U.S. HOUSE OF REPRESENTATIVES 116th CONGRESS
BLOCKCHAIN LEGISLATION SUMMARY REVIEW

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The importance of selecting the proper jurisdiction in which to startup your startup cannot be overstated. When representing entrepreneurs, I am often asked in what state they should domicile their corporation, with the question "Delaware?" inevitably tagged on. Delaware is handy in many respects, but it is not always the obvious choice, not anymore. Moreover, if you are a blockchain startup, there are now other states that provide many benefits greater than Delaware, like Wyoming, for example. In a **recent interview** I gave to *Humans of Blockchain*, I explained that startups must conduct early reconnaissance on all laws applicable to their operations because it can make huge difference as to whether they will be successful. While most states have no regulations addressing blockchain, they are considering regulations now. Further, if you domicile in a state with no existing regulations related to your business, you may find yourself on the wrong side of newly administered, unfavorable rules. The same analysis can be applied to determining in which country you choose to operate.

During this 116th session of the U.S. Congress, there have been approximately 22 bills introduced by members of the House of Representatives which either directly relate to, or involve in some manner, the topics of blockchain and virtual currency. Some of these bills call for direct preemption of conflicting state law; thus, even if these states who are currently considering regulation get around to doing something, their activities may ultimately prove futile. In conclusion, the current regulatory framework in the United States for blockchain and virtual currency related activities is in wild flux. What is legal today may not be legal tomorrow, and *vice versa*.

To help you on your journey to building your blockchain business, I have compiled a summary report on blockchain legislation introduced into the U.S. House of Representatives for consideration during its 2019-2020 session. This report was sourced by running searches on congress.gov for current legislation using search terms *blockchain* and *virtual currency*, and then by refining those search results by selecting the House as the chamber of origin. All results were then viewed and summarized below, with hyperlinks provided to the most recent version of the text of each bill. The overwhelmingly majority of bills have been submitted by the Democratic party. I wonder if this indicates the Democrats are more savvy on matters of emerging technology? Silicon Valley would likely answer, *YES!* But I digress.

Notably, there are several definitions suggested in the respective bills for blockchain terminology which suggest that these bill sponsors may want to coordinate their efforts to come up with a singular, agreed definition for their mutual benefit. Also, several of the bills require the same study to be conducted by FinCEN and produce a report on how to combat the illicit use of virtual currencies, indicating a dogged determination to relate blockchain and cryptocurrencies with crime and terrorism. And finally, I am most encouraged by H.R. 2144, the *Token Taxonomy Act*, sponsored by Ohio Rep. Warren Davidson which seems to eliminate tax on transactions of cryptocurrency-for-cryptocurrency exchanges and small cryptocurrency transactions for purchase, like your daily Starbucks coffee. In my opinion, the IRS announcement of its decision to tax all cryptocurrency transactions as property was responsible for the market crash of January 2018, and this bill could revive the market. If you favor this approach, call your Congressional Representative and direct them to support this bill.

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BILL	SPONSOR	SHORT TITLE	DESCRIPTIVE SUMMARY
H.R. 41	Bobby Rush D-IL	RESCUE Act for Black and Community Banks	• Require the Comptroller General of the US to conduct a study on blockchain and its use to increase investment by lower-income individuals in start-ups and other crowd-funded companies.
H.R. 295	Brian Fitzpatrick R-PA	End Banking for Human Traffickers Act of 2019	• Requires the Interagency Task Force to Monitor and Combat Trafficking to submit an analysis and recommendations from financial institutions on best practices of successful programs to combat severe forms of trafficking, including recommended changes to existing laws where money laundering involves emerging technology and virtual currencies.
H.R. 428	Kathleen Rice D-NY	Homeland Security Assessment of Terrorists' Use of Virtual Currencies Act	• Mandate to develop and share a threat assessment about actual and potential threats for the use of virtual currencies to commit or support terrorist activities.
H.R. 502	Juan Vargas DP-CA	FIND Trafficking Act	• Directs the GAO to report on the use of virtual currencies and online marketplaces in sex and drug trafficking including the extent to which virtual currencies contribute to such activities and its funding.
H.R. 528	Tom Emmer R-MN	Blockchain Regulatory Certainty Act	• Provides safe harbor from money transmitter treatment for certain blockchain service providers and software developers unless the provider or developer has control over the digital currency. • Specifically preempts conflicting state laws. • Specifically excludes the intellectual property considerations. • Defines "**Blockchain Network**", "**Blockchain Developer**", "**Blockchain Service**", "**Control**", and "**Digital Currency**".
H.R. 922	Darren Soto D-FL	Virtual Currency Consumer Protection Act of 2019	• Mandating a study and report on the prevention of virtual currency price manipulation and recommendations for legislative changes needed.
H.R. 923	Darren Soto D-FL	U.S. Virtual Currency Market and Regulatory Competitiveness Act of 2019	• Mandate the CFTC to consult with the SEC and other agency heads to produce a report on global virtual markets and what the US must do to stay competitive inclusive of recommendations for virtual currencies markets. • Defines the term "**Virtual Currency**".
H.R. 1361	Doris Matsui D-CA	Blockchain Promotion Act of 2019	• Requires the establishment of a "Blockchain Working Group" to be appointed as provided for in the bill, which group shall recommendation definition of "Blockchain Technology"; and to study the impact of

			blockchain technology on electromagnetic spectrum policy, non-financial use cases, and opportunities for Federal agencies to use the technology.
			• The Blockchain Working Group may also consider recommendations contained in the [NIST Internal Report 8202](#) released January 2018.
H.R. 1414	Jennifer Wexton D-VA	FinCEN Improvement Act of 2019	• To Amend the duties of FinCEN to include the requirement to focus on virtual currencies.
H.R. 2144	Warren Davidson R-OH	Token Taxonomy Act of 2019	• To Amend the Securities Act of 1933 and Securities Exchange Act of 1934 to exclude digital tokens from the definition of a security and to adjust tax treatment that would create tax exemptions for like-kind exchanges and *de minimis* transactions for other than cash.
			• Defines the terms "**Digital Token**" and "**Digital Unit**" similarly to, but different from, H.R. 2154.
			• Specifically excludes "**Digital Token**" from the definition of a security.
			• Specifically preempts conflicting state laws.
			• Amends Exchange Act of 1934 definition of Bank to include trust companies and the action of providing custodial services.
H.R. 2154	Darren Soto D-FL	Digital Taxonomy Act of 2019	• Authorizes additional appropriations of $25M each fiscal year from 2020-2024 to the FTC to prevent unfair or deceptive acts relating to digital tokens.
			• Defines the term "**Digital Token**".
			• Requires annual report on FTC actions; its plans to prevent unfair or deceptive acts relating to digital tokens; recommendations to further protect consumers; and promoting U.S. competition and business innovation in this global token industry.
H.R. 2500	Adam Smith D-WA	National Defense Authorization Act for Fiscal Year 2020	• Requires the Under Secretary of Defense for Research and Engineering to provide to the congressional defense committees a briefing on the potential use of DLT for defense
H.R. 2513	Carolyn Maloney D-NY	Corporate Transparency Act of 2019	• Requires disclosure of the beneficial owners of all business entities in all states.
			• Require the Director of FinCEN to study emerging technologies, including AI, digital identity, blockchain and others, including GTO data to provide a report on best practices, concerns and the applicability of these technologies to help the US combat money laundering and other illicit finance.
H.R. 2514	Emanuel Cleaver D-MO	COUNTER Act of 2019	• To make reforms to the Federal Bank Secrecy Act and anti-money laundering laws.

			• Require the Director of FinCEN to study emerging technologies, including AI, digital identity, blockchain and others, including GTO data to provide a report on best practices, concerns and the applicability of these technologies to help the US combat money laundering and other illicit finance.
H.R. 2613	Anthony Gonzalez R-OH	Advancing Innovation to Assist Law Enforcement Act	• Requires the Director of the Financial Crimes Enforcement Network to conduct a study on the use of emergency technologies for FinCEN The study must include AI, digital identity technologies, blockchain and others. • The study must include data collected through the Geographic Targeting Orders ("GTO") program. Provide recommendations for best practices, improve communication and coordination among private sector, FinCEN and Agencies to meet Bank Secrecy Act and AML obligations.
H.R. 2858	Kevin McCarthy R-CA	FORWARD Act of 2019	• Requires the Director of NIH to conduct a pilot program on endemic fungal disease involving a blockchain to contain the public, unalterable data on the research.
H.R. 3407	Maxine Waters D-CA	US Export Finance Agency Act of 2019	• Requires an annual survey of US exporters benefitting from Agency support regarding the use of blockchain on reliability, transparency, and security in the operations; and any policy recommendations to improve the development, use and security of blockchain in the operations of US exporters.
H.R. 3494	Adam Schiff D-CA	Stop Terrorist Use of Virtual Currencies Act	• Directs a report on the possible exploitation of virtual currencies by terrorist actors including how they use said currencies, a comparison with other forms of finance and a description of any impediments to preparing such a report.
H.R. 3650	Tom Emmer R-MN	Safe Harbor for Taxpayers with Forked Assets Act of 2019	• Provides temporary safe harbor for the tax treatment of hard forks of convertible virtual currency in the absence of administrative guidance. • Uniquely defines "**Forked Convertible Virtual Currency**", "**Convertible Virtual Currency**", and "**Hard Fork**" differently than the other bills.
H.R. 3963	Ted Budd R-NC	Virtual Value Tax Fix Act of 2019	• Calls for a special IRS rule that would exclude the gain or loss on like-kind exchanges of virtual currency (e.g. exchanging BTC for ETH).
H.R. 4234	Sean Maloney D-NY	*Untitled*	• A bill to amend the Commodity Exchange Act with respect to the regulation of virtual currencies

			• Regarding virtual currencies contracts available on a spot market platform, the board of trade must have unconstrained access to all related trade and trader data and the capability to provide that data to the Commission on request. • And the same must also be available for swap execution facilities that reference a virtual currency available on a spot market platform.
H.R. 4813	Jesus G. Garcia D-IL	Keep Big Tech Out of Finance Act	• Prohibiting a large platform utility from establishing, maintaining or operating a digital assets that is intended to be widely used as a medium of exchange, unit of account, store of value or similar function.

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