BY SAM LOUIS TAYLOR

Stability for Stablecoins?

Cryptocurrencies have come a long way: From an academic idea in the 1980s to the birth of bitcoin in 2009 to their current state as a multi-trillion-dollar tradable asset class, they have become a major part of the financial system and, increasingly, an important policy issue. State and federal governments have sought to understand the risks and benefits of these often volatile assets, resulting in a patchwork of regulatory structures. One important type of cryptocurrency for which regulation has been contentious is stablecoins, whose value is pegged to an existing asset, often the dollar.

In 2021, the Treasury Department studied stablecoins and recommended that Congress act to head off concerns over systemic risk to the financial system as well as their use in enabling illicit activities. Over the last two years, there has been an effort within Congress to provide a regulatory structure for stablecoins. The House Financial Services Committee has been the most active body in these efforts. While the legislative situation is uncertain, these efforts may result in a deal before the end of the year. This complex negotiation involves a range of issues related to financial regulation, but the primary sticking points revolve around the role the Fed would take in this new oversight structure.

After beginning talks in 2022, leaders on the House Financial Services Committee staked out public legislative positions in 2023. Ranking Member Maxine Waters, D-Calif., published draft legislation in May of that year. Chair Patrick McHenry, R-N.C., was able to pass a bill through the committee in July, HR 4766, the Clarity for Payment Stablecoins Act of 2023, in a public statement of Republican priorities. That bill passed with the support of all committee Republicans and five out of 23 Democrats, with Waters in notable opposition.

McHenry's bill would largely place stablecoin oversight into the existing dual state-federal bank regulatory framework. Banks that issue stablecoins would continue to be overseen by their normal regulators, while nonbank entities would be split between the Office of the Comptroller of the Currency or the Fed depending on whether they are considered national trust banks or not, respectively. State-chartered entities would continue to be supervised by their current state regulatory agency, unless a state regulator chooses to cede its authority to federal authorities; the Fed would serve in a backup role in "exigent circumstances," the definition of which would be finalized by the Fed after passage.

The bill proposed by Waters, however, would give the Fed a larger role in regulating stablecoin issuers. Under her proposal, the Fed would have primary oversight over all federally licensed nonbank entities as well as state entities. State regulators would have a secondary role. This would be a change from the current system in which state regulators generally take the primary responsibility for supervising state-chartered institutions. Centering oversight at the Fed would, Waters argued, empower the central bank to continue its role overseeing the nation's money supply.

The question of regulatory structure is by no means the only issue in contention. Negotiations must also tackle how current banking laws and regulations, like the Bank Secrecy Act, will apply to stablecoin issuers; the types of reserves that entities must maintain to be able to issue stablecoins; and whether regulations will apply to coins issued on both public and private ledgers. Industry advocates, however, believe that the question of who will be the primary regulator is the stickiest one and could be the biggest obstacle to an agreement.

In September, Waters called for a "grand bargain" before the end of the year and, as reported by Axios, has floated a new deal to McHenry with support from the Biden administration. McHenry, who is retiring at the end of this year, has expressed his interest in addressing this issue before leaving Congress.

Even if a stablecoin deal is pushed into 2025, some in the crypto industry are optimistic about the legislative landscape. "We now have the most crypto-friendly Congress and administration coming into Washington that we've ever had," Cody Carbone, president of the Digital Chamber, told *Politico* in November. The Digital Chamber is a Washington, D.C.-based industry group that advocates for digital assets and blockchain-based technologies. Carbone speculated that "by Q2 2025, we have a stablecoin bill on [President] Trump's desk." **EF**

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