H. R. 4766

To provide for the regulation of payment stablecoins, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2023

Mr. McHENRY introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To provide for the regulation of payment stablecoins, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clarity for Payment Stablecoins Act of 2023”.

SEC. 2. DEFINITIONS.

In this Act:

(1) BANK SECRECY ACT.—The term “Bank Secrecy Act” means—

(A) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);
(B) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.); and

(C) subchapter II of chapter 53 of title 31, United States Code.

(2) BOARD.—The term “Board” means the Board of Governors of the Federal Reserve System.

(3) COMPTROLLER.—The term “Comptroller” means the Comptroller of the Currency.

(4) CORPORATION.—The term “Corporation” means the Federal Deposit Insurance Corporation.

(5) DIGITAL ASSET.—The term “digital asset” means any digital representation of value which is recorded on a cryptographically-secured distributed ledger.

(6) DISTRIBUTED LEDGER.—The term “distributed ledger” means technology where data is shared across a network that creates a public digital ledger of verified transactions or information among network participants and the data is linked using cryptography to maintain the integrity of the public ledger and execute other functions.

(7) FEDERAL QUALIFIED NONBANK STABLECOIN ISSUER.—The term “Federal qualified nonbank stablecoin issuer” means a nonbank entity approved by the primary Federal payment stablecoin
regulator, pursuant to section 5, to issue payment
stablecoins.

(8) INSTITUTION-AFFILIATED PARTY.—With re-
pect to a permitted payment stablecoin issuer, the
term “institution-affiliated party” means any direc-
tor, officer, employee, or person in control of, or
agent for, the permitted payment stablecoin issuer.

(9) INSURED DEPOSITORY INSTITUTION.—The
term “insured depository institution” means—

(A) an insured depository institution, as
defined in section 3 of the Federal Deposit Ins-
surance Act (12 U.S.C. 1813); and

(B) an insured credit union, as defined in
section 101 of the Federal Credit Union Act

(10) MONETARY VALUE.—The term “monetary
value” means a national currency or deposit (as de-
defined under Section 3 of the Federal Deposit Insur-
ance Act) denominated in a national currency.

(11) NATIONAL CURRENCY.—The term “na-
tional currency” means a Federal Reserve note, (as
the term is used in the first undesignated paragraph
of section 16 of the Federal Reserve Act (12 U.S.C.
411)), money issued by a central bank, and money
issued by an intergovernmental organization pursuant to an agreement by one or more governments.

(12) NONBANK ENTITY.—The term “nonbank entity” means a person that is not an insured depository institution or subsidiary of an insured depository institution.

(13) PAYMENT STABLECOIN.—The term “payment stablecoin”—

(A) means a digital asset—

(i) that is or is designed to be used as a means of payment or settlement; and

(ii) the issuer of which—

(I) is obligated to convert, redeem, or repurchase for a fixed amount of monetary value; and

(II) represents will maintain or creates the reasonable expectation that it will maintain a stable value relative to the value of a fixed amount of monetary value; and

(B) that is not—

(i) a national currency; or

(ii) a security issued by an investment company registered under section 8(a) of
the Investment Company Act of 1940 (15
U.S.C. 80a–8(a)).

(14) PERMITTED PAYMENT STABLECOIN
ISSUER.—The term “permitted payment stablecoin
issuer” means—

(A) a subsidiary of an insured depository
institution that has been approved to issue pay-
ment stablecoins under section 5;

(B) a Federal qualified nonbank payment
stablecoin issuer that has been approved to
issue payment stablecoins under section 5; or

(C) a State qualified payment stablecoin
issuer.

(15) PERSON.—The term “person” means an
individual, partnership, company, corporation, asso-
ciation (incorporated or unincorporated), trust, es-
tate, cooperative organization, or other entity.

(16) PRIMARY FEDERAL PAYMENT STABLECOIN
REGULATOR.—

(A) IN GENERAL.—The term “primary
Federal payment stablecoin regulator” means—

(i) with respect to an insured deposi-
tory institution (other than an insured
credit union) or a subsidiary of an insured
depository institution (other than an in-
sured credit union), the appropriate Fed-
eral banking agency of such insured depos-
itory institution (as defined under section
3 of the Federal Deposit Insurance Act
(12 U.S.C. 1813));

(ii) with respect to an insured credit
union or a subsidiary of an insured credit
union, the National Credit Union Adminis-
tration;

(iii) with respect to a Federal quali-
fied nonbank payment stablecoin issuer
that is not a national bank, the Board; and

(iv) with respect to any entity char-
tered by the Comptroller, the Comptroller.

(B) PRIMARY FEDERAL PAYMENT
STABLECOIN REGULATORS.—The term “pri-
mary Federal payment stablecoin regulators”
means the Comptroller, the Board, the Corpora-
tion, and the National Credit Union Adminis-
tration.

(17) REGISTERED PUBLIC ACCOUNTING
FIRM.—The term “registered public accounting
firm” has the meaning given that term under section
7201).
(18) **STATE.**—The term “State” means each of the several States, the District of Columbia, and each territory of the United States.

(19) **STATE QUALIFIED PAYMENT STABLECOIN ISSUER.**—The term “State qualified payment stablecoin issuer” means an entity that—

(A) is legally established and approved to issue payment stablecoins by a State payment stablecoin regulator; and

(B) issues a payment stablecoin in compliance with the requirements under section 4.

(20) **STATE PAYMENT STABLECOIN REGULATOR.**—The term “State payment stablecoin regulator” means a State agency that has primary regulatory and supervisory authority in such State over entities that issue payment stablecoins.

(21) **SUBSIDIARY OF AN INSURED CREDIT UNION.**—With respect to an insured credit union, the term “subsidiary of an insured credit union” means—

(A) an organization providing services to the insured credit union that are associated with the routine operations of credit unions, as described under section 107(7)(I) of the Fed-
eral Credit Union Act (12 U.S.C. 1757(7)(I)); and

(B) a credit union service organization, as such term is used under part 712 of title 12, Code of Federal Regulations, with respect to which the insured credit union has an ownership interest or to which the insured credit union has extended a loan.

SEC. 3. LIMITATION ON WHO MAY ISSUE A PAYMENT STABLECOIN.

It shall be unlawful for any person other than a permitted payment stablecoin issuer to issue a payment stablecoin for use by any person in the United States.

SEC. 4. REQUIREMENTS FOR ISSUING PAYMENT STABLECOINS.

(a) STANDARDS FOR THE ISSUANCE OF PAYMENT STABLECOINS.—

(1) IN GENERAL.—Permitted payment stablecoin issuers shall—

(A) maintain reserves backing the issuer’s payment stablecoins outstanding on an at least one to one basis, with reserves comprising—

(i) United States coins and currency (including Federal reserve notes);
(ii) funds held as insured demand deposits or insured shares at insured depository institutions, subject to limitations established by the Corporation and the National Credit Union Administration, respectively, to address safety and soundness risks of such insured depository institutions;

(iii) Treasury bills with a maturity of 90 days or less;

(iv) repurchase agreements with a maturity of 7 days or less that are backed by Treasury bills with a maturity of 90 days or less;

(v) central bank reserve deposits; or

(vi) such other assets as—

(I) the primary Federal payment stablecoin regulator determines appropriate; or

(II) in the case of a State qualified payment stablecoin issuer, the State payment stablecoin regulator determines appropriate.

(B) publicly disclose the issuer’s redemption policy;
(C) establish procedures for timely redemption of outstanding payment stablecoins; and

(D) publish the monthly composition of the issuer’s reserves on the website of the issuer, containing—

(i) the total number of outstanding payment stablecoins issued by the issuer; and

(ii) the amount and composition of the reserves described under subparagraph (A).

(2) Prohibition on rehypothecation.—Reserves described under paragraph (1)(A) may not be pledged, rehypothecated, or reused, except for the purpose of creating liquidity to meet reasonable expectations of requests to redeem payment stablecoins, such that reserves in the form of Treasury bills may be pledged as collateral for repurchase agreements with a maturity of 90 days or less, provided that either—

(A) the repurchase agreements are cleared by a central clearing counterparty that is approved by the primary Federal payment stablecoin regulator; or
(B) the permitted payment stablecoin issuer receives the prior approval of the primary Federal payment stablecoin regulator.

(3) MONTHLY CERTIFICATION; EXAMINATION OF REPORTS BY REGISTERED PUBLIC ACCOUNTING FIRM.—

(A) IN GENERAL.—A permitted payment stablecoin issuer shall, each month, have the information disclosed in the previous month-end report required under paragraph (1)(D) examined by a registered public accounting firm.

(B) CERTIFICATION.—Each month, the Chief Executive Officer and Chief Financial Officer of a permitted payment stablecoin issuer shall submit an certification as to the accuracy of the monthly report to—

(i) the primary Federal payment stablecoin regulator; or

(ii) in the case of a State qualified payment stablecoin issuer, to the State payment stablecoin regulator.

(C) CRIMINAL PENALTY.—Any person who submits a certification required under subparagraph (B) knowing that such certification is false shall be subject to the criminal penalties
set forth under section 1350(c) of title 18, United States Code.

(4) **CAPITAL, LIQUIDITY, AND RISK MANAGEMENT REQUIREMENTS.**—The primary Federal payment stablecoin regulators shall, jointly, issue—

(A) capital requirements applicable to permitted payment stablecoin issuers, which may not exceed what is sufficient to ensure the permitted payment stablecoin issuer’s ongoing operations;

(B) liquidity requirements applicable to permitted payment stablecoin issuers, which may not exceed what is sufficient to ensure the financial integrity of the permitted payment stablecoin issuer and the ability of the issuer to meet the financial obligations of the issuer, including redemptions; and

(C) risk management requirements applicable to permitted payment stablecoin issuers, tailored to the business model and risk profile of the permitted payment stablecoin issuer.

(5) **TREATMENT UNDER THE BANK Secrecy ACT.**—A permitted payment stablecoin issuer shall be treated as a financial institution for purposes of the Bank Secrecy Act.
(6) **LIMITATION ON ACTIVITIES.**—A permitted payment stablecoin issuer may only issue payment stablecoins, redeem payment stablecoins, manage related reserves (including purchasing and holding reserve assets), provide custodial or safekeeping services for payment stablecoins or private keys of payment stablecoins, and undertake other functions that directly support the work of issuing and redeeming payment stablecoins.

(b) **RULEMAKING.**—

(1) **IN GENERAL.**—The primary Federal payment stablecoin regulators may issue such orders and regulations as may be necessary to administer and carry out the requirements of this section, including to establish conditions, and to prevent evasions thereof.

(2) **JOINT ISSUANCE OF REGULATION.**—All regulations issued to carry out this section shall be issued jointly by the primary Federal payment stablecoin regulators.

(3) **RULEMAKING DEADLINE.**—Not later than the end of the 180-day period beginning on the date of enactment of this Act, the Federal payment stablecoin regulators shall issue regulations to carry out this section.
SEC. 5. APPROVAL OF SUBSIDIARIES OF INSURED DEPOSITORY INSTITUTIONS AND FEDERAL QUALIFIED NONBANK PAYMENT STABLECOIN ISSUERS.

(a) IN GENERAL.—

(1) APPLICATION.—

(A) IN GENERAL.—Any insured depository institution that seeks to issue payment stablecoins through a subsidiary and any nonbank entity (other than a State qualified payment stablecoin issuer) that seeks to issue payment stablecoins shall file an application with the primary Federal payment stablecoin regulator.

(B) TIMING.—With respect to an application filed under this paragraph, the primary Federal payment stablecoin regulator shall inform the applicant whether the applicant has submitted a complete application within 45 days of receiving the application.

(C) COMPLETION OF APPLICATION.—With respect to an application filed under this paragraph, once the primary Federal payment stablecoin regulator has informed the applicant that the application is complete, such application shall be deemed to be complete unless the
primary Federal payment stablecoin regulator
determines that a significant change in cir-
cumstances requires otherwise.

(2) EVALUATION OF APPLICATIONS.—A com-
plete application received under paragraph (1) shall
be evaluated by the primary Federal payment
stablecoin regulator using the factors described in
paragraph (3).

(3) FACTORS TO BE CONSIDERED.—The factors
described in this paragraph are the following:

(A) The ability of the applicant (or, in the
case of an applicant that is an insured deposi-
tory institution, the subsidiary of the appli-
cant), based on the financial condition and re-
sources, to meet the requirements set forth in
section 4.

(B) The general character and fitness of
the management of the applicant.

(C) The risks presented by the applicant
and benefits provided to consumers.

(4) TIMING FOR DECISION; GROUNDS FOR DE-
NIAL.—

(A) TIMING.—The primary Federal pay-
ment stablecoin regulator shall render a deci-
sion on an application no later than 120 days
after informing the applicant that the application is complete.

(B) Denial of Application.—

(i) Grounds for Denial.—The primary Federal payment stablecoin regulator may only deny a complete application received under paragraph (1) if the regulator determines that the activities of the applicant would be unsafe or unsound based on the factors described in paragraph (3).

(ii) Explanation Required.—If the primary Federal payment stablecoin regulator denies a complete application received under paragraph (1), the regulator shall provide the applicant with written notice explaining such denial, including all findings made by the regulator with respect to all identified material shortcomings regarding the application, including recommendations on how the applicant could address the identified material shortcomings.

(iii) Opportunity for Hearing; Final Determination.—

(I) In General.—Not later than
any notice of the denial of an application under this subsection, the applicant may request, in writing, an opportunity for a written or oral hearing before the primary Federal payment stablecoin regulator to appeal the denial.

(II) Timing.—Upon receipt of a timely request, the primary Federal payment stablecoin regulator shall notice a time (not later than 30 days after the date of receipt of the request) and place at which the applicant may appear, personally or through counsel, to submit written materials or provide oral testimony and oral argument).

(III) Final Determination.—Not later than 60 days after the date of a hearing under this clause, the primary Federal payment stablecoin regulator shall notify the applicant of the final determination of the primary Federal payment stablecoin regulator, which shall contain a statement of the
basis for that determination, with specific findings.

(IV) NOTICE IF NO HEARING.—If an applicant does not make a timely request for a hearing under this clause, the primary Federal payment stablecoin regulator shall notify the applicant, not later than 10 days after the date by which the applicant may request a hearing under this clause, in writing, that the denial of the application is a final determination of the regulator.

(C) FAILURE TO RENDER A DECISION.—If the primary Federal payment stablecoin regulator fails to render a decision on a complete application within the time period specified in subparagraph (A), the application shall be deemed approved.

(D) RIGHT TO REAPPLY.—The denial of an application under this subsection shall not prohibit the applicant from filing a subsequent application.

(5) REPORT ON PENDING APPLICATIONS.— Each primary Federal payment stablecoin regulator
shall annually report to Congress on the applications that have been pending for 6 months or longer since the date of the initial application filed under paragraph (1) where the applicant has been informed that the application remains incomplete, including providing documentation on the status of the application and why the application has not yet been approved.

(6) Rulemaking.—The primary Federal regulatory agencies shall, jointly, issue rules necessary for the regulation of the issuance of payment stablecoins, but may not impose requirements inconsistent with the requirements specified under section 4.

(b) Effective Date.—

(1) In general.—This section shall take effect on the earlier of—

(A) 18 months after the date of enactment of this Act; or

(B) the date that is 120 days after the date on which the primary Federal payment stablecoin regulators issue final regulations implementing this section.

(2) Authority to issue regulations and process applications.—The primary Federal pay-
ment stablecoin regulators may, before the effective date described under paragraph (1)—

(A) issue regulations to carry out this section; and

(B) pursuant to regulations described under subparagraph (A), accept and process applications described under this section.

(3) NOTICE TO CONGRESS.—Each of the primary Federal payment stablecoin regulators shall notify Congress once beginning to process applications described under this section.

(4) SAFE HARBOR FOR PENDING APPLICATIONS.—The primary Federal payment stablecoin regulator may waive the application of the requirements of this section for a period not to exceed 12 months beginning on the effective date described under paragraph (1), with respect to—

(A) a subsidiary of an insured depository institution, if the insured depository institution has an application pending for the subsidiary to become a permitted payment stablecoin issuer on the effective date described under paragraph (1); or

(B) a nonbank entity with an application pending to become a Federal qualified nonbank
stablecoin issuer on the effective date described under paragraph (1).

SEC. 6. SUPERVISION AND ENFORCEMENT WITH RESPECT TO SUBSIDIARIES OF INSURED DEPOSITORY INSTITUTIONS AND FEDERAL QUALIFIED NONBANK STABLECOIN ISSUERS.

(a) Supervision.—

(1) Subsidiary of an insured depository institution.—

(A) In general.—Each permitted payment stablecoin issuer that is a subsidiary of an insured depository institution shall be subject to supervision by the primary Federal payment stablecoin regulator in the same manner as such insured depository institution.

(B) Gramm-Leach-Bliley Act.—For purposes of title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) each permitted payment stablecoin issuer that is a subsidiary of an insured depository institution shall be deemed a financial institution.

(2) Federal qualified nonbank payment stablecoin issuer.—

(A) Submission of reports.—Each Federal qualified nonbank payment stablecoin
issuer shall, upon request, submit reports to the primary Federal payment stablecoin regulator as to—

(i) the Federal qualified nonbank payment stablecoin issuer’s financial condition, systems for monitoring and controlling financial and operating risks; and

(ii) compliance by the Federal qualified nonbank payment stablecoin issuer (and any subsidiary thereof) with this Act.

(B) EXAMINATIONS.—The primary Federal payment stablecoin regulator may make examinations of a Federal qualified nonbank payment stablecoin issuer and each subsidiary of a Federal qualified nonbank stablecoin issuer in order to inform the regulator of—

(i) the nature of the operations and financial condition of the Federal qualified nonbank stablecoin issuer;

(ii) the financial, operational, and other risks within the Federal qualified nonbank stablecoin issuer that may pose a threat to—
(I) the safety and soundness of the Federal qualified nonbank stablecoin issuer; or

(II) the stability of the financial system of the United States; and

(iii) the systems of the Federal qualified nonbank payment stablecoin issuer for monitoring and controlling the risks described in clause (ii).

(C) REQUIREMENT TO USE EXISTING REPORTS.—In supervising and examining a Federal qualified nonbank payment stablecoin issuer, the primary Federal payment stablecoin regulator shall, to the fullest extent possible, use existing reports and other supervisory information.

(D) AVOIDANCE OF DUPLICATION.—The primary Federal payment stablecoin regulator shall, to the fullest extent possible, avoid duplication of examination activities, reporting requirements, and requests for information in carrying out this Act with respect to a Federal qualified nonbank payment stablecoin issuer.

(E) GRAMM-LEACH-BLILEY ACT.—For purposes of title V of the Gramm-Leach-Bliley
Act (15 U.S.C. 6801 et seq.) each Federal qualified nonbank stablecoin issuer shall be deemed a financial institution.

(b) Enforcement.—

(1) Suspension or revocation of registration.—The primary Federal payment stablecoin regulator may prohibit a permitted payment stablecoin issuer from issuing payment stablecoins, if the primary Federal payment stablecoin regulator determines that such permitted payment stablecoin issuer, or an institution-affiliated party of the permitted payment stablecoin issuer, is—

(A) violating or has violated this Act or any regulation or order issued under this Act; or

(B) violating or has violated any condition imposed in writing by the primary Federal payment stablecoin regulator in connection with a written agreement entered into between the permitted payment stablecoin issuer and the primary Federal payment stablecoin regulator or a condition imposed in connection with any application or other request.

(2) Cease-and-desist proceedings.—If the primary Federal payment stablecoin regulator has
reasonable cause to believe that a permitted payment stablecoin issuer or any institution-affiliated party of a permitted payment stablecoin issuer is violating, has violated, or is attempting to violate this Act, any regulation or order issued under this Act, or any written agreement entered into with the primary Federal payment stablecoin regulator or condition imposed in writing by the primary Federal payment stablecoin regulator in connection with any application or other request, the primary Federal payment stablecoin regulator may, by provisions that are mandatory or otherwise, order the permitted payment stablecoin issuer or institution-affiliated party of the permitted payment stablecoin issuer to—

(A) cease and desist from such violation or practice;

(B) take affirmative action to correct the conditions resulting from any such violation or practice; or

(C) take such other action as the primary Federal payment stablecoin regulator determines to be appropriate.

(3) Removal and prohibition authority.—The primary Federal payment stablecoin regulator may remove an institution-affiliated party of a per-
mitted payment stablecoin issuer from their position or office or prohibit further participation in the affairs of the permitted payment stablecoin issuer or all permitted payment stablecoin issuers by such institution-affiliated party, if the primary Federal payment stablecoin regulator determines that—

(A) the institution-affiliated party has, directly or indirectly, committed a violation or attempted violation of this Act or any regulation or order issued under this Act; or

(B) the institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code.

(4) PROCEDURES.—

(A) IN GENERAL.—If the primary Federal payment stablecoin regulator identifies a violation or attempted violation of this Act or makes a determination under paragraph (1), (2), or (3), the primary Federal payment stablecoin regulator shall comply with the procedures set forth in subsections (b) and (c) of sections 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).
(B) **JUDICIAL REVIEW.**—A person aggrieved by a final action under this subsection may obtain judicial review of such action exclusively as provided in section 8(h) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)).

(C) **INJUNCTION.**—The primary Federal payment stablecoin regulator may, in the discretion of the regulator, follow the procedures provided in section 8(i)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(1)) for judicial enforcement of any effective and outstanding notice or order issued under this subsection.

(D) **TEMPORARY CEASE-AND-DESIST PROCEEDINGS.**—If the primary Federal payment stablecoin regulator determines that a violation or attempted violation of this Act or an action with respect to which a determination was made under paragraph (1), (2), or (3), or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of a permitted payment stablecoin issuer, or is likely to weaken the condition of the permitted payment stablecoin issuer or otherwise prejudice the interests of the customers of the permitted
payment stablecoin issuer prior to the completion the proceedings conducted under this paragraph, the primary Federal payment stablecoin regulator may follow the procedures provided in section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) to issue a temporary cease-and-desist order.

(5) Civil money penalties.—

(A) Failure to be approved.—Any person who issues a payment stablecoin and who is not a permitted payment stablecoin issuer, and any institution-affiliated party of such a person who knowingly participates in issuing such a payment stablecoin, shall be liable for a civil penalty of not more than $100,000 for each day during which such payment stablecoins are issued.

(B) First tier.—Except as provided in subparagraph (A), a permitted payment stablecoin issuer or institution-affiliated party of such permitted payment stablecoin issuer that violates this Act or any regulation or order issued under this Act, or that violates any condition imposed in writing by the primary Federal payment stablecoin regulator in connection
with a written agreement entered into between
the permitted payment stablecoin issuer and the
primary Federal payment stablecoin regulator
or a condition imposed in connection with any
application or other request, shall be liable for
a civil penalty of up to $100,000 for each day
during which the violation continues.

(C) SECOND TIER.—Except as provided in
subparagraph (A), and in addition to the pen-
alties described under subparagraph (B), a per-
mitted payment stablecoin issuer or institution-
affiliated party of such permitted payment
stablecoin issuer who knowingly participates in
a violation of any provision of this Act, or any
regulation or order issued thereunder, is liable
for a civil penalty of up to an additional
$100,000 for each day during which the viola-
tion continues.

(D) PROCEDURE.—Any penalty imposed
under this paragraph may be assessed and col-
lected by the primary Federal payment
stablecoin regulator pursuant to the procedures
set forth in section 8(i)(2) of the Federal De-
posit Insurance Act (12 U.S.C. 1818(i)(2)).
(E) NOTICE AND ORDERS AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (including a separation caused by the closing of a permitted payment stablecoin issuer) shall not affect the jurisdiction and authority of the primary Federal payment stablecoin regulator to issue any notice or order and proceed under this subsection against any such party, if such notice or order is served before the end of the six-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such permitted payment stablecoin issuer.

(6) NON-APPLICABILITY TO A STATE QUALIFIED PAYMENT STABLECOIN ISSUER.—This subsection shall not apply to a State qualified payment stablecoin issuer.

SEC. 7. STATE QUALIFIED PAYMENT STABLECOIN ISSUERS.

(a) IN GENERAL.—A State payment stablecoin regulator shall have supervisory, examination, and enforcement authority over a State qualified payment stablecoin issuer of such State.
(b) Authority To Enter Into Agreements

With the Board.—A State payment stablecoin regulator may enter into a memorandum of understanding with the Board, by mutual agreement, under which the Board may carry out the supervision, examination, and enforcement authority with respect to the State qualified payment stablecoin issuers of such State.

(c) Sharing of Information.—A State payment stablecoin regulator and the Board shall share information on an ongoing basis with respect to a State qualified payment stablecoin issuer of such State, including a copy of the initial application and any accompanying documents.

(d) Rulemaking.—The Board shall issue orders and rules under section 4 applicable to State qualified payment stablecoin issuers to the same extent as the primary Federal payment stablecoin regulators issue orders and rules under section 4 applicable to permitted payment stablecoin issuers that are not a State qualified payment stablecoin issuers.

(e) Board Enforcement Authority in Exigent Circumstances.—

(1) In General.—In exigent circumstances, the Board may, after no less than 48 hours prior written notice to the applicable State payment stablecoin regulator, take an enforcement action
against a State qualified payment stablecoin issuer
or an institution-affiliated party of such issuer for
violations of this Act.

(2) RULEMAKING.—Not later than the end of
the 180-day period beginning on the date of enact-
ment of this Act, the Board shall issue rules to set
forth those exigent circumstances in which the
Board may act under this subsection.

(f) GRAMM-LEACH-BLILEY ACT.—For purposes of
et seq.) a State qualified payment stablecoin issuer is
deemed a financial institution.

(g) EFFECT ON STATE LAW.—The provisions of this
section do not preempt any law of a State and do not su-
persede any State licensing requirement.

SEC. 8. CUSTOMER PROTECTION.

(a) IN GENERAL.—A person may only engage in the
business of providing custodial or safekeeping services for
permitted payment stablecoins or private keys of per-
mitted payment stablecoins, if the person—

(1) is subject to—

(A) supervision or regulation by a primary
Federal payment stablecoin regulator or a pri-
mary financial regulatory agency described
under subparagraph (B) or (C) of section 2(12)
of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301(12)); or

(B) supervision by a State bank supervisor, as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or a State credit union supervisor, as defined under section 6003 of the Anti-Money Laundering Act of 2020, and such state bank supervisor or state credit union supervisor makes available to the Board such information as the Board determines necessary and relevant to the categories of information under subsection (d); and

(2) complies with the segregation requirements under subsection (b), unless such person complies with similar requirements as required by a primary Federal payment stablecoin regulator, the Securities and Exchange Commission, or the Commodity Futures Trading Commission.

(b) SEGREGATION REQUIREMENT.—A person described in subsection (a) shall—

(1) treat and deal with the payment stablecoins, private keys, cash, and other property of a person for whom or on whose behalf the person receives, acquires, or holds payment stablecoins, private keys,
cash, and other property (hereinafter in this section referred to as the “customer”) as belonging to such customer; and

(2) take such steps as are appropriate to protect the payment stablecoins, private keys, cash, and other property of a customer from the claims of creditors of the person.

(c) COMMINGLING PROHIBITED.—

(1) IN GENERAL.—Payment stablecoins, cash, and other property of a customer shall be separately accounted for by a person described in subsection (a) and shall not be commingled with the funds of the person.

(2) EXCEPTION.—Notwithstanding paragraph (1)—

(A) the payment stablecoins, cash, and other property of a customer may, for convenience, be commingled and deposited in an omnibus account holding the payment stablecoins, cash, and other property of more than one customer at an insured depository institution or trust company;

(B) such share of the payment stablecoins, cash, and other property of the customer that shall be necessary to transfer, adjust, or settle
a transaction or transfer of assets may be withdrawn and applied to such purposes, including the payment of commissions, taxes, storage, and other charges lawfully accruing in connection with the provision of services by a person described in subsection (a); and

(C) in accordance with such terms and conditions as the Board may prescribe by rule, regulation, or order, any customer payment stablecoin, cash, and other property described in this subsection may be commingled and deposited in customer accounts with payment stablecoins, cash, and other property received by the person and required by the Board to be separately accounted for, treated, and dealt with as belonging to customers.

(d) REGULATORY INFORMATION.—A person described under subsection (a) shall submit to the Board information concerning the person’s business operations and processes to protect customer assets, in such form and manner as the Board shall determine.

(e) EXCLUSION.—The requirements of this section shall not apply to any person solely on the basis that such person engages in the business of providing hardware or software to facilitate a customer’s own custody or safe-
keeping of the customer’s payment stablecoins or private
keys.

(f) CLARIFICATION.—The Board, the Comptroller,
the Corporation, the National Credit Union Administra-
tion, and the Financial Crimes Enforcement Network shall
make no rules, regulations, orders, or guidance, or take
any other administrative action, which would restrict the
ability of an individual to use digital assets for such indi-
vidual’s own purposes or prohibit or otherwise restrict an
individual to use hardware or software to facilitate such
individual’s own custody or safekeeping of such individ-
ual’s digital assets.

SEC. 9. INTEROPERABILITY STANDARDS.

The primary Federal payment stablecoin regulators,
in consultation with the National Institute of Standards
and Technology, other relevant standard setting organiza-
tions, and State governments, shall assess and, if nec-
essary, may, pursuant to section 553 of title 5 and in a
manner consistent with the National Technology Transfer
and Advancement Act of 1995 (Public Law 104–113),
 prescribe standards for payment stablecoin issuers to pro-
mote compatibility and interoperability.
SEC. 10. MORATORIUM ON ENDOGENOUSLY COLLATERALIZED STABLECOINS.

(a) Moratorium.—During the 2-year period beginning on the date of enactment of this Act, it shall be unlawful to issue, create, or originate an endogenously collateralized stablecoin not in existence on the date of enactment of this Act.

(b) Study by Treasury.—

(1) Study.—The Secretary of the Treasury, in consultation with the Board, the Comptroller, the Corporation, and the Securities and Exchange Commission, shall carry out a study of endogenously collateralized stablecoins.

(2) Report.—Not later than 365 days after the date of the enactment of this Act, the Secretary shall provide to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that contains all findings made in carrying out the study under subsection (a), including an analysis of—

(A) the categories of non-payment stablecoins, including the benefits and risks of technological design features;

(B) the participants in non-payment stablecoin arrangements;
(C) utilization and potential utilization of non-payment stablecoins;
(D) nature of reserve compositions;
(E) types of algorithms being employed;
(F) governance structure, including aspects of decentralization;
(G) nature of public promotion and advertising; and
(H) clarity and availability of consumer notices disclosures.

(c) ENDOGENOUSLY COLLATERALIZED STABLECOIN DEFINED.—In this section, the term “endogenously collateralized stablecoin” means any digital asset—
(1) in which its originator has represented will be converted, redeemed, or repurchased for a fixed amount of monetary value; and
(2) that relies solely on the value of another digital asset created or maintained by the same originator to maintain the fixed price.

SEC. 11. REPORT ON RULEMAKING STATUS.
Not later than 6 months after the date of enactment of this Act, the primary Federal payment stablecoin regulators shall provide a status update on the development of the rulemaking under this Act to the Committee on Financial Services of the House of Representatives and the...
Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 12. AUTHORITY OF BANKING INSTITUTIONS.

(a) Rule of Construction.—Nothing in this Act may be construed to limit the authority of a depository institution, Federal credit union, State credit union, or trust company to engage in activities permissible pursuant to applicable State and Federal law, including—

(1) accepting or receiving deposits and issuing digital assets that represent deposits;

(2) utilizing a distributed ledger for the books and records of the entity and to affect intrabank transfers; and

(3) providing custodial services for payment stablecoins, private keys of payment stablecoins, or reserves backing payment stablecoins.

(b) Treatment of Custody Activities.—The appropriate Federal banking agency (as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the National Credit Union Administration (in the case of a credit union), and the Securities and Exchange Commission may not require a depository institution, national bank, Federal credit union, State credit union, or trust company, or any affiliate thereof—
(1) to include assets held in custody as a liability on any financial statement or balance sheet, including payment stablecoin custody or safekeeping activities;

(2) to hold additional regulatory capital against assets in custody or safekeeping, except as necessary to mitigate against operational risks inherent with the custody or safekeeping services, as determined by—

(A) the appropriate Federal banking agency;

(B) the National Credit Union Administration (in the case of a credit union);

(C) a State bank supervisor (as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)); or

(D) a State credit union supervisor (as defined under section 6003 of the Anti-Money Laundering Act of 2020);

(3) to recognize a liability for any obligations related to activities or services performed for digital assets that the entity does not own if that liability would exceed the expense recognized in the income statement as a result of the corresponding obligation.
(c) DEFINITIONS.—In this section:

(1) DEPOSITORY INSTITUTION.—The terms “depository institution” has the meaning given that term under section 3 of the Federal Deposit Insurance Act.

(2) CREDIT UNION TERMS.—The terms “Federal credit union” and “State credit union” have the meaning given those terms, respectively, under section 101 of the Federal Credit Union Act.

SEC. 13. CLARIFYING THAT PAYMENT STABLECOINS ARE NOT SECURITIES OR COMMODITIES.

(a) INVESTMENT ADVISERS ACT OF 1940.—Section 202(a)(18) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(18)) is amended by adding at the end the following: “The term ‘security’ does not include a payment stablecoin issued by a permitted payment stablecoin issuer, as such terms are defined, respectively, in section 2 of the Clarity for Payment Stablecoins Act of 2023.”.

(b) INVESTMENT COMPANY ACT OF 1940.—Section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(36)) is amended by adding at the end the following: “The term ‘security’ does not include a payment stablecoin issued by a permitted payment stablecoin issuer, as such terms are defined, respectively, in section 2 of the Clarity for Payment Stablecoins Act of 2023.”.
(c) Securities Act of 1933.—Section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) is amended by adding at the end the following: “The term ‘security’ does not include a payment stablecoin issued by a permitted payment stablecoin issuer, as such terms are defined, respectively, in section 2 of the Clarity for Payment Stablecoins Act of 2023.”.

(d) Securities Exchange Act of 1934.—Section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)) is amended by adding at the end the following: “The term ‘security’ does not include a payment stablecoin issued by a permitted payment stablecoin issuer, as such terms are defined, respectively, in section 2 of the Clarity for Payment Stablecoins Act of 2023.”.

(e) Securities Investor Protection Act of 1970.—Section 16(14) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll(14)) is amended by adding at the end the following: “The term ‘security’ does not include a payment stablecoin issued by a permitted payment stablecoin issuer, as such terms are defined, respectively, in section 2 of the Clarity for Payment Stablecoins Act of 2023.”.