

Toomey stablecoin bill 2.0: Key changes

December 22, 2022 | Client Update | 2-minute read

Sen. Pat Toomey's updated stablecoin bill differs in several important ways from his April 2022 discussion draft.

On the eve of his retirement from Congress, Sen. Pat Toomey (R-PA) introduced an updated version of his stablecoin bill, the Stablecoin TRUST Act of 2022. Similar to his April 6, 2022 discussion draft, the updated bill would make it unlawful for "payment stablecoins"¹ to be issued by any person except:

- a new "national limited payment stablecoin issuer" licensed, regulated and supervised by the OCC;
- a depository institution or national trust bank; or
- a money transmitting business, non-depository trust company or other person authorized to issue payment stablecoins under state law.

The updated version is similar to the discussion draft of the bill, but differs in several important ways:²

1. Stablecoin reserves.

- The 100%+ reserve requirement and the restriction to certain permissible assets applies to all categories of payment stablecoin issuers, rather than just national limited payment stablecoin issuers in the discussion draft.
- The list of permissible reserve assets has been narrowed—the updated bill removes "cash equivalents," which include money market mutual funds.³

2. Insolvencies. Payment stablecoin holders are given priority over all other claims against a payment stablecoin issuer in an insolvency proceeding of a payment stablecoin issuer.

3. State authority. State regulators may impose their own additional or stricter standards on state-licensed payment stablecoin issuers.

4. Deposit coins. Insured depository institutions are permitted to issue digital assets that represent deposits.

5. Master accounts. Any payment stablecoin issuer that engages only in the business of issuing and redeeming payment stablecoins and incidental activities may obtain access to a Federal Reserve master account.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Luigi L. De Ghenghi

+1 212 450 4296

luigi.deghenghi@davispolk.com

Randall D. Guynn

+1 212 450 4239

randall.guynn@davispolk.com

Joseph A. Hall

+1 212 450 4565

joseph.hall@davispolk.com

Justin Levine

+1 212 450 4703

justin.levine@davispolk.com

Eric McLaughlin

+1 212 450 4897

eric.mclaughlin@davispolk.com

Gabriel D. Rosenberg

+1 212 450 4537

gabriel.rosenberg@davispolk.com

Margaret E. Tahyar

+1 212 450 4379

margaret.tahyar@davispolk.com

Zachary J. Zweihorn

+1 202 962 7136

zachary.zweihorn@davispolk.com

This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's [privacy notice](#) for further details.

¹ Other than referencing the newly defined term “digital asset,” the definition of payment stablecoin remains unchanged. A payment stablecoin is defined as a digital asset that: (A) is designed to maintain a stable value relative to a fiat currency or currencies; (B) is convertible directly to fiat currency by the issuer; (C) is designed to be widely used as a medium of exchange; (D) is issued by a centralized entity; (E) does not inherently pay interest to the holder; and (F) is recorded on a public distributed ledger.

² See [here](#) for a comparison showing the updates to the bill text.

³ 12 C.F.R. 220.2.