

Summary Chart Re: Proposed/Pending Stablecoin Legislation and Recommendations

This summary chart shows how key policy choices are addressed in various proposals to regulate stablecoins. As the policy debate continues, these issues likely will be among the key points that are addressed and negotiated. As a result, this summary chart demonstrates possible alternatives for stablecoin regulation, including how “stablecoin” is defined. The proposals in some cases may include internal inconsistencies or ambiguities that may be resolved as the drafts are further developed.

	Lummis-Gillibrand Responsible Financial Innovation Act ¹	Draft Stablecoin TRUST Act of 2022 ²	Draft Stablecoin Innovation and Protection Act of 2022 ³	Digital Market Structure and Investor Protection Act ⁴	Stablecoin Classification and Regulation Act of 2020 ⁵	Stablecoin Transparency Act ⁶	Legislation Recommended by PWG Report ⁷
	<i>Regulation of Stablecoin Issuers</i>						
Issuance Limited to Insured Depository Institutions (“IDIs”)?	No. Stablecoin issuers choose from: (1) IDI charter (with an option to segregate stablecoin issuance and reserve asset management activities in a separate depository institution affiliate); (2) new	No. Stablecoin issuers choose from: (1) depository institution ⁸ charter (with an option to segregate stablecoin issuance and reserve asset management activities in a separate legal entity); (2) new	No. Qualified stablecoin issuers may be: (1) IDIs or (2) nonbank qualified issuers under new law. The regulatory regime envisioned by the bill (and discussed below) applies only to qualified stablecoin issuers.	No.	Yes. Must be an IDI that is a Federal Reserve Member.	No.	Yes.

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	trust company depository institution charter operating under new subsection (c) of 12 U.S.C. 27 (“ <u>new national trust companies</u> ”) or trust companies operating under substantially similar state law; (3) any other institution that qualifies as a depository institution under section 19 of the Federal Reserve Act; or (4) any entity operating under a state or federal charter or license that is not a depository institution but that complies with the reserve asset, disclosure and redemption requirements. For purposes of this bill, we refer to the payment stablecoin issuers that	national limited payment stablecoin issuer license; (3) a money transmitting business, a non-depository trust company, or any other person that is authorized by a state banking supervisor to issue payment stablecoins; or (4) a national trust bank.	No restrictions on issuance of stablecoins that are not “qualified stablecoins”. ⁹				

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	would qualify under categories (1) through (3) as “Stablecoin DIs”.						
New Special Purpose Charter for Issuers Contemplated?	Yes, OCC-regulated licensing regime for new national trust companies.	Yes. OCC-regulated licensing regime for national limited payment stablecoin issuers. Depository institutions may segregate into a separate legal entity the issuance of payment stablecoins and management of reserve assets from the institution’s other activities (“ <u>Stablecoin Sub</u> ”). Although Stablecoin Subs remain subject to the regulation and supervision as their parent institution, they	Yes. OCC-regulated licensing regime (although the OCC does not actually issue a charter).	Yes. Issuer must be Treasury-approved under terms and conditions Treasury deems appropriate. Treasury may modify such terms and conditions as well as withdraw its approval.	No.	No.	No.

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		are subject to the regulatory standards as national limited payment stablecoin issuers for that activity. Depository institutions that only issue payment stablecoins or manage payment stablecoin reserves (“ <u>Stablecoin DIs</u> ”) also are subject to the regulatory standards of national limited payment stablecoin issuers.					
Federal Supervision and Examination Required?	No.	No. The bill also does not restrict a state banking supervisor from imposing additional or stricter regulatory	Yes.	No. Issuer approval subject to Treasury terms and conditions.	Yes.	No.	Yes.

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		<p>standards on a person licensed by the state banking supervisor to issue payment stablecoins.</p> <p>The bill provides for joint supervision if a person is authorized by both federal and state banking supervisors to issue payment stablecoins.</p>					
Consolidated Supervision Required?	No. Holding companies of new national trust companies, depository institutions operating under a substantially similar state law (other than institutions that are “banks” under the BHC Act) and IDIs engaged	No. The OCC is only authorized to supervise, examine and regulate the legal entity that issues payment stablecoins under the new national limited payment stablecoin	No. Nonbank issuers would not be required to be subject to consolidated supervision. Existing consolidated supervision requirements for IDIs.	No. Issuer approval subject to Treasury terms and conditions.	Yes (unless insured member bank is exempt from definition of “bank” under BHC Act).	No.	Yes (unless IDI is exempt from definition of “bank” under BHC Act).

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	exclusively in stablecoin or trust activities are subject to more limited holding company supervision, including examinations only as determined to be required for the public interest or to protect customers.	licensing regime. Existing consolidated supervision requirements are not changed.					
Prohibition on Affiliation with Commercial Entities?	Yes. “Commercial firms” where less than 15% of the consolidated annual gross revenues of the company derive from financial activities (as defined in BHC Act section 4(k)) and ownership and control of an IDI are prohibited from controlling new national trust companies, depository institutions (other than banks under	No. Nonbank issuers have no affiliation restrictions. Existing affiliation restrictions for IDIs apply.	No. Nonbank issuers have no affiliation restrictions. Existing affiliation restrictions for IDIs apply.	No. Issuer approval subject to Treasury terms and conditions.	Yes (unless insured member bank is exempt from definition of “bank” under BHC Act).	No.	Yes (unless IDI is exempt from definition of “bank” under BHC Act).

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	<p>the BHC Act) operating under a substantially similar state law and IDIs engaged exclusively in stablecoin or trust activities.</p> <p>New national trust companies are subject to the same affiliate transaction restrictions as IDIs.</p> <p>Nonbank issuers have no affiliation restrictions.</p>						
New Privacy Requirements?	No. Title V of the Gramm-Leach-Bliley Act applies to payment stablecoin activities of Stablecoin DIs.	Yes. Treasury may not collect nonpublic information about digital asset transactions (not only those that meet the payment stablecoin definition)	No.	No. Issuer approval subject to Treasury terms and conditions.	No.	No.	No. Existing laws will apply.

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		<p>except pursuant to a search warrant or if the information is provided voluntarily.</p> <p>National limited payment stablecoin issuers would be subject to Title V of the Gramm-Leach-Bliley Act.</p>					
New BSA/AML Requirements?	Yes. Contemplates additional federal guidance on AML and sanctions.	No.	<p>Yes. New requirements for nonbanks.</p> <p>IDIs will be subject to existing laws.</p>	Yes. Formalizes applicability of existing laws to digital assets.	No. Existing laws will apply.	No.	No. Existing laws will apply.
Federal Insurance for Stablecoins?	No.	No.	Yes. FDIC-insured under Deposit Insurance Fund or new Stablecoin Insurance Fund.	May be SIPC protected.	Yes. FDIC-insured. For purposes of determining whether a deposit is insured for any depositor, non-stablecoin deposits would be counted before	No.	Not addressed.

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					stablecoin deposits.		
Federal Reserve Liquidity Access Required for Issuers?	No. Although the scope of “depository institutions” entitled to Federal Reserve Bank services would be revised to add new national trust companies and trust companies operating under substantially similar state law.	No. A national limited payment stablecoin issuer (or a stablecoin issuer that only engages in the business of payment stablecoin issuance / redemption and incidental activities thereto) would be entitled to a master account and Federal Reserve Bank services. A depository institution “may” become a member bank of the Federal Reserve System.	No, unless issuer is an IDI.	No, unless issuer is an IDI.	Yes.	No.	Yes.
New Reserve/Capital Requirements?	Yes. Stablecoin DIs must have high-quality liquid assets ¹⁰ valued	Yes. Payment stablecoins must be backed by assets: (1)	Yes. If nonbank, at least 100% collateralization level and OCC	No. Issuer approval subject to Treasury	Yes. Requirement to maintain	Yes. Stablecoin issuer is required to hold reserves in (1)	Silent. Existing capital rules for would apply, which federal

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	<p>at 100% of the face value of all outstanding payment stablecoins.</p> <p>New simplified capital framework applicable to Stablecoin DIs (except IDIs that have significant assets other than stablecoin assets) that accounts for significant differences in the risks of assets.¹¹</p>	<p>with a market value equal to not less than 100% of the par value of the payment stablecoins outstanding; and (2) that are level 1 high-quality liquid assets¹² denominated in U.S. dollars, U.S. coins and currency or any deposit with an IDI.</p> <p>The OCC's rulemaking authority is limited to certain types of (1) entities (national limited payment stablecoin issuers, Stablecoin DIs and Stablecoin Subs) and (2) rulemakings (capital, liquidity, and governance and</p>	<p>mandated to adopt rules regarding reserve assets and leverage ratios.</p> <p>Does not amend capital requirements for IDIs issuing stablecoins.</p>	<p>terms and conditions.</p>	<p>nominal value of stablecoins.</p> <p>Reserves for uninsured deposits must be deposited at the Federal Reserve.</p> <p>Federal banking agencies mandated to adopt rules/standards regarding capital adequacy, leverage, liquidity and permitted activities.</p>	<p>government securities that have maturities of no longer than 12 months; (2) fully collateralized security repurchase agreements; or (3) U.S. dollars or any other nondigital currency.</p>	<p>banking agencies may amend (subject to certain restrictions).</p>

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		risk management).					
Disclosure Requirements for Stablecoins?	Yes. All stablecoin issuers subject to public disclosure requirements, including monthly public disclosure of types and value of the reserve assets. Stablecoin DIs are also subject to detailed reporting “on the composition of assets” in each report of condition or similar report.	Yes. All four types of licensed payment stablecoin issuers subject to the same disclosure requirements.	Yes. New requirements for nonbanks. Silent on whether nonbank disclosure requirements will apply to IDIs.	Yes. Stablecoins made subject to various disclosure and trade reporting requirements.	Yes. New disclosure requirements for any person offering or providing a stablecoin product or service.	Yes. Each stablecoin issuer is required to publish on their website a reserve report audited by a third-party auditor every 30 days.	Silent. IDIs are subject to certain public disclosures requirements, which could be amended for stablecoin issuers.
New Audit Requirements?	No.	Yes. All four types of licensed payment stablecoin issuers subject to quarterly attestations and audit results by a registered public accounting firm as part of	Yes. New requirements for nonbanks. Silent on whether same audit requirements will apply to IDIs.	No. Issuer approval subject to Treasury terms and conditions.	No. IDIs subject to examination by federal banking agencies.	Yes. Each stablecoin issuer is required to publish on their website a reserve report audited by a third-party auditor every 30 days.	No. IDIs subject to examination by federal banking agencies.

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		disclosure requirements.					
Subject to Special Resolution Regime?	<p>No. For new national trust companies, OCC is required to develop a “tailored recovery and resolution plan that would permit the orderly resumption of a safe and sound operation or the orderly wind-down of operations relating to a payment stablecoin in the event of distress”.</p> <p>In addition, the bill raises the priority of stablecoin claims in certain circumstances. Specifically, in the event of the receivership of a Stablecoin DI, a person that has a</p>	No. However, the bill requires that in “any insolvency proceeding”, including proceedings by a federal or state banking agency, a claim of a person holding payment stablecoins issued by a payment stablecoin issuer “shall have priority over all other claims against the payment stablecoin issuer”.	Yes. OCC mandated to adopt rules regarding “an orderly liquidation process, which shall apply in the case that such an issuer is in default or danger of default, in lieu of the Federal bankruptcy laws”.	No.	No. IDIs subject to resolution under Federal Deposit Insurance Act.	No.	Yes. IDIs subject to resolution under Federal Deposit Insurance Act.

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	valid claim on the payment stablecoin shall have priority over all other claims on the institution with respect to any required payment stablecoin assets, including claims with respect to insured deposits, other than administrative costs of the receiver of the institution.						
	<i>Regulation of Other Entities in a Stablecoin Arrangement¹³</i>						
Federal Supervision and Regulation	Yes. Federal banking agencies to promulgate rules for third-party service providers (but not including licensing or capital requirements), including custodial wallet providers.	No.	No.	Yes. Formalizes applicability of BSA/AML requirements on virtual asset service providers. Stablecoin market activities supervised through SEC and	Potentially. Any person in the business of receiving stablecoins must be chartered by a state or federal banking authority. Any person engaging in any stablecoin-related	No.	Yes. Custodial wallet providers subject to appropriate federal oversight, including compliance with appropriate risk management, liquidity, and capital requirements as well as requirements

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				CFTC registered entities.	commercial activity must obtain approval on an ongoing basis from the appropriate federal banking regulators (see above). In addition, the federal banking agencies are mandated to adopt rules for any person offering or providing a stablecoin product or service.		regarding use of users' transaction data. <i>Any entity</i> that performs critical stablecoin arrangement activities may be required to meet appropriate risk-management standards.
New Risk Management Standards?	Yes. Federal banking agencies to promulgate rules with respect to management practices and operational, compliance and information technology risk management.	No.	No.	No.	Yes. Federal banking agencies to promulgate rules and standards regarding the capital adequacy, leverage, liquidity and permitted activities of stablecoin issuers and other persons in	No.	Yes. Federal supervisor should be provided with authority to require any entity that performs activities critical to the functioning of the stablecoin arrangement to meet appropriate risk management standards.

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					stablecoin-related activities.		
	<i>Other Requirements</i>						
Stablecoins Included/Excluded as a Security or Commodity?	“Payment stablecoins” are added as an identified banking product under the Gramm-Leach-Bliley Act.	“Payment stablecoins” are excluded from the definition of security under the various federal securities laws.	“Qualified stablecoins” are excluded; other stablecoins are not.	Included.	Defined as a deposit under Federal Deposit Insurance Act.	Silent.	Silent.
Standards that Promote Interoperability?	No. However, depository institutions may redeem payment stablecoins issued by other depository institutions at par upon demand and the FRB must provide for the clearing and settlement of payment stablecoin liabilities among depository institutions.	No.	Yes, OCC mandated to adopt rules.	No, unless required by Treasury under the terms and conditions applicable to any approval of a stablecoin.	No, unless included in the standards adopted by the federal banking agencies under the new grant of rulemaking authority.	No.	Yes.

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	<i>Definition of Stablecoin</i>						
	<p>Defined as a “digital asset” that is—</p> <p>(A) redeemable, on demand, on a 1-to-1 basis for instruments denominated in United States dollars and defined as legal tender under 31 U.S.C. § 5103 or under the laws of a foreign country (excluding digital assets defined as legal tender under the laws of a foreign country);</p> <p>(B) issued by a business entity;</p> <p>(C) accompanied by a statement from the issuer that the asset is redeemable, as specified in (A) above, from the issuer or another identified person;</p>	<p>A “payment stablecoin” is defined to mean a digital asset¹⁴ that that—</p> <p>(A) is designed to maintain a stable value relative to a fiat currency or currencies;</p> <p>(B) is convertible directly to fiat currency by the issuer;</p> <p>(C) is designed to be widely used as a medium of exchange;</p> <p>(D) is issued by a centralized entity;</p> <p>(E) does not inherently pay interest to the holder; and</p>	<p>A “qualified stablecoin” is defined as any cryptocurrency¹⁵ or other privately issued digital financial instrument that—</p> <p>(1) is redeemable, on demand, on a one-to-one basis for U.S. dollars; and</p> <p>(2) is issued by an IDI or a nonbank qualified stablecoin issuer.</p>	<p>Defined as “digital asset fiat-based stablecoin”.</p> <p>Digital asset fiat-based stablecoin means a digital asset¹⁶ that is, as determined by the Secretary of the Treasury, tied, pegged to, or collateralized substantially by—</p> <p>(1) the U.S. dollar or;</p> <p>(2) one or more fiat currencies.</p>	<p>Any cryptocurrency or other privately-issued digital financial instrument that—</p> <p>(1) is directly or indirectly distributed to investors, financial institutions, or the general public;</p> <p>(2) is denominated in U.S. dollars or pegged to the U.S. dollar; or denominated in or pegged to another national or state currency; and</p> <p>(3) is issued— (i) with a fixed nominal redemption value¹⁷; (ii) with the intent of establishing a reasonable expectation or</p>	<p>Defined as “fiat currency-backed stablecoin”.</p> <p>A fiat currency-backed digital asset—</p> <p>(A) that maintains price stability by backing the value of the digital asset to a nondigital currency that is denominated in the same currency in which the digital asset is issued; and</p> <p>(B) is redeemable on a one-to-one basis in the denominated currency to which the digital asset is backed.</p>	<p>Stablecoins are generally described as any digital asset that is designed to maintain a stable value relative to a national currency or other reference assets.</p> <p>The prudential recommendations are with respect to “payment stablecoins”, which are those stablecoins that are designed to maintain a stable value relative to a fiat currency and, therefore, have the potential to be used as a widespread means of payment.</p>

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	<p>(D) backed by one or more financial assets (excluding other digital assets), consistent with subparagraph (A); and</p> <p>(E) intended to be used as a medium of exchange.</p>	(F) is recorded on a public distributed ledger.			<p>belief among the general public that the instrument will retain a nominal redemption value that is so stable as to render the nominal redemption value effectively fixed; or (iii) in such a manner that, regardless of intent, has the effect of creating a reasonable expectation or belief among the general public that the instrument will retain a nominal redemption value that is so stable as to render the nominal redemption value effectively fixed.</p>		

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- 1 Draft published June 7, 2022, available [here](#).
- 2 Draft published December 21, 2022, available [here](#).
- 3 Draft dated February 14, 2022, available [here](#).
- 4 H.R. 4741, 117th Cong. (1st Sess. 2021). Available [here](#).
- 5 H.R. 8827, 116th Cong. (2nd Sess. 2020). Available [here](#).
- 6 S. 3970, 117th Cong. (2nd Sess. 2022). Available [here](#).
- 7 Report issued by the President's Working Group on Financial Markets ("PWG"), the Federal Deposit Insurance Corporation ("FDIC"), and the Office of the Comptroller of the Currency ("OCC"). Available [here](#). This summary chart does not discuss the Financial Stability Oversight Council's authority under Title VIII of the Dodd-Frank Act. For more information on that authority, see our prior analysis [here](#).
- 8 "Depository institution" is as defined in section 19(b)(1) of the Federal Reserve Act (12 U.S.C. § 461(b)(1)). The definition includes IDIs, insured credit unions and any bank which is eligible to make application to become an IDI.
- 9 The bill provides that it shall be unlawful for any person to offer, sell, or exchange as a "qualified stablecoin" any cryptocurrency that is not a qualified stablecoin as defined under the Act.
- 10 Eligible high-quality liquid assets are (1) United States coins and currency and any other instrument that is legal tender, as defined in 31 U.S.C. § 5103; (2) demand deposits at a depository institution, except that deposits in an insured depository institution shall not exceed the limit of deposit or share insurance available for that account, which may include pass-through insurance, or shall be maintained in a special, custodial, or trust account or other off-balance sheet account held by the insured depository institution; (3) balances held at a Federal Reserve bank, which may be held in a master account or segregated balance account; (4) foreign withdrawable reserves, as defined in 120 CFR 249.31, consistent with any foreign unit of account in which the payment stablecoin is denominated or pegged; (5) a security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the Department of the Treasury, with an original maturity of 1 year or less; (6) a reserve repurchase agreement relating to a security described in (5) above; (7) any other high-quality, liquid asset determined to be consistent with safe and sound banking practices, as determined by the appropriate federal banking agency or state bank supervisor.
- 11 Such institutions are expressly exempt from section 171 of the Dodd-Frank Act, the so-called "Collins Amendment".
- 12 The term "level 1 high-quality liquid asset" is defined by reference to 12 CFR 249.20(a) and is limited to (1) Federal Reserve Bank balances; (2) foreign withdrawable reserves; (3) a security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury; (4) a security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a U.S. government agency (other than the U.S. Department of the Treasury) whose obligations are fully and explicitly guaranteed by the full faith and credit of the U.S. government, provided that the security is liquid and readily marketable; (5) a security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a sovereign entity, the Bank for International Settlements, the International Monetary Fund, the European Central Bank, European Community, or a multilateral development bank, that is: (i) assigned a 0% risk weight under subpart D of Regulation Q (12 CFR part 217) as of the calculation date; (ii) liquid and readily marketable; (iii) issued or guaranteed by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions; and (iv) not an obligation of a financial sector entity and not an obligation of a consolidated subsidiary of a financial sector entity; or (6) a security issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a sovereign entity that is not assigned a 0% risk weight under subpart D of Regulation Q (12 CFR part 217), where the sovereign entity issues the security in its own currency, the security is liquid and readily marketable, and the relevant institution holds the security in order to meet its net cash outflows in the jurisdiction of the sovereign entity, as calculated under subpart D of part 249.
- 13 E.g., custodial wallet providers.
- 14 "Digital asset" means any digital representation of value that is recorded on a cryptographically secured distributed ledger.
- 15 "Cryptocurrency" means any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the OCC.
- 16 "Digital asset" (A) means an asset (i) that is created electronically or digitally through software code; (ii) that is programmed with rules that (I) govern the creation, supply, ownership, use, and transfer of such digital asset; and (II) are designed to resist modification or tampering by any single person or persons under common control; (iii) that has a transaction history that (I) is recorded on a (aa) distributed ledger; or (bb) digital data structure in which consensus is achieved through a mathematically verifiable process; (II) is updated as soon as possible in accordance with the digital asset programming rules related to transactions and ownership; and (III) after consensus is reached, is designed to prevent modification or tampering with the ownership or transaction history by any single person or persons under common control; (iv) that is capable of being transferred between persons through a decentralized method without an intermediate custodian; and (B) is a broad term which includes several other terms used to describe digital assets by market participants and regulators such as "virtual asset", "virtual currency", and "convertible virtual currency" among others.
- 17 This term is further defined in the bill.

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