

Lummis-Gillibrand Payment Stablecoin Act of 2024

Section 1—Short Title

- This Act may be cited as the “Lummis-Gillibrand Payment Stablecoin Act”

Section 2—Definitions

Section 3—General Requirements for Payment Stablecoin Issuers

- Payment stablecoins can only be issued in the United States by:
 - State non-depository trust companies (non-banks), who are registered with the Federal Reserve and for whom nominal value of all payment stablecoins is under \$10bn.
 - Depository institutions authorized as a national payment stablecoin issuer.
- All other stablecoin issuance is prohibited.
- Algorithmic payment stablecoins are prohibited.
- The Federal Reserve will issue rules providing limited safe harbors, including pilot programs and payment stablecoins subject to foreign financial regulatory authority.

Section 4—Prudential Requirements Applicable to All Payment Stablecoin Issuers

- Strict segregation requirements, with all payment stablecoins belonging to customers, and rehypothecation of payment stablecoin reserves is prohibited.
- Monthly customer disclosure requirements and regular examinations by bank supervisors, and a requirement that stablecoins be redeemed within one day of a customer request.
- Limitation on activities of issuer to payment stablecoin activities.
- Comprehensive third-party risk management on service providers (except unhosted wallets), and grants the Federal Reserve supervision authority except when the service provider is already regulated by another federal or state financial regulator.
- Applies Gramm-Leach-Bliley’s customer privacy requirements to payment stablecoin issuers and service providers.
- Classifies payment stablecoin issuers as ‘banks’ under the Bank Secrecy Act.

Section 5—Holding Company Supervision, Affiliates, Mergers, and Acquisitions of Payment Stablecoin Issuers

- Establishes that a subsidiary of an existing insured depository institution that issues a payment stablecoin is subject to the Bank Holding Company Act.
- Creates a tailored holding company supervision framework for depository institution issuers that are standalone (not within a bank holding company).
- Provides that a legal or natural person cannot obtain a controlling interest in a payment stablecoin issuer unless the person is engaged in predominantly ‘financial’ activities.
- Permits non-financial affiliates of the payment stablecoin issuer up to 25% of the revenue of the holding company.
- Requires approval for mergers and acquisitions.

Section 6—Issuance of Payment Stablecoins by Non-Depository Trust Companies (Non-Bank State Pathways)

- Authorizes State non-depository trust company to issue payment stablecoins up to \$10bn, with required transition planning at \$9bn and an expedited conversion process.
- Creates a Federal floor for application standards and regulatory requirements (including basic capital, liquidity and risk management standards), with the Federal Reserve required to issue rules in consultation with State bank supervisors.
- Upon chartering by a State bank supervisor, a State non-depository trust company must register with the Federal Reserve before issuing payment stablecoins within 180 days. The bill creates completeness requirements for the Federal Reserve to comply with, and registration is approved unless the Board of Governors, by 2/3 vote, orders denial of the registration.
- Requires call reports and regular examinations by State bank supervisors, and specifies that payment stablecoin reserves can be cash, demand deposits (up to the FDIC insurance limit), Treasuries or repurchase agreements.
- The bill requires trust companies to use a subcustodian that is a depository institution (like SEC Qualified Custody) for custody, but maintains the trust company’s role as custodian of record.

Section 7—Issuance of Payment Stablecoins by Depository Institutions (Bank Pathway – Federal and State)

- Authorizes a limited-purpose State/OCC depository institution to issue payment stablecoins, with no cap on the issuance amount.
- Creates a Federal floor for application standards and regulatory requirements (including enhanced capital, liquidity and risk management standards), with the Federal Reserve required to issue rules in consultation with State bank supervisors and the OCC.
- While undergoing the chartering process with a State bank supervisor or the OCC, a prospective depository institution must apply to the Federal Reserve before issuing payment stablecoins for authorization as a national payment stablecoin issuer. The bill creates completeness requirements for the Federal Reserve to comply with, and a written decision must be rendered by majority vote of the Board of Governors within 180 days.
- Requires call reports and regular examinations by State bank supervisors, and specifies that payment stablecoin reserves can be cash, demand deposits (up to the FDIC insurance limit), Treasuries or repurchase agreements.
- Requires the Federal Reserve, in consultation with the OCC and State bank supervisors to establish a process for a non-depository institution to convert into a depository institution.

Section 8—Certificate of Authority to Commence Banking for Certain National Associations

- Amends Section 5169 of the Revised Statutes (12 U.S.C 27) to authorize a limited-purpose OCC depository institution to issue payment stablecoins, with exactly the same powers as a limited-purpose State depository institution.

Section 9—Appointment of FDIC as Conservator or Receiver of Payment Stablecoin Issuers

- A comprehensive receivership framework is necessary to promote confidence in a payment stablecoin issuer and to give peace of mind to customers that if something goes wrong, they will get their hard-earned money back.
- A detailed receivership regime is established under the FDIC for all payment stablecoin issuers, including order of priority, validity of claims and classification of payment stablecoins as customer assets.
- This section was adapted from the existing Federal Deposit Insurance Act.
- The FDIC cannot access a line of credit from Treasury, and must use the capital of the institution and return on assets to fund the receivership.

Section 10—Conforming Amendments to Federal Deposit Insurance Act

- Amends Section 109(b)(2) of title 11, U.S.C., and Section 13(e)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(1)).

Section 11—Enforcement

- Establishes comprehensive enforcement powers for State bank supervisors, the OCC and Federal Reserve, including unsafe/unsound practices, cease and desist authority and civil monetary penalties.
- The legislation grants the Federal Reserve **or** state/OCC the ability to take independent enforcement action against a depository institution issuer.
- The Federal Reserve **and** State must act jointly to take enforcement action against a trust company below \$10bn.
- Authorizes the Board to bring a civil action to enjoin failures to register/obtain a charter, and also grants the Board removal and prohibition authority.
- Creates due process protections, a hearing process and judicial review.

Section 12—Interoperability Standards

- Authorizes the Federal Reserve, in consultation with the OCC, State bank supervisors, the National Institute of Standards and Technology, and other relevant standard setting organizations, to issue rules creating interoperability standards for payment stablecoins.

Section 13—Reservation of Authority

- Specifies that nothing in this legislation is intended to limit the existing authority of State or Federal financial regulators with respect to this Act, preempt State laws or impair antitrust provisions.
- Specifies that nothing in the Act shall affect the ability of insured depository institutions to issue liabilities on a distributed ledger.

Section 14—Accounting Treatment of Custodial Assets

- Provides that crypto assets held in custody are off-balance sheet for accounting purposes.

Section 15—Effective Date; Implementation and Rules

- Creates an effective date of the earlier of: (1) 1.5 years after enactment; or (2) 90 days after the Federal Reserve completes all required rulemaking.

- Establishes transitional provisions for existing payment stablecoin issuers (non-depository and depository institutions), including authorizing continued issuance while an application is pending.
- Asserts that Congress finds that the Federal Reserve should consider changes and reasonably expected changes regarding the financial company marketplace, the technology for delivering financial services, and the ability of financial companies to compete effectively using technology. Additionally, states that Congress asserts that the activities are analogous to activities permissible for banks under the Bank Holding Company Act, and should be considered financial in nature or incidental to a financial activity.
- Requires a rulemaking report by the Federal Reserve within 180 days.