

119<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S.** \_\_\_\_\_

To amend the Commodity Exchange Act to reduce systemic risk while increasing geographical diversity and competition with respect to depositories for the storage of precious metals, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. RISCH (for himself and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend the Commodity Exchange Act to reduce systemic risk while increasing geographical diversity and competition with respect to depositories for the storage of precious metals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “System Integrity  
5 through Licensed Vault Expansion and Resilience Act” or  
6 the “SILVER Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1           (1) Precious metals exchanges currently require  
2 physically traded metals to be stored within close  
3 proximity to New York City.

4           (2) Geographic concentration creates systemic  
5 risk vulnerabilities, reduces available liquidity, and  
6 increases the cost to market participants.

7           (3) Recent liquidity events in global metals  
8 markets underscore the need to minimize regulatory  
9 barriers that reduce the available supply of metals to  
10 the publicly traded marketplace.

11           (4) Notwithstanding the current limited supply,  
12 the security standards of existing vaults supporting  
13 publicly traded exchanges are outstanding and have  
14 enhanced the confidence of market participants.

15           (5) Market liquidity and participant confidence  
16 will be enhanced by the addition of storage vaults of  
17 relative scale and commercial importance in the mar-  
18 ketplace.

19           (6) Additional supply in lower-cost markets, es-  
20 pecially markets that are near hubs of precious met-  
21 als activity and interstate transportation networks,  
22 would also reduce storage costs, enhance competition  
23 in the storage marketplace, and promote greater  
24 market access to investors.

1           (7) It is in the public interest for systemically  
2           important financial market utilities to provide a  
3           clear and transparent selection process for precious  
4           metals storage facilities within their network.

5 **SEC. 3. PRECIOUS METALS DEPOSITORIES USED IN CON-**  
6 **NECTION WITH FUTURES CONTRACTS.**

7           Section 5b(c)(2) of the Commodity Exchange Act (7  
8 U.S.C. 7a–1(c)(2)) is amended—

9           (1) in subparagraph (E)(vii), by inserting “, in-  
10           cluding risks related to the geographic concentration  
11           of depositories for the storage of gold, silver, plat-  
12           inum, and palladium (referred to in this paragraph  
13           as ‘precious metals’),” after “clause (vi)”;

14           (2) in subparagraph (F)—

15           (A) by redesignating clause (iii) as clause  
16           (iv); and

17           (B) by inserting after clause (ii) the fol-  
18           lowing:

19           “(iii) APPROVAL OF PRECIOUS MET-  
20           ALS DEPOSITORIES.—

21           “(I) IN GENERAL.—A derivatives  
22           clearing organization that clears  
23           agreements, contracts, transactions,  
24           or swaps that can result in the phys-  
25           ical delivery of precious metals and is

1 a designated financial market utility  
2 (as defined in section 803 of the  
3 Dodd-Frank Wall Street Reform and  
4 Consumer Protection Act (12 U.S.C.  
5 5462)) (referred to in this paragraph  
6 as a ‘systemically important deriva-  
7 tives clearing organization’) shall—

8 “(aa) develop, publish, and  
9 employ objective and transparent  
10 criteria in evaluating and select-  
11 ing depositories for the storage of  
12 precious metals used in connec-  
13 tion with a contract of sale of a  
14 commodity for future delivery;  
15 and

16 “(bb) provide a formal proc-  
17 ess for those depositories to apply  
18 for that selection.

19 “(II) SELECTION FACTORS.—In  
20 selecting depositories under subclause  
21 (I), a systemically important deriva-  
22 tives clearing organization shall—

23 “(aa) assess and account  
24 for, among other factors, geo-  
25 graphic diversity, competition,

1 risk management, storage costs  
2 to members and participants, and  
3 systemic risk implications; and

4 “(bb) approve new deposi-  
5 tories in the context of a public  
6 interest in increased geographic  
7 diversity, increased liquidity,  
8 market resiliency, market access,  
9 competition, and cost efficiency,  
10 consistent with appropriate secu-  
11 rity and quality standards.

12 “(III) GEOGRAPHICAL REQUIRE-  
13 MENT.—

14 “(aa) IN GENERAL.—A sys-  
15 temically important derivatives  
16 clearing organization shall select  
17 at least 2 depositories described  
18 in subclause (I) in each time zone  
19 described in item (bb).

20 “(bb) TIME ZONE.—A time  
21 zone referred to in item (aa) is  
22 each of the following:

23 “(AA) Eastern time.

24 “(BB) Central time.

25 “(CC) Mountain time.

1 “(DD) Pacific time.”;

2 (3) in subparagraph (I)—

3 (A) in clause (ii)(II), by striking “and” at  
4 the end;

5 (B) in clause (iii), by striking the period at  
6 the end and inserting “; and”; and

7 (C) by adding at the end the following:

8 “(iv) periodically assess the ease of  
9 access for market participants with respect  
10 to the physical settlement of any com-  
11 modity, regardless of the geographic loca-  
12 tion within the United States, to ensure  
13 system availability and resiliency.”;

14 (4) in subparagraph (L)(iii)—

15 (A) in subclause (IV), by striking “and” at  
16 the end;

17 (B) by redesignating subclause (V) as sub-  
18 clause (VI); and

19 (C) by inserting after subclause (IV) the  
20 following:

21 “(V) in the case of a systemically  
22 important derivatives clearing organi-  
23 zation, conditions for applying to, and  
24 receiving approval from, the system-  
25 ically important derivatives clearing

1 organization as a metal service pro-  
2 vider, such as a depository for the  
3 storage of precious metals; and”; and  
4 (5) in subparagraph (N)(i), by inserting “, in-  
5 cluding with respect to the approval of a metal serv-  
6 ice provider, such as a depository for the storage of  
7 precious metals” after “trade”.