

Davis Polk

GENIUS Act passes Senate

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State of play

- Today the Senate passed the Guiding and Establishing National Innovation for U.S. Stablecoins Act (**GENIUS Act**) (available [here](#)) by a 68-30 vote, with strong bipartisan support.
- A competing bill called the Stablecoin Transparency and Accountability for a Better Ledger Economy Act of 2025 (**STABLE Act**) (available [here](#)) advanced out of the House Financial Services Committee (**HFSC**) in April 2025.
- With President Trump's [goal](#) of signing stablecoin legislation by August, some version of the two bills may soon become law.
- Both bills are heavily inspired by former HFSC Chair Patrick McHenry's Clarity for Payment Stablecoins Act of 2023. While the two bills have been converging, a few important differences remain.
- We describe the key components of each bill, along with key differences, on the subsequent slides. Descriptions apply to both the GENIUS Act and STABLE Act unless otherwise noted.
- We have prepared a blackline comparing the GENIUS Act against the STABLE Act, available [here](#).

Key definitions and concepts

- **Payment stablecoin.** A digital asset:
 - that is or is designed to be used as a means of payment or settlement;
 - the issuer of which:
 - is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, not including a digital asset denominated in a fixed amount of monetary value, and
 - represents that such issuer will maintain, or create the reasonable expectation that it will maintain, a stable value relative to the value of a fixed amount of monetary value; and
 - that is not a national currency, deposit, or otherwise a security.
- **Distributed ledger.** Unclear whether an asset recorded on a private, permissioned blockchain could fall within the definition of “digital asset” or “payment stablecoin.”
- **Interest.** A permitted payment stablecoin issuer **cannot** pay payment stablecoin holders yield or interest.
 - GENIUS Act also applies this prohibition to foreign payment stablecoin issuers.
- **Securities classification.** Expressly states that payment stablecoins are not securities and permitted payment stablecoin issuers are not investment companies.
- **Tokenized deposits.** Explicitly out of scope.

* Other minor differences between the bills are omitted.

Permitted federal issuers and primary regulator

Permitted federal issuers

Subsidiary of an IDI**

Primary regulator in both GENIUS Act and STABLE Act*

The insured depository institution's (IDI) appropriate federal banking agency

Federal qualified issuer

Office of the Comptroller of the Currency (OCC)

— GENIUS Act:

- A “nonbank entity” (defined as a person that is not a depository institution or subsidiary of a depository institution)
- An uninsured national bank
- A federal branch of a foreign bank

— STABLE Act:

- A subsidiary of a “nonbank entity” (defined as a person that is not an IDI or subsidiary of an IDI)

* Other minor differences between the bills are omitted.

** “Insured depository institution” defined in each bill to include insured credit unions, which would be regulated by the National Credit Union Administration (NCUA).

Permitted state issuers and primary regulator

The appropriate state regulator is the primary regulator of state issuers in both the GENIUS Act and STABLE Act, with the Federal Reserve Board (FRB) or OCC having secondary authority.

GENIUS Act:

- State issuers with less than \$10 billion in payment stablecoins outstanding can opt into a state-only regime, provided it is (1) certified by the applicable state regulator as “substantially similar” to the federal regime and (2) the Stablecoin Certification Review Committee, composed of the Treasury Secretary, Chair of the FRB (or Vice Chair for Supervision) and Chair of the Federal Deposit Insurance Corporation (**FDIC**), does not reject the certification. Treasury Secretary must establish broad-based principles through notice and comment rulemaking for determining what is deemed “substantially similar.”**
- The Stablecoin Certification Review Committee must endeavor to expedite certification of state regulatory regimes if they were in place within 180 days after GENIUS Act’s enactment and provide a prudential regulatory regime for the supervision of digital assets or payment stablecoins.

STABLE Act:

- Same as GENIUS Act, except (1) state-only regime available to all state issuers regardless of size, (2) certification that state regime’s requirements “meet or exceed” the federal regime’s requirements is made only to the Treasury Secretary (and only Treasury Secretary may reject a certification) and (3) no process for expedited certifications.

* Other minor differences between the bills are omitted.

** State regulator must submit an annual recertification to the Stablecoin Certification Review Committee. Denials of certifications may be appealed to the D.C. Court of Appeals. There are transition requirements for an issuer that later exceeds the \$10 billion cap, unless the issuer obtains a waiver. Issuers subject to certain preexisting prudential regimes are presumptively approved for a waiver.

Treatment of foreign payment stablecoin issuers

Bill

Treatment of foreign payment stablecoin issuers

GENIUS Act

- Must be a permitted payment stablecoin issuer to “issue a payment stablecoin in the United States.”
- A payment stablecoin issued by a foreign payment stablecoin issuer **cannot** be traded on U.S. custodial trading platforms **unless** the foreign payment stablecoin issuer (1) satisfies a safe harbor to be established by the Treasury Secretary or (2) the issuer: *
 - complies with lawful orders to seize, freeze, burn, or prevent the transfer of outstanding stablecoins;
 - is subject to a “comparable” regulatory regime, as determined by the Treasury Secretary upon a recommendation by each of the other members of the Stablecoin Certification Review Committee;
 - registers with the OCC and becomes subject to OCC oversight;
 - holds reserves in U.S. financial institutions sufficient to meet liquidity demands of U.S. customers; and
 - is not domiciled and regulated in a jurisdiction subject to comprehensive U.S. economic sanctions or determined by the Treasury Secretary to be a jurisdiction of primary money laundering concern.
- A foreign payment stablecoin shall not be:
 - treated as cash or as a cash equivalent for accounting purposes;
 - eligible as cash or as a cash equivalent margin and collateral for SEC- and CFTC-regulated intermediaries; or
 - acceptable as a settlement asset to facilitate wholesale payments between banking organizations or by a payment infrastructure to facilitate exchange and settlement among banking organizations.

STABLE Act

- Like the GENIUS Act, must be a permitted payment stablecoin issuer to “issue a payment stablecoin in the United States.”
- Following 18 months after enactment of the bill, a foreign payment stablecoin **cannot** trade on U.S. custodial trading platforms, unless (1) the Treasury Secretary determines that the foreign regime’s requirements are “comparable” to those in the bill and (2) the foreign payment stablecoin issuer consents to be subject to reporting and examination requirements as determined by the OCC (for nonbank issuers) or FRB (for bank issuers).

* Certain conditions for permitting trading on a U.S. custodial trading platform only become effective 3 years after enactment of the Act. GENIUS Act explicitly has an extraterritorial effect.

Key difference: treatment of non-financial issuers

Bill Restrictions on non-financial stablecoin issuers

- GENIUS Act** — A U.S. public company and any non-U.S. company that is not predominantly engaged in one or more financial activities, and its wholly or majority-owned subsidiaries or affiliates, may not issue a payment stablecoin unless the public company obtains a unanimous vote of the Stablecoin Certification Review Committee finding that:
- it will not pose a material risk to safety and soundness of the U.S. banking system or financial stability;
 - the public company will comply with data use limitations; and
 - the public company and its affiliates will comply with anti-tying requirements.
- Stablecoin Certification Review Committee must issue an interpretive rule clarifying these requirements within one year of enactment of GENIUS Act.
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- STABLE Act** — No specific restriction.
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Reserve requirements

Reserve composition

- Payment stablecoins must be backed on at least a 1:1 basis (i.e., issuer must maintain at least a 100% reserve).
- Eligible assets:
 - **GENIUS Act:** cash; demand deposits; Treasuries with maturities of 93 days or less (**short-term Treasuries**); money received under repurchase agreements backed by short-term Treasuries; reverse repurchase agreements overcollateralized by Treasuries and subject to certain market terms; securities issued by a registered investment company invested solely in the above assets; tokenized versions of any of the above. Includes catch-all for other “similarly liquid federal government-issued assets” approved by regulators.
 - **STABLE Act:** Materially similar to GENIUS Act, except no tokenized versions of eligible assets and no catch-all.

Reserve disclosures

- Payment stablecoin issuers must publish monthly reports certified by the CEO and CFO disclosing the state of reserves. Criminal penalties for knowingly false certifications.
- Reports must be examined monthly by a registered public accounting firm.

Rehypothecation

- Prohibition on rehypothecation, **except** for pledging short-term Treasuries for repurchase agreements.

Redemption

- Issuers must have procedures to process “timely” redemptions.

Access to federal banking system

Bill	Deposit insurance	Access to federal reserve master account and discount window for nonbank issuers
GENIUS Act	✗	✗
STABLE Act	✗	✗

In contrast to working drafts of then-HFSC Chair Patrick McHenry's proposed stablecoin legislation in 2022, and certain other stablecoin legislative proposals, neither bill explicitly would grant nonbank issuers access to a Federal Reserve master account or the discount window. Neither bill would establish a deposit insurance scheme or similar government backstop for payment stablecoins either.

Bank-like regulatory framework

- **Capital, liquidity, and risk management requirements.** Federal and state payment stablecoin regulators are directed to impose capital, liquidity, and risk management (operational, technology and compliance) requirements on stablecoin issuers, tailored to the business model and risk profile of issuers. Both bills are explicit that the Collins Amendment, which established minimum (non-risk sensitive) leverage capital ratios, would not apply at the IDI or IDI holding company level in respect of a stablecoin issuer within a banking organization's structure.
- **Activities limits.**
 - Issuers must limit their activities to issuing and redeeming payment stablecoins, managing related reserves, providing custodial and safekeeping functions, and other limited functions that directly support the above activities.
 - No activities limits on affiliates of an issuer, subject to the discussion above regarding public and foreign companies not predominantly engaged in financial activities.
 - The STABLE Act authorizes regulators to permit an issuer to engage in non-payment stablecoin activities.
 - The GENIUS Act authorizes regulators to permit issuers to engage in digital asset service provider activities and incidental activities.
- **Privacy.**
 - All payment stablecoin issuers under the STABLE Act would be explicitly subject to the Gramm-Leach-Bliley Act's (**GLBA**) customer privacy requirements.
 - The GENIUS Act does not specifically address application of the GLBA, but it is not clear such a provision is needed to apply the GLBA privacy requirements to a stablecoin issuer.

* Other minor differences between the bills are omitted.

Bank-like regulatory framework (cont.)

— Stablecoin holder priority in insolvency.

- Stablecoin holders' claims against the payment stablecoin issuer are given priority over other claims in the issuer's insolvency, much like bank depositors.
- GENIUS Act also provides relief from the Bankruptcy Code's automatic stay under certain conditions to allow issuers to more quickly satisfy customer redemptions.

— Consumer protections.

- Both bills prohibit misleading advertising and prohibit anyone convicted of certain felonies from serving as an officer or director of an issuer.
- GENIUS Act also prohibits tying (i.e., conditioning services on a customer also agreeing to buy other products or services) and requires large issuers to publicly disclose audited financial statements.

* Other minor differences between the bills are omitted.

BSA/AML, CFT and sanctions

- All payment stablecoin issuers are treated as financial institutions under the Bank Secrecy Act (**BSA**) and subject to sanctions laws.
- Payment stablecoin issuers would be required to (1) maintain effective AML and sanctions programs, (2) retain appropriate transaction records, (3) monitor and report suspicious activities, (4) comply with lawful orders to seize, freeze, burn, or prevent the transfer of outstanding stablecoins, and (5) maintain an effective customer identification program.
- Each bill directs the Treasury Secretary (in the case of the STABLE Act, acting through FinCEN) to adopt rules tailored to the size and complexity of payment stablecoin issuers.
- GENIUS Act also directs Treasury Secretary to study and seek public comment, and FinCEN to issue guidance and rulemaking to (1) implement novel and innovative methods for detecting illicit finance, (2) provide standards for issuers to identify, monitor and report illicit activity, and (3) provide tailored risk management standards for financial institutions interacting with DeFi protocols. Treasury Secretary to also submit report and recommendations to Congress on these topics.
- Neither GENIUS Act nor STABLE Act specifically addresses BSA/AML, CFT or sanctions standards for secondary market transactions directly in the legislation.

* Other minor differences between the bills are omitted.

Regulation of stablecoin ecosystem

- **Prevents future SAB 121.** Would prohibit regulators from issuing any new SAB 121-like accounting requirements for depository institutions, credit unions, trust companies, and their affiliates, regardless of whether they issue payment stablecoins. This prohibition applies with respect to all digital assets, not just payment stablecoins.
- **Custodians and wallet providers.**
 - Imposes customer protection requirements related to asset segregation and a prohibition on commingling customer property with the custodian's property, subject to limited exceptions.
 - Required to take appropriate steps to protect customer property from creditor claims.
- **Self-custody.** Explicitly would not apply to a person or business engaged in the business of providing hardware or software to facilitate a customer's self-custody of payment stablecoins.
- **Compatibility and interoperability standards.** The federal payment stablecoin regulators, in consultation with the National Institute for Standards and Technology and state regulators, are authorized to assess and prescribe standards to promote compatibility and interoperability for payment stablecoin issuers and the broader crypto ecosystem.
- **Non-payment stablecoins.**
 - Both bills would direct the U.S. Treasury, in consultation with other agencies, to produce a report to Congress on non-payment stablecoins, including "endogenously collateralized" (i.e., so-called "algorithmic") stablecoins.
 - STABLE Act would impose a two-year moratorium on issuing new endogenously collateralized stablecoins.
- **Reciprocity.** Both bills would direct the U.S. Treasury to create and implement reciprocal arrangements with other jurisdictions with substantially similar regulatory regimes to facilitate international transactions and interoperability.

* Other minor differences between the bills are omitted.

Effective dates

Bill

Effective dates

GENIUS Act

- Act takes effect on the earlier of:
 - 18 months after enactment, and
 - 120 days after the primary federal payment stablecoin regulators, in **coordination**, issue any final regulations implementing the Act.
- Certain prohibitions on digital asset service providers offering or selling unlawful stablecoins begin three years after enactment, subject to any safe harbors established by Treasury Secretary.

STABLE Act

- No effectiveness date for entire Act, but approval requirements for federal issuers take effect on the earlier of:
 - 12 months after enactment, and
 - 120 days after the primary federal payment stablecoin regulators **jointly** issue regulations implementing the federal approval requirements.

Other provisions

Preemption

- Both bills expressly preempt state licensing law requirements (e.g., money transmitter laws) for permitted payment stablecoin issuers that are a (1) subsidiary of an IDI (whether state or federally chartered) or (2) federal qualified issuer.
- Although the language is not entirely clear, we believe the GENIUS Act is also intended to preempt state licensing law requirements (e.g., money transmitter laws) for state nonbank issuers if the issuer's home state is certified as substantially similar to the federal regime.
- The GENIUS Act also:
 - explicitly does **not** preempt other state or federal consumer protection laws, and
 - requires that a subsidiary of a state IDI engaged in money transmission or custodial services is subject in its home state to adequate liquidity and capital requirements that take into account changes in the issuer's financial condition and risk profile.

Ethics provisions only in GENIUS Act

- Explicitly applies conflict of interest standards, as administered by the Office of Government Ethics, to prohibit any member of Congress or "senior executive branch official" (or certain related persons or entities) from issuing a payment stablecoin during their time in public service. Standards and restrictions apply to both regular and special government employees, but according to news reports exclude the President and Vice President.
- Amends the Ethics in Government Act to require disclosures of interests in payment stablecoins over \$5,000.
- Federal payment stablecoin regulators' rulemaking authority includes express anti-evasion authority.

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