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IN FOCUS

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Key Issues in Stablecoin Legislation in the 119th Congress

A stablecoin is a digital asset that aims to maintain a stable price (e.g., a 1:1 peg) with a reference asset, such as the U.S. dollar. In the 119th Congress, legislation to regulate stablecoins has seen committee action in the House (H.R. 2392) and Senate (S. 919). (A new version of the Senate bill, S. 1582, has been placed on the Senate Calendar.) This In Focus analyzes some of the key issues that have been raised in the legislative debate. CRS summaries of H.R. 2392 and S. 919 are available here and here. Background on stablecoins is available here.

Who Could Issue Stablecoins?

Policymakers have debated whether to permit stablecoin issuance by (1) banks (including credit unions), (2) nonbank financial firms, and/or (3) nonfinancial commercial firms. Both bills would allow all three types of firms to issue stablecoins under the same regulatory regime.

Two arguments for allowing banks to issue stablecoins are (1) banks already play a central role in payments, and stablecoins could be viewed as a new method for a traditional bank activity, and (2) banks are already subject to strict safety and soundness rules and close federal supervision—therefore, they are well placed to issue stablecoins prudently. Some policymakers would even limit issuance to banks on those grounds. However, under both bills, stablecoin issuers (including bank subsidiaries) would not be subject to existing bank regulation; they would be subject to the regulatory regimes created by the bills. The regimes have safety and soundness rules (discussed in the next section), but they are less comprehensive than bank regulation, and the bills carve stablecoin issuers out of banks' consolidated capital requirements. And, as will be discussed below, state bank stablecoin issuers would not be under the supervision of federal bank regulators.

Critics of allowing bank issuance of stablecoins view it as allowing banks to become exposed to the significant risks posed by the broader crypto market. (The bills also allow banks to issue tokenized deposits, use blockchains, and provide custody services for stablecoins.) Notably, the bills regulate only the issuance of stablecoins—regulation of broader crypto markets, including institutions that most customers currently use for stablecoins transactions, is currently being contemplated separately. Some fear that exposing banks to risks in the crypto market would make a broader banking crisis more likely.

Arguments against commercial firms issuing stablecoins have focused on the potential for "big tech" firms to use stablecoins to dominate digital payments. These concerns were prominent when Facebook (now Meta) proposed issuing a stablecoin called Libra in 2019. However, firms can generally blend commercial and financial activities now so long as they do not operate as banks (i.e., accept deposits). For example, big tech firms already provide digital payment services. If only financial firms were permitted to issue stablecoins, nonbank financial firms might potentially be required to divest some activities to qualify as issuers.

Run Risk

One of the primary reasons that policymakers have cited for regulating stablecoins is the "run risk" they pose. If stablecoin holders became convinced that an issuer will be unable to maintain the 1:1 peg, every holder has an incentive to redeem their stablecoins first before the peg is broken. However, mass redemptions make it more likely that the peg will be broken. This is similar to a classic bank run, where depositors race to withdraw their deposits first, causing the bank to fail. Eliminating bank runs, and the risk they pose to financial stability, is the primary reason that banks are regulated for safety and soundness.

The bills attempt to eliminate run risk for stablecoins primarily through requirements for the reserves that back stablecoins. This involves a trade-off between safety and soundness and profitability for the issuer. Stablecoins backed entirely by cash balances would face no run risk but would earn the issuer no profits (outside of fee income). Alternatively, the issuer could maximize profits by investing reserves in illiquid, risky assets that have a high expected return. But an issuer employing that strategy might be unable to meet redemption requests on demand, and losses on the reserves could cause the market value of reserves to fall below the par value of outstanding stablecoins. Both bills would require stablecoins to be 100% backed by reserves invested in relatively safe and liquid assets ranging from deposits to government money market funds. However, those assets are not completely riskless, and liquid and stablecoin holders face other types of risk, so some run risk would remain. The bills would also allow regulators to set capital, liquidity, and risk management requirements to further mitigate run risk.

For banks, run risk is addressed through regulation, federal deposit insurance, and access to the Federal Reserve's discount window—which can also increase risk through moral hazard, however. Both bills are explicit that there is no comparable federal backstop for stablecoin issuers.

Federal vs. State Regulation

Policymakers have also debated whether stablecoins should be subject to federal or state regulation (or both). Until recently, stablecoins were regulated only at the state level but typically under more limited requirements than the bills propose. (Banks were recently permitted to issue stablecoins.) Both bills envision that stablecoin issuers could opt for regulation by a state regulator or a federal banking regulator. A key difference is that H.R. 2392 would allow any issuer except a national bank to choose between state and federal regulation, whereas S. 919. would limit state regulation to issuers with less than $10 billion in stablecoins (as opposed to total assets) outstanding, but it would allow national banks to choose state regulation.

One argument for state regulation is to allow a diversity of regulatory approaches that could potentially foster innovation. An argument against state regulation is the incentive for states to engage in a "race to the bottom" in terms of crafting lax regulatory standards in the hope of attracting issuers. The bills attempt to prevent that by establishing mandatory standards that all federal and state regulators must comply with, requiring the Treasury Secretary to certify that state regulators meet these standards. Another concern is that state regulators do not have supervisory resources comparable to federal ones.

Many financial activities are currently regulated under a dual state-federal regime. Currently, financial firms that opt for state regulation can sometimes operate only in the states that they are registered and require federal or multi-state registration (or reciprocity) to operate across state lines.

The regime envisioned by the bills differs in key ways, however. The bills would permit issuers that opt for state regulation to operate across state lines without registering in each state in which they operate. Banks can also currently opt for state or federal charters, but state-chartered banks that accept insured deposits are regulated by both state and federal regulators and are generally subject to the same regulations as national banks. Under both bills, some banks could opt for state jurisdiction over their stablecoin subsidiaries, placing the subsidiaries outside of the purview of the banks' federal regulators, except in limited circumstances. Although federal regulators currently defer to other primary regulators of bank subsidiaries, it is unusual for federal regulators to have no jurisdiction over state-regulated subsidiaries.

U.S. vs. Foreign-Issued Stablecoins

As of May 2025, the U.S. dollar stablecoin market is estimated to be $242 billion. Two issuers, Tether and Circle (which issues the USDC stablecoin), make up nearly 90% of the market. While Circle is located in the United States, Tether is licensed in El Salvador. Therefore, whether the bills permit foreign-issued stablecoins to be issued in the United States and/or accessed by people in the United States would have significant implications for current market dynamics.

The two bills address this differently. H.R. 2392 would prohibit the secondary offer or sale of a stablecoin unless its issuer is licensed in the United States within 18 months of enactment or is subject to a regime determined by the U.S. Treasury to be "comparable" to the U.S. regime. S. 919 would permit Treasury to establish reciprocity with other jurisdictions, allowing issuers subject to regulation Treasury considers comparable to U.S. regulation to be interoperable with dollar stablecoins. Reciprocity under H.R. 2392 would limit foreign stablecoins to secondary markets, while reciprocity under S. 919 is somewhat undefined and would permit them to be used in international transactions. S. 919 would also allow foreign-issued stablecoins (with or without reciprocity) to be traded on secondary markets if they have the technical capacity to comply with lawful orders (e.g., freeze transactions).

The bills primarily regulate stablecoin issuers. Currently, retail customers do not transact with issuers but with intermediaries such as exchanges or other customers. Thus, neither bill would address the ability of U.S. customers to access foreign-issued stablecoins through either foreign exchanges or public blockchains. This limits the scope of the bills and could reduce incentives to issue under a U.S. regime. It also arguably increases the significance of Treasury's role in approving comparable jurisdictions. How such provisions are interpreted may also encourage issuers to seek jurisdictions where regulation or its implementation is or is *perceived* to be less rigorous.

Money Laundering

The blockchains on which stablecoin transactions can be processed are decentralized, public, permissionless, and protected by cryptography. They can also be interoperable with other systems and programmable with smart contracts. Such networks are also pseudonymous, which means users are not identified by their real names or with government-issued identification, making it more difficult to know exactly who is conducting financial transactions and to comply with Bank Secrecy Act (P.L. 91-508) and anti-money laundering (collectively BSA/AML) requirements placed on traditional financial institutions.

Both bills would prohibit denial of an application based on the fact that a stablecoin is issued on a public, decentralized network. The bills would also consider stablecoin issuers to be financial institutions for the purpose of the BSA, making them subject to its various requirements. The bills would apply to issuers—who, in current practice, typically interact with large known customers, such as exchanges, where implementing BSA requirements is manageable. It is unclear, however, how issuers could address their BSA/AML responsibilities once stablecoins are off-ramped to pseudonymous public blockchains, which are not subject to issuer controls. This could lead to scenarios in which stablecoins could be used for illicit purposes that issuers are unable to monitor—potentially posing reputational and other risks to issuers, including banks. It is also unclear how foreign issuers, which S. 919 would allow to be traded on secondary markets *without* reciprocal arrangements, would be monitored for BSA/AML compliance.

Potential Conflicts of Interest

After both bills were released, World Liberty Financial, which lists the President and some members of the Trump Administration as promoters in securities filings, announced it would issue a stablecoin. As a result, there is debate over whether provisions that would govern conflicts of interest for public officials should be added to the bills.

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