116TH CONGRESS
1ST SESSION

H. R. 528

To provide a safe harbor from licensing and registration for certain non-controlling blockchain developers and providers of blockchain services.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2019

Mr. EMMER (for himself and Mr. SOTO) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To provide a safe harbor from licensing and registration for certain non-controlling blockchain developers and providers of blockchain services.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Blockchain Regulatory

5 Certainty Act".

SEC. 2. SAFE HARBOR FOR NON-CONTROLLING BLOCK-CHAIN DEVELOPERS AND PROVIDERS OF BLOCKCHAIN SERVICES.

(a) PROTECTION FOR NON-CONTROLLING BLOCKCHAIN SERVICES AND SOFTWARE DEVELOPERS.—No blockchain developer or provider of a blockchain service shall be treated as a money transmitter (as defined under State licensing laws, section 1960 of title 18, United States Code, and section 1010.100 of title 31, Code of Federal Regulations), money services business (as defined under section 1010.100 of title 31, Code of Federal Regulation), financial institution (as defined under section 5312 of title 31, United States Code), or any other State or Federal legal designation requiring licensing or registration as a condition to acting as a blockchain developer or provider of a blockchain service, unless the developer or provider has, in the regular course of business, control over digital currency to which a user is entitled under the blockchain service or the software created, maintained, or disseminated by the blockchain developer.

(b) EFFECT ON OTHER LAWS.—

(1) CRIMINAL LAW.—Nothing in this section shall be construed to impair the enforcement of any Federal criminal statute that is consistent with this section.

1   (2) INTELLECTUAL PROPERTY LAW.—Nothing

2 in this section shall be construed to limit or expand

3 any law pertaining to intellectual property.

4   (3) STATE LAW.—Nothing in this section shall

5 be construed to prevent any State from enforcing

6 any State law that is consistent with this section. No

7 cause of action may be brought and no liability may

8 be imposed under any State or local law that is in-

9 consistent with this section.

10 (c) DEFINITIONS.—As used in this section:

11   (1) BLOCKCHAIN NETWORK.—The term "block-

12 chain network" means any system of networked

13 computers that cooperates to reach consensus over

14 the state of a computer program and allows users to

15 participate in the consensus-making process without

16 the need to license proprietary software or obtain

17 permission from any other user. The term includes,

18 specifically, a public network of computers that co-

19 operates to reach consensus over the state of a dis-

20 tributed ledger describing transactions in a digital

21 currency.

22   (2) BLOCKCHAIN DEVELOPER.—The term

23 "blockchain developer" means any person or busi-

24 ness that creates, maintains, or disseminates soft-

1 ware facilitating the creation or maintenance of a

2 blockchain network or a blockchain service.

3 (3) BLOCKCHAIN SERVICE.—The term "block-

4 chain service" means any information, transaction,

5 or computing service or system that provides or en-

6 ables access to a blockchain network by multiple

7 users, including specifically a service or system that

8 enables users to send, receive, exchange, or store

9 digital currencies described by blockchain networks.

10 (4) CONTROL.—The term "control" means the

11 legal right, authority, or ability to obtain upon de-

12 mand data sufficient to initiate transactions spend-

13 ing an amount of digital currency.

14 (5) DIGITAL CURRENCY.—The term "digital

15 currency" means a medium of exchange, a unit of

16 account, or a store of value that is represented by

17 entries in a distributed ledger generated by a

18 blockchain network.

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