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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To specify the treatment of covered non-fungible tokens under the securities laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. TIMMONS introduced the following bill; which was referred to the Committee on _____

A BILL

To specify the treatment of covered non-fungible tokens under the securities laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “New Frontiers in
5 Technology Act”.

6 **SEC. 2. TREATMENT OF COVERED NON-FUNGIBLE TOKENS**

7 **UNDER THE SECURITIES LAWS.**

8 (a) IN GENERAL.—For purposes of the securities
9 laws—

1 (1) a covered non-fungible token is not an in-
2 vestment contract; and

3 (2) a transaction in a covered non-fungible
4 token is not a transaction in a security.

5 (b) DEFINITIONS.—In this section and section 3:

6 (1) COVERED NON-FUNGIBLE TOKEN.—

7 (A) IN GENERAL.—The term “covered
8 non-fungible token” means any non-fungible
9 token, the primary purpose of which is as—

10 (i) a work of art, musical composition,
11 literary work, or other intellectual prop-
12 erty;

13 (ii) a collectible, merchandise, virtual
14 land, or video game asset;

15 (iii) an affinity, reward, or loyalty
16 point; or

17 (iv) a right, license, or ticket.

18 (B) EXCLUSION.— The term “covered
19 non-fungible token” does not include a non-fun-
20 gible token that is marketed by an issuer or
21 promoter—

22 (i) primarily as an investment oppor-
23 tunity; or

24 (ii) making actual or implied promised
25 actions or a series of actions designed to

1 increase the value of the non-fungible
2 token.

3 (2) NON-FUNGIBLE TOKEN.—

4 (A) IN GENERAL.—The term “non-fungible
5 token” means any asset—

6 (i) which is of such quality or limited
7 production that it can be independently
8 valued;

9 (ii) the record of ownership of which
10 is recorded on a cryptographically secured
11 public distributed ledger;

12 (iii)(I) which is a digital equivalent of
13 a tangible or intangible good; or

14 (II) which has some other inherent
15 value beyond the fact that the record of
16 ownership of the asset is recorded on a
17 cryptographically public distributed ledger;
18 and

19 (iv) the record of which can be exclu-
20 sively possessed and transferred, person to
21 person, without necessary reliance on an
22 intermediary.

23 (B) EXCLUSIONS.—The term “non-fun-
24 gible token” does not include—

1 (i) any note, stock, treasury stock, se-
2 curity future, security-based swap, bond,
3 debenture, evidence of indebtedness, cer-
4 tificate of interest or participation in any
5 profit-sharing agreement, collateral-trust
6 certificate, preorganization certificate or
7 subscription, transferable share, put, call,
8 straddle, option, privilege on any security,
9 certificate of deposit, or group or index of
10 securities (including any interest therein or
11 based on the value thereof); or

12 (ii) any asset which, based on its
13 terms and other characteristics, is, rep-
14 resents, or is functionally equivalent to an
15 agreement, contract, or transaction that
16 is—

17 (I) a contract of sale of a com-
18 modity (as defined under section 1a of
19 the Commodity Exchange Act) for fu-
20 ture delivery or an option thereon;

21 (II) a security futures product;

22 (III) a swap;

23 (IV) an agreement, contract, or
24 transaction described in section

1 2(c)(2)(C)(i) or 2(c)(2)(D)(i) of the
2 Commodity Exchange Act;

3 (V) a commodity option author-
4 ized under section 4c of the Com-
5 modity Exchange Act; or

6 (VI) a leverage transaction au-
7 thorized under section 19 of the Com-
8 modity Exchange Act.

9 (C) RULE OF CONSTRUCTION.—Nothing in
10 this paragraph may be construed to create a
11 presumption that a non-fungible token is a rep-
12 resentation of any type of security not excluded
13 from the definition under subparagraph (B).

14 (3) SECURITIES LAWS.—The term “securities
15 laws” has the meaning given that term is section
16 3(a) of the Securities Exchange Act of 1934.

17 **SEC. 3. STUDY ON NON-FUNGIBLE TOKENS.**

18 (a) IN GENERAL.—The Comptroller General of the
19 United States shall carry out a study of non-fungible to-
20 kens that analyzes—

21 (1) the nature, size, role, purpose, and use of
22 non-fungible tokens;

23 (2) the similarities and differences between non-
24 fungible tokens and other digital assets, including

- 1 payment stablecoins, and how the markets for those
2 digital assets intersect with each other;
- 3 (3) how non-fungible tokens are minted by
4 issuers and subsequently administered to purchasers;
- 5 (4) how non-fungible tokens are stored after
6 being purchased by a consumer;
- 7 (5) the interoperability of non-fungible tokens
8 between different blockchain systems;
- 9 (6) the scalability of different non-fungible
10 token marketplaces;
- 11 (7) the benefits of non-fungible tokens, includ-
12 ing verifiable digital ownership;
- 13 (8) the risks of non-fungible tokens, including—
14 (A) intellectual property rights;
15 (B) cybersecurity risks; and
16 (C) market risks;
- 17 (9) whether and how non-fungible tokens have
18 integrated with traditional marketplaces, including
19 those for music, real estate, gaming, events, and
20 travel;
- 21 (10) whether non-fungible tokens can be used
22 to facilitate commerce or other activities through the
23 representation of documents, identification, con-
24 tracts, licenses, and other commercial, government,
25 or personal records;

1 (11) any potential risks to traditional markets
2 from such integration; and

3 (12) the levels and types of illicit activity in
4 non-fungible token markets.

5 (b) REPORT.—Not later than 1 year after the date
6 of the enactment of this Act, the Comptroller General shall
7 make publicly available a report that includes the results
8 of the study required by subsection (a).