

118TH CONGRESS  
1ST SESSION

# H. R. 1747

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

MARCH 23, 2023

Mr. EMMER (for himself and Mr. SOTO) introduced the following bill; which was referred to the Committee on Financial Services

---

## 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”.

6 **SEC. 2. SAFE HARBOR FOR NON-CONTROLLING**  
7 **BLOCKCHAIN DEVELOPERS AND PROVIDERS**  
8 **OF BLOCKCHAIN SERVICES.**

9 (a) PROTECTION FOR NON-CONTROLLING  
10 BLOCKCHAIN SERVICES AND SOFTWARE DEVELOPERS.—

1 No blockchain developer or provider of a blockchain serv-  
2 ice shall be treated as a money transmitter (as defined  
3 under State licensing laws), a financial institution (as de-  
4 fined under section 5312 of title 31, United States Code),  
5 or any other State or Federal legal designation requiring  
6 licensing or registration as a condition to acting as a  
7 blockchain developer or provider of a blockchain service,  
8 unless the developer or provider has, in the regular course  
9 of business, control over digital assets to which a user is  
10 entitled under the blockchain service or the software cre-  
11 ated, maintained, or disseminated by the blockchain devel-  
12 oper.

13 (b) EFFECT ON OTHER LAWS.—

14 (1) INTELLECTUAL PROPERTY LAW.—Nothing  
15 in this section shall be construed to limit or expand  
16 any law pertaining to intellectual property.

17 (2) STATE LAW.—Nothing in this section shall  
18 be construed to prevent any State from enforcing  
19 any State law that is consistent with this section. No  
20 cause of action may be brought and no liability may  
21 be imposed under any State or local law that is in-  
22 consistent with this section.

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

24 (1) BLOCKCHAIN DEVELOPER.—The term  
25 “blockchain developer” means any person or busi-

1       ness that creates, maintains, or disseminates soft-  
2       ware facilitating the creation or maintenance of a  
3       blockchain network or a blockchain service.

4           (2)   BLOCKCHAIN   NETWORK.—The   term  
5       “blockchain   network”   means   any   system   of  
6       networked   computers   that   cooperates   to   reach   con-  
7       sensus   over   the   state   of   a   computer   program   and   al-  
8       lows   users   to   participate   in   the   consensus-making  
9       process   without   the   need   to   license   proprietary   soft-  
10      ware   or   obtain   permission   from   any   other   user.   The  
11      term   includes,   specifically,   a   public   network   of   com-  
12      puters   that   cooperates   to   reach   consensus   over   the  
13      state   of   a   distributed   ledger   describing   transactions  
14      in   a   digital   asset.

15           (3)   BLOCKCHAIN   SERVICE.—The   term  
16      “blockchain   service”   means   any   information,   trans-  
17      action,   or   computing   service   or   system   that   provides  
18      or   enables   access   to   a   blockchain   network   by   mul-  
19      tiple   users,   including   specifically   a   service   or   system  
20      that   enables   users   to   send,   receive,   exchange,   or  
21      store   digital   assets   described   by   blockchain   net-  
22      works.

23           (4)   CONTROL.—The   term   “control”   means   the  
24      legal   right,   authority,   or   ability   to   obtain   upon   de-

1        mand data sufficient to initiate transactions spend-  
2        ing an amount of digital assets.

3            (5) DIGITAL ASSET.—The term “digital asset”  
4        means any form of intangible personal property that  
5        can be exclusively possessed and transferred person  
6        to person without necessary reliance on an inter-  
7        mediary.

○