Pennsylvania House Testimony Concerning Bill HB2081
Jacob Silverman

Hello, everyone. Thank you for inviting me to speak today. I'm sorry that I can't be there in person but I appreciate the opportunity to share some remarks on Bill HB 2081 and, more generally, on consumer protection in crypto markets.

My name is Jacob Silverman. I've been a journalist for more than 15 years, often writing about where technology meets politics, economics, labor, or culture. For the last few years, I reported on cryptocurrency, focusing especially on fraud, market manipulation, the legal gray area occupied by offshore crypto companies, and the political underpinnings of this novel technology. I co-wrote a best-selling book with the actor Ben McKenzie on the subject and have written for a number of publications about anything from Hong Kong money-laundering networks to the grimly named scam known as "pig butchering." I have also written about how lax regulations in Colorado have allowed the state to become a haven of shady crypto companies that have been accused of defrauding consumers for millions.

As expert commentators like the computer scientist Nicholas Weaver say, cryptocurrency is currently speedrunning 500 years of financial history. At the moment, we are in something like the 19th century wildcat banking phase. The SEC, CFTC, DOJ, and other state and federal agencies have made laudable progress in enforcement and establishing regulatory clarity in the last two years, especially in the wake of the spectacular meltdowns of FTX, Celsius, Terra, and a number of other billion-dollar crypto companies. But there's still more to do to protect consumers from financial predation and from losing their proverbial shirts in these volatile crypto casinos.

Many people inside and outside the industry have discovered the need for regulations that make crypto markets safe for consumers. Free markets shouldn't be free for insiders to manipulate. Regulations and other safety protocols can make markets more robust and invite consumer participation and innovation.

Despite a long search, crypto's use cases remain price speculation and as a reserve currency for transnational crime. The recent ransomware hack of Change Healthcare, which caused havoc throughout the US healthcare industry, was only possible because the hackers could get paid in cryptocurrency – and they did.

Crypto prices are high at the moment. But crypto's own history shows that its current speculative boom will invariably be followed by a sudden crash, and not all companies will survive it. There are other Sam Bankman-Frieds working in crypto, unscrupulous actors who may find it all too tempting to loot their own companies in search of greater riches. And lawmakers should be prepared to deal with them.

That's why it's important to make sure that when crypto companies go bust, consumer funds are protected. In my view, HB 2081, also known as the Digital Asset Regulation Act, does just that.

The Act calls for virtual currency lenders to announce themselves to the state and share names of parent companies and subsidiaries, something that is important given how many crypto companies operate through webs of overseas shell companies. Sam Bankman-Fried, for instance, had more than 130 companies in his empire, many of them operating discreetly in far-flung jurisdictions.

The bill's collateral requirements strike me as reasonable. It's important that the collateral requirements are in cash or easily transferable cash equivalents – dollars and Treasuries, not Bitcoin or other cryptocurrency. Section 6, the segregation of funds, is also deeply important. This was the principal crime committed by Sam Bankman-Fried: he dipped into billions of dollars worth of customer funds and used them as his own. But in Japan, where there are regulations covering this kind of thing, that wasn't possible, and as a result, FTX Japan was able to allow customers to withdraw their funds a few months after the initial collapse. American customers of FTX are still waiting to get their money back.

I do find the proposed penalties to be low. Perhaps they could scale with the size of the business in order to establish deterrence.

Overall, the bill strikes me as a good step forward for protecting consumers from one of the main hazards of cryptocurrency – namely, that someone at one of these companies might run off with their money. The bill is reasonably worded, broad enough to be inclusive but not vague. I think it should please consumer-protection-minded crypto critics along with those trying to promote the growth of the industry in the state of Pennsylvania.

Thank you.