



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

750 First Street, NE, Suite 990
Washington, DC 20002
202-737-0900
www.nasaa.org

May 12, 2026

The Honorable Tim Scott (R-SC)
Chairman
U.S. Senate Committee on Banking, Housing,
and Urban Affairs
Washington, DC 20510

The Honorable Elizabeth Warren (D-MA)
Ranking Member
U.S. Senate Committee on Banking, Housing,
and Urban Affairs
Washington, DC 20510

RE: NASAA Urges a No Vote on the CLARITY Act as Currently Drafted

Dear Chairman Scott and Ranking Member Warren:

I am writing to respectfully urge the U.S. Senate Committee on Banking, Housing, and Urban Affairs (“SBC”) to vote NO on the Digital Asset Market Clarity Act (the “CLARITY Act”) unless critical revisions are made, as set out below.

NASAA¹ supports responsible innovation in digital assets and recognizes Congress’s efforts to establish a workable federal regulatory framework for these products. For years, NASAA and its members have engaged constructively with Congress on legislation that promotes innovation in our capital markets while preserving investor protection, regulatory clarity, and the longstanding federal-state partnership that underpins U.S. securities and commodities regulation. While improvements have been made to the legislation since summer 2025, more changes are required to avoid misinterpretations of this important legislation.

Throughout this process, NASAA has sought to secure changes to align the legislation with the “covered securities” regulatory framework established in the National Securities Markets Improvement Act of 1996 (“NSMIA”), maintain existing state commodities authority, and preserve important state investor protection laws. Despite those efforts, NASAA anticipates that bad actors will seek to exploit potential ambiguities in the text to challenge state police powers and related authorities, risking years of litigation, conflicting interpretations, and regulatory uncertainty for investors, regulators, and market participants.

Maintain Regulatory Parity: Section 505 addresses parity in regulatory treatment between tokenized and non-tokenized securities yet omits a comprehensive savings clause that expressly preserves state securities and commodities anti-fraud, investigative, and enforcement authority for *both* tokenized and non-tokenized assets. Savings text would insulate the parity in regulatory treatment section from unnecessary litigation and uncertainty regarding congressional intent and would reinforce other provisions that preserve state authority to police fraud and protect investors in the digital asset markets.²

¹ NASAA’s membership includes state securities and commodities regulators in the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam, as well as regulators from Canada and México.

² NASAA has shared with Congress a proposed comprehensive savings clause.

Consistently Preserve State Enforcement Authority: Looking beyond the parity in regulatory treatment section, we remain deeply concerned that bad actors will opportunistically seize upon selective text in the bill to weaken existing state anti-fraud, investigative, and enforcement authority, including the administrative, civil, and criminal powers that form the basis of state police authority. State securities and commodities regulators are often the first responders to investment fraud and, in many cases, the only regulators positioned to deliver timely accountability and recovery for constituents. Any uncertainty in this area risks creating enforcement gaps that sophisticated bad actors can exploit to the detriment of investors.³

Protect State Securities Intermediary Licensing and Registration Authority: We believe improvements should be made to the provisions governing securities intermediaries to avoid attempts to displace or weaken state registration and licensing authority over broker-dealers, investment advisers, and associated persons. These frameworks are foundational investor protection tools that support examinations, professional standards, investigations, and enforcement. They are integral to state regulatory revenue systems that fund programs to fight investment fraud and promote the public interest. Congress should ensure these authorities are clearly preserved.⁴

Incorporate NSMIA Precisely and Preserve Investment Contract Law: The legislation should avoid at all costs any text that could be used to disturb the cooperative federalism framework established under NSMIA. Clear and consistent definitions coupled with tight preemption provisions that include companion savings clauses are the best way to ensure states can continue fighting fraud through investigative and enforcement authorities. Deploying just a few short drafting adjustments now will avoid years of costly litigation over congressional intent down the road.⁵

Avoid Overbroad Exemptive Authority: Certain grants of exemptive and rulemaking authority to the U.S. Securities and Exchange Commission are wholly unnecessary and risk a re-writing of foundational securities law principles that have been used over decades by state and federal regulators to shut down scams or even to expand federal preemption beyond what Congress intends. Decisions that materially affect the balance between federal and state authority

³ NASAA has shared proposed enforcement preservation language. NASAA’s proposed language is modeled on the savings clause included in Section 501 (the CFTC–SEC Micro-Innovation Sandbox). Our language is designed to remove ambiguity by establishing a broad “nothing in this Act shall prohibit or limit” savings clause that explicitly preserves the authority of state securities and commodities regulators, state banking regulators, and state law enforcement agencies. It also makes it clearer that state administrative, civil, and criminal enforcement authority remains intact, including authority over fraud and deceit in connection with securities or securities transactions, as well as fraudulent, deceptive, manipulative, unethical, dishonest, or otherwise unlawful conduct. In addition, it expressly preserves the full scope of state laws not expressly preempted, including consumer protection, banking, contract, property, and criminal law. Importantly, the requested text does not expand state authority; rather, it reinforces the preservation of existing authorities clearly and unambiguously to ensure they remain effective in practice.

⁴ NASAA has shared surgical edits to head off inaccurate interpretations of the bill. We continue to applaud the Senate for removing earlier language that would have preempted state licensing and registration over securities intermediaries. Clearly, the intent is to preserve these authorities.

⁵ NASAA has shared edits to Title I to address these definitional and other issues.

should be made directly by Congress – not a federal regulatory agency – and these provisions should be removed or substantially narrowed.⁶

In conclusion, NASAA remains committed to working constructively with Congress to advance legislation that supports innovation, provides regulatory clarity, and protects investors. However, because the legislation currently before the SBC does not adequately address the concerns outlined above or incorporate the mission-critical revisions requested by NASAA, we respectfully urge the SBC to vote NO on the legislation unless those issues are resolved.

Should you or your colleagues have any questions, please do not hesitate to contact Kristen Hutchens, NASAA’s Director of Policy and Government Affairs, and Policy Counsel, at khutchens@nasaa.org.

Sincerely,

A handwritten signature in black ink that reads "Marni Rock Gibson". The signature is written in a cursive, flowing style.

Marni Rock Gibson
NASAA President

⁶ NASAA has shared edits that would address this new transfer of congressional authority from Congress to federal agencies that would allow agency officials to decide foundational securities law questions and allocations of responsibilities among state and federal governments.