Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act

Sen. Bill Hagerty, Chairman Tim Scott, Sen. Kirsten Gillibrand, Sen. Cynthia Lummis

Section-by-Section

Section 1 – Short Title

Guiding and Establishing National Innovation for U.S. Stablecoins of 2025 or the "GENIUS Act."

Section 2 – Definitions

Defines key terms, including: Digital Asset, Distributed Ledger, and Payment Stablecoin.

Section 3 – Limitation on who may issue a payment stablecoin

Establishes that only permitted payment stablecoin issuers can legally issue payment stablecoins in the United States and prohibits unauthorized individuals or organizations from creating and distributing payment stablecoins within the United States.

Section 4 – Requirements for issuing payment stablecoins

Requires that permitted payment stablecoin issuers must maintain 1:1 reserves (cash, short-term Treasuries, central bank deposits, etc.), publicly disclose redemption policies and their reserves and subject the reserve information to an examination by a registered public accounting firm. Issuers face criminal penalties for the knowingly false certifications of reserve reports. Permitted payment stablecoin issuers below $10 billion in issuance can opt for state regulation provided that the state established framework is substantially similar to a national federal standard which is certified by the Treasury Secretary, who has discretion to reject the certification. Larger state issuers must transition to federal regulation or halt new issuance once they surpass the $10 billion threshold, unless they obtain a waiver from their regulator. The Federal Reserve will be the primary Federal regulator for depository institutions and subsidiaries of insured depository institutions above $10 billion, while the OCC will be the primary Federal regulator for nonbank stablecoin issuers above $10 billion.

Section 5 – Approval of Subsidiaries of Insured Depository Institutions and Federal Qualified Nonbank Payment Stablecoin Issuers

Establishes that the primary federal payment stablecoin regulator will review applications from subsidiaries of insured depository institutions and OCC-regulated nonbank entities seeking to issue stablecoins. Decisions must be made within 120 days, with denials requiring detailed explanations and the potential for appeals. If the primary federal regulator fails to render a decision on an application within 120, the application is approved. The OCC must report annually to Congress on applications that have been pending for 6 months or longer and issue rules pertaining to the regulation of the issuance of stablecoins in-line with Section 4.

Section 6 – Supervision and enforcement with respect to subsidiaries of insured depository institutions and comptroller-regulated entities

Requires that subsidiaries of insured depository institutions are supervised like their parent banks. Nonbank entities, which are regulated by the OCC, must submit reports and undergo examinations. Regulators can prohibit stablecoin issuance, issue cease-and-desist orders, and impose civil penalties for violations. Enforcement procedures follow existing banking laws. State qualified issuers are not subject to these requirements.

Section 7 – State Qualified Payment Stablecoin Issuers

Establishes that state regulators have primary supervisory authority over state-qualified stablecoin issuers but voluntarily may enter into an agreement with the Federal Reserve Board for oversight. Ongoing information sharing between state and federal regulators is required. In exigent circumstances, the Federal Reserve and the OCC can take enforcement actions but only if they provide a state regulator with prior notice.

Section 8 – Customer Protection

Establishes that only regulated entities can provide stablecoin custodial services. Custodians must segregate customer assets, generally avoid commingling funds with limited exceptions, and protect customers from credit claims. Hardware and software providers for self-custody are exempt from these requirements.

Section 9 – Treatment of Insolvent Payment Stablecoin Issuers

Establishes priority for stablecoin holders in case of issuer insolvency and clarifies that in any bankruptcy or insolvency proceeding, claims of stablecoin holders take precedence over all other claims against the issuer. Clarifies the specific bankruptcy law standards that applies for banks and non-banks.

Section 10 – Interoperability standards

Requires federal payment stablecoin regulators in collaboration with NIST, standard-setting organizations, and state governments, to evaluate the need for interoperability standards for stablecoin issuers. If necessary, regulators may establish standards through a rulemaking process.

Section 11 – Study on Endogenously Collateralized Stablecoins

Requires the Treasury Department to conduct a comprehensive study on endogenously collateralized stablecoins, examining their utilization, reserve compositions, algorithms, consumer disclosures, technological designs, governance, and participants. An endogenously collateralized stablecoin is a stablecoin backed by another digital asset created by the same issuer for the sole purpose of acting as collateral for that stablecoin.

Section 12 – Report on Rulemaking Status

Requires the primary federal payment stablecoin regulators to provide a status update on the development of rulemaking to the Senate Banking and House Financial Services Committees. Also requires the Federal Reserve and the OCC to submit annual reports on payment stablecoin industry trends and potential market risks to Congress and the Director of the Office of Financial Research. Findings of such annual reports are incorporated into the Financial Stability Oversight Council's risk analysis.

Section 13 – Authority of Banking Institutions

Prohibits regulators from requiring banking institutions to treat custodied digital assets as liabilities or hold additional capital against them, except for operational risk management. This section ensures guidance such as Staff Accounting Bulletin (SAB) 121 can never be promulgated again.

Section 14 – Amendments to clarify that payment stablecoins are not securities or commodities

Clarifies that the term "security" does not include a payment stablecoin issued by a permitted payment stablecoin issuer.

Section 15 – Reciprocity for stablecoins issued in overseas jurisdictions

Promotes interoperability by directing the Federal Reserve and the Treasury Secretary to establish reciprocal arrangements with foreign jurisdictions that have similar stablecoin regulations.

Section 16 – Effective Date

Provides for an effective date and the requirement of regulators to notify Congress. The act will take effect on the earlier of either 18 months after its enactment or 120 days after the primary federal regulator issues any final regulation implementing the Act. Also outlines the ability of regulators to waive requirements of the act when issuers have pending applications.