
28 exceed the lesser of:

1 (A) fifty dollars; or

2 (B) the amount of unauthorized digital asset transfers that occur
3 before notice to the digital asset broker or digital asset investment
4 adviser.

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

9 (A) fifty dollars or the amount of unauthorized digital asset trans-
10 fers that occur within the two business days, whichever is less; and

11 (B) the amount of unauthorized digital asset transfers that occur
12 after the close of the two business days and before notice to the
13 digital asset broker or digital asset investment adviser, provided the
14 digital asset broker or digital asset investment adviser establishes
15 that these transfers would not have occurred had the customer notified
16 the digital asset broker or digital asset investment adviser within that
17 two-day period.

18 (iii) A customer must report an unauthorized digital asset transfer
19 within sixty days of the transfer to avoid liability for subsequent
20 transfers. If the customer fails to do so, the customer's liability
21 shall not exceed the amount of the unauthorized digital asset transfers
22 that occur after the close of the sixty days and before notice to the
23 digital asset broker or digital asset investment adviser, if the digital
24 asset broker or digital asset investment adviser establishes that the
25 unauthorized digital asset transfer would not have occurred had the
26 customer notified the digital asset broker or digital asset investment
27 adviser within the sixty-day period.

1 (d) Notice under this subdivision shall be deemed sufficient when such
2 steps have been taken as may be reasonably required in the ordinary
3 course of business to provide the digital asset broker or digital asset
4 investment adviser with the pertinent information, whether or not any
5 particular officer, employee, or agent of the digital asset broker or
6 digital asset investment adviser does in fact receive such information.

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

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

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

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

25 § 359-q. Registration. 1. Every digital asset broker, digital asset
26 marketplace, digital asset investment adviser, and digital asset issuer
27 shall file a registration statement (the "digital asset statement") with

1 the department of law prior to engaging in business within or from New
2 York.

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

13 3. Every digital asset influencer statement shall consist of disclo-
14 sure of:

15 (a) the digital asset influencer's legal name;
16 (b) the digital asset influencer's associated websites;
17 (c) the digital asset influencer's social media handles;
18 (d) the digital asset influencer's wallet addresses;
19 (e) the digital asset influencer's educational background;
20 (f) the digital asset influencer's business background;
21 (g) the digital asset influencer's criminal background;
22 (h) disclosure of conflicts of interest involving current holdings and
23 past holdings;
24 (i) prices paid for any digital assets of the issuer or any third
25 party; and
26 (j) any other information required by rule or regulation set by the
27 attorney general.

1 4. Every digital asset influencer that owns or expects to own a
2 digital asset that the digital asset influencer promotes shall comply
3 with the provisions in 17 C.F.R. § 230.144 with respect to such digital
4 asset so as to refrain from engaging in a distribution of the digital
5 asset and acting as an underwriter.

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

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

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

16 (b) thirty dollars for each amendment.

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

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

21 (b) thirty dollars for each amendment.

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

1 such filing must be made within ten days prior to engaging in such
2 activities.

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

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

10 (b) any bank

that satisfies the conditions of 15 U.S.C. §
12 78c(a)(4)(B)(i) through (vi), (viii) through (x), and, if limited to
13 unsolicited transactions, (xi); 15 U.S.C. § 78c(a)(4)(E); and 15 U.S.C.
14 § 3(a)(5)(B) and (C).

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

26 1 3. Every person who, directly or indirectly, controls any person
27 liable under any provision of this section or of any rule or regulation

1 thereunder shall also be liable jointly and severally with and to the
2 same extent as such controlled person.

3 1 4. A violation of this article shall be a fraudulent practice within
4 the meaning of article twenty-three-A of this chapter.

5 1 5. The attorney general shall have jurisdiction to enforce any
6 violation of this article through any means available to the attorney
7 general.

8 1 6. The investigatory powers provided to the attorney general in
9 section three hundred fifty-two of this chapter shall apply equally with
10 respect to this article.

11 17 . The attorney general may from time to time in the public interest
12 make, amend, and rescind such rules, regulations, and forms as are
13 necessary to carry out the provisions of this article, including rules,
14 regulations, and forms governing persons and digital assets defined in
15 this article and any exemptions from such definitions. For the purposes
16 of such rules, regulations, and forms, the attorney general may categor-
17 ize digital assets, persons, and matters within the attorney general's
18 jurisdiction and may prescribe different requirements for different
19 categories.

17. 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.

20 18 . If any clause, sentence, paragraph, subdivision, section, or part
21 of this article, or any application thereof to any person or circum-
22 stance shall be adjudged by a court of competent jurisdiction to be
23 invalid, such judgment shall not affect, impair, or invalidate the
24 remainder of this article or any application thereof to any other person
25 or circumstance, but shall be confined in its operation to the clause,

26 sentence, paragraph, subdivision, section, part, or application directly
27 involved in the controversy in which such judgment shall have been
28 rendered. It is hereby declared to be the intent of the legislature that

1 this article shall apply to the greatest permissible extent, and that
2 this article would have been enacted even if it had omitted any
3 provisions or potential applications that may hereafter be adjudged
4 invalid.

5 § 359-r. Civil penalty. 1. Upon a showing by the attorney general that
6 a violation of this article or article twenty-three-A of this chapter
7 has occurred, the attorney general may seek, and a court shall have
8 jurisdiction to impose, a civil penalty that shall not exceed the great-
9 er of:

10 (a) ten thousand dollars for each violation by a natural person or one
11 hundred thousand dollars for each violation by any other person; or

12 (b) the gross amount of any pecuniary gain to such defendant or the
13 loss sustained by any other person or entity as a result of the
14 violation.

15 2. The attorney general shall undertake a review of the penalties in
16 paragraph (a) of subdivision one of this section at least once every two
17 years and shall be empowered to adjust such penalties by rule or order
18 for any increase in the consumer price index for all urban consumers
19 published by the United States department of labor, or any successor
20 index.

21 § 2. Section 301 of the financial services law is amended by adding
22 four new subsections (d), (e), (f) and (g) to read as follows:

23 (d) The authority granted to the superintendent of the department
24 under this section shall be applicable to digital asset brokers and
25 digital asset marketplaces, as defined under article two of the banking
26 law, as if anything meeting the definition of "digital asset" consti-
27 tutes "financial products and services" under this chapter, and shall
28 not be excepted from such authority by FIS 104(a)(2)(A)(ii) or FIS

1 104(2-a). Nothing herein shall affect the application of, or exclusion
2 from, this chapter on activity unrelated to digital assets.

3 (e)

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

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

23 (g) The attorney general and the superintendent shall cooperate,
coordinate and assist one another ,

in the carrying out of their
respective

25 responsibilities for the protection
26 of consumers and investors in digital assets.

27 § 3. Section 1133 of the tax law is amended by adding a new subdivi-

28 sion (g) to read as follows:

1 (g) Any business operating within New York state shall report to the
2 department, the receipt of any digital asset as payment for any goods or
3 services of over five thousand dollars, from any person within New York
4 including details as to the person who paid using digital assets.

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

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