

Proving Reserves of Others Funds (PROOF) Act

Section by Section

Section 2: Definitions

- Defines “covered assets” as the property, money, or asset that a customer of a digital exchange possesses, while clarifying that proprietary assets of the digital exchange are not such “covered assets”
- Further clarifies that customers of digital exchanges can open margin accounts at a digital exchange and those assets too are not covered assets
- Defines:
 - Digital asset
 - Digital commodity
 - Digital custodian
 - Digital exchange
 - Digital wallet

Section 3: Requirements for Digital Exchanges Regarding Treatment of Customer Assets

- Sets forth that each digital exchange must establish accounting standards and procedures to safeguard covered assets of customers of that exchange, and the exchange needs to do so in a manner that minimizes:
 - The risk of loss of any customer asset; and
 - Any delay for the customer to access that covered asset
- Articulates that each digital exchange must treat covered assets that are received by the exchange as property belonging to the customer
- Prohibits comingling of covered assets with other funds of the digital exchange with limited exceptions for practical business purposes, or if the customer expressly directs the digital exchange to take a certain action
- Provides an enforcement mechanism whereby the U.S. Department of the Treasury will receive periodic reports from digital exchanges and, if Treasury discovers a violation there shall be civil penalties imposed upon the exchange

Section 4: Attestation Requirements

- Mandates that each digital exchange and digital custodian shall, on a monthly basis, obtain from an independent third-party firm an attestation that the applicable legal entity has appropriate proof of reserves
 - Provides explicit preference that the third-party firm be a certified auditing firm unless the services of certified auditing firm cannot be contracted, then allows a disinterested third-party to be contracted
- Sets forth what appropriate proof of reserves means, i.e., evidence demonstrating the proof of reserves
 - The reports prepared by the auditing firm:
 - Must articulate that the entity has the ability to demonstrate cryptographic proof of possession or control over the keys held, including that they owned by a person other than the entity
 - Verify that the entity has cryptographic proof of reserves and liabilities

- The reports will be made public through the Treasury
- Establishes penalties and enforcement for the failure to conduct the auditing and publish reports