

[DISCUSSION DRAFT]

116TH CONGRESS
2^D SESSION

H. R. _____

To amend the Federal Deposit Insurance Act to provide for the classification and regulation of stablecoins, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. TLAIB introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Deposit Insurance Act to provide for the classification and regulation of stablecoins, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stablecoin Classifica-
5 tion and Regulation Act of 2020”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Article I, Section 8, Clause 5 of the United
2 States Constitution provides that Congress shall
3 have the power “to coin money, regulate the value
4 thereof, and of foreign coin, and fix the standard of
5 weights and measures”.

6 (2) Section 2A of the Federal Reserve Act (12
7 U.S.C. 225a) provides that the mandate of the
8 Board of Governors of the Federal Reserve System
9 is to “promote effectively the goals of maximum em-
10 ployment, stable prices, and moderate long-term in-
11 terest rates”.

12 (3) Section 21(a) of the Banking Act of 1933
13 (12 U.S.C. 378(a)) provides in part that:

14 “(a) After the expiration of one year after [June 16,
15 1933] it shall be unlawful...

16 “(2) For any person, firm, corporation, associa-
17 tion, business trust, or other similar organization to
18 engage, to any extent whatever with others than his
19 or its officers, agents or employees, in the business
20 of receiving deposits subject to check or to repay-
21 ment upon presentation of a pass book, certificate of
22 deposit, or other evidence of debt, or upon request
23 of the depositor, unless such person, firm, corpora-
24 tion, association, business trust, or other similar or-
25 ganization (A) shall be incorporated under, and au-

1 thorized to engage in such business by, the laws of
2 the United States or of any State, Territory, or Dis-
3 trict, and subjected, by the laws of the United
4 States, or of the State, Territory, or District where-
5 in located, to examination and regulation, or (B)
6 shall be permitted by the United States, any State,
7 territory, or district to engage in such business and
8 shall be subjected by the laws of the United States,
9 or such State, territory, or district to examination
10 and regulations or, (C) shall submit to periodic ex-
11 amination by the banking authority of the State
12 Territory, or District where such business is carried
13 on and shall make and publish periodic reports of its
14 condition, exhibiting in detail its resources and li-
15 abilities, such examination and reports to be made
16 and published at the same times and in the same
17 manner and under the same conditions as required
18 by the law of such State, Territory, District in the
19 case of incorporated banking institutions engaged in
20 such business in the same locality.”.

21 (4) Section 3(l) of the Federal Deposit Insur-
22 ance Act (12 U.S.C. 1813(l)) provides that under
23 the Federal Deposit Insurance Act, the term “de-
24 posit” means:

1 “(1) the unpaid balance of money or its equiva-
2 lent received or held by a bank or savings associa-
3 tion in the usual course of business and for which
4 it has given or is obligated to give credit, either con-
5 ditionally or unconditionally, to a commercial, check-
6 ing, savings, time, or thrift account, or which is evi-
7 denced by its certificate of deposit, thrift certificate,
8 investment certificate, certificate of indebtedness, or
9 other similar name, or a check or draft drawn
10 against a deposit account and certified by the bank
11 or savings association, or a letter of credit or a trav-
12 eler’s check on which the bank or savings association
13 is primarily liable: Provided, That, without limiting
14 the generality of the term money or its equivalent,
15 any such account or instrument must be regarded as
16 evidencing the receipt of the equivalent of money
17 when credited or issued in exchange for checks or
18 drafts or for a promissory note upon which the per-
19 son obtaining any such credit or instrument is pri-
20 marily or secondarily liable, or for a charge against
21 a deposit account, or in settlement of checks, drafts,
22 or other instruments forwarded to such bank or sav-
23 ings association for collection,
24 “(2) trust funds as defined in this Act received
25 or held by such bank or savings association, whether

1 held in the trust department or held or deposited in
2 any other department of such bank or savings asso-
3 ciation,

4 “(3) money received or held by a bank or sav-
5 ings association, or the credit given for money or its
6 equivalent received or held by a bank or savings as-
7 sociation, in the usual course of business for a spe-
8 cial or specific purpose, regardless of the legal rela-
9 tionship thereby established, including without being
10 limited to, escrow funds, funds held as security for
11 an obligation due to the bank or savings association
12 or others (including funds held as dealers reserves)
13 or for securities loaned by the bank or savings asso-
14 ciation, funds deposited by a debtor to meet matur-
15 ing obligations, funds deposited as advance payment
16 on subscriptions to United States Government secu-
17 rities, funds held for distribution or purchase of se-
18 curities, funds held to meet its acceptances or letters
19 of credit, and withheld taxes: Provided, That there
20 shall not be included funds which are received by the
21 bank or savings association for immediate applica-
22 tion to the reduction of an indebtedness to the re-
23 ceiving bank or savings association, or under condi-
24 tion that the receipt thereof immediately reduces or
25 extinguishes such an indebtedness,

1 “(4) outstanding draft (including advice or au-
2 thorization to charge a bank’s or a savings associa-
3 tion’s balance in another bank or savings associa-
4 tion), cashier’s check, money order, or other officer’s
5 check issued in the usual course of business for any
6 purpose, including without being limited to those
7 issued in payment for services, dividends, or pur-
8 chases, and

9 “(5) such other obligations of a bank or savings
10 association as the Board of Directors, after consulta-
11 tion with the Comptroller of the Currency, and the
12 Board of Governors of the Federal Reserve System,
13 shall find and prescribe by regulation to be deposit
14 liabilities by general usage, except that the following
15 shall not be a deposit for any of the purposes of this
16 Act or be included as part of the total deposits or
17 of an insured deposit:

18 “(A) any obligation of a depository institu-
19 tion which is carried on the books and records
20 of an office of such bank or savings association
21 located outside of any State, unless—

22 “(i) such obligation would be a deposit
23 if it were carried on the books and records
24 of the depository institution, and would be

1 payable at, an office located in any State;

2 and

3 “(ii) the contract evidencing the obli-
4 gation provides by express terms, and not
5 by implication, for payment at an office of
6 the depository institution located in any
7 State;

8 “(B) any international banking facility de-
9 posit, including an international banking facility
10 time deposit, as such term is from time to time
11 defined by the Board of Governors of the Fed-
12 eral Reserve System in regulation D or any suc-
13 cessor regulation issued by the Board of Gov-
14 ernors of the Federal Reserve System; and

15 “(C) any liability of an insured depository
16 institution that arises under an annuity con-
17 tract, the income of which is tax deferred under
18 section 72 of the Internal Revenue Code of
19 1986.”.

20 (5) Section 1(a) of the Federal Deposit Insur-
21 ance Act (12 U.S.C. 1811(a)) provides that the Fed-
22 eral Deposit Insurance Corporation was established
23 for the purpose of “insur[ing] . . . the deposits of
24 all banks . . . which are entitled to the benefits of

1 insurance” under the Federal Deposit Insurance
2 Act.

3 **SEC. 3. REGULATION OF STABLECOINS.**

4 (a) DEFINITIONS.—Section 3 of the Federal Deposit
5 Insurance Act (12 U.S.C. 1813) is amended—

6 (1) in subsection (l)—

7 (A) in paragraph (4), by striking “and” at
8 the end;

9 (B) by redesignating paragraph (5) as
10 paragraph (6); and

11 (C) by inserting after paragraph (4) the
12 following:

13 “(5) stablecoins issued by such bank or savings
14 association; and”;

15 (2) by adding at the end the following:

16 “(aa) DEFINITIONS RELATED TO STABLECOINS.—

17 “(1) STABLECOIN.—The term ‘stablecoin’
18 means any cryptocurrency or other privately-issued
19 digital financial instrument that—

20 “(A) is directly or indirectly distributed to
21 investors, financial institutions, or the general
22 public;

23 “(B) is—

1 “(i) denominated in United States
2 dollars or pegged to the United States dol-
3 lar; or

4 “(ii) denominated in or pegged to an-
5 other national or state currency; and

6 “(C) is issued—

7 “(i) with a fixed nominal redemption
8 value;

9 “(ii) with the intent of establishing a
10 reasonable expectation or belief among the
11 general public that the instrument will re-
12 tain a nominal redemption value that is so
13 stable as to render the nominal redemption
14 value effectively fixed; or

15 “(iii) in such a manner that, regard-
16 less of intent, has the effect of creating a
17 reasonable expectation or belief among the
18 general public that the instrument will re-
19 tain a nominal redemption value that is so
20 stable as to render the nominal redemption
21 value effectively fixed.

22 “(2) NOMINAL REDEMPTION VALUE.—

23 “(A) IN GENERAL.—With respect to a
24 stablecoin, the term ‘nominal redemption value’
25 means the value at which the stablecoin can

1 readily be converted into United States dollars,
2 or any other national or state currency, or a
3 functional monetary equivalent, on demand, at
4 the time of issuance, or otherwise accepted in
5 payment or to satisfy debts denominated in
6 United States dollars or any other national or
7 state currency.

8 “(B) TREATMENT OF INSTRUMENTS
9 PEGGED TO THE UNITED STATES DOLLAR.—
10 For purposes of subparagraph (A), the value at
11 which a stablecoin that is pegged to the United
12 States dollar or a functional monetary equiva-
13 lent can readily be converted into United States
14 dollars, on demand, at the time of issuance
15 shall be calculated using the express or implied
16 pegged rate for such conversion at the time of
17 issuance.

18 “(C) TREATMENT OF INSTRUMENTS DE-
19 NOMINATED IN OR PEGGED TO ANOTHER NA-
20 TIONAL OR STATE CURRENCY.—For purposes of
21 subparagraph (A), the value at which a
22 stablecoin that is denominated in or pegged to
23 another national or state currency or a func-
24 tional monetary equivalent can readily be con-
25 verted into United States dollars, on demand,

1 at the time of issuance shall be calculated using
2 the express or implied exchange rate for such
3 conversion at the time of issuance.

4 “(D) FUNCTIONAL MONETARY EQUIVA-
5 LENT DEFINED.—For purposes of this Act and
6 any Act enacted after the date of enactment of
7 this subsection, the term ‘functional monetary
8 equivalent’ means—

9 “(i) deposits, as defined under section
10 3 of the Federal Deposit Insurance Act;

11 “(ii) e-money and money transmitter
12 balances;

13 “(iii) other stablecoins; and

14 “(iv) any other financial instrument
15 issued for the purpose of circulating as
16 money, making payments, or satisfying
17 debts denominated in United States dollars
18 or any other national or state currency.”.

19 (b) REGULATIONS.—The Federal Deposit Insurance
20 Act (12 U.S.C. 1811 et seq.) is amended by adding at
21 the end the following:

22 **“SEC. 52. STABLECOINS.**

23 “(a) ISSUING STABLECOINS.—

24 “(1) LIMITATION ON WHO MAY ISSUE
25 STABLECOINS.—It shall be unlawful for any person

1 to issue a stablecoin other than an insured deposi-
2 tory institution that is a member of the Federal Re-
3 serve System.

4 “(2) LIMITATION ON STABLECOIN-RELATED
5 COMMERCIAL ACTIVITIES.—It shall be unlawful for
6 any person to issue a stablecoin or stablecoin-related
7 product, to provide any stablecoin-related service, or
8 otherwise engage in any stablecoin-related commer-
9 cial activity, including activity involving stablecoins
10 issued by other persons, without obtaining written
11 approval in advance, and on an ongoing basis, from
12 the appropriate Federal banking agency, the Cor-
13 poration, and the Board of Governors of the Federal
14 Reserve System.

15 “(3) NOTICE AND APPROVAL REQUIREMENTS.—
16 Any person issuing a stablecoin shall—

17 “(A) notify the appropriate Federal bank-
18 ing agency, the Corporation, and the Board of
19 Governors of the Federal Reserve System of the
20 person’s intent to issue the stablecoin at least
21 6 months prior to the date of issuance;

22 “(B) obtain written approval from the ap-
23 propriate Federal banking agency, the Corpora-
24 tion, and the Board of Governors of the Federal
25 Reserve System prior to issuing any stablecoin

1 or stablecoin-related product, providing any
2 stablecoin-related services, or otherwise engag-
3 ing in any stablecoin-related commercial activ-
4 ity, including activity involving stablecoins
5 issued by other persons; and

6 “(C) provide ongoing analysis to the Board
7 of Governors of the Federal Reserve System,
8 the Financial Stability Oversight Council, and
9 the Office of Finance Research on any potential
10 systemic impacts or monetary policy implica-
11 tions of the stablecoin.

12 “(4) MASTER ACCOUNT ACCESS.—With respect
13 to an insured depository institution that is a mem-
14 ber of the Federal Reserve System and that has ob-
15 tained written approval described under paragraph
16 (3)(B)—

17 “(A) the Board of Governors of the Fed-
18 eral Reserve System shall provide the institu-
19 tion with a master account at the Federal Re-
20 serve System; and

21 “(B) the institution shall be eligible to re-
22 ceive all benefits and access to services associ-
23 ated with such account.

24 “(b) REQUIREMENT TO MAINTAIN FIXED VALUE.—
25 Any issuer of a stablecoin shall take all possible actions

1 to ensure that, at no point over the life of the stablecoin,
2 the redemption value of the stablecoin does not drop below
3 the nominal redemption value of the stablecoin.

4 “(c) ABILITY TO REDEEM STABLECOINS.—

5 “(1) IN GENERAL.—Any issuer of stablecoins
6 shall maintain the ability to immediately redeem all
7 outstanding stablecoins at their nominal redemption
8 value, upon demand, in United States dollars.

9 “(2) REQUIREMENT TO MAINTAIN COLLATERAL
10 FOR UNINSURED STABLECOIN AMOUNTS.—

11 “(A) IN GENERAL.—Any issuer of
12 stablecoins shall deposit reserves with the appli-
13 cable Federal reserve bank in a segregated ac-
14 count in an amount equal to the nominal re-
15 demption value of all outstanding stablecoins
16 issued by the issuer, and such reserves shall
17 serve as collateral for such stablecoins.

18 “(B) EXCEPTION FOR INSURED DEPOS-
19 ITS.—Subparagraph (A) shall not apply with
20 respect to the value of any outstanding
21 stablecoins that the issuer of the stablecoins
22 knows are insured deposits.

23 “(3) PENALTIES.—If the issuer of a stablecoin
24 fails to immediately redeem an outstanding
25 stablecoin, upon demand, in United States dollars

1 (or if the appropriate Federal banking agency deter-
2 mines that the issuer does not have the ability to im-
3 mediately redeem all outstanding stablecoins, upon
4 demand, in United States dollars) the appropriate
5 Federal banking agency shall penalize the issuer,
6 which may include—

7 “(A) the revocation of deposit insurance
8 provided under this Act;

9 “(B) the revocation of the issuer’s mem-
10 bership in the Federal Reserve System;

11 “(C) the revocation of the issuer’s Federal
12 charter; and

13 “(D) such lesser penalty as the agency de-
14 termines appropriate.

15 “(d) PRODUCTS AND SERVICES RELATED TO
16 STABLECOINS.—

17 “(1) DISCLOSURES.—Any person offering or
18 providing a product or service with respect to a
19 stablecoin, regardless of whether such person is the
20 issuer of the stablecoin, shall clearly disclose—

21 “(A) whether the person is the original
22 issuer of the stablecoin; and

23 “(B) if the person is the original issuer of
24 the stablecoin, whether—

1 “(i) the stablecoin is being held as an
2 insured deposit; or

3 “(ii) the stablecoin is fully
4 collateralized by reserves maintained at a
5 Federal reserve bank.

6 “(2) USE OF THE TERM ‘DOLLAR’.—A person
7 offering or providing a product or service with re-
8 spect to a stablecoin may not use the term ‘dollar’
9 or ‘dollars’ to refer to stablecoin balances unless
10 such reference is pre-approved by either the Comp-
11 troller of the Currency or the Board of Governors of
12 the Federal Reserve System.

13 “(e) PRIORITIZATION UNDER DEPOSIT INSUR-
14 ANCE.—With respect to a depositor, for purposes of deter-
15 mining whether a deposit is an insured deposit, the Cor-
16 poration shall first include deposits that are not
17 stablecoins.

18 “(f) OVERSIGHT BY FEDERAL BANKING AGEN-
19 CIES.—

20 “(1) IN GENERAL.—The appropriate Federal
21 banking agency shall have general regulatory author-
22 ity over an insured depository institution’s business
23 activities related to stablecoins, including all existing
24 regulatory powers that the agency has with respect

1 to the institution's business activities related to
2 other deposits

3 “(2) CAPITAL ADEQUACY RULES.—The Federal
4 banking agencies shall promulgate rules and stand-
5 ards regarding the capital adequacy, leverage, liquid-
6 ity, and permitted activities of stablecoin issuers and
7 other persons engaged in stablecoin-related activi-
8 ties.

9 “(3) EFFECT ON OTHER RULES.—To the extent
10 a person is subject to capital adequacy, liquidity,
11 and other rules issued under this section, the appro-
12 priate Federal banking agency may provide excep-
13 tions or exemptions from similar rules issued pursu-
14 ant to other provisions of law, if the agency deter-
15 mines such exceptions or exemptions are appro-
16 priate, taking into account the activities of such per-
17 son.

18 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion may be construed as removing any jurisdictional or
20 regulatory authority of any Federal agency.”

21 (c) BANKING ACT OF 1933.—Section 21 of the Bank-
22 ing Act of 1933 (12 U.S.C. 378) is amended—

23 (1) in subsection (a)—

1 (A) in paragraph (1), by inserting after
2 “to any extent whatever in the business of” the
3 following: “issuing stablecoins or”; and

4 (B) in paragraph (2), by inserting after
5 “officers, agents or employees, in the business
6 of” the following: “issuing stablecoins or”;

7 (2) by redesignating subsection (b) as sub-
8 section (c); and

9 (3) by inserting after subsection (a) the fol-
10 lowing:

11 “(b) For the purposes of subsection (a), the term
12 ‘stablecoin’ has the meaning given that term under section
13 3 of the Federal Deposit Insurance Act (12 U.S.C.
14 1813).”.

15 (d) RULEMAKING.—Not later than the end of the [3-
16 month] period beginning on the date of enactment of this
17 Act, the Board of Governors of the Federal Reserve Sys-
18 tem, the Comptroller of the Currency, and the Federal De-
19 posit Insurance Corporation shall issue rules to carry out
20 this Act and the amendments made by this Act.