118TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
118–492

CLARITY FOR PAYMENT STABLECOINS ACT OF 2023

MAY 7, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCHENRY, from the Committee on Financial Services, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 4766]

The Committee on Financial Services, to whom was referred the bill (H.R. 4766) to provide for the regulation of payment stablecoins, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

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 respect to a permitted payment stablecoin issuer, the term "institution-affiliated party" means any director, 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 Insurance Act (12 U.S.C. 1813); and

(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(10) MONETARY VALUE.—The term "monetary value" means a national currency or deposit (as defined under Section 3 of the Federal Deposit Insurance Act) denominated in a national currency.

(11) NATIONAL CURRENCY.—The term "national 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" means a digital asset—

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

(B) 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

(C) 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 payment 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, association (incorporated or unincorporated), trust, estate, 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 depository institution (other than an insured credit union) or a subsidiary of an insured depository institution (other than an insured credit union), the appropriate Federal banking agency of such insured depository 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 Administration;

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

(iv) with respect to any entity chartered by the Comptroller, the Comptroller.

(B) PRIMARY FEDERAL PAYMENT STABLECOIN REGULATORS.—The term "primary Federal payment stablecoin regulators" means the Comptroller, the Board, the Corporation, and the National Credit Union Administration.

(17) REGISTERED PUBLIC ACCOUNTING FIRM.—The term "registered public accounting firm" has the meaning given that term under section 2 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 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 Federal 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; or

(v) central bank reserve deposits;

(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 circumstances requires otherwise.

(2) EVALUATION OF APPLICATIONS.—A complete 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 depository institution, the subsidiary of the applicant), based on the financial condition and resources, 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 DENIAL.—

(A) TIMING.—The primary Federal payment stablecoin regulator shall render a decision 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 30 days after the date of receipt of 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 payment 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 permitted 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 (e) 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 is 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 penalties described under subparagraph (B), a permitted 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 violation continues.

(D) PROCEDURE.—Any penalty imposed under this paragraph may be assessed and collected by the primary Federal payment stablecoin regulator pursuant to the procedures set forth in section 8(i)(2) of the Federal Deposit 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 enactment 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 title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 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 supersede 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 permitted payment stablecoins, if the person—

(1) is subject to—

(A) supervision or regulation by a primary Federal payment stablecoin regulator or a primary 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 safekeeping of the customer's payment stablecoins or private keys.

SEC. 9. INTEROPERABILITY STANDARDS.

The primary Federal payment stablecoin regulators, in consultation with the National Institute of Standards and Technology, other relevant standard setting organizations, and State governments, shall assess and, if necessary, 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 promote 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.".

PURPOSE AND SUMMARY

Introduced on July 20, 2023, by Representative Patrick McHenry, H.R. 4766, the *Clarity for Payment Stablecoins Act of 2023*, provides a clear federal regulatory framework for issuing payment stablecoins intended to be used as a means of payment. The bill balances customer protection with innovation by establishing a framework that allows new entrants into the marketplace.

BACKGROUND AND NEED FOR LEGISLATION

Stablecoins are a digital asset designed to offer price stability to enable them to be used in a similar manner to currency. Stablecoins seek to be less volatile than other digital assets by

being pegged to another asset's value. Today, stablecoins are primarily used in the United States to facilitate trading, lending, or borrowing of other digital assets, predominantly on or through digital asset trading platforms. Stablecoins provide protection for individuals because they allow individuals to enter and exit the digital asset markets efficiently.

Currently, there is no federal regulatory framework for stablecoin issuers. Most states have yet to create regulatory frameworks for digital asset businesses, forcing potential stablecoin issuers to leverage existing state money transmitter statutes. But most state money transmitter statutes were not crafted to address digital asset businesses, including payment stablecoin issuers and related activities. New York is an example of one state that has established a strong regulatory framework specific to firms engaged in virtual currency activities. The framework sets forth baseline requirements focused on the backing and redeemability of the payment stablecoin, reserves, and attestations. New York State Department of Financial Services (NYDFS) evaluates a range of additional risks prior to authorizing a regulated virtual currency entity to issue a stablecoin, including but not limited to cybersecurity; Bank Secrecy Act/anti-money-laundering (BSA/AML) and sanctions compliance; consumer protection; and safety and soundness of the issuing entity, among others. House Financial Services Committee (Committee) Republicans believe that while payment stablecoins hold promise as a potential cornerstone of a modern payment system, they must be issued under a clear regulatory framework.

Committee Republicans are not alone in recognizing the tremendous potential for payment stablecoins and the need for a federal regulatory framework. In November 2021, the President's Working Group on Financial Markets, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency released its *Report on Stablecoins* (PWG Report), which included a proposed federal regulatory framework to address existing and potential risks of stablecoins. The PWG Report identified several potential risks and benefits while recommending that Congress act promptly to enact legislation ensuring stablecoins are subject to a federal prudential regulatory framework. Specifically, the PWG Report recommended that Congress enact legislation requiring stablecoins to be issued only by insured depository institutions.

During the 117th Congress, following the PWG Report's release, the Committee began developing legislation to establish a federal framework for issuing payment stablecoins for both banks and nonbanks. During this process, Committee Republicans developed a framework, hosted numerous roundtables, and participated in two hearings focused on the aspects of payment stablecoin legislation.

At a hearing in December 2021, Paxos's CEO and Co-Founder, Charles Cascarilla, highlighted existing issues within the United States' payment system and potential benefits of stablecoins:

> "At any given time, there are trillions of dollars' worth of capital held up in transactions that have not yet settled. Remittance recipients and other payees don't have access to their funds. Money that could help others or be productively deployed is unnecessarily trapped in limbo. Whole industries have developed to take advantage of these

> delays, often to the detriment of those who can least afford it. How many overdraft fees could have been avoided if people received their money immediately after it was sent? [. . .]Digital assets, and the blockchains they're built on, offer a better alternative."

During the same hearing, Stellar Development Foundation CEO and Executive Director, Denelle Dixon, highlighted a pilot program that Money Gram International was testing on the Stellar network to demonstrate that stablecoins are actively solving the issues Mr. Cascarilla raised in his testimony. Several witnesses also highlighted the disparities between the United States' approach to regulation compared to other jurisdictions.

At a hearing in February 2022, the Department of the Treasury (Treasury) also highlighted the risks of Congress not enacting a comprehensive federal regulatory framework for payment stablecoin issuers. The Under Secretary of the Treasury for Domestic Finance, Nellie Liang, emphasized that:

> "Stablecoins are not subject to standards to address concerns about run risk, payment system risk, or concentration of economic power. Some of the largest stablecoin issuers operate with limited regulatory oversight, raising significant questions about whether these stablecoins are adequately backed and other aspects of their operations. The regulatory frameworks that apply to stablecoin issuers and service providers are inconsistent, creating opportunities for regulatory arbitrage and uncertainty among stablecoin users."

The Financial Stability Oversight Council (FSOC) also recognizes the need for legislation. At a hearing in May 2022, Treasury Secretary Janet Yellen testified before the Committee in her capacity as Chair of FSOC and underscored the urgency of stablecoin legislation, explaining that FSOC is "eager to work with [the Committee] to ensure that payment stablecoins and their arrangements are subject to a federal prudential framework on a consistent and comprehensive basis." FSOC emphasized this point in its October 2022 Report on Digital Asset Financial Stability Risks and Regulation, recommending that "Congress pass legislation that would create a comprehensive federal prudential framework for stablecoin issuers that also addresses the associated market integrity, investor and consumer protection, and payment system risks."

During the 118th Congress, the Committee held three hearings and several member roundtables focused on payment stablecoins. Through these hearings and roundtables, the Committee received feedback and input from Republican and Democratic members. This feedback resulted in the introduction of H.R. 4766, the *Clarity for Payment Stablecoins Act of 2023*.

The *Clarity for Payment Stablecoins Act* sets minimum standards for a potential issuer to be authorized to issue payment stablecoins in the United States. The bill includes multiple pathways—not just through banks—for payment stablecoin issuers to obtain approval to issue a payment stablecoin. It is important for there to be pathways for nonbanks to obtain approval. Former Chief Policy Officer at the Blockchain Association, Jake Chervinsky, testified before the Committee on April 19, 2023, and explained, "forcing all stablecoin

issuers to obtain bank charters would severely restrict innovation without any attendant regulatory benefit, since stablecoins issued by properly regulated non-bank firms will be equally safe and sound as those issued by banks."

The bill provides three pathways to obtain Federal approval to issue payment stablecoins. First, banks and credit unions may obtain approval from their appropriate Federal banking agency or the National Credit Union Administration Board (NCUA), as appropriate, to issue a payment stablecoin through a subsidiary. Second, non-bank entities chartered by the Office of the Comptroller of the Currency (OCC) may obtain approval from the OCC to issue a payment stablecoin. Third, non-banks, non-OCC chartered entities, may obtain approval from the Federal Reserve to issue a payment stablecoin.

In addition, the bill provides a state pathway for obtaining approval to issue payment stablecoins. Given that some states have enacted robust regulatory frameworks for payment stablecoins, and others may in the future, the *Clarity for Payment Stablecoins Act of 2023* preserves a state pathway. During a hearing before the Committee on June 13, 2023, the Co-Founder, Chairman, and CEO of Circle, Jeremy Allaire, explained that "in the U.S., the states have been the laboratory of fintech innovation for the past 25 years, and we should celebrate that fact. Indeed, the innovations that we are addressing today became possible only through our broad-based state regulatory system." NYDFS Superintendent Adrienne Harris likewise testified that:

> "The best path forward is to build on the well-established dual banking regulatory system—where state and federal regulators share supervisory and regulatory authority. The dual banking system takes advantage of the comparative strengths of federal and state regulators. Federal regulators are able to comprehensively address macroprudential considerations and establish foundational consumer and market protections. Meanwhile, states can act more nimbly to respond to industry developments and support responsible innovation given their ability to modernize regulations more quickly and leverage their more immediate understanding of consumer needs."

The *Clarity for Payment Stablecoins Act* preserves the state pathway for payment stablecoin issuers by emulating core aspects of the United States' dual-banking system. Under the state pathway, an entity that has received approval from a state agency with regulatory and supervisory authority over payment stablecoin issuers may issue payment stablecoins provided that it meets certain minimum standards established in the bill. These "state qualified payment stablecoin issuers" are subject to oversight by the Federal Reserve to ensure that they comply with the minimum standards.

As the PWG report, testimonies from Secretary Yellen and Undersecretary Liang, and the testimonies of several other witnesses have made clear, there is a need for uniform standards for payment stablecoin issuers in the United States. The *Clarity for Payment Stablecoins Act* addresses this need by establishing requirements for reserves, redemption, attestations, and examinations, as well as minimum standards for capital, liquidity, and risk management.

The bill further establishes, at a minimum, that payment stablecoin issuers must disclose and submit, at least monthly, a certification regarding the reserves. The Committee encourages further development in this area to promote greater transparency on reserves, including using developing technology such as zero knowledge proofs, which may eventually allow for real-time verification of reserves.

In the absence of legislation and clear jurisdictional boundaries, there will continue to be substantial regulatory uncertainty. First, under the status-quo, payment stablecoins and activities involving payment stablecoins may fall under the jurisdiction of several federal regulators depending on the composition of the stablecoin reserve assets and the range of activities in which an issuer engages. For example, the Securities and Exchange Commission (SEC) Chairman Gary Gensler has asserted that "stablecoins may have attributes of investment contracts," which would subject stablecoins to SEC oversight. Yet, Commodity Futures Trading Commission (CFTC) Chairman Rostin Benham has asserted that stablecoins are commodities under existing law and regulation, thereby subjecting them to CFTC oversight. As Columbia Business School Adjunct Professor Austin Campbell testified in an April 19, 2023, Committee hearing:

> "Someone attempting to launch or manage a stablecoin in the United States doesn't know if they can issue on a public blockchain, doesn't know if they can get banking relationships, and doesn't know if they have to answer to a state financial regulator, a federal banking regulator, or the SEC, who all often have mutually contradictory answers as to responsibilities."

The *Clarity of Payment Stablecoins Act* resolves this uncertainty by establishing a clear prudential regulatory framework for payment stablecoins. The *Clarity for Payment Stablecoins Act* also addresses the market confusion and disruption that resulted from the SEC Staff Accounting Bulletin No. 121 (SAB 121). SAB 121 upends precedent regarding the accounting treatment of custodial assets for banks and makes it much more difficult for financial institutions to provide custodial services for digital assets, including payment stablecoins, by requiring certain entities to record on their balance sheet a liability and a corresponding asset at the fair value of the digital assets that they are safeguarding and includes certain disclosure requirements. As Davis Polk & Wardwell LLP Partner Zachary Zweihorn testified in an April 27, 2023, Committee hearing, "the interaction of SAB 121 and the broker-dealer capital rules also make broker-dealer custody of digital assets economically infeasible—similar to concerns raised with regard to custody by banks." The *Clarity for Payment Stablecoins Act* resolves this market disruption by prohibiting Federal agencies from implementing SAB 121 in its current form.

As Treasury Under Secretary Liang testified, "if stablecoins are backed by high-quality assets, their risk is quite low, and they can form a building block—a cornerstone—of a payment system." The *Clarity for Payment Stablecoins Act* establishes robust standards that will ensure the integrity of payment stablecoin in the U.S. This comprehensive framework will enable further development of

stablecoin uses, many of which will have great benefit for our financial system.

RELATED HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop H.R. 4766:

118th Congress

The Committee on Financial Services held a hearing on March 8, 2023, titled "The Federal Reserve's Semi-Annual Monetary Policy Report."

The Subcommittee on Digital Assets, Financial Technology and Inclusion of the Committee on Financial Services held a hearing on March 9, 2023, titled "Coincidence or Coordinated? The Administration's Attack on the Digital Asset Ecosystem."

The Committee on Financial Services held a hearing on April 18, 2023, titled "Oversight of the Securities and Exchange Commission."

The Subcommittee on Digital Assets, Financial Technology and Inclusion of the Committee on Financial Services held a hearing on April 19, 2023, titled "Understanding Stablecoins' Role in Payments and the Need for Legislation."

The Committee on Financial Services held a hearing on May 16, 2023, titled "Oversight of Prudential Regulators."

The Subcommittee on Digital Assets, Financial Technology and Inclusion of the Committee on Financial Services held a hearing on May 18, 2023, titled "Putting the 'Stable' in 'Stablecoins:' How Legislation Will Help Stablecoins Achieve Their Promise."

The Committee on Financial Services held a hearing on June 13, 2023, titled "The Future of Digital Assets: Providing Clarity for the Digital Asset Ecosystem."

The Committee on Financial Services held a hearing on June 21, 2023, titled "The Federal Reserve's Semi-Annual Monetary Policy Report."

117th Congress

The Subcommittee on Oversight and Investigations held a hearing on June 30, 2021, titled "Will the Crypto Frenzy Lead to Financial Independence and Early Retirement or Financial Ruin?"

The Committee on Financial Services held a hearing on December 8, 2021, titled "Digital Assets and the Future of Finance: Understanding the Challenges and Benefits of Financial Innovation in the United States."

The Committee on Financial Services held a hearing on February 8, 2022, titled "Digital Assets and the Future of Finance: The President's Working Group on Financial Markets' Report on Stablecoins."

The Committee on Financial Services held a hearing on March 2, 2022, titled "Monetary Policy and the State of the Economy."

The Committee on Financial Services held a hearing on May 26, 2022, titled "Digital Assets and the Future of Finance: Examining the Benefits and Risks of a U.S. Central Bank Digital Currency."

The Committee on Financial Services held a hearing on June 23, 2022, titled "Monetary Policy and the State of the Economy."

116th Congress

The Committee on Financial Services held a hearing on July 27, 2019, titled "Examining Facebook's Proposed Cryptocurrency and Its Impact on Consumers, Investors, and the American Financial System."

The Committee on Financial Services held a hearing on October 23, 2019, titled "An Examination of Facebook and Its Impact on the Financial Services and Housing Sectors."

115th Congress

The Subcommittee on Capital Markets held a hearing on March 14, 2018, titled "Examining the Cryptocurrencies and ICO Markets."

The Subcommittee on Monetary and Trade held a hearing on July 18, 2018, titled "The Future of Money: Digital Currency."

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 27, 2023, and ordered H.R. 4766 to be reported favorably to the House as amended by a recorded vote of 34 ayes to 16 nays (Record vote no. FC–86), a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mr. McHenry by a recorded vote of 34 ayes to 16 nays (Record vote no. FC–85).

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the order to report legislation and amendments thereto. H.R. 4766 was ordered reported favorably to the House as amended by a recorded vote of 34 ayes to 16 nays (Record vote no. FC–86), a quorum being present.

An amendment offered by Mr. Foster, no. 1, was not agreed to by a recorded vote of 21 ayes to 28 nays, a quorum being present (Record vote no. FC–82).

An amendment offered by Mrs. Beatty, no. 4, was not agreed to by a recorded vote of 21 ayes to 29 nays, a quorum being present (Record vote no. FC–83).

An amendment by Mr. Sherman, no. 5, was not agreed to by a recorded vote of 16 ayes to 34 nays, a quorum being present (Record vote no. FC–84).

Record vote no.
FC- 86

Representative	Yea	Nay	Present
Mr. McHenry	X		
Mr. Hill	X		
Mr. Lucas	X		
Mr. Sessions	X		
Mr. Posey	X		
Mr. Luetkemeyer	X		
Mr. Huizenga	X		
Mrs. Wagner	X		
Mr. Barr	X		
Mr. Williams (TX)	X		
Mr. Emmer	X		
Mr. Loudermilk	X		
Mr. Mooney	X		
Mr. Davidson	X		
Mr. Rose	X		
Mr. Steil	X		
Mr. Timmons	X		
Mr. Norman	X		
Mr. Meuser	X		
Mr. Fitzgerald	X		
Mr. Garbarino	X		
Mrs. Kim	X		
Mr. Donalds	X		
Mr. Flood	X		
Mr. Lawler	X		
Mr. Nunn	X		
Ms. De La Cruz	X		
Mrs. Houchin	X		
Mr. Ogles	X		

Representative	Yea	Nay	Present
Ms. Waters		X	
Mrs. Velázquez		X	
Mr. Sherman		X	
Mr. Meeks	X		
Mr. Scott			
Mr. Lynch		X	
Mr. Green		X	
Mr. Cleaver			
Mr. Himes	X		
Mr. Foster		X	
Mrs. Beatty		X	
Mr. Vargas		X	
Mr. Gottheimer	X		
Mr. Gonzalez		X	
Mr. Casten		X	
Ms. Pressley		X	
Mr. Horsford		X	
Ms. Tlaib		X	
Mr. Torres	X		
Ms. Garcia		X	
Ms. Williams (GA)		X	
Mr. Nickel	X		
Ms. Pettersen		X	

Record vote no.
FC- 85

Representative	Yea	Nay	Present
Mr. McHenry	X		
Mr. Hill	X		
Mr. Lucas	X		
Mr. Sessions	X		
Mr. Posey	X		
Mr. Luetkemeyer	X		
Mr. Huizenga	X		
Mrs. Wagner	X		
Mr. Barr	X		
Mr. Williams (TX)	X		
Mr. Emmer	X		
Mr. Loudermilk	X		
Mr. Mooney	X		
Mr. Davidson	X		
Mr. Rose	X		
Mr. Steil	X		
Mr. Timmons	X		
Mr. Norman	X		
Mr. Meuser	X		
Mr. Fitzgerald	X		
Mr. Garbarino	X		
Mrs. Kim	X		
Mr. Donalds	X		
Mr. Flood	X		
Mr. Lawler	X		
Mr. Nunn	X		
Ms. De La Cruz	X		
Mrs. Houchin	X		
Mr. Ogles	X		
Ms. Waters		X	
Mrs. Velázquez		X	
Mr. Sherman		X	
Mr. Meeks	X		
Mr. Scott			
Mr. Lynch		X	
Mr. Green		X	
Mr. Cleaver			
Mr. Himes	X		
Mr. Foster		X	
Mrs. Beatty		X	
Mr. Vargas		X	
Mr. Gottheimer	X		
Mr. Gonzalez		X	
Mr. Casten		X	
Ms. Pressley		X	
Mr. Horsford		X	
Ms. Tlaib		X	
Mr. Torres	X		
Ms. Garcia		X	
Ms. Williams (GA)		X	
Mr. Nickel	X		
Ms. Pettersen		X	

Record vote no.
FC - 82

Representative	Yea	Nay	Present
Mr. McHenry	____	X	____
Mr. Hill	____	X	____
Mr. Lucas	____	X	____
Mr. Sessions	____	X	____
Mr. Posey	____	X	____
Mr. Luetkemeyer	____	X	____
Mr. Huizenga	____	X	____
Mrs. Wagner	____	X	____
Mr. Barr	____	X	____
Mr. Williams (TX)	____	X	____
Mr. Emmer	____	X	____
Mr. Loudermilk	____	X	____
Mr. Mooney	____	X	____
Mr. Davidson	____	X	____
Mr. Rose	____	X	____
Mr. Steil	____	X	____
Mr. Timmons	____	X	____
Mr. Norman	____	X	____
Mr. Meuser	____	X	____
Mr. Fitzgerald	____	X	____
Mr. Garbarino	____	X	____
Mrs. Kim	____	X	____
Mr. Donalds	____	X	____
Mr. Flood	____	X	____
Mr. Lawler	____	X	____
Mr. Nunn	____	____	____
Ms. De La Cruz	____	X	____
Mrs. Houchin	____	X	____
Mr. Ogles	____	X	____

Representative	Yea	Nay	Present
Ms. Waters	X	____	____
Mrs. Velázquez	X	____	____
Mr. Sherman	X	____	____
Mr. Meeks	X	____	____
Mr. Scott	____	____	____
Mr. Lynch	X	____	____
Mr. Green	X	____	____
Mr. Cleaver	____	____	____
Mr. Himes	X	____	____
Mr. Foster	X	____	____
Mrs. Beatty	X	____	____
Mr. Vargas	X	____	____
Mr. Gottheimer	X	____	____
Mr. Gonzalez	X	____	____
Mr. Casten	X	____	____
Ms. Pressley	X	____	____
Mr. Horsford	X	____	____
Ms. Tlaib	X	____	____
Mr. Torres	X	____	____
Ms. Garcia	X	____	____
Ms. Williams (GA)	X	____	____
Mr. Nickel	X	____	____
Ms. Pettersen	X	____	____

Record vote no.
FC- 83

Representative	Yea	Nay	Present
Mr. McHenry	____	X	____
Mr. Hill	____	X	____
Mr. Lucas	____	X	____
Mr. Sessions	____	X	____
Mr. Posey	____	X	____
Mr. Luetkemeyer	____	X	____
Mr. Huizenga	____	X	____
Mrs. Wagner	____	X	____
Mr. Barr	____	X	____
Mr. Williams (TX)	____	X	____
Mr. Emmer	____	X	____
Mr. Loudermilk	____	X	____
Mr. Mooney	____	X	____
Mr. Davidson	____	X	____
Mr. Rose	____	X	____
Mr. Steil	____	X	____
Mr. Timmons	____	X	____
Mr. Norman	____	X	____
Mr. Meuser	____	X	____
Mr. Fitzgerald	____	X	____
Mr. Garbarino	____	X	____
Mrs. Kim	____	X	____
Mr. Donalds	____	X	____
Mr. Flood	____	X	____
Mr. Lawler	____	X	____
Mr. Nunn	____	X	____
Ms. De La Cruz	____	X	____
Mrs. Houchin	____	X	____
Mr. Ogles	____	X	____

Representative	Yea	Nay	Present
Ms. Waters	X	____	____
Mrs. Velázquez	X	____	____
Mr. Sherman	X	____	____
Mr. Meeks	X	____	____
Mr. Scott	____	____	____
Mr. Lynch	X	____	____
Mr. Green	X	____	____
Mr. Cleaver	____	____	____
Mr. Himes	X	____	____
Mr. Foster	X	____	____
Mrs. Beatty	X	____	____
Mr. Vargas	X	____	____
Mr. Gottheimer	X	____	____
Mr. Gonzalez	X	____	____
Mr. Casten	X	____	____
Ms. Pressley	X	____	____
Mr. Horsford	X	____	____
Ms. Tlaib	X	____	____
Mr. Torres	X	____	____
Ms. Garcia	X	____	____
Ms. Williams (GA)	X	____	____
Mr. Nickel	X	____	____
Ms. Pettersen	X	____	____

Record vote no.
FC- 84

Representative	Yea	Nay	Present
Mr. McHenry	____	X	____
Mr. Hill	____	X	____
Mr. Lucas	____	X	____
Mr. Sessions	____	X	____
Mr. Posey	____	X	____
Mr. Luetkemeyer	____	X	____
Mr. Huizenga	____	X	____
Mrs. Wagner	____	X	____
Mr. Barr	____	X	____
Mr. Williams (TX)	____	X	____
Mr. Emmer	____	X	____
Mr. Loudermilk	____	X	____
Mr. Mooney	____	X	____
Mr. Davidson	____	X	____
Mr. Rose	____	X	____
Mr. Steil	____	X	____
Mr. Timmons	____	X	____
Mr. Norman	____	X	____
Mr. Meuser	____	X	____
Mr. Fitzgerald	____	X	____
Mr. Garbarino	____	X	____
Mrs. Kim	____	X	____
Mr. Donalds	____	X	____
Mr. Flood	____	X	____
Mr. Lawler	____	X	____
Mr. Nunn	____	X	____
Ms. De La Cruz	____	X	____
Mrs. Houchin	____	X	____
Mr. Ogles	____	X	____

Representative	Yea	Nay	Present
Ms. Waters	X	____	____
Mrs. Velázquez	X	____	____
Mr. Sherman	X	____	____
Mr. Meeks	____	X	____
Mr. Scott	____	____	____
Mr. Lynch	X	____	____
Mr. Green	X	____	____
Mr. Cleaver	____	____	____
Mr. Himes	____	X	____
Mr. Foster	X	____	____
Mrs. Beatty	X	____	____
Mr. Vargas	X	____	____
Mr. Gottheimer	____	X	____
Mr. Gonzalez	X	____	____
Mr. Casten	X	____	____
Ms. Pressley	X	____	____
Mr. Horsford	X	____	____
Ms. Tlaib	X	____	____
Mr. Torres	____	X	____
Ms. Garcia	X	____	____
Ms. Williams (GA)	X	____	____
Mr. Nickel	____	X	____
Ms. Pettersen	X	____	____

COMMITTEE OVERISGHT FINDINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 4766 is to ensure a clear regulatory framework for the issuance of payment stablecoins that are designed to be used as a means of payment, while protecting customers and fostering innovation by establishing a clear framework to allow new entrants into the marketplace.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

The Committee has requested but not received a cost estimate from the Director of the Congressional Budget Office. However, pursuant to clause 3(d)(1) of House rule XIII, the Committee will adopt as its own the cost estimate by the Director of the Congressional Budget Office once it has been prepared.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

The Committee has requested but not received an estimate from the Director of the Congressional Budget Office. However, pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, once an estimate has been prepared by the Director of the Congressional Budget Office, as required by section 402 of the Congressional Budget Act of 1973, the Committee will adopt as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate.

FEDERAL MANDATES STATEMENT

The Committee has requested but not received an estimate from the Director of the Congressional Budget Office of the Federal mandates pursuant to section 423 of the Unfunded Mandates Reform Act. The Committee will adopt the estimate once it has been prepared by the Director.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the pro-

visions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section states H.R. 4766 is the "Clarity for Payment Stablecoins Act of 2023."

Section 2. Definitions

Section 2 defines various terms, including digital asset, distributed ledger, payment stablecoin, permitted payment stablecoin issuer, and primary federal payment stablecoin regulator, among others. A permitted payment stablecoin issuer is one that has been approved under one of the pathways made available under the bill.

Section 3. Limitation on who may issue a payment stablecoin

Section 3 prohibits the issuance of payment stablecoins for use by any person in the United States by any entity other than those approved as a permitted stablecoin issuer under the bill.

Section 4. Requirements for issuing payment stablecoins

Section 4 establishes minimum standards that all payment stablecoin issuers must comply with, regardless of the path that they choose. Payment stablecoin issuers must maintain reserves on a one-to-one basis with assets comprised of coins and currency, deposits held at insured depository institutions, short-term Treasury bills, short-term repurchase agreements, and central bank reserve deposits.

Such reserves may not be rehypothecated except for limited purposes. Payment stablecoin issuers must establish and publicly disclose policies and procedures regarding redemption. Issuers must also publish the composition of their reserves monthly, which must be examined monthly by a registered public accounting firm and provide monthly certifications from the Chief Executive Officer and Chief Financial Officer to the primary regulator as to the accuracy of these reports. Additionally, payment stablecoin issuers are treated as financial institutions for purposes of the Bank Secrecy Act and must adhere to all requirements.

This section also places limitations on the activities of a payment stablecoin issuer and requires the primary federal payment stablecoin regulators to issue joint rulemakings establishing capital, liquidity, and risk management standards, as well as other rules necessary to carry out this section.

Section 5. Approval of subsidiaries of insured depository institutions and federal qualified nonbank issuers

Section 5 establishes a process for payment stablecoin issuers that seek to gain approval through a primary federal payment stablecoin regulator to issue payment stablecoins. The bill enables depository institutions to issue a payment stablecoin through a subsidiary that is approved by the appropriate Federal banking agency or the NCUA, as appropriate. Entities chartered by the OCC may issue a payment stablecoin if approved by the OCC. Lastly, a nonbank entity may be deemed a Federal qualified nonbank payment stablecoin issuer, if approved by the Federal Reserve.

This section requires the primary Federal payment stablecoin regulator to render a decision on the application within a certain timeframe. If the primary Federal payment stablecoin regulator fails to issue a decision within the timeframe, the application is deemed approved. Factors that the primary Federal payment stablecoin regulator may consider when assessing the application include the payment stablecoin issuer's ability to meet the standards established in Section 4 of the bill, the character and fitness of the payment stablecoin issuer's management team, and the risks presented by the applicant and benefits provided to consumers. The regulator may only deny an application if it determines the activities of the applicant would be unsafe or unsound based on these factors and must provide a written explanation for the denial that includes the shortcomings of the application and recommendations on how those shortcomings could be addressed.

The payment stablecoin issuer is permitted to appeal the denial through a process established under the bill. The primary Federal payment stablecoin regulators must report to Congress on payment stablecoin issuer applications that have been pending for 6 months or more. This section shall take effect the earlier of 18 months following enactment or 120 days after final regulations are issued. The primary Federal payment stablecoin regulator shall notify Congress once beginning to process applications. Additionally, the primary Federal payment stablecoin regulator may waive the application requirements for 12 months if the entity has an application pending.

Section 6. Supervision and enforcement with respect to subsidiaries of insured depository institutions (IDIs) and federal qualified nonbank stablecoin issuers

Section 6 establishes supervision and enforcement standards for payment stablecoin issuers under the oversight of a primary Federal payment stablecoin regulator. Subsidiaries of IDIs are subject to supervision by the primary Federal payment stablecoin regulator in the same manner as such IDI.

Federal qualified nonbank stablecoin issuers are required to submit reports on financial condition and compliance with this Act to their primary federal regulator upon request and are subject to examinations. Both Federal qualified nonbank payment stablecoin issuers and subsidiaries of IDIs that issue payment stablecoins must comply with the requirements of the Gramm-Leach Bliley Act.

The enforcement provisions are similar to the enforcement powers under the Federal Deposit Insurance Act (12 U.S.C. 1818) and provides federal payment stablecoin regulators authority to pursue suspension and prohibition actions, cease-and-desist actions, and civil money penalties against a payment stablecoin issuer or institution-affiliated party of a permitted payment stablecoin issuer if the primary Federal payment stablecoin regulator determines that such permitted payment stablecoin issuer or an institution-affiliated party is violating or has violated this Act or any regulation or order issued under this Act.

Section 7. State qualified payment stablecoin issuers

Section 7 establishes that state payment stablecoin regulators can continue to charter and supervise state qualified payment stablecoin issuers that meet the requirements of section 4.

The state regulator will retain their supervisory, examination, and enforcement authority over state qualified payment stablecoins issuers. State regulators may enter into memorandums of understanding with the Federal Reserve by mutual agreement and must share information with the Federal Reserve.

The Federal Reserve has enforcement authority, as specified in section 6, over the state qualified payment stablecoin issuers or an institution-affiliated party of such issuer for violations of the Act under certain circumstances. State qualified payment stablecoin issuers must comply with the requirements of the Gramm-Leach Bliley Act. The provisions of this section do not preempt any State law and do not supersede any State licensing requirement.

Section 8. Customer protection

Section 8 establishes standards for entities that provide custodial services for payment stablecoins. Entities must treat customer property as belonging to the customer and take steps to protect the property from claims of creditors as well as segregate customer assets from assets belonging to the custodian and are prohibited from commingling.

These custodians must be regulated by a federal regulator or subject to supervision by a state bank supervisor that shares information with the Federal Reserve and meets certain standards, including segregation requirements and the prohibition on commingling. Finally, the entities must submit information, in such form as the Federal Reserve determines, to the Federal Reserve on their business operations and processes to protect customer assets.

The requirements of this section shall not apply to any entity solely on the basis that such person engages in the business of providing hardware or software to facilitate a customer's own custody or safekeeping of the customer's payment stablecoins or private keys.

Section 9. Interoperability standards

Section 9 requires the primary federal payment stablecoin regulators to work with the National Institute of Standards and Technology, other relevant standard setting organizations, and State governments to consider standards for compatibility and interoperability of payment stablecoins.

Section 10. Moratorium on endogenously collateralized stablecoins

Section 10 imposes a two-year moratorium on the creation or issuance of endogenously collateralized stablecoins and requires Treasury to conduct a study on endogenously collateralized stablecoins and report to the relevant Committees within one year. An endogenously collateralized stablecoin is any digital asset in which its originator has represented will be converted, redeemed, or repurchased for a fixed amount of monetary value; and that relies solely on the value of another digital asset created or maintained by the same originator to maintain the fixed price.

Section 11. Report on rulemaking status

Section 11 requires the primary federal payment stablecoin regulators to provide the relevant Committees with an update on the status of rulemakings required under this Act within 6 months.

Section 12. Authority of banking institutions

Section 12 clarifies the authority of depository institutions and trust companies, as appropriate, to tokenize deposits, utilize distributed ledger for books and records, and provide custodial services for payment stablecoins.

Additionally, this section prevents federal agencies from requiring entities to account for assets held in custody on their balance sheet; hold additional regulatory capital against these assets, except as necessary to mitigate against operational risks inherent with the custody or safekeeping services, as determined by the appropriate federal banking agency, NCUA, state bank supervisor, or state credit union supervisor; or 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. This section overturns SEC SAB 121.

Section 13. Clarifying that payment stablecoins are not securities

Section 13 clarifies that the term "security" under the securities laws does not include a payment stablecoin issued by a permitted payment stablecoin issuer.

MINORITY VIEWS

Ranking Member Waters worked closely with Chair McHenry over several months, and in particular the weeks leading up to the July markup to achieve a bipartisan bill on stablecoins. Unfortunately, Chair McHenry abruptly ended those negotiations and blamed the White House for derailing ongoing discussions. He, instead, decided to move forward with H.R. 4766, which is lacking in several ways that are outlined below.

Stablecoins are a specific type of cryptocurrency that tries to peg its value to another asset like the dollar, the imprimatur of the federal government. Bipartisan negotiations on legislation began in part in response to a Report on Stablecoins (PWG Report) issued in November 2021 by the President's Working Group on Financial Markets (PWG) along with the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC), urging Congress to pass legislation to improve oversight and regulation of stablecoins.[1] The Financial Stability Oversight Council (FSOC)'s report on digital assets also reaffirmed concerns regarding certain regulatory gaps in crypto-asset activities and recommendations for Congress.[2] These reports, in addition to subsequent testimony from Federal officials noted that a strong Federal framework was needed to oversee stablecoins, with robust reserve requirements. And given that stablecoins represent the issuance of a new form of money, Federal guardrails are integral, as our central bank, the Federal Reserve handles monetary policy and our money supply. When the PWG called on Congress to pass legislation to improve the oversight and regulation of stablecoins, they emphasized the need for Federal, not state, prudential authority over stablecoins to address risks like stablecoin runs, systemic risk, and concentration of economic power. Nevertheless, H.R. 4766 would hand the keys to addressing these national risks to the states, and a key issue with this bill would be the patchwork of state regulation that would promote a race to the bottom.

As it stands, the current Republican bill does not have the support of the White House, the U.S. Treasury, or the Federal Reserve and falls short in the following ways:

- McHenry's bill promotes a race to the bottom by creating 58 different licenses with Federal regulatory approval and robust oversight over only 2 of the licenses, which are the licenses for banks and Fed-approved nonbanks. Moreover, this legislation allows individual states to preempt each other. Texas, for example, would have no ability to stop coins from being issued in their state from New York.

[1] President's Working Group on Financial Markets, FDIC, and OCC, *Report on Stablecoins,* at 1 (Nov. 2021).

[2] FSOC, *Report on Digital Asset Financial Stability Risks and Regulation* (Oct. 3, 2022).

• The bill allows all commercial entities like Amazon, Walmart, or Facebook to create their own stablecoins, or affiliate with a stablecoin issuers. Facebook, with its own coin, could become effectively a global bank with 2 billion customers overnight. We have already begun to see corporations launching their own stablecoin while there is still no Federal framework for regulation, oversight, and enforcement of these assets. For example, only a few days after the markup, PayPal launched its own U.S. dollar-denominated stablecoin, PayPal USD (PYUSD) issued by Paxos Trust Company, and made available on Venmo and various crypto exchanges.[3] By allowing commercial entities to engage in what is essentially financial services, the bill undermines a prohibition against such activities dating back to the 1930s and the passage of Glass Stegall, and would allow for the creation of super monopolies with dangerous amounts of economic and political power.

• While the sponsors suggest that state-regulated non-bank issuers would still have oversight by the Federal Reserve, the bill provides no supervisory or regulatory authority to the Federal Reserve. Simply stating that the Fed has "supervisory" authorities does not make such authorities so. The bill, for example, does not describe the authority to examine, the authority to issue cease and desist orders, or to even levy a penalty. Any non-bank entity would easily prove in court that the Fed has no authority to do anything related to it. Notably, given the direct connection of stablecoins to the money supply and the conduct of monetary policy, no other global regime undermines their central bank's authority.

• With respect to enforcement, the bill generally stipulates that the Fed can take enforcement action in exigent circumstances, but again, it grants no actual enforcement authority to the Fed with respect to state-licensed entities.

• Despite extensive testimony and public statements by stablecoin issuers and crypto firms about the promise that crypto would promote a fair and equitable financial system, Republicans excluded all references to "diversity and inclusion" consistent with their culture wars, and rejected an amendment by Rep. Beatty to correct such deficiencies in the bill.

• The bill's framework to oversee stablecoins departs dramatically from regulatory frameworks of comparable activities. For example, the dual banking system requires Federal regulatory pre-approval and robust oversight of state-chartered banks. While there have been concerns raised about how robust the regulation and oversight of money transmitters are, even money transmitters must get a license in each state they operate. In the bill, however, a stablecoin issuer would only

[3] *See* PayPal, *PayPal Launches U.S. Dollar Stablecoin* (Aug. 7, 2023); *see also* House Committee on Financial Services, *Ranking Member Waters' Statement on PayPal's Launch of U.S. Dollar Stablecoin* (Aug. 9, 2023); and Rep. Sean Casten, *Letter to Daniel H. Schulman President and Chief Executive Officer of PayPal* (Aug. 14, 2023). In September 20, PayPal announced the PYUSD stablecoin is available on Venmo. *See also, PayPal's PYUSD stablecoin is now available on Venmo*, TechCrunch (Sept. 20, 2023). PayPal, with 435 million customers globally, exceeds the number of online accounts at all of the megabanks combined. Due to PayPal's size and reach, Federal oversight and enforcement of its stablecoin operations are critical in ensuring consumer protection and addressing financial stability concerns.

have to get a license in one state, but its stablecoins could freely be exchanged in all states.

- H.R. 4766 does not authorize Federal oversight of third-party vendors of payment stablecoin issuers (other than custodial wallets to a limited degree), even though such vendors may be critical to ensuring the functioning and stability of the stablecoin. For comparison, banking regulators do have such oversight authority of the vendors of traditional banks.
- The bill does not include any financial resource requirements to ensure custodial wallets are resilient, while exempting many wallet providers given the way state regulatory frameworks are automatically deemed to be comparable to the Federal framework for wallet providers. For comparison, banks are required to maintain minimum levels of capital and liquidity to ensure they can handle any withdrawals from their customers.
- Despite the urging of the PWG and FSOC to address the systemic risks of stablecoins, the bill does not mandate that regulators consider financial stability when approving payment stablecoins.
- While Gramm-Leach-Bliley's cybersecurity and data privacy requirements apply to federally regulated stablecoin issuers, those standards are not applied to state-regulated issuers.
- The bill only provides a weak application of Bank Secrecy Act/Anti-Money Laundering laws and states have limited capacity and inclination to oversee compliance with such laws.
- H.R. 4766 does not require regulatory approval for mergers and acquisitions of payment stablecoin issuers, rendering the already weak initial application process moot if the entity can be sold to other ownership groups.

The following Democratic amendments were rejected by Republicans or withdrawn:

- Rep. Foster's amendment would strike provisions that exempt self-hosted wallets from regulations. Specifically, it would strike a provision in the bill that excludes hardware or software providers for self-custody from customer protections. It would also strike a provision that would stop regulators from taking action to restrict the use of self-hosted wallets.
- Rep. Beatty's amendment would add language requiring diversity and inclusion data reporting by payment stablecoin issuers.
- Rep. Sherman's amendment classifies all stablecoins as securities and stablecoin exchanges as securities exchanges under the jurisdiction of the SEC.
- Rep. Velázquez's amendment was withdrawn after the Chair indicated he would work with the Member on the amendment. It would grant the primary Federal payment stablecoin regulators, in consultation with FinCEN, the ability to establish additional standards for permitted stablecoin issuers operating in high-risk money laundering and related financial crimes areas.
- Rep. Casten's amendment was withdrawn after Rep. Hill committed to working on the amendment before the bill is

brought to the floor. His amendment directs each primary Federal payment stablecoin regulator to issue regulations prohibiting the employment of manipulation, deceptive devices, and price manipulation.

Finally, this bill is opposed by the following groups: Americans for Financial Reform (AFR), Action on Race and the Economy (ACRE), Center for LGBTQ Economic Advancement & Research (CLEAR), Center for Responsible Lending, Demand Progress National Fair Housing Alliance, National Community Reinvestment Coalition (NCRC), National Consumer Law Center (NCLC), Public Citizen, Revolving Door Project, Texas Appleseed, U.S. PIRG, Virginia Citizens Consumer Council, 20/20 Vision.

For these reasons, we oppose H.R. 4766.

Sincerely,

MAXINE WATERS,
Ranking Member.
NYDIA M. VELÁQUEZ,
DAVID SCOTT,
AL GREEN,
BILL FOSTER,
BRAD SHERMAN,
STEPHEN F. LYNCH,
EMANUEL CLEAVER II,
JOYCE BEATTY,
JUAN VARGAS,
SEAN CASTEN,
RASHIDA TLAIB,
NIKEMA WILLIAMS,
VICENTE GONZALEZ,
AYANNA PRESSLEY,
SYLVIA R. GARCIA,
Members of Congress.

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