

# The CLARITY Act Just Made Self-Custody a Federal Right and Almost Nobody Read That Section

Section 605. No Federal Agency May Restrict Your Hardware Wallet. Hester Peirce. The Property Rights Provision That Changes Everything. -- Q2 2026

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The most covered provisions of the Digital Asset Market Clarity Act are the five-category digital asset taxonomy, the CFTC digital commodity broker-dealer registration framework, the stablecoin yield compromise, and the DeFi safe harbor for software developers. The most undercovered provision -- the one that most directly affects every individual who holds cryptocurrency -- is Section 605 of the Senate Banking Committee's version, which prohibits any federal agency from restricting, limiting, or impairing an individual's ability to self-custody digital assets using a self-hosted wallet for lawful purposes. The House version codified the same right in slightly different language, and the Senate Banking Committee's January 12, 2026 amendment confirmed that the self-custody protection survives the Senate markup process. The official Congress.gov bill text confirms the language: a United States individual shall retain the right to maintain a hardware wallet or software wallet for the purpose of facilitating the individual's own lawful custody of digital assets, and to engage in direct, peer-to-peer transactions in digital assets with another individual or entity for the individual's own lawful purposes. No federal agency may prohibit, restrict, or otherwise impair the ability of a covered user to self-custody digital assets using a self-hosted wallet to conduct transactions. The language is not qualified. It is not subject to regulatory interpretation. It is a direct statutory prohibition on federal government interference with individual self-custody of digital assets. SEC Commissioner Hester Peirce framed the philosophical foundation of this provision in November 2025 before the bill's Senate markup: why should I be forced to custody my assets through someone else? People should have the right to self-custody their assets. That right, once the CLARITY Act is signed into law, will be codified in permanent federal statute. The CLARITY Act is discussed as a market structure bill for institutional investors. But Section 605 is a civil liberties provision -- the first time in American financial law that an individual's right to hold their own wealth without a government-approved intermediary has been written into federal statute.

## 01 -- WHAT SELF-CUSTODY ACTUALLY MEANS AND WHY IT HAS ALWAYS BEEN UNDER THREAT

Self-custody of digital assets means holding cryptocurrency in a wallet where the individual controls the private keys -- the cryptographic credentials that authorize transactions from the wallet. When you hold Bitcoin in self-custody, the Bitcoin is yours in the most direct sense possible: no bank, no exchange, no custodian, and no government has the technical ability to prevent you from transacting with it, provided

you control the private keys. When you hold Bitcoin on an exchange, the exchange holds the private keys on your behalf. You have a claim against the exchange for the Bitcoin. You do not hold the Bitcoin itself.

The significance of this distinction was demonstrated catastrophically during the 2022 FTX collapse. Approximately one million customers who held their cryptocurrency on FTX -- trusting the exchange to custody their assets -- lost access to those assets when FTX filed for bankruptcy. The customers who held their cryptocurrency in self-custody wallets during the same period retained full access to their assets throughout the collapse because their holdings were not on FTX's balance sheet and were not subject to the bankruptcy estate's claims.

Self-custody has been under regulatory threat in the United States since at least 2020, when FinCEN proposed a rule that would have required cryptocurrency exchanges to collect and report identifying information about the owners of self-hosted wallets that received transfers from exchange accounts. The proposal was widely criticized by civil liberties advocates, the crypto industry, and privacy researchers as an attempt to extend the Bank Secrecy Act's financial surveillance requirements to individual wallet holders who were not themselves money services businesses. The proposal was not finalized, but it signaled the regulatory appetite for imposing surveillance requirements on self-custody wallet holders.

The more persistent threat to self-custody has come from the regulatory uncertainty about whether holding cryptocurrency in a self-custody wallet could itself constitute a regulated financial activity. Under the Gensler-era SEC's expansive interpretation of securities law, almost any interaction with any digital asset could potentially be characterized as a securities transaction subject to broker-dealer registration requirements. For individuals who held digital assets in self-custody wallets and used those assets for peer-to-peer transactions, the theoretical possibility that such activity could trigger broker-dealer registration requirements created a compliance uncertainty that chilled individual participation in the crypto ecosystem.

***SELF-CUSTODY DEFINITION: You hold the private keys. No bank, exchange, or government can technically prevent your transactions. FTX 2022: one million customers lost custodied assets to bankruptcy. Self-custody holders retained full access throughout. Section 605 prohibits any federal agency from restricting individual self-hosted wallet use for lawful purposes permanently and without qualification.***

## 02 -- THE EXACT STATUTORY LANGUAGE: WHAT SECTION 605 ACTUALLY SAYS

The statutory language of Section 605 -- confirmed in the official Congress.gov bill text for H.R. 3633 and in the Davis Wright Tremaine analysis of the Senate Banking Committee's January 12, 2026 amendment -- is specific and unambiguous in a way that distinguishes it from most financial regulation, which typically grants regulatory agencies discretion to interpret and implement its requirements.

The provision establishes that a United States individual shall retain the right to: maintain a hardware wallet or software wallet for the purpose of facilitating the individual's own lawful custody of digital assets; and engage in direct, peer-to-peer transactions in digital assets with another individual or entity

for the individual's own lawful purposes using a hardware wallet or software wallet -- provided the other party is not a financial institution as defined under the Bank Secrecy Act, and the transactions do not involve any property or interests in property subject to OFAC sanctions.

The operative prohibition is direct: no federal agency may prohibit, restrict, or otherwise impair the ability of a covered user to self-custody digital assets using a self-hosted wallet to conduct transactions. The phrase no federal agency encompasses the SEC, the CFTC, FinCEN, the OCC, the Federal Reserve, the FDIC, and every other federal regulatory body that has jurisdiction over financial activity. The provision does not carve out any agency's ability to regulate self-custody under a different statutory authority. It is a blanket prohibition.

The two qualifications in the provision are appropriately narrow. The prohibition on peer-to-peer transactions with financial institutions preserves the existing regulatory framework for exchanges and financial institutions -- Section 605 protects individual self-custody, not the right to transact with regulated financial entities outside of their compliance frameworks. The OFAC sanctions exclusion preserves the Treasury's financial warfare capabilities -- Section 605 does not give individuals the right to self-custody assets that are specifically designated as subject to US sanctions. Both qualifications are consistent with the provision's purpose: protecting lawful individual financial autonomy while preserving the government's legitimate regulatory and enforcement functions.

The Hodder Law analysis of the CLARITY Act's DeFi and self-custody provisions confirmed the practical scope of Section 605: the aim of this section is to protect the right to self-custody and protect the regulator's ability to pursue enforcement only in cases of clear legal violations. The balance struck by Section 605 -- individual self-custody rights protected by statute, government enforcement authority preserved for lawful enforcement targets -- is the most clearly articulated statement of the proper scope of financial regulation in the crypto context that any US legislation has produced.

### **03 -- WHY THIS IS A CIVIL LIBERTIES PROVISION, NOT JUST A FINANCIAL REGULATION**

Section 605's prohibition on federal agency restriction of self-custody wallet use is analytically distinct from every other provision in the CLARITY Act because it operates in the domain of individual property rights rather than market structure regulation. The five-category taxonomy, the broker-dealer registration framework, and the stablecoin reserve requirements are market structure rules -- they govern how institutions interact with each other and with their customers in organized financial markets. Section 605 governs something more fundamental: the individual's relationship with their own property.

In traditional financial law, the concept of an individual's right to hold their own money without a government-approved intermediary is so foundational that it has never needed to be codified -- physical cash can be held in a mattress, in a safe, or in any other location without regulatory permission. The problem that Section 605 addresses is unique to digital assets: because cryptocurrency transactions occur through regulated financial infrastructure -- blockchain networks that government agencies have argued they can regulate -- the government's theoretical authority to restrict cryptocurrency self-custody was more legally plausible than its theoretical authority to restrict cash in a mattress. Section 605 eliminates that plausibility by statutory declaration.

SEC Commissioner Hester Peirce's framing of the self-custody issue as a fundamental rights question -- why should I be forced to custody my assets through someone else? People should have the right to self-custody their assets -- is the most senior government official endorsement of the civil liberties dimension of self-custody rights ever stated publicly. Peirce's position aligns with the property rights tradition in American jurisprudence that holds individuals cannot be compelled by government to entrust their property to a third-party custodian without a specific and compelling regulatory justification. Section 605 codifies this tradition in the specific context of digital asset self-custody.

The broader significance of Section 605 for the global financial order is the precedent it sets for other democratic governments considering similar legislation. If the United States codifies individual self-custody rights in federal statute, it establishes that a G7 democracy has determined that digital asset self-custody is a legally protected individual right rather than an unlicensed financial activity. This precedent is directly relevant to the EU's MiCA framework, the UK's digital asset regulatory review, and every other advanced economy's ongoing debate about the appropriate scope of digital asset regulation. The country that codifies self-custody rights first defines the global standard for what individual financial autonomy means in the digital age.

***CIVIL LIBERTIES DIMENSION: Physical cash can be held in a mattress without regulatory permission. Section 605 establishes the same right for digital assets. No federal agency may restrict your hardware wallet for lawful use. Hester Peirce: why should I be forced to custody my assets through someone else. First time in American financial law that individual right to hold wealth without government-approved intermediary is in federal statute.***

## 04 -- THE CONFISCATION PROTECTION: WHY SECTION 605 MAKES BITCOIN SEIZURE LEGALLY IMPOSSIBLE

The most commercially significant long-term implication of Section 605 is the protection it provides against government seizure of individually self-custodied digital assets. This protection operates through a specific legal mechanism that is not immediately obvious from the provision's text but flows directly from its structural effect on the government's seizure authority.

Under current law, the US government has broad forfeiture authority to seize assets involved in criminal activity or held by sanctioned parties. The government has exercised this authority extensively in the crypto context -- seizing approximately \$12 billion in cryptocurrency between 2021 and 2026, including the \$3.6 billion Bitfinex hack recovery, the Silk Road seizures, and the ongoing Operation Economic Fury Iranian cryptocurrency seizures documented in the Alain Al Lab Iran shadow dollar report. All of these seizures targeted specific assets connected to specific criminal activity or sanctions violations. None of them involved the government seizing cryptocurrency from individuals who held it in self-custody for entirely lawful purposes.

The theoretical threat that Section 605 guards against is not current government policy but the potential for future administrations to impose restrictions on self-custody wallets as a mechanism for capital controls, financial surveillance, or selective asset seizure. The historical precedent that makes this threat non-theoretical is Executive Order 6102 -- President Roosevelt's 1933 executive order that required US citizens to surrender their gold holdings to Federal Reserve banks in exchange for paper

currency at a fixed price, criminalizing the private ownership of more than a small amount of gold for American individuals for the next 41 years until 1974.

Section 605 creates the statutory barrier that would have prevented a digital equivalent of Executive Order 6102 from being implemented for digital assets. A future executive order requiring US citizens to surrender their Bitcoin to a government-designated custodian would face an immediate legal challenge: Section 605 explicitly prohibits federal agencies from restricting the ability of covered users to self-custody digital assets using self-hosted wallets. A Treasury or Federal Reserve order requiring surrender of self-custodied Bitcoin would conflict directly with Section 605's prohibition on federal agency impairment of self-custody rights, creating a statutory basis for legal challenge that Executive Order 6102 and its digital equivalent would not have faced under any prior statutory framework.

## 05 -- WHAT SECTION 605 MEANS FOR BITCOIN INVESTORS SPECIFICALLY

For Bitcoin investors who have been building positions in self-custody wallets -- Ledger hardware wallets, Trezor hardware wallets, multi-signature cold storage arrangements, or any other self-hosted wallet configuration -- Section 605 changes the risk profile of self-custody in a specific and permanent way.

Before Section 605, the legal status of self-custody was defined by the absence of explicit prohibition. There was no law saying the government could restrict self-custody wallets, but there was also no law saying the government could not. The regulatory agencies that had the most plausible authority to restrict self-custody -- FinCEN through Bank Secrecy Act regulations, the SEC through its securities law enforcement authority, OFAC through its sanctions implementation powers -- had not exercised that authority in ways that directly targeted individual self-custody wallet holders, but had proposed or implemented regulations that could have evolved in that direction.

After Section 605, the legal status of self-custody is defined by explicit statutory protection. The federal agencies that previously had the most plausible authority to restrict self-custody are explicitly prohibited from exercising that authority against individual holders of self-hosted wallets for lawful purposes. The compliance uncertainty that had been a residual risk for self-custody holders -- the theoretical possibility that the regulatory interpretation could shift in a direction that imposed requirements on self-hosted wallet users -- is resolved by statutory declaration.

The investment implication is specific. For institutional investors and family offices that have been hesitant to establish self-custody positions in Bitcoin because of regulatory uncertainty about the legal status of self-hosted wallet holding, Section 605 removes that uncertainty permanently. The provision does not require these investors to use self-custody -- they can continue to use regulated custodians like Coinbase Prime, Anchorage Digital, Fidelity Digital Assets, and the other OCC-chartered custody providers documented in the Alain AI Lab custody layer report. But it establishes that the choice to self-custody is a legally protected right, not a regulatory grey area that a future administration could restrict by executive action.

For retail Bitcoin holders who have already established self-custody positions using hardware wallets and cold storage -- the population that the Bitcoin community has historically described as the most

committed long-term holders -- Section 605 confirms that their holding structure is permanently protected under federal law. The 10 to 15 million Bitcoin estimated to be held in self-custody wallets by long-term holders who have never moved their coins through exchanges represents the most price-insensitive supply in the Bitcoin market. Section 605's permanent protection of the self-custody right confirms that this supply will remain off the market regardless of institutional demand pressure.

## 06 -- THE HARDWARE WALLET INDUSTRY AND THE MARKET CREATED BY SECTION 605

Section 605's explicit protection of hardware wallet and software wallet self-custody creates a specific and durable commercial opportunity for the hardware wallet industry -- a market that has historically been constrained by regulatory uncertainty about the legal status of self-custody and by the mainstream financial system's preference for custodied digital asset products.

Ledger and Trezor -- the two dominant hardware wallet manufacturers -- have each sold millions of devices to Bitcoin holders who prioritize self-custody security over exchange convenience. The hardware wallet market has grown alongside Bitcoin adoption but has historically been associated primarily with the technically sophisticated segment of the crypto user population -- the investors who understand private key management, seed phrase security, and the operational security practices required to protect self-custodied assets.

Section 605 creates the conditions for hardware wallet adoption to expand beyond the technically sophisticated early adopter population to the mainstream Bitcoin holder who wants the legal certainty of self-custody rights backed by federal statute. When the 78 million Chase customers who gain crypto access through the Chase-Coinbase partnership begin accumulating Bitcoin, the subset of that population that wants to move their Bitcoin off exchange into self-custody will have the statutory right to do so confirmed explicitly in federal law. The hardware wallet industry's addressable market expands from the current technically sophisticated user base to every Bitcoin holder who understands that self-custody means genuine ownership.

The Coinbase-Zengo acquisition -- documented in the Alain AI Lab custody layer report -- is the most direct commercial response to Section 605's self-custody protection in the institutional ecosystem. Zengo's MPC-based keyless wallet architecture provides the self-custody security properties of a hardware wallet -- no single point of failure, private key split across multiple computation parties -- with the user experience of a mobile application. For the mainstream Bitcoin holder who wants Section 605's self-custody protection without the complexity of hardware wallet management, Zengo's architecture is the most commercially viable self-custody product available.

## 07 -- CONCLUSION: THE FIRST FINANCIAL FREEDOM LAW OF THE DIGITAL AGE

Section 605 of the CLARITY Act is the first provision in American financial law that explicitly codifies an individual's right to hold their own wealth in digital form without a government-approved intermediary. It is the digital equivalent of the Fourth Amendment's protection against unreasonable search and seizure -- a constitutional-level protection for financial privacy and autonomy, written into federal statute rather

than the Constitution because the specific threat it addresses is legislative rather than executive.

The provision has been underreported because the financial media covering the CLARITY Act has focused on the provisions with the most immediate institutional investment implications: the five-category taxonomy, the broker-dealer registration framework, the stablecoin yield compromise. Section 605 does not have immediate institutional investment implications. It has long-term structural implications for the relationship between individuals and the financial system -- implications that are more significant for the hundred-year trajectory of digital asset adoption than any single market structure provision.

When the CLARITY Act is signed into law, the question that every government in the world has been debating -- whether digital asset self-custody is a right or a privilege -- will have been answered by the United States in the most definitive way available: by statute. The answer the United States gives with Section 605 is that self-custody is a right. No federal agency may restrict it. No future administration may impair it without amending the statute. And the 52 million Americans who hold digital assets -- and the hundreds of millions globally who will gain access through the institutional onramp infrastructure documented across the Alain AI Lab research library -- will hold their digital wealth with the protection of federal law confirming that the right to hold your own assets is theirs.

***Section 605 prohibits any federal agency from restricting individual self-hosted wallet use for lawful purposes. Hardware wallets and software wallets are explicitly protected. Peer-to-peer transactions between individuals are protected. No digital Executive Order 6102 is possible after this law passes. The CLARITY Act is a market structure bill. Section 605 is a financial freedom law.***