

# An Overview of S. 394, GENIUS Act of 2025

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On February 4, 2025, Senator Bill Hagerty introduced S. 394, the Guiding and Establishing National Innovation for U.S. Stablecoins Act of 2025, or GENIUS Act, which would establish a regime to regulate stablecoins. Currently, existing state and federal laws and regulations are applied to aspects of the stablecoin industry based on the nature of activities and individual stablecoin features.

The bill's proposed regulatory framework and licensing process are described below.

## Requirements for Issuing Payment Stablecoins

S. 394 defines payment stablecoins as digital assets, issued for payment or settlement and redeemable at a predetermined fixed amount (e.g., \$1), that hold assets in reserve and that can be liquidated only to redeem the stablecoins. Issuers would be required to hold at least one dollar of permitted reserves for every one dollar of stablecoins. The bill would limit permitted reserves to coins and currency; insured deposits held at banks and credit unions, including foreign banks; short-dated Treasury bills; repurchase agreements (“repos”) and reverse repos backed by Treasury bills; money market funds invested in certain of these assets; or central bank reserve deposits. Additionally, the bill would require federal and state regulators, respectively, to issue tailored capital, liquidity, and risk management rules for federal and state stablecoin issuers, but exempts stablecoin issuers from the regulatory capital standards applied to traditional banks.

Issuers would be required to establish and disclose stablecoin redemption procedures and to issue periodic reports of outstanding stablecoins and reserve composition. The bill would require the reports be “examined”—as opposed to audited—by a registered public accounting firm, and it would require that issuers’ executives certify the reports. Issuers would be subject to the Bank Secrecy Act.

## Applications and Regulatory, Supervisory, and Enforcement Regimes

The bill would create a federal or state regulatory option for stablecoin issuers, who could be subsidiaries of insured depository institutions (IDIs, e.g., banks and credit unions) or nonbanks (the bill does not restrict nonbanks to financial firms). The bill would allow any issuers with fewer than \$10 billion

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outstanding stablecoins to be subject to a state regulatory regime, provided that the state regulatory regime was “substantially similar” to its federal counterpart. State regulatory agencies would be required to certify annually to the U.S. Treasury that their regime meets these criteria. The bill would clarify that payment stablecoins are not securities.

Various sections of the bill appear to provide federal regulators with rulemaking authority over federally regulated stablecoin issuers and state regulators with rulemaking authority over state-regulated issuers.

## **Subsidiaries of Insured Depository Institutions and Credit Unions, and Nonbank Federal Issuers**

Stablecoin issuers that are the subsidiaries of insured depository institutions would be required to apply to, receive approval from, and be supervised by and subject to enforcement authority of the same federal banking regulator as that of the IDI for compliance with the bill’s requirements. (The bill appears to provide federal and state IDIs the option of applying with federal regulators but opting to be subject to state regulation, supervision, and enforcement.)

A nonbank stablecoin issuer could apply for state or federal approval. Under the federal option, nonbank issuers would be regulated and supervised “exclusively” by the Office of the Comptroller of the Currency (OCC). Federal nonbank stablecoin issuers would be required to file reports with, and may be subject to exams by, the OCC, to evaluate issuer financial condition and nature of operations; the risks to safety and soundness of the entity and financial stability derived by issuance; and the systems used for controlling these risks.

Applications would be evaluated on whether the stablecoin issuer has the financial condition and resources to meet the baseline requirements (described above). An application not acted on within 120 days would be deemed approved. Regulators would have to justify denied applications and permit an applicant to request an appeal hearing and to reapply.

The regulators would be authorized to stop a previously approved issuer from issuing stablecoins or issue civil money penalties if the regulator were to determine that the issuer has violated the requirements of the bill or any written condition imposed by the regulator.

## **State-Qualified Payment Stablecoin Issuers**

State regulators would “have supervisory, examination, and enforcement authority over a State qualified payment stablecoin issuer of such State.” However, the bill would give state regulators the option of ceding these authorities to the Federal Reserve (Fed). Also, the bill would allow the Fed or OCC to take enforcement actions against issuers that select the state option in “exigent” circumstances.

### **State Option**

The bill would permit all issuers under the \$10 billion threshold to opt in to a state regulatory regime, provided it is similar to the federal framework. This would put the stablecoin subsidiaries of IDIs beyond the jurisdiction of their primary federal regulator, with the exception of the application requirement. Issuers that grow above the \$10 billion threshold would be required to “transition” to the federal regulatory regime of the appropriate regulator. Subsidiaries of state IDIs transitioning to the federal regime would be regulated by the Fed (as opposed to their primary regulator); subsidiaries of federal IDIs and nonbanks transitioning would be regulated by the OCC.

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## Other Provisions

The bill would establish rules for stablecoin asset and reserve custodians, which could be issuers or non-issuers. Securities and Exchange Commission- and Commodity Futures Trading Commission-supervised entities would be permitted to custody reserves. It would also prohibit custodians from comingling their own funds with customers' funds, with exceptions. The bill would permit banks to custody and reserve assets, use blockchains, and issue tokenized deposits.

Out-of-state stablecoin issuers would be subject to a host state's consumer protection laws.

The bill would grant stablecoin holders priority over all other claims against the issuer in bankruptcy.

The bill would require that the U.S. Treasury conduct a study on endogenously collateralized stablecoins (colloquially called *algorithmic stablecoins*) that rely on the value of another digital asset to maintain the fixed price.

The bill would also permit the Fed, in conjunction with Treasury, to establish "reciprocal" agreements with jurisdictions with stablecoin regulatory regimes substantially similar to those of the United States.

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