CFA Institute®
Systemic Risk Council

Senator Tim Scott, Chairman (R-SC)
Senator Elizabeth Warren, Ranking Member (D-MA)
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Representative French Hill, Chairman (R-AR)
Representative Maxine Waters, Ranking Member (D-CA)
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman and Ranking Members.

Statement of the CFA Institute Systemic Risk Council on Pending Stablecoin Legislation

We believe there is an urgent need for strong, effective regulatory oversight of the stablecoin market and commend bipartisan efforts to build consensus around a credible bill. However, it is essential that any legislation provides not just the appearance of meaningful oversight, but the reality as well. The two leading bills —the Stablecoin Transparency and Accountability for a Better Ledger Economy Act of 2025 ("STABLE Act")[1] in the House and the Guiding and Establishing National Innovation for U.S. Stablecoins of 2025 ("GENIUS Act")[2] in the Senate — have many positive features. Both state that stablecoins must be issued by licensed institutions subject to prudential supervision at either the state or federal level. Both provide for appropriately strict reserve requirements: outstanding coins must be backed, dollar for dollar, with highly liquid, low risk assets such as bank deposits, US Treasuries, and central bank reserves. Both require stablecoin issuers to comply with laws and regulations combating money laundering and terrorist financing.

Despite these strengths, there are a number of weaknesses and gaps in the bills which we believe could nullify their effectiveness.

Application to Non-US Issuers. It is essential that regulatory protections apply to both US and non-US stablecoin issuers. Unfortunately, GENIUS only applies to stablecoins "issued" in the US, even though the most widely used USD stablecoin is issued

[1] STABLE Act, *available at* chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://docs.house.gov/meetings/BA/BA00/20250311/117994/BILLS-119pih-StablecoinTransparencyandAccountability.pdf.
[2] GENIUS Act, *available at* chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.hagerty.senate.gov/wp-content/uploads/2025/02/GENIUS-Act.pdf.

by an offshore entity, Tether. Numerous reports of the use of Tether for illicit finance[3] and longstanding concerns about the lack of transparency in the safety and quality of its reserves[4] underscore the importance of applying regulatory requirements to offshore USD stablecoin issuers. The approach in STABLE is better, applying to any issuance of USD stablecoins "for use" in the US. However, the legislation should go further and also prohibit intermediaries from facilitating trading in the US of noncompliant stablecoins. It should clearly specify who has the authority and responsibility to enforce these requirements and include substantial penalties for noncompliance to provide an effective deterrent.

Congress could go even further and adopt the approach used in the EU which applies its Market in Crypto Assets (MICA) regulation to any stablecoin tied to the value of the euro, wherever issued or traded. This allows EU authorities to prosecute the use of euro stablecoins for money laundering, terrorist financing, and other illicit uses anywhere in the world. This approach also protects the integrity of the euro by giving EU authorities the ability to prosecute the use of stablecoins to effectively counterfeit its currency. Otherwise, criminals could issue stablecoins purportedly tied to the value of the euro, but without any credible backing in euro-denominated reserves.

Moreover, the predominant regime in the EU under MICA also requires foreign currency stablecoin issuers (for example in the case of US dollar-denominated stablecoins) to establish an EU regulated entity, hold corresponding cash reserves in EU banks and conform with a range of requirements in order to enjoy continuous circulation in the

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[3] *See, e.g., See, e.g.,* Wall Street Journal, *The Shadow Dollar That's Fueling the Financial Underworld* (Sep. 10, 2024); Wall Street Journal, *Federal Investigators Probe Cryptocurrency Firm Tether* (Oct. 25, 2024); *Casinos, Money Laundering, Underground Banking, and Transnational Organized Crime in East and Southeast Asia: A Hidden and Accelerating Threat*, UNITED NATIONS OFFICE ON DRUGS AND CRIME (Jan. 2024); *Hamas Militants Behind Israel Attack Raised Millions in Crypto*, THE WALL STREET JOURNAL (Oct. 10, 2023); *Letter to Treasury and White House re Hamas crypto security*, CONGRESS OF THE UNITED STATES (Oct. 17, 2023).

[4]Tether has paid the New York Department of Financial Services and Commodity Futures Trading Commission nearly $60 million to settle charges that it had not held sufficient reserves on behalf of tokenholders despite assurances to the contrary. *See Attorney General James Ends Virtual Currency Trading Platform Bitfinex's Illegal Activities in New York,* Feb. 23, 2023; *CFTC Orders Tether and Bitfinex to Pay Fines Totaling $42.5 Million,* Oct. 15, 2021.

Moreover, Tether's September 2024 attestation reflected that roughly $20 billion of its $83 billion in reserves was held at the time in potentially high-risk, non-USD-backed assets. Independent Auditors' Report on the Consolidated Reserves Report, Tether Holdings Limited, BDO Italia (Sept. 2024).

common market. European crypto-asset exchanges must de-list and cease to offer access or services to non-compliant stablecoins.

State Regulation: Both bills permit either state or federal chartering of stablecoin issuers, following a dual regulatory model long in effect for banks. However, the success of dual chartering for the banking system is due to shared responsibility between federal and state regulators. This has helped to ensure consistency in bank regulation and supervision, both among the various states and between state and nationally chartered institutions.

Unfortunately, STABLE envisions virtually no role for federal authorities in the licensing, regulation, and supervision of state-chartered issuers. GENIUS at least requires state frameworks to be "substantially similar" to the federal framework and creates a process for the US Treasury Department to review whether a state meets that standard. Importantly, GENIUS limits the market capitalization of state-licensed issuers to $10 billion.

Any stablecoin legislation should provide for a significant federal role in overseeing state-licensed issuers. This would serve the bill's policy objectives of keeping the bad actors out, while fostering the kind of public confidence and trust that is needed for the market to grow. States vary widely in the size, resources, and qualifications of their financial regulators. A greater federal role would help prevent forum shopping by large, deep-pocketed issuers promising investments in states in return for accommodative state regimes. It would also facilitate cross-border harmonization of rules, which is necessary if regulated USD stablecoins are to be widely accepted and used in global markets. Federal authorities are inherently better equipped to monitor and enforce against the use of USD stablecoins for money laundering or terrorist financing. This is central to effective oversight and building confidence in stablecoins with the mainstream financial community. Finally, the risk of destabilizing runs in the market may have systemic ramifications warranting federal intervention. Yet, federal authorities will be hindered in their ability to do so without some ongoing role and understanding of the state-chartered system.

We would strongly encourage Congress to consider an expanded role for federal regulators in the oversight of state-licensed issuers and include significant limits on the size of state-licensed issuers as provided in GENIUS.

Limitations on Regulatory Authority: Both bills contain significant limitations on the ability of regulators to impose prudential requirements beyond those specified in the bill. For instance, both bills direct that capital requirements "may not exceed what is sufficient to ensure … ongoing operations". This could be interpreted as allowing regulators to only consider operational risk in setting capital requirements. But issuers will confront other risks, such as market risk or counterparty risk. The nascent stablecoin market is based on new and evolving technology. It is impossible to predict what risks may arise. We understand that the bills' sponsors are trying to prevent regulatory overreach, given perceptions of past regulatory hostility to this market. However, the

Congressional Review Act already serves as a check on regulatory excess. Hamstringing the ability of regulators to respond to unforeseen, emerging risks could lead to instability, shaking public confidence in stablecoins that would be far more harmful to the market.

Lack of Resolution Authority: Neither bill would create a special resolution mechanism for the failure of a stablecoin issuer, meaning that stablecoin holders would have to go through the usual corporate bankruptcy process to pursue their claims. GENIUS at least states that in the event of an insolvency proceeding, stablecoin holders would have priority over other claims. While this helps to prevent the claims of other creditors from eating away at stablecoin reserves, holders would still have to wait, potentially years, to recover the dollars backing their stablecoins.

In addition, because of the priority of claims that apply in a corporate bankruptcy, reserves may well be insufficient to make holders whole. For instance, both bills allow stablecoin issuers to pledge assets to secure a repo transaction. But under bankruptcy law, those repo counterparties have super priority and can seize assets without even filing a claim. And, of course, administrative expenses would also take priority over the claims of stablecoin holders. Thus, there is no guarantee that by the time the bankruptcy judge gets around to approving holders' claims, there will be sufficient assets to fully compensate them.

The attraction of stablecoins, like bank deposits, is the promise of safety, liquidity, and immediate access. This is why, for 90 years, the US has had a special resolution regime for banks which enables the FDIC to give depositors quick, seamless access to their insured deposits. We are concerned that without a dedicated resolution mechanism, stablecoin users, comforted by dollar-for-dollar reserve requirements, will be surprised by the uncertainties and delays of the bankruptcy process when a stablecoin issuer fails. Upon this realization, they may move en masse, to redeem their stablecoins. In other words, once the illusion of safety and instant liquidity is pierced, stablecoin holders may run, much in the same way money market funds suffered widespread runs in 2008 when the Reserve Fund's investments in Lehman Bros caused it to "break the buck". We already know the stablecoin market is susceptible to contagion, given the market-wide instability caused by the failure of FTX, and later, Silicon Valley Bank's failure, which held several billion dollars of stablecoin reserves. Unregulated products such as Terra-Luna, which was advertised as a stablecoin, also experienced fast runs, resulting in widespread losses leaving customer and market participants with no recourse.

The bills' sponsors are trying to build confidence in stablecoins by requiring dollar for dollar backing in safe, liquid assets. Yet this confidence could quickly vanish once stablecoin holders realize it could take years to access those reserves. We would encourage Congress to consider including provisions of a discussion draft that House Financial Services Committee Ranking Member Maxine Waters negotiated with former Chairman Patrick McHenry and released in 2025,[5] which created a dedicated resolution process for

[5] *See* Discussion Draft, available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://democrats-financialservices.house.gov/uploadedfiles/02.10.25_stable_2024_xml_12.3.24.pdf.

stablecoins, using the FDIC as a federal receiver. Alternatively, the Lummis-Gillibrand Responsible Financial Innovation Act ("Lummis-Gillibrand"),[6]bipartisan Senate legislation released in 2023, at least provided the option for the regulator of a failed stablecoin issuer to appoint the FDIC as receiver. We believe a special resolution mechanism is the best way to contain run-risk and ensure prompt payout of reserves to stablecoin holders. Large regulated stablecoin issuers should be required to develop a "living will" in the form of a wind up or resolution plan that would facilitate expeditious payouts to stablecoin holders. These plans should be shared and updated with their primary regulators.

Stablecoin's Impact on the Banking System: Both bills permit regulated banks to become stablecoin issuers, but only through separate subsidiaries. To prevent contagion in the regulated banking system from disruptions in the stablecoin market, we believe there should be strict prohibitions on the use of safety net programs, such as deposit insurance and discount window access, to support a bank's stablecoin subsidiary. Affiliated banks should not be used as a source of strength for stablecoin issuers. They should not be able to make loans, guarantee loans, or otherwise serve as counterparties with their stablecoin affiliates. Stablecoins issuers should stand on their own.

Another concern related to banking stability is the risk of stablecoins eroding the deposit base if bank customers perceive them as an alternative to bank transaction accounts. We believe this risk could be greatly reduced if stablecoin legislation prohibited stablecoins that pay interest. Domestically issued stablecoins currently do not pay interest for fear that a yield-bearing coin would be deemed a security. Because both bills state that stablecoins are not securities, issuers will be free to pay interest unless limited in the statute or by regulation. Emerging and existing international rules for stablecoins preclude the payment of interest or yield, thus ring-fencing their primary functions as a payment medium or store of value. EU-based stablecoin issuers (known as e-money tokens) are not able to offer yield directly to coin-holders. This protects the deposit base in banks and avoids stablecoins straying into securities, commodities, or other market structures. The US should follow that same logic.

It is possible that a growing stablecoin market could actually increase the deposit base. Both bills expressly permit stablecoin reserves to be held in deposit accounts, and we anticipate a substantial percentage of reserves will be kept in banks by issuers to ensure sufficient liquidity for redemption requests. However, since most of these accounts, no doubt, will be far in excess of deposit insurance limits, they will be at risk if the bank holding them fails. This was exactly the case at Silicon Valley Bank, which held more than $3 billion in uninsured stablecoin reserves, when it collapsed. The SVB failure caused disruptions in the stablecoin markets notwithstanding a hastily arranged bailout by regulators. The memory of this experience will likely cause most stablecoin issuers to place their deposits with banks perceived as too-big-to-fail. This will exacerbate the

[6] Lummis-Gillibrand, *available at* https://www.congress.gov/bill/118th-congress/senate-bill/2281/text.

concentration of deposits in mega banks which are already too dominant in our banking system.

Some have suggested that another solution to this problem would be to give stablecoin issuers access to central bank master accounts. We believe that decision should be left to the Federal Reserve and it is far from certain whether and to what extent the Fed will grant such access. Any such access to central bank master accounts should be balanced with the needs of the US economy. Importantly, reserves held at the Fed, unlike deposits held at banks, are not lent out and thus do not support the credit needs of local communities.

The lack of expanded deposit insurance coverage for business transaction accounts is a problem that confronts businesses generally, not just the stablecoin industry. It is also a problem that plagues community and regional banks which have been losing those accounts to banks deemed too-big-to-fail (TBTF). Congress has failed to take action to address the problem, which could be made worse with the growth of the stablecoin market. Optimally, Congress would provide greatly expanded insurance limits for transaction accounts. At a minimum, it should restore the FDIC's pre-Dodd-Frank authority to provide a temporary expansion of coverage in an emergency, using systemic risk authority. Better for the banking system and the economy if stablecoin deposit reserves are dispersed throughout the banking system, instead of lying dormant at the Fed or concentrated in a few TBTF banks.

Consumer Protections: Both bills have important consumer protections requiring the segregation of reserves, monthly attestations of reserves, and disclosure of redemption policies. We applaud the strengthened consumer protections in the revised GENIUS bill prohibiting issuers from "tying" their stablecoins to the required purchase of other products or services they offer and making claims that stablecoins are US tender or backed by FDIC insurance.

BSA Compliance. The Bank Secrecy Act (BSA) requires financial institutions to report suspicious activity and certain transactions to help prevent Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) activities. We commend both bills for applying these AML/CTF requirements to stablecoin issuers. We strongly support changes in the recently revised GENIUS which spell out in much more detail the specific obligations of issuers to ensure compliance. These provisions would be even more meaningful if, as previously suggested, the bills followed the framework in MICA and applied to any stablecoin tied to the USD, not just those "issued" in the US or "for use" in the US. The new version of GENIUS requires non-US issuers to comply with US law enforcement orders to seize, freeze, burn or stop the transfer of stablecoins and empowers the Treasury Secretary to apply sanctions to non-compliant issuers.

Giving the Treasury Secretary broader powers to take action against stablecoins issuers who violate BSA makes sense given Treasury's central role, through its Financial Crimes Enforcement Center (FINCEN) and Office for Financial Asset Control (OFAC) in the design and implementation of AML/CTF programs. Finally, we commend a provision in

the Lummis-Gillibrand bill which would create a working group to address challenges in monitoring crypto transactions "downstream" and direct that the Treasury Secretary clarify stablecoin issuers compliance obligations for transactions that "take place after the stablecoin is first provided to a customer of the issuer."

Conclusion

Much has been written about the promise of stablecoins to make our financial system cheaper, faster, safer, and more efficient. Dollar-based stablecoins could also promote the USD as the world's reserve currency. Regrettably, while positive use cases have been developed, particularly in the area of international payments, the stablecoin market has been heavily used for speculative crypto investments, and there have been far too many instances of illicit finance, fraud, manipulation, and consumer abuse. A robust regulatory framework could help this market fulfill its promise, by making it a more trustworthy place for traditional institutions to invest in socially beneficial uses as well as a needed technological upgrade to our legacy national payments infrastructure. Congress should seize this opportunity by adopting a strong framework. To be fully credible, the framework should:

-Apply to USD stablecoins issued outside of the US. Optimally, consistent with the approach in the EU, the bills' requirements should apply to any USD stablecoin no matter where issued or traded.

-Provide for a meaningful Federal role in the oversight of state-licensed stablecoin issuers as well as significant limits on the size of state-licensed issuers.

-Provide regulators with sufficient flexibility in crafting prudential regulations to respond to unforeseen, emerging risks in this new and evolving technology.

-Create a designated resolution process to ensure prompt payment for stablecoin holders in the event a stablecoin issuer fails.

-Protect the banking system from stablecoin contagion by prohibiting lending or other counterparty arrangements between stablecoin issuers and affiliated banks.

-Prohibit or significantly limit the payment of interest on stablecoins to protect the deposit base of banks.

-Provide expanded deposit insurance guarantees on transaction accounts to help smaller banks compete with larger institutions for stablecoin reserve deposits.

-Strengthen requirements to ensure compliance with the Bank Secrecy Act (BSA) by both domestic and foreign stablecoin issuers.

We appreciate your time and interest. Please know that we are available to meet with you or your staff in person, by phone, or by video to discuss our views in more detail.

Sincerely,

Simon Johnson Erkki Liikanen

Co-Chair, Co-Chair

cc:

Members _ **United States Senate Committee on Banking, Housing, and Urban Affairs**

Members _ **United States House Committee on Financial Services**

Note: The views expressed herein represent the collective views of the SRC and not all members agree with all aspects of this comment letter.

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