Davis Polk

A stablecoin bill is first out of the gate as crypto legislation gains momentum

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Senator Hagerty's new stablecoin bill – with bipartisan support – builds on several prior bills. The bill offers a compromise to a stumbling block in the last Congress: how to allocate state vs. federal oversight of stablecoin issuers.

With a new administration and Congress each expressing interest in pursuing a new regulatory framework for crypto, the prospects for federal stablecoin legislation are growing. On February 4, Sen. Bill Hagerty (R-TN) introduced the Guiding and Establishing National Innovation for U.S. Stablecoins of 2025 Act – the GENIUS Act – cosponsored by Senate Banking Chair Tim Scott (R-SC) and Sens. Kirsten Gillibrand (D-NY) and Cynthia Lummis (R-WY), which would establish a U.S. regulatory framework for payment stablecoins.

The GENIUS Act is based closely on several earlier proposals:

- Former Chair Patrick McHenry's Clarity for Payment Stablecoins Act of 2023 (McHenry bill), which advanced from the House Financial Services Committee (HFSC) in summer 2023;
- the Lummis-Gillibrand Payment Stablecoin Act (Lummis-Gillibrand bill), introduced in spring 2024; and
- Sen. Hagerty's earlier discussion draft (Hagerty discussion draft), released in fall 2024.

Like these earlier efforts, the GENIUS Act contemplates a regulatory framework where payment stablecoin issuers may be either a subsidiary of an insured bank, an uninsured depository institution or trust bank, or a nonbank, and primarily regulated at either the federal or state level. It is also generally consistent with the core substantive components of these earlier bills, such as the definition of "payment stablecoin," stablecoin reserve requirements and bank-like regulation for both bank and nonbank issuers.

The McHenry bill was the subject of over a year of negotiation with HFSC Ranking Member Maxine Waters, but did not ultimately materialize in a broadly bipartisan bill. At the forefront of the debate in the last Congress were competing views on how to allocate authority between federal and state regulators over payment stablecoin issuers. We summarized the McHenry bill in an earlier client update.

The GENIUS Act is the first major crypto legislation introduced in the 119th Congress, but certainly will not be the last. Just two days later the new HFSC Chair French Hill and Rep. Bryan Steil released a discussion draft of their own stablecoin legislation, and yesterday Rep. Waters released a new discussion draft of her stablecoin legislation. At a recent press conference with White House Crypto and AI Czar David Sacks, Sen. Scott said he hoped to pass the GENIUS Act within President Trump's first 100 days in office.

Blacklines comparing the various bills against each other are linked at the bottom of this update.

Key takeaways

- **Permitted payment stablecoin issuer.**
  - The GENIUS Act would establish requirements and privileges for entities that may legally issue payment stablecoins. Permitted payment stablecoin issuers would include:
    - subsidiaries of insured depository institutions, including insured credit unions;
    - federal qualified nonbank payment stablecoin issuers; and
    - state qualified payment stablecoin issuers, including uninsured state-chartered trust banks, uninsured state-chartered depository institutions such as Wyoming special purpose depository institutions (SPDIs) and state qualified nonbank stablecoin issuers.
  - If enacted, it would be unlawful for "any person other than a permitted payment stablecoin issuer to issue a payment stablecoin in the United States."
  - The GENIUS Act has an effective date of the earlier of: (1) 18 months after enactment or (2) 120 days after federal regulators issue implementing regulations. The GENIUS Act would also provide a time-limited safe harbor for issuers with pending applications.
- **Bank-like regulation for all permitted payment stablecoin issuers.** The GENIUS Act would establish bank-like regulation and supervision for all permitted payment stablecoin issuers, whether they are primarily regulated at the federal or state level or organized as a bank or nonbank. These requirements would include capital, liquidity and risk management standards; application of the Bank Secrecy Act and the Gramm-Leach-Bliley Act's customer privacy requirements;[1] and certain activities limits. The GENIUS Act also would provide that:
  - the primary federal payment stablecoin regulators would have supervisory, examination and enforcement authority over subsidiaries of insured depository institutions and federal qualified nonbank payment stablecoin issuers; and
  - the state payment stablecoin regulators would have "supervisory, examination and enforcement authority over [any] State payment stablecoin issuer of such State," including subsidiaries of state-chartered insured depository institutions.
- **Optional State-Level Regulatory Regime.**
  - As noted above, competing views on how to allocate federal versus state oversight over payment stablecoin issuers were the key obstacle in the last Congress.
  - The GENIUS Act attempts to strike a compromise by allowing small payment stablecoin issuers to opt out of the federal regulatory framework and instead opt in to a state-level regulatory regime that is "substantially similar" to the federal regulatory framework.[2] Specifically, the bill would allow any type of permitted payment stablecoin issuer to opt into a state-level regulatory regime (small issuer state regime) if:
    - the issuer has a "market capitalization" of $10 billion or less; and
    - the state-level regulatory regime to which they opt in is "substantially similar" to the federal regulatory framework, based on an annual certification made by the applicable state regulator to the Treasury Secretary, who has discretion to reject the certification.
  - It is not clear how market capitalization would be calculated in this context—e.g., whether it refers to an issuer's consolidated group or only the issuing entity.
  - The size toggle for determining federal versus state oversight is modeled off of similar concepts in the Lummis-Gillibrand bill and Hagerty discussion draft.
  - **Transition provisions.** Certain payment stablecoin issuers that no longer qualify for the small issuer state regime would have 360 days to transition to a regulatory framework administered by the Federal Reserve

Board or Comptroller of the Currency, unless the Federal Reserve or Comptroller (as applicable) permits the issuer to remain under the small issuer state regime.

- **Comptroller vs. Federal Reserve.** The GENIUS Act would provide a relatively limited role for the Federal Reserve in regulating permitted payment stablecoin issuers:
  - **Oversight of federal qualified nonbank payment stablecoin issuers.** The GENIUS Act would designate the Comptroller as the primary federal regulator for federal qualified nonbank payment stablecoin issuers. The McHenry bill, in contrast, would have assigned this authority to the Federal Reserve. As a result, the only permitted payment stablecoin issuers for which the Federal Reserve would have primary jurisdiction are an issuer that is a subsidiary of a state-chartered member bank and, solely under exigent circumstances, a subsidiary of a state nonmember insured depository institution.
  - **Oversight of state issuers.**
    - The GENIUS Act would grant state payment stablecoin regulators approval and rulemaking authority to implement the baseline federal regulatory framework for state qualified payment stablecoin issuers. The McHenry bill instead would have authorized the Federal Reserve to engage in this rulemaking.
    - The GENIUS Act would also grant the Federal Reserve and Comptroller[3] secondary, backup enforcement authority for "exigent" circumstances, subject to certain conditions, including where the Federal Reserve or Comptroller (1) provides five days' prior written notice to the applicable state payment stablecoin regulator, (2) specifies applicable exigent circumstances in rulemaking and (3) determines there is reasonable cause to believe that continuation of the activity at issue constitutes a serious risk to the financial safety, soundness or stability of the payment stablecoin issuer.
    - One of Rep. Waters's primary critiques of the McHenry bill was that it did not provide the Federal Reserve with sufficient oversight of state payment stablecoin issuers. It remains unclear whether the approach in the GENIUS Act will prompt similar opposition from Waters and other Democrats.
- **Payment stablecoins are not securities, but status as commodities unclear.**
  - Like other stablecoin proposals, the GENIUS Act would amend the suite of federal securities laws to specify that payment stablecoins are not securities. In contrast to some earlier proposals, such as former Sen. Patrick Toomey's Stablecoin TRUST Act, the GENIUS Act would not explicitly prohibit stablecoins that offer interest from being payment stablecoins, meaning it may be possible for payment stablecoin issuers to offer interest to stablecoin holders without risking a violation of the federal securities laws.
  - The relevant section title of the GENIUS Act also refers to amendments to clarify that payment stablecoins are not commodities, but does not include any substantive provisions to this effect. This is relevant because leading crypto market structure bills would propose to classify many digital assets as "digital commodities" that are subject to CFTC, rather than SEC, jurisdiction. We covered the Financial Innovation and Technology for the 21st Century (FIT 21) Act in a prior client update. Any stablecoin legislation will need to align with such market structure legislation so the trading of payment stablecoins for other types of digital assets is clear.
- **Priority in insolvency.** Payment stablecoin holders would be given priority over all other claims against a payment stablecoin issuer in an insolvency proceeding of a payment stablecoin issuer.
- **Can payment stablecoins be issued on private blockchains?** An interesting implication of the GENIUS Act's defined terms, similar to the McHenry bill, is that a stablecoin issued on a private, permissioned blockchain may not be within the definition of "payment stablecoin," and thus not subject to the bill's requirements or benefits. Payment stablecoins are defined in the GENIUS Act as a type of "digital asset," which in turn is defined as an instrument recorded on "a cryptographically secured distributed ledger." But the definition of "distributed ledger" refers only to "public" ledgers.
- **Issuance on public blockchains.**
  - The federal banking agencies under the Biden Administration were very skeptical of public blockchains and

stated, for example, that "issuing … crypto-assets that are issued, stored or transferred on an open, public and/or decentralized network … is highly likely to be inconsistent with safe and sound banking practices." We therefore observed that, although the McHenry bill appeared designed to constrain the federal banking agencies' discretion in rejecting applications, it was unclear whether they would deny an application to issue payment stablecoins based on a general finding that payment stablecoin activities are unsafe or unsound. The concern arises because stablecoins are typically issued on public, permissionless blockchains such as Ethereum.

  - Changes in both (1) the GENIUS Act's list of permissible factors for denying applications and (2) leadership at the federal banking agencies make denials of applications of this sort less likely. For example, the GENIUS Act removes character and fitness and risks and benefits to consumers as factors the primary federal regulators may consider in evaluating applications.

— **Collins Amendment.** In contrast to the McHenry bill, the GENIUS Act is explicit that the Collins Amendment, which established minimum (non-risk sensitive) leverage capital ratios, would not apply. This clarification is helpful in providing regulators with sufficient flexibility to calibrate risk-based capital requirements applicable to payment stablecoin issuers that reflect the lower risk profile of payment stablecoin issuers whose liabilities are 100% backed by liquid assets and do not engage in maturity or liquidity transformation like traditional banks.

— **Tokenized deposits and other activities.** The GENIUS bill provides that nothing in the bill should be construed to prevent a depository institution, credit union or trust company from: (1) accepting or receiving deposits and issuing digital assets that represent deposits (e.g., "deposit coins") even if a digital deposit is 100% backed by liquid assets and is therefore substantially similar to a payment stablecoin; (2) utilizing a distributed ledger for books and records and intrabank transfers; and (3) providing custodial services for payment stablecoins (including their private keys) or reserves backing payment stablecoins.

— **No new mandate for access to master account or discount window for permitted payment stablecoin issuers.** Similar to the McHenry bill, but in contrast to prior proposals (including earlier drafts of McHenry's stablecoin legislation), the GENIUS Act would not grant permitted payment stablecoin issuers, including nonbank subsidiaries of insured depository institutions, automatic access to a master account or the discount window.

— **SAB 121.** The GENIUS Act 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). The SEC's Staff Accounting Bulletin No. 121, which was recently rescinded by the SEC staff at the direction of Acting Chair Mark Uyeda, required any public reporting company that safeguards cryptoassets to record a liability on its balance sheet in the amount of the fair value of such cryptoasset, as well as a corresponding asset.

— **Preemption.** The GENIUS Act does not include a provision expressly preempting federally authorized or state nonbank payment stablecoin issuers from state money transmitter laws.

— **International reciprocity.** The GENIUS Act would direct the Federal Reserve and Department of Treasury to create and implement reciprocal arrangements with other jurisdictions with substantially similar regulatory regimes (e.g., presumably the European Union and its Markets in Crypto-Assets Regulation (MiCA)) to facilitate international transactions and interoperability.

Summary of GENIUS Act

Three (and a half) registration options

— A permitted payment stablecoin issuer would have to be one of:

  - **Subsidiary of an IDI.** A subsidiary of an insured depository institution (IDI) that the primary federal regulator has approved to issue payment stablecoins. The GENIUS Act would also permit a subsidiary of a credit union to

issue payment stablecoins (subject to approval by the National Credit Union Administration (NCUA)).

- **Federal qualified nonbank payment stablecoin issuer.** A person other than an IDI or a subsidiary of an IDI approved by the Comptroller to issue payment stablecoins.
- **State qualified payment stablecoin issuer.** An entity legally established and approved to issue payment stablecoins by a state payment stablecoin regulator, and that complies with certain substantive requirements.
  - It appears that a permitted payment stablecoin issuer that is a subsidiary of a state-chartered IDI would be regulated and supervised by both its primary federal regulator and a state payment stablecoin regulator similar to how a state-chartered IDI is regulated and supervised in the dual-banking system.
  - As noted above, the GENIUS Act would create an additional option, regardless of any otherwise applicable regulatory classification (i.e., federal vs. state, bank vs. nonbank), whereby a stablecoin issuer may opt into the small issuer state regime if the conditions described above are satisfied.

Approval requirements

- **IDI subsidiaries and federal qualified nonbank payment stablecoin issuers:**
  - Would have to apply and receive prior approval from the primary federal regulator to issue payment stablecoins.
  - The primary federal regulator for each of these federally permitted payment stablecoin issuers would be as follows: (1) for an IDI subsidiary, the appropriate federal banking agency of such IDI; (2) for an insured credit union subsidiary, the National Credit Union Administrator; (3) for a federal qualified nonbank payment stablecoin issuer, the Comptroller; and (4) for an entity chartered by the Comptroller, the Comptroller.
  - The primary federal regulator would have to render a decision on an application no later than 120 days after informing the applicant that the application is complete; otherwise, the application shall be deemed approved. Unlike the McHenry bill, however, there is no standalone requirement for the primary federal regulator to notify an applicant that its application is complete. A common practice in banking applications today is for the federal banking agencies to delay reaching a determination that an application is complete and thus subject to applicable timing requirements. The primary federal regulator would have to submit annual reports to Congress on pending applications.
  - When determining whether to approve the application, the primary federal regulator would be required to consider only the applicant's ability, based on its financial condition and resources, to meet the reserve, disclosure, capital, liquidity, risk management and activity limit requirements (described below).
    - The primary federal regulator would only be permitted to deny a complete application if it determines that the activities of the applicant would be unsafe or unsound based on this factor.
    - If an application is denied, within 30 days the primary federal regulator would have to identify material shortcomings and provide actionable recommendations on how they could be addressed. An applicant would also be permitted to appeal a denial.
    - The Hagerty discussion draft and McHenry bill required the primary federal regulators to consider a more expansive list of factors that included the (1) general character and fitness of the management of the applicant and (2) risks presented by the applicant and benefits provided to consumers.
  - **Effective date and safe harbor for pending applications.** The provisions of the GENIUS Act would take effect on the earlier of (1) 18 months after enactment or (2) 120 days after finalization of the federal regulators' implementing regulations. Beginning on the date such requirements become effective and continuing for a period not to exceed 12 months, the primary federal regulator would be able to waive the application of these approval requirements for IDI subsidiaries and federal nonbank issuers with pending applications. The safe harbor would not apply prior to the effective date.

— **State qualified payment stablecoin issuers:**

- State qualified payment stablecoin issuers would only be required to obtain approval from a state payment stablecoin regulator, and not from a federal banking agency, such as the Federal Reserve or Comptroller, to issue payment stablecoins.
- The GENIUS Act does not specify the approval process for state qualified payment stablecoin issuers. Presumably that process would be governed by relevant state law and regulation.

Substantive requirements and provisions

The following requirements in the federal regulatory framework of the GENIUS Act would directly apply to all payment stablecoin issuers *except* those that opt into the small issuer state regime, which would be subject to a state-level regulatory regime that must be "substantially similar" to the below requirements.

— **Requirements and provisions applicable as a matter of law**

- **Eligible reserve assets.** Payment stablecoin issuers would have to comply with reserve requirements as well as related disclosure and certification requirements.
  - Stablecoins would have to be backed on at least a 1:1 basis (i.e., issuer must maintain at least 100% reserve).
  - Eligible assets include (1) U.S. coins and currency (including Federal Reserve notes), (2) deposits at IDIs or foreign depository institutions, (3) Treasuries with remaining maturities of 93 days or less (**short-term treasuries**), (4) repurchase agreements backed by short-term treasuries, (5) certain reverse repurchase agreements, (6) money market funds invested in any of the above-listed eligible assets and (7) central bank reserve deposits.
  - Unlike an earlier discussion draft of McHenry's proposed stablecoin legislation, the GENIUS Act does not grant the primary federal regulators authority to expand the list of eligible reserve assets if they deem any other assets sufficiently liquid.
- **Reserve disclosure requirements.** Issuers would have to publish on their websites monthly: (1) the total number of their outstanding payment stablecoins and (2) the amount and composition of their reserves.
  - Each month, the previous monthly report would have to be examined by a registered public accounting firm.
  - The CEO and CFO would have to certify to the accuracy of each monthly report and are subject to criminal penalties for knowingly false certifications.
- **Redemption.** All payment stablecoin issuers would have to establish procedures for "timely" redemption of outstanding payment stablecoins and publicly disclose their redemption policy.
- **Rehypothecation.** Reserves may not be pledged, rehypothecated or reused by payment stablecoin issuers, except that short-term treasuries may be pledged for repurchase agreements with a maturity of 90 days or less for the purpose of creating liquidity to meet reasonable expectations of requests to redeem payment stablecoins. In such a case, the repurchase agreements would have to be cleared by a central clearing counterparty approved by the primary federal regulator or state regulator or the issuer would have to receive prior approval from the primary federal regulator or state regulator.
- **Stablecoin holders given priority in insolvency.** In contrast to the McHenry bill and Hagerty discussion draft, claims of stablecoin holders against payment stablecoin issuers would be given priority over all other claims in the issuer's insolvency.
- **Bank Secrecy Act.** All permitted payment stablecoin issuers would be treated as financial institutions under the Bank Secrecy Act.

- **Privacy**. The Gramm-Leach-Bliley privacy requirements would apply to all permitted payment stablecoin issuers *other* than federal qualified nonbank payment stablecoin issuers.
- **Activities limits.** Permitted payment stablecoin issuers would have to limit their activities to issuing and redeeming payment stablecoins, managing related reserves, providing custodial and safekeeping functions and other limited functions that directly support issuing and redeeming payment stablecoins. The GENIUS Act also includes a rule of construction that states that the above-mentioned activity limits would not prevent a permitted payment stablecoin issuer from engaging in non-stablecoin activities that are explicitly allowed by the relevant regulator.

— **Requirements to be implemented by rulemaking**

- **Capital, liquidity and risk management requirements**. Primary federal regulators and state payment stablecoin regulators would be given broad authority to set reserve, disclosure, capital, liquidity, risk management and activity limit requirements. The primary federal regulators' rules would have to be jointly issued.
  - The primary federal regulators would be explicitly permitted to tailor these requirements on an individual basis or by category, considering the riskiness of the particular permitted payment stablecoin issuer. The GENIUS Act also expressly states that the Collins Amendment would not apply.
  - Unlike the McHenry bill, which directed the Federal Reserve to issue rules for state payment stablecoin issuers, state payment stablecoin regulators would be directed to issue their own rules.
- **Implementation of substantive requirements.** The primary federal regulators and state payment stablecoin regulators would be required to issue rules to implement these substantive rules within 180 days of enactment.

Supervisory authority

— **IDI subsidiaries.** The primary federal regulator would have the same supervisory authorities with respect to the subsidiary as the appropriate federal banking agency has with respect to the parent IDI.

— **Federal qualified nonbank payment stablecoin issuers.** The Comptroller's supervisory authority for registered nonbank issuers *and their subsidiaries* would be very similar to, and appears modeled after, the authority the Federal Reserve has to supervise bank holding companies and their subsidiaries. The Comptroller would be required to avoid duplicative oversight and would have to use existing reports and other supervisory information to the fullest extent possible.

— **State qualified payment stablecoin issuers**. State regulators would be tasked with primary supervisory authority of state qualified payment stablecoin issuers. State regulators would be permitted to enter into a supervisory agreement with the Federal Reserve, by mutual agreement, under which the Federal Reserve may carry out the supervision, examination and enforcement authority with respect to state issuers of such state. State regulators and the Federal Reserve would have to share information on an ongoing basis with respect to state payment stablecoin issuers, including copies of applications and accompanying materials.

Enforcement authority

— **IDI subsidiaries and federal qualified nonbank stablecoin issuers**

- The primary federal regulator would be permitted to prohibit a payment stablecoin issuer from issuing additional stablecoins if the primary federal regulator determined that the issuer or any institution-affiliated party (IAP) is committing or has committed a material violation of the GENIUS Act or a regulatory commitment.
- Primary federal regulator also would be given enforcement authority over these two categories of payment stablecoin issuers and their IAPs that is similar to the general enforcement authority federal banking agencies are given for IDIs and their IAPs in section 8 of the Federal Deposit Insurance Act (12 U.S.C. § 1818). This authority is the main tool used by the federal banking agencies to bring enforcement actions against IDIs and

their holding companies.

  - These authorities include cease and desist orders, civil monetary penalties, termination of stablecoin issuance and removal and prohibition orders.
  - IAPs of payment stablecoin issuers include a broad range of persons, such as directors, officers, employees, control persons and agents.

- **State qualified payment stablecoin issuers**
  - State regulators would be tasked with primary supervisory, examination and enforcement authority over state qualified payment stablecoin issuers, but the state regulator and Federal Reserve would be able to agree to enter into a supervisory agreement for the Federal Reserve to carry out supervisory, examination and enforcement authority.
  - The Federal Reserve and Comptroller would also be provided back-up enforcement authority in exigent circumstances, regardless of whether there is a supervisory agreement with the state regulator. The Federal Reserve's authority would extend to any state qualified payment stablecoin issuers. There appears to be a drafting error that would prevent the Comptroller from actually exercising this authority.[4]
    - The Federal Reserve and Comptroller, as applicable, would have to provide five days' written notice to the relevant state regulator before commencing such an enforcement action against a state qualified payment stablecoin issuer or IAP of such issuer.
    - The Federal Reserve and Comptroller would have to issue rules that identify qualifying exigent circumstances under which the Federal Reserve or Comptroller may bring such an enforcement action.
    - The Federal Reserve or Comptroller would be able to issue restrictions on a state qualified payment stablecoin issuer if it determined that an activity of the stablecoin issuer constituted a serious risk to the financial safety, soundness, or stability of the issuer. The restrictions would include limiting the stablecoin issuer's ability to (1) pay dividends, (2) engage in transactions with affiliates or (3) engage in other activities determined to create a serious risk that the liabilities of an affiliate may be imposed on the stablecoin issuer. Any such restrictions would be subject to administrative and judicial review.

Regulation of stablecoin ecosystem

- **Custodians and wallet providers**
  - Persons who engage in the business of providing custodial or safekeeping services for payment stablecoins would be required to comply with customer protection requirements related to asset segregation and a prohibition on commingling customer property. They would also be required to take appropriate steps to protect customer property from creditor claims.
  - The restriction on commingling would be subject to an exception whereby payment stablecoins, cash and other property of multiple customers—but not of the payment stablecoin issuer—can be commingled and deposited in an omnibus account at an IDI or trust company.
- **Self-custody**
  - The GENIUS Act 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, would be provided authority to prescribe standards to promote compatibility and interoperability for payment stablecoin issuers.
- **Study on algorithmic stablecoins**

- Would direct the U.S. Treasury, in consultation with other agencies, to produce a report to Congress on "endogenously collateralized" (i.e., so-called "algorithmic") stablecoins and other nonpayment stablecoins within one year of enactment. This is in contrast to the McHenry bill and Hagerty discussion draft, which had imposed a two-year *moratorium* on the issuance, creation or origination of algorithmic stablecoins.

— **Reciprocity**

- Would direct the Federal Reserve and Department of Treasury to create and implement reciprocal arrangements with other jurisdictions with substantially similar regulatory regimes to facilitate international transactions and interoperability.

Blacklines

— Blackline - GENIUS Act v. McHenry
— Blackline - GENIUS Act v. Discussion Draft
— Blackline - STABLE Act v. GENIUS Act
— Blackline - STABLE Act v. McHenry

Crypto Regulation Hub

Visit our Crypto Regulation Hub for links to congressional proposals related to the regulation of crypto assets and other helpful materials.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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[1] The Gramm-Leach-Bliley privacy requirements would apply to all permitted payment stablecoin issuers ***other*** than federal qualified nonbank payment stablecoin issuers.

[2] For a similar proposal, *see* Written Statement of David L. Portilla Before the United States House of Representatives Financial Services Committee Subcommittee on Digital Assets, Financial Technology and Inclusion: *Putting the 'Stable' in 'Stablecoins:' How Legislation Will Help Stablecoins Achieve Their Promise* (May 18. 2023), https://docs.house.gov/meetings/BA/BA21/20230518/115973/HHRG-118-BA21-Wstate-PortillaD-20230518.pdf ("Options [for allocating federal versus state oversight] include providing federal regulation as a backup to state regulation or an approach that toggles based on the scale of an issuer.").

[3] There is a drafting error that would prevent the Comptroller from actually exercising this authority. As drafted the Comptroller's backup authority only applies to "Comptroller-regulated entit[ies]," but this term only applies to federal, rather than state, payment stablecoin issuers.

[4] As noted above, as drafted the Comptroller's backup authority only applies to "Comptroller-regulated entit[ies]," but this term only applies to federal, rather than state, payment stablecoin issuers.