Enabling CLARITY Act–Compliant Digital Asset Markets

A FRAMEWORK FOR REGULATED TOKENIZED SECURITIES, DIGITAL COMMODITIES, AND CRYPTO TRADING VENUES

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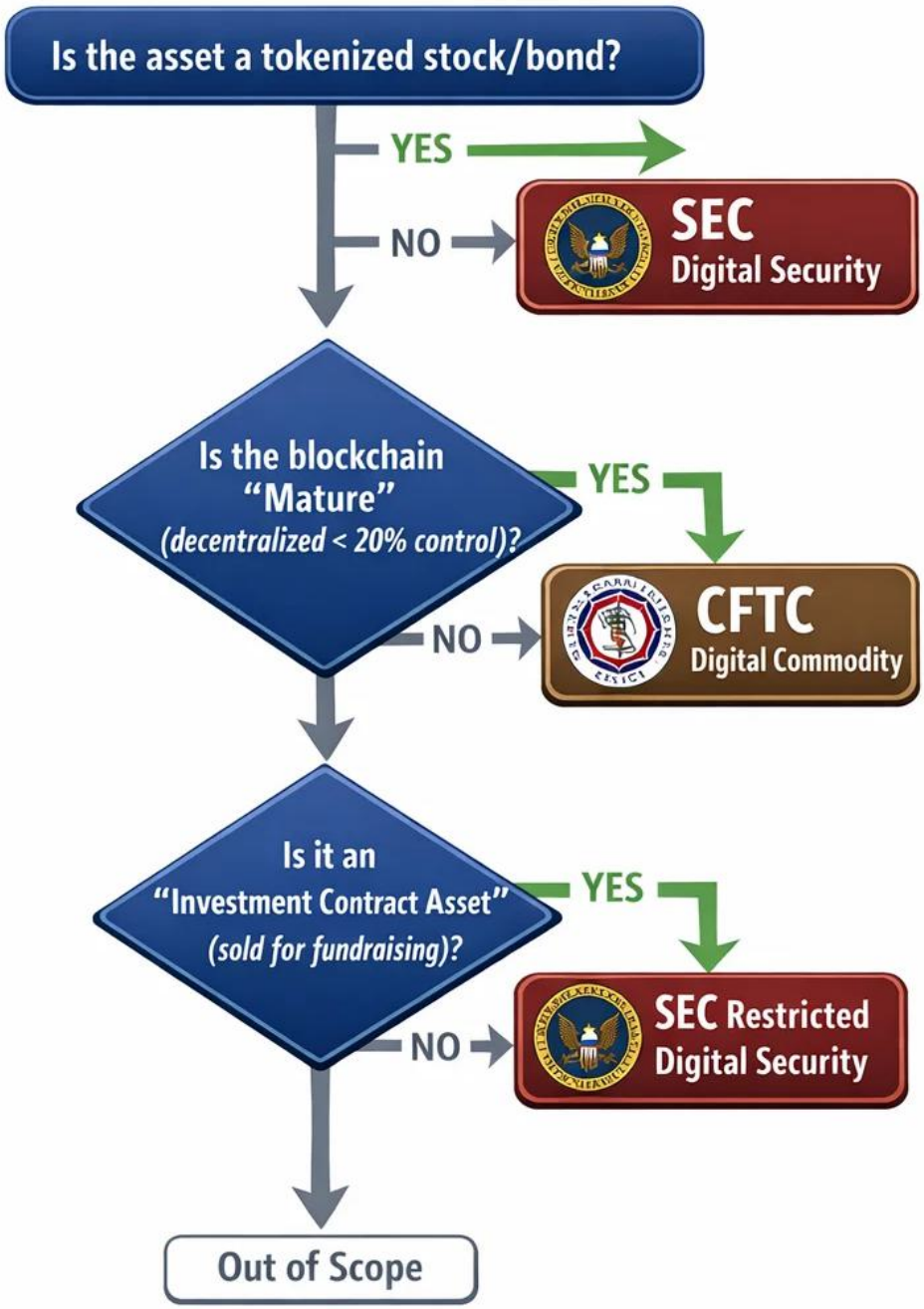
EXECUTIVE SUMMARY

The **Digital Asset Market Clarity Act (H.R. 3633)** establishes the first comprehensive U.S. federal regulatory framework governing digital securities, tokenized financial instruments, digital commodities, ancillary assets, and decentralized networks. By codifying the principle of "regulatory parity," the Act explicitly states that tokenized securities remain securities and that the act of tokenization does not waive existing securities law obligations. Furthermore, it creates a clear legal taxonomy for "tokenization" and "tokenized financial instruments," delineating the jurisdictional boundaries between the SEC and CFTC.

As digital assets transition from experimental markets into regulated financial infrastructure, market participants face an urgent mandate to adopt institutional-grade compliance systems. To operate legally under this new regime, firms must implement capabilities that support regulated issuance, SEC/CFTC-compliant trading, custody with strictly defined operational controls, and best execution surveillance. Additionally, the infrastructure must handle corporate action automation, on-chain to off-chain reconciliation, and bankruptcy-remote asset segregation to ensure investor protection.

Jurisdictional Decision Tree

Executive Summary / Statutory Foundation



STATUTORY FOUNDATION OF THE CLARITY ACT

The foundation of the CLARITY Act lies in its formalization of asset classes that were previously ambiguous**. Section 2** of H.R. 3633 introduces statutory definitions for digital securities, digital commodities, tokenized financial instruments, tokenized real-world assets, and ancillary digital assets. These definitions provide the legal grounding necessary for institutional participation.

THE "MATURE BLOCKCHAIN" STANDARD

A critical innovation in the Act is the concept of a "Mature Blockchain System." Under **Section 205**, a blockchain is considered mature if it is not controlled by any single person or group (defined as holding <20% of outstanding units) and functions as a decentralized network. Assets associated with mature blockchains are generally classified as **Digital Commodities** falling under CFTC jurisdiction, whereas assets on centralized networks remain subject to SEC oversight as investment contracts until they achieve this status.

THE PARITY PRINCIPLE (SECTION 223(E))

This section mandates that tokenized financial instruments must convey substantially equivalent legal and economic rights to the underlying asset. Crucially, it establishes that tokenization does not alter the regulatory treatment of an asset or reduce the investor protections associated with it. Consequently, any digital representation of a security must adhere to the same rigorous standards as traditional securities, closing the loop on regulatory arbitrage..

BROKER-DEALERS, ATS & THE FEDERAL REGISTRATION OF CRYPTO EXCHANGES

The CLARITY Act creates a definitive structure for how crypto exchanges can legally operate and trade digital assets, including "tokenized representations of stocks." The Act bifurcates registration based on the asset class, often requiring platforms to modernize their legal structure to resemble traditional financial exchanges.

1. **The Broker-Dealer & ATS Framework for Digital Securities**

For a platform to trade tokenized stocks, digital bonds, or investment contract assets (assets that have not yet reached "mature" status), it must register with the SEC.

- **Alternative Trading System (ATS):** Most crypto exchanges listing securities will operate as an ATS under Regulation ATS. This requires the platform to register as a broker-dealer and file Form ATS with the SEC. An ATS is authorized to match orders for digital securities but must adhere to strict rules regarding fair access and capacity integrity.
- **Broker-Dealer of Record:** Every ATS must be operated by a registered Broker-Dealer. This entity is responsible for "Know Your Customer" (KYC) checks, reporting trades to FINRA (via the CAT or TRF), and ensuring suitability for investors.
- **Trading Tokenized Stocks:** Under this framework, a crypto exchange can list a "token representation of a stock" (e.g., a tokenized share of Apple or a tokenized ETF) only if that token is registered as a security. The ATS treats the token exactly like a share of stock for legal purposes, but settlement occurs on the blockchain rather than through the DTCC, provided the ATS complies with the "Operational Possession" custody rules.

2. Federal Registration of Digital Commodity Exchanges (DCEs)

For platforms trading Bitcoin, Ether, and other assets deemed "mature" decentralized assets, the Act creates a new federal license under the CFTC: the Digital Commodity Exchange (DCE).

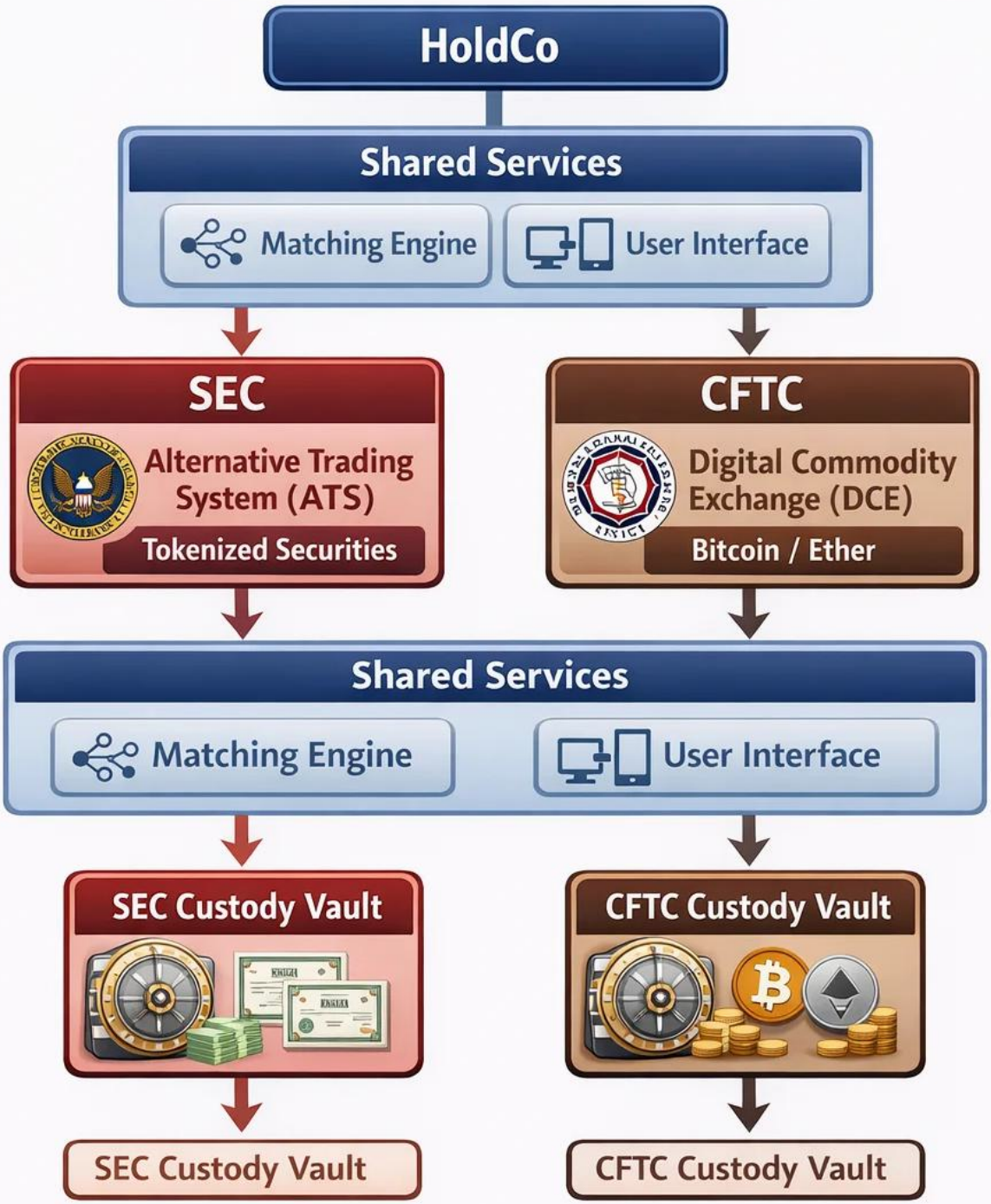
- **Section 404 Registration:** Crypto exchanges must register under Section 404 of the Act to list digital commodities. This preempts state-level money transmitter laws for these specific activities, offering a unified federal license.
- **Core Principles:** DCEs must satisfy core principles similar to futures exchanges, including monitoring for manipulation, ensuring financial resources, and segregating customer funds.

3. Dual Registration & Hybrid Operations

The Act explicitly contemplates platforms that want to trade both tokenized stocks (SEC) and digital commodities (CFTC). Section 304 and related provisions allow for Dual Registration, permitting a single corporate group to operate both an SEC-regulated ATS and a CFTC-regulated DCE, often sharing certain infrastructure like matching engines and custody vaults, provided that legal liabilities and asset segregation are strictly maintained between the two regimes.

Dual-Regime Exchange Architecture

Broker-Dealers & Federal Registration



ADDITIONAL STATUTORY PROVISIONS & EXEMPTIONS

The **CLARITY Act** contains specific carve-outs and specialized classifications that market participants must navigate to ensure full compliance.

1. The "End User Distribution" &; DeFi Exemption
The Act distinguishes between financial intermediaries and software developers.

- **DeFi Exclusion:** Under **Section 309** and related definitions, "Decentralized Finance" (DeFi) activities—specifically the development of software or the validation of transactions (mining/staking) without custodial control—are generally **excluded** from the definition of a "Digital Commodity Broker" or "Dealer." This protects pure code developers from registering as financial institutions, provided they do not control customer funds.
- **End User Distributions:** The Act creates a safe harbor for "End User Distributions," allowing tokens to be distributed as rewards or for network participation (e.g., airdrops) without triggering a securities sale event, provided no monetary value is exchanged by the recipient.

2. **Permitted Payment Stablecoins**

"Permitted Payment Stablecoins" are explicitly **excluded** from the definition of a "Digital Commodity." This means they are not primarily regulated by the CFTC as commodities. Instead, they fall under a separate regulatory lane (often involving banking regulators or state trust charters), though both the SEC and CFTC retain **anti-fraud** authority over transactions involving them. This prevents stablecoins from being treated as "swaps" or "futures" when used solely for payments.

3. **Cross-Border Reach & Extraterritoriality**

The Act applies to any entity, domestic or foreign, that solicits or accepts funds from **U.S. persons.** Foreign crypto exchanges serving U.S. customers must register as a DCE or ATS. Failure to do so exposes them to enforcement actions by the CFTC or SEC, as the Act reinforces the "conduct and effects" test for jurisdiction.

The "Path to Maturity" Timeline

(Additional Provisions)

Phase 1 — **Phase 2**
Capital Formation — Maturity

Why it's needed: | It visualizes the "Section 202" exemption and explains the exit strategy for issuers.

TOKENIZATION & REAL-WORLD ASSET ENABLEMENT

The CLARITY Act defines tokenization as the creation of a digital representation of legal or economic rights on a distributed ledger. This definition supports a broad range of permitted asset categories, including tokenized equity, debt, private securities, funds, SPVs, Treasuries, and revenue-sharing instruments.

However, issuance is not merely a technical event; it requires comprehensive lifecycle controls. Firms must maintain systems that manage cap tables and beneficial ownership records while governing token supply through minting, burning, and lockup mechanisms. The infrastructure must also automate dividends and distributions, process corporate actions such as splits or conversions, and enforce transfer restrictions to ensure resale compliance.

Under Section 202, the Act provides a limited exemption from securities registration for the offer and sale of "Investment Contract Assets" (digital commodities sold as part of an investment contract). Issuers may raise up to $75 million in a 12-month period under this exemption, provided they file an offering statement, provide strict disclosures (including source code and development plans), and work toward blockchain maturity.

The Tokenization & Corporate Action Lifecycle

Tokenization & RWA

THE INVESTMENT CONTRACT ASSET EXEMPTION

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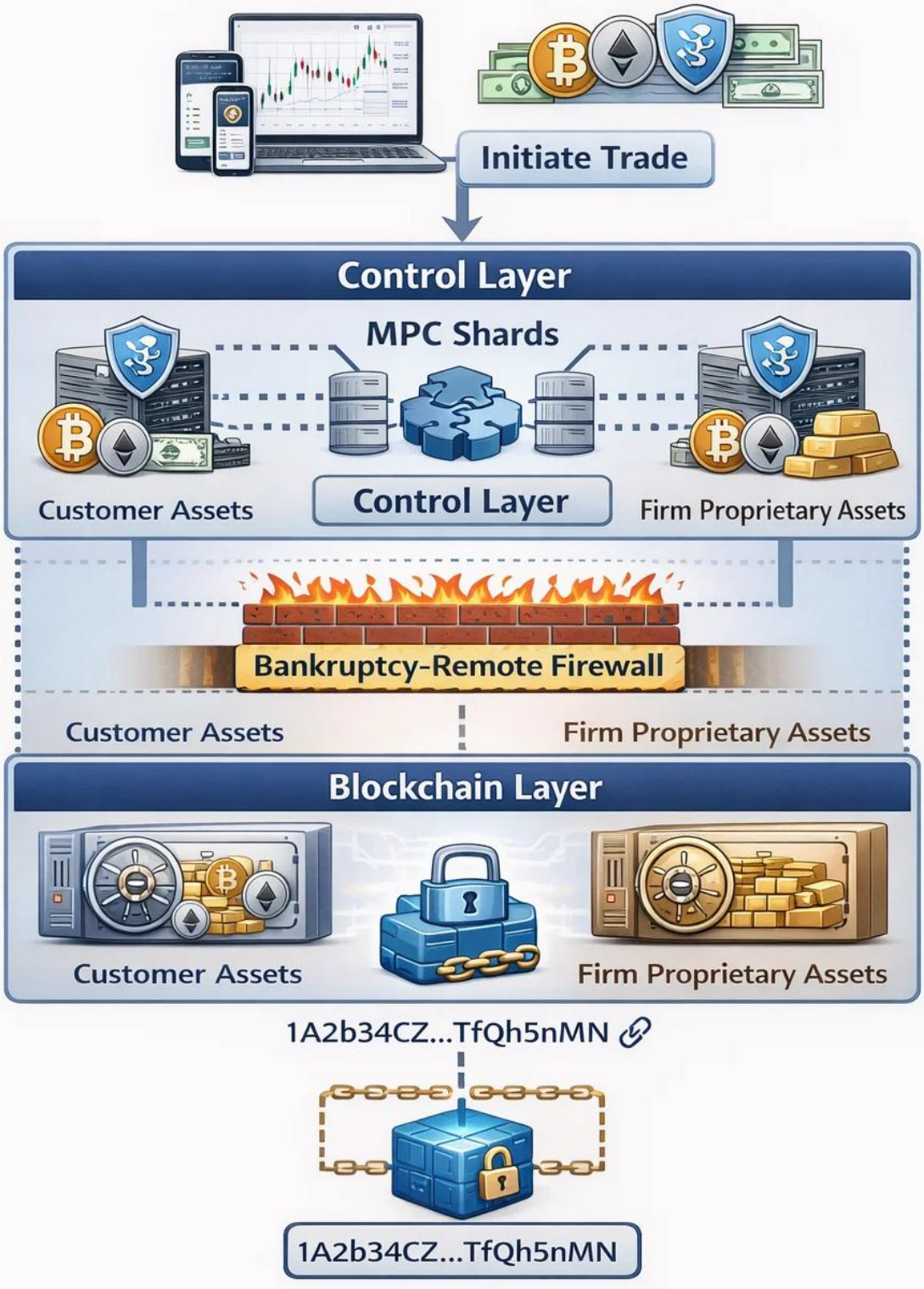
CUSTODY, CONTROL & BANKRUPTCY PROTECTIONS

Perhaps the most critical operational shift involves custody. The Act introduces an "Operational Possession Requirement," detailed in Sections **106–107 and 223(f)**, which mandates that custodians demonstrate operational control equivalent to physical possession. This ensures that digital assets are securely held and cannot be misappropriated.

These technical controls are directly linked to legal protections. Title VII and Section 405 of the Act mandate the bankruptcy-remote segregation of customer digital assets, preventing them from being commingled with firm funds. To comply, custody frameworks must support segregated customer wallets, real-time proof-of-reserves, and immutable ownership audit trails.

The "Operational Possession" Custody Model

Custody, Control & Bankruptcy



ON-CHAIN & OFF-CHAIN RECONCILIATION & INTEGRITY

A central pillar of the CLARITY Act's market structure is the requirement to synchronize the technical state of a blockchain with the legal state of ownership. The Act mandates accurate reconciliation between blockchain settlement records and traditional legal, trading, and custodial systems. This obligation arises directly from the Act's **recordkeeping modernization provisions (Sections 106–107) and anti-misrepresentation requirements (Section 223(d)).**

The Reconciliation Mandate

Market participants must maintain systems that can ingest on-chain transaction data and normalize it against off-chain books and records. This ensures that:

- **Settlement Finality**: A trade is only considered "settled" when the on-chain transfer is confirmed and the off-chain legal ledger reflects the change in beneficial ownership.
- **Anti-Misrepresentation:** Firms must verify that the token being traded accurately represents the underlying legal rights it claims to convey, preventing "phantom" or unbacked tokens from entering regulated markets.

- **Audit Trail:** An immutable, end-to-end audit trail must link the trade order (off-chain) to the settlement transaction (on-chain), creating a unified view for regulators and auditors.

By enforcing strict reconciliation, the Act eliminates the "gap" where disputes often arise in unregulated markets, ensuring that the token holder is always the legally recognized owner of the asset.

On-Chain vs. Off-Chain Reconciliation Loop

Reconciliation & Integrity

The Truth

Blockchain/Distributed Ledger

The Record

Internal **Broker-Dealer Ledger**

Reconciliation Engine

Sync/Check Every Minute

CLARITY ACT COMPLIANCE CAPABILITY SUMMARY

To assist market participants in assessing their readiness, the table below maps specific statutory requirements of the CLARITY Act to the necessary market capabilities and infrastructure controls.

Table 2: Statutory Requirements & Required Market Capabilities

CLARITY Act Requirement	Statutory Section	Market Function	Required Capability
Digital Asset Definitions	Section 2	Legal & Trading Eligibility	Legal Classification Engine: Automated taxonomy and legal status registry for assets.
Tokenized Parity	Section 223(e)	Securities Law Enforcement	Compliance Gating: Systems to enforce securities laws on tokenized instruments.
Broker-Dealer / ATS Reg	Reg ATS / Sec 15	Trading Authorization	Form ATS Compliance: Systems for fair access, capacity, and FINRA reporting.

CLARITY Act Requirement	Statutory Section	Market Function	Required Capability
Recordkeeping	Sections 106–107	Auditability	Immutable Audit Logs: Modernized recordkeeping for blockchain-based transactions.
Custody & Control	Section 223(f)	Asset Safety	Custody Proofs: Mechanisms to prove operational control and segregation.
Disclosure Obligations	Title I	Investor Transparency	Public Disclosure Registry: Portals for issuer and protocol-level transparency.
Bankruptcy Protection	Title VII / Sec. 405	Investor Protection	Bankruptcy-Remote Custody: Segregated wallet structures protecting customer assets.
Dual Registration	Section 304	Market Efficiency	Unified Compliance Dashboard: Systems managing dual reporting to SEC and CFTC.

CONCLUSION

The **Digital Asset Market Clarity Act** transforms digital assets from a regulatory gray market into formal U.S. financial market infrastructure. The future landscape will be defined by tokenized securities trading on regulated ATSs and exchanges, and crypto platforms operating under licensed SEC or CFTC supervision.

In this new era, issuers and venues will be required to maintain continuous disclosure, custody integrity, and audit-ready transparency. The resulting market will be regulated, transparent, institutional-grade, and legally enforceable. Organizations that modernize their infrastructure early to meet these standards will be positioned to lead the next generation of regulated digital finance.

Enabling CLARITY Act–Compliant Digital Asset Markets

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