Lummis-Gillibrand Payment Stablecoin Act Section-by-Section

Section 1—Definitions

Section 2—General Requirements

- Establishes a requirement to be properly chartered in compliance with this act in order to issue a payment stablecoin, with civil penalties.
- State non-depository trust companies are permitted to issue a payment stablecoin up to $10 billion (with transition planning and expedited conversion processes as appropriate). There is no role for the OCC trust charter.
- The legislation authorizes a limited-purpose state/OCC depository institution charter for the exclusive purpose of payment stablecoin activities up to any amount.
- Existing institutions must charter a new subsidiary to issue a payment stablecoin.
- Algorithmic payment stablecoins are prohibited.

Section 3—Prudential Standards Applicable to All Issuers

- Strict segregation requirements with all payment stablecoins belonging to customers and rehypothecation of payment stablecoin reserves 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 self-hosted wallets) and grants the Federal Reserve supervision authority except when the service provider is already regulated by another federal or state financial regulator.
- Applies the *Gramm-Leach-Bliley Act's* customer privacy requirements to payment stablecoin issuers and service providers.
- Classifies payment stablecoin issuers as 'financial institutions' under the *Bank Secrecy Act.*

Section 4—Holding Company Supervision for Depository Institutions

- 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 5—State Non-Depository Trust Company Issuance of Payment Stablecoins

- Authorizes state non-depository trust company to issue payment stablecoins up to $10 billion, with required transition planning at $9 billion and an expedited conversion process to become a depository institution.
- 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 a 2/3 vote, prevents 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 6—Depository Institution Issuance of Payment Stablecoins

- 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 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.

Section 7—Conforming Amendments to National Bank Act

- Implements section 6 within the *National Bank Act* 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 8—Receivership for 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 payment stablecoin issuers including order of priority, validity of claims and classification as customer assets not belonging to the issuer.
- 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 9—Conforming Amendments to Federal Deposit Insurance Act

- Implements section 8 within the *Federal Deposit Insurance Act.*

Section 10—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 $10 billion.
- 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 11—Interoperability Standards

- Authorizes the Federal Reserve, in consultation with numerous entities, to issue rules creating interoperability standards for payment stablecoins.

Section 12—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 13—Accounting Treatment of Custodial Assets

- Provides that crypto assets held in custody are off-balance sheet for accounting purposes, overruling SEC Staff Accounting Bulletin 121.

Section 14—Effective Dates and Transitional Provisions

- 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, including authorizing continued issuance while an application is pending.
- Requires a rulemaking report by the Federal Reserve within 180 days.