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Joseph B. Roesch
7th Judicial Circuit
Sangamon County, IL
2026MR000312

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF SANGAMON COUNTY, ILLINOIS
CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT

BLOCKCHAIN ASSOCIATION; CRYPTO COUNCIL FOR INNOVATION,

Plaintiffs,

v.

DAVID HARRIS, in his official capacity as the Director of the Illinois Department of Revenue; KWAME RAOUL, in his official capacity as Illinois Attorney General; and JOHN MILHISER, in his official capacity as the State's Attorney of Sangamon County,

Defendants.

Case No. 2026MR000312

STATEMENT OF INTEREST OF THE UNITED STATES

The United States submits this statement of interest under 28 U.S.C. § 517[1] to inform the Court of its interest in this litigation. As explained below, the Illinois Digital Asset Tax Act threatens American leadership in digital assets by targeting such assets for unfavorable treatment and imposing burdensome and arbitrary liability in the process. This Court should reject Illinois' effort to undermine an industry that is critical to U.S. innovation and economic leadership.

I. THE INTEREST OF THE UNITED STATES

The United States has a strong interest in "promot[ing] leadership in digital assets and financial technology while protecting economic liberty."[2] "[T]he digital asset industry plays a crucial role in innovation and economic development in the United States, as well as our Nation's international leadership."[3] Accordingly, it is the policy of the United States "to support the responsible growth and use of digital assets, blockchain technology, and related technology across all sectors of the economy."[4]

Specifically, the United States is pursuing a policy of "protecting and promoting," *inter alia*, "the ability of individual citizens and private-sector entities

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[1] Section 517 provides, in pertinent part, that "any officer of the Department of Justice[] may be sent by the Attorney General to any ... district in the United States to attend to the interests of the United States in a suit pending in . . . a court of a State." The statute "does not require the Court's leave." *Gil v. Winn Dixie Stores, Inc.*, 242 F. Supp. 3d 1315, 1317 (S.D. Fla. 2017); *accord Karnoski v. Trump*, No. 18-51013, 2018 WL 4501484, at *2 (E.D. Mich. Sept. 20, 2018) (same); *United States ex rel. Lynch v. Univ. of Cincinnati Med. Ctr., LLC*, No. 1:18-cv-587, 2020 WL 1322790, at *4 (S.D. Ohio Mar. 20, 2020) (similar).

[2] Exec. Order No. 14178, 90 Fed. Reg. 8647 (Jan. 23, 2025).

[3] *Id.*

[4] *Id.*

alike to access and use for lawful purposes open public blockchain networks without persecution," and "the sovereignty of the United States dollar, including through actions to promote the development and growth of lawful and legitimate dollar-backed stablecoins worldwide."[5]

In furtherance of these goals, President Trump signed an Executive Order creating the Strategic Bitcoin Reserve and United States Digital Asset Stockpile.[6] The President also signed into law the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act. The GENIUS Act established a regulatory framework for stablecoins—a type of digital asset tied to a real-world asset (often currency, like the U.S. Dollar)—and set forth other measures to maintain U.S. leadership in cryptocurrency.[7] To further advance these efforts, the President also created a Digital Asset Markets Working Group.[8] The Working Group unveiled a 160-page framework for U.S. digital asset dominance, with specific strategies that would effectuate the policies set forth in the Executive Order.[9]

The United States thus has a significant interest in the instant litigation. The Illinois Digital Asset Tax Act (DATA) undermines federal policy by singling out the digital asset industry for unfavorable treatment while imposing an excessively burdensome (and in many respects incoherent) threat of liability. DATA arises from

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[5] *Id.*

[6] Exec. Order No. 14233, 90 Fed. Reg. 11789 (Mar. 11, 2025).

[7] 139 Stat. 419, Pub. L. 119-27 (July 18, 2025).

[8] Exec. Order No. 14178, *supra* note 2.

[9] The White House, "Strengthening American Leadership in Digital Financial Technology," https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf.

a misguided hostility to the industry and undermines American leadership in this space.[10]

II. DIGITAL ASSETS AND AMERICAN LEADERSHIP

A. Digital Asset Transactions

For background, "[a] crypto asset (also known as a digital asset) is any digital representation of value that is recorded on a cryptographically secured distributed ledger."[11] A "distributed ledger" is "a secure way of conducting and recording transfers of digital assets without the need for a central authority."[12] As opposed to a centralized ledger, a distributed ledger

> (A) is shared across a set of distributed nodes, which are devices or processes, that participate in a network and store a complete or partial replica of the ledger;
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> (B) is synchronized between the nodes;
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> (C) has data appended to it by following the ledger's specified consensus mechanism;
>
> (D) may be accessible to anyone (public) or restricted to a subset of participants (private); and

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[10] *See* Nic Carter, "Operation Choke Point 2.0 Is Underway, And Crypto Is In Its Crosshairs," Pirate Wires (Feb. 8, 2023), https://www.piratewires.com/p/crypto-choke-point (detailing past misguided attempts to "ringfence the entire crypto space and isolate it from the traditional banking system").

[11] *Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets*, 91 Fed. Reg. 13714, 13715 n.1 (Mar. 23, 2026).

[12] U.S. Government Accountability Office, "Science & Tech Spotlight: Blockchain & Distributed Ledger Technologies" (Sept. 16, 2019), https://www.gao.gov/products/gao-19-704sp.

(E) may require participants to have authorization to perform certain actions (engaging) or require no authorization (permissionless).[13]

Many cryptocurrency transactions use blockchain technology, which is a specific type of distributed ledger. Transactions occurring around the same time are grouped and recorded as a "block"; once a block is validated and accepted by network participants, it is appended to the existing chain of past blocks, thereby showing the network's transaction history (hence, a "blockchain").[14] In public blockchains, there is no single, central ledger or centralized intermediary, and once a transaction is recorded, it cannot be altered or reversed (indeed, that transparency and verifiability is the point).

One major use case for cryptocurrency is "tokenization." "Tokenization is the process of creating a digital representation of a tangible or intangible asset" using distributed ledger technology.[15] Real-world assets (such as securities, bank deposits, and real estate) are formatted as or represented by a crypto asset, which is recorded and traded on a distributed ledger like a blockchain.[16] For example, tokenized bank deposits digitally represent commercial bank deposits, enabling continuous settlement and more efficient liquidity management.[17]

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[13] *See* 42 U.S.C. § 19222(a)(2).

[14] The White House, "Strengthening American Leadership in Digital Financial Technology," *supra* note 9 at 9.

[15] *Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets*, 91 Fed. Reg. 13720 n.82.

[16] *See id.* (Introduction).

[17] Tobias Adrian, "Tokenization Can Change The World's Financial Architecture," IMF Blog (July 2, 2026),

Stablecoins are important examples of tokenization. "A stablecoin is a crypto asset designed to maintain a stable value relative to a reference asset like the U.S. dollar."[18] To achieve this, stablecoin issuers typically maintain reserves, such as currency, bank deposits, or government securities, that back the value of the tokens minted on public blockchains. When consumers redeem stablecoins, issuers return the fiat currency. A "payment stablecoin" is a type of stablecoin that is "used as a means of payment or settlement[.]"[19] Making a payment using a dollar-denominated stablecoin is economically analogous to making a digital payment of dollars by other means (such as Venmo, PayPal, or Zelle), but using a distributed ledger that tracks movement and ownership.

Relatedly, governance tokens "are a type of cryptocurrency that allow[] holders to participate in on-chain governance for a crypto project"; they "enable[e] decentralized decision-making" and can be "used to vote on proposals, make decisions, and influence the future of a project."[20] A project may, for example, launch governance tokens on a smart contract blockchain, reward community members for

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https://www.imf.org/en/blogs/articles/2026/07/02/tokenization-can-change-the-worlds-financial-architecture.

[18] *Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets*, 91 Fed. Reg. at 13720.

[19] *Id.*

[20] Coinbase, *What is a governance token?*, https://www.coinbase.com/learn/crypto-basics/what-is-a-governance-token (last visited Aug. 25, 2026); *accord Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets*, 91 Fed. Reg. at 13718.

contributing their crypto assets to liquidity pools, and set up a governance portal where people can vote on proposals with their tokens.[21]

B. American Leadership

Spurred on by American leadership, tokenization and stablecoins are driving innovation in the financial industry. "When financial assets and liabilities move onto shared digital ledgers, the structure of the financial system itself changes. Processes that today occur sequentially—execution, clearing, settlement—can now happen simultaneously, governed by software rather than institutional processes."[22]

> The expansion of stablecoins has moved digital payment tokens from the periphery of financial markets to the center of policy discussions. With a global market capitalization in the mid-hundreds of billions of dollars and annual settlement volumes in the trillions as of 2025, stablecoins are increasingly viewed not merely as crypto-market infrastructure but as potential competitors to traditional transaction accounts, particularly in payment processing, settlement functionality, and as short-term stores of value for transaction balance.[23]

These developments have implications for national and economic security. As the Digital Asset Markets Working Group explained, "U.S. dollar-backed stablecoins represent the next wave of innovation in payments, and policymakers should encourage their adoption to advance U.S. dollar dominance in the digital age."[24]

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[21] *Id.*

[22] Adrian, "Tokenization Can Change The World's Financial Architecture," *supra* note 17.

[23] Sam Hempel et al., "Banks in the Age of Stablecoins: Lessons from Their Historical Responses to Financial Innovations" (May 1, 2026), Board of Governors of the Federal Reserve System, Economic Research, FEDS Notes, https://www.federalreserve.gov/econres/notes/feds-notes/banks-in-the-age-of-stablecoins-lessons-from-their-historical-responses-to-financial-innovations-20260501.html.

[24] The White House, "Strengthening American Leadership in Digital Financial Technology," *supra* note 9 at 7.

Dollar dominance "affords the United States broad commercial and security advantages, such as reduced currency risk for U.S. businesses doing business globally."[25]

The United States has also taken concrete steps to use blockchain technology throughout the federal government. For example, the Department of Commerce has begun posting macroeconomic data on public blockchains, marking "the first time a federal agency has published economic statistical data like this on the blockchain."[26] And "[t]he Department will continue to innovate and broaden the scope of publishing future datasets like GDP to include the use of other blockchains, oracles, and exchanges . . . build[ing] on the Trump Administration's historic efforts to make the United States of America the blockchain capital of the world."[27] The National Institute of Standards and Technology within the Department of Commerce has also held a landmark "Workshop on Blockchain and Distributed Ledger Technologies" for industry and public sector participants.[28] Other transformative efforts, including the Strategic Bitcoin Reserve and Digital Asset Stockpile, are also underway across the federal government.

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[25] *Id.* at 96.

[26] Press Release, U.S. Department of Commerce, "Department of Commerce Posts 2nd Quarter Gross Domestic Product to the Blockchain" (Aug. 28, 2025), https://www.commerce.gov/news/press-releases/2025/08/department-commerce-posts-2nd-quarter-gross-domestic-product-blockchain.

[27] *Id.*

[28] National Institute of Standards and Technology, "Workshop on Blockchain and Distributed Ledger Technologies" (Apr. 16, 2026), https://www.nist.gov/news-events/external-events/workshop-blockchain-and-distributed-ledger-technologies.

Major financial institutions are likewise increasingly using blockchain technology given its comparative strength as financial infrastructure. To give one example, JP Morgan has embraced "[t]he New Physics of Finance" by using its own blockchain to tokenize real-world assets, with over $7 billion in average daily transaction volume.[29]

Financial institutions also store crypto assets for corporations and other persons and entities using sophisticated means. For example, the Department of the Treasury's Office of the Comptroller of the Currency (OCC) has approved numerous charters for national banks working in the digital asset space.[30] OCC-chartered national banks "may provide and outsource cryptocurrency custody and execution services on behalf of customers."[31] "As with any activity, the bank must conduct crypto-asset custody activities, including via a sub-custodian, in a safe and sound manner and in compliance with applicable law."[32] Fulfilling those duties often entails "cold storage" (transferring asset ownership rights to an address managed by digital keys kept in a secure, offline vault), rotation of cryptographic keys, moving some or

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[29] Kinexys, J.P. Morgan, https://www.jpmorgan.com/kinexys/index (last visited Aug. 17, 2026).

[30] *See, e.g.*, News Release, Office of the Comptroller of the Currency, "OCC Announces Conditional Approvals for Five National Trust Bank Charter Applications" (Dec. 12, 2025), https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-125.html; *see also* Nolan Pratt, *The OCC Just Approved Three Digital-Asset Bank Charters in One Day. That's the Real Story.*, Yahoo! Finance (Sep. 21, 2026), https://finance.yahoo.com/markets/crypto/articles/occ-just-approved-three-digital-141125609.html.

[31] Office of the Comptroller of the Currency, *Interpretive Letter #1184* (May 7, 2025), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-decisions/2025/int1184.pdf.

[32] *Id.*

all of the assets to a sub-custodian, and/or additional measures that keep the assets secure without changing economic ownership.[33] People who hold crypto assets move assets around in a similar manner—between wallets, smart contracts, networks, and the like without any change in economic ownership.

While the crypto asset space presents such unique opportunities and is rapidly developing, it is not the Wild West. As noted, the GENIUS Act establishes a comprehensive national framework for the regulation of payment stablecoins.[34] A key purpose of the GENIUS Act is to "lay[] the regulatory groundwork for new financial rails that could significantly increase the scope and influence of the U.S. dollar system."[35] Section 3 of the Act (12 U.S.C. § 5902) prescribes who may issue, offer, sell, or otherwise make available payment stablecoins. But Congress exempted various transactions from the scope of Section 3.[36] Specifically, Section 3 does not apply to direct transfers of digital assets between two individuals without an intermediary, any transactions between an individual's own domestic and foreign accounts where such accounts are offered by the same company, and any transaction by means of a software or hardware wallet that facilitates a person's own custody of digital assets.[37] In other words, while enacting an overarching regulatory framework

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[33] *See, e.g.*, BitGo, *Regulated Crypto Custody: Compliance in Digital Asset Security* (Aug. 14, 2026), https://www.bitgo.com/resources/blog/regulated-crypto-custody/; *see also* BitGo, *Multi-Sig Wallets for Institutions: How They Work* (Nov. 12, 2025), https://www.bitgo.com/resources/blog/multi-sig-wallets-for-institutions/.

[34] *See* Pub. L. 119-27 (codified at 12 U.S.C. § 5901 et seq).

[35] The White House, "Strengthening American Leadership in Digital Financial Technology," *supra* note 9 at 88.

[36] 12 U.S.C. § 5902(h)(1).

[37] *Id.*

for stablecoins, Congress determined that peer-to-peer transfers and basic storage or movement of digital assets should not be subject to burdensome regulation.

Agencies have proposed various rules implementing the GENIUS Act to further the United States' interests in markets operating more efficiently through new technology, growth of demand in Treasury markets resulting from stablecoins, and promoting dollar dominance abroad.[38] For example, on August 17, 2026, the Department of the Treasury issued a Notice of Proposed Rulemaking seeking public comment relating to Treasury's implementation of Section 3 of the GENIUS Act.[39] And on September 24, 2026, the Federal Reserve Board sought public comment on two proposals related to establishing a regulatory framework for certain stablecoin issuers under the Act.[40]

For its part, the Commodity Futures Trading Commission (CFTC) has long regulated cryptocurrency futures contracts, and recently approved trading of perpetual futures on cryptocurrency.[41] Daily trading volume on crypto futures is in

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[38] Paradigm, *Tracking Stablecoin Regulation Implementation*, https://paradigm.xyz/genius.

[39] Department of the Treasury Notice of Proposed Rulemaking, 12 C.F.R. Chapter XV, https://home.treasury.gov/system/files/136/GENIUS%20Section%203%20NPRM.pdf.

[40] Press Release, Board of Governors of the Federal Reserve System, "Federal Reserve Board requests public comment on two proposals related to establishing a regulatory framework for Board-supervised payment stablecoin issuers under the GENIUS Act" (Sep. 24, 2026), https://www.federalreserve.gov/newsevents/pressreleases/bcreg20260924a.htm.

[41] Commodity Futures Trading Commission, *Order Approving KalshiEX LLC BTCPERP Futures Contract* (May 29, 2026), https://www.cftc.gov/filings/documents/2026/orgdcmkexbtxperporder26601.pdf.

the billions.[42] The CFTC is also committed to issuing additional rules "to provide regulatory clarity for the crypto industry."[43]

Generally applicable laws also apply to digital assets. For example, bribery concerning programs receiving federal funds in violation of 18 U.S.C. § 666 is no less unlawful just because it is performed using cryptocurrency. And general federal taxation principles apply to digital assets, which federal tax law treats as property.[44] Taxpayers must report income resulting from digital asset transactions, and brokers must report information concerning such transactions.[45] The House Ways and Means Committee also recently voted to advance H.R. 10357, the Digital Asset Tax Certainty Act, which addresses federal income taxation of digital assets.[46]

C. The Illinois Digital Asset Tax Act

Like other states, Illinois has historically taxed income and capital gains associated with financial assets, along with sales in which financial assets are used

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[42] Press Release, CME Group, "CME Group to Expand Crypto Derivatives Suite with Bitcoin Cash and Uniswap Futures" (Sep. 22, 2026), https://www.cmegroup.com/media-room/press-releases/2026/9/22/cme_group_to_expandcryptoderivativessuitewithbitcoincashandunisw.html.

[43] Commodity Futures Trading Commission, *Release Number 9303-26* (Sept. 24, 2026).

[44] *See* IRS Notice 2014-21, 2014-16 I.R.B. 938; Internal Revenue Service, *Digital Assets*, https://www.irs.gov/filing/digital-assets (last visited Sep. 28, 2026).

[45] *See* 26 U.S.C. §§ 61, 6041, 6045; 26 C.F.R. § 1.6045-1; IRS Notice 2014-21, 2014-16 I.R.B. 938, as modified by IRS Notice 2023-34, 2023-19 I.R.B. 837; Rev. Rul. 2019-24, 2019-44 I.R.B. 1004; *see also Publication or Submission of Quotations Without Specified Information*, 91 Fed. Reg. 13243, 13245 (Mar. 19, 2026) (proposed rule regarding broker-dealers' reporting obligations to the SEC with respect to digital assets).

[46] *See* All Information (Except Text) for H.R. 10357 – Digital Asset Tax Certainty Act, 119th Congress, https://www.congress.gov/bill/119th-congress/house-bill/10357/all-info.

as a method of payment.[47] Until recently, the same traditional tax framework applied to digital financial assets.

Not so anymore. "[W]ith little public notice or industry input," the Illinois legislature added to its fiscal year 2027 budget bill a crypto asset tax "that departs sharply from how States have historically treated financial activity."[48] "This tax was introduced just hours before state lawmakers passed the $56 billion budget at 4:13 in the morning."[49]

Rather than a typical tax on income, gains, or sales, Illinois' new tax applies to the mere exchange, transfer, and storage of digital assets. Under the Illinois Digital Asset Tax Act, P.A. 104-0468, Article 3 (DATA or the Act), effective January 1, 2027, "a tax is imposed upon the privilege of receiving any digital asset business activity by a customer in [Illinois] at the rate of 0.2% of the value of the digital asset to which the digital asset business activity relates."[50] "It shall be the duty of the digital asset broker making or effectuating the sale of the digital asset business activity to collect the tax . . . on each sale."[51] "Any such digital asset broker shall be liable for the tax whether or not the tax has been collected."[52]

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[47] See 35 ILCS §§ 5/201(a), 5/203 (income and gains); 35 ILCS §§ 120/2, 105/3 (sales).

[48] Drew Hemmings et al., *Illinois Enacts First-of-Its-Kind Cryptocurrency Transaction Tax*, Bloomberg Tax (July 7, 2026), https://news.bloombergtax.com/tax-management-memo/illinois-enacts-first-of-its-kind-cryptocurrency-transaction-tax.

[49] Fox32 Chicago, *Digital Asset Tax drawing criticism* (June 23, 2026), https://www.fox32chicago.com/video/fmc-rvgygdpf4qyss78i.

[50] DATA § 3-20(a).

[51] *Id.*

[52] *Id.* at § 3-35(a).

The definition of "digital asset business activity" sweeps broadly. It "means any single occurrence of exchanging, transferring, or storing a digital asset as part of a business or on behalf of a customer who has entered into an agreement with a business for the provision of those services."[53] Any covered "sale" triggers taxation under DATA.[54] And "[i]f the digital asset business activity is sold as a bundle of separate services, each service shall constitute an individual sale."[55]

DATA purports to apply to only digital business activity in Illinois. But that does not mean "at a physical location within Illinois."[56] "For a sale occurring electronically . . . there shall be a rebuttable presumption that the customer requesting the sale is located in [Illinois] if the customer's contact information associated with a device or account on record with or available to a digital asset broker indicates an Illinois home address, an Illinois mailing address, or an Illinois internet protocol address or other data showing 'place of primary use' in Illinois, as defined in the Mobile Telecommunications Sourcing Conformity Act."[57] DATA thus appears to apply anywhere in the world, so long as (for example) an Illinois mailing

[53] *Id.* at § 3-15. DATA defines "exchange" to mean "buy, sell, trade, or convert" a digital asset for another digital asset or fiat currency, or a fiat currency for a digital asset. *Id.* The Act carves out from the definition of "exchange" "buying, selling, or trading digital assets for a person's own account in a principal capacity." *Id.* But that carve-out is narrow; when a broker or platform facilitates an exchange for a customer, the tax applies.

[54] *Id.*

[55] *Id.*

[56] *Id.* at § 3-25.

[57] *Id.*

or IP address is tagged to the relevant account. "The burden of proving that a customer is not located in [Illinois] is on the digital asset broker."[58]

III. THE ILLINOIS DIGITAL ASSET TAX ACT THREATENS AMERICAN DIGITAL ASSET LEADERSHIP

A. The Digital Asset Tax Act Is Vague

There is no policy statement explaining why Illinois has decided to tax the sort of basic storage and account transfer transactions that do not resemble traditional taxable events. And in many respects, it is unclear how the tax would operate. For example, the 0.2% tax applies to "the value of the digital asset to which the digital asset business activity relates."[59] But how to calculate that "value" is a mystery. The answer is not obvious—could it be fair market value at the time of the transaction? A bid or ask price at the time the tax is collected? DATA does not say. DATA also appears to require "consideration" for a taxable "sale" to have occurred.[60] But what happens if an asset holder pays a recurring fee for custody? Are they taxed, based on the value of the stored asset, every time they are billed for continuing service? Relatedly, does the "bundling" provision mean even free custody will be taxed based on other transactions? If so, how often? With so many potential taxation points, can limited activity (that would traditionally not be taxed at all)—such as purchase, storage, and transfer of a digital asset—be subject to cumulative taxation even if it essentially forms a single transaction? And how are brokers to identify Illinois

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[58] *Id.*
[59] *Id.* at § 3-20(a).
[60] *Id.* at § 3-15.

customers, let alone prove that customers are located out-of-state, given the decentralized nature of distributed ledger technology?

DATA thus undermines the "clarity and certainty" that "are essential to supporting a vibrant . . . digital economy and innovation in digital assets."[61] As a result, the Act has drawn extensive backlash from American consumers, the digital asset industry, and elected officials. The National Taxpayers Union Foundation warned that the tax would "increase the cost of raising capital, pass costs on to consumers, and arbitrarily target assets that are frequently traded over less-traded assets."[62] Illinois Representative John M. Cabello proposed new legislation, co-sponsored by Representative Travis Weaver, to repeal the Act.[63] As Representative Cabello explained, the tax was "never talked about in a committee, never discussed, never saw the light of day," and was "put into a revenue package that was passed in the dark of night."[64] DATA's muddled text is therefore no surprise. But its disastrous consequences loom large over the digital asset industry.

B. The Digital Asset Tax Act's Targeting Of Digital Assets For Unfavorable Treatment Is Unprecedented

DATA imposes all sorts of taxes on digital business activity that Illinois does not impose on other, similar business activity. For example, DATA taxes transactions

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[61] Exec. Order No. 14178, *supra* note 2.

[62] Andrew Wilford, *Illinois' Tech Tax Tantrum*, National Taxpayers Union Foundation (June 24, 2026), https://www.ntu.org/foundation/detail/illinoiss-tech-tax-tantrum.

[63] *See* H.B. 5798, 104 Gen. Assem., Reg. Sess. (Ill. 2026), https://www.ilga.gov/Legislation/BillStatus/FullText?GAID=18&DocNum=5798&DocTypeID=HB&LegId=168767&SessionID=114&Print=1.

[64] *See* Fox32 Chicago, *Digital Asset Tax drawing criticism*, *supra* note 49.

involving no change of ownership and no earned income. If a custodian of stablecoins pegged to the U.S. dollar moves the stablecoins between accounts for security purposes, a tax of 0.2% will apply under the Act. But if a financial entity that holds dollars on behalf of a client moves the dollars to a more secure account, there is no tax.

DATA disfavors digital assets in other ways, too. Where DATA purports to tax a sale of services (such as storage), it does so based on the value of the underlying digital asset—not the price paid to the broker for the service. And the United States is not aware of any comparable burden on a business to collect taxes or prove a customer's out-of-state status when doing so is functionally impracticable given the technology at issue.

The digital transactions that Illinois seeks to tax are similar in basic purpose to traditional financial transactions. That is especially true given DATA's applicability to transactions involving tokenized assets such as stablecoins, which represent real-world assets. Indeed, DATA's definition of "digital asset" confirms the similarity between digital assets and fiat currency. The definition references the Illinois Digital Assets and Consumer Protection Act, which refers to a representation of value "used as a medium of exchange, unit of account, or store of value"—"that is not fiat currency."[65] The digital activity that Illinois is taxing may differ in terms of structure, business model, and technical operation. But the whole reason why

[65] 205 ILCS § 731/1-5(a); 35 ILCS § 195/3-15.

distributed ledger technology is competing with traditional finance is because of their overlapping purposes.

In that competition, for reasons that its legislature has never explained, Illinois is choosing to put a thumb on the scale against innovation and American leadership in digital assets.

C. The Digital Asset Tax Act Imposes Burdensome And Arbitrary Liability

For all the reasons discussed above, implementation of DATA is bound to lead to anomalous results. Because DATA applies cumulatively—for example, to multiple steps in a bank's custodial process that would not be subject to taxation at all in similar circumstances not involving digital assets—the punishment for transacting using a digital asset could be severe.

DATA also appears likely to disproportionately tax activity with little or no connection to Illinois. The Act creates a rebuttable presumption (that appears very difficult to rebut) based on locations linked to a given device or account or IP address, without regard for whether the customer and/or transaction has a genuine nexus to Illinois. After all, many transactions involving digital assets use distributed ledger technology that may touch a wide range of states (and countries) without establishing jurisdictionally significant contacts with every such location. And should other States follow Illinois' lead, DATA does not contemplate a credit to avoid duplicative State taxation. If a customer had an IP address in Illinois and a physical address in Indiana, and Indiana had a similar law, both states could apply conflicting presumptions. If all 50 States took a similar approach, a decentralized transaction

involving many users across many locations could wipe out the value of a digital asset.

All of this is exacerbated by the fact that, in purporting to tax digital asset business *activity*, Illinois is actually taxing the value of *underlying assets* with no regard for the economic significance of transactions. Illinois cannot explain why it treats only digital assets this way. In the meantime, DATA threatens to severely hamper the interstate digital asset industry—and the United States in its fight for digital asset supremacy.

IV. CONCLUSION

The United States and its citizens have a strong interest in achieving digital asset dominance. The Illinois Digital Asset Tax Act is contrary to that interest.

Respectfully submitted,

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