The Honorable Tim Scott
Chair
Senate Banking Committee
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Elizabeth Warren
Ranking Member
Senate Banking Committee
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable French Hill
Chair
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
House Financial Services Committee
4340 O'Neil House Office Building
Washington, DC 20515

February 26, 2025

Dear Chairman Scott, Ranking Member Warren, Chairman Hill, Ranking Member Waters, and Members of the Senate Banking and House Financial Services Committees:

We write to you today to express our opposition to the GENIUS Act and the STABLE Act, as introduced in Congress this session. Stablecoins used either to facilitate investment activity on crypto exchanges or as tools for payments present a host of risks – run risks, contagion and financial stability risk, custody risks, credit risks, operational and cybersecurity risks, illicit finance, fraud, and many more. Consumers, investors and financial markets using stablecoins need safeguards that are comparable to those found in traditional finance, and that adequately address both the conventional and the novel risks associated with these crypto assets. These bills accelerate the convergence of Big Tech and Big Finance, dangerously commingling banking and commerce, and are a necessary prerequisite for future giveaways to the crypto industry.

Unfortunately, these bills fall far short of what's needed to provide such comparable protections. Instead, they create a light touch regulatory regime that, if enacted, would likely expose consumers, investors, financial markets, and the economy to more risk and harm. Below we identify a non-exhaustive list of concerns we have with the legislation as introduced.

These bills would allow Big Tech firms like Meta or X to become stablecoin issuers, creating significant monopoly and privacy risks. These bills lack Banking Holding Company Act provisions that restrict or prohibit non-financial firms from entering the banking business. These restrictions exist for good reasons. Large firms (such as Amazon) already have an outsized influence over markets and the economy. Enabling those same firms to collect consumers' transactions and sensitive personal financial data as well as control access to customers' assets or their purchase of consumer products raises huge risks and is a throwback to the company scrips of the Robber Baron Age. Additionally, if one of these firms faced economic hardship or collapsed, the financial distress could precipitate economy-wide financial harm. Any stablecoin legislation should obligate issuers to abide by robust Bank Holding Company Act provisions that guard against these harms.

These bills do not include Community Reinvestment Act (CRA) obligations for stablecoin issuers. These measures are critical elements of the current banking regulatory regime which require that banks meaningfully contribute to the economic health of the communities where they operate and do not abuse their federal sanction to extract wealth from communities. But, apart from a very brief and non-binding mention of "benefit to consumers" in regulators' evaluation criteria for issuers, these bills are silent on such critical obligations, suggesting issuers would be exempt from such requirements. This would negatively impact communities and could also incentivize other financial institutions to migrate to issuing stablecoins to avoid their obligations under the CRA, depriving communities of important resources and investment. Stablecoin legislation should include CRA obligations comparable to those that banks must meet.

These bills contain vague redemption policies for issuers, putting consumers at risk. Consumers must be able to redeem their stablecoins in a fair and timely way. Otherwise, crypto market volatility or unfair practices by stablecoin or other crypto industry actors could impede consumer access to their own funds when they need it most. This bill requires issuers to publish a redemption policy and create procedures for timely redemption but does not create minimum redemption standards, which would allow redemption procedures that harmed, disadvantaged, or inconvenienced stablecoin customers with little opportunity for redress. Under this law, issuers could impose high fees or long waiting periods that could harm consumer access. Stablecoin legislation should include a specific hard time limit to process redemptions within one calendar day and should also include provisions that prevent issuers from engaging in unfair, abusive, or deceptive practices with respect to redemptions, such as high fees, as well as other issuer practices.

These bills undermine investor protection and consumer financial protection for stablecoin users. Stablecoins today operate much like money market mutual funds, facilitating investment, including secondary trading of these assets. Existing investor protection laws (as overseen by the Securities and Exchange Commission and state securities regulators) provide oversight of these funds, which guard against market manipulation, fraud, contagion, and other risks. Additionally, some courts have determined that some crypto assets meet the definition of "funds" under law and when they are used for consumer finance should be subject to consumer protection laws under the Consumer Financial Protection Bureau such as the Electronic Funds Transfer Act (EFTA). Applying EFTA to the use of payment stablecoins would provide people with greater protections from payment fraud, the ability to dispute or reverse fake or erroneous transactions, and other safeguards that they have when using conventional payment instruments, such as credit cards.

But these bills contain provisions expressly exempting payment stablecoins from the SEC's jurisdiction, and are silent on the CFPB's jurisdiction. The bills also do not make clear that consumer stablecoin payments have the EFTA protection against unauthorized transfers and errors. This could make it harder for the CFPB and other regulators to apply rules like EFTA, effectively meaning payment stablecoins users could have less protection and fewer remedies than users of other financial instruments. Stablecoin legislation should explicitly affirm the authority of agencies to exercise oversight over, and application of critical consumer protection laws to, the use of stablecoins wherever appropriate.

The legislations' reserve requirements have severe shortcomings that could lead to instability, security risks, and consumer harm. Stablecoin accounts are backed not by the federal or private deposit insurance but by the asset reserves of the issuer that are intended to provide a comparable guarantee that stablecoin accountholders can promptly redeem or cash out their stablecoin holdings on demand. Since stablecoin legislation often eschews direct deposit insurance for stablecoin holders and issuers (a concern in its own right), the legislative requirements on issuer reserves must create comparable sureties of prompt, full redemption. Yet, both these bills allow issuers to hold and manage these reserves in questionable ways.

The GENIUS Act allows reserves to include uninsured demand deposits. Stablecoin issuer Circle held $3.3 billion in such deposits as reserves with Silicon Valley Bank. SVB's collapse nearly caused Circle's USDollar Coin (USDC) to de-peg from the dollar which would have caused widespread crypto market harm. The GENIUS Act also allows stablecoin reserves to include money market mutual funds — linking one unstable asset class with another given their role in amplifying the 2008 financial crisis. The GENIUS Act also allows reserves to include deposits issued by regulated foreign depository institutions or foreign central bank reserve deposits, but it provides no further definition of these terms — suggesting assets issued by other governments or state-owned banks, even by countries with historically adversarial relationships to the United States (such as China, Russia, or Iran) could be eligible. Needless to say, including such assets as eligible reserves presents a host of stability and national or economic security concerns.

Even the more conservative reserve assets allowed under these bills, such as U.S. Treasuries, present interest rate fluctuation risks that could lead to instability and loss if not properly managed. And, both bills rely on an "attestation" approach to reviewing issuers' reserves. Attestations are not audits and do not provide comparable levels of oversight. Stablecoin legislation at a minimum should include a narrower range of eligible reserve assets and allow for more independent verification and evaluation of the management of reserve assets. Such verification and evaluation must be performed by a PCAOB registered firm and subject to the same audit standards applicable to financial statement audits conducted on public companies.

The bills' pathway for state stablecoin issuer registration and approval is too permissive, encourages a preemptive race to the bottom, and lacks adequate complementary federal oversight. For state licensed stablecoins, these bills largely leave supervision, examination, and licensing authority for new stablecoin issuers to the state regulator. The bills allow federal regulators, such as the Federal Reserve, to step in only in exigent circumstances — which usually means a disaster is already in progress. The GENIUS Act also preempts state consumer protection laws in "host states" outside a state issuer's home state by allowing them to piggyback on preemption available to federally regulated issuers. The bills also appear to allow a variety of entities, including money services businesses, to qualify as state-approved stablecoin issuers. This state issuer pathway offers too much leeway and insufficient standards to maintain prudential oversight and accountability for issuers that would subject users to more risks and fewer protections. Stablecoin issuers would have the incentive to choose the state with the most lax oversight and to ignore stronger laws in other states. Given the financial stability risks associated with stablecoins, legislation must provide federal regulators with sufficient authority and ability to exercise oversight over state-licensed stablecoin issuers and every state must have the authority to regulate issuers active in their states.

The bills' provisions for oversight of federally approved stablecoin issuers is vague and insufficient to provide meaningful oversight. Traditional regulation of federally approved banking firms involves a wide range of specific criteria regulators use to determine the safety, soundness, and overall fitness of a financial institution. But, these bills only provide a narrow regulatory approval of federally issued stablecoins, which falls short of what's needed. For example, the bills hinder federal regulators' ability to impose reasonable capital, liquidity, and risk management requirements for stablecoin issuers.

These problems are compounded by the fact that federal regulators would likely attempt to preempt state consumer protection laws in the same way they have done for banks. Preemption of state law has led to a host of problems in the banking world including the foreclosure crisis, and the risks are even higher given the weaker federal oversight being proposed for stablecoin issuers.

Additionally, there are scant criteria for evaluating whether an issuer should be approved and do not include the consideration of the financial history and condition of applicants, their capital structure, future earnings, the character and fitness of the issuer's management, and other factors that help guard against risk and instability. Lastly, the bills' provisions requiring regulators to further tailor their approach to stablecoin oversight suggests that even these modest oversight measures will be pared back more. Letting stablecoin issuers secure legitimacy through a bank-like licensing regime, without adequate or comparable oversight, subjects both stablecoin customers and the financial system to undue risk and instability.

We have additional concerns about the bills' other flaws, including confusing or inadequate bankruptcy protection and custody rules; inadequate treatment of anti-money laundering compliance requirements for issuers, platforms, and wallet providers (with respect to stablecoin use); and more. There is also no prohibition on using stablecoins to purchase assets in unregulated crypto markets, exposing the banking and financial system not just to the risks of stablecoins, but the volatility and non-compliance of the entire crypto-asset ecosystem. The picture is clear: these bills represent a crypto industry wish list, not an adequate regulatory regime that provides necessary oversight, customer protection, and stability. We've learned the hard way what happens when regulators give risky financial instruments a regulatory green light. These bills repeat the deregulatory mistakes of the past. These dire shortcomings are worsened by the administration's evisceration of the ability of federal banking regulators and consumer financial regulators to provide adequate oversight and consumer protection — largely driven by the same crypto characters and interests — suggesting that even the inadequate measures proposed in these bills could not be fully implemented or enforced.

We urge members of the Committee to vote against these bills. We would be glad to share our concerns in more detail and offer our thoughts on how to provide effective and comparable consumer and investor safeguards for those who choose to use stablecoins.

Sincerely,

American Economic Liberties Project
Americans for Financial Reform
Better Markets
Center for Economic Justice
Center for Responsible Lending
Consumer Federation of America
Consumer Federation of California
Consumer Reports
Demand Progress
Georgia Watch
National Community Reinvestment Coalition
National Consumer Law Center, on behalf of its low-income clients
New Jersey Citizen Action
New Jersey Appleseed Public Interest Law Center
New Yorkers for Responsible Lending
Oregon Consumer League
Public Citizen
RAISE Texas
RISE Economy
Texas Appleseed
The Freedom BLOC
Virginia Citizens Consumer Council
Virginia Poverty Law Center
20/20 Vision